

HUMAN TRAFFICKING: A
VIOLATION OF HUMAN RIGHTS, A
UNIVERSAL ISSUE

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Abstract

With the transnational operation called human trafficking, slavery remains alive and thriving. Trafficking in persons is a global issue. No country can claim that its borders are not affected in some way by trafficking. This is estimated to be a multibillion-dollar business. Human trafficking is now second only to drug trafficking in relation to international organized crime. Trafficking in persons is the equivalent of modern-day slavery. This thesis argues the vital role international cooperation plays in combating human trafficking. It also explores the role of Japan and the United States as powerful, First World countries, stating that it is their obligation to exercise their power to combat human trafficking to the fullest extent possible. As First World countries, they have the economic and political resources not only to establish sufficient anti-trafficking legislation in their countries, they also have the ability to make sure they are properly implemented. Slavery is illegal throughout the world, it is a violation of human rights, and it is a crime. This thesis argues that Japan and the United States should fulfill their roles as the leading countries they are and lead the world in the fight against human trafficking.

THE FLORIDA STATE UNIVERSITY
COLLEGE OF SOCIAL SCIENCES

HUMAN TRAFFICKING:
A VIOLATION OF HUMAN RIGHTS, A UNIVERSAL ISSUE

By

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I. The Definition of Human Trafficking:

“There's a special evil in the abuse and exploitation of the most innocent and vulnerable.”

- George W. Bush

Slavery is believed to be a no longer existing phenomenon because of its worldwide abolishment. However, behind a curtain of propaganda, disbelief, and denial, there lays a scene of reality; a reality that proves the chains of enslavement still remain strong. This reality is played out by the actors of the Third World countries, but is not isolated to their borders. With the transnational operation called human trafficking, slavery remains alive and thriving. As Kevin Bales describes, this is a new slavery, focusing on “big profits and cheap lives.”¹ Trafficking in persons is a global issue. No country can claim that its borders are not affected in some way by trafficking. This means that the United States is not an exception; an estimated 15,000 to 18,000 persons are trafficked into the United States every year for forced labor.²

This is estimated to be a multibillion-dollar business. Human trafficking is now second only to drug trafficking in relation to international organized crime. This, in part, is because the exploitation of trafficking victims in brothels, sweatshops, and fields around the world exists free of “geographic limitations.” Trafficking in persons is the equivalent of modern-day slavery. It is no longer a question of race and color for those being enslaved; it is now a question of vulnerability.³

Bales quotes a girl who describes what happened to an eleven-year-old when she refused to have sex with a miner: “after decapitating her with a machete, the miner drove around in his speedboat, showing off her head to the other miners, who clapped and shouted their approval.”⁴ This is just one example of the violations of human rights experienced around the world. It is the stories like this one that show the reality of slavery today, which is that it has not ended, as most people believe to be the truth.

¹⁺⁴ Bales, 3-4

²⁺³ Coonan, 44

However, there are distinctions between the slavery that we have learned about in the history books and the slavery that is hidden from our eyes today. In the past, one person legally owning another person defined slavery, but modern-day slavery has changed its definition. Today slavery is illegal everywhere, therefore no one can legally own another human being. Slaveholders maintain control of a person, having all the “benefits of ownership” without the “legalities”. This lack of legality dismisses the slaveholder’s responsibility, which is interpreted as an improvement in the eyes of a slaveholder. ⁵

The fight against trafficking is still maturing; because of this a general universal consensus about concepts, definitions, or terminology does not exist. A distinction between “smuggling” and “trafficking”, however, has been established. The trafficking of persons is coupled with coercion, exploitation, deception, violence, and other forms of either physical or psychological abuse. Trafficking is a human rights concern, whereas smuggling is a migration concern. ⁶

A smuggler generally makes his or her profit upfront once entry into the desired country has taken place, at which time the relationship with the “client” ceases to exist. Human trafficking, in contrast, is founded upon the institution of an exploitive relationship that continues beyond the initial transporting phase; this generally implies the further controlling of the victim by the trafficker for a long period of time after entering the new country. As the Florida State University Center of Advancement for Human Rights stated in their Florida Responds to Human Trafficking Report: “The purpose of trafficking is to extend and even increase the debt that the victim owes to the trafficker. The litmus test for distinguishing the situations of those working

⁵ Bales, 4-5

⁶ Kyle, 59

for exploitive wages and trafficking victims is whether they can walk away from their worksites of their own volition.”⁷

The U.S differs from international law in the way it defines human trafficking. In Section 103(8) of the Victims of Trafficking and Violence Protection Act of 2000, Congress enacted a narrower definition of the crime, establishing that a *severe* form of trafficking is:

- (a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Fraud, force, or coercion” are the key elements in the U.S. definition of human trafficking.⁸

As a lack of consensus exists in reference to the terms and definition of human trafficking, there to is a lack of consensus on the number involved. The Trafficking In Persons Report can be quoted as stating that each year 600,000 to 800,000 men, women, and children are trafficked illegally across international borders. Author and human rights activist Dr. Kevin Bales estimates that globally approximately 27 million people may be living in slavery today, of which many are victims of human trafficking; this is a number that many human rights

⁷ CAHR, 19-21

⁸ CAHR, 12

organizations agree with. It is the illegality and expansive nature of human trafficking that makes it difficult to obtain a worldwide approximation of the number of victims of trafficking.⁹

With a world population of 27 million slaves, Bales estimates the total yearly profit generated by slavery would be on the order of \$13 billion. Slavery being able to expand and thrive as an international economic activity suggests that there are almost no “economic controls” on slaveholding and the slave trade.¹⁰

This paper will examine what defines trafficking in persons and what the operation of trafficking in persons entails. Who is being trafficked will be analyzed as well as what allows this to continue to exist and thrive as a business. Furthermore, this paper will look at what needs to be done by the international community to combat the human rights violation that is human trafficking. Through analysis of Japan and the United States, a look at the efforts of First World countries will be examined. First World countries are chosen because they have readily available resources and the power to engage in anti-trafficking efforts.

Many trafficking victims are deceived with the prospect of jobs; a few examples of the jobs that are promised are positions as models, dancers, tourist guides, or waitresses. However, the deception is not limited to the guarantee of a job, this deception can be any promise of a better life; this may be through marriage or sponsorship, which turns into slavery.

The victims are transported, or trafficked, into the country of destination where they are then forced to pay back the costs incurred while bringing them to the country. Repayment of the debt comes in the form of forced labor, which can include prostitution or other crimes.¹¹

The actors involved with human trafficking cannot be profiled as one specific type of people. The actors are not restricted to members of sophisticated organized crime or just

⁹ CAHR, 16

¹⁰ Bales, 23-24

¹¹ Kyle, 177

members of the community. They can be “business personalities” never before involved in crime, or they can be mixed groups consisting of family members and locals. Human trafficking seems to fall more into the “crime that is organized” category than it does into the true form of organized crime. As stated in Kyle’s Global Human Smuggling: “They can be a “well-organized, well-financed international criminal network” and at the same time not show any indications that they are members of organized crime or that they have any connections to organized crime.”¹²

Trafficking in persons has been described as a “migration business,” or a “system of institutionalized networks with complex profit and loss accounts, including a set of institutions, agents and individuals,” connected together to achieve profit off the exploitation of others.¹³

Kyle explains that a major part of the trafficking business is the process of stealing, forging and/or altering travel documents and work and residence permits; the ability to migrate depends on the possession of the necessary documents.¹⁴ The process of stealing, forging, and altering official documents is only one of the many illegal mechanisms used in the trafficking of persons.

¹²⁺¹³ Kyle, 172-174

¹⁴ Kyle, 176

II. Who is being trafficked / What makes them vulnerable:

“We were vulnerable to a smooth-talking recruiter, who promised us the world.”

- Rachel Lloyd, a survivor of child trafficking

The factors that make a person vulnerable to trafficking are abundant. Whether the factors are economic, social, or political, they all generally lead to poverty, which causes despair, and the belief that there are no other options than to go abroad. Trafficking thrives where poverty has forced the population to seek different methods of survival for themselves and their families. To traffic is simply to work upon an individual's desire or need to migrate, by introducing them into a form of forced labor under conditions that make them completely dependent on the traffickers in ways that impairs their rights. The business of human trafficking is a predator of the world's poor and vulnerable.¹⁵

A woman who escaped from bonded labor was quoted as explaining: "When things are bad here [in the slums], it is as if the gatos can guess things are in such dire straits, and then they come and trick the poor... They come with their beautiful words and promise you the length of their arm, and then when you get there they won't even offer you the tip of their finger."¹⁶

The victims are commonly taken far from their homes to places that they are unaccustomed to and any connections to family and friends that could help them are severed. Even if they could escape, they are penniless and in debt. Bales explains that they will often keep working in these appalling conditions with the hope of receiving any money that they can use to get home. In countries that require an identity card, these victims are exposed to the possibility of being locked up by the police as "vagrants or suspected criminals" without them. An ideal candidate for the traffickers is someone that they deem to be defeated and desperate for any opportunity to change the conditions in which they are living, they prey on those that they believe will do anything that is asked of them if the prospect of a better job exists. The traffickers

¹⁵ Atlink, 1

¹⁶ Bales, 128

do not want to own these workers; they prefer to drain them of every ounce of work that is in them, keeping them only as long as they are profitable.¹⁷

In less industrialized and less developed countries the frequent desire to go abroad to improve one's economic situation is commonplace. This desire is driven by high unemployment rates or the availability of only low-paying jobs. The media portrayals of Western economies and the stories shared by those that have already gone abroad deepen this desire to look for opportunities abroad. Whatever the conditions may be that force them to go abroad, these victims do not agree to the "inhumane, forced, and oppressive circumstances in which they would find themselves once abroad."¹⁸

Vulnerable populations are those in which people do not have their basic needs met, where there is oppression, persecution, and/or few economic opportunities. Once they have been coerced, forced, or deceived into these dire situations, their vulnerability is only increased by their inability to speak the native language of the countries in which they are being trafficked. The Center of Advancement of Human Rights states that this inability to speak the native language causes the victims to be "linguistically isolated," a key element for the continual entrapment of the victims because this makes the victim less likely to escape or be able to communicate with customs or the police.¹⁹

Another factor that increases the vulnerability of trafficking victims to their traffickers is that as migrants they are exposed to the possibility of being tried for immigration violations, which ultimately leads to deportation to their countries of origin, often at their own expense. Traffickers, pimps, and brothel owners, use this as an instrument of coercion. The threat of deportation is often used as a tool to "immobilize the victims psychologically," preventing

¹⁷ Bales, 128-129

¹⁸ Kyle, 259, 263-265

¹⁹ CAHR, 17

possible escapes. Deportation is feared widely because most trafficking victims fear public humiliation and or being shunned owing to exposé they were forced to do.²⁰

Millions are forced to seek economic refuge abroad due to the conditions of poverty that exist in the world, “even if they do so with no assurances and at grave personal risk.” Once they arrive in the country of their destination, they become a modern day slave. Often times, women who want to work abroad are systematically sold as commodities in the transnational sex market.

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²⁰ Kyle, 265

²¹ Skrobanek, 79

III. Types of Trafficking:

“Slim, sun burnt, and sweet, they love the white man in an erotic and devoted way”

-Life Travel, Switzerland

It is vital that all forms of trafficking be discussed when considering potential methods of combating human trafficking. Trafficking is not limited to prostitution; it embodies many forms of slavery. It must not be forgotten that in Belgrade, women and girls are still being sold to the highest bidder at auctions where they are stripped of their clothes and inspected like cattle.²² This is only one of the numerous forms of trafficking existing today.

In New York, thirty Thai women were locked into the upper floors of a building used as a brothel. Iron bars fastened the windows and armored gates blocked any opportunity of exit to the street. At the trial of the brothel owner she testified that she had legitimately bought the women, paying between \$6,000 and \$15,000 for each.²³

In 1995 Greek authorities arrested a number of Greek policemen who were running foreign “call-girl” trafficking rings in Greece. Russian and Eastern European women were lured into coming to Greece with promises of a better life. Upon their arrival, their passports were taken away and they were sold to the nightclub owners. These women were forced to prostitute themselves.²⁴

Just recently, on April 6, 2005, a case of trafficking within the U.S. was reported in the news. One article stated: “Three Mexicans pleaded guilty to federal charges that they forced young women into prostitution through violence, then smuggled them into the United States to work at brothels...Prosecutors alleged that, starting in 1991, members of the ring recruited poor girls and women ages 12 to 25 in Mexico. If the recruits refused to obey orders, they ‘were assaulted with instruments such as cables, beer bottles and belts.’”²⁵ Authorities began pursuing

²² United States Government, Foreign Gov. Complicity, 6

²³ Ehrenreich, 227

²⁴ Kyle, 178

²⁵ Hays

the case in mid-2003 when a complaint was made at the U.S. Embassy in Mexico that members of the Carreto family were forcing young women into prostitution.

