A Protocol Against Trafficking in Persons: Is It Enough?

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A PROTOCOL AGAINST TRAFFICKING IN PERSONS: IS IT ENOUGH?

The Impact of a Trafficking Treaty

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Abstract

Human Trafficking is a flourishing, criminal business that brings in more than thirty-two billion dollars yearly. This paper will discuss how the trafficking enterprise is difficult to eliminate because of its growing sophistication; unique flexibility and mobility; infiltration of lawful business; lucrative profit; and transnational operation. Potential infringement upon fundamental ideals of American society, such as privacy and liberty, weakens the fight against trafficking. As a result, trafficking has become a grave threat to human rights, the rule of law, and world peace.

This paper examines the current operation of trafficking in Cambodia, a country that supplies individuals for trafficking; Thailand, a country that receives trafficked individuals; and the United States, a country that has taken significant steps to combat trafficking by passing a comprehensive trafficking law, The Victims of Trafficking and Violence Protection Act of 2000, but still receives approximately 17,500 trafficked individuals each year. The purpose of this examination is to understand why trafficking is such a powerful enterprise globally and to learn what individual countries can do to fight trafficking.

The paper also explores the ways some exemplary strategies are making the fight against trafficking stronger. For example, the EU has harmonized legal procedures across country borders, Germany has allowed victims to act as auxiliary prosecutors with procedural rights, Belgium has structured the Federal Police force in a way that makes trafficking a priority, and the European Court of Human Rights has contemplated reversing the burden of proof in certain confiscation cases.

Finally, this paper discusses the impact of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Convention on Action against Trafficking in Human Beings. Though these novel Treaties take a strong stand against trafficking, ultimately countries must continue to study the causes of trafficking; create regional, national, and international agreements to address trafficking issues; and continue to cooperate internationally against trafficking. When trafficking no longer flourishes, the world can truly prosper economically and culturally.
Introduction

On November 15, 2000, the UN Convention against Transnational Organized Crime was adopted by the UN General Assembly. The Convention, which opened for signature on December 12, 2000, in Palermo, Italy, entered into force on September 29, 2003, after the fortieth country ratified the Convention. The Convention was created in an attempt to strengthen the fight against major types of transnational crime that exist in our world today. Thus, the Convention included three Protocols that dealt specifically with human trafficking, smuggling of persons, and illicit dealings with firearms. The Protocol to Prevent, Suppress and Punish Trafficking in Persons entered into force on December 25, 2003.

The Convention is the first UN treaty to address the modern crisis of human trafficking. In fact, the Protocol against Trafficking “is the first global legally binding instrument with an agreed definition on trafficking in persons.”¹ Currently, 137 countries are party to the Protocol, and 117 countries are signatories.² These countries’ ratification efforts signify a strong stand against trafficking. Their efforts announce to the rest of the international community both their acknowledgement of the dangerousness of human trafficking and also their commitment to international cooperation against such a threatening crime,³ both of which are essential to the fight against trafficking. Thus, the creation and entry into force of the UN Convention against Transnational Organized Crime, including the Protocol against Trafficking, mark the beginning of a new fight against human trafficking.

However, the Protocol against Trafficking alone will not solve the widespread, illicit phenomenon of trafficking. A recent estimate suggests that at least 161 countries supply

³See generally United Nations Office on Drugs and Crime, supra note 1.
trafficked persons, receive trafficked persons, or allow transit of trafficked individuals through their countries.\textsuperscript{4} If there are approximately 192 countries\textsuperscript{5} in the world today, roughly eighty-four percent of countries are directly involved in human trafficking. Many of the remaining countries are likely involved indirectly. Furthermore, as the world continues to globalize, fewer countries will be able to claim that they are wholly unaffected in some way by the criminal business of trafficking.

Given that trafficking is such a widespread problem, more efforts from a united international community are required. More countries must ratify the Protocol and become engaged in the fight against trafficking. Ratifying countries must incorporate the Protocol into their domestic legal structure, carefully assess the resultant effects, continue to monitor the extent of trafficking in their country and develop new solutions to fight the illicit business of trafficking. Part of the solution will likely include countries creating more binding agreements to specifically address the on-going needs of those individual countries. Regional countermeasures have great potential as one form of international cooperation to combat the threat of trafficking, and these countermeasures should also be linked with countermeasures at the local, national, and global levels.\textsuperscript{6} The UN Protocol is a good beginning for the international community, but further actions will be required by committed countries in order to rid the world of the illicit trafficking business.

This paper will explore the nature of human trafficking, the impact of the UN Protocol against Trafficking, and the exemplary practices of a few countries that are systematically fighting trafficking. Part One defines the characteristics of trafficking and discusses why the

\textsuperscript{4}\text{PolarisProject.org, Human Trafficking Statistics (2009), available at http://nhtrc.polarisproject.org/materials/Human-Trafficking-Statistics.pdf.}

\textsuperscript{5}Scholarly estimates of the number of countries in our world today range from 189-195, so this is simply a rough approximation.

\textsuperscript{6}\text{THE UNITED NATIONS AND TRANSNATIONAL ORGANIZED CRIME 3 (Phil Williams & Ernest Savona eds., Frank Cass 2005) (1996).}
nature of human trafficking makes trafficking a powerful, threatening business that is challenging to fight. Part Two examines the current operation of trafficking in Cambodia, a country that supplies individuals for trafficking, and in Thailand, a country that receives trafficked individuals. The examination includes a discussion of what these two countries can do to fight trafficking in their countries. This section also discusses the current state of trafficking in the United States. Part Three elaborates on a significant challenge to creating the most effective fight against trafficking: the likelihood that the strongest fight against trafficking will infringe upon some ideals that are fundamental to American society. Part Four comments on some observations that can be made from a quantitative analysis of the UN Convention and Protocol. This section will also discuss the supplementary need for qualitative analysis of the UN Treaty. Part Five highlights a few exemplary strategies that other countries have implemented in their fights against trafficking.

Human trafficking is a global problem, and “[n]o state or region is immune.” As globalization continues to expand, crime in one country may have a powerful, negative effect on other countries. Clearly, human trafficking has the potential to threaten the whole world. Democracy, rule of law, human rights, stability, peace, and freedom are at stake. Given the potential world-wide repercussions, the illicit business of trafficking should be made a priority, studied in depth, and regularly discussed at both the national and international levels. Only with a clear understanding of the problems posed by human trafficking will future countervailing efforts against such crimes be most successful. In summary, the most effective fight against trafficking requires that all countries commit to learning about trafficking, dialoging regularly

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7 See Id. at 1 (referring to all organized crime).
10 Williams & Savona, supra note 6, at 1-2.
about trafficking, creating creative solutions to trafficking, and cooperating internationally against trafficking.

**Part One: The Challenge of Trafficking as a Powerful, Criminal Business Operation**

The former assistant secretary of state for Democracy, Human Rights, and Labor described trafficking as “the very antithesis of the Universal Declaration of Human Rights.”

Koh stated that trafficked individuals, though born free and equal in dignity and rights, are denied “freedom of movement, freedom of association, and the most basic freedom: to have a childhood.” They are often subject to arbitrary detention, rape, cruel, inhuman and degrading treatment. These victims are used solely as objects, bought and sold as needed to make a profit for the traffickers.

Human trafficking is considered “a specific new form of slavery: people [are] taken to a better world, and once there, they realize they are no longer free: they are forced to work as payment for their coming and stay in that better world, subjected to physical and economic exploitation.” In fact, human trafficking is currently being referred to as the Modern Slave Trade. Statistics estimate that six-hundred thousand to two million people are trafficked across international borders each year. The illicit business of trafficking is incredibly lucrative, bringing in more than thirty-two billion dollars yearly. The brothel industry, which is supplied

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12Id. at 229.
13See Id.
14De Ruyver, Vander Beken, & Vermeulen, supra note 9, at 395.
in part by trafficked victims, brings in at least four billion dollars alone.\textsuperscript{18} Human trafficking is the world’s third largest criminal enterprise, after drugs and weapons.\textsuperscript{19}

The trafficking business, which “leaves virtually no country untouched,”\textsuperscript{20} is pervasive and powerful. These statistics, in themselves, suggest that the problem of trafficking is large and not easily solved. However, the power of trafficking lies in more than just the large number of dollars and victims associated with it. Human trafficking, one type of transnational organized crime, has certain characteristics that make its operation as a criminal, profit-making business very powerful and, unfortunately, very successful. The following discussion highlights these characteristics, for “[r]esponding adequately to the social, political, and economic problems posed by organized crime[ ] requires a clear understanding of their roots [and] their nature.”\textsuperscript{21}

The criminal business of trafficking is powerful and difficult to eliminate in part due to the following defining characteristics: its unique flexibility and adaptability; its growing sophistication; its advantageous use of byproducts of globalization; its operation as an unconventional criminal syndicate; its structure, which is easily interwoven into society and lawful business activities; its highly cooperative, transnational network; and its immensely lucrative business potential.

First, the network of traffickers is highly flexible and adaptable to any situation that threatens the criminal syndicate. For example, traffickers are known to respond rapidly to law enforcement challenges.\textsuperscript{22} First, because traffickers’ goods are people in transit, traffickers can simply re-route the victim through another country as necessary and continue operating.\textsuperscript{23}

\textsuperscript{18}De Ruyver, Vander Beken, & Vermeulen, \textit{supra} note 9, at 388.
\textsuperscript{20}Hillary Clinton, Sec’y of State, Remarks at Release of the Ninth Annual Trafficking in Persons Report (June 16, 2009), \textit{available at} http://www.state.gov/g/tip/rls/tiprpt/2009/index.htm .
\textsuperscript{21}Williams & Savona, \textit{supra} note 6, at 30.
\textsuperscript{22}\textit{Id.} at 30.
\textsuperscript{23}See De Ruyver, Vander Beken, & Vermeulen, \textit{supra} note 9, at 388.
Second, traffickers themselves are also able to easily relocate when threatened.\textsuperscript{24} They can simply move their operations to a country that has a weaker criminal justice and law enforcement system.\textsuperscript{25} Essentially, traffickers are not tied down to a specific location, for their work is mobile. Traffickers, thus, have much flexibility in choosing where to operate their business. The ideal location, of course, is where traffickers are free from prosecution. Traffickers have great success in their business simply because in many countries the traffickers know there is a “historical[ly] low risk of prosecution.”\textsuperscript{26} Unfortunately, the reality is that there are too many locations around the world where traffickers are not prosecuted.

Though traffickers’ networks can be “highly organized” with “clear division of responsibilities,” their networks retain a flexible nature. For example, the job description of a business broker or agent who buys girls in Thai villages is “part recruiting agency, part shipping company, part public relations, and part kidnapping gang.”\textsuperscript{27} Traffickers’ flexibility is due in part to both the size and also the informality of the criminal enterprise. Unlike typical crime syndicates, like the Mafia, traffickers run smaller operations and retain a less formal hierarchy within the business enterprise.\textsuperscript{28} Traffickers’ ability to adapt to threatening situations, as well as their small, informal network, makes trafficking very difficult to target and fight.

