

**JAILING THE JOHNS:
THE ISSUE OF DEMAND IN HUMAN SEX TRAFFICKING**

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“The trade in human beings continues in our time and we are called by conscience and compassion to bring this cruel practice to an end.”

— George W. Bush¹

I. INTRODUCTION

Slavery is an institution that many people believe no longer exists.² Slavery has not ended and there are millions of innocent victims caught in this system.³ This is not the slavery that was fought over in

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¹ George W. Bush, *News and Updates: President Signs H.R. 972, Trafficking Victims Protection Reauthorization Act*, HUMANTRAFFICKING.ORG (Jan. 2006, 1:33 PM EST), <http://www.humantrafficking.org/updates/213>.

² See Office for Victims of Crime & Bureau of Justice Assistance, Dep't of Justice, *Anti-Human Trafficking Task Force Strategy and Operations E-Guide: Understanding Human Trafficking*, OVCTTAC, <https://www.ovcttac.gov/TaskForceGuide/EGuide/Default.aspx> (last visited Mar. 27, 2012) (“Human trafficking may be one of the least understood crimes in the United States. Often referred to as slavery without chains, it is a widespread and highly profitable crime, largely hidden from public view out of ignorance or denial of its existence in the United States.”).

³ See, e.g., Jasna Vujin, *Human Trafficking in the Balkans: An Inside Report*, 4 INTERCULTURAL HUM. RTS. L. REV. 267, 267-68 (2009) (noting there are between 27 million and 200 million people “who live in a [sic] slave like conditions”).

the U.S. Civil War.⁴ This form of slavery is not very different from colonial slavery—innocent people caught and trapped in this web of sex for service.⁵ Today, this form of slavery is better known as human trafficking.⁶ This is a brutal, heinous, and damaging situation that many women and children find themselves in as unwilling participants.⁷ Most victims have little to no hope of a life of freedom and dignity.

The United States is an active participant in the global sex trade.⁸ As surprising as this may be to most Americans, victims of the global sex trade are trafficked in and out of this country on a daily basis.⁹ Most of the individuals victimized in this industry are women and children.¹⁰ Practically every state in the United States has sex trafficking occurring within its borders.¹¹ If there are people living in the state, there is the potential for sex trafficking. As was true with the colonial slave trade, the numbers of those enslaved in this twenty-first century slavery have increased over time.¹² And while it is impossible to retrieve accurate figures on the numbers involved (given the clandestine nature of this business, traffickers are not forthcoming with statistics)¹³ estimates show that “the numbers of women and children [who]

⁴ See, e.g., *id.* at 267 (noting that “traditional slavery” no longer exists in nearly every country in the world).

⁵ See, e.g., *id.* (noting that people are forced into slave-like conditions for commercial purposes).

⁶ See, e.g., *id.*

⁷ See, e.g., *id.* at 268 (describing the lives of the people forced into modern slavery).

⁸ See UNITED NATIONS OFFICE ON DRUGS & CRIME, THE GLOBAL INITIATIVE TO FIGHT HUMAN TRAFFICKING 7 (May 2007), available at http://www.unodc.org/pdf/gift_brochure.pdf (discussing the global issue of sex trafficking).

⁹ Chuck Neubauer, *Sex Trafficking in the U.S. Called ‘Epidemic’*, WASH. TIMES (Apr. 23, 2011), <http://www.washingtontimes.com/news/2011/apr/23/sex-trafficking-us-called-epidemic/?page=all>.

¹⁰ E.g., Vujin, *supra* note 3, at 268 (noting that victims of human trafficking are “predominantly women and children”).

¹¹ See Erin Bistricher, Note, “U” Stands for Underutilization: The U Visa’s Vulnerability for Underuse in the Sex Trafficking Context, 18 CARDOZO J.L. & GENDER 449, 468-71 (2012) (discussing issues confronting state prosecution of sex trafficking).

¹² Laura Lederer, *Opposing and Preventing Global Sexual Trafficking*, SALVATION ARMY, http://www1.salvationarmy.org/ihq/www_sa.nsf/vw-dynamic-arrays/B5DD72A243A1150B80256E49006C621E?openDocument (last visited Mar. 27, 2012).

¹³ UNITED NATIONS OFFICE ON DRUGS & CRIME, *supra* note 8, at 2.

2012]

George

295

have been trafficked have multiplied so that they are now on par with estimates of the numbers of Africans who were enslaved in the 16th and 17th centuries.”¹⁴

II. THE “JOHNS”

For sex trafficking to be successful, there has to be a demand.¹⁵ Without demand, the multibillion-dollar industry would not prosper or even exist.¹⁶ In this industry, victims emanate from countries where the victims are easily brought in as sex slaves.¹⁷ Traffickers then send these victims to the destination country where men use these women and children as instruments for their own sexual pleasure.¹⁸

While much research and discussion has focused on the supply side of sex trafficking, the demand side of sex trafficking rarely receives attention.¹⁹ Focusing on the demand side of sex trafficking is a key component in eradicating this problem.²⁰ We need to investigate why there is a demand for women and children for use as sexual instruments for sexual deviants.

As we explore the demand side of sex trafficking, we need to investigate what initiates this industry.²¹ It is clear that the demand for victims begins with them being used as either prostitutes or for free sexual favors.²² When there is a demand for sexual slaves, there are

¹⁴ Lederer, *supra* note 12 (alteration in original). Dr. Lederer, a senior state department adviser on trafficking, has studied sexual trafficking for twenty years at Harvard University. *Id.*; Laura J. Lederer, GEO. L., http://www.law.georgetown.edu/faculty/facinfo/tab_faculty.cfm?Status=LLMAAdjunct&ID=1785 (last visited Mar. 27, 2012).

¹⁵ Donna M. Hughes, Professor & Carlson Endowed Chair in Women’s Studies at Univ. of R.I., *The Demand: Where Sex Trafficking Begins at the Pontifical Gregorian University “A Call to Action: Joining the Fight Against Trafficking in Persons” Conference 1* (June 17, 2004), available at http://www.uri.edu/artsci/wms/hughes/demand_rome_june04.pdf.

¹⁶ *See id.*

¹⁷ *Id.*

¹⁸ *See id.* at 2-3.

¹⁹ *Id.* at 1.

²⁰ *See infra* note 24 and accompanying text.

²¹ *See infra* notes 22-69 and accompanying text.

²² *See* Hughes, *supra* note 15, at 1.

pimps that will find these victims and supply them to the “Johns.”²³ Demand is the first link in the chain of sex trafficking.²⁴

Four components comprise the demand for human sex trafficking: (1) the men purchasing commercial sex acts; (2) “the exploiters who make up the sex industry;” (3) the states that serve as destination countries; and (4) the cultures and environments that tolerate and promote sexual exploitation.²⁵

The concept that the demand originates from lonely men in unsatisfying relationships is merely a myth.²⁶ The truth is these men actually have a greater number of sexual partners than those men who are not purchasing sex.²⁷ The men who purchase sex are not unsatisfied; they simply seek something more and find excitement in the idea of finding a woman that “they can buy for a short time.”²⁸ Many of these young women are purchased for as short as fifteen minutes at a time.²⁹ The arousal stems from the thought of a sexual relationship without any attached responsibility.³⁰ Further, the men seek entertainment, sexual gratification, and acts of violence as they crave control and refuse to respect women.³¹ Finally, the demand group “is comprised of men of all colors, races, and cultural, educational and socio-economic backgrounds.”³² More often than not, these men develop the idea that they have a specific “right to sexual services in a way that results in ignorance regarding the development of relationships based on equality, truth, intimacy and commitment.”³³

²³ *Id.*

²⁴ *See id.*

²⁵ DONNA M. HUGHES, *THE DEMAND FOR VICTIMS OF SEX TRAFFICKING* 7 (2005), available at http://www.uri.edu/artsci/wms/hughes/demand_for_victims.pdf.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Peter Landesman, *The Girls Next Door*, N.Y. TIMES, Jan. 25, 2004, at 630 (illustrating that fifteen minutes of intercourse costs a mere four dollars and fifty cents).

³⁰ *See* Hughes, *supra* note 15, at 2.

³¹ *Id.*

³² Norma Hotaling & Leslie Levitas-Martin, *Increased Demand Resulting in the Flourishing Recruitment and Trafficking of Women and Girls: Related Child Sexual Abuse and Violence Against Women*, 13 HASTINGS WOMEN'S L.J. 117, 121 (2002).

³³ *Id.*

There is a school of thought that espouses the theory that the sexual exploitation of women who are trafficked, as well as prostituted, is behavior that the male representatively created and designed to reinforce control and power over the female, one gender dominating another.³⁴ Another indication of gender domination is the brutal treatment and torture of women, where men consistently use rape as a weapon of war.³⁵ This tool has been used “to terrorize, degrade, and destroy its female victims.”³⁶

The “Johns” are average citizens from every walk of life.³⁷ They are doctors, lawyers, judges, celebrities, chief executive officers, construction workers, and plumbers.³⁸ “Rich and poor, young and old, the men who buy the women and girls in prostitution are from every race/ethnicity in the world.”³⁹ Many tend to think that these “Johns” are sadistic, psychotic men, as society naturally tends to vilify and demonize them.⁴⁰ However, these “Johns” are our fathers, brothers, husbands, and sons.⁴¹ Until we realize that fact, we will not see where the demand side of this industry stems from and the problem will continue to run rampant.⁴²

³⁴ See, e.g., Jonathan Todres, *The Importance of Realizing “Other Rights” to Prevent Sex Trafficking*, 12 *CARDOZO J.L. & GENDER* 885, 889-90 (2006) (discussing how gender-based discrimination and violence leads to human trafficking); see also Lisa Avery, *The Women and Children in Conflict Protection Act: An Urgent Call for Leadership and the Prevention of Intentional Victimization of Women and Children in War*, 51 *LOY. L. REV.* 103, 107-10 (2005) (explaining the effects of armed conflict on women and children). See generally Andrea Dworkin, *Against the Male Flood: Censorship, Pornography, and Equality*, 8 *HARV. WOMEN’S L.J.* 1 (1985) (discussing the negative effect of the pornography industry on women).

³⁵ ELISABETH REHN & ELLEN JOHNSON SIRLEAF, *WOMEN WAR PEACE: THE INDEPENDENT EXPERTS’ ASSESSMENT ON THE IMPACT OF ARMED CONFLICT ON WOMEN AND WOMEN’S ROLE IN PEACE-BUILDING* 11-12 (2002).

³⁶ Avery, *supra* note 34, at 108.

³⁷ Melissa Farley, *2003 Conference: Demand Dynamics: The Forces of Demand in International Sex Trafficking: The Demand for Prostitution*, CAPTIVE DAUGHTERS, <http://www.captivedaughters.org/2003conf.html> (last visited Mar. 29, 2012).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ See *id.*

⁴¹ Hotaling & Levitas-Martin, *supra* note 32, at 121.

⁴² See Farley, *supra* note 37.