United States Attorney Roslynn Mauskopf stated: "These defendants used the American dream to entice their victims, all women or girls, promising them a better life. Instead, the victims were subjected to serious physical abuse and forced into prostitution. The convictions announced [April 5] show that prostitution is not a victimless crime and demonstrate our unwavering commitment to aggressively investigate and prosecute anyone who seeks profit through human trafficking and exploitation." ²⁶

In response to the revelation of this case, Assistant Attorney General for Civil Rights Acosta states: "The trafficking of humans stains the face of free nations. The depraved and horrific circumstances that these young women endured are nothing less than modern-day sex slavery. The use of violence or any other means to coerce commercial sex acts will not be tolerated. The Department of Justice is committed to vigorously investigating, prosecuting and punishing anyone involved in human trafficking abuses. Traffickers will find no succor, no recourse, and no safe harbor in the United States." ²⁷

Josue Flores Carreto, Gerardo Flores Carreto, and Daniel Perez Alonso each face a maximum sentence of life imprisonment and a fine of \$250,000 on each count. Under the U. S. Sentencing Guidelines, the government estimates that Josue Flores Carreto and Gerardo Flores Carreto face between 27 and 33 years' imprisonment, and Daniel Perez Alonso faces between 25

²⁶⁺²⁷ <http://usinfo.state.gov>

to 30 years' imprisonment.²⁸ This case represents one example of the United States' efforts to combat trafficking in persons.

As the Center of Advancement of Human Rights (CAHR) asserts: "Modern-day slavery is alive in the United States and in Florida where many traditional labor markets, such as the agricultural industry, the domestic and commercial cleaning industry, factories, restaurants, hotels, nursing homes, and even the State's amusement parks, benefit from trafficked labor. Slavery takes root and thrives in industries where 'sweatshop' conditions generally prevail."²⁹ The abuses taking shape in these situations include sub-poverty wages, harsh working conditions, and little or no worker protections.

In reference to exploitation in the agricultural industry, CAHR points out that Florida, in particular, has a long history of forced labor in agriculture. In the past, the prevalent form of enslavement was the "company store model." In the "company store" model, the employer enslaves the worker by providing all the basic necessities (i.e. food and shelter) on credit, through which the worker creates a debt. The "coyote system" has replaced the company store as the most common form of enslavement. The "coyote system" is founded on the smuggling of persons. The "coyote" charges undocumented persons to lead them across the border or transport them within the United States. In instances where the workers are too poor to pay up-front for transportation to jobs, the "coyote" offers the transportation on "credit". The workers are then controlled by force and threats of violence while working to pay off the debt, through continuous and forced labor in agriculture. The workers incur additional debt for rent, food, and other

²⁸ <http://usinfo.state.gov>

²⁹ CAHR, 181

expenses and are not free to change jobs or look for better-paid employment elsewhere to pay off their debt.³⁰

The Center of Advancement of Human Rights declares: “The agricultural industry in Florida remains fertile ground for the seeds of slavery to take root and grow. Production of fruits and vegetables has increased and the global demand for American produce continues to grow, but agricultural worker earnings and working conditions are either stagnant or in decline.”³¹ Until efforts are made to insure the conditions of agricultural work, this form of slavery will continue.

Sex tourism also plays a major role in the trafficking business. Trafficking is able to thrive in part because of the demand for sex tourism. Ehrenreich clarifies this point with the description of a few examples of European travel brochures. Ehrenreich states: “The brochures of the European companies that have leaped into the sex-tourism business leave the customer no doubt about what is being sold: ‘Slim, sun burnt, and sweet, they love the white man in an erotic and devoted way’ (Life Travel Switzerland) and ‘You can get the feeling that taking a girl here is as easy as buying a package of cigarettes...little slaves who give real Thai warmth. (Kanita Kamha Travel, the Netherlands).”³²

Skrobanek suggests that there is evidence of sex tourism in Thailand playing a part in the demand for Thai women in the entertainment/sex industry in foreign countries. Skrobanek states that they [Thai women] were popular with customers in Europe, because they charged less than local women. The rise in demand, combined with the opportunity to take advantage of Thai migrants in prostitution, due to increased poverty, caused agents to extend their search beyond

³⁰ CAHR, 181-185

³¹ CAHR, 185

³² Ehrenreich, 226

the cities. From this, what used to be “voluntary migration for sex work from the nightclubs of Bangkok changed gradually into organized international trafficking in women.”³³

Trafficking also includes ‘mail order brides.’ It is common for women that want to migrate to become the “products” of a bridal agency, as many women are attracted to this arrangement because they believe all foreigners are wealthy. These agencies act as a “middleman” by presenting the women to potential clients. When the deal is finalized, and the man has chosen a woman, the woman goes to the country of the foreigner as his wife. Sometimes the women find that instead of marriage, they have been sold on to other agents or employers in the country of destination.³⁴

Trafficking of course involves enslavement in sweatshops. In August 1995, a group of 68 Thai workers, mainly women, were found imprisoned in a garment factory in the USA. Many of them had been captive for years. They often worked 20-hour days, for wages that were 25 percent of the legal minimum.³⁵

³³⁻³⁵ Skrobanek, 26

IV. Process of Enslavement:

“When things are bad here [in the slums], it is as if the gatos can guess things are in such dire straits, and then they come and trick the poor...They come with their beautiful words and promise you the length of their arm, and then when you get there they won't even off you the tip of their finger.”

-A woman who escaped from bonded labor

The process of enslavement commences with the victim's own complicity to a relatively minor crime- illegal border crossing. The migrant has then become an illegal alien and is stripped of all legal rights, and which time they are forced to pay off a rolling debt through coerced labor.³⁶

Ehrenreich points out that modern-day slavery, trafficking, and migrant domestic worker abuse contain the same element of manipulation and deception of desperate migrants, who are made to believe they are migrating because by doing so there exists a chance of bettering their situations. In the case of human trafficking, these trafficked persons become either unpaid or poorly paid, and are viewed as "a commodity that can be used again and again for accumulating profit." Traffickers deceive the migrants into believing that they will earn many times more money abroad than they are able to at home. As Ehrenreich points out, if law-abiding people were the ones employing them, these workers would indeed increase their earnings.³⁷

For hundreds of years many people in Northern Thailand, because of economic concerns, have had to resort to the use of their children as commodities, which translates to a commodification of young girls' virginites. In this culture, which is one example of many, a child as a commodity is not the preferred option but is now viewed as an acceptable one, and is becoming more of a norm.³⁸ Due to immense changes in the economy of Third World countries, what used to be a rather low number of children being sold in the past has increased greatly.

The changes in economy include the expansion of industrialization. Ehrenreich portrays the severity of the effects that industrialization has on the world's poor in a section of her book, which is entitled: One Girl Equals on Television. She states: "In the past, daughters were sold in response to serious family financial crises... Modernization and economic growth have changed

³⁶ Kyle, 34

³⁷ Ehrenreich, 144

³⁸ Ehrenreich, 210

that. Now parents feel a great pressure to buy consumer goods that were unknown even twenty years ago; the sale of a daughter might easily finance a new television set. A recent survey in the northern provinces found that of the families who sold their daughters, two-thirds could afford not to do so but ‘instead preferred to buy color televisions and video equipment.’”³⁹

The demand for the sexual exploitation of many young virgins, has given the brothels the power to expand, increasing their “purchasing power.” This then creates a greater market for trafficking. Ehrenreich continues to give an account of one young girl in Thailand. She describes each step of this young girl’s, Siri’s, experience. A broker, a woman also from a northern village, approached Siri’s family with assurances of well-paid work for their daughter. Siri’s parents probably understood that the work would be as a prostitute, since they knew that other girls from their village had gone south the brothels. After some negotiation they were paid 50,000 baht (US \$2,000) for Siri, a very significant sum for this family of rice farmers. This exchange began the process of debt bondage that is used to enslave the girls. The arrangement made between the broker and the parents requires that this money be paid by the daughter’s labor before she is free to leave or is allowed to send money home. The exorbitant interest charged on the loan means there is little chance that a girls’ sexual slavery will ever repay the debt.

After being sold to the brothel, raped and beaten, Siri was informed that she would be required to pay a debt of 200,000 baht. In addition, she would also have to make other payments for rent for her room at 30,000 baht per month, as well as food and drink, fees for medicine, and fines if she displeased a customer. These fees mean Siri must have sex with three hundred men a month just to pay her rent, leaving what is left over after other expenses to scarcely decrease her original debt.

³⁹ Ehrenreich, 211

Debt bondage is a tool used to maintain complete control over these girls, that is, as long as the brothel owner believes they are worth keeping. Of course, it is violence that reinforces their control, and any instance of disobedience only increases their debt. Ehrenreich states that based on information gathered by AIDS workers in different cities, it is estimated that there are between half a million and 1 million prostitutes in Thailand. Of that number, one in every twenty is enslaved.⁴⁰

The brothels have become incredibly profitable. A girl who “cost” \$150 can be sold for sex up to ten times a night and bring in \$10,000 per month. The only expenses the brothel owner may incur are payments to the police and a small allowance for food. Sex trafficking is able to flourish where it is tolerated by local law enforcement. Sex trafficking involves a tangled web of multiple felonies. If the authorities were to no longer turn a blind eye to the crimes being committed, they would have the power and resources to combat trafficking.⁴¹

Although a single case of trafficking is composed of many crimes—fraud, kidnapping, assault, rape, and sometimes murder—nothing is done in way of prosecuting these crimes. As Kyle points out, these crimes are not random; rather, they are systematic and repeated in brothels thousands of times each month. The local police raid these brothels routinely in order to collect bribe money from the brothel owners. This money is not paid to insure the girls will not be arrested and deported; it is simply an informal, highly structured source of income for the police in exchange for protection of the brothel owner. This is evidence that those in the position to stop this institution of slavery instead choose to help it continue to grow.⁴²

The enslavement of any person is illegal in every country in the world. Therefore, this is an occurrence that is only able to exist due to the active complicity of government officials.

⁴⁰ Ehrenreich, 211-214

⁴¹ United States Congress, Global Trends, 63

⁴² Kyle, 45

“Thus ending sexual trafficking only requires the will of a country to end official complicity in violent sexual crimes.” Physicians for Human Rights suggest that pressure be placed on governments to end sex trafficking as an integral part of “best practices” in HIV prevention.⁴³

The initial phase of trafficking begins with the use of deception; promises are made by the traffickers to the victims assuring the victims that they will be given opportunities that will alleviate the economic problems they are experiencing. Once it has become evident that they will not be given the jobs they were promised, traffickers continue to exert psychological and physical power over the victim. The traffickers often tell the victim that the authorities will not help them; rather they will deport them or even place them in jail. Of course, many times the traffickers confiscate travel documents and identification papers. The threat of physical harm, death, or harm to the victim’s family is constantly enforced.⁴⁴

Because trafficking is often viewed as a migration problem, it is frequently the case that victims of trafficking are criminalized as having violated prostitution and immigration laws. Kyle mentions that because of this occurrence, despite their traumatic victimization, these persons tend to receive very limited, if any, assistance from the authorities in the countries in which they are trafficked and in their home countries.⁴⁵

Maintaining the dignity and rights of the trafficked victim is an essential component in the fight against human trafficking. Rescue and prosecution are truly necessary at the beginning, but without concentrated efforts to provide physical, emotional, and spiritual healing, the victim’s condition will not improve.⁴⁶

⁴³ Global Trends, 35

⁴⁴ CAHR, 17-18

⁴⁵ Kyle, 258

⁴⁶ Global Trends, 20

The Center for Advancement of Human Rights states: “Victims of human trafficking suffer from psychological damage, malnutrition, and extreme stress, all of which combine to threatening the health of a significant portion of the world’s population. Sexually transmitted diseases frequently infect victims of sex trafficking.”⁴⁷ If these issues are not addressed and no attempts are made to assist the trafficking victims, the victims will be left in a situation no better than that one they were originally in.

IV (a) Role of Community in Enslavement:

In the third world countries, it is generally found that the parents and other relatives play an important role in the decision to migrate, either directly- by negotiating contracts themselves, or indirectly- through the expectation that the child will provide for the parents. Skrobanek points out that very rarely is it a foreign visitor that convinces the person to migrate; influential community leaders, as well as newly rich returning migrants, often play the role of local agents.⁴⁸

Skrobanek states: “When the money starts to arrive, perceptions of prostitution are modified sufficiently to encourage more and more women to consider migration for sex work, with the open consent of their families. Certain illusions are maintained about the conditions of work, and these, in turn, compel the women to remain silent about the deceit and abuse which they are forced to endure.”⁴⁹

⁴⁷ CAHR, 22

⁴⁸ Skrobanek, 55

⁴⁹ Skrobanek, 79

V. **Why is trafficking growing so rapidly:**

“Slaves are disposable.”

