

Soroptimist International
of the Americas
1709 Spruce Street
Philadelphia, PA 19103-
6103



215 893 9000 PHONE
215 893 5200 FAX
siahq@soroptimist.org E-MAIL
www.soroptimist.org URL

WHITE PAPER: The History, Controversies, and Future of U.S. Anti-trafficking Laws

Many would argue that slavery ended in the United States in 1865 with the victory of the Union Army in the U.S. Civil War, and the ratification of the 13th amendment in December of that year. Unfortunately, exploiting other human beings for profit is alive and well throughout the world, including the United States. Since the turn of the century, the international community has struggled to define what human trafficking is and to end it. The United States already has anti-slavery laws as well as laws addressing kidnapping and rape. But specific legislation is needed to address trafficking, which has proven difficult to write and enforce. However difficult, many believe strong laws and enforcement are the best tools in fighting this horrible crime.

Legislation is the cornerstone of anti-human trafficking efforts because it defines the problem and gives direction on how to solve it. To understand the current anti-trafficking legislation in the United States, it is necessary to understand the development of past laws, most importantly the United Nations Protocol and the United States' Trafficking Victims Protection Act. Analyzing their impact and recognizing their shortcomings is essential in improving anti-trafficking efforts. This leads to examining individual state laws, which show how the anti-trafficking movement is developing in the United States and provides another opportunity to expand the work in prevention of trafficking, protection of victims, and prosecution of traffickers. This knowledge—combined with critical thinking to analyze past, current, and future anti-trafficking efforts and a willingness to stop this crime—can result in the end of modern-day slavery.

Human Trafficking and its Effect on Women and Girls

Human trafficking is also referred to as “modern-day slavery.” Trafficking means that someone has been tricked and forced into performing some kind of labor for someone else’s gain. The International Labor Organization (ILO) estimates that approximately 12.3 million people are enslaved in forced or bonded labor, child labor, sexual servitude, and involuntary servitude at any given time.

Of the millions of people that are trafficked each year, the majority are women and children who end up working in the commercial sex industry. Women and children (especially girl children) all over the world are especially vulnerable to sex trafficking, defined as the exploitation of women and children, within national or across international borders, for the purposes of forced sex work.¹ Sex trafficking is a widespread problem, implicating nearly every country in the world:

- About two million women and children are held in sexual servitude around the world, but many experts believe the actual number of trafficked peoples is upwards of 10 times as many.²

¹ US State Department. *Trafficking in Persons Report*. 2007. Page 8.

<http://www.state.gov/g/tip/rls/tiprpt/2007/>.

² Captive Daughters. *The Cause of Sex Trafficking is the Demand for It*. 2006.
<http://www.captivedaughters.org/demand.htm>.

- Because of its clandestine nature, it is difficult to determine the magnitude of human trafficking. According to the Dutch National Rapporteur Against Trafficking in Human Beings, only around 5 percent of trafficking cases are ever reported.³
- An estimated 120,000 women and girls are trafficked into Western Europe each year.⁴
- There have been reports of sexual trafficking in at least 20 U.S. states, with most cases occurring in New York, California and Florida.⁵ Once issues of domestic trafficking—trafficking within national boundaries—are included, all 50 states would be implicated.
- An estimated 14,500 to 17,500 women and children are trafficked into the U.S. each year.⁶
- Sex trafficking fuels the commercial sex industry, which includes both legal and illegal prostitution.

The sexual exploitation of women and girls includes not only issues of legality, but cultural and social issues as well. Worldwide there is a prevalent attitude that it is acceptable to purchase sex acts from women—no matter their age. Even if prostitution is illegal, prosecution is lax and uneven, with the arrests of prostitutes outnumbering those of buyers.⁷

Prostitution is considered by many to be a “victimless crime.” However, legal or sanctioned commercial sex provides the cover for illegal activities such as trafficking; it reinforces the attitude that women and girls are for sale; and it undermines the basic human rights of women and girls. Laws—and the enforcement of those laws—serve a normative purpose spelling out what is and is not acceptable in a country. When Sweden passed its 1999 law criminalizing the buying of sex but not the selling, it sent a clear message to the world. “As with all laws, the [Swedish] law has had a normative function. It is a concrete and tangible expression of the belief that in Sweden woman and children are not for sale. It effectively dispels men’s self-assumed right to buy women and children for prostitution.”⁸ While raising awareness of sex trafficking, working to improve women’s lives so they do not fall victim to traffickers, and providing social services to victims once they are rescued is important—it is equally important to strengthen laws and enforce them.

The Beginnings of Anti-Trafficking Legislation

In the 1990s a surge of reports on human trafficking aroused enough international concern to motivate the United Nations to address this growing phenomenon. By the turn of the century, groundbreaking action to fight against human trafficking had begun. A combination of interests resulted in the push for comprehensive international legislation against human trafficking. These included the Argentinean government’s concern for “trafficking of minors and its dissatisfaction with the slow progress on negotiating an additional protocol to the Convention on the Rights of the Child (CRC) to

³ United Nations Office on Drug and Crime. *Trafficking in Persons Global Patterns*. 2006. Page 4. http://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf.

⁴ Connor, Monica, and Grainne Healy. *The Links Between Prostitution and Sex Trafficking: A Briefing Handbook*. 2006. Page 3. Coalition Against Trafficking in Women and the European Women’s Lobby. <http://action.web.ca/home/catw/attach/handbook.pdf>.

⁵ Richard, Amy O’Neill. *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*. 1999. Page 3. DCI Exceptional Intelligence Analyst Program, Center for the Study of Intelligence. <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/trafficking.pdf>.

⁶ Amnesty International USA. *Stop Violence Against Women: Trafficked Women and Girls Questions and Answers*. 2005. Page 2. http://www.amnestyusa.org/women/trafficking/question_answer.html. Because of the difficulty in gathering true data, these statistics are often changing.