Second, the network of traffickers is increasingly sophisticated. Like other criminal organizations, traffickers are operating “with the technology of many multinational corporations, rather than the tactics employed by local gangs.”\textsuperscript{29} This shift in the method of running criminal operations is one that departs from traditional criminal activity. Much of this more recent shift is

\textsuperscript{24}Williams & Savona, \textit{supra note 6}, at 30.  
\textsuperscript{25}Id.  
\textsuperscript{26}Potts, Jr., \textit{supra note 11}, at 231.  
\textsuperscript{28}See Potts, Jr., \textit{supra note 11}, at 230.  
due to “dramatic political change at the end of the Cold war, economic and trade liberalization worldwide, the rapid pace of technological and telecommunications advances, the globalization of business, and explosion in international travel.” 30 These historic changes have both expanded criminal networks and their infrastructure around the world.31

The result of this change is that a new, challenging demand is placed on law enforcement and officials to strategize and determine which methods should be employed to investigate and combat trafficking. Because the most effective fight against trafficking demands a properly tailored response to this modern “look” of the criminal business, the response to trafficking must be equally sophisticated. If the response is not, “the international community will be unable to effectively counter the threat [of trafficking].”32

Interestingly, though traffickers are growing in sophistication, traffickers still use very common objects to carry out their criminal business. Globalization has made sophisticated technology readily available to many more people, including criminals. Thus, traffickers have easy access to numerous types of communication devices, such as telephones, fax machines, and beepers, with which they conduct their unlawful business.33 With such technology, a simple phone call allows traffickers to traffic victims more quickly than ever before. The increasing speed of communication devices allows traffickers to traffic more victims than ever before. Furthermore, globalization has made the world more connected, and, thus, “smaller.” As a result, traffickers’ communications can now reach much greater distances than ever before. Thus, traffickers have a broader, and ever-expanding, “reach” into more countries.

30De Ruyver, Vander Beken, & Vermeulen, supra note 9, at 44.
31Id.
32Guymon, supra note 29, at 54 (referring to transnational organized crime).
33Id. at 60.
Having such easy access to these devices, which is essential to traffickers’ business operations, makes traffickers a powerful force to contend with. Additionally because traffickers are using ordinary objects to carry out their crimes, traffickers are becoming more “invisible” and harder to track down. Unlike a criminal who is easily detected because he is spotted with an unlawful weapon or illegal drug on his body, traffickers are carrying out their illicit business with an unsuspecting cell phone. The ability of traffickers to make their criminal business at times almost disappear from sight makes fighting trafficking very challenging.

Another way trafficking becomes almost “invisible” is by traffickers’ ever increasing potential to infiltrate lawful businesses in order to carry out their crimes. Criminal organizations’ infiltration of legitimate business “provides a veneer of respectability to the criminal organization, and the use of patronage to provide excellent counter-intelligence capabilities that make it enormously difficult to mount surprise operations.”34 There are other benefits to traffickers who infiltrate lawful businesses: widespread access to new markets, which allows trafficking to expand and grow; access to lawful, established systems of information and people, whose more permanent nature strengthens the operation of trafficking; and the benefits of having their illicit business disguised as lawful, making it easier for traffickers to evade discovery and prosecution.

Third, traffickers are obtaining an expanding presence in the world market because the transnational activity of trafficking is widespread and growing. Because globalization facilitates simultaneous operations in many different countries, trafficking is essentially becoming a borderless operation. On the other hand, anti-trafficking measures are largely limited by territorial borders. Essentially, traffickers are cooperatively coordinating their criminal business operations while many countries are allowing territorial boundaries and differences in legal

34Williams & Savona, supra note 6, at 30.
jurisprudence to stand in the way of coordinating comprehensive, strategic efforts to combat trafficking. Cooperation and harmonization are essential to the fight against trafficking, for “the extent and magnitude of the problem of [trafficking] will . . . depend [largely] on the degree to which government and law enforcement institutions around the world develop appropriate cooperative mechanism to cooperate in targeting, disrupting, and dismantling international criminal organizations.” Arguably, crime has the advantage in this area, making trafficking an exceptionally powerful criminal enterprise.

The business of trafficking has also had an increased presence in the global economy because trafficking brings in enormous profits. As mentioned, trafficking is one the top three most lucrative world businesses, valued at more than thirty-two billion dollars. Such high profits are obtainable mostly because of two factors: the large number of individuals currently susceptible to being trafficking and the treatment of trafficked victims as valueless objects to be bought, sold, and abused as property. The victims essentially lose their status and worth as a human and instead “become completely disposable tools for making money.” Currently, obtaining an individual to traffic is incredibly cheap, so any benefit to the trafficker derived from the victim’s labor becomes an almost immediate profit. Additionally, the never-ending supply of potential victims becomes a consistent source of potential profit. Modern-day slavery is “far, far different from the capital-intensive slavery of the past, which required long-term investments and made solid but small profits. The disposability of . . . [people plus] the special profits to be made . . . all ensure a low-risk, high-return enterprise.”

Consider the following illustration of the magnitude of wealth that surrounds the illicit trafficking business. Kevin Bales, a current abolitionist working to end modern-day slavery,

35De Ruyver, Vander Beken, & Vermeulen, supra note 9, at 47.
36BALES, supra note 27, at 4.
37Id. at 54.
describes that a female victim of sex trafficking can be sold by a trafficker for the equivalent of $150. However, it costs the trafficker almost nothing to purchase her and transport her to the brothel for sale.\(^{38}\) Thus, even this one trafficking transaction brings profit to the trafficker. Given the ready supply of individuals around the world who are trapped in poverty, without hope of a better life, many individuals are potential victims. Thus, any trafficker can buy and sell many other individuals regularly, and the trafficker will make repeatedly lucrative profits.

The owner of the brothel, now the new owner of this victim, can force this victim to accommodate many customers at the brothel each night. If this owner makes the woman service ten\(^{39}\) individuals each night, the potential profit is $10,000 each month.\(^{40}\) The owner’s $150 investment rapidly pays dividends. This profit is further increased if the owner, like many do, commits the further inhuman act of reducing the amount of money spent on the victim by not attending to the victim’s personal needs or physical health. Thus, owners of trafficked victims have great potential to bring in lucrative profits on a regular basis. These large profits and the greed of human nature are a combination that has become a powerful, sustaining force behind human trafficking.

In summary, traffickers are running a new type of criminal business enterprise, one that makes fighting trafficking very difficult. Traffickers are purposefully exploiting the nature of the modern world: one that is increasingly sophisticated and interconnected. As traffickers increase in sophistication, their criminal enterprise will only increase in power as well. This power is becoming an ever-increasing threat to global society. Transnational organized crime has a negative impact on “national economies, international relations, stability, security, and peace.”\(^{41}\)

\(^{38}\)Id. at 5.

\(^{39}\)The most exploited victims will accommodate many more than ten customers in one night.

\(^{40}\)Id.

\(^{41}\)Williams & Savona, supra note 6, at 156.
In addition, trafficking deprives the victims “of every form of liberty . . . [and] entails an infringement of the[ir] most fundamental human rights.”42 If allowed to flourish, trafficking could potentially destroy the legal, economic, and political structures of society, as well as the very core of human dignity. Thus, elimination of trafficking is essential to the preservation of current, functioning societies. In short, it is a worthy cause to take up the fight against the powerful, global, criminal enterprise that is human trafficking.

**Part Two: The Specific Challenges of Trafficking in Cambodia, Thailand, and the US**

**A. A Source Country: Cambodia**

Cambodia43 currently “experiences significant internal and cross-border trafficking.”44 As of June 2006, “Cambodia was ranked as one of the worst countries in the world for human trafficking.”45 Women, men, and children are all at risk of being trafficked to other countries.46 These trafficked individuals are taken from Cambodia to Thailand, where they become victims of labor exploitation, sexual exploitation, and domestic servitude; to Vietnam, where they are forced to beg; to Malaysia, where they become victims of sexual exploitation, labor exploitation (mostly in factory or construction work), and domestic servitude;47 and to Macao, where they become victims of sexual exploitation and labor exploitation.48

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42De Ruyver, Vander Beken, & Vermeulen, *supra* note 9, at 368-69.
43Section ‘A’ is purposefully dedicated to discussing Cambodia as a source country. However, it must be acknowledged that Cambodia is also a destination and transit country. See HumanTrafficking.org, *Cambodia*, available at [http://www.humantrafficking.org/countries/cambodia](http://www.humantrafficking.org/countries/cambodia).
47*Id.*
48HumanTrafficking.org, *Cambodia*, *supra* note 44.
Some victims will be trafficked to more distant countries, such as Saudi Arabia for domestic servitude; Taiwan and Korea for marriage; Somalia for labor exploitation (mostly in the fishing industry); and in the US for adoption.\textsuperscript{49} In general, male victims are trafficked to perform forced labor in various industries, whereas female victims are trafficked for sexual exploitation, domestic servitude, and forced labor in factories.\textsuperscript{50} Victims who are children are usually forced to beg, solicit, or vend items on the streets. Many other children become victims of sexual exploitation.\textsuperscript{51} International Justice Mission (IJM), one NGO working to fight trafficking in Cambodia, has helped Cambodian police perform raids on brothels in order to rescue victims who are as young as five.\textsuperscript{52}

There are many factors that have caused trafficking to be such a problem in Cambodia. Certainly, “[p]overty and economic inequality is . . . a significant contributing factor to human trafficking in Cambodia.”\textsuperscript{53} “Thirty-four percent of Cambodians live on less than one US dollar per day.”\textsuperscript{54} In 2007, an estimated five of the fifteen million Cambodians lived below the poverty line.\textsuperscript{55}

Though industrialization can increase the wealth of a given population, rapid industrialization can also harm the country. Cambodia has experienced hardship as a result of the recent, rapid industrialization that occurred in the country.\textsuperscript{56} As the “base production has . . . shift[ed] from subsistence farming to cash-crop agriculture and

\textsuperscript{49} United Nations Inter-Agency Project on Human Trafficking, \textit{Who is Being Trafficked in Cambodia?}, supra note 46.
\textsuperscript{50} HumanTrafficking.org, \textit{Cambodia}, supra note 44.
\textsuperscript{51} Id.
\textsuperscript{52} \textit{At the End of Slavery: The battle for justice in our time} (IJM production 2009).
\textsuperscript{54} Id.
\textsuperscript{55} BATSTONE, supra note 15, at 22.
\textsuperscript{56} See Id. at 23.
manufacturing . . . peasant families [have found] it increasingly difficult to make a livelihood off the land.”\textsuperscript{57} In addition, “wealth is not being evenly distributed.”\textsuperscript{58} In such an environment, attempting to profit from trafficking becomes a desirable alternative to desperate poverty.