Many experts have attempted to categorize and estimate the number of men participating in the sex industry.⁴³ The problem is that “Johns” do not advertise who they are.⁴⁴ They are secretive and not easy to research or interview.⁴⁵ “It is almost impossible to estimate how many men in the world have bought women for sex.”⁴⁶ Even in countries where prostitution is legal, many aspects of the “Johns’” behavior are unknown and undiscoverable.⁴⁷ Melissa Farley, in her essay for the 2003 Captive Daughters Conference, notes that:

Estimates of the numbers of men who have ever purchased women in prostitution range from 16%–80%. A conservative guess at the percentage of US Johns is probably around 50% of all men. This includes purchase of trafficked women. Johns don’t ask for a “trafficked woman” in a massage parlor. We do know, however, that they often demand “something different,” which keeps up the demand for so-called “exotic” women.⁴⁸

Another expert, Elina Penttinen, has espoused one theory of the root cause of this demand for victims used for sexual gratification.⁴⁹ In her book, *Globalization, Prostitution and Sex-Trafficking: Corporeal Politics*, she explains that the sex bars “rely on hedonistic individualism, consumer culture and male rights to consume commercial sex.”⁵⁰ She elaborates that some men believe they have an “individualistic freedom and right to buy commercial sexual services.”⁵¹

One of the factors that contributes to the proliferation of the sex trafficking industry is the male demand for the prostitute for sexual

⁴³ *See id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ ELINA PENTTINEN, *GLOBALIZATION, PROSTITUTION AND SEX-TRAFFICKING: CORPOREAL POLITICS* 115 (2008).

⁵⁰ *Id.*

⁵¹ *Id.*

gratification.⁵² The kind of men that frequent brothels, sex bars, strip clubs that offer sex for their customers, escort dating services, massage parlors, and similar types of establishments “want unlimited access to a supply of women and girls from different countries, cultures and backgrounds.”⁵³ This steady desire for variety and the exotic is what causes the human trafficking industry, fueled by the sex trafficking component, to proliferate and be the second largest organized criminal activity in the world,⁵⁴ and while sex slaves comprise only four percent of all slaves in existence today, they generate approximately forty percent of the money earned by the slave owners and exploiters.⁵⁵ Were it not for men that have this sense of sexual entitlement (that they have the implicit right to purchase and sexually exploit women and children), the trade of sex trafficking would collapse and be nonexistent.⁵⁶ Scholars in the field of researching sex trafficking and its many causes recognize “the male demand for the sex of prostitution as the most immediate and proximate cause of the expansion of the sex industry, without which it would be unprofitable for pimps, recruiters and traffickers to seek out a supply of women.”⁵⁷ As basic as the notion might sound, a sex market devoid of the male consumers would go bankrupt.⁵⁸

The males that desire and demand these victims of sexual abuse find that their sexual desires, fetishes, and needs are not or cannot be satisfied within the ordinary confines of legitimate sexual relationships such as the traditional marital relationship, and as such, prostitutes and sex slaves fill that void.⁵⁹ This leads men to use women in prostitution

⁵² See MONICA O’CONNOR & GRAINNE HEALY, *THE LINKS BETWEEN PROSTITUTION AND SEX TRAFFICKING: A BRIEFING HANDBOOK*, 6 (2006), available at [http://ewl.horus.be/SiteResources/data/MediaArchive/Violence Centre/News/handbook.pdf](http://ewl.horus.be/SiteResources/data/MediaArchive/Violence%20Centre/News/handbook.pdf).

⁵³ *Id.* at 10.

⁵⁴ *Child Sex-Trafficking: The Facts*, OPRAH (Nov. 15, 2005), <http://www.oprah.com/oprahshow/Child-Sex-Trafficking-The-Facts>.

⁵⁵ *Sex Trafficking: Inside the Business of Modern Slavery*, STOP TRAFFICKING: ANTI-HUMAN TRAFFICKING NEWSL., June 2009, at 2, available at <http://homepage.mac.com/srjeanschafersds/stoptraffic/archives/stoptraff706.pdf> (“Hence sex trafficking is more profitable for criminals than drug trafficking. It carries many of the same overhead costs, such as bribing local policemen and border guards, but far lower risks of getting caught.”).

⁵⁶ O’CONNOR & HEALY, *supra* note 52, at 10.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *See id.*

“as sexualised, commodified bodies to be appropriated, dissected, fragmented, used and abused in the interests of male biology and its need for variety, sexual fantasy and hegemony.”⁶⁰

Basically, “Johns” are paying to dehumanize a human being (the prostitute); the embodiment of the deal is for her to be “an object, not a subject.”⁶¹ Society as a whole has turned a blind eye to the plight of victims of the slave trade.⁶² We tend to not want to identify these “Johns” as the monsters that they are,⁶³ but we must acknowledge that in this heinous crime “men use women’s and girls’ bodies, vaginas, anuses, mouths for their sexual pleasures and as vessels of ejaculation, over and over and over again.”⁶⁴ Scholar Gunilla S. Ekberg has referred to prostitution as humiliation, torture, sexual exploitation, and rape.⁶⁵ When we view this crime in the right scope, we realize that the men that create the demand for the victims “are sexual predators and rapists.”⁶⁶

Many of the “Johns” explain away their involvement in the seedy business of sex trafficking by believing they are the object of desire for the victims and that somehow the victims “desire and want” them as their sexual partners.⁶⁷ Many reason that their sexual drive, and their human nature as men, causes them to have this insatiable urge to

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² See, e.g., Kathleen A. McKee, *Modern-Day Slavery: Framing Effective Solutions for an Age-Old Problem*, 55 CATH. U. L. REV. 141, 144-45 (2005) (discussing the general public’s disinclination to believe human trafficking is a form of slavery existing in this day and age); Moira Heiges, Note, *From the Inside Out: Reforming State and Local Prostitution Enforcement to Combat Sex Trafficking in the United States and Abroad*, 94 MINN. L. REV. 428, 445 (2009) (“[W]ithin the United States . . . many people still view prostitution as a voluntary ‘victimless’ crime . . .”).

⁶³ See Heiges, *supra* note 62, at 437 (“Unfortunately, rather than focusing on reducing the market for sex trafficking, police, prosecutors, and courts have typically viewed pimps and purchasers as trivial or derivative offenders, while targeting prostituting persons for arrest and prosecution.”) (citations omitted).

⁶⁴ O’CONNOR & HEALY, *supra* note 52, at 11.

⁶⁵ *Id.* (citing Gunilla S. Ekberg, *The International Debate About Prostitution and Trafficking in Women: Refuting the Arguments* (2002) (unpublished paper presented at the Seminar on the Effects of Legalisation of Prostitution Activities, Stockholm, Sweden)).

⁶⁶ *Id.*

⁶⁷ *Id.*

2012]

George

301

abuse women and children in this way.⁶⁸ Some articulate that it is an expression of masculinity, a consensual act between adults, or part of a cultural ritual and is an experience that the victims welcome and appreciate.⁶⁹

III. EFFORTS TO COMBAT THE TRAFFICKING OF INNOCENT WOMEN AND CHILDREN

On this trip, I've had sex with a 14 year-old girl in Mexico and a 15 year-old in Colombia. I'm helping them financially. If they don't have sex with me, they may not have enough food. If someone has a problem with me doing this, let UNICEF feed them.

—Retired U.S. Schoolteacher⁷⁰

A. *International Efforts*

1. America's International Efforts

The United States has made an effort to encourage other countries to take a strong stance against sex trafficking.⁷¹ One initiative taken by the American government is the Trafficking Victims Protection Act of 2000 (TVPA).⁷² This law sets out a three-pronged approach to eliminate this heinous institution: preventing the trafficking from beginning, prosecuting the offenders, and protecting the victims that are brave enough to come forward.⁷³

Through the TVPA, the United States government has created a tiered system of regulating how to rank countries according to specific criteria.⁷⁴ Depending on how well the countries are taking affirmative steps to end human trafficking, the United States State Department cate-

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Marina Colby, *Partnerships to End Child Sex Tourism*, IMPACTBLOG (July 22, 2011), <http://blog.usaid.gov/2011/07/partnerships-to-end-child-sex-tourism/>.

⁷¹ U.S. DEP'T OF STATE, PUB. NO. 11407, *TRAFFICKING IN PERSONS REPORT 5* (2008), available at <http://www.state.gov/documents/organization/105501.pdf>.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.* at 12.

gorizes the specific countries by placing them in Tier 1, Tier 2, Tier 2 Watch List, or Tier 3.⁷⁵ The United States's efforts in specifying these different tiers is to show the varying levels of trafficking taking place in different countries and to show the actions being taken by each country to ameliorate and eradicate sex trafficking.⁷⁶ The better the countries perform based on the listed criteria, the higher the ranking from the United States via the TVPA.⁷⁷

The United States government has dictated that there are certain criteria and standards that countries must meet in order to be classified as Tier 1.⁷⁸ The top-tier ranking is set aside for countries with governments that strictly enforce the rights of individuals subjected to severe forms of trafficking and that aggressively investigate and prosecute those who traffic these victims.⁷⁹ This premier-tier ranking also recognizes governments that understand and take into account the hardship and retributive punishment victims would face if returned to their country of origin.⁸⁰ These governments also ensure that victims are not unfairly targeted or prosecuted for simply being victims of this industry.⁸¹ Countries that have reached this coveted Tier 1 rank include Hungary, Canada, Denmark, and Hong Kong.⁸² This is certainly not an exhaustive list but shows that it is possible to reach this status.

The second ranking is Tier 2.⁸³ This rank is for countries that have not yet accomplished all of the criteria as set out in Tier 1 but are making "significant efforts" to reach those specified criteria.⁸⁴ Some

⁷⁵ *Id.*

⁷⁶ *See id.* at 35.

⁷⁷ *Id.* at 12.

⁷⁸ *Id.* at 35.

⁷⁹ *Id.* at 12, 284.

⁸⁰ *Id.* at 284.

⁸¹ *Id.* The complete list of Tier 1 countries is as follows: Australia, Austria, Belgium, Canada, Colombia, Croatia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hong Kong, Hungary, Italy, Republic of Korea, Lithuania, Luxembourg, Macedonia, Madagascar, Netherlands, New Zealand, Norway, Poland, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. *Id.* at 44.

⁸² *Id.* at 44.

⁸³ *Id.* at 35.

⁸⁴ *Id.*

2012]

George

303

countries that are classified as Tier 2 are Tanzania, Taiwan, and Pakistan.⁸⁵

Tier 2 Watch List is the next rank.⁸⁶ Countries on the Tier 2 Watch List have not met the minimum standards as enumerated by the TVPA but are making “significant efforts” to reach these standards as well as one of three other criteria.⁸⁷ Some of the countries on the Tier 2 Watch List include South Africa, China, and Uzbekistan.⁸⁸ The following criteria apply to Tier 2 Watch List countries:

- a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
- b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
- c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.⁸⁹

⁸⁵ *Id.* at 44. The complete list of Tier 2 countries is as follows: Afghanistan, Angola, Bangladesh, Belarus, Belize, Benin, Bolivia, Bosnia & Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Chile, Djibouti, Ecuador, El Salvador, Estonia, Ethiopia, Ghana, Greece, Honduras, Indonesia, Israel, Ireland, Jamaica, Japan, Kazakhstan, Kenya, Kyrgyz Republic, Laos, Latvia, Lebanon, Liberia, Macau, Malawi, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Nigeria, Pakistan, Paraguay, Peru, Philippines, Portugal, Romania, Rwanda, Senegal, Serbia, Sierra Leone, Singapore, Slovak Republic, Suriname, Tanzania, Taiwan, Thailand, Timor-Leste, Togo, Turkey, Uganda, Ukraine, United Arab Emirates, Uruguay, Vietnam, and Yemen. *Id.*

⁸⁶ *Id.* at 35.

