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The Role of the National Football League as a Major Participant in the Fight Against Trafficking in Persons

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At Media Day for Super Bowl XLII, New England Patriots quarter back Tom Brady was asked by an unknown media person, "This is such a huge platform, what are you going to do with it?" Tom Brady, flustered, responded: "We play football. This is not curing cancer of anything." While this is strictly true, the National Football League (NFL) is more than just a sports league. It is a business with a worldwide presence. This worldwide presence gives it the huge platform referred to by the reporter that could be invaluable in the fight against trafficking in persons. The NFL could aid anti-trafficking efforts in three ways: 1) through its merchandising efforts; 2) through the conduct of the players themselves and; 3) through its media outlets.

While little research has been done regarding sports leagues involvement in human rights issue, this paper will address how the NFL's involvement can be beneficial in the field of trafficking in persons. The first section will discuss the history of the National Football League and the history of the modern anti-trafficking movement. The remaining sections will focus on the role of the NFL as a participant in this effort. Second II addresses the NFL's merchandising business. Here the NFL can work to end labor trafficking by ensuring its products are not made with forced labor. In Section III, the conduct of NFL personnel is explored. The power of the commissioner to prohibit any connection to trafficking in persons by players is expressed. The enforcement of the morals clauses in players' contracts is also discussed, as well as reverse

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2 Id.
morals clauses wherein the players refuse to be associated with any company connected to trafficking in persons. The fourth section explores what the NFL can do to prevent trafficking in persons through public awareness campaigns. It also discusses special efforts the NFL can undertake to limit sex trafficking in the Super Bowl host city.

I. History

A. History of the National Football League

The National Football League was founded at a car dealership in Dayton, Ohio in 1922 with 18 teams. Not all the teams were profitable with several going out of business in the early years. Red Grange, an exciting player out of the University of Illinois and the first player with an agent, signed with the Chicago Bears in 1925. The NFL was on its way. Despite problems during the Depression, the League never really stopped expanding and attracting more fans. In 1966, the NFL merged with the upstart American Football League, forming one league under the name the National Football League. The first Super Bowl (then called the NFL-AFL Championship Game) was played in 1967.

Today there are 32 teams playing in the United States. On February 3, 2008, more than 90 million people watched Super Bowl XLII, a viewership exceeded only by the final episode of M*A*S*H. The League also has a presence in Europe, Japan, Canada, the United Kingdom.

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4 Id.
5 Id.
7 Id.
8 NFL.com, (last visited March 17, 2008).
and Mexico.\textsuperscript{10} A game between two U.S. based teams will be played in Beijing, China in 2009.\textsuperscript{11} The estimated revenue of the National Football League is between $2.5 and $5 billion annually.\textsuperscript{12}

\textbf{B. History of Trafficking in Persons}

By contrast, trafficking in persons is estimated to be a $7 billion a year business.\textsuperscript{13} Trafficking in persons is found in all economic sectors, both legal and illegal: agriculture, garment manufacturing, domestic work, prostitution, rug-making, camel jockeys, begging rings and many others.\textsuperscript{14} No country is free from this problem.\textsuperscript{15} A country may not have trafficking occurring inside it, but may be a source country from which traffickers obtain their victims.\textsuperscript{16} Or a country may be both a source country and a destination country.\textsuperscript{17} Trafficking within a nation's borders is also prevalent.\textsuperscript{18} Estimates vary on how many people are trafficked worldwide each year. The United States State Department's 2007 Trafficking in Persons Report estimates that 12.3 million people are in trafficking situations at any given time.\textsuperscript{19} However, this figure quotes the International Labor Organization's (ILO) figure of trafficked persons which

\begin{thebibliography}{99}
\bibitem{10} NFL International, available online at http://www.nfl.com/international (last visited February 18, 2008). The countries were the NFL has a presence are found across all the Tiers found in the State Department’s Trafficking in Persons Report. Canada, Germany and the United Kingdom are Tier 1 countries, Japan is a Tier 2 country and China and Mexico are on the Tier 2 watchlist. U.S. State Dept. Trafficking in Persons Report, 2007, Tier Analysis.
\bibitem{12} InfoUsa Id Exec Directory, Mr. Roger Goodell (2008).
\bibitem{14} U.S. State Department, Trafficking in Persons Report 2007 (hereinafter Trafficking in Persons Report 2007)
\bibitem{15} Niljana Ray, Looking at Trafficking Through a New Lens, 12 Cardozo J.L. & Gender, 909 (2006)
\bibitem{16} \textit{Id.}
\bibitem{17} \textit{Id.}
\bibitem{18} \textit{Id.}
\bibitem{19} Trafficking in Persons Report,2007 supra note 14 at 1.
\end{thebibliography}
draws a distinction between forced labor and trafficking. The ILO only considers a person trafficked if they are taken across national borders by the trafficker. Anyone trafficked domestically or trafficked after crossing a national border is not included in the 12.3 figure. Getting accurate numbers of those trafficked is difficult given the clandestine nature of trafficking.

Most efforts to date to end trafficking have focused on passing laws prohibiting trafficking in persons. As most nations have now signed the UN Convention to Prevent and Suppress Trafficking in Persons Especially Women and Children, the focus is changing to enforcement of the laws. Again, most efforts in the enforcement realm have focused on governmental action. But, many companies operate in several countries. Although, it is expected that such multinational corporations comply with national laws, more advocacy in the area of corporate practice would not be amiss. Their role as participants in stopping trafficking in persons should not be underestimated either. Professor Batstone of Free The Slaves says "... in the initial phase, advocacy will take the form of behind-the-scenes consultation among companies willing to address the issues, and shareholder resolutions will be filed at companies unwilling to address the issues." The NFL is both a multinational corporation and through its licensing arm, can consult with various licensees to improve their labor practices. It is a slightly different approach that has been traditionally pursued in the human rights field, but given the prevalence of the NFL one well worth pursuing.