⁷ Shared Hope. *DEMAND: A Comparative Examination of Sex Tourism and Trafficking in Jamaica, Japan, The Netherlands and the United States*. <http://www.sharedhope.org/files/DEMAND.pdf>.

⁸ Gunilla Ekberg, *The Swedish Law that Prohibits the Purchase of Sexual Services*. 10 (10) Violence Against Women 1187, 1205 (2004).

address child prostitution and child pornography”; the decisions of “powerful European institutions...to take the issue of trafficking seriously” and their beginning plans for “detailed policy and programs”; U.S. President Bill Clinton’s issuing of a “detailed memorandum on measures to be taken by his own government to combat violence against women and trafficking in women and girls”; and a “general awareness...amongst an influential group of nation-states of the need for a holistic approach where the crime control aspects of trafficking were addressed along with traditional human rights concerns.”⁹

Efforts began in December 1998, when “the United Nations General Assembly established an intergovernmental, ad-hoc committee and charged it with developing a new legal regime to fight transnational organized crime.” After 11 sessions and collaboration from among 120 countries, the committee ended in October 2000 with the Convention Against Transnational Organized Crime. The Convention included three protocols: *Protocol Against the Smuggling of Migrants by Land, Sea and Air*; *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*; and *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition*.¹⁰

The U.N. *Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* was adopted by the U.N. General Assembly in 2000. It was opened for signature by all states and by regional economic integration organizations in mid-December 2000 at the Palazzi di Giustizia in Palermo, Italy, during a meeting of government officials,¹¹ giving the legislation its nickname the “Palermo Protocol.”

According to the United Nations Office on Drugs and Crime, the Protocol entered into force on December 23, 2005. As of December 2008, the UNODC website lists 117 signatories and 124 parties. Many countries ratified the protocol, but with reservations. An example of a common reservation to the Protocol was the objection to paragraph 2 of Article 15. This states if a dispute between countries over the “interpretation or application” of the Protocol cannot be resolved on their own or through arbitration, it may be referred to the International Court of Justice (ICJ),¹² which has not been accepted by all nations. The United States signed the Protocol on December 13, 2000 and ratified it on November 3, 2005 with three reservations, including an objection to ICJ involvement.¹³

Defining Human Trafficking

The Palermo Protocol matter was groundbreaking because it attempted to clearly define human trafficking, a term frequently debated by those working in the field, spanning members of government, academia, and the nonprofit sector. This definition in Article 3 of the Palermo Protocol has a three-part focus, outlining how human trafficking involves specific actions carried out by illegal means for illicit purposes.¹⁴

⁹ Gallagher, Anne. *Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis*. Human Rights Quarterly 23 (2001) pp. 975-1004.

¹⁰ Ibid.

¹¹ Ibid.

¹² Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. 2000. United Nations. Page 5.

¹³ Signatories to the CTOC Trafficking Protocol. <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html#EndDec>. See this website for a description of the three reservations of the United States.

¹⁴ Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. 2000. United Nations. P. 2

Human trafficking is defined in the Palermo Protocol as “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.” Exploitation is explained as “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”¹⁵

In Article 3 the Protocol also adds that the “recruitment, transportation, transfer, harboring, or receipt of a child,” meaning any person under 18, is defined as human trafficking “even if this does not involve any of the means” listed.¹⁶ The language of the Palermo Protocol has since been repeated in many other pieces of legislation around the world.

Other articles of the Palermo Protocol were similarly innovative. Article 5 requires countries to adopt their own legislation criminalizing human trafficking. Article 6 encourages countries to “consider implementing measures to provide for the physical, psychological and social recovery of victims.” Article 7 suggests that countries “consider adopting legislative ... measures that permit victims ... to remain in its territory, temporarily or permanently,” and Article 8 declares victims must be repatriated to the country in which they are a national or have permanent residence “without undue or reasonable delay” if they wish to return home.¹⁷ These suggestions within the Palermo Protocol were essential in setting the bar for creating a victim-centered approach to anti-trafficking legislation.

The Beginnings of the Trafficking Victims Protection Act

The United States responded quickly to the Protocol by creating its own legislation known as the Trafficking in Victims Protection Act, or TVPA, signed into effect in 2000 by President Clinton. President George W. Bush later reauthorized it in 2003 and 2005. From its beginnings, the TVPA has routinely received bipartisan support in Congress.¹⁸ Republican Congressman Chris Smith of New Jersey has been a driving force behind the TVPA. Smith has chaired numerous congressional hearings concentrating on sex trafficking.¹⁹

The TVPA borrows many of its definitions from the Palermo Protocol. In the TVPA “severe” forms of trafficking are described as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”²⁰ This definition of trafficking is nearly identical to the Palermo Protocol’s.

The TVPA has spawned an interesting coalition among its supporters. George Washington University Professor Ronald Weitzer describes human trafficking as a part of a rising moral crusade against the

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Berger, Rose Marie and Alexis Vaughan. *Protecting the Victims*. Sojourners 32:2 (Feb 2008) p. 11. <<http://proquest.umi.com.proxygw.wrlc.org/pqdweb?did=1418448891&sid=4&Fmt=3&clientId=31812&RQT=309&VName=PQD&cfc=1>>.

¹⁹ Soltz, Barbara Ann. *Interpreting the U.S. Trafficking Debate Through the Lens of Symbolic Politics*. *Law and Policy* 29.3 (July 2007) p. 318.

²⁰ “Trafficking Victims Protection Act of 2000.”

sex industry in America, led by an alliance between unlikely partners: the religious right and abolitionist feminists. Weitzer defines “abolitionist feminists” as “those who argue that the sex industry should be entirely eliminated because of its objectification and oppressive treatment of women, considered to be inherent in sex for sale.”²¹ These two groups first joined forces to oppose issues such as pornography and prostitution.²² Their newest crusade against human trafficking is led by a number of organizations, such as Focus on the Family, National Association of Evangelicals, Catholic Bishops Conference, Traditional Values Coalition, Concerned Women for America, Salvation Army, International Justice Mission, Shared Hope International, and Religious Freedom Coalition on the religious right—and the Coalition Against Trafficking in Women (CATW), Equality Now, the Protection Project, and Standing Against Global Exploitation (SAGE) for the abolitionist feminists. Both sides have gained credibility by working with each other toward the single goal of eliminating human trafficking in America.