⁸⁷ *Id.*

⁸⁸ *Id.* at 44. The complete list of Tier 2 Watch List countries is as follows: Argentina, Armenia, Azerbaijan, Albania, Bahrain, Burundi, Cameroon, Central African Republic, Chad, China (PRC), Congo (DRC), Republic of Congo, Costa Rica, Cote D’Ivoire, Cyprus, Dominican Republic, Egypt, Equatorial Guinea, Gabon, The Gambia, Guatemala, Guinea, Guinea-Bissau, Guyana, India, Jordan, Libya, Malaysia, Montenegro, Mozambique, Niger, Panama, Russia, South Africa, Sri Lanka, Tajikistan, Venezuela, Uzbekistan, Zambia, and Zimbabwe. *Id.*

⁸⁹ *Id.* at 35.

The final level on the tiered system is Tier 3.⁹⁰ This level is set aside for those countries that are woefully inadequate in the area of assisting with prosecuting traffickers.⁹¹ These countries, based upon their actions or lack thereof, “are not making significant efforts to” reach the standards as set out in Tier 1.⁹² Some countries in this category are Fiji, Iran, and Kuwait.⁹³

There are penalties for countries not reaching the minimum standards as set out in the TVPA.⁹⁴ These penalties include not receiving nonhumanitarian aid and foreign assistance unrelated to trade.⁹⁵ These penalties have the power to significantly impact a developing country and are imposed in an effort to cause the country in violation of these standards to act on behalf of trafficking victims.⁹⁶ In addition, offending countries risk the U.S.’s opposition to their receipt of aid from the International Monetary Fund and the World Bank.⁹⁷ Notably, these punishments, while intended to help victims of sex trafficking, could operate to backfire and harm victims.⁹⁸ For example, the United States President could step in and decide not to impose said penalties.⁹⁹ And while all of these rankings and criteria are excellent and laudable goals, they fail to address the issue of demand in sex trafficking.¹⁰⁰

2. Other Countries’ International Efforts

There are international documents, doctrine, and instruments aimed at beginning a dialogue on the treatment of women and children

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.* at 44. The full list of Tier 3 countries is as follows: Algeria, Burma, Cuba, Fiji, Iran, Kuwait, Moldova, North Korea, Oman, Papua New Guinea, Qatar, Saudi Arabia, Sudan, and Syria. *Id.*

⁹⁴ U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT: 10TH EDITION 25* (2010), available at <http://www.state.gov/documents/organization/142979.pdf>.

⁹⁵ *Id.*

⁹⁶ *See id.* at 28.

⁹⁷ *Id.* at 25.

⁹⁸ *See id.* at 28.

⁹⁹ *Id.*

¹⁰⁰ *See generally* U.S. DEP’T OF STATE, *supra* note 71, at 34-44 (addressing only efforts to curb sex trafficking by nations, and not addressing the issue of demand for these services).

as victims of sex trafficking as well as eradicating this scourge and creating solutions.¹⁰¹ Those documents include (1) the International Agreement for the Suppression of the White Slave Traffic,¹⁰² (2) the International Convention for the Suppression of the White Slave Traffic,¹⁰³ (3) the International Convention for the Suppression of the Traffic in Women and Children,¹⁰⁴ and (4) the International Convention for the Suppression of the Traffic in Women of Full Age.¹⁰⁵

¹⁰¹ Katrin Corrigan, Note, *Putting the Brakes on the Global Trafficking of Women for the Sex Trade: An Analysis of Existing Regulatory Schemes to Stop the Flow of Traffic*, 25 *FORDHAM INT'L L.J.* 151, 162-63 (2001).

¹⁰² Agreement on the Suppression of White Slave Traffic, Mar. 18, 1904, 35 Stat. 1979, 1 L.N.T.S. 84. This particular Act was enacted for the purpose of ending the trafficking of "whites" only; however, the "agreement was not effective and as a result a new convention was enacted." Michelle O. P. Dunbar, Comment, *The Past, Present, and Future of International Trafficking in Women for Prostitution*, 8 *BUFF. WOMEN'S L.J.* 103, 108-09 (1999-2000) (explaining how trafficking women became a very serious ordeal because women were vulnerable and ordered to prostitution).

¹⁰³ Convention for the Suppression of White Slave Traffic, May 4, 1910, 211 *Consul. T.S.* 45.

This Treaty bound its signatories to "severely punish any person who hired, abducted or enticed for immoral purposes any women under the age of twenty-one, or used violence, threats, fraud or any compulsion on a women [sic] over twenty-one to accomplish the same purpose, even if he or she committed the acts constituting the offense in different countries."

Dunbar, *supra* note 102, at 109 (quoting Convention for the Suppression of White Slave Traffic, *supra*).

¹⁰⁴ Convention for the Suppression of Traffic in Women and Children, *opened for signature* Sept. 30, 1921, 9 L.N.T.S. 416-17. "This convention encouraged states to take a domestic approach to the trafficking problem by drafting legislation to promote legitimate employment for trafficked immigrants and emigrants." Dunbar, *supra* note 102, at 109-10 (citing Christopher M. Pilkerton, *Traffic Jam: Recommendations for Civil and Criminal Penalties to Curb the Recent Trafficking of Women from Post-Cold War Russia*, 6 *MICH. J. GENDER & L.* 221, 230-31 (1999)).

¹⁰⁵ Convention for the Suppression of the Traffic in Women of Full Age, Oct. 11, 1933, 150 L.N.T.S. 431.

This Convention extended the scope of punishable acts that had previously been criminalized only with regard to minors to women of a full age and declared that even consent did not exempt from penalty preparatory acts, attempts and the actual procurement of adult women for immoral purposes in another country.

Dunbar, *supra* note 102, at 110. *See also* Corrigan, *supra* note 101, at 162-73 (discussing the four treaties and their relation to one another).

Also, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Trafficking Protocol), compelled states to enact or supplement laws targeting the demand for the sexual exploitation of women and children that led to these victims being trafficked.¹⁰⁶ The point of this protocol was to spotlight those who created this demand.¹⁰⁷ Surprisingly, the Trafficking Protocol was the first of its kind to specifically reference the demand component of sex trafficking.¹⁰⁸ No other document had done this previously.¹⁰⁹

As we examine how other countries handle problems relating to sex trafficking within their borders, we look at how the Macao Legislative Assembly in China addresses such issues.¹¹⁰ This legislative body declares certain acts as crimes and makes them punishable by as many as twelve years in prison.¹¹¹ This law stipulates that the following are criminal: murder, kidnapping, forced prostitution, assisting in illegal immigration, and illegally importing and exporting weapons.¹¹²

Along the southern border provinces and in Guangzi, the Chinese government provides temporary housing and medical assistance to victims of sex trafficking.¹¹³ In order to repatriate, the nongovernmental organizations (NGOs) assist the victims and various other organizations.¹¹⁴ Specifically, the All-China Women's Federation is able to provide medical and psychological treatment, as well as legal counseling, with the assistance of government funding.¹¹⁵

¹⁰⁶ Katherine L. Morrow, Comment, *Soccer, Sex, and Slavery: Human Trafficking in the World Cup*, 17 TUL. J. INT'L & COMP. L. 243, 246-47 (2008).

¹⁰⁷ *Id.* at 247.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ See *infra* notes 111-12 and accompanying text.

¹¹¹ DONNA M. HUGHES ET AL., COAL. AGAINST TRAFFICKING IN WOMEN, THE FACTBOOK ON GLOBAL SEXUAL EXPLOITATION: CHINA AND HONG KONG: TRAFFICKING (1999), available at <http://www.uri.edu/artsci/wms/hughes/china.htm>.

¹¹² *Id.*

¹¹³ *China National Plan of Action on Combating Trafficking in Women and Children (2008-2012)*, HUMANTRAFFICKING.ORG, <http://www.humantrafficking.org/countries/china> (last visited Mar. 30, 2012).

¹¹⁴ *Id.*

¹¹⁵ *Id.* ("China does not adequately identify and provide services to all its trafficking victims; some trafficking victims from North Korea have been deported, and some

2012]

George

307

To get a grasp on the seriousness and grand scope of sex trafficking, one need only learn of the roughly 200,000 North Koreans who escaped to China in order to get food and water.¹¹⁶ Many of these individuals were escaping from political persecution and from becoming victims of oppression and death because they happened to be relatives of a targeted individual.¹¹⁷ Many times when the regime charges one family member with violating the law, the entire family becomes the target of imprisonment or death.¹¹⁸

Supporting the North Korean regime and violating the United Nations Refugee Convention, Chinese officials “arrest[] the refugees and send[] them back to be interrogated, put in camps, and even executed.”¹¹⁹ The majority of refugees are women and children.¹²⁰ The refugees cross the river into China in hopes of finding a safe haven.¹²¹ Many North Koreans feel the full brunt of China’s one-child policy.¹²² If they are caught escaping North Korea, they run the possibility of being sold as wives, concubines, strippers, or prostitutes.¹²³ The lack of women in China makes the shortage very real for trapped victims.¹²⁴

There are rays of light in this dark world of sex trafficking, and one such light is Pastor Chun Ki-won.¹²⁵ “Pastor Chun Ki-won, director of the Durihana Mission based in Seoul, South Korea, is active in [helping] refugees.”¹²⁶ This pastor openly and brazenly speaks about the brutal, inhumane treatment of women.¹²⁷ But working as an advo-

foreign trafficking victims found in prostitution are punished as criminals. The government does not provide services to Chinese trafficking victims returning from abroad.”).

¹¹⁶ Donna M. Hughes, “*How Can I Be Sold Like This?*”: *The Trafficking of North Korean Women Refugees*, NAT’L REV. ONLINE (July 19, 2005), <http://www.nationalreview.com/articles/214969/how-can-i-be-sold/donna-m-hughes>.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *See id.*

¹²³ *Id.*

¹²⁴ *See id.* (noting that China’s one-child policy has caused a deficit of women).

¹²⁵ *See infra* notes 126-34 and accompanying text.

¹²⁶ Hughes, *supra* note 116.

¹²⁷ *See id.*

cate for these women and children has not always been easy.¹²⁸ “[H]e has been arrested and imprisoned in China for his part in running [an] underground railroad.”¹²⁹ Pastor Chun Ki-won explains that these women have as many rights as animals—zilch.¹³⁰ These women, he points out, are like slaves, bought and sold like a piece of property.¹³¹

“The Chinese Government was placed [on] the Tier 2 Watch List in the 2007 U.S. Department of State’s Trafficking in Persons Report for not fully complying with the Trafficking Victims Protection Act’s minimum standards for the elimination of trafficking but making significant efforts to do so.”¹³² There are currently thirty-two countries listed on this watch list.¹³³ These countries are “demonstrating a ‘significant’ commitment to address their trafficking problems but have not yet achieved international standards.”¹³⁴

As mentioned previously in the TVPA Tier standards, one indication that China is not making significant efforts towards Tier 1 requirements is how some governmental officials sympathize with the men who buy wives because of the difficulty in finding them.¹³⁵ It is more expensive to have a wedding than to purchase a woman.¹³⁶ One entire Chinese village purchased a group of women and “rented” them out of the village homes.¹³⁷

Another shameful incident that highlights China’s inaction and sheer defiance in the face of assisting victims of sex trafficking oc-

¹²⁸ *See id.*

¹²⁹ *Id.*

¹³⁰ *Id.* (“Women are treated like animals. They have no rights.”).