This partially explains why parents, close relatives, neighbors, and friends are often the initial traffickers responsible for sourcing out victims from Cambodia.\textsuperscript{59} In a study by the Ministry of Social Affairs and Youth Rehabilitation, data showed that forty-seven percent of victims that returned from Thailand to Cambodia said their mother was the facilitator of their trafficking.\textsuperscript{60} As families become more desperate, selling other family members, including their children, becomes a viable solution for survival.

The lack of opportunity, coupled with the resultant feelings of hopelessness, leaves many Cambodians vulnerable to trafficking. In Cambodia, men have more opportunity than women to receive a formal education or learn vocational skills.\textsuperscript{61} This has rendered illiterate approximately forty-one percent of Cambodian females.\textsuperscript{62} These poor, uneducated women are “easy prey for a trafficker.”\textsuperscript{63} In addition, the lack of viable employment opportunities for both genders has caused many Cambodians to look for employment in other countries. The resultant “cross-border migration . . . renders [many persons] vulnerable to traffickers.”\textsuperscript{64} Individuals who feel desperate about their living situation are likely to be easy targets for traffickers. Desperate individuals are also more easily swayed by the false promises of a better life, a life of more opportunity and prosperity, that traffickers often employ as a recruiting tactic.

\textsuperscript{57}Id.
\textsuperscript{58}Id.
\textsuperscript{59}See HumanTrafficking.org, \textit{Cambodia}, supra note 44.
\textsuperscript{60}Id.
\textsuperscript{61}B\textsuperscript{ATSTONE}, supra note 15, at 22.
\textsuperscript{62}Id.
\textsuperscript{63}Id.
\textsuperscript{64}Strategic Information Response Network Human Trafficking Data Sheet, \textit{supra} note 53.
Corruption, such as Cambodia’s government officials and law enforcement accepting bribes to facilitate trafficking, also sustains trafficking in Cambodia. In 2006, Cambodia brought to justice several police officials for complicity in trafficking, including the former Deputy Director of the Police Anti-Human Trafficking and Juvenile Protection Department and two officials under his supervision. The U.S. State Department’s 2006 Trafficking Report declared that “corruption, lack of training and funding for law enforcement, and a weak judiciary” preclude Cambodia from “making significant efforts” to eliminate its slave trade.

Finally, armed conflict, is a known cause of crime, especially trafficking. This is because war creates social upheaval and instability, leaving many vulnerable to being trafficked. Beginning in April 1975, the Khmer Rouge regime took power in Cambodia. Under Pol Pot an estimated two to three million inhabitants were relocated within the country, and another one-and-a-half million (twenty percent of the Cambodian population) were killed or died. The subsequent years of war, until approximately the mid 1990s, left Cambodia in a state of even more turmoil and destruction. Many Cambodians were left sick, weak, impoverished, uneducated, and displaced. All were increasingly vulnerable to being trafficked as a result of these devastating events.

Interestingly, the impetus to continuing the business of trafficking can be from afar. As long as there is a demand for victims’ services, people will be trafficking and exploited. For example, regarding sexually exploited victims, it cannot be denied that acts of sexual tourism, where a tourist enters a country specifically to participate in the commercial sex industry, create

65HumanTrafficking.org, Cambodia, supra note 44.
66Id.
a demand that perpetuates the need to continue to supply brothels with victims of trafficking. For example, in August, 2009, three sex offenders posing as “tourists,” one who lives in Menlo Park, CA, were caught after allegedly sexually assaulting young boys and girls in Cambodia.69 Clearly, not all causes of trafficking can be explained internally.

The US State Department stated that as of 2009, Cambodia did “not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.”70 For example, in order to combat trafficking, Cambodia decided to focus on the specific vulnerability of Cambodia women who are being married to non-Cambodian men. From April, 2008, to November, 2008, Cambodia banned all marriages of Cambodians to foreigners.71 After November, Cambodia implemented “new regulations in an attempt to prevent trafficking through international marriages.”72

In addition, Cambodia passed a law in February, 2008, on the Suppression of Human Trafficking and Commercial Sexual Exploitation.73 This law covers a wide variety of offenses, of which almost half are related to human trafficking offenses. However, even this comprehensive law has not yet fundamentally changed the reality of the trafficking situation in Cambodia. The number of convictions of traffickers decreased after enacting this law.74 The US State Department strongly recommended that Cambodia increase its efforts to prosecute traffickers. One area on which Cambodia should focus is labor trafficking. Cambodia should “hold labor recruiting agencies criminally responsible for labor trafficking.”75 Many labor recruitment

71 Id.
72 Id.
73 Id.
74 Id. (describing that there were only twelve reported cases of traffickers being convicted, whereas fifty-two convictions were obtained the previous reporting period).
75 Id.
companies are allegedly involved in labor trafficking, but Cambodia did not prosecute any such company during the 2009 reporting period.\(^{76}\)

Arguably more important, Cambodia has failed to prosecute and convict officials who are complicit in trafficking-related activities, though this form of corruption is prevalent. Police officers, immigration police, judicial officials, and government officials have all been suspected of being directly or indirectly involved in trafficking. “Some local police and government officials are known to extort money or accept bribes from brothel owners, sometimes on a daily basis, in order to allow the brothels to continue operating.”\(^{77}\) Thus, Cambodia would more effectively fight trafficking in their country if Cambodian law enforcement and government officials would place greater emphasis on enforcing the human trafficking provisions in the Suppression of Human Trafficking and Commercial Sexual Exploitation law.

Enforcement is not ideal in Cambodia also because the law enforcement community is not properly trained. Cambodian police have been known to not follow through with NGO investigations nor properly act on trafficking leads.\(^{78}\) Thus, Cambodia should also attempt to adequately train the individuals in Cambodian law enforcement, for such training can have powerful effects in decreasing crime. For example, International Justice Mission has been working in Cambodia for approximately ten years. One of IJM’s main focuses in fighting trafficking in Cambodia has been to train Cambodian law enforcement how to systematically and effectively fight trafficking crimes, apprehend trafficking criminals, and work with prosecutors to prepare trafficking cases.\(^{79}\) Cambodia’s cooperation with IJM has led to more than a fifty percent reduction in sex trafficking crimes in the major cities of exploitation.\(^{80}\)

\(^{76}\)Id.
\(^{77}\)Id.
\(^{78}\)Id.
\(^{79}\)Id.
\(^{80}\)Id.
\(^{80}\)At the End of Slavery, supra note 52.
Cambodia has made some efforts to prevent further trafficking crimes. For example, Cambodia has “conducted some public awareness campaigns aimed at reducing the significant demand for child prostitution generated by Cambodian and other Asian pedophiles.”\(^8^1\) In a campaign held in the March, 2008, the Cambodian National Task Force on Trafficking “held a national dialogue on trafficking via public forums in five provinces across Cambodia that continued into July 2008.”\(^8^2\) The Ministry of Tourism continues to collaborate with NGOs in making advertisements in tourists brochures warning of the penalties of engaging in child sex tourism.\(^8^3\) The Ministry also holds workshops to educate “hospitality industry owners and staff on how to identify and intervene in cases of trafficking.”\(^8^4\) All these efforts likely increase the awareness of trafficking in Cambodia, and this is worthwhile. However, despite the good efforts, the US State Department describes Cambodia’s efforts to fight trafficking as “limited.”\(^8^5\)

Cambodia is both a source country and also a transit country, allowing trafficked victims from Vietnam and China to be routed through Cambodia on their way to recipient countries.\(^8^6\) Many Vietnamese victims transit through Cambodia specifically in route to Thailand.\(^8^7\)

**B. A RECIPIENT COUNTRY: THAILAND**

Men, women, and children are trafficked to Thailand\(^8^8\) from Cambodia, as well as Burma, Laos, China, and Uzbekistan.\(^8^9\) There are also thousands of economic and political refugees, mostly from Burma and Laos, who become trafficked victims in Thailand.\(^9^0\) Most

\(^8^1\)US State Department 2009 Human Trafficking Report, *Cambodia Country Narrative, supra* note 70.
\(^8^2\)Id.
\(^8^3\)Id.
\(^8^4\)Id.
\(^8^5\)Id.
\(^8^6\)See generally Strategic Information Response Network Human Trafficking Data Sheet, *supra* note 53.
\(^8^7\)HumanTrafficking.org, *Cambodia, supra* note 44.
\(^8^8\)Section ‘B’ is purposefully dedicated to discussing Thailand as a recipient country. However, it is know that Thailand is also a destination and transit country. See HumanTrafficking.org, *Thailand*, http://www.humantrafficking.org/countries/thailand.
\(^9^0\)BALES, *supra* note 27, at 65.
victims in Thailand are trafficked for sexual exploitation, begging, domestic servitude, as well as labor exploitation in factory work, agriculture and the fishing industry.\textsuperscript{91} Families may be trafficked into the country together as a unit to do forced labor in sweatshops.\textsuperscript{92} Victims who are children work in the commercial sex industry, work in the fish industry, or are forced to beg.\textsuperscript{93} Thailand is known as a “destination-side hub of exploitation in the Greater Mekong Sub-region, for both sex and labor exploitation.”\textsuperscript{94}

Some individuals are trafficked across the Thai border by loosely organized, small-sized groups of traffickers.\textsuperscript{95} Other individuals voluntarily migrate to Thailand but are later forced to work against their wills.\textsuperscript{96} The refugees who migrate voluntarily from Burma and Laos “are defenseless in [Thailand because] . . . they are illegal aliens.”\textsuperscript{97} Such status usually means being subject to even worse abuse. This is especially the case with Burmese refugees, toward whom the Thai have long held traditional antipathy.\textsuperscript{98}

Interestingly, one cause of trafficking in Thailand is the country’s “relative affluence in the Greater Sub-Mekong Region.”\textsuperscript{99} This affluence attracts migrants from neighboring countries. This relative prosperity also attracts individuals from as far away as Russia and Fiji, who want to flee from their situations of poverty.\textsuperscript{100} “With [Thailand’s] relative wealth . . . [it] is an attractive destination country for irregular migration; creating opportunities for traffickers to coerce,

\textsuperscript{91} HumanTrafficking.org, Thailand, supra note 89.
\textsuperscript{92} Id.
\textsuperscript{93} Id.
\textsuperscript{95} HumanTrafficking.org, Thailand, supra note 89.
\textsuperscript{96} Id.
\textsuperscript{97} BALES, supra note 27, at 65.
\textsuperscript{98} Id., at 66.
\textsuperscript{99} HumanTrafficking.org, Thailand, supra note 89.
deceive, abduct, threaten, take advantage of, or otherwise force [undocumented migrants] into
situations of exploitation.”