Weitzer explains how “members of these conservative religious and feminist groups hold opposing views on other social issues, such as abortion and same-sex marriage, but they largely agree on prostitution and pornography” and that “the single-issue focus of most of these feminist groups—targeting the sex industry exclusively—trumps all other issues and facilitates their willingness to work with right-wing groups.” This moral crusade was strengthened under President George W. Bush, who made ending human trafficking a focus of his administration.²³

Inside the TVPA

The TVPA begins by defining in detail the different forms of human trafficking. The Act has three goals: prevention of trafficking with public awareness programs; protection of victims via reintegration, relief, and financial assistance programs; and prosecution of traffickers by increasing sentences and re-writing crime definitions that update the complexities of forced labor and sex trafficking.²⁴

It extends benefits granted to refugees to victims of human trafficking as well. The TVPA also explains how government grants will be dispersed to public agencies on the federal, state, and local level. In addition, nongovernmental organizations are eligible for grants to develop service programs for victims.²⁵ The TVPA lists the penalties for those guilty of human trafficking in the United States, which depends on the circumstances.²⁶

Regarded as a positive start for U.S. anti-trafficking legislation, the TVPA “establishes a more precise definition of what constitutes human trafficking, imposes stronger penalties than had previously existed, and allocates funds for compensation to the victims of human trafficking and for cooperative efforts with foreign countries.”²⁷

The T-Visa

The TVPA establishes the eligibility requirements for a T-visa, which enables up to 5,000 trafficked victims per year to remain in the United States and achieve permanent resident status after three

²¹ Weitzer, Ronald. *The Social Construction of Sex Trafficking: Ideology and Institution of a Moral Crusade*. *Politics & Society* 35.3 (Sept. 2007) p. 450.

²² *Ibid.* p. 449.

²³ *Ibid.*

²⁴ Wetmore, Jennifer. *The New T Visa: Is the Higher Extreme Hardship Standard Too High for Bona Fide Trafficking Victims?* *New England Journal of International and Comparative Law* 9.1 (2002). P. 167.

²⁵ Trafficking Victims Protection Act of 2000.

²⁶ Trafficking Victims Protection Act of 2000. Public Law 106-386. 106th Congress. Oct. 28, 2000.

²⁷ Kaptstein, Ethan B. *The New Global Slave Trade*. *Foreign Affairs* 85:6 (Nov/Dec 2006) p.103-115.

years. To be eligible, individuals must fulfill the following requirements: they must prove they were a victim of “severe” trafficking as defined by the TVPA; are physically present in the United States because they were trafficked; have assisted law enforcement with prosecution and investigation efforts (unless under the age of 15); and “would suffer extreme hardship involving unusual and severe harm upon removal” from the United States.²⁸

The T-visa for the victim is classified as a “T-1” visa and allows family members to apply for a T-2, T-3, or T-4 visa based on the family member’s relationship to the victim. Victims may apply for non-immigrant status for their spouses, children, and parents if the victim is under 21.²⁹ All of these visas grant a three-year stay in the United States. After those visas terminate, individuals may qualify for permanent residence status.³⁰

Along with being certified by the U.S. Department of Health and Human Services (HHS), victims must also be “willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons,” which could include identifying their traffickers or testifying against them in proceedings, to receive the T-visa.³¹ HHS does not require victims under 18 to be certified in order to receive benefits.³² Children under 18 are given a letter from HHS for their certification while all other victims have an application approved by the Department of Homeland Security.³³

Expansion of the TVPA

Throughout its reauthorizations, the TVPA has become more expansive. The 2003 reauthorization included changes such as proposing public awareness campaigns to warn of the dangers and criminal offenses related to sex tourism, and allowing victims to file a lawsuit against their trafficker to be compensated for “damages and attorney fees.” The reauthorization gives more funding for research associated with the TVPA, and it also added the definition of human trafficking to the Racketeer Influenced and Corrupt Organizations Act (RICO), which was established to prosecute members of organized crime.³⁴ RICO was often used as a tool for prosecutors against human traffickers before the TVPA existed.

The TVPA reauthorization act of 2005 discussed internal trafficking within the U.S. for the first time; lent more legal support to local law enforcement by beginning to investigate, prosecute, and educate people who purchased or attempted to purchase sex; and brought attention to the need for special measures to be taken in post-humanitarian conflict areas to prevent human trafficking.³⁵

²⁸ Trafficking Victims Protection Act of 2000.

²⁹ United States Department of Justice. *Department of Justice Issue T Visa to Protect Women, Children, and All Victims of Human Trafficking*. July 24, 2002.
http://www.usdoj.gov/opa/pr/2002/January/02_crt_038.htm.

³⁰ Interim Rule from DOS Adds New T Visa Category for Certain Victims of Severe Human Trafficking. <
<http://www.immigration.com/newsletter1/interimrulevisa.html>>.

³¹ Trafficking Victims Protection Act of 2000.

³² Department of Health and Human Services. *The Campaign to Rescue & Restore Victims of Human Trafficking*. http://www.acf.hhs.gov/trafficking/campaign_kits/index.html.

³³ Department of Health and Human Services. *Fact Sheet: Certification for Victims of Human Trafficking*. http://www.acf.hhs.gov/trafficking/about/cert_victims.html.

³⁴ United States Congress. *Trafficking Victims Protection Reauthorization Act of 2003*. 2003.
<http://www.state.gov/documents/organization/28225.pdf>.

³⁵ United States Congress. *Trafficking Victims Protection Reauthorization Act of 2005*. 2005.
<http://www.state.gov/documents/organization/61214.pdf>.