¹³¹ *Id.* (“Whoever finds them first can sleep with them. Then he sells them later.”).

¹³² *China National Plan of Action on Combating Trafficking in Women and Children (2008-2012)*, *supra* note 113.

¹³³ Eric Green, *Public Awareness of Human Trafficking Increasing, Rice Says: New Trafficking in Persons Report Gives Georgia Special Praise*, AMERICA.GOV ARCHIVE (June 12, 2007), <http://www.america.gov/st/washfile-english/2007/june/200706121538261xeneerg0.3716089.html>.

¹³⁴ *Id.*

¹³⁵ HUGHES ET AL., *supra* note 111.

¹³⁶ *Id.*

¹³⁷ *Id.* (illustrating that one particular household purchased nearly one hundred women to sell them into a life of prostitution).

2012]

George

309

curred in 2007.¹³⁸ More than 400 parents were convinced that their missing children had been enslaved.¹³⁹ The government's inaction forced the parents to make a public national plea on behalf of their children.¹⁴⁰ The officials "refused to help [the parents] find their children."¹⁴¹ The parents were devastated when only 41 of the 576 claimed child slaves rescued were children.¹⁴²

China has made attempts to raise awareness in regards to sex trafficking.¹⁴³ Media events geared toward journalists have been initiated, but China has yet to take the steps toward ratifying the Trafficking Protocol.¹⁴⁴ One could agree that this is two steps forward and three steps back.

Some laudable steps taken by China have been to break down trafficking networks.¹⁴⁵ As proof that China has made strides in ending this tragic situation, in a four-year time span (2001-2005), China has investigated more than 28,000 trafficking cases, has arrested more than 25,000 individuals, and has rescued over 30,000 helpless victims.¹⁴⁶

¹³⁸ See *infra* notes 139-42 and accompanying text.

¹³⁹ SHANNON DIETRICH, PROJECT TO END HUMAN TRAFFICKING, MONTHLY SEX TRAFFICKING/SEXUAL EXPLOITATION UPDATES (2007), available at <http://www2.carlow.edu/sites/endhumantrafficking/gstupdates/July2007.pdf>.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *China National Plan of Action on Combating Trafficking in Women and Children (2008-2012)*, *supra* note 113.

¹⁴⁴ U.S. DEP'T OF STATE, PUB. NO. 11407, TRAFFICKING IN PERSONS REPORT 81 (2007), available at <http://www.state.gov/documents/organization/82902.pdf> ("Other public awareness programs included: a campaign by the Sichuan authorities targeting major labor markets with informational posters, public service announcements on large television screens in the markets; and the distribution of pamphlets explaining legal protections, resource information, and hotline numbers for migrant workers who are at risk of being trafficked.").

¹⁴⁵ U.S. DEP'T OF STATE, PUB. NO. 11407, TRAFFICKING IN PERSONS REPORT 106 (2009), available at <http://www.state.gov/documents/organization/123357.pdf>.

¹⁴⁶ BUREAU OF DEMOCRACY, HUMAN RIGHTS, & LABOR, U.S. DEP'T OF STATE, 2006 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES: CHINA (INCLUDES TIBET, HONG KONG, AND MACAU) (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2006/78771.htm>.

On a still more progressive note, China is moving towards putting together an action plan to keep women and children safe.¹⁴⁷ This plan sounds very similar to the United States's TVPA, in that it will prevent sex trafficking, prosecute traffickers, and cause the United States to take part in other international steps designed to end sex trafficking on a global scale.¹⁴⁸ The director of the Criminal Investigation Bureau of the Ministry of Public Security, Dr. Du Hangwei, touts this plan as putting forth and maintaining "sustainable and long-term solutions to human trafficking."¹⁴⁹ Dr. Du states that the Chinese government will not tolerate sex trafficking and he calls for the cooperation of neighboring countries to address this international issue.¹⁵⁰

B. America's Efforts to Prevent Sex Trafficking in America

Internationally known as the leader of the "free" world, the United States of America has not always lived up to the statements and declarations as enumerated in the United States Constitution and those of the Founding Fathers.¹⁵¹ The most infamous preamble being all men (and women) are created equal.¹⁵² Our laws do not always stand behind that bedrock axiomatic principle.¹⁵³ The world is looking to and relying on a country that has not always lived up to what it knows to be good, decent, moral, and right.

Given the sordid and checkered past America has with this "peculiar institution" called slavery,¹⁵⁴ one would think that such a blemish

¹⁴⁷ Zhu Zhe, *Action Plan to Fight Human Trafficking Finalized*, CHINA DAILY, Dec. 13, 2007, at 1, available at http://www.chinadaily.com.cn/cndy/2007-12/13/content_6317508.htm.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ See, e.g., Jane Dailey, *Race, Marriage, and Sovereignty in the New World Order*, 10 THEORETICAL INQUIRIES L. 511, 512 (2009) (noting that following World War II the United States tried to portray the Jim Crow laws in the South as a "legal outlier").

¹⁵² THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

¹⁵³ See, e.g., Dailey, *supra* note 151, at 512.

¹⁵⁴ See Paul Finkelman, *Affirmative Action for the Master Class: The Creation of the Proslavery Constitution*, 32 AKRON L. REV. 423, 432 (1999) (describing early constitutional protections for the South's "peculiar institution").

2012]

George

311

would never again blot the fabric of this great nation.¹⁵⁵ But, sadly, sex trafficking is part of the American society,¹⁵⁶ and demand is the oil that greases the wheel of this fine-tuned machine.¹⁵⁷

America recognizes the need for this nation to talk the talk and walk the walk in regards to not just saying sex trafficking is an abomination and an affront to human dignity and self-worth.¹⁵⁸ The United States “has been a leader on the human trafficking issue and foreign governments will continue to press us for progressive answers and innovative solutions. Most importantly, trafficking victims and survivors are counting on us not to fail them.”¹⁵⁹ The United States Department of Justice outlines the following “severe form[s] of trafficking in persons” as punishable under the criminal justice system:

Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such an act is under 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 subjecting that person to involuntary servitude, peonage, debt bondage, or slavery.¹⁶⁰

¹⁵⁵ See Ellen L. Buckwalter et al., *Modern Day Slavery in Our Own Backyard*, 12 WM. & MARY J. WOMEN & L. 403, 404 (2006) (noting that human trafficking “may be surprising to some”).

¹⁵⁶ See *id.* at 407 (stating between 14,500 and 17,500 individuals are trafficked into the United States each year).

¹⁵⁷ See *supra* Part II.

¹⁵⁸ See *supra* notes 70-100 and accompanying text.

¹⁵⁹ Luis CdeBaca, *In Our Own Backyard: Child Prostitution and Sex Trafficking in the United States: Testimony Before the Subcommittee on Human Rights and the Law of the Senate Committee on the Judiciary*, U.S. DEP’T OF STATE (Feb. 24, 2010), <http://www.state.gov/g/tip/rls/rm/2010/137239.htm>.

¹⁶⁰ *Immigration Remedies for Trafficking Victims*, HOMELAND SECURITY (Sept. 23, 2011), http://www.dhs.gov/files/programs/gc_1270569897006.shtm.

At one point, pending before Congress was the End Demand for Sex Trafficking Act of 2005 (End Act).¹⁶¹ Though never enacted, the End Act served “[t]o combat commercial sexual activities by targeting demand, to protect children from being exploited by such activities, to prohibit the operation of sex tours, to assist State and local governments to enforce laws dealing with commercial sexual activities, [and] to reduce trafficking in persons.”¹⁶²

In addition, the United States has proposed other laws that would prohibit “involuntary servitude.”¹⁶³ The United States is also making strides against the entire sex industry.¹⁶⁴ Congress has come to recognize the possible harm from international sex trafficking and

¹⁶¹ NAT’L CLEARINGHOUSE ON FAMILIES & YOUTH, DOMESTIC HUMAN TRAFFICKING OF CHILDREN AND YOUTH INITIAL FINDINGS BRIEF 6 (2005), available at http://www.jbsinternational.com/pdf/port_reports_5-trafficking.pdf.

¹⁶² End Demand for Sex Trafficking Act, H.R. 2012, 109th Cong. cmt (2005), available at http://www.globalrights.org/site/DocServer/Comments_on_End_Demand_bill_4.22.pdf?docID=2203 (comments by Global Rights et al.).

¹⁶³ See, e.g., 18 U.S.C. § 1581 (2006) (outlawing peonage); U.S. CONST. amend. XIII, § 1 (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”); see also Corrigan, *supra* note 101, at 181 (noting that these laws may be useful in combating human trafficking). According to the Thirteenth Amendment of the United States Constitution, “it is illegal to place any individual into a condition of peonage . . . to entice anyone into slavery or involuntary servitude, or to sell an individual into involuntary servitude, which includes bringing any persons into the United States for these proscribed purposes.” Corrigan, *supra* note 101, at 181 (internal citations omitted). The Sixth Circuit held:

[A] “holding to involuntary servitude” occurs when (a) the servant believes that he or she has no viable alternative but to perform service for the master (b) because of (1) the master’s use or threatened use of physical force, or (2) the master’s use or threatened use of state-imposed legal coercion . . . or (3) the master’s use of fraud or deceit to obtain or maintain services where the servant is a minor, an immigrant or one who is mentally incompetent.

United States v. Kozminski, 821 F.2d 1186, 1192 (6th Cir. 1987).

¹⁶⁴ See 18 U.S.C. § 2421 (2006) (outlining the criminal penalties for transporting an individual in interstate or foreign commerce with the intent that the individual engage in prostitution).

Whoever knowingly transports any individual in interstate or foreign commerce, or in any Territory or Possession of the United States, with intent that such individual engage in prostitution, or in any sexual activity for which any person can be charged with a criminal

thereby enacted 18 U.S.C. § 2423(c).¹⁶⁵ This law attempts to criminalize and penalize U.S. citizens traveling internationally with the intent of having sexual intercourse with children.¹⁶⁶ In looking through the lens of legitimate governmental goals and achieving such through rational means, the U.S. government sees application of said statute as a rational method of achieving that noble goal.¹⁶⁷

Another stance against the machinery that facilitates sex trafficking is the Racketeer Influenced and Corrupt Organization Act (RICO).¹⁶⁸ This law creates a private cause of action for victims against those who partake in illegal commerce via a system of racketeering actions.¹⁶⁹ This law also allows for prosecution of said criminals.¹⁷⁰

Many states are taking actions to make trafficking unappealing in their respective states.¹⁷¹ New York has been pushing for a bill that would directly address the issue of trafficking.¹⁷² Those that advocate

offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years, or both.

Id.; see also Corrigan, *supra* note 101, at 184-85 (discussing the various laws that regulate the sex trafficking industry). The White-Slave Traffic Act (also known as the “Mann Act”) implements the prosecution of traffickers who attempt to “profit from the forced prostitution of women.” Corrigan, *supra* note 101, at 184; see also White-Slave Traffic (Mann) Act, ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421-2424 (2006)). The Act also provides punishment for those who transport individuals in interstate or international commerce for the sole purpose of prostitution or other criminal sexual activity. 18 U.S.C. § 2421.

