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Human Trafficking Law and Resources

By Kincaid C. Brown

The U.S. State Department estimates as many as 27 million men, women, and children are global human trafficking victims at any given time.¹ In 2012, only 46,570 new victims were identified.² Globally, there were only 7,705 prosecutions and 4,746 convictions for human trafficking crimes in 2012.³ In the United States, there were 2,515 suspected incidents of human trafficking investigated between January 2008 and June 2010.⁴ Of these, more than 80 percent of the victims of sex trafficking were U.S. citizens or nationals, and more than 90 percent of the victims of labor trafficking were undocumented or qualified aliens.⁵

International and Federal United States Law

In 2000, the United Nations drafted a protocol criminalizing trafficking in persons. The U.S. ratified the United National Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children⁶ on November 3, 2005. The United States Constitution's Supremacy Clause⁷ mandates that treaties made under the authority of the U.S. are binding law. The UN Protocol recognizes trafficking in persons as including the transportation and harboring of persons; the use of fraud, abduction, and coercion; and the receipt of benefit from the criminal action.⁸ The UN Protocol also emphasizes the criminalization of the exploitation of victims in addition to the movement offenses.⁹

Federal trafficking law is based on the Victims of Trafficking and Violence Protection Act of 2000,¹⁰ which was last amended with the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.¹¹ The trafficking laws have been largely

codified in three main sections of the United States Code:

- Title 18, Chapter 77:¹² Definitions and penalties for trafficking crimes
- Title 22, Chapter 78:¹³ Monitoring, investigating, preventing, and combating trafficking into and within the United States
- Title 46, Chapter 136, Part O:¹⁴ Trafficking prevention in the United States

The 2000 act was the first federal law specifically recognizing trafficking in persons as a crime, adding such offenses as trafficking with respect to peonage, sex trafficking of children by force, trafficking to place individuals into involuntary servitude, or forced labor to the existing slavery crime framework.¹⁵ The 2005 act added trafficking-in-persons offenses committed outside the U.S. by federal contractors,¹⁶ while the 2008 act added fraud in forced labor contracting, benefitting financially from trafficking in persons, and conspiracy to traffic in persons.¹⁷

Michigan Law

In 2006, Michigan established criminal offenses for human trafficking. The legislature established felonies for human trafficking for forced labor, financially benefitting from human trafficking, and enhanced penalties for criminal sexual conduct, kidnapping, and injury or death of the victim.¹⁸ In 2010, Michigan added felonies for providing or obtaining labor by force, fraud, or coercion and trafficking for the purpose of debt bondage or involuntary servitude.¹⁹ That same year, the legislature also added human trafficking to the list of crimes subject to property forfeiture.²⁰

Online Human Trafficking Research Resources

While first briefly touching on free primary federal and state sources for human trafficking law research, this article will focus on additional resources that may be helpful when researching this topic.

State statutory material is available from the Michigan legislature website at <http://www.legislature.mi.gov/>. Researchers can search by compiled laws section number, public act number, or keyword. The Michigan Courts website at <http://courts.mi.gov/Pages/default.aspx> provides access to Michigan Supreme Court and Court of Appeals decisions.

Researchers can find the current U.S. Code on FDsys at <http://www.gpo.gov/fdsys/browse/collectionUScode.action?collectionCode=USCODE> and public laws beginning with the 104th Congress also on FDsys at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=PLAW>. Sixth Circuit Court of Appeals opinions dating from 1999 can be found on the court's website at <http://www.ca6.uscourts.gov/internet/opinions/opinions.php>. Opinions from the United States District Court for the Eastern District of Michigan dating from 2003 are available on FDsys at <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=USCOURTS> while Western District of Michigan opinions can be found in PACER.

Treaty Information

A major free source of multilateral treaties is the United Nations Treaty Collection (<http://treaties.un.org/>). This site includes digitized UN treaty publications and treaties. The text, U.S. reservations, and other information regarding the UN Protocol can

be found at http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=XVIII-12-a&chapter=18&lang=en.