21 Id.
22 Id.
II. The NFL and Merchandising

Much of the NFL’s annual revenue comes from its merchandising through the NFL shop and other licensing agreements. They sell everything from jerseys, to blankets, to lawn chairs. The suppliers of these products are varied, some based in the US, some overseas. The supply chains for some products are longer than others. By ensuring no one in the supply chain is involved in trafficking in persons, the NFL could do much to end labor trafficking worldwide.

A. Ensuring a Clean Supply Chain

A product goes through many suppliers before the final product reaches the consumer. Team jerseys are just one example. The cotton for the jersey is grown and gathered. The cotton is turned to thread. The thread is dyed into the appropriate color. The thread is woven into cloth. The cloth is cut into the pattern of the jersey and then sewn. Then it is shipped to the licensee for distribution to stores where the consumer buys the jersey. At any point in this supply chain, labor trafficking could be found. "Supply chains are the primary locus of slavery." 27

How much forced labor is involved in every product is difficult to determine. Supply chains are long and any one basic material may only make up one small part of the final product.

24 The Collective Bargaining Agreement between the League and the National Football League Players Association gives the rights to the merchandising of the players’ likeness and endorsements to the Players Association. This is not part of the League's revenue and is beyond the scope of this paper. However, the Players Association would be well advised to follow the League in this area. NFL-NFLPA Collective Bargaining Agreement 1993-2007, as extended in 2002.
25 NFLshop.com (last visited February 18, 2008)
26 Id. (see individual item description to determine if product is domestic or imported).
27 Baue supra note 23.
Also, the one basic material may be found in a lot of different products. The end result is that "we are looking at a little bit of slavery in a whole lot of products."\(^{28}\) The difficulty is what to do about this diversified problem.

One activist remarked to Socialfunds.com,\(^{29}\) "we don't have a good mechanism in place for monitoring and auditing even first or second tier suppliers, never mind reaching down to the bottom of the supply chain."\(^{30}\) To check the entire supply chain would requiring pushing responsibility further and further down the chain. The farther you get from the brand name itself, "the harder it is to enforce it or even devote resources to it."\(^{31}\) In order to be effective a good mechanism to ensure suppliers do not employ forced labor in their activities must be developed and enforced.

The NFL would not be the first to attempt this. Toyota has examined its supply chain to determine what, if any, forced labor is employed. Then it joined with the Automotive Industry Action Group as a collective effort to address the issue throughout the auto industry.\(^{32}\)

Organic cotton is another industry utilizing certification of its suppliers, although the focus is on environmentally responsible methods rather than labor trafficking. To be certified as organic cotton, the grower must guarantee that the cotton was grown using "methods and materials that have a low impact on the environment."\(^{33}\) This certification goes all the way up the supply chain. Any failure at any point along the supply chain risks the loss of the

\(^{28}\) Id.
\(^{29}\) A website devoted to socially responsible investing. "Socially responsible investors have long addressed issues that fall under the umbrella of slavery." Baue, supra note 23.
\(^{30}\) Baue supra note 23.
\(^{31}\) Baue, supra note 23.
\(^{32}\) Baue, supra note 23.
certification as organic.\textsuperscript{34}

Fair Trade is a label applied to agricultural products. This label guarantees that the rigorous criteria related to economic, social and environmental practices are followed in the production and trade of the products.\textsuperscript{35} These criteria include decent wages and living conditions for the workers.\textsuperscript{36} There is an International Fair Trade register than is checked to ensure that products follow the guidelines throughout the production process.\textsuperscript{37} The entire process is checked from field to exporter to importer to the local grocery store.\textsuperscript{38} Although across international boundaries, the tracking is down both through the registry and cooperation with fair trade certifying organizations in other countries.\textsuperscript{39}

There is no certification at this time for apparel. That does not mean there will never be such a certification. The founder of Fair Indigo is working with Transfair USA to adapt a process.\textsuperscript{40} Fair Trade Indigo personally visits all its manufacturing partners to ensure that the products meet not only the company’s standards for quality of the clothing but also for wages and other working conditions.\textsuperscript{41}

The cost of the products are not that much higher than other similar products. Fair Indigo does that through worker-owned cooperatives.\textsuperscript{42} This eliminates much of the middle

\textsuperscript{34} Id.; Ms. Smith of the Free the Slaves to Baue. Baue, supra note 22.
\textsuperscript{35} TransfairUSA.com, http://www.transfairusa.org/content/certification/overview.php (last visited Sept. 27, 2009).
\textsuperscript{36} Id.
\textsuperscript{37} Id.
\textsuperscript{38} Id.
\textsuperscript{39} Id.
\textsuperscript{40} Time, Fair-Trade Fashion, Nadia Mustafa, Feb. 27, 2007, http://www.time.com/time/magazine/article/0,9171,1594126,00.html (Sept, 27, 2009), discussing Fair Indigo, a US based fair trade apparel company
\textsuperscript{41} Id.
\textsuperscript{42} Id.
management that can add to costs.\textsuperscript{43} American Apparel also pays a competitive wage while remaining based in the US which prevents other countries’ lax laws from being used to exploit workers.\textsuperscript{44} Not only competitive in price, these products are competitive in quality and style too. As one buyer of American Apparel’s shirts noted: “You get drawn into the whole thing. The colors, the cuts, the price – even the sweatshop-free shitk. It’s a lifestyle choice.”\textsuperscript{45}

People are looking for products made, according to a survey conducted by Fair Trade Indigo “86\% of consumers care about whether their clothing is made by workers who are paid fairly and treated with respect.”\textsuperscript{46} The NFL need fear no diminution in interest in its products if it moves to Fair Trade products, and in fact, can even see an increase in demand through smart marketing.