- Kevin Bales

Why is trafficking growing so rapidly? Kyle offers an answer to this question with the statement: “Efforts to keep down labor costs and remain competitive had intensified rural displacement and urban unemployment; at the same time, the spread of consumer culture created widespread demand among Third World populations for goods, such as televisions and cars. An increased demand for children among customers fearful of AIDS is thus more than met by children themselves seeking disposable income or parents who “deploy the income-generating capacity of their children in order to ensure that the household survives.”⁵⁰

The global human trafficking industry is built on the foundation of the increased amount of hopeless immigrants, due to the increase of poverty levels, seeking economic opportunities beyond the borders of their home countries. The poor are forced into the arms of the traffickers, with whom they are given the opportunity of transportation into another country. Terry Coonan expounds on this idea by stating: “As legal immigration has likewise been restricted in recent decades, the world’s poor—with an increasing feminine face—are left with no recourse but to depend on smugglers and human traffickers to negotiate borders and locate work far from home.”⁵¹

As resources and work options deteriorate, people become increasingly desperate, in which case- “life becomes cheap.” As stated by Kevin Bales: “Because the political elites in the developing world focus on economic growth, which is not just in their collective self-interest but required by global financial institutions, little attention is paid to sustainable livelihoods for the majority.” So this leaves the developing world with the livelihood of the rich increasing

⁵⁰ Kyle, 94

⁵¹ Coonan, 44

substantially, while the livelihood of the poor diminishes greatly. This is supply and demand at its finest: with such a wide supply of possible slaves, their value has plummeted.⁵²

Buying a slave is no longer a major investment, slaveholders today are able to squeeze the work out of the slave, and then simply throw them away, discarding them like yesterday's trash. This new "disposability" has dramatically increased the profitability of the slave decreasing the length of time the person would be enslaved. "Today slaves cost so little that it is not worth the hassle of securing permanent ownership. Slaves are disposable."⁵³ The decrease in the length of time a person can be enslaved in turn increases the amount of people being enslaved.

As people are currently viewed as relatively inexpensive "commodities," the death of a slave is no longer considered a grave loss to the business. The type of slavery that is prevalent today has evolved from the ideal of labor without compensation. Modern-day slavery involves the widespread use of coercion; a coercion that is "physical, psychological or cultural," in an effort to control a person entirely.⁵⁴

The increase in international trade and competition creates the demand for cheap labor and higher profits, leading to shockingly extensive exploitation of labor. The practices of the patriarchal societies that devalue women and children combined with the economic growth in many Third World countries advocates a growth in the sexual exploitation industry. After World War II the world's population increased tri-fold, creating millions of disempowered people vulnerable to exploitation.⁵⁵

⁵² Bales, 12-13

⁵³ Bales, 13-14

⁵⁴ CAHR, 15

⁵⁵ CAHR, 10

As stated by Defeis: “Poor economic and social conditions combined with little to no domestic and international punishment for trafficking has formed a breeding-ground for the ‘highly lucrative practice’ of trafficking in persons.”⁵⁶

Kyle suggests that by shifting the focus on the nature of the economic enterprise which spans multiple countries, rather than the degree to which a migrant agreed to be smuggled, we can gain a better understanding of what is at stake for those who are benefiting from smuggling operations, whether directly or indirectly, and also a deeper understanding of their different economic logics, which could lead to more appropriate policies that go beyond capturing the immediate perpetrators, and instead focus on the multiple levels of benefactors.⁵⁷

Human trafficking persists because of many reasons. The Center of Advancement of Human Rights points out that human trafficking is profitable and relatively low-risk, and people support it unknowingly by buying slave-labored goods. Also, human trafficking continues to persist because many of the victims of trafficking may not know their rights or of the laws and services that can help them.⁵⁸

The increase in human trafficking is disputed to be in direct correlation with the increase of concentration on illegal immigration. In 1993, President Clinton launched a campaign to “regain control” of the southwestern border. This attempt to regain control turned what was a “relatively simple illegal practice of entry without inspection” into a more sophisticated form of smuggling. Since 1993 the United States effort to reduce illegal migration has intensified greatly; the size of the Border Patrol has grown to more than nine thousand agents, more than double the number of agent in FY 1993.⁵⁹

⁵⁶ Defeis

⁵⁷ Kyle, 34

⁵⁸ CAHR, 15

⁵⁹ Kyle, 143

In October 1997, the Immigration and Naturalization Service produced an on-line report titled “Cracking Down on Alien Smuggling,”⁶⁰ which outlined several effects that its new border control efforts were having on the business of alien smuggling. Included were the following:

1. Increased border enforcement has made it harder to cross than ever before and has boosted illegal migrants’ reliance on smugglers.
2. As the demand for smuggling has gone up, the price of alien smuggling has also increased.
3. As the price increases, so does the potential for exploitation and abuse.
4. While many smuggling operations along the southwestern border are still locally run, alien smuggling rings now are often connected with international criminal syndicates engaged in other illegal activities including illicit drug trafficking and prostitution.

Increased concentration on immigration controls increases the dependence of those hoping to migrate on those willing to smuggle them. The stricter immigration controls increase the difficulty of crossing the border and therefore raise the cost of smuggling. Kyle mentions that the continued state reliance on deportation, as a means of controlling illegal immigration, does nothing to diminish the traffic and instead makes the victims of trafficking less likely to report their situation and more dependent upon traffickers and pimps.⁶¹

With the increase in border enforcement, the need for a “professional” smuggler has grown. The demand for a professional smuggler combined with the risks acquainted with increased border enforcement equals an increase in the price of smuggling. As people continue to desire migration and immigration controls remain strict, this business will continue to exist.

⁶⁰ Kyle, 144

⁶¹ Kyle, 95

Because there are such high profits to be found in the smuggling business there will continue to be smugglers willing to continue the hazardous and illegal profession.⁶²

⁶² Kyle, 116-117

VI. Economic similarities of sending countries:

The trafficking of enslaved prostitutes is a flourishing business, as it supplies not only the brothels in the Third World countries, but it also brings the women from these Third World countries to Japan, Europe, and America. There of course exist many variations of sex slavery among the different countries. In Switzerland girls are bought in on “artist” visas as exotic dancers. In Germany they are usually bar girls, and they are sold to men by the bartender or bouncer. In Japan, the Yakuza, Japanese organized crime, is involved in the trafficking process.⁶³

The level of vulnerability to trafficking remains high among those who are living in poverty, have families to support and live in nations where resources and opportunities are limited. “Globally, of the estimated 1.3 billion people living in poverty, more than 70 percent are females. Forty percent of all persons living in poverty are children. Poverty contributes to homelessness, and both are inextricably entwined with vulnerability to trafficking.”⁶⁴

Traffickers have simply made a business out of human suffering. They use a variety of means to capture and enslave their victims—whether by force, by deception, or by coercion—the victims are quickly dehumanized, stripped of all human dignity and rights.⁶⁵

If the economic similarities between the sending countries were to be examined, the effects of globalization would be a common theme. Ehrenreich uses Thailand as an example by stating how joining the world economy has done wonders for Thailand’s income and terrible things to its society. According to Pasuk Phongpaicht and Chris Baker, economists who have analyzed Thailand’s economic boom:

“Government has let the businessmen ransack the nation’s human and natural resources to achieve growth. It has not forced them to put much back. Neither law nor conscience has been very effective in limiting the social costs of growth. The legal framework is defective. The judiciary is suspect. The police are unreliable.”⁶⁶

⁶³ Bales, 69-70

⁶⁴ Global, 22

⁶⁵ Global, 24

⁶⁶ Ehrenreich, 229

For many Thai citizens, the only definition of globalization they know is that of a currency crisis and unemployment, which has led to large amounts of illegal immigration. Kyle mentions that what is deficient from the Thai state's discussion of the causes of illegal immigration is its own role in promoting it.⁶⁷

According to research presented in Bangkok at a 1997 regional conference on the prevention of human trafficking, the annual illegal income generated by sex workers (of all ages) in Thailand is between 450 billion and 540 billion bath (or roughly U.S. \$10 billion). This is more than is generated by drug trafficking.⁶⁸

Interestingly, Bales makes a comparison of Thailand, a third world country, to the United States, a first world country. Bales states: "In many ways, Thailand closely resembles another country, one that was going through rapid industrialization and economic boom one hundred years ago. Rapidly shifting its labor off the farm, experiencing unprecedented economic growth, flooded with economic migrants, and run by corrupt politicians and a greedy and criminal police force, the United States then faced many of the problems confronting Thailand today."⁶⁹ This comparison offers a light of hope that these grave situations can be changed and trafficking can be stopped.

As in the case of Myanmar, where the government helps promote its virgins as a local resource for sale, Kyle mentions that it is hardly surprising that virgins have become an exportable and highly profitable commodity. It has become a lifestyle in Southeast Asia, where

⁶⁷ Kyle, 41

⁶⁸ Kyle, 42

⁶⁹ Bales, 71

“sexual service to foreigners has been commoditized and stigmatized, the fate of lowborn and marginal women.”⁷⁰

The collapse of czarism in Russia released succeeding waves of impoverished refugees, many of them driven into crime and prostitution.⁷¹ Tens of thousands of Russians, with a stateless status, fled into Manchuria and China; many of the women among them were pawned as prostitutes. “Their stateless status and utter destitution pushed them to capitalize on their sexuality, with varying degrees of degradation.”⁷²

⁷⁰ Kyle, 41

⁷¹ Kyle, 75

⁷² Kyle, 90

VII. Brief History on International Efforts to Combat Trafficking:

“Everyone has the right to life, liberty and security of person.”

- Universal Declaration of Human Rights, Article 3

The first international agreement to abolish slavery was the League of Nations Slavery Convention of 1926. The convention defined slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” It declared slavery a “crime against humanity” and the slave trader an enemy of all humankind over whom any state could hold criminal jurisdiction. The U.N. Supplemental Convention on the Abolition of Slavery in 1956 banned slavery like practices, including bondage, serfdom, the forcing or sale of a woman into marriage, and the sale of children into labor.⁷³

The U.N. 1949 Convention for the Suppression of Trafficking in Persons and the Exploitation of Others was the first international agreement to prohibit human trafficking. The convention defined trafficking solely in terms of prostitution, which limited its ability to combat other forms of human trafficking not linked to sexual exploitation. The 1979 International Convention on the Elimination of Discrimination Against Women went on to call on states to suppress “all forms of traffic in women and exploitation of prostitution of women.” International law began concentrating on modern forms of human trafficking in 2000, when the international community adopted the Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children.⁷⁴ Only 47 have ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons out of the total 117 signatories as of December 2003.

⁷³ Free the Slaves, 19

⁷⁴ Free the Slaves, 20

VIII. United Nations work against trafficking:

“The trafficking of humans stains the face of free nations.”

- R. Alexander Acosta, Assistant Attorney General for Civil Rights

The United Nations creates much of the international law that establishes the actions necessary for combating human trafficking worldwide. The United Nations' Convention Against Transnational Organized Crime sought to punish those who trafficked individuals for prostitution, to provide rehabilitative services to the victims, and also "to repatriate victims who desire to be repatriated or who may be claimed by persons exercising authority over them or whose expulsion is ordered in conformity with the law."⁷⁵

In the early stages of drafting, the UN decided that separate protocols should address human trafficking and migrant smuggling, from which the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Protocol) materialized. The Protocol assumes a law enforcement emphasis rather than a human rights one. The treaty establishes a uniform international definition of human trafficking that identifies three requisite elements of the offense:

- 1) The recruitment, transportation, transfer, harboring, or receipt of persons;
- 2) By means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to achieve consent of a person having control over another;
- 3) For the purpose of exploitation (including, at a minimum, the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or removal of organs).

VIII. (a) United Nations Protocol:

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children declares that effective action to prevent and combat trafficking

⁷⁵ Demlietner

in persons requires a comprehensive international approach in the countries of origin, transit and destination. The protocol address that a variety of international instruments to combat the exploitation of persons are in existence, however, there is no *universal* instrument that addresses *all* aspects of trafficking in persons. The protocol was drafted specifically in relation to the concern that without a universal instrument trafficking victims, or those vulnerable to trafficking, will not be thoroughly protected. The purpose of the protocol is to protect and assist the victims of trafficking, with respect to their human rights.

Countries that ratify the Protocol are required to criminalize human trafficking, but are only asked to consider implementing protective measures for victims. This is due to the understanding that a broad international consensus could necessarily only be achieved by setting the required compliance relatively low. The Protocol is intended to promote international cooperation in preventing and combating trafficking in persons, while allowing the states to determine the details pertaining to prosecution and victim protection.⁷⁶

In regards to the protection and assistance of the trafficking victims, the protocol states that: “In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking.” It is also stated that each state shall provide to victims of trafficking in person (in appropriate cases), information on relevant court and administrative proceedings and assistance to enable their views and concerns to be presented and considered at the criminal proceedings against offenders.

The U.N. Protocol also calls upon each state to consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, in particular, the provision of: appropriate housing; counseling and information; medical, psychological, and material assistance; employment, education, and training opportunities. The

⁷⁶ Coonan, 45-46

states shall take into account, in applying the provisions of the protocol, the age, gender, and special needs of victims of trafficking in person, in particular the special needs of children. In addition to these measures, Article 7 proposes that each state shall permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

Focusing attention to the prevention of trafficking, the protocol addresses that states shall establish comprehensive policies, programs, and other measures to prevent and combat trafficking in persons; and to protect victims of trafficking in persons, especially women and children, from revictimization. In way of cooperation each state shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons vulnerable to trafficking. The states shall also discourage the demand that fosters all forms of exploitation in persons leading to trafficking.

