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The Face of Human Trafficking

Aiko Joshi*

I. INTRODUCTION

Human trafficking has become a fast-growing global criminal activity, and it affects just about every country in the world.1 Each year, at least four million people are trafficked worldwide, with an annual profit of up to seven billion dollars for the trafficking network.2 Trafficking victims often believe they are accepting jobs in the labor, domestic service, restaurant, and factory sectors,3 and are taken across borders — sometimes through coercive methods — where they often end up in exploitative situations.4

However, not all those who leave their home countries are necessarily trafficking victims.5 Trafficking and migration are not the same, and the

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* Aiko Joshi, originally from Kyoto, Japan, is on the Board of Captive Daughters, Inc., a nonprofit organization dedicated to bringing awareness of sex and labor trafficking and exploitation of children and youth. Masters in Cultural Anthropology and Women's Studies. She is also a member of D.C. Asians for Peace and Justice, and the National Asian Pacific American Women's Forum. The views stated in the following article are entirely the author's own.


2. Becki Young, Trafficking of Humans Across United States Borders: How United States Laws Can be Used to Punish Traffickers and Protect Victims, 13 GEO. IMMIGR. L.J. 73 (1998). See also Annuska Derks, Combating Trafficking in South-East Asia: A Review of Policy and Programme Responses, IOM International Organization for Migration, Feb., 2000, at 9. It is difficult to get an accurate accounting of the numbers of people actually involved because of the complexity of the reality of trafficking which would inevitably lead to different interpretations, analyses, and definitions. This has led to a plethora of confusion and responses within such bodies as the United Nations, other international, government and non-governmental organizations. The numbers quoted also vary in amount, and they are usually based on the estimations of illegal or irregular migrants or on numbers of prostitutes.


4. Young, supra note 2, at 73.

distinction must be clear. While there is a link between trafficking and migration, there are some distinctions, as highlighted by the United Nations’ definition of trafficking. The biggest distinction is that in initially agreeing to migrate, the person has made an autonomous decision to seek employment and/or a new life elsewhere, and this is not necessarily done via coercion or deception. It is only when a person migrates, and upon reaching their destination is then subjected to coercion, violence or threat of violence under exploitative circumstances, that the distinction from migration to trafficking becomes clearly evident.

This article will address the rise of human trafficking, the motivations and incentives that drive people to leave their homelands, and why they pay exorbitant fees in exchange for an often hazardous and sometimes fatal journey, without fully understanding or realizing the implications to themselves and their families. Further, this article will examine ways in which both the United States government and nonprofit advocacy groups have utilized the law to create avenues of assistance for victims of trafficking.

II. IMPACT OF GLOBALIZATION: HOW DOES IT TIE INTO THE ISSUE OF HUMAN TRAFFICKING?

Much of the flow of human trafficking may be historically rooted in changes that occurred in the post-colonial era. The development of industrialization brought drastic changes to the lives of many peoples, and caused the formation of a new class of wage-earning industrial workers.

6. Id. at 69. In the Human Rights Standards for the Treatment of Trafficked Persons, GAATW, Foundation Against Trafficking in Women and the International Human Rights Law Group, define trafficking as:

all acts and attempted acts involved in the recruitment, transportation within and across borders, purchase, sale, transfer, receipt, or harboring of a person (a) involving the use of deception, coercion (including the use or threat of force or the abuse of authority) or debt bondage (b) for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude (domestic, sexual, reproductive), in forced bonded labor, or slavery-like conditions.


7. Inglis, supra note 5, at 69.


9. See Inglis, supra note 5, at 69, 82.


11. JUNE NASH AND MARIA PATRICIA FERNANDEZ-KELLY, WOMEN, MEN AND THE INTERNATIONAL DIVISION OF LABOR 71-73 (1983) (discussing capitalism and the manufacturing industry’s relocation to developing countries). See also KELETSE P. ATKINS,
Agrarian societies underwent a transformation from an economic base of agriculture and "cottage industry" to market production and wage labor. These changes affected cultural traditions and gender relations, sometimes to the detriment of the women.12

In the last three decades, industrialized countries shifted their production facilities to less developed places.14 In the past, undeveloped countries were exploited for their natural resources and indigenous labor.15 The ability for large corporations to transfer production to low-wage areas promoted the establishment of "duty-free zones" across Asia, Africa, and South and Central America.16

While both men and women flocked to these factories,18 women composed the majority of the low-wage workers, and were subjected to increased wage exploitation as a result.19 Factory work is not a secure

12. "Cottage industry" can be defined by work, such as lace making, sewing, food and textile products, that is done in homes, with sometimes raw materials provided for by the employer. Often, the work, such as sewing and lace making, was paid by the piece which often resulted in very long hours of work for very little return.


15. NASH AND FERNANDEZ-KELLY, supra note 11, at viii.

16. Koichi Hamada, An Economic Analysis of the Duty-Free Zone, 4 J. INT'L. ECON. 225, 225-226 (1974). "Duty-free zones," also called "export-processing zones," are generally industrial parks, within a country, that provide no duties on imported equipment or materials. Id., at 225-26. Commodity taxes on production within the "duty-free" zone are also exempted and goods purchased from within the country, but outside the "duty-free zone," are considered exports and hence do not carry a domestic tax. Id. at 226.


18. See AIHWA ONG, SPIRITS OF RESISTANCE AND CAPITALIST DISCIPLINE: FACTORY WORK WOMEN IN MALAYSIA, 153-54 (1995). Workers, especially women, were drawn to factory work because many of the factories were built close to their villages. Economic motivation was another factor drawing workers. Farming on the small plots of land often did not provide enough for a family, and remittances from factory labor could be sent to the parents.