This NFL can work with TransFair USA to develop a system to ensure all of its apparel and merchandise are human trafficking free. If the certification failed at any point of the supply chain, the ultimate producer could refuse delivery on the grounds of breach of contract. Or, if the ultimate producer continued using the decertified materials, the NFL could remove its license from that producer.

\textbf{B. NFL Ending Its Association With Companies Using Forced Labor}

The NFL needs to being addressing this problem now. Reebok is one company licensed by the NFL to produce team jerseys. On the one hand, there is the Reebok Human Rights Foundation which supports global human rights efforts. This Foundation presents an Human

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\textsuperscript{43} Newsweek, California Hustlin’ Jennifer Ordonez, p. 38 Jun 26, 2006 [some controversy about the sexually outspoken founder. lawsuits of sexual harassment have been filed. The issue of whether this is sexually exploitation is beyond the scope of the article, leaving aside the owner’s flamboyance, there are points of his business model worth emulating, even if not all of it is good. When creating a fair trade model, an idea should not be rejected because all of it is not perfect.]

\textsuperscript{44} Id.

\textsuperscript{45} Id.

\textsuperscript{46} Fair Trade Fashion, \textit{supra} note 40.
\end{footnotesize}
Rights Award to young activists working for human rights through nonviolent means. On the other hand, in 2006, Reebok's supplier Western Factory located in Jordan was cited as being involved in trafficking in persons through confiscation of passports of foreign workers, mandatory 20-hour shifts, wages below the minimum wage, nonpayment of wages, beatings and threats. There is no evidence that Reebok has made any efforts to correct this situation. In fact, LabourNet UK has found that Reebok continues to pay below the poverty line, while requiring employees to work seven days a week. In addition, Reebok has also imported from Cambodia, which has refused to address human rights violations.

The special economic zones in Jordan pose special problems for addressing trafficking in persons. The zones were created as a way to spur the Jordanian economy and supply low cost products to the world. Nations operate in the zones through special agreements with Jordan that provide tax breaks and other incentives. The companies operating there are supposed to comply with Jordanian law. The United States, despite being a leader in the field of ending trafficking in persons, has refused to include clauses in the agreements creating the special economic zones that would require compliance with national labor laws. This failure lessens the likelihood of compliance with the laws and raises the likelihood that trafficking in persons

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48 Id.
49 There is no requirement that companies pay above the poverty line in order to not be considered involved in trafficking. However, taken with other factors, it could be evidence of a trafficking situation.
50 Youthnoise.com, supra note 47.
52 Youthnoise.com, supra note 47.
55 Id.
will occur.

Companies in the U.S. contract with other companies (sometimes Chinese companies) to operate factories in the zones.\textsuperscript{56} Labor conditions are not what they should be in all the factories. The National Labor Committee (a labor advocacy group based in New York) found that more than 25 out of Jordan's 100 garment factories operated in substandard conditions.\textsuperscript{57} One production manager at Western Garment\textsuperscript{58} stated that workers had to work until 4 in the morning, then were required to sleep on the factory floor before returning to work at 8.\textsuperscript{59} Although required to feed its workers, breakfast consisted of a half-glass of tea and rice with rotten chicken for lunch.\textsuperscript{60} If the workers complained about the conditions, they were put in a company jail for several days with no food. Then their passports were returned and they were deported -- without their money.\textsuperscript{61}

Jordan is just one example of the conditions often found overseas. Doubtless, there are also U.S. companies where the same conditions prevail. The chances of a major U.S. company using slave labor within the boundaries of the U.S. are probably slim. However, many of the basic materials for products manufactured in the United States are shipped in from abroad. Any "Made in the U.S.A." NFL licensee should ensure that the raw materials are not gathered using forced labor. This includes cotton for t-shirts, rubber for some of the products, leather for the Wilson footballs. There have been allegations of forced labor situations at rubber plantations,

\textsuperscript{56} Jordan Investment Board, available at http://www.jordaninvestment.com/ (last visited April 24, 2008).
\textsuperscript{58} It is unclear if this is the same Western Factory that Reebok employs for its products. The names are similar. The reports on the factories are from two different sources which does not ensure consistency in use of names.
\textsuperscript{59} Greenhouse & Barbaro, supra note 57.
\textsuperscript{60} Greenhouse & Barbaro, supra note 57.
\textsuperscript{61} Greenhouse & Barbaro, supra note 57.
just as an example. In order to proclaim the product is not connected with trafficking in persons in any way, the entire supply chain must be clean. As noted above, this would involve a certification process from the raw materials up to the final product appearing in stores.

Finally, the NFL should ensure that no company which receives an official license is conducting business in any country that is on Tier 3 by the U.S. State Department's ranking. This is more problematic since some of the raw materials needed for the production of the merchandise may come from these countries. However, the companies should strive to find other sources for these materials from countries that do take steps against trafficking in persons. Only in extreme circumstances (such as the sole source of the raw materials in the world) should companies be allowed to receive raw materials from Tier 3 countries. Nor should any company have a manufacturing plant in these countries. These countries should not benefit economically from their refusal to address this issue. Economic pressure such as barring them from participation in the global economy is one way to encourage these nations to enact anti-human trafficking laws and take other appropriate measures.