States Parties shall establish comprehensive policies, programmes, and other measures to prevent and combat trafficking in persons and to protect victims of trafficking in persons, especially women and children, from revictimization. The protocol also calls on states endeavor to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

For the purposes of this paper, the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children will be viewed as the standard for international law anti-trafficking, for the countries that have ratified it and for those countries that claim they will be ratifying it in the near future. As both the United States and Japan have announced support for this Protocol, these to countries will be evaluated in terms of compliance with the anti-trafficking efforts established by the Protocol.

IX. Anti-trafficking laws and policies in the US:

“Together we can bring an end to the shadow it has cast on too many lives.”

-Colin Powell

The United States of America's response to human trafficking both matches and, in some areas, surpasses the minimum points established under international law. The U.S. Department of State began concentrating on trafficking in persons in 1994, when the issue began to be covered in the Department's reports on human rights. Initially, the concentration was on trafficking of women and girls for sexual purposes. Since then reports have broadened this focus to monitor and report on cases of trafficking in men, women, and children for all forms of forced labor, including agriculture, domestic service, construction work, sweatshops, and trafficking for commercial sexual exploitation.⁷⁷ As the introduction to the 2004 Trafficking in Persons Report states that American efforts include:

- Congress passed legislation so Americans who sexually prey on children abroad can be prosecuted and sentenced to as many as 30 years in prison.
- The Department of Justice has focused on increasing the number of trafficking victims rescued and the number of prosecutions and convictions of traffickers.
- The Department of Health and Human Services (HHS) is certifying trafficking victims so they may qualify for the same assistance available to refugees. HHS is also running a major public awareness campaign to alert victims in the U.S. that help is available through the hotline number 888.3737.888.
- The Department of Defense has implemented a zero-tolerance stand against any actions by Defense personnel that contribute to human trafficking and is instituting a service-wide mandatory training program.

Among these efforts is the implementation of the Trafficking Victims Protection Act of 2000 (TVPA). As Coonan asserts, prior to the enactment of the TVPA, existing legislation and law

⁷⁷ www.humantrafficking.org

enforcement in the United States and other countries was inadequate at deterring trafficking and justly punishing trafficking, failing to reflect the gravity of the offenses involved. No comprehensive law existed in the United States that penalized the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry were often punished under law that also applied to lesser offenses, so that traffickers typically escaped deserved punishment because the seriousness of the crime was not addressed therefore resulting in weak penalties for convicted traffickers.⁷⁸

The TVPA has changed this by providing an encompassing approach for addressing trafficking in persons, which is founded on what are called “the 3 ps”—*prosecutorial* enhancements, *prevention* efforts, and *protection* for trafficking victims. It should be noted that these three main points are established by the U.N. Protocol as *crucial* to anti-trafficking efforts. The TVPA created a U.S. definition of “severe forms of trafficking”: 1) sex trafficking in which a commercial sex act is induced by force, fraud, coercion, or in which the victim is under eighteen years of age; or 2) forced labor (the recruitment, harboring, provision, or obtaining of a person; for labor or services) through force, fraud, coercion, for the purpose of involuntary servitude, peonage, debt bondage, or slavery. The TVPA has raised sentencing from ten to twenty years, and permitted life sentences for cases involving death, kidnapping, or sexual abuse of a victim. The TVPA is unique in that it does not only allow evidence of physical force but also of fraud and psychological coercion to sustain human trafficking charges.⁷⁹

The TVPA has created unparalleled legal remedies and protective measures for victims of trafficking, it is the Act’s victim protections that distinguish it from both international law on

⁷⁸ Coonan, TVPA, 3

⁷⁹ Coonan, 46

trafficking and other domestic laws worldwide. The TVPA “reclassifies” the victims’ legal status under the pretext that they are now viewed as victims of crime more than as an illegal alien.

Victims who cooperate in the prosecution of their traffickers are eligible for immigration remedies, including a newly available “T” trafficking visa.⁸⁰ “The provision of legal status and benefits is absolutely crucial to victim care as well as to successful prosecutions of traffickers.”⁸¹

However, a trafficking victim is only able to remain legally in the United States is only so long as proceedings against the trafficker are ongoing, and only so long as prosecutors have need of the trafficking victim’s testimony.⁸² The victims that receive government certification as “victims of a severe form of human trafficking” are allotted the same social services and medical benefits as are accorded refugees.⁸³

As Coonan points out: “While the TVPA evidences strong human rights sensibilities, it falls short of being true human rights law in that it grants benefits only to victims of trafficking who are willing to cooperate in the prosecutions of their traffickers. In a true human rights legal regime, rights are not contingent upon cooperation with law enforcement—they inhere rather because of basic human dignity.”⁸⁴ Coonan explains that the stipulations of “continued presence” are not only coercive but can be seen as bordering on “legal exploitation.” “The

⁸⁰ www.humantrafficking.org: “A new nonimmigrant category has been proposed in several draft pieces of legislation on trafficking. If this legislation is enacted, aliens, who have suffered severe physical or mental abuse in the United States of America as victims of criminal activity, would be eligible to obtain a “T” visa (or change to this category of nonimmigrant status, if already in the United States of America) if they possess information that is “material” (rather than critical information, as required in the “S” category) to a criminal investigation.

One proposal would allow for 1,000 “T” visas a year for these victims and for their family members. The “T” visas - as currently proposed - would be valid for up to three years, and could be adjusted to permanent legal status for humanitarian reasons if necessary. Once the aliens became permanent residents, there would be offsets against the annual number permitted for a country. The proposed “T” visa category is intended to assist law enforcement in the prosecution of traffickers, as it would ensure the availability of witnesses.”

⁸¹ Coonan, TVPA, 9

⁸²⁺⁸⁴ Coonan, TVPA, 10

⁸³ Coonan, 47

⁸⁵ Coonan, TVPA, 11

message from the U.S. government to the trafficking victim is as unmistakable as it is unsettling: “We are interested in your well-being only so long as you are useful to us in securing a conviction. After that you will be considered deportable.”⁸⁵

Another discrepancy is that the only shelters currently available for trafficking victims are shelters for domestic violence victims. As the [humantrafficking.org](http://www.humantrafficking.org) mentions, these shelters face funding constraints, with limited program funds tied to assisting a specific category of people, such as juveniles or rape victims. Consequently, the government needs to make additional efforts to “provid[e] streamlined procedures and specific programs for housing and handling trafficking victims.”⁸⁶

Through the TVPA, Congress also “created an entirely new statute criminalizing forced labor.” This new statute is essential in the fight against human trafficking, as it encompasses the more subtle forms of psychological coercion commonly exerted by modern traffickers against their victims. Forms of coercion that can be prosecuted now include the physical restraining of victims (in ways short of violence), threats against victims’ families in their homelands, threats that victims will be shunned by their families on account of work the victims have been forced to do (especially sex work), or threats that victims will be turned over to U.S. immigration authorities to be deported.⁸⁷

Congress also criminalized document servitude; Unlawful Conduct with Respect to Documents now provides up to five years imprisonment for traffickers who coerce their victims by confiscation or withholding of the victims’ passports, immigration documents, or identification cards. A crucial point is that this includes traffickers who confiscate fraudulent

⁸⁶ www.humantrafficking.org

⁸⁷ Coonan, TVPA, 5

identity documents—it is a trafficker’s coercive actions rather than the authenticity of a victims’ documentation that is the focus of the law.⁸⁸

Both the Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act provide workers with assistance against the underlying economic exploitation that is involved in all trafficking situations. The Fair Labor Standards Act mandates payment of the minimum wage and regulates deductions from the worker’s pay. The Migrant and Seasonal Agricultural Worker Protection Act also provides causes of action for failure to pay wages when due, for knowingly providing false or misleading information to workers concerning the terms, conditions or existence of agricultural employment, and for violating terms of working arrangements with workers. There are also ways for workers to obtain alternative forms of relief, including through responsible consumerism, corporate responsibility campaigns and labor organizing. The Center of Advancement for Human Rights states: “This kind of creative thinking and effective advocacy will continue to offer hope to the people who are victimized by labor trafficking.”⁸⁹

The US also allocates over \$70 million annually for supporting anti-trafficking programs abroad. The U.S. has assisted countries to “enact anti-trafficking legislation, prosecutors, training border guards and judicial officers on detecting, investigating, and prosecuting traffickers, and protecting victims and provided start-up equipment for new anti-trafficking police units.”⁹⁰ The U.S. is providing money around the world for:

- Rehabilitation and work training centers for victims
- Special housing shelters for victims

⁸⁸ Coonan, TVPA, 6-7

⁸⁹ CAHR, 190

⁹⁰ United States of America, http://www.humantrafficking.org/countries/eap/united_states/

- Job skills training, small business development skills, and mentoring programs
- Law enforcement training and legal reform assistance
- Information and awareness campaigns
- Voluntary repatriation for displaced victims
- Training for immigration officials, medical personnel and social workers

In an effort to aid country-specific victim assistance needs, the Department of Justice's Office for Victims of Crime (OVC) funds state victim assistance programs that offer direct services to victims, including trafficking victims regardless of status.⁹¹

The United States, through the Department of State and in cooperation with the Department of Justice and other agencies, has been assisting countries in drafting comprehensive anti-trafficking legislation. These countries include countries in Southeastern Europe, the Philippines, Togo, Thailand, Vietnam, Brazil, the Dominican Republic, Haiti and Russia.⁹²

Furthermore, The Department of Justice (DOJ) has conducted and continues to conduct workshops and training sessions at federal, state, and local conferences across the United States of America to an attempt to raise awareness of the needs of trafficking victims, to train law enforcement and prosecutors on victims' rights, and to assist in the development of service networks for trafficking victims. The DOJ has produced training videos for federal law enforcement agencies on the needs of trafficking victims, information on victims' rights laws, and the necessary steps law enforcement officers must take to assist victims.⁹³

⁹¹⁺⁹² www.humantrafficking.org

^{97+ 98} Global, 51-52

⁹³ Coonan, TVPA, 17

In respect to the immediate needs of trafficking victims, NGOs are better equipped than most law enforcement officials to supply the victims with housing, emergency medical and dental care as well as counseling and legal assistance.⁹⁴ The U.S. Government engages in extensive outreach to nongovernmental organizations, establishing contacts with the groups that shelter and assist trafficking victims. U.S. Government personnel have been working closely with nongovernmental organizations across the country to train service providers on the victim services and criminal provisions of the TVPA. Through such training, federal prosecutors, immigration officials and Health and Human Services' personnel have created "relationships with nongovernmental organizations, learned about potential new cases, acquired nongovernmental organizations' assistance in procuring refuge and support for trafficking victims, educated nongovernmental organizations on the requirements for identifying a victim of a severe form of trafficking, and trained service providers on the roles that they can play to contribute toward the success of a trafficking investigation and prosecution."⁹⁵

The Department of Justice's has increased the amount of trafficking cases it is investigating. As of March 2003, there were 128 open trafficking investigations, almost twice as many as in January 2001. The FBI and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security investigate trafficking-related criminal offenses leading to the prosecution of traffickers.⁹⁶

The largest trafficking case in the United States to date is *United States v. Kil Soo Lee*. The Department of Labor, immigration, and FBI investigators joined forces to investigate a trafficking case involving 200 Vietnamese and Chinese nationals, mostly young women, brought

⁹⁵⁻⁹⁵ www.humantrafficking.org

⁹⁶ www.humantrafficking.org

from Vietnam to American Samoa, who were forced to work as sewing machine operators in a Daewoosa garment factory. The victims were forced to work through extreme food deprivation, beatings and physical restraint and were threatened with confiscation of their passports, deportation, economic bankruptcy, severe economic hardship to family members, and false arrest. One victim had an eye gouged out when she was struck with a jagged pipe because she refused to comply with the defendants' orders. The Criminal Section of the Civil Rights Division prosecuted this case, and on February 21, 2003, a jury convicted Lee, the owner of the factory and leader of the operation, on nearly all counts. Two other defendants pled guilty.⁹⁷

The TVPA has recognized trafficking in persons as a “grave violation of human rights” and “a matter of pressing international concern.” U.S. efforts to monitor and combat trafficking in persons in foreign countries are not limited to reporting on the status of severe forms of trafficking in these countries. The United States Congress has taken a step further than just a statement of condemnation of the human rights violation that trafficking in persons is. In addition to this, Congress has decided to “name names” or engage in “shaming” by classifying countries into different tiers. It is the policy of the United States, under the TVPA, to take actions against governments that do not comply with the minimum standards for the elimination of trafficking and are not making significant efforts to do so, this is in the form of sanctions. However, the sanctions against foreign governments are applied with consideration of numerous exceptions stipulated by the TVPA, “especially when sanctions have adverse affects on the innocent population, including women and children.”⁹⁸

Through the actions being taken by the State Department to combat trafficking in persons, the Interagency Task Force to Monitor and Combat Trafficking was created, which

produces an assessment of anti-trafficking efforts worldwide on a country-by-country basis. The Office to Monitor and Combat Trafficking has provided millions of dollars in grants to organizations all over the world contributing to efforts to combat trafficking. These programs include “disseminating information on the dangers of trafficking, strengthening the capacity of non-governmental organizations to protect those groups from abuse and violence, and outreach and economic opportunity programs for those most at risk of being trafficked.”⁹⁹ The annual assessment report produced by this office is called the Trafficking in Persons Report.