This is compounded with the fact that Thailand has “been branded internationally as a
Disneyland for sexual escapades.” One rough estimate determined that just less than one and a
half million unaccompanied men traveled to Thailand in 2003 for the express purpose of having
sex. Close to half of the local male population in Thailand pay for commercial sex during the
course of a year. The fact that the commercial sex industry is flourishing creates a very strong
demand for trafficked individuals. This demand sustains the illicit trafficking business.

The economy of Thailand also contributes to the prevalence of trafficking. Like
Cambodia, Thailand has experienced rapid industrialization. Between 1993 and 1995 ten percent
of the population migrated from the rural areas of the country to the industrialized centers.
Despite the economic boom, however, the average income is quite low by Western standards,
especially in more rural areas of Thailand. Of the millions who live in rural poverty, those who
have a home and rice field survive on approximately twenty US dollars per month.
These people are literally known to supplement their rice with insects. In 1996, two-thirds of the
population made the equivalent to $100-180 US dollars per month, which was still considered
below “absolute poverty.” These Thais can do little else besides eat. Thus, a family might
decide to sell their daughter into the commercial sex industry, for the sale is equivalent to a

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\textsuperscript{101}Strategic Information Response Network Human Trafficking Data Sheet, available at
\textsuperscript{102}BATSTONE, supra note 15, at 60.
\textsuperscript{103}Id.
\textsuperscript{104}Id.
\textsuperscript{105}Id.
\textsuperscript{106}BATSTONE, supra note 15, at 23.
\textsuperscript{107}Id.
\textsuperscript{108}Id.
\textsuperscript{109}See Id.
Such profit “is a powerful inducement and blinds parents to the realities of sex slavery.”111

Interestingly, the economic boom and rapid industrialization Thailand has recently experienced may potentially help bring an end to trafficking.112 In Thailand, industrial growth has increased the number of jobs, the opportunities for education, and the opportunities for job training, especially for Thai females.113 As this trend continues, there will continue to be more and more opportunity for education and employment. This will increase Thais’ hope in a better future and decrease the appeal of volunteering to commit oneself or another to a life of exploitation.

The religion, society, and culture of Thailand also sustain trafficking by making women extraordinarily vulnerable to trafficking. Culturally, women are inferior to men. “[E]veryone in Thailand [today] knows their place within [the] very elaborate and precise status system . . . Wives continue to enhance any man’s social standing.”114 Buddhism, which is practiced widely in Thailand, regards women as “distinctly inferior to men.”115 Because Thai society regards women as less than equal to males, females are more likely to be reduced to the status of a mere commodity to be sold as property.

Corruption certainly sustains trafficking. In Thailand, the police are known to work for slaveholders.116 “The conspiracy of gangs, police, and immigration officials allows trafficking to occur on a large and increasing scale.”117 Any enforcement of punishment towards police or

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110 Id. at 53.
111 Id.
112 This argument would hold true for Cambodia, as well, due to its recent, rapid industrialization.
113 Id. at 64-5.
114 Id. at 45.
115 Id. at 38.
116 Id. at 61.
117 Id. at 72.
officials is only a “light[] slap on the wrist.”

Additionally, the Thai politicians do not take sex slavery seriously. Often when the Thai government attempts to fight such criminal activity, the efforts “take on the quality of comic opera.” Thus, while Thai laws prohibit trafficking, as well as enslavement and exploitation, they are very occasionally enforced.

The US State Department stated that as of 2009, Thailand did “not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.” In June 2008, The Anti-Trafficking in Persons Act came into force. This new, comprehensive anti-trafficking law addresses “all forms of trafficking and prescribe[d] penalties . . . sufficiently stringent and . . . commensurate with penalties prescribed for other grave crimes, such as rape.” Under this new law, “[p]rescribed punishments are doubled if the convicted [trafficker] is a public official.” After the law entered into force, Thailand also undertook training the law enforcement community – including police officers, immigration officers, prosecutors, and social workers – on this new legislation. However, like Cambodia, convictions declined as compared to previous years.

In 2006, Thailand also established a police division, The Children and Women Protection Division. This Division has “nationwide jurisdiction to conduct anti-trafficking investigations.” Operating in addition to this Division is Thailand’s recently established Transnational Crime Coordination Center. This Center “collects and analyzes trafficking

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118 Id.
119 Id.
120 Id.
121 See generally Id.
123 Id.
124 Id.
125 Id.
126 Id.
information and conducts strategic planning for anti-trafficking efforts along with the Office of the Attorney General’s Center against International Human Trafficking.”

Despite these efforts, however, many investigations were disrupted or delayed due to lack of cooperation between police and prosecutors, frequent personal turnover in the Divisions and Centers, and police complicity in trafficking individuals through Thailand. Thus, in order to most effectively fight Trafficking, Thailand should make increased efforts to staff their Divisions and Centers with committed individuals who will make a long-term commitment to working with Thailand to fight trafficking.

Thailand should address the police community. First, Thailand should investigate and prosecute police who are corrupt. It is believed that “local police protect[] brothels, other sex venues, and seafood and sweatshop facilities from raids, and occasionally facilitate[] the movement of women into or through Thailand.” Second, Thailand should improve their investigations of labor trafficking and their ability to prosecute labor traffickers. Labor trafficking is widespread. This is in part due to the victims’ reluctance to “seek assistance from the government [because of] fear of punishment or deportation.” Third, Thailand should attempt to better train local police in how to work most effectively and cooperatively with prosecutors, in order to streamline the process of bringing strong criminal cases against traffickers. Prosecutors, likewise, should be trained to work more cooperatively with the local police. If Thailand can accomplish these goals, their fight against Trafficking will be more effective, for their own laws against trafficking will be better upheld.

127 Id.
128 Id.
129 Id.
130 Id.
131 Id.
132 Id.

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Additionally, the US State Department recommended that Thailand increase their efforts to protect victims. Because so many migrants and refugees end up in Thailand, the government should work to identify vulnerable groups and then educate these individuals about their rights. Thailand should implement more mechanisms that shelter and protect victims who want to cooperate with the police in prosecuting their individual traffickers. Thailand should also provide employment outside the shelters so that victims can begin to rebuild their lives, educate victims about the legal recourses available to them, and educate victims about the remedies they have against traffickers.\textsuperscript{133}

Thailand currently aids trafficked victims’ transition back into society by providing temporary shelters. There is at least one shelter in each of Thailand’s seventy-five provinces. In addition, there are eight long-term shelters where victims receive medical care, food, board, and psychological counseling.\textsuperscript{134} Interestingly, the most frequent complaints from foreign victims at the shelters is that they feel “the [Thai] government does not handle their repatriation in a timely fashion [or they] . . . feel pressured to remain in the shelters in order to assist with prosecution.”\textsuperscript{135} This situation is not ideal.

Clearly, more can be done in immigration law regarding victim protection and repatriation. Currently, those illegally in Thailand can be deported without a trial.\textsuperscript{136} If there is a trial, many are convicted of illegal entry, or if in the sex industry, prostitution.\textsuperscript{137} Those who are fined but cannot pay may be sent to a factory-prison to earn the money by making light bulbs or plastic flowers for up to twelve hours per day.\textsuperscript{138} The prison officials decide when the victims

\textsuperscript{133} Id.
\textsuperscript{134} Id.
\textsuperscript{135} Id.
\textsuperscript{136} BALE, supra note 27, at 67.
\textsuperscript{137} Id.
\textsuperscript{138} Id.
have labored enough to pay off the fine. Only then are the victims prepared for deportation. Also, Thailand’s laws dictate that illegal aliens pay for their own deportation. Unfortunately, this all occurs despite the Anti-trafficking Law of 1928, which forbids the imprisonment or fine of women and girls trafficked into Thailand. Thus, there are laws on the books that protect victims, but there is little enforcement.

Some success has been made through Thai cooperation with European law enforcement, specifically from the Act on International Cooperation in Criminal Matters passed in Thailand in 1992. Under this law, the attorney general can “gather evidence against foreigners who commit crimes in Thailand and send it to their home countries.” Integral to this operation is the European country’s extraterritorial jurisdiction laws that allow such procedures. Sweden has had success prosecuting such criminals, and this has encouraged more countries to enact similar laws. Regarding issues of trafficking and extraterritorial jurisdiction, this is an exemplary model for other countries to follow.

Thailand currently makes some effort to prevent trafficking. The public is made aware of trafficking through television advertisements and public dialogues. There have also been campaigns on human trafficking in order to raise awareness of the issue. Human rights issues have been incorporated into the school curricula in the hope of educating the next generation on such relevant and pressing topics. Community-based organizations are being created to

139 Id.
140 Id.
141 See Id. at 72.
142 Id. at 73.
143 Id.
144 Id.
145 Id.
148 Id.
strengthen and support families, and micro-credit schemes are being used to create child 
protection networks and poverty alleviation projects.\(^\text{149}\) Finally, in November, 2009, the Thai Government took “the lead on human trafficking prevention in the tourism sector . . . [by] host[ing in Bangkok] the Greater Mekong Sub-Regional Seminar on Protecting Children from Trafficking and Sexual Exploitation in the Tourism Sector.”\(^\text{150}\)

C. **TRAFFICKING IN THE UNITED STATES**

Trafficking issues in the United States are considerable. The United States is primarily a transit and destination country for trafficked persons.\(^\text{151}\) The US State Department estimates that 17,500 people are trafficked into the United States each year.\(^\text{152}\) The majority of the trafficked victims are women and children.\(^\text{153}\) However, the actual number of trafficked victims is likely higher, for “less than one percent of cases get prosecuted.”\(^\text{154}\) Most victims that arrive in the United States are enslaved and forced to work as “housekeepers, farm hands, factory workers and prostitutes.”\(^\text{155}\) Other victims end up performing forced labor in construction work and sweatshops.\(^\text{156}\) More than thirty thousand other trafficked victims are estimated to arrive in the United States on route to other international destinations.\(^\text{157}\) On the whole, trafficking activities have been prosecuted in “ninety-one cities across the United States and in nearly every state of the nation.”\(^\text{158}\)

\(^\text{149}\) *Id.*
\(^\text{150}\) *Id.*
\(^\text{153}\) HumanTrafficking.org, *United States*, *supra* note 151.
\(^\text{154}\) HumanTrafficking.org, News and Updates, *supra* note 152.
\(^\text{155}\) HumanTrafficking.org, *United States*, *supra* note 151.
\(^\text{156}\) *Id.*
\(^\text{158}\) *Id.*
Some brothels are known to be controlled by Chinese or Vietnamese criminal gangs.\textsuperscript{159} Police have done raids in New York, Seattle, San Diego, and Los Angeles to free hundreds of women and children.\textsuperscript{160} In New York, the gangs were found to have “chains of brothels and massage parlors around which they rotate . . . Thai women in order to defeat law enforcement efforts.”\textsuperscript{161}

Various trafficking cases have been discovered in the United States. For example, many women were imported from Thailand to the United States for factory work.\textsuperscript{162} In 1995, there was a sweatshop garment factory in Los Angeles where mostly women were held in debt bondage.\textsuperscript{163} These women worked sixteen hours each day to pay off their debt, a debt as least as great as the amount of money the victim’s traffickers and slave owners spent to purchase the individual. These victims were forced to live within the locked factory compound.\textsuperscript{164} The women had to repay a debt of $5,000 with a salary of less than $5 per day.\textsuperscript{165} Another discovery of trafficking was made in 1997.\textsuperscript{166} Traffickers had enslaved Mexican nationals, whom they also beat, physically restrained, and tortured.\textsuperscript{167} These victims were forced to peddle trinkets in Chicago, Los Angeles, and New York City.\textsuperscript{168} In both of the above cases, the operators of the criminal business were successfully prosecuted.