The NFL has a tripartite marketing structure. The NFL markets products bearing the

63 The stores selling the products should also comply with all applicable labor laws.
64 Currently, there are 13 countries on the Tier 3 list. They are: Algeria, Bahrain, Burma (Myanmar), Cuba, Equatorial Guinea, Iran, Kuwait, Malaysia, North Korea, Oman, Qatar, Saudi Arabia, Sudan, Syria, Uzbekistan, Venezuela. Trafficking in Persons Report 2007, supra note 14, tier analysis
65 Such as rubber from Burma, Narinjara News, supra note 62.
66 There is an argument that by not operating in Tier 3 countries it does nothing to improve the situation for those living in that country. If there are few economic opportunities, they may be more vulnerable to trafficking. If the NFL companies operated in compliance with laws and did allow forced labor in their factories, this would protect the people from being trafficked by others. This is a legitimate argument that may allow some lessening of the absolute ban on doing business with Tier 3 companies. But, it would have to be strictly monitored to ensure the factories were not using forced labor.
The NFL logo and team names. The teams themselves also have the right to market their name and team logos. The NFL Players Association retains the rights to the player's likenesses in most cases. Not just the NFL but the teams themselves and the Players' Association need to ensure that the licensee with which they contract also is following the guidelines established by the NFL in regards to anti-trafficking efforts. If any one entity does not make the same efforts to prohibit any connection to trafficking in persons, it would be the same as occurs at the international level.

At the international level, the traffickers simply operate in countries that have no laws against trafficking or only lax enforcement if there is a law. In the merchandising arena, a company that cannot get a license from the NFL due to violations of the anti-trafficking policy will simply get it from the teams or the player's association. Coordination and cooperation among the three entities is vital to such a policy being effective.

The NFL licenses hundreds of products bearing the NFL Logo and team names every year. By requiring that all licensees prohibit any trafficking in persons in their supply chains, the NFL could change conditions in hundreds of factories worldwide. Such actions would encourage other companies to follow suit. Also, once the NFL proclaims its products "Sweat Shop Labor Free," consumers will begin searching for other products that can make the same claim.

III. The NFL's Personal Conduct Policy

The NFL has hundreds of people playing for the teams. There are also other team

68 Weiler and Roberts, supra note 67 at 527.
69 Individual players also have a right to market their likenesses. Players' efforts as participants is discussed in the section on Player Conduct. Weiler and Roberts, supra note 67 at 527.
personnel such as coaches, assistant coaches and trainers, to name a few. Most of the people employed by the League in some capacity are decent, law-abiding people. However, in recent years, numerous players and coaches have been arrested for criminal activity. The most famous is Michael Vick's arrest and subsequent conviction for dogfighting. Other players have been convicted of murder, domestic violence, and other charges. All players are subject to the personal conduct clause found in the standard player's contract. This clause reads "if [the] Player has engaged in personal conduct reasonably judged by [the] Club to adversely affect on reflect on [the] Club, then [the] Club may terminate this contract." Termination of an NFL contract could presumably cost the player millions of dollars.

A. Power of the Commissioner to Regulate Player Behavior

Through the powers granted in the NFL Constitution, the NFL Commissioner has the ability to discipline players whose conduct he believes are detrimental the League, if he believes it is in the League's best interest to do so. The League may also declare certain behavior per se violations of the personal conduct clause such as involvement in gambling. The Commissioner should now prohibit any NFL player from any involvement in sex trafficking or any activity where sex trafficking may occur. This would prohibit players from patronizing strip clubs.

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70 Foxnews.com, Gruesome Details in Indictment Naming NFL Quarterback Michael Vick in Dogfighting Case, available online at http://www.foxnews.com/story/0,2933,289729,00.html (last visited April 24, 2008).
71 CBC.CA, NFL Players Get a Bad Rap: Tagliabue, available online at http://www.foxnews.com/story/0,2933,289729,00.html (last visited April 24, 2008).
72 NFL Player Contract, ¶12.
73 NFL Constitution & Bylaws, Art. VIII, 8.13(A).
75 One player in particular Adam "Pacman" Jones is currently prohibited from patronizing strip clubs due to a string of fights and other incidents in which he was involved at such establishments. Mr. Jones is currently serving an indefinite suspension from playing in the NFL. Teresa M. Walker, Goodell Not Shortening Pacman Suspension, Associated Press, available online at http://www.washingtonpost.com/wp-
The reason for the prohibition on gambling is to prevent racketeering influence in the game. The NFL does not wish players to become indebted to racketeering interests which could then result in a player affecting a game in an effort to pay off his debt. There is some concern that a prohibition on strip clubs does not have the same nexus to the actual game of football itself that a prohibition against gambling does. However, since the League currently prohibits alcohol not only from locker rooms, but team buses, planes and all functions (while beer advertisers remain the biggest advertisers of the televised games), the nexus need not be so intimate as to have actual effect on the game. Off-field activities can be prohibited to preserve the League’s image.

Strip clubs are legal. However, not all the activity that may occur in them is legal. In late 2007, a 12 year old girl was found dancing in a Dallas strip club. The club is still open, although the people who brought her there to dance have been criminally charged. Strip clubs are no longer places where the dancers remove their clothes a safe distance from the patrons. "When the sexual performance is more private, as in VIP rooms or champagne rooms, the probability of violent sexual harassment including rape dramatically increase." The risk of exploitation of the dancers is also greater. Since the players cannot know, nor are likely to be told if they ask, whether or not the performers are sex trafficked, the safest approach to avoid any

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79 Id.
81 Farley, supra note 80 at 114-115.
involvement in sex trafficking is to avoid the places where sex trafficking may occur. If the choice is a night out watching pretty girls take their clothes off or continuing a career in the NFL, most players will do the right thing. The Commissioner can then remove the rest.