IX. (a) Trafficking in Persons Report:

The Trafficking in Persons report is a collaboration of works from the United States embassies, as well as foreign governments and NGO partners who are “committed to ending the scourge of slavery” throughout the world. Colin Powell stated that the fourth annual Trafficking in Persons Report “reflects the growing concern of the President, Members of Congress, and the public over the serious human rights, health, and security implications of human trafficking around the world.” The Trafficking in Persons Report is only one of the many tools to be utilized by the United States in an effort to combat the terrible problem of trafficking in persons.

This report is intended to be a guide for the United States in its efforts to combat the trafficking of persons around the globe “through improved laws, regulation, monitoring, enforcement, and the protection of victims.” The trafficking of people is, as President Bush stated at the opening of the UN General Assembly in September 2003, “a special kind of evil in the abuse and exploitation of the most innocent and vulnerable.”¹⁰⁰ The report, as one instrument, is viewed as most effective when combined with the other instruments utilized by the

⁹⁹ www.humantrafficking.org

¹⁰⁰ Powell

United States, such as “a comprehensive strategy of diplomacy and direct engagement with other governments, multilateral fora, public affairs, programmatic support, and technical assistance.”

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The TIP report of 2004 focuses more attention on sex tourism and the demand it creates for children exploited by traffickers in commercial sex settings. Colin Powell points out that the United States plays a leading role in fighting sex tourism by identifying and prosecuting our own nationals who travel abroad to engage in commercial sex with children. It is through the use of the PROTECT Act of 2003 that “American pedophiles that exploit foreign children around the globe for commercial sex are no longer beyond the reach of U.S. prosecution.”¹⁰²

The report evaluates the performance of 116 countries, placing each country in one of three categories. In accordance with the legislative mandate, foreign governments are judged on whether they comply with the minimum standard to eliminate trafficking in persons. Governments are judged on their actions, “not on plans that are merely in progress.” Countries must treat victims as victims, rather than criminals and they must prosecute traffickers. Countries must also take action to prevent trafficking. The report covers countries worldwide with a “significant number” of trafficking victims, a significant number being more than 100 victims.

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IX. (b) What do the tiers of the Trafficking in Persons Report mean?

- **Tier 1:** Countries that fully comply with the act’s minimum standards for the elimination of trafficking.

¹⁰¹ For. Gov., 12

¹⁰² Powell

¹⁰³ Global, 2

- **Tier 2:** Countries that do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance.
- **Tier 2 Watch List:** Countries on Tier 2 requiring special scrutiny because of a high or significantly increasing number of victims; failure to provide evidence of increasing efforts to combat trafficking in persons; or an assessment as Tier 2 based on commitments to take action over the next year.
- **Tier 3:** Countries that neither satisfy the minimum standards nor demonstrate a significant effort to come into compliance. Countries in this tier are subject to potential non-humanitarian and non-trade sanctions.

Beginning in the fiscal year of 2004, countries in Tier 3 of the TIP report were to be subject to sanctions from the United States.¹⁰⁴ However, these sanctions are not only waivable and relatively weak.¹⁰⁵

The annual Trafficking in Persons Report provides the President and Congress with information about which countries are making progress in stopping the trafficking of persons. It acts as an investigative tool used to declare the “extent to which foreign governments are either actively involved in human trafficking or permit trafficking to be conducted within their borders.”¹⁰⁶ However, the Trafficking in Persons Report is still in its early stages and is not without criticism.

As stated by Human Rights Watch: “The State Department consistently credits countries for their efforts to combat trafficking even when they have not passed legislation specifically

¹⁰⁴ For. Gov., 8

¹⁰⁵ Global, 17

¹⁰⁶ Global, 2

criminalizing all forms of forced labor as trafficking, or when they have failed to sign or ratify the Protocol to Prevent, Suppress, and Punish Trafficking supplementing the U.N. Convention Against Transnational Organized Crime, the single most authoritative international human rights instrument on trafficking.”

Human Rights Watch continues to state that further shortcomings of the TIP report include the fact that Tier 2 appears to be a “catch-all” category, as it is comprised of countries with a wide range of trafficking records. Tier 2 includes countries, such as Nigeria, “where the government has been involved in an aggressive anti-trafficking awareness campaign and has cooperated with other governments to combat trafficking,” while at the same time it includes countries like Laos, “where there are no government-sponsored prevention efforts, no anti-trafficking legislation, no capacity for arrests and prosecutions, and state corruption remains to be a huge problem.”

Another interesting criticism of the TIP Report brought forth by Human Rights Watch is the mention of countries placed in Tier 2 that deserve to be placed in Tier 3, included in this discussion is Japan- whom many human rights organization believe to be wrongly categorized. Human Rights Watch states that Japan lacks specific legislation prohibiting trafficking and there is no indication that they intend to establish said legislation. Human Rights Watch states that trafficking cases are not aggressively pursued and penalties are weak. The government may have funded international programs to increase awareness in other countries, but overall, little to nothing has been done to control the growing trafficking issue in Japan.

Human Rights Watch states that the TIP report needs to: “Ensure that all future reports include all reliable data on the number of trafficking victims in each country, disaggregated by

age, sex, nationality, and the nature of their forced labor; categorize as Tier 3 any country that summarily deports or incarcerates trafficking victims; bar from being placed in Tier 1 any country that fails to enact specific legislation criminalizing trafficking; and ensure that all future reports adequately weigh efforts toward eliminating and punishing corruption in assessing a country's record on combating trafficking .¹⁰⁷

In reference to providing public information media campaigns to educate the public about the dangers of trafficking the Department of State's Bureau of International Narcotics and Law Enforcement developed a brochure entitled "Be Smart, Be Safe." The brochure describes the tactics that criminal groups use to traffic women, the risks of trafficking, and what people can do to protect themselves.¹⁰⁸

Human rights have been and continue to be an important foreign policy objective of the United States. As stated by Laura Lederer, "This policy [the TVPA] provides that the 'United States shall, in accordance with its international obligations as set forth in the charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language or religion.' Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries."¹⁰⁹

¹⁰⁷ *U.S. State Department Trafficking Report Undercut by Lack of Analysis*; www.hrw.org/press/2002/06/us-report0606.htm

¹⁰⁸ www.humantrafficking.org: The brochure is distributed in U.S. Embassy consular waiting rooms in the Ukraine and Poland. The brochure is being revised and translated with plans to make it available at other U.S. Embassies.

¹⁰⁹ Global, 51

X. Trafficking in Japan:

“Rhetoric without action.”

-Human Rights Watch

Japan, like the United States is a First World country. Like the United States, Japan is a signatory of the 2000 UN Protocol which mandates that each state shall take measures to prosecute trafficking, protect the victims of trafficking, and help prevent trafficking. Japan has very strict immigration laws, however, these laws are unable to keep Japan away from the expansive reaches of trafficking in persons. As Skrobanek states: “The reputation of Japan as a supremely wealthy country, with limitless opportunities to get rich, is known throughout the world.”

As a leader in the world’s economy, Japan has become a favored destination for the selling of young women into prostitution by organized crime gangs. The severity of this situation has drawn the attention of international organizations and NGOs, and the governments of the victims' countries. However, recognition of the problem has not been achieved among the Japanese authorities themselves. "Japan is a haven for human trafficking," says Omaira Rivera, a social worker at the Colombian embassy in Tokyo.¹¹⁰

Yoko Yoshida, a lawyer who has worked with victims in Japan states that: "It is estimated that several tens of thousands of undocumented women (who overstay their visas) are working in the Japanese sex-related industry.” The influx of trafficking in Japan has arisen many questions about effectiveness of Japan's immigration policy, which permits a wide number of "entertainers". Most of the trafficked women come from South Korea, Thailand, the Philippines, Colombia and Taiwan on entertainer visas. These women are lured to Japan by false promises of the easy obtainment of money. The Japanese involved in trafficking are usually the members of the Yakuza, Japan's organized crime group. In Japan, like elsewhere in the world, human trafficking has been transformed into a very profitable business.¹¹¹

¹¹⁰ Int'l Forum

¹¹¹ Tokyo

Japan was the host of the G8 Summit of 2000 in Okinawa. During which time Japan confirmed its support for the adoption of the UN Transnational Organized Crime Convention and three related Protocols on firearms, smuggling of migrants (i.e., human trafficking) and drug trafficking. The right to be free from slavery-like practices and forced labor, the right to be free from torture and other cruel or degrading treatment, the right to a fair trial, and the right to freedom from discrimination, as stated in the Universal Declaration for Human Right, are also guaranteed under the Japanese Constitution and reflected in domestic legislation. Nonetheless, the investigations of Human Rights Watch have shown that, in practice, women trafficked into Japan's sex industry are rarely afforded such protections. High-ranking Japanese officials have acknowledged trafficking as a large-scale problem, but the government has not made serious efforts to address the abuses connected with it. Human Rights Watch mentions that “when the United Nations Committee on Human Rights observed in 1998 that ‘traffic in women and insufficient protection for women subject to trafficking and slavery-like practices remains a serious concern’ in Japan, the director of the human rights and refugee division of Japan's Foreign Ministry agreed that women who entered the country through brokers were ‘frequently forced into prostitution in their workplaces in entertainment businesses.’”¹¹²

Human Rights Watch further describes the acquiesce nature of the Japanese government in response to the human trafficking business: “Though we asked every advocate and government official with whom we met for statistics or examples of brokers or employers who had been investigated or punished for abusing migrant women, Human Rights Watch was only able to identify a few cases. Moreover, it appeared that even the rare instances we identified were possible only with an enormous dedication of time and resources by volunteer lawyers and other advocates in Japan.” Human Rights Watch explains that the lack of investigation and prosecution

¹¹² HumanRightsWatch.org, *Owed Justice*

can in part be due to the utilization of laws that were not specifically designed to address trafficking, but would place it more in relation to the “lack of political will and apparent indifference on the part of the National Policy Agency and the Immigration Bureau to the coercion and abuse suffered by women seen as ‘illegal aliens’ and ‘prostitutes.’” Human Rights Watch found that while brokers were sometimes charged with employing illegal aliens, failing to properly register their business, or procuring prostitutes for customers, evidence of more serious crimes was rarely investigated.¹¹³

In Japan, there is currently no legislation pertaining directly to trafficking. However, Japan is expected to review a proposed draft bill concerning the prosecution of traffickers, prevention of trafficking, and protection of trafficking victims.¹¹⁴

The proposed bill is expected to expand the crime of kidnapping to include the act of taking a victim from any country and transporting them to a third country. The proposed bill will not only criminalize the act of threatening, coercing or buying a person, but will also criminalize the act of hiding or handing over of a victim to a trafficker. The bill would create a three-month to five-year prison sentence for a person who purchases another person, three months to seven years if the person being bought is a minor, and up to a maximum of ten years if the person was purchased for sexual reasons.¹¹⁵

In view of the fact that many of the persons trafficked into Japan are women for the sex industry, it is noteworthy that the government enacted a Basic Law for a Gender-equal Society in June 1999. This considered an important part of the efforts to eradicate violence against and sexual harassment of women related to trafficking. The purpose of this law is to promote the formation of a gender-equal society by establishing the fundamental principles necessary for the

¹¹³ HumanRightsWatch.org, *Owed Justice*

¹¹⁴ Justice Ministry Plans Legislation to Combat Human Trafficking

¹¹⁵ United Nations Paper, 20

formation of such a society, clarifying the responsibilities of the State and local governments and citizens. This law defines a gender-equal society as a “society where both women and men shall be given equal opportunities to participate voluntarily in activities in all fields as equal partners in the society, and shall be able to enjoy political, economic, social and cultural benefits equally as well as to share responsibilities.”¹¹⁶ Japan is also a financial contributor to the Trust Fund for Eradication of Violence against Women established in 1996 under UNIFEM (United Nations Development Fund for Women).

As quoted by Financial Times, “the problem, many experts say, is a lack of legislation to penalize human traffickers.” Because there are not any laws directly pertaining to trafficking, when someone that is involved with trafficking is arrested, that person is usually charged with assisting an illegal alien to work in Japan, for which they spend little time in prison. Another issue is that the laws for prostitution often penalize the women and not the men. “There is a strong gender bias in Japanese law. Prostitution is not wrong as far as the buyer is concerned.”