The Office to Monitor and Combat Trafficking in Persons

The TVPA also led to the establishment of a separate agency within the U.S. State Department called the Office to Monitor and Combat Trafficking in Persons (TIP Office). The two largest duties of the TIP Office are annually publishing the Trafficking in Persons Report (TIP Report) and awarding grants to anti-trafficking programs around the world. In the 2007 fiscal year, the TIP Office financially supported 63 anti-trafficking projects in 46 different countries with a total of \$16.5 million.³⁶

One of the main responsibilities of the TIP Office is to annually publish a document known as the Trafficking in Persons (TIP) Report, which ranks countries around their world on their efforts to combat human trafficking. The State Department ranks the countries based on a set of minimum standards, which include proactive identification of victims; provision of shelter and temporary care; victim/witness protection, rights, and confidentiality; and repatriation. In addition, other factors taken into consideration for the ranking include “the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking” and “the resources and capabilities of the government to address and eliminate severe forms of trafficking in persons.”³⁷

The TVPA discusses broad “minimum standards for eliminating trafficking,” which includes prohibiting severe forms of trafficking and the appropriate sentencing of those guilty of human trafficking. An example of criteria used to judge whether or not a country meets those standards is the extent to which governments have cooperated with other governments in prosecution efforts or have created preventive measures such as public awareness campaigns. It also outlines the assistance given to countries meeting those standards and actions against countries that do not.

Depending on how well these criteria are met, countries are placed into one of four categories: Tier 1, Tier 2, Tier 2 Watch List, and Tier 3.³⁸ Countries that completely meet these standards are ranked as Tier 1, countries that do not meet all of the standards but are making significant efforts are ranked as Tier 2, and countries that both do not meet the minimum standards and are not making significant efforts are Tier 3. The Tier 2 Watch List is reserved for countries that have slipped from a higher to a lower tier since the last year’s report. Tier 2 Watch List countries also include those in which during the past year the number of victims has visibly increased or no new efforts have been made to combat severe forms of trafficking. The assessment can also be based on the country’s proposed efforts for the following year.³⁹ Countries that have not been successful in their anti-trafficking efforts may be on the Tier 2 Watch List instead of Tier 3 because they are making an effort to end trafficking but are not succeeding, whereas Tier 3 countries are not trying at all.

The United States president is authorized by the TVPA to use various methods in punishing non-compliant countries. These include withdrawing all non-humanitarian, non-trade-related foreign assistance for the next year; not funding the participation of officials or employees of the noncompliant country in educational and cultural exchange programs for the next year; and encouraging the International Monetary Fund to deny loans to that country unless for humanitarian, trade, or development assistance. All of these efforts would be suspended if the targeted country improves its anti-trafficking efforts.⁴⁰

³⁶ U.S. Department of State. *Office to Monitor and Combat Human Trafficking*.
<http://www.state.gov/g/tip/>.

³⁷ *Ibid.* Page 11.

³⁸ U.S. Department of State. *Trafficking in Persons Report*. June 2008.
<<http://www.state.gov/g/tip/rls/tiprpt/2008/>>.

³⁹ *Ibid.* Page 13.

⁴⁰ Trafficking Victims Protection Act of 2000.

A summary of each country's efforts in the areas of prosecution, protection, and prevention are presented in the TIP Report. The U.S. government does not rank itself but does provide an analysis of its efforts against trafficking in the United States. The 2008 TIP Report ranked 153 countries and cited 17 others as special cases because not enough information was available, for a total of 170 countries ranked—the largest number to date.⁴¹

Criticisms of U.S. Anti-trafficking Efforts

Despite setting the bar for comprehensive and aggressive domestic anti-trafficking legislation, creating an international regulatory system with the TIP Report, crafting new societal norms condemning human trafficking and raising public awareness, the TVPA has been criticized.

Political Bias of the TIP Report: Many critics are specifically dissatisfied with the TIP Report. Although the U.S. president has power to put political and economic pressure on countries that are failing to step up their anti-trafficking efforts, some feel that foreign policy goals have taken precedence over raising awareness about human trafficking. For example, many protest that Kuwait and Saudi Arabia should have received economic sanctions from the United States because of their lack of action to end human trafficking, but have not because they are key oil producers. Other countries appear immune because of their partnership with the US in the war on terror, or because they are great powers with large economic influence.⁴²

Some question if sanctions are effective at all and argue that provoking powerful countries like China would only backfire.⁴³ Judging by the reaction of Malaysian authorities to its Tier 3 rankings in the 2006 TIP Report, who charged “the U.S. state department of behaving as the uninvited ‘judge, jury and prosecutor’ without just cause,”⁴⁴ the TIP Report may incite less cooperative behavior instead of encouraging reform.

However, the opportunity for shaming on the international stage has proved successful in some countries, resulting in improved tier rankings. For example, after being ranked in 2007 as a Tier 2 Watch List country, Cambodia's government initiated a national anti-trafficking task force, increased law enforcement action against traffickers and corrupt officials, wrote a thorough anti-trafficking law, and began prevention measures.⁴⁵ This response to political pressure from the United States resulted in Cambodia's improved Tier 2 ranking in the 2008 TIP Report.

Like Cambodia, one study finds that most countries failing to comply with minimum standards listed on Tiers 2 or 3 have since “made serious attempts to implement effective anti-trafficking measures, enact anti-trafficking laws imitating the TVPA, and enforce their existing or newly amended laws prohibiting trafficking.”⁴⁶

Credibility of the TIP Report: As the use and effects of the TIP Report are questioned, its data collection methods are also debated. With the possibility of having their image tarnished on the

⁴¹ U.S. Department of State. *Briefing on the Release of the Eighth Annual Trafficking in Persons Report*. June 4, 2008. <http://www.state.gov/tip/rls/rm/2008/105572.htm>.

⁴² Kaptstein, Ethan B. *The New Global Slave Trade*. *Foreign Affairs* 85:6 (Nov/Dec 2006) p.103-115.

⁴³ Feingold, David A. *Human Trafficking*. *Foreign Policy* 150 (Sept/Oct 2005) p. 30.