¹⁶⁵ See 18 U.S.C. § 2423(c) (outlining penalties for “[e]ngaging in illicit sexual conduct in foreign places”).

¹⁶⁶ *United States v. Frank*, 486 F. Supp. 2d 1353, 1358 (S.D. Fla. 2007) (quoting *United States v. Strevell*, 185 F. App’x 841, 845 (11th Cir. 2006)).

¹⁶⁷ *Id.* at 1360.

¹⁶⁸ 18 U.S.C. §§ 1961-1962, 1964-1968 (2006); 18 U.S.C. § 1963 (Supp. IV 2010). Peonage, slavery, and human trafficking are listed among the crimes that can open up a defendant for a RICO charge. 18 U.S.C. § 1961.

¹⁶⁹ Corrigan, *supra* note 101, at 185-86 (quoting 18 U.S.C. § 1964(c)).

¹⁷⁰ See 18 U.S.C. § 1963 (imposing fines and imprisonment for RICO violations).

¹⁷¹ See *infra* notes 172-76 and accompanying text.

¹⁷² See Carolyn B. Maloney, *New York Gov’t Leaders, Activists Urge Strong Senate Bill to Curb Human Trafficking*, U.S. FED. NEWS, Dec. 10, 2007, available at 2007 WL 24433110 (illustrating the fight against human trafficking and the press “to quickly pass a strong anti-trafficking bill”). “The practice of human trafficking is a worldwide problem—and one that requires a worldwide solution—that we in the US

on behalf of people victimized by the sex trafficking industry have been strong influences in many areas of the United States.¹⁷³ For instance, Texas, one of the many states that has taken a positive position against sex trafficking, has passed legislation specifically criminalizing sex trafficking.¹⁷⁴ Texas's statute was modeled after Washington's law that addressed the humanitarian need to confront this issue head on.¹⁷⁵ In the vein of moving forward and making strides, New York has now passed a law that classifies sex trafficking as a felony, the highest level of crime in the U.S. criminal justice system.¹⁷⁶

Passed in October 2000, the Victims of Trafficking and Violence Protection Act (VTVPA) is the first legislation to address the issues involving assisting victims of sex trafficking, taking procedural steps to prevent revictimization of these victims, and targeting the pros-

should be taking the lead on." *Id.* (quoting New York City Council Speaker Christine Quinn). The U.S. House passed the William Wilberforce Trafficking Victims Protection Reauthorization Act (H.R. 3887), "which authorizes critical funding to combat trafficking and help victims." *Id.*

¹⁷³ See generally THE NAT'L INST. ON STATE POLICY ON TRAFFICKING OF WOMEN AND GIRLS, CTR. FOR WOMEN POLICY STUDIES, RESOURCE GUIDE FOR STATE LEGISLATORS: MODEL PROVISIONS FOR STATE ANTI-TRAFFICKING LAWS (2005), available at <http://www.centerwomenpolicy.org/pdfs/TraffickingResourceGuide.pdf> (explaining the need for states to develop and implement laws regulating human trafficking).

¹⁷⁴ See TEX. BUS. & COM. CODE ANN. §§ 101.001–101.005 (West 2009) (outlining the regulations and commercial provisions of the "International Matchmaking Organizations"); see also Buckwalter et al., *supra* note 155, at 419-20 (discussing legislation from Texas, Washington, and Hawaii).

¹⁷⁵ See Buckwalter et al., *supra* note 155, at 419-20 ("Washington's law was the first legislative initiative in the United States to regulate the international matchmaking industry at the state level.") (citing Washington Sen. Jeanne Kohl-Welles, Address at the Institute for Women's Policy Research Conference: Regulating the "Mail-Order Bride" Industry: Initial Solutions from Washington State (June 22, 2003)).

¹⁷⁶ See N.Y. State Div. of Criminal Justice Servs., *Human Trafficking Law Takes Effect Nov. 1*, U.S. ST. NEWS, Nov. 1, 2007, available at 2007 WL 21816459 (discussing the implementation of the law in response to "modern-day slavery").

New York is widely regarded as both a transit and destination location for victims of human trafficking. This new law enables us to attack the crimes of sex and labor trafficking as they actually exist and provides punishments that fit their crimes. With aggressive application of this new law and increased public awareness, we can abolish modern-day slavery in New York.

Id. (quoting Governor Eliot Spitzer).

2012]

George

315

ecution of the individuals responsible for the trafficking of these victims.¹⁷⁷ The VTVPA enumerates rights for the victims of sex trafficking.¹⁷⁸ Some of those rights include immigration relief in the form of visas; the T-visa is “for aliens who are victims of severe forms of [trafficking in persons].”¹⁷⁹ This class of individuals is eligible to receive

immigration benefits;

federal and state benefits and services (e.g., certification by the Department of Health and Human Services [HHS] and assistance through HHS’s Office of Refugee Resettlement [ORR]);

medical services;

pro-bono and low cost legal services;

victim service organizations;

victims compensation (trafficked aliens are often eligible for compensation from state and federal crime victims programs);

the right to restitution; and

the rights of privacy and confidentiality.¹⁸⁰

¹⁷⁷ See generally Victims of Trafficking and Violence Protection Act (VTVPA) of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended at 22 U.S.C. §§ 7101-7107, 7109a, 7109b, 7111-7112 (Supp. IV 2010); 22 U.S.C. §§ 7108-7110 (2006)) (laying out the provisions of the law dealing with catching and prosecuting traffickers, as well as helping victims of trafficking).

¹⁷⁸ *Id.* § 107, 114 Stat. at 1474.

¹⁷⁹ ALISON SISKIN & LIANA SUN WYLER, CONG. RESEARCH SERV., RL 34317, TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS 24 & n.65 (2010) (“‘T’ refers to the letter denoting the subsection of the Immigration and Nationality Act (INA) that provides the authority for the alien’s admission into the United States. . . . Although T nonimmigrant status is often referred to as the T-Visa, it is not technically a visa if it is given to aliens present in the United States because status is conferred by the Department of Homeland Security (DHS) who does not have the authority to issue visas. Only the Department of State (DOS) though [sic] consular offices may issue visas. Thus, only aliens present outside of the United States can receive T visas while aliens present in the United States receive T status.”).

¹⁸⁰ *Id.* at 26-27 (internal citations omitted).

The chart below illustrates how T-visas were issued in these specified years.¹⁸¹ Of the total number of applicants for FY2002 through FY2010, sixty-eight percent of the principal alien visas were issued and eighty-four percent of the derivative alien visas were approved.¹⁸²

Table 1. T-Visas Issued: FY2002 through 2010¹⁸³

Fiscal Year	02	03	04	05	06	07	08	09	10	Total
Principal Aliens (Victims)										
Applied	115	557	278	229	345	230	394	475	345	2,968
Approved	4	285	136	112	182	279	247	313	304	1,862
Denied	0	28	292	210	52	70	64	77	87	880
Derivative Aliens (Family)										
Applied	122	331	118	114	324	149	290	235	208	1,891
Approved	0	207	216	114	99	261	171	273	225	1,566
Denied	0	13	26	18	43	52	19	54	69	294

IV. A NEW STRATEGY

In order to strike a blow to the multi-billion dollar sex trafficking industry, it is imperative that we carefully examine why there is a demand for this “product” at all.¹⁸⁴ Why are there men who desire to use and exploit women and children as if they are chattel slaves? What society and environment cultivate a man, a human being, to desire such a demand? Assume I am a businessperson and I am selling candy, but

¹⁸¹ See *infra* note 183 and accompanying text.

¹⁸² ALISON SISKIN & LIANA SUN WYLER, CONG. RESEARCH SERV., RL 34317, TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS 27 (2010); (William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007 (H.R. 3887 as Passed by the House): criminal law provisions quoting The Department of Homeland Security data provided to Congressional Research Service. The chart source notes that “[s]ome approvals are from prior fiscal year(s) filings. Also, some applicants were denied more than once (e.g., filed once, denied, and filed again). For FY2004 and FY2005, 170 of the denials stemmed from one case where the applicants did not qualify as victims of trafficking under TVPA.” *Id.*

¹⁸³ *Id.* Data for FY2010 is compiled through June 2010. *Id.*

¹⁸⁴ See generally Donna M. Hughes, Professor & Carlson Endowed Chair in Women’s Studies at Univ. of R.I., Prostitution: Causes and Solutions at the Santiago de Compostela “Female Prostitution: Proposals and Interventions” Conference 3 (July 1-3, 2004), available at http://www.uri.edu/artsci/wms/hughes/prostitution_spain_july_04.pdf (explaining how stopping the demand for prostitution and human trafficking will get to the root of the problem).

2012]

George

317

for varying reasons, no one is buying the candy (my product). It would stand to reason that, in the spirit of entrepreneurship, I would search for and find a product for which there is a market, thus making the venture profitable. So the question remains, why is there a global market for women and children to serve as sexual objects and for twisted sexual fetishes?

The “Johns,” the demented sexual culture, and the cultural climate, as well as the traffickers and obsolescent governmental officials, are areas that create and foster an environment that exploits these innocent victims.¹⁸⁵ Those areas preventing women from being negatively portrayed in mainstream media, fostering educational equality, demanding equal pay for equal work, addressing explicit sexualization in the fashion industry, and prohibiting pornography are the areas that must be recognized and encouraged in their noble efforts.¹⁸⁶ While the above are not ordinary “legal” avenues that have been previously researched, we must remember that we are addressing the “demand” side of this issue.¹⁸⁷ We are examining the reasons this industry thrives in the first place.¹⁸⁸ What could cause a man to dehumanize, degrade, and abuse another human? Where is our humanity in this heinous process?

Although the aforementioned categories are not typically discussed when addressing sex trafficking, the demand side is not ordinarily discussed either.¹⁸⁹ When discussing a topic that has thus far been

¹⁸⁵ *Id.* at 3-6.

¹⁸⁶ See APA Task Force on the Sexualization of Girls, *Sexualization of Girls: Executive Summary*, AM. PSYCHOL. ASS’N, <http://www.apa.org/pi/women/programs/girls/report.aspx> (last visited Mar. 31, 2012) (discussing the problems in society with the sexualization of girls and possible solutions, with special focus on media).

¹⁸⁷ Hughes, *supra* note 184, at 3 (“Instead of legalization, there is another solution to the problem of prostitution and sex trafficking: Confronting the demand for prostitution. Instead of only warning women against recruiters, stop the recruiters. Instead of accommodating the demand, stop it.”).

¹⁸⁸ *Id.* (“There are four components that make-up the demand: 1) the men who buy commercial sex acts, 2) the exploiters who make up the sex industry, 3) the states that are destination countries, and 4) the culture that tolerates or promotes sexual exploitation.”).