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There currently may not be any laws specifically criminalizing human trafficking, however, various Japanese laws are applicable to crimes associated with the trafficking in persons, including laws that address the issue of commercial sexual exploitation. The Labor Standards Law, the Immigration Control and Refugee Recognition Law, the Law Regulating Proper Public Morals in Business, and the Penal Code are all applicable to trafficking cases.¹¹⁸

At an international symposium in Tokyo, panelists, who included humanitarian activists and policy-makers, stressed that Japan is a major destination country in the trade and transport of

¹¹⁶ For more information go to:

<http://www.humantrafficking.org/countries/eap/japan/govt/genderequality/index.html>

¹¹⁷ Nakamoto

¹¹⁸ HumanTrafficking.org

people. Kasit Piromya, Thai ambassador to Japan, said in a keynote speech that general awareness of the problem in Japan is still low. Kasit said his embassy in Tokyo receives calls for help almost every day from Thai women who have escaped from the sex-related exploitation. He said Thai women who are forced to engage in the sex industry usually work between six months and two years without receiving a salary, because they are forced to pay back the fees for entering Japan.¹¹⁹

In December of 2004, Japan announced that it would “crack down” on false marriages as part of its plan to eradicate the problem of trafficking in foreign women.¹²⁰ The government will include in the plan stricter standards for the issuance of entertainment visas. They have also announced that the Japanese government intends to help human trafficking victims return to their home countries. However, there will be no attempts to set up shelters for victims of trafficking.

HumanTrafficking.org states that Tokyo's plan will mostly affect Filipinos who obtain the visas based on being certified as entertainers by Manila. Along with the Philippines, women are also trafficked into Japan from countries such as Thailand, South Korea, China, Taiwan, Colombia, Russia, and the countries of the former Soviet Union.

Officials plan to end issuing visas based on another government's approval. Under the ordinances, entertainer visas are issued to those that a foreign government certifies as meeting certain standards. The government states that it wants to enlist the help of the victims to arrest members of international crime syndicates engaged in the sex trade. Through all of these planned efforts, the Japanese government hopes to be removed from the Tier 2 – Watch List of the US Department of State’s 2004 Trafficking in Persons Report.¹²¹

¹¹⁹ Int’l Forum

¹²⁰⁻¹²² HumanTrafficking.org: *Japan Adopts Plan Against Human Trafficking*

¹²³ www.humantrafficking.org

HumanTrafficking.org reports: “In the last two years, Japan has sponsored conferences and seminars focusing on the issue of human trafficking, funded public information campaigns, and has provided other international assistance that focuses on prevention efforts in Asian source countries.”¹²²

In 2000, the Japanese government funded a project strengthening the capacity of the Thai Woman of Tomorrow Project in Chiang Mai. The project aims to eradicate the problem of teenage prostitution by providing education to girls at risk with the cooperation of schoolteachers and volunteers at the village level, in the North. The grant totaled US\$ 47,194.² The Japanese government has also funded a number of projects strengthening the capacity of the Hill-tribe people in Northern Thailand, these projects include: a project for the Improvement of the Living Standard of Hill-tribe People in a Remote Area of Maehongson Province in August 2001, funding for the Construction of a School Building for Hill-tribe People, by the Sahasart Suksa School in September 2001, this grant totals US\$ 77,685, funding for the Construction of an Education Center for Hill-tribe People, by Chiang Mai Hill-tribe Welfare and Development Center in October 2001, this grant totals US\$ 92,592.¹²³

In 2003 the Japanese government funded a Project for Strengthening Activities to Empower Women, conducted by the Center for Girls, in Chiang Rai Province in Thailand. This group was established to protect girls and women from sexual exploitation. This group helps with “rescuing victims of sexual abuse, encouraging volunteers for child rights promotion, staging dramas by youth groups to disseminate information about HIV and drugs, imparting knowledge of children's rights, and coordinating women's groups for income generation.”¹²⁴

¹²⁴ www.humantrafficking.org

Japan co-hosted the Second World Congress Against Commercial and Other Forms of Sexual Exploitation of Children in Yokohama in December 2001. In August 2003, Japan contributed 1.21 million dollars to an International Labour Organization (ILO) project to stop the trafficking of women and children in Vietnam and Cambodia. The ILO project is aimed at strengthening capacity in seven localities in the two countries where trafficking is a serious problem. The Japanese embassy in Hanoi said in a statement: "This project is expected to contribute to the elimination of labor exploitation of children and women in Cambodia and Vietnam."¹²⁵ The Japanese government sponsored an International Symposium in 2003 with UNICEF to raise awareness of child trafficking. The symposium drew extensive media attention and sparked the formation of the first anti-trafficking legislative working group in Japan comprised of NGOs, lawyers, and Diet members.

The symposium held at the United Nations University in Tokyo, in January 2003, sponsored by The Asia Foundation and International Labor Organization and supported by the Japan CSO Network, urged Japan to take action against human trafficking. The symposium led to the formation of an NGO coalition, the Japan Network Against Trafficking in Persons (JNATIP). This network was introduced with widespread media coverage, at an Asia foundation-sponsored workshop in October 2003.¹²⁶ Panelists prompted Japan to ratify the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in November 2000.

"Trafficking is happening every day, right in front of our eyes," said Thai Ambassador to Japan Kasit Piromya, a panelist. Piromya stated that his embassy deals with about one or two prostitutes a day that have escaped their employers, among about 100 daily inquiries from Thai

¹²⁵ *Japan Gives 1.21 Million Dollars to Stop Trafficking From Vietnam*

¹²⁶ www.humantrafficking.org

nationals. "Current laws are insufficient in dealing with the matter," said lawyer Yoko Yoshida, who assists such women. A National Police Agency official participating in the symposium said the government is working across ministry borders to study possibly ratifying the protocol in line with domestic laws.¹²⁷

In regards to victims' assistance, instead of guaranteeing the safety of trafficked persons the government penalizes them. Rather than providing women with an incentive to turn to authorities and report the violations they have suffered, Japanese policies and practices have targeted them as illegal aliens, excluded them from crucial labor protections, and denied them access to critical government services such as shelter and subsidized medical care. Japan's immigration policies are structured to eliminate illegal migration, therefore, the Immigration Control Act fails to address the coercive methods utilized during illegal migration. Rather, the Act allows officials to detain illegal immigrants indefinitely pending deportation. It criminalizes the failure to carry one's passport at all times, without providing a penalty for passport confiscation. And, as Human Rights Watch states: "though the law contains provisions for punishing persons involved in the transport, job placement, and employment of illegal migrants, enforcement has focused disproportionately on the arrest, detention and deportation of undocumented migrants, rather than on those who exploit them."¹²⁸

The Japanese government denies trafficking victims access to basic public services due to their status as an illegal immigrant. This is made apparent in the exclusion of illegal immigrants from public shelters. Trafficking victims are also unable to receive adequate health care and are denied access to government subsidies for HIV/AIDS treatment on the basis of their immigration status. This is hazardous because trafficking victims are particularly vulnerable to HIV/AIDS.

¹²⁷ Karasaki

¹²⁸ Human Rights Watch: *Owed Justice*

This was confirmed by Japan's National AIDS Surveillance Committee which states that from 1985 through 1997, non-Japanese females accounted for thirty-four percent of all HIV cases and eight percent of all AIDS cases and non-Japanese males accounted for fourteen percent of HIV cases and twenty percent of AIDS cases.¹²⁹

The Government reports that law enforcement agencies have increased efforts within Japan to expose organizations that exploit trafficking victims. The government is taking initiative to draft legislation to improve Japan's anti-trafficking statutes. As of 2004, the Japanese government decided against treating victims of trafficking as immediately deportable criminals. The government now allows a short grace period for the victims in an effort to develop its cases against traffickers.¹³⁰ The Japanese government will start helping victims of human trafficking return to their home countries in April 2005. These efforts will focus on helping foreign women who would like to return home but do not have enough money to do so after coming to Japan on entertainment visas and being forced to work in the sex industry.¹³¹

X. (a) Japan's placement according to the TIP Report:

The Trafficking in Persons Report places Japan in Tier 2, the watch list. The Government of Japan does not *fully* comply with the minimum standards for the elimination of trafficking; but is making significant efforts to do so.

¹²⁹ Human Rights Watch, *Owed Justice*

¹³⁰ www.humantrafficking.org

¹³¹ www.humantrafficking.org: "The government and the IOM hope to return 50 such people a year. In an effort to dispel international criticism that Japan has turned a blind eye to human trafficking, the government compiled a comprehensive action plan on the issue in December 2004. Helping victims of human trafficking return to their home countries is part of the action plan's main theme, offering victims protection."

The TIP Report states: “Its placement on Tier 2 Watch List is based on its commitments to bring itself into compliance with the minimum standards by taking additional steps over the next year.” The TIP Report addresses the government’s need to “increase its efforts to combat severe forms of trafficking in persons,” including increased prosecutions and convictions of trafficking crimes and increased assistance for victims. “The government should pursue efforts to prosecute the powerful organized crime figures behind Japan's trade in human traffic. Considering the resources available, Japan could do much more to protect its thousands of victims of sexual slavery.” It is mentioned that Japan needs to hasten its review of anti-trafficking legislation and ensure trafficking-related punishments are proportionate with the severity of the crimes. It is also mentioned in the report that Japan did “provide support for international anti-trafficking programs and conferences.”

In the case of persecution, the TIP reports states that Japan lacks a “comprehensive law against trafficking and until recently there was no official, clearly defined policy to coordinate anti-trafficking efforts.” In rebuttal to that issue, the TIP report mentions that “efforts” are currently being made in the government to draft the legislation needed for the improvement of Japan’s anti-trafficking statutes. The National Police Agency (NPA) has that law enforcement efforts against traffickers be increased; an Organized Crime Control Department was established in the Japanese Police in early 2004 to prosecute these anti-trafficking efforts.

The TIP Report states that in 2003, the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Thirty-six of these individuals were convicted, resulting in 14 defendants receiving prison terms, 17 receiving fines, and five receiving both a fine and a prison term. The NPA also participated in 16 transnational investigations. Victims were generally not encouraged to participate in investigations or prosecutions of traffickers.

Efforts are also underway to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of “entertainer” visas.

In the area of protection, the TIP report admits that the Japanese government has done little in the way of legal advice, psychological or financial support for trafficking victims. It is stated that generally victims were deported as illegal aliens. However, the Japanese government has administratively decided to no longer treat victims as “immediately deportable criminals.” Instead, they will be given a short grace period, which will allow the government to develop its cases against traffickers. Some victims are temporarily housed in detention facilities for illegal immigrants prior to deportation; the government is examining new ways of assisting shelters and NGOs.

In reference to the prevention of trafficking in person, the TIP Report mentions that the Japanese government, in 2003, “conducted a campaign to heighten public awareness of violence against women and trafficking.” It is stated that the NPA also produced a training video on trafficking and distributed it to all police offices to improve their awareness of trafficking. Tighter entertainer visa issuance and entry control procedures were instituted in 2004 for nationals from Colombia, a major contributor of trafficking victims. The Japanese government also distributed \$3 million to UNICEF, ILO, UNDP and the Philippine government to aid in “alleviating poverty, raising awareness of trafficking, and promoting alternative economic opportunities.”

Nonetheless, thus far, evidence shows that, as Human Rights Watch states, Japan’s response to trafficking in persons is: “Rhetoric without action.” There may be a growing

willingness among Japanese officials to acknowledge and discuss the problem of trafficking in persons, but serious efforts, short of donating funds and hosting symposiums, are still lacking.¹³²

¹³² HRW, *Owed Justice*

XI. Examples and Suggestions for combating human trafficking:

“Human trafficking is a multi-dimensional threat: it deprives people of their human rights and freedoms, it is a global health risk, and it fuels the growth of organized crime.”

-Trafficking in Persons Report, 2004

The Universal Declaration of Human Rights states: “Everyone has the right to life, liberty and security of person (Article 3), No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms (Article 4), No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5). International conventional law has recognized trafficking in persons as a human rights violation. The 1956 Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery outlawed slavery practices including debt bondage, serfdom, bride price and exploitation of child labor. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) explicitly prohibited “exploitation of prostitution of women” and “all forms of traffic in women” [Article 6]. The 1989 Convention on the Rights of the Child mandated that state parties must take all appropriate measures to prevent “the abduction of, the sale of or traffic in children for any purpose or in any form” [Article 35].¹³³

Human trafficking is a multi-dimensional threat: it deprives people of their **human rights** and freedoms, it is a **global health risk**, and it fuels the growth of **organized crime**.¹³⁴ Therefore, to combat trafficking in persons, states will need to adopt a multi-dimensional approach.