⁴⁴ Kuppusamy, Baradan. *Human Rights: US Report Lists Malaysia as ‘Worst Offender’*. Global Information Network. New York: June 15, 2007.

⁴⁵ *Cambodia Placed on Tier 2 in 2008 Trafficking in Persons Report*. US Fed News Service. Washington, D.C.: June 5, 2008.

⁴⁶ Tiefenbrun, Susan W. *Updating the Domestic and International Impact of the U.S. Victims of Trafficking Protection Act of 2000: Does Law Deter Crime?* *Case Western Reserve Journal of International Law* 38:249 (2006/2007) pp. 270.

international stage and funds withheld as a result of a poor TIP Report ranking, country officials responsible for collecting data work under stress and scramble to meet deadlines. Non-governmental organizations have their own humanitarian agendas to push, and so both parties may have reason to distort the facts.⁴⁷ Similarly, some local governments are writing and passing anti-trafficking laws modeled closely after the guidelines of the TVPA while ignoring their unique needs,⁴⁸ which is problematic as the methods and types of human trafficking often varies by location.

Others feel it is unfair that the United States government does not rank itself on the tier system, and questions the authority and methodologies employed to publish the report. In response, Ambassador Mark Lagon of the TIP Office has pointed out that in the past two years the U.S. government has reported on its own prevention, prosecution, and protection efforts, albeit without a tier ranking.⁴⁹ Lagon also explained the inevitable difficulties that come with relying on foreign governments to collect crucial statistics and information in putting together a factual report. He explained that much attention and progress in implementing victim assistance programs and anti-trafficking laws have been a direct result of the TIP Report.⁵⁰

Size of the Problem: Some critics question the amount of financial support provided to the TIP office given the low number of victims identified and granted T-visas in comparison to the large amount of money dedicated to finding victims and the high estimate of victims said to exist within the U.S. Between 2000 and 2005, only 788 victims had received T-visas—even though 5,000 T-visas are allocated every year and the U.S. government approximates the number of people trafficked in every year to be between 14,500 and 17,500.⁵¹ In 1999 the State Department estimated 50,000 people were trafficked into the United States every year, which was later downgraded to the 14,500-17,500 estimate. Yet in 2006, former Attorney General Alberto R. Gonzales admitted to Congress that even the lower numbers were possibly exaggerated.⁵²

One reason for this discrepancy may be the difficulties in locating and certifying victims because of their distrust of law enforcement, shame, and fear of retribution by their traffickers.⁵³ Accurate statistics have been difficult to confirm, but government and nonprofit leaders alike agree the problem is large and deserving of attention and assistance. Another issue that may be subverting real numbers is the difficulty in meeting the requirements of the T-Visa such as testifying against traffickers in court. Many trafficking victims are too afraid to participate in the case against their traffickers. Finally, measuring the number of T-visas only addresses international trafficking. When domestic trafficking is included, the problem is much greater.

Emphasis on Prosecution: Just as the T-visa is crucial in securing safety and humanitarian services for victims, prosecuting traffickers is a fundamental element in anti-trafficking efforts. But some say the emphasis on prosecution is disproportionate. Some argue that the “mere accumulation of prosecutions does not necessarily indicate the quality of the prosecutions or the significance of those

⁴⁷ Guinn, David E. *Defining the Problem of Trafficking: The Interplay of US Law, Donor, and NGO Engagement and the Local Context in Latin America*. Human Rights Quarterly 30:1. February 2008. Page 138.

⁴⁸ Ibid.

⁴⁹ U.S. Department of State. *Interview with Ambassador Mark Lagon*. June 4, 2008. <http://fpc.state.gov/fpc/105548.htm>.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Markon, Jerry. *Human Trafficking Evokes Outrage, Little Evidence*. The Washington Post. September 23, 2007. A01.

⁵³ Davis, Michael Cory. “Human Trafficking.” *Hispanic* 20:8 (2007) pp. 46-48.

being prosecuted, e.g. whether they are minor figures or major traffickers.”⁵⁴ The many resources dedicated to prosecution is said to be misplaced because of the low number of prosecutions in the United States.⁵⁵

Another common TVPA criticism is that although the United States’ professes a victim-centered approach, the TVPA’s implementation has focused more on prosecution and security “by conditioning access to critical human services and immigration relief upon cooperation with the criminal investigation or prosecution of the trafficker.”⁵⁶ Because some local law enforcement officials are not well trained to recognize cases of human trafficking, victims otherwise eligible for a T-visa may be deported and become trapped in the human trafficking cycle once again.

Sex Trafficking Bias: For some, the victim-centered approach has gone awry and resulted in unequal treatment of different kinds of human trafficking victims. Journalist Debbie Nathan makes the claim that the TVPA might be disadvantaging some victims of human trafficking. She argues that the TVPA overemphasizes victims of sex trafficking and underemphasizes victims of forced labor.⁵⁷ Nathan believes the latter victims are less likely to have their traffickers prosecuted by the federal government and routinely receive less media attention than victims of sex trafficking.⁵⁸

Implementation of TVPA: Some are dissatisfied with the micromanaged approach of the TVPA and call for less analysis on its effects and more effort into actually enacting what has already been put into place. Georgetown Law Professor Dina Haynes has written on a number of criticisms of the TVPA in her paper “Used, Abused, Arrested and Deported: The Case for Extending Immigration Benefits to Protect Victims of Trafficking and Secure Prosecution of Traffickers.” Although she calls the TVPA “quite comprehensive,” she also states that its “legislation focuses too much on funding annual reports criticizing countries for failures to enact or adopt legislation, and too little on ensuring that anti-trafficking legislation and initiatives are actually *implemented*.”⁵⁹

Opposition to Prostitution: The implementation of the TVPA may be seen as not only inefficient but also restrictive. Unlike the Palermo Protocol, the TVPA requires all nongovernmental organizations applying for financial support from the U.S. government to sign a disclaimer stating they oppose prostitution. This is based in the State Department findings that “both illegal sexual exploitation and state-regulated prostitution contribute greatly to the trafficking in women and children.” Some argue this regulation prevents victims from receiving services they desperately need from organizations that do not agree with that belief, or that such a statement might alienate women they work to help.