¹⁸⁹ See *id.* at 2-3 (stating that “the most popular proposed solutions to sex trafficking and ‘out of control’ prostitution is legalization of prostitution”).

hushed and almost taboo, we must be willing to charter new territory if we are to make strides towards solutions.¹⁹⁰

1. Advertising

One area that needs to be dissected in addressing the demand component is how women are made to become objects and stripped of their humanity.¹⁹¹ One would assume it is much easier to abuse and debase a person when that person has already been dehumanized.¹⁹² It is easier to mistreat an object than a person.¹⁹³ So the first step in being able to partake in this “demand” for human beings as sexual objects is to make them as inhuman as possible.¹⁹⁴ How is this done? One way is depicting women in television commercials as half-naked sexual objects.¹⁹⁵ Women are portrayed in these advertisements, often played during sporting events on television, in a way that glamorizes sex.¹⁹⁶ Women, many times, are scantily clad and are portrayed as sex objects.¹⁹⁷ Sex is glamorized and the women are portrayed as a means to sex.¹⁹⁸ In most of these same commercials, the men are fully clothed

¹⁹⁰ See, e.g., Sonya Colberg, *Two Oklahoma Victims of Sex Trade Finally Heal Years Later*, DAILY OKLAHOMAN, Sep. 10, 2011, available at 2011 WL 1794939 (indicating victims avoid reporting incidents of sex trafficking because the subject is taboo); Melissa Martin, *What is Canada to Do About Its Sex Trade?*, WINNIPEG FREE PRESS, Dec. 7, 2011, at A4 (observing the sex trafficking debate was “hushed”).

¹⁹¹ Hughes, *supra* note 184, at 1 (“Around the world today, there is a human rights crisis of sexual abuse of millions of women, children, and thousands of men in prostitution and other forms of sexual exploitation. There are regions of the world where prostitution has gone from being almost non-existent to a hundred million dollar moneymaking industry.”).

¹⁹² See Evangelia Papadaki, *Feminist Perspectives on Objectification*, STAN. ENCYCLOPEDIA PHIL. (Jun. 28, 2011), <http://plato.stanford.edu/archives/fall2011/entries/feminism-objectification/> (observing that sexual objectification involves a loss of humanity).

¹⁹³ See *id.*

¹⁹⁴ See Hughes, *supra* note 184, at 4.

¹⁹⁵ See *infra* notes 196-99 and accompanying text.

¹⁹⁶ See Edward Champion, *The Super Bowl: Madison Avenue Misogyny*, RELUCTANT HABITS (Feb. 8, 2010), <http://www.edrants.com/the-super-bowl-madison-avenue-misogyny/>.

¹⁹⁷ *Sex and Relationships in the Media*, MEDIA AWARENESS NETWORK, http://www.media-awareness.ca/english/issues/stereotyping/women_and_girls/women_sex.cfm?RenferForPrint=1 (last visited Mar. 31, 2012).

¹⁹⁸ See *id.*

2012]

George

319

and depicted as individuals with nothing but sex, alcohol, and sports on their minds (and many times, in that order).¹⁹⁹

Our culture needs to treat women, men, girls, and boys as autonomous individuals that have value and worth outside of and apart from their sexuality.²⁰⁰ Women (and all people) deserve dignity and respect as individuals who are intelligent, worthy, hard-working human beings.²⁰¹

Increasingly over the last ten years, the sexualization of women has increased dramatically, and models have begun to look younger and younger.²⁰² In some advertisements, women are positioned in simulated rape positions or overly-sexualized stances.²⁰³ In a recent print and billboard ad campaign by Skyy Spirits, an alcohol company, a woman is shown from the thighs down, in red stilettos, and in skin-tight, red, patent leather tights.²⁰⁴ She is appearing to have sexual intercourse with a large blue Skyy Vodka bottle.²⁰⁵ The rest of the “woman’s” body is not depicted, but the viewer/reader understands the message.²⁰⁶ The message is—“sex sells.”²⁰⁷

The alcohol company admits that the ad targets the age market of twenty-one to thirty-four.²⁰⁸ Some pundits have called the advertise-

¹⁹⁹ See Susan D. Witt, *The Influence of Television on Children’s Gender Role Socialization*, 76 CHILDHOOD EDUC. 322, 322-24 (2000), available at http://www2.lewisu.edu/~gazanjo/influence_of_television_on_child.htm.

²⁰⁰ See Universal Declaration of Human Rights, G.A. Res. 217 (III) A, at art. 2, U.N. Doc A/RES/217(III) (Dec. 10, 1948).

²⁰¹ *Id.* at pmbl. art. 1.

²⁰² Jane Tallim, *Sexualized Images in Advertising*, MEDIA AWARENESS NETWORK (May 2003), http://www.media-awareness.ca/english/issues/stereotyping/women_and_girls/upload/article_sexualized_images.pdf.

²⁰³ See *id.*

²⁰⁴ Bruce Horovitz, *Skyy Pushes the Envelope With Sexy Ad Campaign*, USA TODAY (Sept. 28, 2010), http://www.usatoday.com/money/advertising/2010-09-28-vodka28_ST_N.htm.

²⁰⁵ *Id.*

²⁰⁶ See *id.* (indicating the only visible portions of the woman’s body were those from the thighs downward).

²⁰⁷ Tallim, *supra* note 202.

²⁰⁸ Horovitz, *supra* note 204.

ment “porn-a-hol” and “jamming a bottle in a woman’s crotch.”²⁰⁹ The government admits that there are no specific guidelines in place to address these types of issues.²¹⁰

Similarly, the popular clothing company Abercrombie & Fitch has resorted to placing its catalog in covered bags to avoid inadvertent exposure of the sexualized images depicted in the advertisements.²¹¹ Given the influence of the preteen, teen, and young adult consumers, this kind of sexual selling of products has crossed over into all areas of the media: film, television, pop culture, and music videos.²¹² Similarly, musicians Christina Aguilera and Britney Spears have actually performed videos choreographed by directors of pornographic movies.²¹³

The veteran photographer who shot the advertisement for Skyy Vodka has worked with other world-renowned designers,²¹⁴ and many of those designers use these same questionable sexualized techniques.²¹⁵ Many of these designers use highly eroticized images of “young-looking” women to sell their goods.²¹⁶ In a series of advertisements for Buffalo Jeans, CosmoGirl!, a magazine for adolescent girls, portrays a young girl simulating masturbation, laying flat on her back, with her blue jeans open and her hands down her pants.²¹⁷ A number of ads by Gucci depict women in submissive positions (either on both hands and knees or kneeling at the male’s waist area) or in clearly sexual positions.²¹⁸ The ads are designed to send a message of male superiority and domination.²¹⁹ Perry Ellis famously dismembers and objectifies the

²⁰⁹ *Id.*

²¹⁰ *Id.* (noting that Mary Engle, associate director for advertising practices of the Federal Trade Commission (FTC), stated that the FTC encourages companies to comply by using self-regulatory mechanisms and self-imposed codes of conduct).

²¹¹ Tallim, *supra* note 202.

²¹² *Id.*

²¹³ *Id.*

²¹⁴ Horowitz, *supra* note 204.

²¹⁵ *See* Tallim, *supra* note 202.

²¹⁶ *Id.*

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.* (“Ads containing sexualized images also deliver strong messages about gender relations. This Gucci ad campaign uses young females to promote its clothing, but with overtones of violence and domination.”).

2012]

George

321

females in its advertisements.²²⁰ One ad depicts a fully clothed woman lying “lifeless” on the floor of a shower with a naked man standing over her (his genitals are not visible).²²¹

Sex sells, and companies are well aware of that fact.²²² Even if it means using models that resemble underage girls in highly sexually suggestive ways, if that is what it takes to sell a product, then so be it.²²³ Because sex sells, manufacturers and businesses exploit this to generate as much profit as possible.²²⁴

2. Pornography

Another significant area of influence is pornography, which in many ways directs the sex trafficking industry.²²⁵ A lengthy discussion could address the precise definition of pornography, but Catharin MacKinnon, an expert in this field, has articulated it quite well.²²⁶ She once said, “If it appears to be, it is because power constructs the appearance of reality by silencing the voices of the powerless, by excluding them from access to authoritative discourse.”²²⁷

Pornography gives a voice to rape, prostitution, assault, and abuse of the human body.²²⁸ At its core, pornography is the systemic brutalization and dismantling of the human spirit.²²⁹ It operates in such

²²⁰ *Id.*

²²¹ *Id.*

²²² *Sex in Advertising: An Evolution of More Than 80 Years of OHHHS and AHHHS: Introduction*, G & R, <http://www.gallup-robinson.com/essay2.html> (last visited Apr. 1, 2012).

²²³ *Sex in Advertising: An Evolution of More Than 80 Years of OHHHS and AHHHS: Future Concerns*, G & R, <http://www.gallup-robinson.com/essay79.html> (last visited Apr. 1, 2012).

²²⁴ *Sex in Advertising: An Evolution of More Than 80 Years of OHHHS and AHHHS: Introduction*, *supra* note 222.

²²⁵ See Tallim, *supra* note 202 (discussing the pervasiveness of subtle pornographic material in our popular culture and its ramifications).

²²⁶ Catharine A. MacKinnon, *Pornography, Civil Rights, and Speech*, 20 HARV. C.R.-C.L. L. REV. 1, 3 (1985).

²²⁷ *Id.*

²²⁸ *Id.* at 17.

²²⁹ See *id.* at 16-17.

a way as to belittle, dehumanize, and suppress women and children.²³⁰ In one setting, pornography illustrates rape, battery, sexual harassment, prostitution, and sexual abuse.²³¹ But it has come to be widely accepted as “sex, sex, sex, sex, and sex.”²³² Pornography glamorizes, endorses, authorizes, and legitimizes rape, battery, sexual harassment, prostitution, and the sexual abuse of children.²³³ Pornography illustrates in horrific and violent ways the subordination, suppression, and brutalization of women.²³⁴ In the United States alone, pornography is an eight-billion-dollar industry.²³⁵

Pornography shows sex in a harmonious, glorious way.²³⁶ It is a world where women desire to be treated in an inhumane, animalistic way.²³⁷ In hardcore pornography, the women “want to be bound, battered, tortured, humiliated, and killed.”²³⁸ This is what preteen and young boys view almost as a rite of passage.²³⁹ Many times, pornography portrays the victim as desiring to be beaten, abused, violated, and mistreated.²⁴⁰ Pornography, in this way, works in the minds of the men it targets, and that causes them to believe that the victims of sex trafficking desire the treatment they are receiving.²⁴¹ Pornography creates a “c’est la vie” mentality in the minds of those who rent and purchase

²³⁰ See *id.* at 13-14.

²³¹ *Id.* at 12.

²³² *Id.* at 16-17.

²³³ *Id.* at 17.

²³⁴ Dworkin, *supra* note 34, at 9.

²³⁵ *Id.* at 10. See also Jon Swartz, *Free Porn on ‘Tube Sites’ Puts a Big Dent in Industry*, USA TODAY (Mar. 2, 2010), http://www.usatoday.com/tech/news/2010-03-02-porn02_ST_N.htm (estimating the worth of the porn industry in 2010 to be around thirteen billion dollars). But see Dan Ackman, *How Big is Porn*, FORBES.COM (May 25, 2001) <http://www.forbes.com/2001/05/25/0524porn.html> (claiming that the porn industry, as of 2001, was worth only between 2.6 and 3.9 billion dollars).

²³⁶ MacKinnon, *supra* note 226, at 17 (citing Margaret Baldwin, *The Sexuality of Inequality: The Minneapolis Pornography Ordinance*, 2 LAW & INEQ. 629, 631-32 (1984)).

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ See Dworkin, *supra* note 34, at 11 (“It is access to our bodies as a birthright to men . . .”).

²⁴⁰ *Id.* at 10; MacKinnon, *supra* note 226, at 17.

²⁴¹ See Baldwin, *supra* note 236, at 640-41 (describing the way in which pornography affects society).