Recognition of trafficking in persons as a transnational crime is essential in combating human trafficking. Since trafficking is transnational in nature, combating the problem requires transnational legal responses. Cooperation between countries of origin and countries of destination must be a part of any transnational legal response since apprehension of traffickers, investigation of cases of trafficking and prosecution of the traffickers sometimes require cooperation between countries of origin and countries of destination in matters “including

¹³³ Global, 42

¹³⁴ TIP report

request for assistance, search, seizure, attachment and surrender of property, measures from securing assets, service of judicial decision, judgments and verdicts.”¹³⁵

Lederer states that more than 154 countries currently have legislation that at least minimally targets the prosecution of traffickers by prohibiting the procurement of women or children for the purposes of prostitution and forced labor. Many of these laws were drafted between 1912 and 1960 to address earlier waves of trafficking. Today these laws are poorly, if ever, enforced. Lederer goes on to state that the prostitution laws are enforced, but the procurement laws are ignored, allowing for the women and children to end up in jail while the traffickers go free.¹³⁶ Existing laws should be used to persuade governments to take more responsibility for the allowance of trafficking and to provide more help to victims, as to no longer allow this violation of human rights to continue.¹³⁷

Lederer states: “In response to recent international mandates a number of new anti-trafficking legislation has been enacted. These laws shifted the focus from criminalizing the behavior of the trafficked person to recognizing such a person as a victim of a crime. A study of these recent anti-trafficking laws indicates that the crime control approach to trafficking in persons has been coupled with a human rights-based approach to trafficking. Many immigration policies have been redefined to allow for a legitimate immigration status for the trafficked person.”¹³⁸

¹³⁵ Global, 46

¹³⁶ Global, 41

¹³⁷ Skrobanek, 102

¹³⁸ Global, 43-46

International conventions against slavery, trafficking, and the rights of migrants and the rights of women are a significant source of publicity, these conventions broadcast the abuses involved in human trafficking and draw attention to government neglect of its commitments.¹³⁹

Publicity of the crime of trafficking in persons and awareness in the community is vital to fighting human trafficking. Government agencies must play a major role in raising awareness. This includes the spread of information about the facts, the provision of counseling for those thinking of migration and work with families and communities in order to build alternatives to leaving home.¹⁴⁰

Governments can work with airlines and shipping companies and travel agencies. For example, one foreign airline, AirFrance, carries information brochures and advertisements when the planes are heading toward countries that might be sex tourist destinations, warning people that they may be prosecuted and about the dangers, attempting to appeal to their better nature.¹⁴¹

An example of the power behind the influence of the media can be seen in as past incident involving the charcoal making conditions in Brazil. Upon the exposure of the charcoal making slave conditions in the Brazil in 1995, American investment instantly came to a halt until the problem had showed to be resolved. As the threat to foreign investment made its way up to the corporations, the Brazilian federal government introduced a system of education grants that were to pay 50 reais a month to every child of a charcoal laborer not working in the batteries. They Brazilian government also set up a special “demonstration” camp for charcoal workers.¹⁴²

The demonstration project was just that, a demonstration. Using money from foreign charities, the government set up one camp of good treatment in what still existed to be a business

¹³⁹ Skrobanek, 102

¹⁴⁰ Skrobanek, 79

¹⁴¹ Global, 9

¹⁴² Bales, 145

of exploitation. The conditions may appear to be different, however, they continued to work for a same minute allowance, in the same dangerous conditions, and the same lack of say as to the work they were doing.¹⁴³

The “rapid and presentational improvements” in the charcoal camps of Brazilian represents the strength that their investors’ influence over them, and also the strength of that the media’s influence has over large corporations. It also presents that economic pressure brought about.¹⁴⁴

In discussion of economical attempts to end trafficking in persons, the question of sanctioning arises. In analysis of the United States effort to sanction countries within Tier 3 in TIP report, one can inquire as to whether this produces the desired results or does to adversely affect the country that are being sanctioned. Kyle discusses how efforts to continue and increase aid in countries with trafficking problems, rather than sanctioning them, may be more beneficial. He states: “In contrast to economic sanctions initiated by Western democratic states, member states of the Association of Southeast Asia Nations (ASEAN), along with China and transnational corporations...have continued trading with Myanmar (Burma, as listed in the TIP report) under a policy of constructive engagement.” This policy is based on the belief that “reviving official development assistance, promoting investment, and encouraging nongovernmental associations to provide humanitarian assistance” will in turn bring forth the social and political changes needed in Myanmar.

Whereas without them, the country would not have been able to produce the economical needs necessary for this change on its own. Kyle continues to clarify this point by stating: “Upon the ‘Southeast Asian currency crisis,’ Myanmar’s potential trading allies, such as Indonesia and

¹⁴³ Bales, 146

¹⁴⁴ Bales, 147

Thailand, were suddenly subjected to strict lending criteria imposed by the International Monetary Fund. Overt investment in Myanmar was no longer politically feasible. Yet Myanmar pursued other sources of unofficial revenue in more clandestine transnational markets of Southeast Asia (and beyond), as illustrated in some tourist brochures promoting another of its putative natural resources: Burmese virgins.”¹⁴⁵

The United States government addresses this question in a self-assessment of the Trafficking in Persons report. John Miller states: “Governments in tier 3 could be subject to certain consequences including withholding of non-humanitarian, non-trade related assistance... The assistance related consequences can be waived, totally or in part, based on a determination that the provision of the assistance would promote the purposes of the Act... This waiver authority must be exercised when necessary to avoid significant adverse effects on vulnerable populations, including women and children.”¹⁴⁶ Interestingly, Kevin Bales may have posed the question of sanctioning, but he also stated: “If we are looking for ways to bring people out of bondage, we have to recognize that money shouts where pleas for human rights go unheard. The link that must be forged is between government and business. Purely political or economic attempts to end slavery in the developing world rarely work. If North America and European governments are going to make a dent in slavery, they must work through tight controls on the business that are involved, even indirectly, in the use of slave labor.”¹⁴⁷ The members of the legitimate economy who knowingly facilitate the trade in trafficking must also be targeted in law enforcement efforts.¹⁴⁸

¹⁴⁵ Kyle, 43

¹⁴⁶ Global, 6

¹⁴⁷ Bales, 147

¹⁴⁸ Global, 61

With regards to trafficking in persons as a severe violation of human rights, states should implement programs that fund “comprehensive and compassionate” services for the victims of trafficking. These programs are necessary to treating victims with the dignity and care that they deserve, but they are also helpful in establishing victim cooperation, which is essential for combating trafficking.¹⁴⁹ Deportation is still the norm in most parts of the world, which, as mentioned early, does nothing to diminish the traffic and instead makes the victims of trafficking less likely to report their situation and more dependent upon traffickers and pimps. This is an essential issue that needs to be addressed. Victims of trafficking are entitled to basic human rights; efforts need to be made insure that these rights are no longer violated by legal systems.¹⁵⁰

The 2004 Trafficking in Persons Report offers examples of the effective practices to combat trafficking in persons. The report states that these practices were chosen because they “demonstrate sustainable low-cost anti-trafficking measures [and] they are innovative and creative; they make a positive and tangible difference; they are sustainable; and, they have the potential to be replicated elsewhere.”

Of course it is assumed that each country will have to find an approach to combat trafficking in persons that suits the specific needs of that country, as trafficking affects sending, receiving, and transit countries differently. In discussion of Thailand, a sender and receiver country, Kyle offers an example of a third world country’s effort to curtail trafficking. Kyle mentions that Thailand’s most recent immigration policy proposal may appear to be destined to fail (in terms of curbing migrant trafficking), but a closer analysis suggests that, in practice, it may serve the state’s interest. Rather than crackdown on illegal workers, immigration police were being instructed to provide travel expenses and free meals to alien workers wishing to

¹⁴⁹ Global, 68

¹⁵⁰ Global, 39

return home. Under the new strategy, authorities would be required to pay only travel expenses and free meals on the day that the workers leave for their countries.¹⁵¹ Efforts will differ between sending, receiving, and destination countries. However, all countries, regardless of which category they are placed, should implement the minimum standards established by the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

Unlike international law, U.S. domestic legislation recognizes that slavery is “defined primarily by the power of an individual to control another for economic gain.” The definitions of trafficking in the U.N. Trafficking Protocol and the United States Trafficking Act are similar, however, the difference lies in the United States’ “aggressive, proactive approach” to the human trafficking. For example, unlike the Trafficking Protocol, the Trafficking Act contains international monitoring and funding restriction provisions. The Trafficking Act also establishes obligatory restitution from convicted traffickers, as a recent amendment to the Trafficking Act allows survivors to “sue their former captors for civil damages or violations of the statute.”¹⁵²

In spite of the strengths of both international and U.S. anti-trafficking laws, they both consist of weaknesses when it comes to protections for victims. Both the U.N. Protocol and the U.S. Trafficking Act recognize trafficked individuals are victims of a crime rather than illegal migrants; however, they are not “consistent in this victim-centered approach.”¹⁵³ The Trafficking Protocol established the inclusion of provisions of immigration relief, social services, and compensation to victims optional rather than mandatory. United States law has established an immigration status and social services for victims, yet, these benefits are only available victims of a “severe form of trafficking” who are cooperating with and needed for the prosecution of their traffickers. The stipulations placed on immigration relief and social services create the

¹⁵¹ Kyle, 46

¹⁵² Free the Slaves, 23

¹⁵³ FTS, 23

“perception that victims are primarily instruments of law enforcement rather than individuals who are, in and of themselves, deserving of protection and restoration of their human rights.”¹⁵⁴

International cooperation to combat trafficking in persons is vital due to the global health risks that are intertwined with trafficking. Trafficking not only spreads AIDS but AIDS spreads trafficking in that it creates circumstances where people are so desperate that trafficking can result.¹⁵⁵ If many women and girls in Asia and Africa in particular are vulnerable to the HIV/AIDS pandemic, indisputably the most vulnerable among them are trafficked women and girls and children. Women have a much higher rate of sexually transmitted disease and those women who are in brothel situations where they are subject to sexual relations with many, many people are of course very vulnerable to other sexually transmitted diseases, which raises their vulnerability to being infected with HIV/AIDS by 10 times.

Thailand’s AIDS epidemic was transmitted almost entirely through commercial sex work and through injecting needle users. Ten years ago, it was estimated that 30 percent of the persons engaged in commercial sex were HIV positive. Thailand has very aggressively dealt with this problem by providing prevention services to persons in the commercial sex industry and has brought the prevalence of HIV among persons in the commercial industry down to about 18 percent. While Thailand is commended for having very aggressively dealt with AIDS transmissions in commercial sex work, they are not aggressively dealing with trafficking. These women fear that they will not be able to get health services. They are not even permitted to leave the place where they are held. Many of them are children who have no idea about AIDS. Because trafficking victims are slaves of sexual exploitation, the use of a condom is not one that they can demand. Therefore, trafficking in persons must not only be considered a human rights

¹⁵⁴ FTS, 23

¹⁵⁵ Global, 17

issue, or a criminal issue, but also a public health issue. Anti-trafficking preventative measures run hand in hand with AIDS/HIV preventative measures.¹⁵⁶ This is most important in Japan's efforts, as trafficking victims are not allotted sufficient health services.

The United States' anti-trafficking activities may be leading the fight against trafficking in persons with unprecedented laws, but awareness of human trafficking remains minimal on the part of both the U.S. public and of America's rank and file law enforcement officials. Coonan states that initial research efforts in the field have found that it is most often state and local law enforcement officers who encounter trafficking cases and trafficking victims. Due to this, it is crucial that greater training be provided to non-federal law enforcement officials on the dynamics of these crimes, and on the benefits for which victims are now eligible. Coonan maintains that the federal government must also do more to empower and recognize the vital role that state and local law enforcement officers play in combating trafficking. CAHR states: "Advocates report that the Department's investigative arm, the FBI, has not similarly increased resources and personnel devoted to slavery investigations, and many note that this disconnect may pose problems for increasing the number and rapidity of criminal prosecutions."¹⁵⁷ Coonan also states: "For many law enforcement officers the concept that an undocumented immigrant should be treated first and foremost as a victim of a violent crime—rather than as a deportable alien—is unprecedented."¹⁵⁸

In an assessment of the U.S. activities to combat human trafficking, the U.S. Department of Justice states recommendations for the improvement of anti-trafficking activities.¹⁵⁹ The recommendations are listed as:

¹⁵⁶ Global, 30-32

¹⁵⁷ CAHR, 189

¹⁵⁸ Coonan, TVPA, 23-24

¹⁵⁹ U.S. Department of Justice, *Assessment of U.S. Activities to Combat Trafficking in Persons*

1. Determine whether comprehensive services are being provided in the appropriate geographical locations.
3. Assess whether eligibility standards for immigration benefits are appropriate in light of the demand for them by trafficking victims.
5. Continue training for federal agents and prosecutors to identify victims of trafficking and to investigate and prosecute trafficking in persons cases.
4. Continue outreach efforts to inform the public about trafficking and monitor their success.
7. Support public-private partnerships in the international arena to integrate at-risk populations into the community and workforce.
8. Collect better information internationally on trafficking trends, numbers of victims, prosecutions and convictions.
9. Increase U.S. Government efforts to warn the public about the purchase of products made with trafficked persons' labor.
10. Ratify the UN Protocol on trafficking in persons.