Hope for the Future

The TVPA has many shortcomings, but governmental officials and nongovernmental activists alike readily agree that after the U.N. Protocol was passed, the U.S. has since developed and implemented one of the best examples of anti-trafficking legislation around the world. Through the TVPA’s

⁵⁴ Ibid.

⁵⁵ Feingold, David A. *Human Trafficking*. Foreign Policy 150 (Sept/Oct 2005) p. 30.

⁵⁶ Shigekane, Rachel. *Rehabilitation and Community Integration of Trafficking Survivors in the United States*. Human Rights Quarterly 29 (2007) p. 113.

⁵⁷ Nathan, Debbie. *Oversexed*. The Nation. August/September 2005. Pp. 27-30.

⁵⁸ Ibid.

⁵⁹ Haynes, Dina. *Used, Abused, Arrest and Deported: The Case for Extending Immigration Benefits to Protect Victims of Trafficking and Secure Prosecution of Traffickers*. 2003. p. 19.
<http://law.bepress.com/cgi/viewcontent.cgi?article=1007&context=expresso>.

reauthorizations, the U.S. has demonstrated its commitment to the cause and dedication to improving its laws and overall efforts against trafficking.

Thomas Jefferson School of Law Professor Susan Tiefenbrun examines the effects of the TVPA in her paper “Updating the Domestic and International Impact of the U.S. Victims of Trafficking Protection Act of 2000: Does Law Deter Crime?” and concludes that “domestic measures implemented by the U.S. government in response to the TVPA have been slow and steady” but “indicate a positive trend toward the reduction of trafficking in the United States.”⁶⁰ In order for the positive trend to continue, states need to be partners with the federal government.

Why State Anti-trafficking Legislation Is Needed in the United States

Since the TVPA passed, a number of individual states have written and passed anti-trafficking legislation. According to a 2006 report by the Center for Women Policy Studies, 24 states passed laws elevating the crime of human trafficking to a state felony offense. The earliest state law was passed in 2003, while many are as recent as 2007. Some question the purpose of state laws when the TVPA, a federal law criminalizing human trafficking, already exists. However, state laws are needed because incidences of trafficking will most likely be noticed at the local-level first, and it is crucial for local law enforcers to be able to recognize and address these incidences. They must also be prepared with laws and penalties that address human trafficking. Federal officials can pick the cases they want to pursue, and usually select “larger-scale cases, which might involve multiple defendants, multiple victims, and an extensive criminal enterprise with significant assets.”⁶¹ In the event that the federal authorities are not interested in the case, local law enforcement must have the means and knowledge to prosecute human traffickers and offer services for victims of trafficking.

How State Anti-trafficking Laws Differ

The definition of human trafficking is not only disputed on a global scale but also varies among U.S. states. Some state legislation borrows closely from the TVPA’s wording and others have written their own definitions. For example, New Jersey’s law AB 2730 passed in 2004 uses language similar but not exact to the TVPA’s. It defines a trafficker as someone who “knowingly recruits, lures, entices, harbors, provides or obtains the labor or services of another which involves involuntary servitude, promoting prostitution or benefits financially or otherwise by receiving anything of value from participation as an organizer, supervisor, financier or manager in a scheme or course of conduct which involves involuntary servitude or prostitution.”⁶²

Even the slightest word difference from the TVPA has solicited complaints from nongovernmental organizations that see the differences as potential legal loopholes for traffickers. The Polaris Project, a Washington, D.C. based nongovernmental organization, has been on the forefront of this issue. On its website, Polaris provides a detailed model for state-level anti-trafficking legislation divided into three sections covering prosecution, prevention of trafficking, and victim protection.⁶³ Other NGOs have

⁶⁰ Tiefenbrun, Susan W. *Updating the Domestic and International Impact of the U.S. Victims of Trafficking Protection Act of 2000: Does Law Deter Crime?* Case Western Reserve Journal of International Law 38:2 (2006/2007) pp. 249-280.

⁶¹ Center for Women’s Policy Studies. “State Anti Trafficking Laws Fact Sheet.” December 2007. <http://www.centerwomenpolicy.org/programs/trafficking/facts/documents/FactSheetonStateAntiTraffickingLawsDecember2007.rev9208.pdf>.

⁶² New Jersey State Legislation. *Assembly Judiciary Committee Statement to Assembly Committee Substitute for Assembly, No. 2730*. <http://www.njleg.state.nj.us/2004/Bills/A3000/2730_S1.HTM>. September 13, 2004.

⁶³ Polaris Project. *Model Comprehensive State Legislation to Combat Trafficking in Persons*. <http://www.polarisproject.org/images/docs/Model-Comprehensive-State-Legislation.pdf>.

also written their own “model legislation” such as the National Institute on State Policy of Trafficking of Women and Girls of the Center for Women Policy Studies.

Polaris has also compiled a “top 15” list highlighting problems in state legislation after reviewing current laws. The list gives an example of problematic language, suggested revisions, and an explanation of why it makes a difference. For example, Polaris encourages the revision of “language that refers to a state of prostitution to instead focus on acts of commercial sex” because “state laws addressing prostitution often do not include definitions of commercial sex acts as broad as the current Federal trafficking legislation.”⁶⁴

Not only do other states have unique definitions of trafficking, but also a range of punishments corresponding to the varying degrees of wrongdoing. In Texas, someone charged with a first-degree felony of trafficking (meaning if the individual trafficked or transported someone “younger than 14 at the time of the offense” or if “the offense results in the death of a person who is trafficked”)⁶⁵ could get from five to 99 years in prison, or two to 20 for a second-degree felony.⁶⁶ Sentencing guidelines for those guilty of trafficking are not uniform in state legislations.