19. See id. at 151-62. NASH & FERNANDEZ-KELLY, supra note 11, viii. See also Miranda Ewell & K. Oanh Ha, High Tech's Hidden Labor Outside the Eyes of the Law: Silicon Valley Companies Pay Asian Immigrants by the Piece to Assemble Parts at Home, SAN JOSE MERCURY NEWS (Cal.), June 27, 1999, at A1 (Some stereotypes that help to perpetuate wage exploitation in the work environment are images of young, single, and meek Asian females with "nimble fingers, agile hands, and keen eyesight," having had practice and training engaging for years in knitting and needlework. Once they lose their agility and keen eyes, they are often let go.).
means of employment for these women.\textsuperscript{20} "The destruction of subsistence economies, which often follows the inception of new forms of industrialization, eliminates the basis for alternative strategies and increases dependency on factory work."\textsuperscript{21} With the advent of "duty-free zones,"\textsuperscript{22} peripheral countries originally producing goods for internal consumption, now produced goods for the "world market."\textsuperscript{23} This affects the livelihood of a large portion of the labor force and benefits the transnational corporations by maintaining an overall low investment rate due to relaxed tariff laws, the inability of workers to unionize, and the resulting low wages of a predominantly female force.\textsuperscript{24}

Global integration of production has not decreased the inequalities between men and women.\textsuperscript{25} Quite the opposite has happened; the most visible examples include the wage-gap and gender-based allocation of work.\textsuperscript{26} Caste and ethnic differences also contribute to the glaring inequalities; for example, management has the tendency to use certain rules allegedly to "protect" women from night shift work, heavy lifting, or working in mines, emphasizing the biological rather than the socio-economic and cultural factors of gender discrimination.\textsuperscript{27} This prevents women from gaining the technical experience that would enable them to earn higher wages,\textsuperscript{28} and reproduces the notion that women's work is less valuable than men's.

The transition from a rural to urban setting has had its effect on families and the local economy, due to the dislocation of the family because of "out-migration."\textsuperscript{29} For example, whereas rural girls and women worked on farms with little or no supervision, once they entered factory

\begin{itemize}
  \item \textsuperscript{20} NASH \& FERNANDEZ-KELLY, supra note 11, at viii.
  \item \textsuperscript{21} \textit{Id.}
  \item \textsuperscript{22} Hamada, supra note 16, at 225-26.
  \item \textsuperscript{23} \textit{Id.} See also Gerard Chaliand, \textit{Third World: Definitions and Descriptions}, \textit{THIRD WORLD TRAVELER}, at http://www.thirdworldtraveler.com/General/ThirdWorld_def.html (last visited Apr. 1, 2002). "World market" is the global arena in which goods are bought and sold, imported and exported between and within countries for the purpose of profit. \textit{Id.}
  \item It is the result of the absorption of the third world into the international capitalist economy by way of conquest or indirect domination, whereby the economies of the "third world" are devoted to producing primary products for the developed world. \textit{Id.}
  \item \textsuperscript{24} NASH \& FERNANDEZ-KELLY, supra note 11, at viii.
  \item \textsuperscript{25} \textit{See, e.g., FERNANDES, supra note 17, at 109; NASH \& FERNANDEZ-KELLY, supra note 11, at 76-77; see generally, ONG, supra note 18. Whereas the intent of globalization per se is not to necessarily decrease inequalities, it has helped to exacerbate and perpetuate inequalities under which it has flourished in the particular socio-cultural and political climates of the so-called "third" world; although the construction of the "third" world can also include communities within North America, specifically, Canada and the United States.
  \item \textsuperscript{26} \textit{Id.} at 41; NASH \& FERNANDEZ-KELLY, supra note 11, at 77.
  \item \textsuperscript{27} FERNANDES, supra note 17, at 51-52.
  \item \textsuperscript{28} \textit{Id.} at 51.
  \item \textsuperscript{29} NASH \& FERNANDEZ-KELLY, supra note 11, at viii. "Out-migration" occurs when formerly agrarian laborers leave their lands for jobs in urban settings or go overseas to another country. This often occurs when the land can no longer sustain a family or community through agricultural production.
\end{itemize}
life, they discovered that time was measured in profits, savings and waste.30 Many found the rigidly structured style of the shop to be repressive and alienating as well as dangerous because the factory operators blatantly ignored health and safety laws.31 Family dynamics were also disturbed, in particular when daughters earning low wages in factories refuse to turn over their wages to their parents.32

While paternalism may persist,33 the role of the “company patriarch” as a general “parent” figure is not the paternalism of old.34 The new corporate paternalism neglects to fulfill the physical and spiritual needs of the worker, and does not provide for basic housing and welfare necessities. Today’s corporations and their subsidiaries display “temporary” paternalism. Once the multinational corporation exhausts the utility of a particular area, due to “seasonal or cyclical downturns in production,”36 whole families may lose their jobs and homes.37 This pattern of corporate behavior disregards the overall consequences to the family structure and the local economy.38

While industrialization negatively affected formerly agrarian societies, this alone did not cause the rise in human trafficking.39 The continuing subordination of women in many societies exacerbates economic, educational and work disparities.40 Since many societies view daughters as economic burdens, very poor and sometimes desperate parents will sell their daughters to traffickers.41 Dislocations stemming from war, internal strife or famine, also add to the migration pattern.42 The high demand for women and children for the sex industry, as cheap labor, and as domestic