Both Japan and the U.S. appear to be making significant efforts in the area of cooperation with non-governmental organizations. As Coonan quotes the U.S. Government's self assessment for 2004, in which they acknowledged the key role that nongovernmental organizations play in the campaign to eradicate trafficking in the United States: "The U.S. Government engages in extensive outreach to non-governmental organizations, which are often the first point of contact with trafficking victims. Nongovernmental organizations have been vital to the U.S. Government's efforts to identify and help trafficking victims as well as to prosecute trafficking cases. These contacts foster good relations with groups that receive and shelter trafficking victims and are often in a position to encourage victims to come forward and report their abuses...U.S. Government personnel have been working closely with non-governmental

organizations around the country to train service providers on the victim services and criminal provisions of the TVPA and amendments under the TVPRA.”¹⁶⁰

The International Labor Organization has suggested that Japan should not only work on plans concerning tighter immigration laws and criminal punishments to combat human trafficking, but also “recognize and respect the victims’ rights, including their right to protection, care, and residency while undertaking legal procedures, and giving financial help to private shelters that aid them.” According to the ILO’s study there are only two shelters that will accept trafficking victims currently.¹⁶¹ Slow governmental action and a lack of comprehensive legislation that squarely addresses the problem of human trafficking have been blamed for the lack of public awareness in Japan and for the lack of concrete actions taken by Japan to combat human trafficking.¹⁶² Japanese humanitarian activists say progress on the issue has been slow due to the lack of anti-trafficking laws in the country. They said the Japanese government must create new legislation to penalize traffickers both in and outside Japan.¹⁶³

It is crucial that the Japanese government place serious restrictions on entertainment visas, so they may no longer act as a vehicle for trafficking. Last year, about 133,000 people entered Japan on entertainer visas.¹⁶⁴ As stated in the 2004 Trafficking in Persons Report: “Thousands of women are granted these temporary visas in the expectation of legitimate employment in the entertainment or hospitality industries. Such visas are typically granted upon presentation of a work contract or offer of engagement by a club owner, proof of financial resources, and/or medical test results.”¹⁶⁵ Japan must fulfill its plans to revise Justice Ministry

¹⁶⁰ Coonan, TVPA, 15

¹⁶¹ UNP, 22

¹⁶² U.N.P, 21

¹⁶³ HumanTrafficking.org

¹⁶⁴ Humantrafficking.org: *Japan Adopts*

¹⁶⁵ TIP report, Intro

ordinances to end issuing visas based on another government's approval. Japan, in addition, should outlaw the holding travel documents of foreign workers. Rather than criminalizing the failure to carry one's passport at all times, as the situation is currently.

As the Japanese government has not passed any legislation covering the cases in which persons are transported *into* Japan, Human Rights Watch supports the introduction of such legislation, stating that the legislation should “target those involved in the transport, sale, or purchase of persons for the purpose of placing them into debt bondage or forced labor in a country not their own (whether or not "kidnapping" in the country of origin can be proven).”¹⁶⁶

Japan, Russia, and China are the only three major world wide economic leaders that have not yet fully addressed the human trafficking problem. Coordination and cooperation by these countries especially, combined with the support of other States already in compliance, will be essential to making a significant step towards the elimination of international human trafficking.¹⁶⁷ The vast global reach of traffickers, their large profits and significant regional variations suggest that international cooperation is needed.¹⁶⁸ Coonan expresses that in order to successfully “curtail human trafficking, both the United States and the international community must redouble their current efforts, and in so doing, should take further advantage of the established infrastructure of non-governmental organizations worldwide.”¹⁶⁹

The United States should work rid the TIP Report of the discrepancies, as pointed out by Human Rights Watch, in particular, the giving of “undue credit for minimal effort and ignores government practices, such as summary deportation and incarceration, that effectively punish

¹⁶⁶ Human Rights Watch: *Owed Justice*

¹⁶⁷ UNP, 22

¹⁶⁸ Global, 54

¹⁶⁹ Coonan, *Ancient Evil, Modern Face*, 43

trafficking victims."¹⁷⁰ There should also be an effort to provide more concrete evidence to support the placement of countries in the specific tiers. The U.S. should not allow for political influences to hinder the just tier placement of any country; this particularly addresses Japan's placement in Tier 2. Japan lacks specific anti-trafficking legislation and trafficking cases are not aggressively pursued, yet, it is placed in Tier 2. The U.S. government states that it is "willing to speak truth to power, even when they are close friends and allies, because friends should not let friends commit human rights abuses."¹⁷¹ One can question whether Japan's placement is due in part to close relationship between the U.S. and Japan. In April 2004, the FBI director, Robert Mueller, stated: "I cannot think of another country where we have a closer relationship... We have stood side by side together in addressing threats in the past, we are standing side by side together today...and I expect that we will be standing side by side as we address these threats in the future."¹⁷² The U.S. should supply ample evidence supported the tier placements to prevent the questioning of reasoning behind the decisions.

Human Rights Watch urges the State Department to:

- Ensure that all future reports include all reliable data on the number of trafficking victims in each country, disaggregated by age, sex, nationality, and the nature of their forced labor;
- Categorize as Tier 3 any country that summarily deports or incarcerates trafficking victims;
- Bar from being placed in Tier 1 any country that fails to enact specific legislation criminalizing trafficking;

¹⁷⁰ www.hrw.org

¹⁷¹ Global, 13

¹⁷² usinfo.state.gov: *Mueller Says U.S., Japan United Against Crime, Terrorism*

- Add the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol to the list of "Relevant International Conventions" that it appends to the report; and
- Ensure that all future reports adequately weigh efforts toward eliminating and punishing corruption in assessing a country's record on combating trafficking

XII. Conclusion

“We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time.”

-George W. Bush

In view of Japan's and the United States' status as powerful, First World countries, I believe it is the obligation of these countries to exercise their power to combat human trafficking to the fullest extent possible. As First World countries, they have the economic and political resources not only to establish sufficient anti-trafficking legislation in their countries, they also have the ability to make sure they are properly implemented. Japan and the U.S. have an obligation, as role model countries, to adhere to the rights of trafficking victims and the justly prosecute the violators of these rights. Japan should increase its anti-trafficking efforts to match those of the United States. Japan and the U.S. should also continue to strengthen cooperation within the international arena.

If the United States and Japan were to increase their anti-trafficking activities and aid other countries in doing so, by forging international relations in which destination countries work with sending countries, the power behind the human trafficking enterprise can be matched by the power of multi-national cooperation. Given that human trafficking is a transnational problem, it will take the joining of nations to combat the atrocity that is trafficking in persons. It is critical that the actors in the anti-trafficking arena remember that human trafficking is a multi-dimensional threat: it deprives people of their human rights, it is a global health risk, and it feeds the growth of organized crime.¹⁷³ The introduction to the Trafficking in Persons Report states: "...we are entering a new era of cooperation. Nations are increasingly working together to close down trafficking routes, prosecute and convict traffickers, and protect and reintegrate trafficking victims," the continuation of these actions, combined with the strength of individual country motivation, will bring forth an end to human trafficking.

¹⁷³ TIP report

Appendix:

➤ United Nations: Protocol:

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected.

Article 2: Statement of Purpose:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3: Use of Terms:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve to consent to a person having

control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

- (a) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (b) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (c) “Child” shall mean any person under eighteen years of age.

Article 5: Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of the Protocol, when committed internationally,

II. Protection of victims of trafficking in persons

Article 6: Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking
2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in person, in appropriate cases:
 - a) Information on relevant court and administrative proceedings;

b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defense.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- a) Appropriate housing;
- b) Counseling and information;
- c) Medical, psychological and material assistance; and
- d) Employment, educational and training opportunities

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender, and special needs of victims of trafficking in person, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavor to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7: Status of victims of trafficking in persons in receiving States:

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.
2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

III. Prevention, cooperation and other measures:

Article 9: Prevention of trafficking in persons:

1. States Parties shall establish comprehensive policies, programmes, and other measures:
 - a) to prevent and combat trafficking in persons; and
 - b) to protect victims of trafficking in persons, especially women and children, from revictimization.
2. States Parties shall endeavor to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.
3. ..
4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

➤ **Historical Timeline of International Efforts to Combat Trafficking**

(FreeTheSlaves.com):

1926 League of Nations Slavery Convention

1930 ILO Forced Labor Convention

1948 Universal Declaration Of Human Rights

1949 Geneva Conventions

1956 United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

1957 ILO Abolition of Forced Labor Convention (No. 105)

1966 International Covenant on Civil and Political Rights

1966 International Covenant on Economic, Social and Cultural Rights

1999 ILO Worst Forms of Child Labor Convention

2000 United Nations Convention against Transnational Organized Crime

➤ **The International Best Practices (TIP Report 2004):**

Discouraging Sex Tourism. The Government of Panama enacted a new anti-trafficking law that seeks to address trafficking in the context of child pornography, sex tourism, and the use

of the Internet. The law obligates airlines, tour agencies, and hotels to inform customers in writing about the prohibitions of the new law.

Intercepting Potential Victims. The Colombian Government has authorized its Department of Administrative Security (DAS) to identify and approach outbound travelers that appear to be potential trafficking victims at airports before they board international flights. The DAS officials attempt to inform potential victims of the risks of trafficking and of fraudulent job offers. In 2003, nine potential victims were persuaded that their employment offers were fraudulent and convinced not to board their international flights.

Cooperation Between Transit and Destination Countries. The Government of Italy has provided funding to the Government of Morocco's "Project Textilia 2000," which funds micro-projects in the region around Khourigba, known for its involvement in clandestine emigration to Italy. The project is intended to provide gainful employment in Morocco that will prevent victims from being trafficked. For victims already in Italy, the country's new anti-trafficking law created a separate budget category for victim assistance programs, and the central government provided 70% of the assistance funds, with regional and local governments providing the remaining 30%.

Targeting the Sex Trade. The City Council of Madrid in January 2004 announced a comprehensive effort to combat prostitution and trafficking. The plan includes prevention, training, victim assistance, and police action against customers. Based on the principle that the best way to combat trafficking for the purpose of sexual exploitation is to focus on customers as well as the victims, the effort enlisted the support of the Government of Sweden in developing law enforcement tools.

Battling Traditional Practices. The customary African practice of "fostering" feeds directly into the trafficking in persons trade. Child trafficking begins with a private arrangement between a trafficker and a family member, driven by the family's dire economic circumstances and the trafficker's desire for profit and cheap labor. Families, typically engaged in subsistence agriculture, are told that their child will receive an education and learn a useful trade. In all too many cases the child is trafficked into a situation of forced domestic servitude, street vending, or sexual exploitation. In response, the Government of Ghana conducted "Operation Bring Your Children Home" to encourage parents who sold their children to traffickers to bring them home in exchange for business assistance, job training, micro-credit facilities, and assistance with school fees and uniforms. To raise public awareness of the program, the Ghana police conducted informational meetings at large truck stops in Accra to educate drivers and transport union representatives on the identification of trafficking victims.

Confiscating Funds to Support Anti-Trafficking Programs. Funding for anti-trafficking programs is a low priority in many countries, particularly following the recent shift in resources to anti-terrorism programs. In Germany, the State of Baden-Wuerttemberg uses funds confiscated from trafficking operations to finance future investigations.

Linking Diplomats, Sharing Intelligence. The Ministry of Foreign Affairs (MFA) of the Dominican Republic has created four "anti-trafficking networks" among diplomats in its consulates and embassies in countries that are major destinations for Dominican women being trafficked. There is a network in Central America, the Caribbean, South America and Europe. The diplomats seek to be pro-active in addressing trafficking issues. They work with host governments to identify and assist Dominican victims (many of whom have escaped their

traffickers and fled to their consulates for help), to collect information on trafficking patterns, and to identify traffickers. This information is reported back to the MFA's consular affairs office and is shared with the Dominican Republic's allies in the anti-trafficking fight.

Using the Tools of Regulation, Inspection, and Training. The Government of the Philippines regulates and performs surprise as well as routine inspections of the 1,317 licensed labor export agencies; it also provides training and skills tests for overseas foreign workers before they leave the country. Philippine Foreign Service officers are trained, and in some cases actively involved, in searching for housing, and repatriating Philippine trafficking victims. The Philippines has conducted training for other governments in the region, including Indonesia and Vietnam, on how to improve their labor export protections.

Victims Receive Diplomatic Protection. The Indonesian Foreign Ministry operates shelters at its embassies and consulates in a number of countries, including Malaysia, Singapore, Saudi Arabia and Kuwait. Over the past year, these diplomatic establishments sheltered thousands of Indonesian citizens, a number of whom were potential trafficking victims. Indonesian diplomatic missions, in coordination with other government agencies, also assisted with repatriations.

Battling the Trafficking of Child Camel Jockeys. The government of the United Arab Emirates (UAE) instituted an innovative practice to effectively identify and rescue the children trafficked from South Asia to serve as camel jockeys on UAE racetracks. Most of these children are trafficked through the use of false documents from their home countries attesting to higher ages, and false parents who accompany the children to the UAE. Using DNA testing beginning in January 2003, UAE authorities tested 446 children and exposed 65 false claims of parenthood by traffickers who brought these children to the UAE. In 2003, over 250 children from Bangladesh

and Pakistan were identified and returned to their countries; many of their traffickers were arrested and are being prosecuted. Other countries in the Gulf are adopting the DNA testing of child camel jockeys and their purported parents.

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