2012]

George

323

women and children.²⁴² Society has cultivated this thought process as a “boys will be boys” rationalization.²⁴³ When a “boys will be boys” way of thinking operates in direct opposition to a girl’s right to be free from sexual violence, basic human rights are violated, and we have a serious issue that we must address and resolve.²⁴⁴ Pornography is in direct opposition to the inalienable rights we all are born with as humans; it is an industry that devastates women, men, and all involved.²⁴⁵ Pornography has the power to gnaw away at the humanity of all involved.²⁴⁶

Pornography is:

[W]omen turned into subhumans, beaver, pussy, body parts, genitals exposed, buttocks, breasts, mouths opened and throats penetrated, covered in semen, pissed on, shit-
ted on, hung from light fixtures, tortured, maimed, bleed-
ing, disemboweled, killed.

. . . .

It is scissors poised at the vagina and objects stuck in it, a smile on the woman’s face, her tongue hanging out.

It is a woman being fucked by dogs, horses, snakes.

It is every torture in every prison cell in the world, done to women and sold as sexual entertainment.

It is rape and gang rape and anal rape and throat rape: and it is the woman raped, asking for more.

It is the woman in the picture to whom it is really happening and the women against whom the picture is

²⁴² See *id.*

²⁴³ See, e.g., MacKinnon, *supra* note 226, at 16-19 (discussing the effect of pornography on gender roles in society).

²⁴⁴ See Baldwin, *supra* note 236, at 640-41.

²⁴⁵ See *id.* at 631-43 (discussing the effects pornography has on women and society).

²⁴⁶ See *id.*

used, to make them do what the woman in the picture is doing.

It is the power men have over women turned into sexual acts men do to women

. . . .

It sexualizes inequality and in doing so creates discrimination as a sex-based practice.

. . . .

It is women, kept a sexual underclass, kept available for rape and battery and incest and prostitution.

. . . .

It is the heretofore hidden . . . system of subordination that women have been told is just life.

Under male supremacy, it is the synonym for what being a woman is.²⁴⁷

What pornography does is “eroticize[] hierarchy” and “sexualize[] inequality.”²⁴⁸ This effect creates the culture that allows sex trafficking to survive, thrive, and flourish.²⁴⁹

V. APPLICATION

In spite of all the laws on the books that address sex trafficking, those laws have been woefully inadequate at addressing and reducing the demand for sex trafficking victims.²⁵⁰ It would appear that the

²⁴⁷ Dworkin, *supra* note 34, at 10.

²⁴⁸ MacKinnon, *supra* note 226, at 18.

²⁴⁹ See Dworkin, *supra* note 34, at 11 (discussing the societal harms that result from a flourishing pornographic industry); MacKinnon, *supra* note 226, at 18 (discussing what makes pornography appealing and its ramifications on gender relations and sexual inequality).

²⁵⁰ Michelle R. Adelman, Note, *International Sex Trafficking: Dismantling the Demand*, 13 S. CAL. REV. L. & WOMEN’S STUD. 387, 396 (2004).

2012]

George

325

United States is ill equipped to effectively address the demand issue of sex trafficking, and a direct consequence of that is the lack of any substantive, concrete legal efforts aimed at reducing or ending the demand.²⁵¹ In order to change the direction of its current trajectory, the demand has to be addressed and stopped.²⁵² Moreover, legislation needs “policies aimed at decreasing the demand for commercial sex.”²⁵³ As stated previously, if a businessman selling candy has no customers, he will eventually go out of business. We must create laws that will curb the demand and cause sex traffickers to go out of business.²⁵⁴

In an effort to combat sex trafficking both at home and abroad, the United States Departments of State, Labor, Justice, Homeland Security, and Health and Human Services and the United States Agency for International Development contributed approximately \$375,000,000 toward antitrafficking programs between 2001 and 2006.²⁵⁵ While there were 3000 trafficking convictions globally in 2004, much more needs to be done on a worldwide scale to end this modern day system of slavery.²⁵⁶

There are specific countries that are attempting to take steps to address and end sex trafficking.²⁵⁷ In contrast, with a Tier 2 government, South Africa has not yet fully complied with the minimum standards as set forth for the elimination of human trafficking.²⁵⁸ South Africa’s lack of action in eradicating sex trafficking must be pointed

²⁵¹ Angela D. Giampolo, Comment, *The Trafficking Victims Protection Reauthorization Act of 2005: The Latest Weapon in the Fight Against Human Trafficking*, 16 TEMP. POL. & CIV. RTS. L. REV. 195, 210 (2006).

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ *Combating Human Trafficking in China: Domestic and International Efforts: Hearing Before the Cong.-Exec. Comm’n on China*, 109th Cong. 39 (2006), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:26671.pdf (statement of Hon. John R. Miller).

²⁵⁶ *Id.*

²⁵⁷ U.S. DEP’T OF STATE, *supra* note 94, at 5.

²⁵⁸ *Id.* at 297 (noting that South Africa has moved forward in convicting its first sex traffickers and has created laws at the provincial and national levels that are designed to protect children, enacted interministerial operating policies, trained government employees on antitrafficking laws, enhanced their victim identification process, and strengthened agency roles in fighting sex trafficking).

out, hopefully, in an effort to bring about much needed change.²⁵⁹ Sporting events are notorious for attracting even more sex trafficking incidents than are normally present.²⁶⁰ Prior to the 2010 World Cup (which was held in South Africa), this country had ample opportunity to pass and enact an antitrafficking bill.²⁶¹ What was more frustrating to the antitrafficking community was that the South African government had been promising the bill would become law since 2008.²⁶² South Africa also had another opportunity to positively impact those affected by sex trafficking by enforcing and/or financing the 2007 Children's Amendment Act.²⁶³ Sadly, South Africa contributed sparse funding for law enforcement geared toward sex trafficking or protecting victims of sex trafficking.²⁶⁴ Even more egregious was the fact that NGOs and foreign donors gave large amounts of money to South Africa for this very purpose.²⁶⁵ The country's financial contributions towards law enforcement aimed at sex trafficking or protecting victims are minimal and practically nonexistent.²⁶⁶

Notably, when evaluating the prosecution of these kinds of offenses, the South African government barely increased its law enforcement efforts to target sex trafficking during the 2008-2009 tracking period.²⁶⁷ The government has a law on the books, the South African Sexual Offenses Act (SOA), which criminalizes sex trafficking.²⁶⁸ This law also has penalties that are practically equivalent to penalties prescribed for similarly serious offenses.²⁶⁹ The South African government began to formalize the Prevention and Combating of Trafficking in Per-

²⁵⁹ See *id.* at 297-98 (highlighting the continuing problems with passing legislation, sentencing convicted human traffickers, and funding antitrafficking organizations).

²⁶⁰ See generally Victoria Hayes, Note, *Human Trafficking for Sexual Exploitation at World Sporting Events*, 85 CHI.-KENT L. REV. 1105 (2010) (discussing the correlation between human trafficking and world sporting events).

²⁶¹ U.S. DEP'T OF STATE, *supra* note 94, at 297.

²⁶² *Id.*

²⁶³ *Id.* at 297-98.

²⁶⁴ *Id.* at 298.

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.* (requiring twenty years of imprisonment for sex trafficking, which is proportional to a rape sentence in South Africa).

2012]

George

327

sons Bill in March 2010, but as of the date of this publication, the law is still not in effect.²⁷⁰

Sadly, many of the cases initiated in 2006-2009 against alleged sex traffickers were still unresolved as of the publication date of the 2010 Trafficking in Persons Report.²⁷¹ An example is the 2008 trial of “Diana,” a woman charged with sexually exploiting three young girls from Mozambique.²⁷² Another case, the only South African human trafficking conviction (as of the 2010 Trafficking in Persons Report), was a prosecution of a husband and wife.²⁷³ They were convicted on seventeen counts of “racketeering, money laundering, and [other] offenses under the SOA.”²⁷⁴ However, as of the date of this publication, there has not been a sentencing.²⁷⁵

Another country that has a poor record of sex trafficking is Singapore.²⁷⁶ Singapore is a Tier 2 Watch List country and has yet to make any significant steps towards reaching Tier 1.²⁷⁷ One of the many ways that women are lured from their countries of origin is by way of false promises for a job, an education, and a better future.²⁷⁸ When these unsuspecting women arrive in the host country, they are met with the sad reality of life as a prostitute in a brothel, massage parlor, or strip club.²⁷⁹ That is how many young women and girls arrive in Singapore, lured by deceitful and fabricated stories that entice them away from home, family, and friends, to live a life of torture and abuse.²⁸⁰ These promises of a fairytale life are soon crushed by the reality of life as a sex slave.²⁸¹

²⁷⁰ *Id.*

²⁷¹ *Id.*

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.* at 292.

²⁷⁷ *Id.*

²⁷⁸ *See id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.*

²⁸¹ *Id.*

The Singaporean government has shown little evidence of a desire to positively affect this industry.²⁸² One example of the utter lack of care or concern is evidenced by “convicting and punishing [only] two trafficking offenders.”²⁸³ Eradicating the scourge of sex trafficking should be a top priority for the Singaporean government, but their proactive measures taken to identify and assist victims, as well as prosecute perpetrators, are lacking and proving to be inefficient and ineffective.²⁸⁴

Many NGOs rightfully question Singapore’s ability and willingness to locate and identify victims, initiate serious investigations, and prosecute those running and operating criminal enterprises.²⁸⁵ During the 2008-2009 reporting period, “[t]he government investigated 32 [cases] of sex trafficking.”²⁸⁶ A case involving five Thai women forced into prostitution netted the perpetrator one year and seven months in prison.²⁸⁷ This case illustrates the seriously inadequate punishment for sex traffickers.²⁸⁸ In a separate case, an individual was sentenced to nine weeks in jail and received a \$20,000 fine.²⁸⁹ The perpetrator was a brothel owner who had a Thai girl as a prostitute.²⁹⁰ To further illustrate the lack of effort by the government to effectively attack this industry, during searches of brothels and other related businesses, the police arrested 7614 women for “prostitution violations.”²⁹¹ Of these women, the government identified only one woman as a sex trafficking victim.²⁹² The rest of the women were sent back to their countries of origin after their arrests, some were deported at the end of the police investigations, and some were even prosecuted for violating certain immigration laws.²⁹³ This is the typical way Singapore has dealt with sex

²⁸² *Id.* at 292-94.

²⁸³ *Id.* at 292.

²⁸⁴ *Id.*

²⁸⁵ *Id.* at 293.

²⁸⁶ *Id.*

²⁸⁷ *Id.*

²⁸⁸ *See id.*

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.* at 293-94.

2012]

George

329

trafficking.²⁹⁴ It is clearly neither a sensitive nor effective manner of dealing with the problem.²⁹⁵ To say that Singapore's efforts to impact the sex trafficking industry are lacking and leave much to be desired is an understatement.²⁹⁶ There is much candy being sold and many purchasers of that product. We have to encourage countries like Singapore to close the candy store.