Such a restriction is not original. The United States military currently bars all personnel from patronizing brothels, as part of its zero tolerance of trafficking in person efforts. The zero tolerance policy is found in NSPD-22 issued by President Bush.\footnote{Brian Parsons, Significant Steps or Empty Rhetoric? Current Efforts by the United States to Combat Sexual Trafficking Near Military Bases, 4 Nw. U.J. Int'l Hum. Rts. 567, 576 (2006)} It applies to both U.S. government employees and contractors stationed abroad on behalf of the United States.\footnote{Id.} Secretary of Defense Paul Wolfowitz expanded on the meaning of this policy in a Memorandum dated January 30, 2004 in which he stated, ""It is the policy of the Department of Defense that trafficking in persons will not be facilitated in any way by the activities of our service members, civilian employees, indirect hires, or DOD contract personnel."\footnote{National Security Presidential Directive, Dec. 16, 2002. (NSPD-22)}

As most Department of Defense personnel are unaware of what trafficking in persons entails, the Inspector General laid out four objectives to held to make their policy effective.\footnote{Parsons supra note 82 at 577} The first objective is to educate service members and civilians about trafficking and the expectations of their actions in regard to it.\footnote{Id.} To facilitate this, DOD has developed a training module for all personnel deploying overseas.\footnote{Parsons, supra note 82 at 583} The U.S. Command for Korea has further developed a curriculum that deals with human trafficking in general and prostitution specifically.\footnote{Parsons, supra note 82 at 583.} The training begins during in-processing at the base, then through continuing
education courses. The message is re-inforced through newspaper, radio and television ads. Such a course could easily be developed for presentation to rookies entering the NFL. For veteran players, information can be disseminated during training camps.

The other objectives for the DOD are to deny access to establishments involved in trafficking. As mentioned, this involves placing brothels off limits. Brothels and strip clubs would be placed off limits for NFL personnel, even if traveling in a country where it is legal. The ban would remain in effect during the off-season, since players are still subject to League discipline at that time. The DOD also calls for penalties to be imposed on contractors who participate in trafficking. For the NFL, the equivalent of a zero tolerance policy would be banning from the League anyone who is found to violate any of the terms of the policy. The final objective is to evaluate the DOD efforts. The NFL, naturally would also evaluate its efforts to ensure its policy is effective.

B. Enforcement of the Morals Clause in Players' Contracts

Morals clauses can be a vital tool in ensuring players are punished for participating in trafficking in persons. They ensure that players' behavior conforms to the standards set by the League and by advertisers. Morals clauses can work both ways, however. The players can employ a "reverse" morals clause which allows the player to sever ties with a company if there is any involvement in unsavory behavior by that company.

i. Regulating Player Conduct Through the Morals Clause

The ban on patronizing strip clubs can also be enforced through the morals clause of the

89 Id.
90 Parsons, supra note 82 at 578.
91 Id.
92 Id.
player's contract. Morals clauses are based on the common law duty to refrain from activities that may be detrimental to the employer's interest or may devalue the performance due.\textsuperscript{93} Such clauses allow the buyer of the services to have a greater range of remedies, including the right to terminate the agreement in the event of a breach of the clause.\textsuperscript{94} In \textit{Adams v. Southern Pacific Co.} a morals clauses was held to extend to off-duty behavior, if it could be construed as bringing the employer into disrepute.\textsuperscript{95}

Morals clauses are found mostly in entertainment contracts. Advertisers hire actors to present their products to the public. Studies have found that advertisers choosing the endorsers place great importance on "considerations of trustworthiness, values, image, reputation and publicity risk."\textsuperscript{96} The most famous (or infamous) use of a morals clause in an entertainment contract was with a young actress who became the face of Ivory soap. Ivory soap, 99.99% pure.\textsuperscript{97} Proctor and Gamble later discovered the actress used another name when she did adult pornographic films – Linda Lovelace.\textsuperscript{98} The effect on Ivory soap sales was catastrophic when the news broke.\textsuperscript{99} Virtually every news article mentioned the connection between the soap’s purity and the pornographic nature of Ms. Lovelace’s other work.\textsuperscript{100} Ms. Lovelace was dismissed as the spokesmodel for Ivory.

However, sports are not immune from such clauses either. Marv Albert was fired by

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\textsuperscript{94} Kressler, supra note 93 at 250
\textsuperscript{95} Adams v. Southern Pacific Co., 266 P. 541 (Cal. 1928).
\textsuperscript{96} Kressler, supra note 93 at 241
\textsuperscript{97} Kressler, supra note 93 at 388.
\textsuperscript{98} Id.
\textsuperscript{99} Kressler, supra note 93 at 389.
\textsuperscript{100} Id.
\end{flushleft}
NBC after he pled guilty to sexual assault.  Furthermore, NFL is increasingly turning to Hollywood to leverage their marketing strategies. This is in addition to the players who are hired to endorse products. Involvement in trafficking in persons activities would more than likely violate a player's morals clause. A team could then release a player who was found to be so involved, even if the Commissioner should fail to act. Advertisers should probably react in a similar fashion.