According to the National Institute on State Policy on Trafficking of Women and Girls, some states have criminalized sex trafficking and labor trafficking separately such as Arizona, Florida, Minnesota, and Mississippi—while other states such as Arkansas, Illinois, New Jersey, Texas, Louisiana, and Washington have “criminalized the broader offense of ‘human trafficking.’”⁶⁷

Some states have also convened interagency task forces to address their own needs. For example, one task force in California was in charge of “collecting and analyzing data on trafficking into the state, evaluating the effectiveness of prevention and prosecution efforts, and examining collaborative models between government and nongovernmental organizations for protecting trafficking victims.” The interagency task force also analyzed California’s state programs offering services to victims of trafficking and its criminal statutes.⁶⁸ Although states must be commended for taking the initiative to write and pass anti-trafficking legislation—the variety of definitions, language, and penalties of state laws differing from the TVPA create confusion about the nature of human trafficking and how it should be stopped.

Responses of Local Law Enforcement

Northeastern University’s Institute on Race and Injustice published a report in June 2008 titled “Understanding and Improving Local Law Enforcement Responses to Human Trafficking.” In a survey of 3,000 local agencies, “between 73 and 77 percent of local, county and state law enforcement in the random sample (n=1661) perceive human trafficking as rare or non-existent in their local communities.”⁶⁹ Interestingly, only “18 percent of local, country or state

⁶⁴ Polaris Project. *Top 15 Problem Areas in State Legislation*.

<http://www.polarisproject.org/images/docs/Top%2015%20Problem%20Areas%20in%20State%20Bills%20on%20Trafficking.pdf>.

⁶⁵ Texas HB 2096 Chapter 20A. <<http://www.capitol.state.tx.us/tlodocs/78R/billtext/html/HB02096F.htm>>.

⁶⁶ Texas Penal Code Title 3 Punishments.

<<http://tlo2.tlc.state.tx.us/statutes/docs/PE/content/html/pe.003.00.000012.00.htm>>.

⁶⁷ Center for Women’s Policy Studies. *Resource Guide for State Legislators: Model Provisions for State Anti-Trafficking Laws*. 2005. <http://www.centerwomenpolicy.org/programs/trafficking/guide/default.asp>.

⁶⁸ Center for Women’s Policy Studies. *State Anti Trafficking Laws Fact Sheet*. December 2007. <http://www.centerwomenpolicy.org/programs/trafficking/facts/documents/FactSheetonStateAntiTraffickingLawsDecember2007.rev9208.pdf>.

⁶⁹ Farrell, Amy and Jack McDevitt. *Understanding and Improving Local Law Enforcement Responses to Human Trafficking*. U.S. Department of Justice. May 2008.

law enforcement agencies in the random sample have had some type of human trafficking training, 9 percent have a protocol or policy on human trafficking and only 4 percent have designated specialized units or personnel to investigate these cases”⁷⁰—suggested that training of these law enforcement groups is lacking. The good news is that from “2000 and 2006, the number of human trafficking investigations by respondents rose dramatically each year from 175 reported cases in 2000 to 750 in 2006”⁷¹ as law enforcement agencies have become more familiar with the TVPA and state legislation.

The Future of State-Anti-trafficking Laws

State government officials are increasingly aware of how their anti-trafficking laws are affecting their communities and have revised previous pieces of legislation with amendments to strengthen them. Advocates in the field are hopeful that soon all states will have their own comprehensive legislation. Furthermore, through a survey of the I-95 corridor states on their efforts to combat human trafficking, the National Governors Association was able to paint a general picture of the progress made thus far by state anti-trafficking legislation. Positive findings included evidence that “several states have either recently developed a training curriculum or are planning to do so in the near future” for law enforcement.⁷²

However, inter-state collaboration is sorely lacking, although this communication is highly desired by individual state authorities. The report explained that “some states have internally developed policies and procedures for distributing information” while others “reach out to law enforcement in other jurisdictions and states on a case-by-case basis.” Improvement in information-sharing between states could increase the efficiency of a wide range of governmental anti-trafficking programs, from the surveillance of suspected traffickers to the betterment of programs providing services to victims.

State laws and programs are important because federal agents cannot investigate the growing number of trafficking cases, prosecute the numerous traffickers, and certify all victims of trafficking in an efficient and timely manner. Local law enforcement is crucial in assisting federal authorities with information and human resources. State laws have both helped to take the burden off of federal authorities and have brought more awareness to the crime of human trafficking. State anti-trafficking laws serve a purpose because they make enforcing the laws and aiding victims more efficient, but the lack of uniformity and coordination has prevented state and local authorities from reaching their full potential in anti-trafficking efforts. The federal government has a role to play in assisting all states in writing clear and standardized laws against human trafficking and working to improve cooperation and communication between state authorities.

How Soroptimist Works to End Trafficking of Women and Girls.

Soroptimist is an international volunteer organization for business and professional women who work to improve the lives of women and girls, in local communities and throughout the world. Soroptimist clubs undertake a number of different projects to confront local realities facing women and girls. Many projects directly and indirectly help trafficking victims and women vulnerable to trafficking by providing direct aid to women and girls, and giving women economic tools and skills to achieve financial empowerment and independence. As an organization, Soroptimist supports the following programs:

http://www.humantrafficking.neu.edu/news_reports/reports/documents/Understanding_and_Improving_ExecSumm.pdf.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² U.S. State Department. *Trafficking in Persons Report*. 2005. Page 17.

<http://www.state.gov/g/tip/rls/tiprpt/2005/>.

Soroptimists STOP Trafficking—In 2007, Soroptimist launched a public awareness campaign to address the sex trafficking of women and girls. Soroptimist clubs around the world use printed materials and media outreach to raise awareness about this devastating issue. The project launched with a special event on Sunday December 2, 2007, the International Day for the Abolition of Slavery. (In the United States, it launched on Friday, January 11, 2008, the first National Day of Human Trafficking Awareness.) Soroptimist clubs participate by distributing information to raise awareness that sex trafficking is an issue in all communities in the world.