Many other victims, usually female, end up as domestic servants. They work for little or no pay.\textsuperscript{169} The plight of such victims is exemplified by the case of two teenage girls held captive

\textsuperscript{159}Bales, supra note 27, at 70.
\textsuperscript{160}Ibid.
\textsuperscript{161}Ibid.
\textsuperscript{162}Ibid.
\textsuperscript{163}Ibid.
\textsuperscript{164}Ibid.
\textsuperscript{165}Ibid. at 71.
\textsuperscript{166}Potts, Jr., supra note 11, at 232.
\textsuperscript{167}Ibid.
\textsuperscript{168}Ibid.
\textsuperscript{169}Potts, Jr., supra note 11, at 233.
as domestic servants in a Maryland home. They received little or no payment for their daily, forced labor cleaning, cooking, and caring for the resident children; they received no education or other employment opportunities as promised by their captors; and they were absolutely confined to their captors’ home under threats of retribution for attempted escape. In this Maryland case, the captors used fear-tactics and intimidation, such as falsely telling the foreign teenagers that the United States is very dangerous or that their families in Cameroon would suffer if they tried to escape, in order to keep the girls from attempting to leave their captors’ home.

Interestingly, these teens were brought into the United States from Cameroon by plane, using passports that belonged to the relatives of their captors. This case was eventually prosecuted, and the Maryland couple was found guilty of conspiring to bring an illegal alien to the United States, guilty of harboring an illegal alien for financial gain, and guilty on charges of involuntary servitude. However, many other young victims remain in similarly disturbing situations around the United States.

Another example of trafficking comes from the life of a current anti-slavery abolitionist, David Batstone. After regularly dining at an Indian restaurant in the San Francisco Bay Area for a few years, Mr. Batstone came to learn that the cooks, servers, and kitchen-cleaners who staffed Pasand Madras Indian Cuisine were trafficked from India by the restaurant’s owner, Lakireddy Reddy. Reddy, who owned several other restaurants,staffed all his restaurant businesses with hundreds of Indian adults and children, whom he obtained through fake visas

\[\text{\textsuperscript{170}} \text{Id.}\]
\[\text{\textsuperscript{171}} \text{Id.}\]
\[\text{\textsuperscript{172}} \text{Id.}\]
\[\text{\textsuperscript{173}} \text{Id.}\]
\[\text{\textsuperscript{174}} \text{\textsc{batstone}, supra note 15, at 1.}\]
\[\text{\textsuperscript{175}} \text{Id. at 1-2.}\]
and fake identities.\textsuperscript{176} Reddy’s ploy to obtain these victims included securing fake visas under the guise that the applicants were highly skilled technology professionals who would be placed in a software company.\textsuperscript{177} Instead, the victims were held as slaves, forced to work “long hours for minimal wage. In reality, the money the victims “earned” was simply returned to Reddy as rent to live in one of his apartments.”\textsuperscript{178} Reddy also threatened to turn the individuals over to the United States authorities as illegal aliens if they tried to escape.\textsuperscript{179} Unfortunately, this example case is not an anomaly.\textsuperscript{180}

Youth in the United States are frequent victims of trafficking. For example, “interstate sex trafficking of minors is a growing problem.”\textsuperscript{181} One estimate is that approximately three hundred thousand youth in the United States are at risk of becoming victims of commercial sex exploitation.\textsuperscript{182} The youth that are most vulnerable are those who are abandoned, runaways, or homeless.\textsuperscript{183}

Another current issue in the United States is Americans traveling to other countries to engage in sex with minors. Currently, one section of the US Department of Justice, Child Exploitation and Obscenity Section (CEOS), works to develop policies and statutes that address “interstate and international sex trafficking of women and children and [also] travel to engage in sex with children.”\textsuperscript{184} These laws would hold sex tourists accountable under US Federal Law. CEOS is also working with various US Attorney’s Offices, the FBI, and the National Center for

\textsuperscript{176} Id. at 2.
\textsuperscript{177} Id.
\textsuperscript{178} Id.
\textsuperscript{179} Id. at 2-3.
\textsuperscript{180} Id. at 3.
\textsuperscript{182} Id.
\textsuperscript{183} Id.
\textsuperscript{184} Id.
Missing and Exploited Children “on an initiative to investigate and prosecute those who would commercially exploit our children.”

Though trafficking issues have been of increasing concern, the US Administration and Congress has in the last decade declared trafficking a priority for the country. In 2000, the United States created the first comprehensive trafficking law, The Victims of Trafficking and Violence Protection Act of 2000. There was almost unanimous approval by both the House and the Senate. Under this Act, which combines labor, criminal, and immigration laws related to trafficking activities, many hurdles to fighting trafficking were eliminated. First, the prosecutor’s burden was streamlined by having better tracking of on-point cases, as well as enhanced clarity and coordination. Second, the definition of “forced labor” was broadened to both extend aid to more victims and also facilitate prosecution of traffickers. Third, the crimes under the Act were clearly defined to include rape, which makes this Act very tough on sex traffickers. Fourth, the Act requires traffickers to pay full restitution to victims, essentially reimbursing them the salary they made during their time of involuntary servitude. Fifth, the conciseness of the Act provides more adequate protection for trafficked victims, such as by providing shelters and offering nonimmigrant visas. The Act also enhances pre-existing criminal penalties and establishes a Cabinet-level federal interagency task force to combat trafficking specifically.

In November, 2003, the US congress reauthorized this Act, demonstrating the United States’ commitment to the ongoing fight against trafficking. Specifically, the United States

185 Id.
187 Id.
188 Id.
189 Id. at 379.
190 HumanTrafficking.org, United States, supra note 151.
acknowledges the need to sustain and further enhance efforts under this Act, including prosecuting traffickers and assisting trafficked victims.\textsuperscript{191} Thus, The Trafficking Victims Protection Reauthorization Act of 2003 “provides resources and initiatives to assist . . . [approximately] 20,000 victims of human trafficking who are trafficked into the United States every year.”\textsuperscript{192} The Trafficking Victim Protection Reauthorization Act of 2005 was signed into law January 2006.\textsuperscript{193}

One area that the United States can focus on is highlighted in some of the trafficking cases described above. Many victims are trafficked to the United States with false identification, usually using fake passports and visas. Being more vigilant during inspections at borders and other checkpoints would make the country’s fight against trafficking more effective. Also, the United States should continue to fight trafficking by both continuing to enforce the laws against such criminals and also vigorously prosecuting trafficking crimes. Convictions alert traffickers to the fact that they will be held accountable for their actions. Vigorous prosecution of trafficking crimes will reduce the impetus for traffickers to perform criminal activities.

The United States is taking the matter of trafficking quite seriously, more seriously than some other countries. Both “[t]he judicial apparatus and political will” to prosecute traffickers and fight trafficking is relatively strong.\textsuperscript{194} However, there is always more to be done. Many abolitionists believe that the United States can and should take a strong leadership position against trafficking, a stand that does not rest until trafficking is eliminated. The United States has already eliminated one form of slavery, the Transatlantic Slave Trade. Now the United States can contribute “the same passion and commitment to [the struggle against modern-day slavery] that

\textsuperscript{191} Id.
\textsuperscript{192} Id.
\textsuperscript{193} Id.
\textsuperscript{194} Potts, Jr., supra note 11, at 233.
the abolitionists of [the United States] brought to the struggle against slavery based on color 160 years ago.”195 Unlike many still believe, slavery did not end in the 1800’s. Because slavery is ongoing, the United States, having effectively taken a strong stand against historic slavery, should take the same strong stand today against modern slavery.

D. **How These Countries can Fight Trafficking Together**

Both Thailand and Cambodia can work together to fight trafficking by each cooperatively maintaining more effective border control between the countries. Both Cambodia and Thailand are source, destination and transit countries. Victims are being trafficked around and through these two countries frequently and easily. In fact, traffickers in both countries move victims across borders “with brazen disregard for law enforcement – and oftentimes with their help.”196 The border between Thailand and Burma is “especially chaotic and dangerous,” for part of the border is controlled by “tribal militias and warlords.”197 This chaos breeds criminal trafficking activities. Increasingly, victims are being trafficked using falsified visas, passports, and identities. Thus, Cambodia and Thailand should cooperatively address how to bolster border control in order to effectively patrol movement of persons into, out of, and between the countries.

“The . . . dedication of human rights workers offer some hope” to all countries.198 Every country can fight trafficking more effectively by supporting and cooperating with NGOs and other Human Rights Agencies already working or willing to work in these countries. These organizations are making tremendous progress towards reversing the situation of trafficking in

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196 *Id.* at 21.
197 *BALES, supra* note 27, at 67.
our world. Some argue that NGOs are the future entities that will bring about the most positive change in our world.

For example, Human Rights Watch gives victims a voice and holds perpetrators accountable through strategic advocacy that “build[s] intense pressure for action and raises[s] the cost of human rights abuse.” The Polaris Project is working for a “World Without Slavery” by advancing state and federal policies related to trafficking crimes. The Polaris Project focuses on services for victims, training of state employees, and educating the public. Furthermore, in the United States, the Polaris Project has played an active role in the reauthorizations of the Trafficking Victims Protection Act. Amnesty International works globally to monitor human rights abuses and hold the responsible individuals accountable. Specifically in the United States, Amnesty International exposes human rights crimes, empowers human rights activists, and conducts campaigns. International Justice Mission has worked in Thailand and Cambodia rescuing and rehabilitating victims of trafficking, prosecuting the perpetrators, and creating lasting “structural transformation” in the surrounding community in order to prevent future trafficking crimes. Thus, all countries will more effectively fight trafficking if they combine forces with the individuals and organizations already working to eliminate trafficking.

Part Three: The Potentially Immense Sacrifice of Fighting Trafficking

There is another potential reason trafficking has not yet been eliminated: the most proactive fight against trafficking may threaten the very ideals and legal principles most people

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198 BALES, supra note 27, at 78.
200 Polaris Project, A world without Slavery, http://www.polarisproject.org/content/view/50/69/.
201 Id.
in the United States regard as fundamental to American society. An aggressive stand against human trafficking could include impingement upon ideals, such as privacy and liberty, as well as challenges to common American safeguards, such as the right to confrontation and limitations on police power.