**ii. The "Reverse"Morals Clause**

This also works from the player to the advertiser. Players can -- and should -- refuse to endorse any product in which the manufacturer of the product may have used slave labor. Williams & Connolly, a law firm that represents players in the NBA, already insist on this "reverse morals" clause in certain of their client's contracts with advertisers. Beginning in 1997, this firm began adding such clauses in player's contracts where the player will be closely aligned with the brand. There have been no strong reactions from the company against the insertion of such a clause. However, it should be noted that the clause has never been enforced. The risk of losing a high profile endorser and the benefits derived therefrom, may act as a deterrent to companies. The company's loss of good will should the reason for the player severing the relationship become public could do further harm to the company. Both of these factors make the judicious use of such clauses a good tool in ensuring good corporate behavior regarding trafficking in persons.

A morals clause is most likely already found in a player's contract. However, it is up to...
the League to determine if it has been violated. Any involvement in trafficking in persons by a player should be considered such a violation. The result should be immediate termination of the player's contract. In addition to this remedy, the Commissioner should adopt the policies of the U.S. government and declare all strip clubs and brothels off limits to players. Such a prohibition would extend to all NFL personnel, even those who may not have a morals clause in their contract. Such a prohibition should prevent any inadvertent involvement in trafficking. If the prohibition is violated, the players should be banned from the League. The prohibition will act as a preventive measure whose violation results in punishment. The League will then ensure, that at the very least, it will not be associated with trafficking in persons through its personnel.

IV. NFL and Public Awareness

Prevention of trafficking in persons is one of the three P's of anti-trafficking efforts. The NFL cannot punish the traffickers -- other than their own players. Nor can they provide any protection to the victims. But, given the prevalence of the NFL, they can do much in the prevention arena through raising public awareness. It can raise public awareness through its media platform and through cooperative efforts in the Super Bowl host city. These efforts in the Super Bowl host city, besides general prevention efforts can specifically focus on sex trafficking.

A. NFL and the Media

The final Nielsen Rating number for the 2008 Super Bowl was 97.5 million viewers.\textsuperscript{106} It was the second biggest event in American television history.\textsuperscript{107} The numbers for the 2009

\textsuperscript{106}ESPN, supra note 9.  
\textsuperscript{107}ESPN supra note 9.
Super Bowl were down slightly from that, a mere 95 million.\textsuperscript{108} Although not approaching that year's numbers previous Super Bowls drew numbers in the tens of millions also.\textsuperscript{109} These are just the numbers for the United States. Worldwide audiences reach into the hundreds of millions.\textsuperscript{110} Naturally, the cities from which the teams hail have the largest numbers. This year, 81\% of all tv sets in Boston (home of the Patriots) were tuned to the game. In New York (home of the Giants), the audience consisted of 67\% of all sets.\textsuperscript{111} The advent of TIVO (real-time video recording of the game) has ensured the game is preserved for reviewing multiple times.

These are just the numbers for the yearly championship. The NFL plays a 17 week season with several preseason games. Some games are played overseas thereby expanding the audience. While not approaching the numbers who watch the Super Bowl, a sizable portion of the U.S. is glued to their tv sets Sunday afternoons, not to mention Sunday nights, Monday nights and select Thursday nights.\textsuperscript{112} The NFL is a coveted marketing platform due to its media presence.

With such a large audience, the NFL games are the perfect vehicle for a public awareness campaign. The TVPA authorizes a public awareness campaign by the federal government.\textsuperscript{113} Presumably the appropriate federal agencies would work with outside organizations in order to carry out this campaign. International media is specifically mentioned in the Act,\textsuperscript{114} however

\textsuperscript{109} ESPN supra note 9.
\textsuperscript{110} ESPN supra note 9.
\textsuperscript{111} ESPN supra note 9.
\textsuperscript{113} Trafficking Victims Protection Act, 22 U.S.C.S. §7104(b) (2007) (hereinafter TVPA).
\textsuperscript{114} TVPA §7104(d)
there is no reason to not conduct such a campaign through the domestic media. American
audiences should be educated on the dangers of trafficking and how to spot trafficking situations
so as to alert authorities, as much as international audiences. Not just the U.S. considers the
role of the media as an aid in stopping trafficking in persons. The European Convention on
Action Against Trafficking in Persons suggests using the media as an awareness raising tool, as
well.115

Awareness campaigns are important in the fight against trafficking in persons. They
warn potential victims about the dangers so that perhaps they do not become victims. They
educate the public about what trafficking is and how to detect a trafficking situation. Finally,
they put traffickers on notice that their activities are prohibited and will be punished severely.
This precludes any excuse on the part of the general public or the trafficker based on
ignorance.116 The public cannot claim that trafficking does not exist and the trafficker cannot
claim his/her actions are acceptable. Television ads are the best way to reach large number of
people at once.117 It ensures widespread dissemination of hot line numbers that can be used by
victims to seek help and the public to report suspected trafficking situations, among other
information.118

Using a sports team to promote awareness regarding trafficking in persons is not new.
The South Africa Kaizer Chiefs wore "t-shirts with a counter-trafficking message and the
International Organization for Migration's national toll-free number during the warm up before

115 Convention on Action Against Trafficking in Human Beings, Council of Europe, 197 C.E.T.S. 16.
116 Takiyah, Rayshaw McClain, An Ounce of Prevention: Improving the Preventative Measures of the
117 Winston P. Nagan and Alvaro de Medeiros, Old Poison in New Bottles: Trafficking and the Extinction of
118 Nagan and de Medeiros, supra note 117 at 264.
their Premier Soccer League match." This was done to kick off national Awareness Week there. The game was televised nationally which ensured a wide audience received the message. While it is doubtful that the National Football League will allow such an alteration of uniforms -- and warm ups are not televised -- the idea can be adapted to the realities of football in America.