30. Ong, supra note 18, at 168.
31. Wolf, supra note 17, at 120-22; see also Atkins, supra note 11, at 80-86.
32. Spengler, supra note 10, at 309.
34. Id.
35. Id.
36. Id.
37. Id.
38. Id. at 617-20. Today, most multinationals such as Wal-Mart, the Gap or Nike are more virtual organizations, that is, hubs linked by contract to suppliers (the spokes). Their manufacture is outsourced to various companies based in the countries where the suppliers are located. However, the hubs maintain and wield immense power over their suppliers; hence the reluctance of management of the manufacturing plants and the suppliers to improve on or allow unionizing of their workers, resulting in a continuation of often degrading and low labor conditions for the workers. See also UNITE! STOP SWEATSHOPS CAMPAIGN, Was Your School’s Cap Made in a Sweatshop?: A UNITE Report on Campus Caps Made by BJ&B in the Dominican Republic, at http://www.uniteunion.org/sweatshops/schoolcap/schoolcap.html (last visited Mar. 28, 2002).
40. Spengler, supra note 10, at 310.
41. Miko, supra note 3, at 3.
workers are other factors driving the continued trafficking of individuals. The large tax-free profits, combined with the marketability of women for sex, provide financial incentives to traffickers, limited employment and educational opportunities, and a variety of restrictive cultural norms force many people to engage in emotionally and physically degrading forms of labor. Men and women seek better economic opportunities overseas as sweatshop laborers, nannies, dancers, hostesses, and sex workers, with many of these migrants ending up victims of "illegal and unscrupulous trafficking networks."

III. IMPACT OF GLOBALIZATION: HOW DOES IT TIE INTO THE ISSUE OF HUMAN TRAFFICKING?

A. SOME CONSEQUENCES OF GLOBALIZATION

While the increase in globalization has forced men and women to seek opportunities elsewhere, women and children have been more severely impacted because of the dramatic decrease in government food subsidies and the increase in prices. For example, the First Asian Human Rights Workshop documented that the conditions imposed by the World Bank on Sri Lanka contributed to the total governmental expenditure for food dropping from 16.6% in 1977, to just 1.50% in 1992. As a result, food prices rose by 400% for rice, 293% for sugar, 823% for milk powder, and 828% for flour.

Privatization, displacement of people, sometimes whole villages, from sustainable lands now used for high rises or resort hotels, and a widening gap between rich and poor, exacerbate the problems of some less-wealthy countries. With the decrease in quality of life and the failure of locally operated garment factories to pay even subsistence wages, women and

43. Miko, supra note 3, at 4.
44. Hyland, supra note 42, at 35.
46. Miko, supra note 3.
47. Id.
49. Bulathsinghala, supra note 48.
50. Id.
51. Id.
52. Id. Also, Sri Lanka has been having an on-going conflict between ethnic Tamils and native Sri Lankans for decades, which has added political, social and religious strife causing the economy to worsen.
men are forced to out-migrate in order to find work in India, the Middle East, Western Europe or North America.\textsuperscript{54} Little or no job skills prime the atmosphere for exploitation at the hands of unscrupulous traffickers.\textsuperscript{55}

Globalization created a network of inter-dependency of the world’s people at an unprecedented scale. Economies, cultures, technology and governance are affected by globalization.\textsuperscript{56} Events occurring across oceans affect people in ways undreamed of, and not always to their benefit. For example, when the Thai baht\textsuperscript{57} collapsed, throwing countless people out of work in Thailand and all over Southeast Asia, social investments in South America\textsuperscript{58} slowed down considerably while prices of imported medicines to Africa rose dramatically.\textsuperscript{59}

As a result, the push to open up borders for liberalized and privatized market expansion of capital and information has outpaced the capabilities of governance in some areas, creating a widening gap between those who would benefit fully and those who would not.\textsuperscript{60} The rights of those on the margins are neglected while the players of profit markets often lose a sense of respect for justice and human rights.\textsuperscript{61} The desire for largely agrarian countries such as those within Southeast Asia, to push their economies towards market-based economies, has resulted in the alienation and dislocation of a large part of their populations.\textsuperscript{62} In order to attract foreign investors and foreign capital, countries like Thailand have developed policy


\textsuperscript{54} Maya Raghu, Note, Sex Trafficking of Thai Women to the United States and the U.S. Asylum Law Response, 12 GEO. IMMIGR. L.J. 145, 147 (1997).


\textsuperscript{56} Id.


\textsuperscript{58} HUMAN DEVELOPMENT REPORT 1999, supra note 55.

\textsuperscript{59} Id. While a detailed rendering of the detrimental effects of globalization are beyond the scope of this paper, suffice it to say that while corruption, cronyism as well as bad loan practices contributed to the collapse of Asian markets, much of the blame could be laid at the doorstep of certain policies implemented by the World Bank and the International Monetary Fund. Id. For example, both institutions required that debtor countries resort to severe austerity measures through deregulation and privatizing their economies, as well as demanded the dismantling of traditional local monopolies, like the Korean chaebols, industrial conglomerates, that were once viewed as the bedrock of Korea’s economic success. Id.

\textsuperscript{60} Id.


\textsuperscript{62} Raghu, supra note 54, at 145-46.
geared towards that end. However, what is created is a society overly concerned with money and material wealth. This has widened the gap between rich and poor Thai citizens.

Women are generally the ones affected the most profoundly in transition economies. Policies implemented by organizations such as the World Bank contribute to the exploitative conditions that tend to increase poverty rather than alleviate it, particularly in rural areas. They are especially vulnerable because they are often without the necessary education, and do not have access to the land or capital that would enable them to take advantage of any current economic boom.

While women withstand the worst of marginalization, men also are victims of trafficking networks. In countries such as Nigeria, poor and middle-class men and women have been severely affected by political and economic upheavals. Just ten years ago, for example, a teacher in Nigeria could afford a car in one year's time; now that teacher would consider themselves fortunate if they could afford a bicycle. Corruption, theft, and bribery are rampant and have become an accepted part of daily life.