The power of the UN Protocol against Trafficking will turn on how quickly and effectively signing countries align their domestic laws with the norms under the UN Treaty. In International Law, treaties are a positive first step to creating lasting change in the human rights situations in any country. However, a treaty will be most effective when followed by an arguably more powerful, second step: a signing country’s incorporating into its own domestic laws the principles embodied in a treaty text. “Domestic legislation is a prerequisite to harmonization and cooperation in the fight against international organized crime.”205 The overarching question relevant to trafficking is how strong of a stand against trafficking will people and governments be willing to accept. In other words, the question becomes how far people and governments will allow their country to legislatively fight trafficking without deciding that the laws unduly impinge on American ideals, rights, and legal principles.

A. Privacy Rights

Privacy rights could be infringed in an attempt to more aggressively investigate trafficking crimes. Given the communication structure that traffickers use to coordinate their criminal activities, more widespread wiretapping of suspicious communications or persons, or the use of more advanced intelligence to monitor the lives of suspicious persons, would be incredibly helpful in fighting trafficking. “The [solution] could . . . include the introduction of legislation allowing law enforcement agencies to conduct wiretapping, electronic surveillance

205 Guymon, supra note 29, at 85.
and undercover operations.” Arguably, the justification for such proactive, yet more intrusive, actions lies in the need to allow legal enforcement actions to “match equivalently” the ability of criminals to exploit high-technology resources. Ultimately, the question becomes whether the advent of more advanced technology and surveillance will be allowed to push the boundary of protected privacy rights.

Privacy could also be impinged if more proactive procedures, such as confiscating and seizing bank records or freezing assets during trafficking investigations, were deemed lawful in a trafficking context. Clearly, reducing the profit that traffickers could make from their criminal enterprise is a powerful weapon in the fight against trafficking. Because “profits [are] at the heart of [trafficking] . . . depriving criminals from these profits is a key element of any anti-[trafficking] crime strategy.” Furthermore, given the lucrative nature of trafficking, many of the criminals can be traced by following the criminals’ asset trail.

Currently, under the UN Convention, “governments agree to separate organized criminal groups from their ill-gotten aims by confiscating the proceeds of crime or property of the same value and by identifying, freezing and seizing assets.” They also “commit . . . to empower courts . . . to order that bank, financial and commercial records of property are made available or seized.” Thus, such procedures do help make headway to paralyze traffickers. Here, the question becomes whether governments, in light of current privacy rights, will enact aggressive domestic procedures that would allow obtaining incriminating financial statements or records.

B. **Liberty and Due Process Rights**

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206 Williams & Savona, *supra* note 6, at 137.
207 *Id.*
208 Council of Europe, *supra* note 8, at 10 (referring to organized crime).
210 *Id.*
Concepts of liberty and jurisdictional due process could come under scrutiny as a result of traffickers’ use of advanced technology. In today’s interconnected world, any given trafficker can damage lives in another country without ever entering that country’s territory. Yet, “strictures of the [American] Due Process Clause forbid a state court to exercise personal jurisdiction over [persons] under circumstances that would offend traditional notions of fair play and substantial justice.”\textsuperscript{211} The borderless nature of trafficking is currently pushing counter-trafficking measures to encounter “the limits of jurisdiction, [for] the jurisdiction of national law enforcement bodies, such as the FBI, is usually limited when criminal activity extends beyond national borders.”\textsuperscript{212} Thus, given the American concept of Minimum Contacts Analysis, the question becomes: to which courts and in what countries are traffickers responsible and, thus, justifiably held accountable without intruding upon that person’s liberty by falling short of the US Constitutional guarantee of “notice” before being hauled into court.

Compounding the existing issue of liberty is the wide range of theories of jurisprudence in different countries. For example, the concept of “accomplice,” has different meanings in different jurisdictions. “[T]he term ‘accomplice’ may have a relatively limited meaning in many legal systems.”\textsuperscript{213} On this issue, “the American approach of treating accomplices as guilty of the same offense as a principal stands in contrast to the approach of other legal systems.”\textsuperscript{214} Thus, comparatively, American jurisprudence has the more tough stance against crime than some other countries.

\textsuperscript{212} Guymon, supra note 29, at 85.
Defining exactly who is a member of the organized crime group is important, for “criminalization of membership . . . is . . . a potentially powerful tool.” Yet, who is defined under a legal system as an accomplice, and how the legal system chooses to treat that accomplice – whether or not they are guilty to the same extent as the principal criminal – determines who is hauled into court. Certainly, a broader definition of accomplice will allow more traffickers who do less severe trafficking crimes, such as aiding, abetting, and encouraging, to be prosecuted for the crime. This would be an aggressive stance against trafficking, for many traffickers currently committing these lesser crimes would be found, apprehended, and potentially prosecuted.

However, countries’ determination of the extent of criminal guilt may involve a deprivation of rights. Arguably, accomplice law, where the accomplice is punished for the acts of another, goes against “our conception of human actions as controlled by choice.” Ultimately, there will always be tension between personal rights and an aggressive fight against trafficking. On this issue, each country – likely after discussing concepts such as sovereignty, and the intersection of sovereignty, jurisdiction, and due process – will have to decide where to draw this line. Given the backdrop of an increasingly borderless world, replete with different laws and legal theories, the issue of defining personal liberty in the context of fighting trafficking is no simple matter.

C. THE RIGHT TO CONFRONT WITNESSES

A very proactive fight against trafficking could include either giving officials more power in criminal investigations or limiting the scope of the procedural right to confront opposing witnesses in court. Regarding the latter, limiting the scope of the right to confront witnesses could allow more cases to be tried. This could result in more defendants potentially being

215 Council of Europe, supra note 8, at 12.
216 SANFORD KADISH, supra note 214, at 589.
convicted in situations where, for example, a witness were not available. However, such a change would come at the expense of the defendant’s procedural rights. Furthermore, such a proactive strategy would require a shift in the current conception of this traditional American safeguard.

**D. LIMITATIONS ON POLICE CONDUCT**

Regarding police power, increasing the breadth of allowable technology used by police for intelligence and surveillance, such as to intercept more communications or to use more intrusive surveillance, could be a powerful tool in the fight against trafficking.\(^{217}\) Such methods are incredibly effective in combating transnational organized crimes because these criminals rely heavily on telecommunications in order to organize complex illicit activities.\(^{218}\) Furthermore, such proactive policing would likely bring more suspects under interrogation, which could bring to light other incriminating evidence that could be helpful in prosecuting more traffickers. However, though technologically feasible, these methods could also be seen “as threats to human rights, democracy, and the rule of law.”\(^{219}\) Ultimately, the question becomes whether people and governments will be willing to sacrifice aspects of these procedural safeguards in order to more proactively fight trafficking.

In many legal realms there is often a compromise, a balancing of policies and values. In answering the question of how far a country can tip the balance in favor of fighting trafficking, it must be recognized that there is a cost to executing the most aggressive fight against trafficking. In the end, the heart of the matter revolves around which values people believe are fundamental to American society and, thus, should remain unchanged. Rapidly approaching is the day when

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\(^{217}\) Council of Europe, *supra* note 8, at 11.

\(^{218}\) *Id.* at 100.

\(^{219}\) *Id.* at 11.
American people may be called upon to answer this pressing question. On that day, Americans will have to decide if they will be willing to re-evaluate, or perhaps re-define, certain American ideals in light of the unique nature of trafficking.

The point of this discussion is not to have people so horrified by trafficking crimes that they are willing to sacrifice the ideals they value most highly. Rather, people should be willing to at least become more knowledgeable about the crime of trafficking and, subsequently, make a personal response that guides their country in making a more formal response. Voters and politicians must become educated about the facts: that virtually every country is affected by trafficking; that many countries have laws against the criminal activities that surround trafficking; that the traffickers are sometimes those in power; that the victims are men and women alike; that some of the victims who are forced to do the most degrading acts imaginable are as young as five; and that traffickers often use incredibly violent tactics to scare, manipulate, and control their victims. Everyone in the world should be aware that the dehumanizing conditions of life under which millions of trafficked victims suffer are offensive to the fundamental ideas of humanity and decency guaranteed to all persons.

Everyone should also understand that protecting human rights is one way of raising the standard of living for all people everywhere, for protection of human rights encourages economic growth.220 Countries that protect human rights “encourage investment [in their citizens] and thereby spur economic growth.”221 Thus, those countries whose economy depends on trafficking and slavery will likely not improve significantly until they decide to invest in the long-term value of each person. Those countries must realize that life is of a higher quality for all citizens when the country realizes that its citizens can, in the future, give back to the country’s society,

221Id.
economy, and culture.\textsuperscript{222} People with rights can meaningfully contribute to society, for example, through work, development of products, and education. This, in turn, improves the lives of everyone.

At least with basic knowledge about trafficking, and an understanding of the potentially incredible benefits of eliminating trafficking, people and governments can have meaningful discussions about the reality of the problem. They can also determine more realistically what sacrifices they might be willing to make in order to reach the goals their country has regarding its fight against human trafficking. With knowledge, people in all professions can begin to at least dialogue about the issue. Only then will creative, viable strategies in the fight against trafficking be found. Some of the important, creative strategies various countries are implementing are discussed in Section Five.

\textbf{Part Four: A Quantitative Analysis of the Trafficking Treaty}

Conclusions that can be drawn from a quantitative analysis of a treaty should not be dispositive, but the conclusions may be useful if used in conjunction with qualitative analysis. The discussion below highlights some conclusions that can be made from a quantitative analysis of the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons. Interwoven into the discussion are comments on how to put the quantitative conclusions in perspective with a qualitative analysis of the UN Treaty.

A quantitative analysis of the UN Convention should include observing what effect signing\textsuperscript{223} the UN Treaty has had on those countries. In order to evaluate the effect of the Treaty

\textsuperscript{222}\textit{See Id.}

\textsuperscript{223}
on signing countries, numerical rankings issued by the US State Department, which regularly reports on human rights conditions in various countries, were used. As part of this report, the US State Department gives each country a tier ranking based on the human rights conditions in that given country. Thus, Figure 1 displays signing countries’ change in ranking from the date the UN Convention and Protocol against Trafficking entered into force in that given country until the present date. Essentially Figure 1 quantitatively depicts whether human rights issues improved, stayed the same, or worsened based on data from the US State Department.

Figure 1. Change in Tier Rankings after entry into force of the Convention and Protocol

223.“Signing” is not defined here by its strict definition. Rather, “signing” is defined broadly here to encompass those ratifying countries that either signed the Treaty or ascended to the Treaty. Because the clear majority signed rather than ascended, “signing” is used here for simplification.
This graph suggests, first, that a majority of countries did not change in rank after the Treaty entered into force in those countries. Second, there is no substantial difference in results when the Convention is used as the impetus for change within the country versus when the Protocol is used as the impetus for change. Third, more countries decreased in ranking than rose in ranking after the UN Treaty entered into force.\textsuperscript{224}

It is important not to draw the conclusion that the data suggests the UN Treaty is ineffective.\textsuperscript{225} Quantitative data is simply useful as one factor among many that aid one’s

\textsuperscript{224}Note: if the country did not have a ranking by the date the Treaty came into force in that country, the ranking first issued by the US State Department after the date the Treaty entered into force was used instead.