The NFL already conducts community outreach. During games, the Join The Team message is televised repeatedly. This message of volunteerism and community involvement reaches "more than 20 million viewers every week." The Commissioner of the NFL, Roger Goodell has clearly stated the NFL's support for the communities in which it plays, "The NFL has always been about football and community. We hope that you will join the NFL, our teams and players, in reaching out and strengthening our communities." The League proudly touts the good it has done in communities. Among other things, it has worked with Player's Inc. to work with local schools in the Super Bowl host city with its "Stay Cool in School" program. This program uses trading cards to teach vital skills like math and reading while encouraging children to stay in school. This commitment will most likely not change for as long as the NFL exists. There can be no better aid to communities than working to end trafficking in persons which harms communities by degrading the members of the community who fall victim to it.

119 Trafficking in Persons Report 2007, supra note 14
120 Id.
121 Id.
122 Id.
123 Id.
124 The producer of NFL players' trading cards.
126 Id.
The players themselves take part in the “Join the Team” campaign. They are effective spokespeople for various charities. Doug Flutie when he played had “Flutie Flakes,” a breakfast cereal whose profits went the Doug Flutie, Jr. Foundation for Autism. The NFL supports these charitable efforts through grant funding. Last year, 89 charities founded by players received funding. Getting involved current and former players involved in the fight against trafficking is a natural fit. The players already work to keep children safe and in school with good homes. Many of them know how lucky they are to have gotten out of bad situations by the grace of their football ability. It is not that the players do not care, it is that they might not realize the problem. At the recent Stop Child Trafficking Now Walk held across the country on September 26, 2009, Tony Boselli, formerly of the Jacksonville Jaguars, spoke at the Jacksonville Walk. He stated, “It's a big issue that I don't think anybody is aware of,” Boselli said. "If more people were aware of it, I think there would be a greater outcry." The NFL players, by virtue of their profile in their communities, can begin that great outcry.

During games themselves, the NFL can run a crawl at the bottom of the screen with the national trafficking hot line number. Public Service ads are already running during the games. This year during the Super Bowl, one about the dangers of prescription drug use among kids ran. This spot in future games could be about the dangers of trafficking in persons. Every program can include information giving the warning signs of trafficking. Between those watching the game, and the audience in attendance receiving information through an insert in the game

program, millions every week will receive information about trafficking. These ideas are just the beginning. Sponsors and other advertisers would be encouraged to convey information as well. Donations for the Salvation Army\textsuperscript{130} are already collected during halftime of the Dallas Thanksgiving Day game with great ceremony. The work the Salvation Army does to end trafficking could be mentioned during the ceremony. The NFL is expert at promoting itself. The players also understand the value of promoting a positive image. Turning this expertise to educating the public about trafficking in persons would be simple.

Media campaigns are considered a vital part of prevention efforts. Through its extensive television audiences and other media, the NFL can reach an audience totaling in the millions. The more people aware of trafficking in persons, the more prevention efforts are likely to be effective. Or, if not prevented, stopped when it is discovered.

\textbf{B. NFL and Host Cities of the Super Bowl Combat Sex Trafficking}

Every year thousands of people flood the host city of the Super Bowl. There are parties,\textsuperscript{131} special football events and just good fun during the two weeks leading up to the game. Unofficial activities such as prostitution also go on during this time. The NFL could work with the police department and social service organizations in the host cities to reduce the sex trafficking that goes on during the Super Bowl festivities.

The host city probably has a problem with sex trafficking already. However, with the influx of visitors for the Super Bowl, the demand will most likely be increased.\textsuperscript{132} There are

\begin{footnotesize}
\textsuperscript{130} The Salvation Army PROMISE Initiative works to help victims of sex trafficking. See Salvation Army, PROMISE Initiative, available online at http://www.salvationarmyusa.org/usn/www_usn.nsf/vw-sublinks/3C29FDA7492BAF1885256EA000741835?openDocument (last visited April 24, 2008)

\textsuperscript{131} Including the Playboy and Penthouse parties. The NFL would be well advised to sever any official connection with these two magazines if it wants to be taken seriously in working to end sex trafficking.

\textsuperscript{132} McClain, supra note 116 at 584
\end{footnotesize}
two ways that an international sporting event such as the Super Bowl contribute to sex trafficking in the host city. The first is through a short-term increase in demand for prostitution in the city and the second is through allowing trafficked persons to enter as visitors before they are transited to other cities or countries for further exploitation.\textsuperscript{133} The NFL may not be able to do much to prevent the second, but they can work with the host cities to reduce demand for prostitution.

One of the problems in dealing with sex trafficking is that many aspects of the sex industry is legalized, such as pornographic magazines and strip clubs. These legalized aspects mean that sex is more accessible. This accessibility increases demand which leads to a need for a greater supply.\textsuperscript{134} This demand cannot completely be met through legal means, so the illegal sex market must expand also.\textsuperscript{135} Compounding the problem is the attitude that prostitution is a free choice of the women involved. "Prostitution tourists and local johns see smiling girls waving at them from windows in Amsterdam, brothels in Mumbai or strip clubs in Las Vegas. Johns and their friends decide that prostitution is a free choice."\textsuperscript{136} When they see prostitutes at the Super Bowl -- even underage ones -- there is no reason for the johns to think differently.

The full effect of the connection between sex trafficking and major sporting events is still being explored. One group explored this link in order to provide advice to the city of Vancouver as it prepares for the Olympics in 2012. This study compared the actions of law enforcement and other groups in Germany in preparation for the World Cup in 2006 to the actions of law

\textsuperscript{133} The Future Group, Faster, Higher, Stronger: Preventing Human Trafficking at the 2010 Olympics at 9 (2007), available online at http://tfgwebmaster.web.aplus.net/sitebuildercontent/sitebuilderfiles/Faster_Higher_Stronger (last visited April 24, 2008).