IV. THE ROLE OF THE UNITED STATES IN COMBATING HUMAN TRAFFICKING

On August 19, 1997, eighteen individuals pled guilty to recruiting and smuggling approximately sixty Mexican nationals into the United States to exploit them for profit. Seventeen of the eighteen were sentenced to

63. Id.
64. Id.
66. Raghu, supra note 54, at 146.
67. Id.
68. Id.
69. Derek Scally, Human Trafficking: Examining the International Trade in Human Life, IRISH TIMES, Oct. 21, 2001; Inglis, supra note 5, at 69.
71. Id.
72. Id. For example, according to Cullen's report, the wealthy siphon off oil wealth while a teacher will accept a bribe to pass a student, or the accountant who requires new employees to give him a cut of their salaries. 70 percent of the population lives on less than $1 a day, while some 92% live on less than $2 a day. Id.
terms ranging from eleven months to fourteen years.74 The remaining defendant was sentenced to five years probation.75 The Mexican nationals were both deaf and mute, and were lured to the United States with promises of good jobs.76 They were forced to work under conditions of servitude by peddling key chain trinkets on the streets and subways of New York City.77

Just a few years earlier, in El Monte, California, eight Thai nationals pled guilty to acts of conspiracy, involuntary servitude and harboring illegal aliens.78 Upon arrival into the United States, the Thai laborers were transported to a “work compound”79 where they were confined, some chained to tables, and forced to work up to twenty hours at a time.80 The traffickers enticed would-be immigrants to the United States with promises of good jobs, high wages, and a better life.81

High profile trafficking cases revealed a lack of anti-trafficking laws, prompting national and international governmental and non-governmental organizations to call for broad legislative expansion.82 Slavery was considered a thing of the past, and the few reports that trickled in from aid workers or human rights activists were regarded as isolated cases having nothing to do with “over here.”83 The indictments, trials, and convictions of defendants in the “Deaf Mexican case”84 and the “El Monte case,”85 forced state and federal law enforcement and prosecutors to realize that such crimes did indeed exist at the very door of the United States.86

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74. See supra note 73.
75. Id.
76. Id. See generally Richard, supra note 1, at 49 (briefly describing the grand jury indictment).
77. See supra note 73. The grand jury indictment alleged that the Mexicans were forced to sell key chain trinkets in Baltimore, Boston, Chicago, Los Angeles, New York, Philadelphia and Washington, D.C. See Hyland, supra note 42, at 37 n.72.
79. See supra note 73; Slave Conditions in Southern California Garment Shop, SWEAT SHOP WATCH (Sweat Shop Watch, Oakland, Cal.) Fall 1995, available at http://www.sweatshopwatch.org/swatch/newsletters/1_1.html; Julie Su, El Monte Thai Garment Workers: Slave Sweatshops, SWEAT SHOP WATCH (2001). The work compound was the factory where the Thai nationals worked. It was basically an enclosed area surrounded by barbed wire and guards. Other methods used to prevent escape included boarding the windows up, installing locks on all the doors, censoring the victims’ mail and threatening the victims that their families in Thailand would be harmed.
80. See supra notes 73, 79.
81. Id.
82. See generally Chuang, supra note 3.
84. See supra note 73.
85. See supra notes 73, 79.
86. Clayton, Prostitution Circuit Takes Girls Across North America, supra note 83;
Beginning in 1999, prompted by these two cases, Democratic Senator Paul Wellstone, Democratic Representatives Louise McIntosh Slaughter and Sam Gejdenson, and Republican Representative Christopher Smith, introduced several anti-trafficking bills in both the Senate and the House.\(^8\) These combined efforts merged to form the Victims of Trafficking and Violence Protection Act of 2000 (hereinafter VTVP A), signed into law by President Clinton on October 28, 2000.\(^8\)

Prosecutors had several options with which to approach and prosecute these cases. For example, by focusing on the employment relationship, various possible criminal violations stemming from coverage could be prosecuted under the Involuntary Servitude and Labor statutes which would cover all facets of the abuse.\(^8\) As more trafficking cases came to light, law enforcement and prosecutors realized these cases did not always entail forced sweatshop or restaurant labor.\(^9\) Many of the trafficking cases also involved the forced prostitution of women and, to some extent, children.\(^9\)

A. LEGAL RESPONSES: INITIAL ACTIONS

The Victims of Trafficking and Violence Protection Act of 2000, defines “severe forms of trafficking in persons” 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, (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.\(^9\)

Trafficking in persons is international organized crime’s third largest profit source, after drugs and arms smuggling.\(^9\) It is estimated that at least 700,000 people a year, are trafficked internationally as well as within
borders. The majority of trafficked persons are women and children. Of the 700,000, approximately 50,000 are trafficked into the United States each year.

Former United States Attorney General Janet Reno recognized the pattern of widespread exploitation of documented and undocumented immigrant workers in the United States, and approved the formation of what is now called the Trafficking in Persons and Worker Exploitation Task Force (hereinafter TPWETF). This inter-agency task force is jointly chaired by the Assistant Attorney General for Civil Rights at the Department of Justice and the Solicitor of Labor at the Department of Labor. TPWETF contributing agencies include the Federal Bureau of Investigation (F.B.I.), Immigration and Naturalization Services (I.N.S.), the Executive Office for United States Attorneys (EOUSA), the Criminal Division, the Office for Victims of Crime, and the Violence Against Women Office. All of the above are within the Department of Justice and the Department of Labor. The TPWETF also works closely with the national Departments of State and Agriculture, the Equal Employment Opportunity Commission, and individual state offices of the Attorney General.

The TPWETF created a toll-free complaint line to better identify and address the needs of the victims. Once a report of a potential Involuntary Servitude violation is brought to the attention of the Criminal Section of the Civil Rights Division in the Department of Justice, it can be referred to the Department of Labor’s Wage and Hour Division, the F.B.I. Hate Crimes unit, the I.N.S., the local District Attorney’s office, or any number of points of contact that are within the fifteen regional task forces also set up by the TPWETF. Many community-based nonprofit organizations working primarily with documented and undocumented immigrant, migrant, and indigent workers, are also utilized as points of contact and partners to assist trafficking victims.