Soroptimist Women's Opportunity Awards—The Women's Opportunity Awards program is Soroptimist's major program. The awards help women by giving them the resources they need to improve their education, skills, and employment prospects. By helping women receive skill and resource training, Soroptimist provides them with economic alternatives to sex trafficking and prostitution.

Many Women's Opportunity Award recipients have overcome enormous obstacles in their quest for a better life, including poverty, domestic violence, substance abuse, and in some cases, prostitution or trafficking. Each year, more than \$1 million is disbursed through the awards at various levels of the organization to help women achieve their dreams of a better life for themselves and their families. Since the Women's Opportunity Awards program began in 1972, it is estimated that \$20 million has been disbursed and more than 22,500 women have been assisted. In 2007, the Women's Opportunity Awards received the Summit Award from ASAE and The Center for Association Leadership, its highest honor bestowed on associations that implement innovative community-based programs.

Soroptimist Club Grants for Women and Girls— Often the abilities and ambitions of Soroptimist clubs exceed their financial resources. Soroptimist introduced the Soroptimist Club Grants for Women and Girls in 1997 to assist with community projects that improve the lives of women and girls. Each year, grants are given to clubs working on projects that help foster economic independence, provide job skills training and education, and provide women with the resources necessary to move themselves and their families out of poverty. Projects of this type give women economic alternatives to migratory work and keep them out of the hands of traffickers. During 2006-2007, Soroptimist funded more than \$175,000 in club grants. Since the program's inception, nearly \$1.6 million has been awarded and clubs have assisted more than 100,000 women and their families.

Many clubs have used the grants to support projects that raise awareness about trafficking. In 2005, for example, two clubs in Japan shared a \$9,000 club grant for their Prevention of Trafficking Project. The clubs printed and distributed 6,000 brochures and 1,000 posters in eight languages containing information on trafficking and how to obtain help for victims. They also held an international symposium to raise awareness about trafficking and offered support to a shelter for trafficking victims.

Other Soroptimist club projects and initiatives that have benefited trafficking victims, include:

SI Chicago, IL has worked on the issue of human trafficking for many years. Most recently, they supported a local production of *Body and Sold*, a traveling theatrical performance addressing the sex trafficking of girls and young women. The performance, which utilizes real-life stories, is a preventative program geared toward at-risk teens and agencies that work with them. The club also hosted a panel discussion following the performance.

SI Fukuoka-Minami and SI Kasuga, Japan's Project *Stop Trafficking and Exploitive International Marriages*, partnered with the Asian Women's Center to print informational trafficking cards and expand hotline services in the following eight languages: Tagalog, Chinese, Korean, Thai, Spanish, English, Russian and Vietnamese. The cards are being distributed in airports, restaurants and immigration offices. The grant is also being used for a community symposium to raise awareness of trafficking and prostitution.

SI Taichung-Hsien, Taiwan organized an anti-trafficking film festival. In collaboration with the Garden of Hope Foundation and Chang Hwa County Clubs, SI Taichung-Hsien used their grant for production costs of a film documenting the trafficking of women from East-Southeast Asia into Taiwan and to launch Taiwan's first Anti-Trafficking Film Festival. The film festival has been designed to educate the public about the issue of trafficking, especially as it pertains to migrant women, and to spark community response.

Soroptimist Making a Difference for Women Award—The Making a Difference for Women Award honors women who, through their personal or professional activities, work to improve the lives of other women and girls. Each year, Soroptimist chooses one finalist, who is honored and receives a \$5,000 donation to her favorite charitable organization.

Kathryn Xian, Soroptimist's 2006 recipient, has devoted her life to improving the lives of women and girls through her non-profit organization, The Safe Zone Foundation. In 2004, Kathryn and the Safe Zone Foundation led a grassroots campaign to raise awareness about sex trafficking and tourism, and organized protests against a local tour company offering Asian sex tours. She also testified at a Hawaii State House of Representatives hearing on trafficking. The hearings resulted in the passage of Act 82, which makes "promoting travel for prostitution" a Class C felony violation in Hawaii. Act 82 now serves as model legislation for other states.

Soroptimist Disaster Relief Fund—The Soroptimist Disaster Relief Fund provides financial assistance to regions affected by natural disasters or acts of war. Women and girls are hardest hit by disasters, and poor women and single mothers—the poorest of the poor—who lack access to support services and aid following disasters are especially vulnerable to traffickers. Following the 2004 tsunami in Southeast Asia, for example, there were many documented cases of rape, sexual abuse and trafficking. Many poor women lack the necessary resources to escape acts of war and natural disaster, and because of pre-existing poverty and gender inequality, are less able to recover from their losses and rebuild their lives post-disaster. Many of these women and girls are left vulnerable to traffickers and the trafficking industry.

Because relief efforts targeted to women are often overlooked during a crisis, and because women and girls have special needs in times of crisis and disaster, Soroptimist's Disaster Relief Fund supports projects that specifically assist women and girls. Clubs can apply for disaster relief grants for local areas hit by natural disasters or warfare, and the fund also supports international disaster relief projects. In the wake of the 2004 tsunami in Southeast Asia, Soroptimist donated more than \$100,000 to three reconstruction projects that benefit women and girls. Following the devastating hurricanes in the Gulf Coast of the United States in 2005, Soroptimist donated nearly \$100,000 to help women rebuild their lives by supporting health care services, and services for victims of domestic and sexual assault. In addition, Soroptimist funded a study conducted by the Institute for Women's Policy Research, *Women in the Wake of the Storm: Examining the Post-Katrina Realities of the Women of New Orleans and the Gulf Coast*, in order to analyze the impact of the disaster on women and girls and plan for future disasters.

Soroptimist International of the Americas is a 501(c)(3) organization. In December 2004, Soroptimist received the Pennsylvania Association of Nonprofit Organizations (PANO) Seal of Excellence for its successful compliance with the Standards for Excellence program. Soroptimist was re-certified in 2007.