\textsuperscript{134} McClain, supra note 116 at 607

\textsuperscript{135} \textit{Id.}

\textsuperscript{136} Farley, supra note 80 at 110
enforcement and organizations in Greece during the preparations for the 2004 Athens Olympics.

For both events there was anticipated a rise in the demand for prostitutes. Greece did nothing to prepare for the expected influx of prostitutes, even though prostitution is not legal in Greece. Germany, in light of worldwide demands that it take action, made special preparations to prevent sex trafficking -- although prostitution is legal in Germany.

The end result was that in Greece was a 95% increase in identified trafficking victims in 2004. This was almost double the number of previous victims identified the year before. Although the figures declined the following year, the number of identified victims was still 47% higher than the year before the Olympics. This could mean that traffickers remain in an area after the sporting event, continuing to contribute to the problem. Although there were fears of an increase in trafficking in children during the Olympics, the Protection Project report found that there was no reported increase during the Olympics.

Germany, on the other hand, saw no substantial increase in the number of reported trafficking in persons cases due to the World Cup. This achievement occurred despite the fact that an increase in prostitution at the site of the matches and surrounding areas was recorded. Instead of trafficking victims into Germany from other countries, the prostitutes already in Germany were moved to the World Cup site. Since prostitution is legal in Germany, it was believed that trafficking of unwilling victims was not necessary.

137 The Future Group supra note 133 at 14 There are many factors that affect the number of known victims. The increase could have been due to better identification measures rather than an increase in overall trafficking in persons.
138 The Future Group, supra note 133 at 14.
139 If this is the case, then efforts to locate and aid victims of trafficking in persons must continue long after the last whistle blows. The problem does not end just because the crowds go home.
140 The Future Group, supra note 133 at 15
141 The Future Group, supra note 133 at 12
142 The Future Group, supra note 133 at 11
143 This does not mean domestic trafficking did not occur. The Future Group, supra note 133 at 12
Germany managed to control the trafficking of persons for the World Cup through several efforts. One it enforced immigration measures at the borders to limit the ability of traffickers to bring trafficked women in from other countries. The other effort, which probably did the most good, was that "federal and state policy ... also worked with special counseling services, NGOs, host cities, churches, sporting associations and others to identify stakeholders that could assist with public education campaigns, prevention activities, identifying potential victims and providing services to rescued victims." This public awareness campaign called "Final Whistle -- Stop Forced Prostitution" worked to raise awareness among those most likely to be victims. It also provided information about an anonymous hot line to report suspected trafficking to authorities. By including all the stakeholders in the efforts, the German authorities assured that the approach would not just be a law enforcement one. Law enforcement had its place, but there were places for everyone in this endeavor. Sporting associations did not have their images tarnished by being associated with slavery. The victims were not just seen as witnesses to a crime, but victims in need of services which were provided. The social service organizations were seen as vital to assuring a positive outcome to the efforts. All worked together to achieve the goal of preventing trafficking in persons at the World Cup. The NFL could easily do the same by working with interested organizations, law enforcement and the teams themselves to stop trafficking at the Super Bowl.

In the United States, the Trafficking Victim Protection Act requires the dissemination of materials regarding the dangers and legal implication of involvement in sex tourism to travelers

144 The Future Group, supra note 133 at 12
145 The Future Group, supra note 133 at10.
146 The Future Group, supra note 133 at10
147 The Future Group, supra note 133 at10
148 The Future Group, supra note 133 at10
heading to countries known as sex tourism destinations. The first thing that the NFL can do is include the same information in all Super Bowl materials. By making it clear that prostitution and the Super Bowl do not go together, it may reduce the amount that occurs at the event. The NFL can also adopt a zero tolerance policy by refusing to honor tickets of any found to participate in prostitution in any way.

Many of those attending the Super Bowl are not average fans but corporate executives of sponsors. The NFL must make clear it will sever any sponsorships -- no matter how lucrative -- with any company that allows its executives to patronize prostitutes during Super Bowl week. The League can enforce this through close cooperation with law enforcement in the host city. Law enforcement can coordinate with other organizations just as occurred in Germany for the World Cup. The training that law enforcement will receive as part of its preparations for the Super Bowl will involve identification of sex trafficking situations. First and foremost the officers will learn to see the situation as sex trafficking with the prostituted women as victims rather than criminals. Law enforcement should focus on the true criminals, the pimps and the johns. Any situation should be seen as trafficking in persons until proven otherwise. Once the true criminals are identified, the NFL can put its zero tolerance policy into action.

Sex trafficking is not the only form of trafficking in persons to be found in the Super Bowl Host city. But, an effective media campaign, and other cooperative efforts in that city will aid in raising public awareness. Such efforts throughout the season will ensure that the large platform given to the NFL is dedicated to the cause of ending trafficking in persons. By reaching millions every week and hundreds of millions during the Super Bowl, the NFL's public awareness efforts could be the largest yet in this field.

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V. Conclusion

Laws against trafficking in person are one part of the equation in solving the entire problem. Participation by the public in anti-trafficking efforts are another part. As a major corporation with an immense media platform the National Football League can play a vital role in solving the entire problem. The NFL can participate through ensuring its merchandise is not made with forced labor, prohibit its players and other personnel from any participation in trafficking in persons, and through raising public awareness. Given its stature, it will inspire others to do the same. By taking the steps outlined in this paper, the NFL can make a difference in the fight against trafficking in persons. It will hurt the traffickers economically, it will reduce the demand, and it will make others aware of the scourge of trafficking in persons. All the NFL has to do is get on the field and play the game.