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94. Victims of Trafficking and Violence Protection Act of 2000 § 102(b)(1).
95. Id.
96. Id.
99. Id.
100. Id.
101. Id.
102. Richard, supra note 1, at 31.
104. Id. The TPWETF Helpline, established in February, 2000, provides one centralized number to report any actual or suspected abuses and exploitation of both immigrant and non-immigrant workers.
105. Examples include the Florida Immigrant Advocacy Center based in Miami, Fla., RAKSHA, based in Atlanta, Georgia (working primarily with South Asian women), and the Campaign for Domestic Migrant Workers’ Rights, based in Washington, D.C., just to name
The Criminal Section of the Civil Rights Division has primary responsibility for enforcing the involuntary servitude and peonage statutes\(^{106}\) and is an active and leading member of the TPWETF. The Criminal Section conducts general investigations and grand jury investigations, and prosecutes cases, working closely with the F.B.I., the I.N.S., the ninety-four United States Attorneys’ Offices, Victim/Witness Coordinators from the above agencies, as well as the EOUSA.\(^ {107}\) Through the experiences of investigating and prosecuting trafficking cases, the Criminal Section also assists the Administration in formulating policy to combat trafficking of humans and worker exploitation.\(^ {108}\) It has also created an outreach program to “educate victims of trafficking about their rights; create dialogue and build trust with community and non-governmental organizations . . . [and] provide education and training assistance to law enforcement officers, prosecutors, and victim/witness staff.”\(^ {109}\)

The Victims of Trafficking and Violence Protection Act of 2000 serves to not only combat trafficking in persons, but also to ensure a just and effective punishment of traffickers.\(^ {110}\) The Act outlines definitions of trafficking as well as legal alternatives and options that protect the victims of sex trafficking\(^ {111}\) and prosecute the perpetrators.\(^ {112}\) The Act determines the degree of trafficking and the appropriate punishment based on factors including coercion, involuntary servitude, debt bondage, and forced prostitution.\(^ {113}\)

As required by the Act, the Department of State instituted an annual country report of human rights practices in countries receiving economic and security assistance, in order to determine the extent that individual governments combat severe forms of trafficking within and without their borders.\(^ {114}\) The annual country report reviews the efforts of these countries

\(^{106}\) U.S. DEP’T. OF JUSTICE, supra note 97.

\(^{107}\) Id.

\(^{108}\) Id.

\(^{109}\) Id.

\(^{110}\) Victims of Trafficking and Violence Protection Act Of 2000 § 102(a), See also Victims of Trafficking and Violence Protection Act of 2000 § 105 (establishing the Interagency Task Force to Monitor and Combat Trafficking).

\(^{111}\) Victims of Trafficking and Violence Protection Act of 2000 § 107(b)(1)(C). Before extending protection to victims of trafficking in the United States, the individual, among other requirements, must be under eighteen years old or be certified as a trafficking victim. Victims of Trafficking and Violence Protection Act of 2000 § 107(b)(1)(C)(ii). Certification involves a willingness to assist in the investigation and prosecution of severe forms of trafficking in persons and either (1) completion of “a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act . . . that has not been denied,” or (2) “continued presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.” Victims of Trafficking and Violence Protection Act of 2000 § 107(b)(1)(E)(I)(II).

\(^{112}\) Victims of Trafficking and Violence Protection Act of 2000 § 105(d)(4).

\(^{113}\) Victims of Trafficking and Violence Protection Act of 2000 §§ 103, 108.

\(^{114}\) Victims of Trafficking and Violence Protection Act of 2000 § 104. A list of countries
in actively prosecuting traffickers under the various statutes and legislation available within their court systems, and in providing direct services to those victimized by traffickers. The United States may withhold non-humanitarian aid from countries that fail to prevent and prosecute trafficking.

While the assessment of anti-trafficking efforts is subjective, the Act raises some important issues that should be used to determine a country’s ability to combat human trafficking. The assessment must address the following:

(i) Whether governments authorities in that country participate in, facilitate, or condone such trafficking. (ii) Which government authorities in that country are involved in activities to combat such trafficking. (iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials. (iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking. (v) What steps the government of that country has taken to assist victims of such trafficking. (vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation. (vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

The Act, in striving to achieve its goals of combating and preventing global trafficking, lists some economic alternatives as a means of prevention and deterrence. For example, micro-credit lending programs, training in business development skills, and programs to promote women’s participation in economic decision-making, assist in providing modes for

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115. Victims of Trafficking and Violence Protection Act of 2000 § 104. Services may include shelter, medical care, job skills training, job placement, temporary working visas when applicable, and repatriation if that is what the victim wishes.
116. Id.
117. Id.
118. Victims of Trafficking and Violence Protection Act of 2000 § 104(a).
119. Id.
women to generate sustainable income. This enables women to remain within their communities rather than be forced to seek employment in their countries’ urban areas or beyond their borders. Other programs, such as keeping children, particularly girls, in grammar and secondary schools, increase their chances of escaping the poverty that can make many easy targets for traffickers who fill them with exaggerated or false promises of a better life elsewhere. Public awareness campaigns detailing the dangers of trafficking, development of educational curricula, and grants to nongovernmental organizations are crucial solutions to the sex trafficking problem and will accelerate and advance the political, economic, social and educational roles and capacities of women in their respective countries.