EISIL (Electronic Information System for International Law) also includes full-text treaties organized by topic. The Slavery & Slavery-like Practices topic (http://www.eisil.org/index.php?sid=197689999&t=sub_pages&cat=191) includes the UN Protocol and other related conventions.

The major source for free online U.S. treaty information is the Department of State Treaty Affairs website (<http://www.state.gov/s/l/treaty/>). On this site, you will find treaties in force, information on pending U.S. treaties, and treaty texts and background documents.

Because the Senate is constitutionally required to advise on and consent to all treaties negotiated by the president,²¹ Senate documents are another important source of treaty information. Two good sources of Senate documents, including treaty texts, and other legislative information about U.S. treaties are Thomas (<http://thomas.loc.gov/home/treaties/treaties.html>) and FDsys (<http://www.gpo.gov/fdsys/>).

Additional Sources of Human Trafficking Law and Information

The Human Trafficking Law Project at the University of Michigan Law School launched the Human Trafficking Database (<http://www.law.umich.edu/clinical/HuTrafficCases/Pages/searchdatabase.aspx>) in February 2011. This searchable database compiles data about civil and criminal human trafficking cases within the U.S. It provides information about the cases including the jurisdiction, relevant code sections, citations, and a summary of the facts.

Although not free, PACER (Public Access to Court Electronic Records) (<http://www.pacer.gov/>) and the court docket and documents services in Bloomberg Law, Lexis, and Westlaw are important resources for information about human trafficking cases. Since so many human trafficking cases are settled, pled out, or not appealed, court filings allow researchers to locate case information outside of official court opinions.

The Center for Women Policy Studies provides a state-by-state listing of human

trafficking laws (http://www.centerwomenpolicy.org/programs%5Ctrafficking%5Cmap/default_flash.asp). The list includes links to the full-text acts on the state legislature sites.

The National Human Trafficking Resource Center (<http://www.polarisproject.org/state-map>) includes a map of state laws, a listing of state code sections, and state-by-state statistics about calls to their human trafficking crisis center.

Legislationline.org provides English translations to foreign human rights legislation. The trafficking in humans topic page (<http://legislationline.org/topics/topic/14>) currently covers 47 countries.

NATLEX (http://www.ilo.org/dyn/natlex/natlex_browse.home) is a database maintained by the International Labour Organization that includes national labor and human rights legislation. Researchers can use this database to find information regarding national human trafficking legislation with a focus on trafficking for forced labor.

The United Nations Office on Drugs and Crime started a human trafficking caselaw database (<http://www.unodc.org/cld/index.jsp>). It includes a summary of the cases in English and often includes full-text decisions in the vernacular.

Finally, research guides may also be a good place to start, as they provide background information and possible sources.

Many human trafficking research guides can be found through a Google keyword search. ■

Kincaid C. Brown is the assistant director of the University of Michigan Law Library and chair of the State Bar Committee on Libraries, Legal Research, and Legal Publications.

ENDNOTES

1. U.S. Department of State, *Trafficking in Persons Report* (June 2013), p 7.
2. *Id.* at 46.
3. *Id.*
4. U.S. Department of Justice, *Characteristics of Suspected Human Trafficking Incidents, 2008–2010* (April 2011), p 1.
5. *Id.* at 6.
6. UN GAOR, 55th Sess, UN Doc A/Res/55/25, Annex II (Nov 15, 2000) [hereinafter UN Protocol], available at <http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf> (accessed October 9, 2013).
7. US Const, art VI, cl 2.
8. UN Protocol n 6 *supra* at art 3(a).
9. *Id.*
10. PL 106-386, 114 Stat 1464 *et seq.*
11. PL 110-457, 122 Stat 5044 *et seq.* The 2000 Public Law and its amendments are available at <<http://tinyurl.com/lfd3vyk>> (accessed October 9, 2013).
12. 18 USC 1581 *et seq.*
13. 22 USC 7101 *et seq.*
14. 42 USC 14044 *et seq.*
15. See 22 USC 7101.
16. See 22 USC 7104.
17. See 42 USC 14044.
18. MCL 750.462a *et seq.*
19. MCL 750.462j.
20. MCL 600.4701(a)(vii)(B).
21. US Const, art II, § 2.