\textsuperscript{225} See Hathaway, supra note 220, at 2020 (stating that one must not “jump to conclusions about the worth of human rights treaties based solely on . . . quantitative analysis”). There were also imperfections in the science of this analysis that should be noted, for they have an effect on the quantitative results. First, the tier rankings are made based on a qualitative analysis of the prevalence of human rights abuses in any given country. Thus, the use of these rankings is not perfectly conducive to quantitative analysis. Second, the rankings are based on the state of all human rights abuses occurring in a country, not just trafficking. Thus, there is not a perfect correlation between the ranking and the actual state of trafficking in the country. Third, it is not good science to decide the worth of the UN Treaty only based on one source of data: the US State Department. Finally, the data at most span six years, which is a very short time frame in which to analyze the effectiveness of a treaty. It will likely take many signing countries many years to fully effect positive change in response to signing the Treaty. Thus, the data are not fully reflective to the actual state of trafficking in any given country.
understanding of the condition of trafficking in our world today. In her article, Oona Hathaway offers ideas of other phenomena that could explain the data in Figure 1. The article states the correct premise for fully understanding treaties: that treaties are complex and must be understood on more than one level.

First, treaties can have “expressive” value rather than “instrumental” value for the signing country.\textsuperscript{226} The former term means that a country signs a treaty in order to take a position on the matter and be seen as a proponent of the treaty’s ideals rather than desiring to make actual change within the country (“instrumental” value). Treaties may be signed for expressive value more often when enforcement mechanisms are poor within the country and external pressure to sign is high.\textsuperscript{227} Treaties may also be signed for expressive value when the signing country desires to make a symbolic sign of commitment, or “position taking,” that can be used to placate other interested parties.\textsuperscript{228}

Thus, signing a treaty for expressive value, though arguably less ideal than signing for instrumental value, could explain much of the willingness of a country to sign but not follow through with putting treaty norms into practice. Signing the UN Treaty for expressive value can have benefits: signing can be a model for other countries to follow; signing can be a way of setting the future standard of what is “acceptable international behavior;” signing can be used to gain political leverage to do other good; signing can encourage future change in the ratifying country simply due to its on-going membership in the treaty regime; or signing can be a

\textsuperscript{226} Id. at 2005.
\textsuperscript{227} See Id. at 2013.
\textsuperscript{228} Id. at 2005.
statement of what the country aims to accomplish in the future when the country has more resources.\textsuperscript{229}

The expressive value of signing treaties is a powerful phenomenon operating in the international legal field today. The phenomenon encourages international legal discourse, which moves the whole field forward toward more careful observance of human rights norms. The expressive value of treaties was not measurable in the above quantitative analysis. Thus, the benefits of signing for expressive value must not be overlooked, for “treaties may have broader positive effects not captured [in quantitative analysis].”\textsuperscript{230} Likely, some of the countries that did not rise in rank may still have experienced positive, expressive-value effects after signing the UN Treaty.

Second, Hathaway suggests that treaties are often signed and yet not followed in a country with low human right ratings simply because the country’s reputation is already poor and the country has nothing to lose in signing the treaty.\textsuperscript{231} Such countries would not have signed the UN Treaty for instrumental value, for they would have had no intention of implementing any change in their country as a result of signing. For these countries, signing the treaty costs nothing or very little. It is quite plausible that this phenomenon could actually have occurred in many countries after signing the UN Treaty. This would explain why Figure 1 shows that few countries made any headway, as measured by a rise in rank, in their fight against trafficking after signing the UN Treaty.

\textsuperscript{229} See Id. at 2021-22 (discussing that expressive value of treaties can lead to: more aggressive enforcement by UN Charter-based bodies, which affects all countries, not just those ratifying countries; more international discourse such that the practices of all nations are re-evaluated and potentially modified for good; increased awareness of individual countries as to what constitutes acceptable behavior, which then influences change in international norms; and more long-term, internal change in a ratifying country, simply due to its on-going membership in the treaty regime).
\textsuperscript{230} Id. at 2021.
\textsuperscript{231} Id. at 2013-14.
Hathaway also suggests that non-democratic countries often show less compliance with treaty norms after signing them because those countries “are arguably more likely to have a true normative commitment to the principles embedded in the treaties . . . [and] also [because] democratic governments will likely find it difficult to engage in expressions that are inconsistent with their actions.” This phenomenon could have been at play among the signing countries, and it would partially explain the results of the quantitative analysis.

Finally, creating real change in the human rights situation in a given country, after signing a treaty, takes substantial effort. Putting treaty norms into practice takes sacrifice, money, and resources, which not all signing countries have. Mobilizing forces, legislating laws, training law enforcement, educating potential victims, rehabilitating rescued victims, and coordinating all anti-trafficking efforts, all in order to fight a criminal activity as complex as trafficking, takes time. Also, given that such heroic change takes time, it may be that the data simply do not span enough time to capture correctly each country’s true response to fighting trafficking. After all, the UN Treaty has been in force for less than a decade. Such beginning-stage changes, which are positive, would not be reflected in this quantitative data.

There is, however, one other interesting point of discussion suggested by the data. A quantitative analysis, using the same tier rankings as mentioned above, lends itself nicely to showing a detailed breakdown in how much the signing countries’ rankings actually increased or decreased after signing the UN Treaty. Figure 2 gives this detailed breakdown of Figure 1, showing the different degrees signing countries increased and decreased in rank. Figure 2 only

\[232\] Id. at 2019.

\[233\] See Id. at 2020 (discussing because human rights treaties are only minimally enforced, it is often that case that “there is little incentive for ratifying countries to make the costly changes in actual policy that would be necessary to meet their treaty commitments”).
analyzes the data from countries that changed in rank; Figure 2 does not include the signing countries depicted in Figure 1 that maintained the same rank over the period in question.

The US State Department uses the following tier ranking system (from highest ranking to the lowest): Tier 1, Tier 2, Tier 2 Watch, and Tier 3. Thus, Figure 2 shows all the different ways tier rank actually changed among signing countries, the value or amount of that change, and how many countries changed tier ranking in that specific manner. For example, analyzing the left-most arrow: Figure 2 shows one country increased rank from “Tier 2 Watch” to “Tier 1,” a rise of two tiers ranks (or an increased rank value of two).

**Figure 2. Degree of Rise or Fall in Tier Ranking**

![Image of a diagram showing tier rankings and arrows indicating changes]

When the degree of change in tier ranking is carefully examined, more of the lower-ranked countries rise in ranking than higher-tier countries rise in ranking. Five total countries ranked at Tier 3 and seven total countries ranked at Tier 2 Watch rose in rankings; this is a total of twelve countries increasing from the two lowest-ranked tiers. This is compared to the five

\(^{234}\)Note: “lower-rank country” is defined by the two lower-tier ranks, Tier 2 Watch and Tier 3; “higher-tier country” is defined by the two top-tier ranks, Tier 1 and Tier 2.
countries ranked at Tier 2 that rose in rank. Obviously, countries with more trafficking have more to rectify and change with regard to human rights abuses. However, the data at least suggests that lower-ranked countries may be making an effort to fight trafficking.

Figure 2 also shows that almost every country that decreased in tier ranking fell only one value instead of two or more. Twenty-five countries’ rankings decreased one tier rank or one value. This is compared to the two countries’ rankings that decreased two ranks or two values. A clear majority of countries that have a decreasing rank over the period in question are at least not allowing their rankings to decrease more than one ranking. Arguably, this could suggest signing countries are making some improvement.

The ultimate goal of this analytical study is to gain an understanding of how to increase the number of countries that would be willing to fully comply with the UN Treaty norms. Treaties shape behavior by “creat[ing] legitimate legal obligations . . . [and] . . . by providing nations with a powerful expressive tool.” Understanding how treaties operate both instrumentally and expressively help interested parties more “fully understand observed compliance.” In turn, this understanding aids countries in realizing the potential of the UN Treaty. The more countries that are able to fully implement the UN Treaty’s norms, the more successful the fight is against trafficking. Though the data and qualitative analysis suggest there is more work to be done by signing countries in putting the UN Treaty norms into practice, there is good work in progress already. Signing countries must continue to make good progress in their fight against trafficking, and observing countries must sign the UN Treaty and join the worthy fight.

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235 Id.
236 Id. at 2020.
Part Five: European Solutions & Models

Human trafficking is operating in all areas of the world, and different countries are developing different strategies to fight human trafficking. Part of the solution to eliminating trafficking will likely include learning from other countries, and possibly even emulating the most successful practices of model countries. On May 3, 2005, the Council of Europe’s Committee of Ministers adopted the Council of Europe Convention on Action against Trafficking in Human Beings.\(^{237}\) After receiving its tenth ratification on October 24, 2007, the Convention entered into force on February 1, 2008.\(^{238}\) Similar to the UN Treaty, this Convention was the first treaty of its kind on the subject of trafficking.\(^{239}\) This Convention is open to the European Community, members of the Council of Europe, and non-members of the Council of Europe.\(^{240}\) Approximately twenty-one of forty-seven members of the Council of Europe have signed the Convention, and seventeen of those members have ratified the Convention.\(^{241}\)

Thus, the United States and other countries can and should learn from the exemplary models provided by some of the European countries that have signed or ratified this European Convention against Trafficking. Belgium, France, Finland, Germany, and Italy, as well as the European Community as a whole, are taking commendable actions to fight trafficking. These model countries have made noteworthy attempts to communicate, cooperate, and standardize procedures across country borders; to create various police forces answerable to more than just one country, with some of the forces solely focused on trafficking; to make trafficking a priority legislatively and administratively; to aggressively combat trafficking in court; and to lend aid to


\(^{238}\) Id.

\(^{239}\) Id.

\(^{240}\) Id.

smaller, poorer countries that would not be able to change the state of trafficking in their country by themselves.

Admittedly, much of Europe’s success in its fight against trafficking is based on the fact that, first, the individual European countries are small in size. This makes both practical implementation of anti-trafficking strategies and also vigorous enforcement of Convention norms more feasible. Second, many European countries are unifying under the title of the European Union, and, thus, creating a single, collective structure. This collective organization allows the many individual countries to easily harmonize procedures across borders and communicate between countries. Although the structure of the United States is different, it is still worth studying the European models in order to discover the underlying principles and objectives that European countries have created and implemented in their fight against trafficking.