B. PROTECTIVE PROVISIONS FOR THE VICTIM

Among the most important aspects of the Act are the provisions for victims’ protection and assistance. The Act states that “[t]he Secretary of State and the Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration, reintegration,
or resettlement, as appropriate, of victims of trafficking."\textsuperscript{124}

Under the proposed assistance, victims of trafficking are eligible for the same Federal or State benefits and services available to refugees under section 207 of the Immigration and Naturalization Act as stated in the VTVPA.\textsuperscript{125} However, the victim becomes eligible for such benefits on the condition that he or she has not only been willing to assist in the investigation and prosecution of the perpetrator or trafficker in every reasonable way, but has also made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act.\textsuperscript{126} Grants are allocated to non-profit, non-governmental victims’ services organizations, and victim service programs for victims of trafficking, among others.\textsuperscript{127}

The Act goes on to discuss minimum standards that other countries should follow in their attempts to eradicate the trafficking of persons.\textsuperscript{128} For example, carrying out programs and initiatives to “assist in safe integration” or resettlement are among some of the standards discussed in the Act.\textsuperscript{129} The Department of State’s Trafficking in Persons Report, released on July 12, 2001, further expands this notion.\textsuperscript{130} The compilation of the report will establish each country’s “actions, or in some cases, inaction to combat”\textsuperscript{131} the problem of trafficking. The reports from each country will also determine the degree of assistance that the U.S. will give to those countries that meet the minimum standards set forth in the Act, as well as any actions to be taken against those governments who fail to meet those standards.\textsuperscript{132}

C. WHO IS A TRAFFICKING VICTIM?

The trafficking of persons has continued throughout the world, for

\textsuperscript{124} Victims of Trafficking and Violence Protection Act of 2000 § 107(a)(1).
\textsuperscript{125} Integration and reintegration refer to the process where victims voluntarily return to the home or source country after the trafficking has ended. International Office of Migration (IOM) is a world-wide organization that assists in this, tailoring the reintegration process to the individual situation of the migrant. INT’L ORG. FOR MIGRATION, Mission Statement, at http://www.iom.int/en/who/main_mission.shtml (last visited Apr. 3, 2002).
\textsuperscript{126} Resettlement is the means whereby a trafficking victim who chooses to remain in the host country is situated with the help of such organizations as IOM, Health and Human Services, or Office of Refugee Resettlement.
\textsuperscript{127} Victims of Trafficking and Violence Protection Act of 2000 § 107(b)(1A).
\textsuperscript{128} Certification for benefits is provided for by Health and Human Services under certain conditions.
\textsuperscript{129} Victims of Trafficking and Violence Protection Act of 2000 § 107(2)(B).
\textsuperscript{130} Victims of Trafficking and Violence Protection Act of 2000 § 108.
\textsuperscript{131} Victims of Trafficking and Violence Protection Act of 2000 § 107(a)(1).
\textsuperscript{131} Id.
\textsuperscript{132} U.S. DEP’T OF STATE, supra note 130.
The increase in technological advances enables traffickers to expand their networks and to more easily move desperate people who want to get out of unstable and unsatisfactory situations within their home countries. Internal strife, like civil war and economic meltdowns resulting from globalization, contribute and facilitate the luring of susceptible men or women from mainly Asian, African, Latin American and Eastern European countries to Western European and North American countries with promises of a better life and better wages.

While women make up a large proportion of trafficking victims, children also are victims. For example, in Sudan, India, Pakistan, and other African and Asian countries, children are often used as servants, carpet makers, and concubines. Children from Benin and Togo are sold to wealthier citizens of Nigeria and Gabon, to name a few countries, for domestic, agricultural and sexual servitude. In the Dominican Republic, bonded laborers slave away in the cane fields. In Thailand, young girls are not only sold as prostitutes within Thailand, but also as slave chattels in Mauritania.

Some trafficking victims, in the United States, are domestic workers brought over from their country of origin by non-U.S. employees of the World Bank, the International Monetary Fund (I.M.F.), or foreign diplomats living in the United States. The Washington D.C.-based

135. Hyland, supra note 42, at 35.
136. Id. at 35; Miko, supra note 3, at 1. The largest number of victims come from the Asian continent with (approximately) 225,000 from Southeast Asia each year, and (approximately) over 150,000 from South Asia. Miko, supra note 3, at 1. The former Soviet Union is now the largest new source of trafficking, with an additional 75,000 or more from Eastern Europe. Id. at 1, 3. Over 100,000 come from Latin America and the Caribbean. Most victims are sent to Asia, the Middle East, Western Europe and North America. Id.
137. Id. at 5. For providing transportation and false documents, traffickers charge exorbitant fees that create a lifetime of debt bondage.
138. Ricco Villanueva Siasoco, Modern Slavery; Human Bondage in Africa, Asia, and the Dominican Republic, at http://www.infoplease.com/spot/slavery1.html. "[T]here are currently over 200 million people in bondage." Id. "UNICEF estimates that 200,000 children from West and Central Africa are sold into slavery each year." Id.
139. Id.
140. Id.
141. Id.
142. Id.
143. Kanics, supra note 45, at 1; CAMPAIGN FOR MIGRANT DOMESTIC WORKER RIGHTS, INSTITUTE FOR POLICY STUDIES, The Legal Rights and Resources Available to G-5 and A-3 Domestic Workers, at http://www.ips-dc.org/campaign/Rights.htm (last visited Apr. 2, 2002). For non-US employees of the World Bank or IMF, and for foreign diplomats living in the U.S., having a domestic worker from their country of origin is very convenient because of socio-cultural considerations, particularly in the manner of upkeep of the house, the cooking of the food, and maintaining their languages. Sometimes, a domestic worker
nonprofit organization, Campaign for Migrant Domestic Workers Rights, seeks to assist those who have been physically or emotionally abused by their employers. In some cases, the victims are not paid the promised wages stated in their contracts, but instead have to work long and punishing hours with very little food or rest.

Other trafficking victims become sweatshop garment workers, or are brought to the United States to work in restaurants. Sometimes, the victims migrate knowing they will be engaging in sex work. However, once they arrive at their destination, they are coerced into debt bondage, forcing them to work and service clients in dangerous and harsh conditions. Wherever these victims land and whatever work they are involved in, their commonality is their trafficked status.