Another country with a trafficking problem is Greece.²⁹⁷ Greece, a Tier 2 country, has women arriving mainly from "Eastern Europe, the Balkans, and Nigeria."²⁹⁸ Many traffickers reportedly use "emotional abuse and financial harm as tools of coercion, instead of physical force, in attempts to evade law enforcement prosecution."²⁹⁹ Concerns involving police and government complicity, inadequate protection and identification of victims, as well as insufficient funding for antitrafficking exist among NGOs.³⁰⁰ There are laws on the books in Greece that, if enforced, would make a dent in the sex trafficking industry, but, like in many countries, those laws are evident only on paper without any real enforcement.³⁰¹ In 2006, the Greek government learned of a case where three police officers allegedly raped a woman while she was in custody.³⁰² For at least two years after the alleged assault, the officers "remained free on bail."³⁰³ In 2009, in another case of alleged police involvement in sex trafficking, "one active and one retired [police] officer were held without bail" while awaiting trial.³⁰⁴ In an effort to curtail this activity, the Greek government, collaborating with NGOs, provided antitrafficking training to law-enforcement offi-

²⁹⁴ *See id.* at 294.

²⁹⁵ *See id.* (deporting victims does not provide incentive for victims to report trafficking).

²⁹⁶ *See supra* notes 278-95 and accompanying text.

²⁹⁷ *See infra* notes 298-306 and accompanying text.

²⁹⁸ U.S. DEP'T OF STATE, *supra* note 94, at 158.

²⁹⁹ *Id.*

³⁰⁰ *Id.* at 159.

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

cials.³⁰⁵ The Greek government also made this training available to judges, prosecutors, and police of neighboring countries.³⁰⁶

Although many countries still have work to do to eradicate their trafficking problems, if no “Johns” demanding sexual acts existed in the first place, the denial of women and children’s basic human right to be free from slavery would end.³⁰⁷ Without anyone to view or purchase online pornographic images, commercial exploitation of persons portrayed in those materials would also cease.³⁰⁸ If the state did not profit financially from the trafficking of women and children, the state would reinforce the dignity and self-worth of all people through serious enforcement of the laws on the books.³⁰⁹ If education and valid (legal) employment opportunities were available for victims of sex trafficking, traffickers would be unable to trick women or children into believing sexual slavery is a legitimate job.³¹⁰ If there was no candy, there would be no business.

VI. CONCLUSION

If our global community is serious about paving a path to freedom for these victims, governments must make serious efforts to draft (where applicable) and implement comprehensive antitrafficking laws.³¹¹ Local, state, and national governments must fully fund antitrafficking laws and antitrafficking efforts of NGOs.³¹² NGOs’ prevention

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ *See, e.g., id.* at 170 (noting countries that have and have not instituted programs to “reduce demand for commercial sex acts” as a means of prevention).

³⁰⁸ *See* HUGHES, *supra* note 25, at 64 (“Demand reduction is part of prevention of sex trafficking.”).

³⁰⁹ *See, e.g., id.* at 8 (discussing proliferation or acceptance of sex trafficking because governments can profit from the business).

³¹⁰ *See Prevention*, HUMANTRAFFICKING.ORG, http://www.humantrafficking.org/combat_trafficking/prevention (last visited Apr. 1, 2012).

³¹¹ *See, e.g.,* U.S. DEP’T OF STATE, *supra* note 94, at 331 (recommending governments implement comprehensive anti-trafficking laws to reduce sex trafficking).

³¹² *See id.* at 14 (“At its best, victim protection is a series of laws and policies that are broadly funded, understood, and implemented . . .”).

strategies that address the issue of demand in this field need to be promulgated and publicized.³¹³

Governments must take steps to increase officials' ability to recognize, identify, and assist victims of sex trafficking.³¹⁴ When governmental officials are implicated or found to have taken an active role in the trafficking, governments must prosecute the officials to the fullest extent of the law.³¹⁵

Governments should also research ways to make legal assistance affordable and accessible to victims of trafficking.³¹⁶ Victims should know that prosecuting governments will not place unreasonable demands on them.³¹⁷ Governments should design laws to work in the favor of these innocent people.³¹⁸ We can hope to decrease the demand for commercial sex acts by strictly enforcing unutilized laws that are currently on the books.³¹⁹ These unenforced laws prohibit the importation of women for commercial sexual services, such as prostitution and working in brothels, massage parlors, nightclubs, and strip clubs.³²⁰ "Johns" might be less likely to partake in this industry if the penalties for doing so were more severe and if "Johns" understood that law enforcement would target the "Johns," instead of the victim, as the offender.³²¹ A step in the right direction would be ensuring that victims

³¹³ See, e.g., *id.* at 298 (recommending South Africa "continue to support prevention strategies developed by NGOs" and broadly recommending programs to educate and inform the public to reduce sex trafficking).

³¹⁴ HUGHES, *supra* note 25, at 64-65 (discussing various improvements to law enforcement in this area).

³¹⁵ *Id.* at 64.

³¹⁶ U.S. DEP'T OF STATE, *supra* note 94, at 113 (recommending China "support legal assistance programs that assist both foreign and Chinese trafficking victims").

³¹⁷ See *id.* at 5 (heralding the United States' introduction of the TVPA as a "key milestone[] in the fight against modern slavery").

³¹⁸ See *id.* (applauding the United Nations' adoption of the Palermo Protocol, which instructs governmental response to focus on "prevention, criminal prosecution, and victim protection") (emphasis removed).

³¹⁹ See HUGHES, *supra* note 25, at 22 ("As commercial sexual activity is more openly advertised and laws against illegal activity are not enforced, the standards become unclear.").

³²⁰ See, e.g., 22 U.S.C. §§ 7101(b)(2), 7106 (Supp. IV 2010).

³²¹ See HUGHES, *supra* note 25, at 64 (advocating for prosecution of "purchasers of sex . . . to eliminate the markets for victims").

receive the help and assistance they need and are not treated as common criminals for acts committed in connection to being trafficked.³²² At the very least, a country must take steps to create a nationwide database to monitor, collect, and evaluate statistics involving sex trafficking, anti-trafficking efforts, and effective solutions.³²³ This database could include a “Most Wanted List” of convicted sex traffickers.³²⁴ This “list” should be prominently displayed to discourage future “Johns” from soliciting the services of trafficked women or children, thus curbing the demand for such services.³²⁵

Governments should make frequent public service announcements to keep sex trafficking and its ever-evolving face in the minds of citizens and to make citizens aware of how fluid the industry is.³²⁶ Governments must always have specific, highly-trained groups of professionals in place to deal with the youngest victims of commercial sex trafficking.³²⁷ These children need specialized attention, if it is not already too late, to prevent them from being scarred for life.³²⁸

We must take a hard look at how we ingratiate males into that “all-boys” society by teaching males that all people have value, dignity, and self-worth.³²⁹ Commercialized and glamorized sex in the media has to be brought into perspective and recognized for its role in the industry of sex trafficking.³³⁰ Women and children must not face dehumanization and portrayal as sex objects.³³¹ This process lessens the humanity,

³²² See *id.* (“End discrimination against victims in arrest and prosecution of trafficking and prostitution-related offenses.”).

³²³ See U.S. DEP’T OF STATE, *supra* note 94, at 36 (“There is growing government support for evidence-based research that suggests effective strategies for combating the crime and highlights successes among current countertrafficking initiatives.”).

³²⁴ See *id.* at 113 (highlighting China’s success in arresting “19 of the country’s 20 most wanted traffickers”).

³²⁵ See, e.g., *id.* at 116 (recommending countries continued efforts to “raise public awareness about the dangers of human trafficking”).

³²⁶ See, e.g., *id.* at 80 (discussing how public service announcements are an effective means to educate the public about human trafficking).

³²⁷ See *id.* at 72, 125 (implying one of the ways to improve countries’ responses to sex trafficking is to create specialized shelters to assist victims).

³²⁸ See *id.* at 72, 124.

³²⁹ See *supra* Part II.

³³⁰ See *supra* Part IV.

³³¹ See *supra* Part IV.

2012]

George

333

dignity, and value in people, and victims are no longer seen as people but objects.³³²

Society must evaluate education, poverty, and status to address the deep divides and chasms in our global community.³³³ Poverty drives individuals to desperate, unthinkable acts of grave inhumanity.³³⁴ By educating and creating economic opportunities, we might decrease the number of impoverished individuals that turn to committing those inhumane acts.³³⁵

The unending and consistent struggles of the United States and most of the world with sex trafficking are intimately tied to questions concerning the “rule of law” and “good governance.”³³⁶ Many have called this fight against modern-day slavery the “new abolitionist movement.”³³⁷ As a caring, compassionate global community, we should all be encouraged and strongly motivated to join in this fight to save countless, faceless, nameless victims.³³⁸ The goal should be to dismantle the demand and end this system of slavery forever.³³⁹

In the end, global sex trafficking or “*slavery* is a moral [dilemma] that forces confrontation with one’s commitment to human dignity.”³⁴⁰ As such, we must recognize that as a global community we will be able to significantly decrease the number of victimized sex slaves if governments institute stringent enforcement policies, punish

³³² See *supra* note 61 and accompanying text.

³³³ See *Prevention*, *supra* note 310.

³³⁴ See HUGHES, *supra* note 25, at 24 (“[C]onditions such as aggravated poverty . . . have created a large pool of potential victims.”).

³³⁵ See *Prevention*, *supra* note 310.

³³⁶ Mark P. Lagon, *Congressional Human Rights Caucus Briefing: Trafficking in China*, U.S. DIPLOMATIC MISSION TO IT. (Oct. 31, 2007), http://www.usembassy.it/viewer/article.asp?article=/file2007_11/alia/a7110108.htm.

³³⁷ Condoleezza Rice, *Letter from Condoleezza Rice: Trafficking in Persons Report*, U.S. DEP’T OF STATE (June 12, 2007), <http://www.state.gov/g/tip/rls/tiprpt/2007/82798.htm>.

³³⁸ *Id.*

³³⁹ See *supra* notes 15-16 and accompanying text.

³⁴⁰ Kathleen Parker, *Slavery by Any Other Name*, JEWISH WORLD REV. (Oct. 1, 2007), http://www.jewishworldreview.com/kathleen/parker100107.php3?printer_friendly (emphasis added).

“Johns,” and create penalties to decrease the demand for the services of those trafficked by “Johns.”³⁴¹

Demand is the grease that spins the wheels of a well-oiled and operating sex trafficking machine.³⁴² This demand is creating a living hell for innocent women and children around the globe; society can no longer turn a deaf ear to their plight and the brutality to which they are subjected.³⁴³

We must remember that the victims are real people who deserve recognition and protection.³⁴⁴ To illustrate this point, one victim’s letter pleads with Pastor Chun Ki-won and implores, “I want to live like a human being for one day. I am a human being. How can I be sold like this? I need freedom.”³⁴⁵ Another child victim recalls how scared and alone she felt when “clients” raped and brutalized her.³⁴⁶ In testimony given to a Senate Committee, Luis CdeBaca reasoned, “With all of us, and those who we will touch, young people need to know that they are not alone: that we will not turn a blind eye to their abuse.”³⁴⁷

³⁴¹ See *supra* Part II.

³⁴² See *supra* Part II.

³⁴³ See *supra* note 60 and accompanying text; *supra* Part IV.

³⁴⁴ See *supra* notes 200-01 and accompanying text (“Our culture needs to treat women, men, girls, and boys as autonomous individuals that have value and worth outside of and apart from their sexuality. Women (and all people) deserve dignity and respect as individuals who are intelligent, worthy, hard working human beings.”).

³⁴⁵ Hughes, *supra* note 116.

³⁴⁶ Cdebaca, *supra* note 159.

³⁴⁷ *Id.*