Cooperation among European countries, as a result of the EU, provides a model example of countries opening communication across borders. Open discourse between countries about how to harmonize laws and how to cooperate in the fight against trafficking is vital. Currently, a majority of countries in the EU participate in the Schengen Agreement, which effectively eliminates systematic border controls between participating states.242 Thus, this Agreement “offers opportunities for co-operation between law-enforcement agencies of neighboring countries.”243

Furthermore, some European countries have opened channels for cross-border information exchange. As mentioned in Part One, the number of ways people, as well as criminals, can communicate is increasing. For those parties involved in fighting trafficking, this means more communications are intercepted. To meet the growing demands and challenges of keeping up

242 Council of Europe, supra note 8, at 164.
243 Id.
with the expanding number of criminal communications, France and Finland have executed “an integrated approach to . . . cross-border exchange of messages in criminal matters.” France’s Central Section for Operational Police Co-operation and Finland’s Telecommunications Centre of the National Bureau of Investigation are staffed by representatives from a variety of agencies and a range of disciplines. “This ensures the appropriate level of expertise needed for an adequate choice of challenges and the correct application of . . . procedures.”

By creating these centers to be the focal point of information accumulation and collection, this place can more advantageously co-ordinate the responses from different departments. Additionally, the fact that there is one main contact point for foreign partners to contact simplifies the information-collection process. In the end, such streamlined, coordinated efforts allow multiple countries to more successfully cooperate with one another in the fight against trafficking. Certainly, countries must learn how to meet this growing influx of information in order to be able to keep up with criminal communications and successfully fight trafficking. Thus, France and Finland provide worthwhile models to know about, if not emulate.

Other institutions or entities have been created in Europe, some solely with the focus of combating crime. The Tampere Council created a permanent body, Eurojust, to aid in police and justice co-operation in criminal matters. Eurojust is composed of representatives of national law enforcement authorities, including magistrates, police officers, and national procurators. Their main jobs are to co-ordinate national law enforcement authorities and support criminal

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244 Id. at 166.
245 Id.
246 Id.
247 Id.
248 Id.
250 Id.
investigations of organized crime.\textsuperscript{251} Eurojust also co-operates with Europol and the European Judicial Network (EJN).\textsuperscript{252} The European Judicial Network (EJN) is an organization working to “fascilitat[e] judicial cooperation between Member States, particularly in action to combat forms of serious crime, by enabling the competent authorities to establish the most appropriate direct contacts and providing the legal and practical information necessary to prepare an effective request for judicial cooperation.”\textsuperscript{253} The goal of Europol, the European Law Enforcement Agency, is to “improve the effectiveness and co-operation of the . . . authorities in the Member States in preventing and combating . . . serious forms of organized crime.”\textsuperscript{254} Europol, thus, supports Eurojust by aiding in analysis and investigation of crime.

Through these entities, law enforcement in different Member States of the EU have the opportunity to cooperate with one another and affect change on a larger scale than just their own country. In sum, all the above entities perform vital functions in the collective fight against trafficking. There is tremendous power when countries connect, integrate, and harmonize their policies and legal procedures. The example of the EU as a collective, organized body is powerful specifically because it demonstrates the increased potential to fight trafficking when countries are systematically integrated, harmonized, and cooperative. Other countries should look to these examples to understand more fully how much countries can accomplish when they unite together.

Belgium is a model of making trafficking a priority in their country. Trafficking will likely not be eliminated until many, or maybe all, countries make trafficking issues of utmost importance in their country. Belgium has elected to organize their police force, as well as

\textsuperscript{251} Id.
\textsuperscript{252} Id.
delegate specific jobs to these officers, in such a way that trafficking is a priority for their Federal Police. The Office of the Belgian Federal Prosecutor was divided into two departments in 2002. One department, The Department for Public Affairs, is dedicated to prosecuting trafficking crimes. This Department has made trafficking a priority by dedicating three prosecutors within this department to deal exclusively with the problem of trafficking in human beings. Belgium has also established a Council of General Public Prosecutors, within which an Expertise Network has been created purposely for “exchanging knowledge and experience in the field of trafficking.” Through this network, all judiciary members become privy to the legislative, judicial, and practical solutions on trafficking.

Beginning May, 2001, Belgium also established a specific Task Force. The Task Force is dedicated to meeting twice a month in the effort to bring together relevant governmental representatives and the Center for Equal Opportunities and Combating Racism. The Task Force’s job is to “draw up guidelines for co-operation between relevant departments and services involved in anti-trafficking measures.” The Task Force, in turn, has set up an Information and Analysis Centre to be a “permanent arrangement to allow all parties and services to exchange in a structured manner depersonalized information on human trafficking.” This information is disseminated, among others, to approximately twenty representatives of institutions involved in fighting human trafficking. Finally, there are six employees dedicated to service in the Unit for Trafficking in Human Beings and Child Pornography, which is one unit within the larger

\[\text{255} \text{Council of Europe, supra note 8, at 227.}\]
\[\text{256} \text{Id.}\]
\[\text{257} \text{Id.}\]
\[\text{258} \text{Id. at 228.}\]
\[\text{259} \text{Id.}\]
\[\text{260} \text{Id.}\]
\[\text{261} \text{Id.}\]
\[\text{262} \text{Id.}\]
\[\text{263} \text{Id.}\]
\[\text{264} \text{Id.}\]
Department.\textsuperscript{265} This Unit, which maintains close contact with the Task Force, “drafts the annual report of the government on trafficking in human beings to the Belgian parliament.”\textsuperscript{266}

Belgium, thus, is a model country in its fight against trafficking. Belgium has allowed the importance of anti-trafficking measures to be thoughtfully developed and implemented within the country. Belgium has effectively endorsed the importance of creating and dedicating a segment of the police force to specifically fight trafficking. Belgium is also a model of other creative strategies: structural integration and connection between governmental and non-governmental parties, both essential to the fight against trafficking; dissemination of pertinent information and communication between these essential parties; and creation of various establishments, centers, and institutions to aid in the fight against trafficking.

Some European countries and courts have taken an aggressive stand against trafficking inside the courtroom. First, regarding confiscation of criminal proceeds, the European community has wrestled with the level of proof required to prove that evidence of accumulated wealth does in fact stem from the proceeds of that particular crime.\textsuperscript{267} Current discussion indicates that the European Court of Human Rights will likely uphold cases that reverse the burden of proof, forcing Defendant to carry the burden in certain confiscation cases.\textsuperscript{268} If the European Court of Human Rights does uphold this legal standard, this would be a powerful stand in the fight against trafficking.

Second, some European countries have pushed the boundaries of how victims can help in the prosecution of traffickers. Offering a victim protection in return for the victim’s speaking out against his traffickers is invaluable in the prosecution of traffickers. Given the complex nature of

\textsuperscript{265}Id.
\textsuperscript{266}Id.
\textsuperscript{267}Id. at 11.
\textsuperscript{268}Id.
trafficking, “[e]fforts to prosecute traffickers require the cooperation of the victims.”

Germany and France protect the victims in return for their aid in prosecuting their traffickers, but they also have created special roles for the victims in court. In Germany, “victims of serious crimes are allowed to act as auxiliary prosecutors with a wide range of procedural rights.”

In France, “representatives of recognized victim support associations [can participate] . . . in criminal trials against pimps.” Because successfully fighting trafficking will require creative solutions, these two countries offer enlightening examples of viable solutions that can be applied during court proceedings.

These above examples of aggressive strategies that can be used in the courtroom during trafficking prosecutions are intriguing and very important. In light of the discussion in Part Three, which raises the highly relevant question of what can be done to be proactive in the fight against trafficking yet not unduly impinge on personal freedoms, it is very important to note that the above strategies have been deemed reasonable, viable, and, more importantly, lawful by either a reputable Court or a developed country. In addition, the United States, in other contexts, allows the defendant to carry the burden of proof on a given matter. This procedure has not in itself been deemed a violation of one’s rights.

The other strategies, including very creative use of knowledge held by trafficked victims or outside support-associations, arguably is less intrusive than other strategies that could be implemented. At least these strategies, which augment the prosecutor’s case, operate within the context of the existing legal context. They do not necessarily curtail any of the defendant’s rights. Hence, these model examples are very relevant to any discussion about creative methods.

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269 See Potts, Jr., supra note 11, at 239-40.
271 Id. at 25.
of proactively fighting trafficking, keeping an appropriate attention to safeguarding personal
rights and freedoms.

Italy serves as a model of reaching out and assisting other, less wealthy countries in the
latters’ fights against trafficking. It is true that all countries, even those that would dedicate
resources to fighting trafficking if they could, do not have all the necessary resources to fight
trafficking crimes. Furthermore, poorer states often have an economy that makes them more
vulnerable to organized crime and trafficking.י It is also true that the world will not be free
from human trafficking until all countries attempt to eliminate trafficking from their country. It is
paramount that there be a united front, consisting of all countries, that stands powerfully against
trafficking. Otherwise, trafficking will continue to flourish in those locations or countries that are
safe havens, where the criminals are not prosecuted nor held accountable. “[T]here is recognition
that all states will have to enact anti-trafficking laws in order to prevent the establishment of
regional or country specific pockets where traffickers can hide and take advantage of a
[country] . . . that has not yet enacted legislation to prosecute trafficking.”י

In acknowledgement of these facts, Italy has committed to making sure that wealthier
countries “look out for” poor counties so that these safe havens are not allowed to exist. At the
signing ceremony of the UN Treaty, the Italian government “devoted annually twenty-five
percent of confiscated assets to the UN to assist other member states in implementation of the
Convention and the related Protocols.”י Through this remarkable gesture, Italy has endorsed
the principle that trafficking “can only be seriously addressed if wealthy states assist poorer
states.”י On this issue, Italy has been willing to focus on the larger picture of fighting

\[\text{Potts, Jr., supra note 8, at 242.}\]
\[\text{Id. at 241.}\]
\[\text{Id. at 241-42.}\]
\[\text{Id. at 242.}\]
trafficking, to look beyond its own sovereignty, and sacrifice for the ultimate goal of eliminating trafficking. The stand is significant and exemplary. Likely, trafficking will not be eliminated unless more countries emulate this behavior.

Conclusion

Successfully fighting trafficking will require a multi-layered, cross-cultural, comprehensive solution that fights the criminal business from many angles. The dialogue about how to fight trafficking will be most effective if it includes persons from all jobs and disciplines, for the solution to fighting trafficking must be creatively comprehensive and systematic. Concurrent with legal and political efforts to unite countries together in a stand against trafficking, the average citizen must become more knowledgeable about trafficking and subsequently push for appropriate legislation. The fight against trafficking requires all humans to unite behind the idea of a world free from trafficking. But the fight also requires that humanity take a stand against the accompanying violence and abuse that is used to control and dehumanize the victims simply in order to gain profit at the victim’s expense. Fighting human trafficking is a challenging call, but it is a mission well worth attempting. When each person is treated with the appropriate dignity and respect, the world will inevitably be a better place.

See generally Guymon, supra note 30, at 55.