D. EXPLOITATIVE CONDITIONS

Once the trafficker has successfully lured his or her victim to the destination country, he or she may demand repayment of “expenses” incurred. Traffickers often deceive their victims into believing that they are responsible for the costs associated with their transportation, food and lodging. To prevent the victims from escaping and reneging on their “debt,” traffickers may use violence, force, or the threat of violence and force. The workers are often foreign nationals, poor, disenfranchised within their own home countries, and often have little or no foreign-language skills. This makes them more vulnerable in the hands of traffickers who try to control them through isolation, denial of medical care, placing security guards in front of their places of “employment,” withholding wages, or invoking their fear of arrest or deportation.

may not necessarily be from the employer’s same country, but they may have served for many years either with that person or in that person’s country, but in the employ of another. The worker would then be sensitive to the varied nuances of culture in terms of dietary and other customs and/or preferences. The domestic worker is brought over either on A-3 or G-5 visas, which were established for the domestic and household workers of foreign diplomats living in the U.S. or for those working for employees of international organizations who also live in the U.S. Kanics, supra note 45, at 2; Campaign for Migrant Domestic Worker Rights. Sometimes situations arise where once the worker has been brought over to the United States, their documents are taken away from them, and they are made to work very long hours for little or no pay. Kanics, supra note 45, at 2. Sometimes, physical and/or sexual abuse accompanies any verbal mistreatment. Id.

144. Kanics, supra note 45, at 1. 145. Id. 146. Id. 147. Id. 148. Id. 149. Hyland, supra note 42, at 38. 150. Id. 151. Id. at 40-41. 152. Id.; Raghu, supra note 54; Yasmine Rassam, Contemporary Forms of Slavery and the Evolution of the Prohibition of Slavery and the Slave Trade Under Customary International Law, 39 VAND. INT’L L. 303 (1999). 153. Richard, supra note 3, at 5.
E. Non-Profit Action

Many non-profit organizations, geared to helping trafficking victims, seek to assist them in any way they can. These organizations may be state-funded or privately-funded through foundations such as the Ford Foundation. Cooperation between federal and state governmental agencies and the nonprofit groups that trafficking victims turn to is vital to the well-being of the victims. Without such cooperation, the already limited resources of each would be further stretched to the detriment of those victims. Victims of trafficking are often dependent on agencies that seek to help them repatriate to their home countries and reintegrate into their society.

For example, the International Office of Migration [hereinafter I.O.M.] seeks to primarily assist women and children victims of trafficking that are stranded in the destination country and wish to return home but have no means of doing so. Since I.O.M. has extensive operational experience in helping trafficked women and children, they may receive funding to establish a “mechanism for rapid, case-by-case assistance to trafficked migrant women and children stranded outside their country of origin, who require immediate protection and return support.”

Another agency helping trafficked persons is the Coalition Against Slavery and Trafficking (hereinafter C.A.S.T.). C.A.S.T. is a Los

154. Id.
155. Organizations such as Safe Horizon (at http://www.safehorizon.org) and the Campaign for Migrant Domestic Worker Rights [hereinafter, Campaign], supra note 143, provide a variety of services to victims such as housing, medical care, food, clothing, translation services, and assistance in completing applications for temporary benefits. Most victims cannot work due to their immigration status, even if they should be holding a work visa of some kind. For example, while certain types of visas afford non-citizens the right to work in the U.S. — for example, the A-3 visa for household employees of diplomats, and the G-5 visa for employees of international agencies such as the World Bank, International Monetary Fund, and the United Nations — these are only temporary for as long as the employee remains in the diplomat’s or international agency employee’s household. Campaign for Migrant Domestic Worker Rights, supra note 143. The visas are valid for occupations such as housekeepers, nannies, cooks, drivers, gardeners, and other personal servants. According to the Campaign’s website in the “Who We Are” section, once the paper work is filed for these visas, the U.S. State Dept., international institutions and embassies take a “hands-off” approach to the plight of these domestic workers. Once the employee leaves their place of employment, the visa is no longer valid. Id. Often, these community-based organizations act as liaisons between the victims and governmental agencies when the victims are mistrustful or fearful of such agencies like Immigration and Naturalization Services, the U.S. Department of State or, to some extent, the Department of Labor.
158. Id.
159. The Programme of Assistance for the Protection and Reintegration of Trafficked Women and Children has been running for over 12 months. Id.
160. Id.
161. COALITION TO ABOLISH SLAVERY AND TRAFFICKING, Goals, at http://www.trafficked-
Angeles-based nonprofit, providing direct services to victims of trafficking, involuntary servitude, or forced labor. They work closely with the Office of Victims of Crime as well as the Department of Justice’s Civil Rights Division.

A well known case that C.A.S.T. handled involved a Thai boy nicknamed “Got.” Suspicious U.S. Customs agents stopped an Asian couple before they entered Los Angeles. Upon questioning the adult male accompanying Got, agents discovered that the man and woman were not Got’s parents. The man was a sex trafficker and the woman was his female trafficking victim. Unfortunately, both the trafficker and his female victim were simply deported; however, Got was removed from the couple and placed into protective custody, then C.A.S.T. took custody of the young boy. Further investigation by the I.N.S. revealed that traffickers had used Got twice before as a decoy. Using Got enabled the trafficker to enter a destination country with a female trafficking victim easily since they appeared to be a family traveling. It came to light that Got’s mother, back in Thailand, was also a trafficking victim. She married one of her clients (Got’s father) who later died of AIDS. C.A.S.T. placed Got in the home of a Thai social worker, while a long legal battle ensued between the boy’s mother and his grandparents in Thailand. Got’s case represents only one example of C.A.S.T.’s efforts...
to protect victims of trafficking by providing food, shelter, counseling, and medical care to trafficking victims.

Other organizations that do not provide direct services to trafficked victims serve an important role in providing other vital services. For example, Captive Daughters is a nonprofit organization based in Los Angeles dedicated to combating the trafficking of women and children, with a special emphasis on girls.\(^{173}\) While the organization is small, it disseminates information through its web-site, and establishes ties with organizations in the United States and abroad.\(^{174}\) Through a joint effort with the Philippines-based organization GABRIELA,\(^ {175}\) and the New York-based organization Equality Now,\(^ {176}\) Captive Daughters successfully focused media attention and social pressure on operators and organizers of sex tours.\(^ {177}\) Euphemistically called “gentlemen’s holidays,” these sex tours are vacation packages sold to men traveling from the United States to the Philippines for purposes of sexual exploitation.\(^ {178}\)

An important role for each of these groups is providing victims with information they need to escape, survive, or avoid being trafficked. Disseminating information, as well as providing education is critical to combating the lure of the trafficker. By keeping connected and involved in politics and with those in policy making positions, more widespread attention can be brought on the plight of current and potential trafficking victims. This can lead to passage of new legislation, such as the VTVPA,\(^ {179}\) and create more protections and services for victims, as well as establish stricter guidelines in bringing traffickers to justice. The dedication of U.S. Representatives such as Senator Paul Wellstone and Representative Chris Smith, among others, helps bring into focus the

\(^{173}\) At Captive Daughters’ annual board meeting in March, 2000, it was decided that the focus should be not only on women and girls, but on children in general, and that the wording of “young” girls should read instead, “with a special emphasis on girls.” Captive Daughters, at http://www.captivedaughters.org/idx.htm (last visited Mar. 20, 2002).

\(^{174}\) Captive Daughters, supra note 172.


\(^{178}\) Id. “Gentlemen’s holidays” are packaged sex tours usually to the Philippines or Thailand, where, for an all-inclusive price of about $1645, a man is able to purchase a roundtrip airline ticket to the Philippines, get hotel accommodations, and get tours of bars where he may hire a prostitute for about $24. Id. If he so desires, the man may request the services of two or more girls, and the price of the “tour” would reflect that. Id.

\(^{179}\) Victims of Trafficking and Violence Protection Act of 2000, supra note 88.
seriousness of an issue that does not promise to disappear soon.\textsuperscript{180} By enacting legislation such as the Victims of Trafficking and Violence Act of 2000,\textsuperscript{181} and releasing reports such as the Trafficking in Persons Report,\textsuperscript{182} prosecutors have the necessary ammunition with which to go after perpetrators. The efforts of these individuals and agencies can also encourage other governments to participate in the global stamping out of human trafficking.

V. CONCLUSION

Human trafficking is a transnational crime with transnational implications.\textsuperscript{183} It must be recognized as a serious offense, with any moral or racial condemnation set aside, for any progress to be made in bringing the perpetrators to justice. Although the trafficked victim's pain and oppression is a personal one, the perpetrators themselves are often members of transnational criminal syndicates.\textsuperscript{184} As such, one would hope that the crime of trafficking will someday be addressed in a coordinated international effort.\textsuperscript{185} Until then, nations must be urged to enact stringent laws and provide funds and prosecutorial resources to combat traffickers locally.\textsuperscript{186} As shown in the case of the United States, a uniform anti-trafficking law can give prosecutors and judges stronger ammunition with which to convict traffickers.\textsuperscript{187} Although the profits from human


\textsuperscript{181.} Victims of Trafficking and Violence Protection Act of 2000, supra note 88.

\textsuperscript{182.} U.S. DEP'T. OF STATE, supra note 130.


\textsuperscript{184.} Shelley, supra note 183, at 1.


\textsuperscript{186.} Hyland, supra note 42, at 37-38; McKinley, supra note 185; Shelley, supra note 183, at 4.

\textsuperscript{187.} "The TVPA [Victims of Trafficking and Violence Protection Act of 2000] creates new tools that enhance the Department's ability to prosecute traffickers, and it allows us to assist trafficking victims in ways that simply were not possible before the TVPA was passed in October 2000." Implementation of the Trafficking Victims Protection Act: Hearing before the House Comm. on Int'l Rel., supra note 163, at 29 (testimony of Ralph F. Boyd,
trafficking are enormous, and the traffickers have great resources at their disposal,\textsuperscript{188} human rights activists must persevere in their efforts to assist law enforcement and prosecutors. Some countries have implemented various stringent laws to combat this problem,\textsuperscript{189} while other countries still have much to do in terms of combating official corruption before effective laws can be successfully implemented.\textsuperscript{190}

Though many anti-capitalist activists and environmentalists point to globalization as the primary culprit in promoting inequities that lead to trafficking in human beings, it is not quite as simple as that. The legacy of historical colonization, policies of governments, racial, economic, and social class divisions as well as gender inequities, continued unrest in certain regions of the world, the general scarcities in even the basics of food, water, and healthcare, create a desire for a better life and the willingness to take the risk to ensure that such a life can be attained.

\begin{footnotesize}
\begin{enumerate}
  \item Inglis, \textit{supra} note 5, at 78-79, 82; \textsc{Corbin B. Lyday}, \textsc{The Shadow Market in Human Beings: An Anti-Corruption Perspective}, U.S. Agency for Int'l Dev't. available at \url{http://www.10iacc.org/workshops/cs32b.pdf} (last visited Apr. 2, 2002).
  \item Inglis, \textit{supra} note 5, at 94.
  \item \textsc{WomaNaid International Anti-Trafficking Programme}, at \url{http://www.womenaid.org/events/trafficking/background.htm} (last visited Apr. 3, 2002); Narcisa Escaler, Statement at the United States – European Union Transatlantic Seminar to Prevent Trafficking in Women (July 8-9, 1998), \textit{in} \textsc{Brama: Social Issues in Ukraine}, at \url{http://www.brama.com/issues/IOM980709Lviv.html} (last visited Apr. 2, 2002); \textsc{The Trafficking of Nigerian Women into Italy}, TED Case Studies, Jan. 2002, at \url{http://www.american.edu/TED/italian-trafficking.htm}.
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