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ARTICLE

THE CRIME NEXT DOOR AN EXAMINATION OF THE SEX TRAFFICKING EPIDEMIC IN THE UNITED STATES AND HOW MARYLAND IS ADDRESSING THE PROBLEM

By: Amanda Walker-Rodriguez*

I. INTRODUCTION

*I definitely can't say that I won't be there again until I figure what it is that's wrong with me.*¹

These are the words of a man convicted of buying sex from a prostitute in San Francisco, California. This man entered a program known as the First Offender Prostitution Program, a requirement in taking a plea bargain for cases involving the purchase of commercial sex acts.² Several other programs have sprung up across the United States.³ The purpose of these programs is to address a mentality that a sexual act against a prostitute is a *victimless crime*.⁴ Although the ages, occupations, and race of these sex-offenders vary greatly, the mentality seems to be universal among them. This mentality has led to statutes and agendas that are ill-equipped to address the underlying issue: that the supply and demand for prostitution results in the trafficking of humans for the purpose of sex.⁵

In fact, sex-trafficking creates victims from every country. Every year more than 700,000 men, women, and children are trafficked throughout the world for the purpose of being sold as prostitutes.⁶ More than 50,000

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¹ Donna Hughes, *Best Practices to Address the Demand Side of Sex Trafficking*, Women Studies Program, University of Rhode Island (Aug. 2004) (quoting Bob Edwards, *First-Offender Prostitution Program Finishes First Year*, NPR (Apr. 4, 1996), transcript available at <http://www.bayswan.org/nprdebate.html>).

² *Id.* Commercial sex acts are "any transaction involving the exchange of money for sex."

³ MICHAEL SHIVELY ET AL., FINAL REPORT ON THE EVALUATION OF THE FIRST OFFENDER PROSTITUTION PROGRAM 95-105 (2008), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/>.

⁴ *Id.* at 34.

⁵ Trafficking for the purpose of sex includes sex-trafficking, prostitution, and human trafficking.

⁶ 22 U.S.C. § 7101 (2006).

of those are trafficked into the United States each year.⁷ Sex-trafficking often begins with a woman or child either being bought from his or her family or promised legitimate employment. The victim is then kept in despicable conditions and forced to perform commercial sex acts through threats of violence or death. Economically speaking, sex-trafficking can be the most lucrative of all trafficking in the black market. Basic economics defines a market as driven by supply and demand. The same principles apply to sex-trafficking, which is fed by the supply and demand for commercial sex.

Mockingly called the world's oldest profession, numerous schools of thought have emerged on the legalization of prostitution.⁸ One school identifies prostitutes as the victims and the men that purchase such services their perpetrators. This approach is laden with feminist overtones and suggests that prostitution is a way of oppressing women.⁹ Another school of thought posits that impoverished societies create prostitutes, and the discrepancies between the rich and poor force females into this profession.¹⁰ This view glorifies prostitution as a mode for the woman to become self-supporting and seems to be a common mentality in countries that have legalized prostitution.

In 2007, Maryland addressed the sex-trafficking problem with a set of statutes included under the prostitution section of the Maryland Criminal Code. The laws range from misdemeanors for acts involving adults to felonies for crimes involving minor victims. More recently, in 2009, additional bills were introduced in the Maryland General Assembly that were voted on during the 2010 session; some of which were subsequently signed into law.¹¹ Although the bills directly concern human trafficking, they importantly acknowledge the correlation between drug trafficking and human trafficking. Only time will tell if the bills curb the growth of sex-trafficking in Maryland, and perhaps allow Maryland to serve as an example of how to combat this nationwide epidemic.

⁷ *Id.*

⁸ SHIVELY, *supra* note 3, at 2-3.

⁹ DEPARTMENT FOR GLOBAL DEVELOPMENT (SWED.), POVERTY AND TRAFFICKING IN HUMAN BEINGS: A STRATEGY FOR COMBATING TRAFFICKING IN HUMAN BEINGS THROUGH SWEDISH INTERNATIONAL DEVELOPMENT COOPERATION 30 (Stuart Shield trans., 2003), available at <http://www.sweden.gov.se/content/1/c6/02/02/62/3819f9a2.pdf> (last visited Jan. 8, 2011) (“[M]ost human trafficking is for the purpose of sexual exploitation, and a key factor in the proliferation of this activity is the lack of gender equality.”).

¹⁰ See Martti Lehti & Kauko Aromaa, *Trafficking for Sexual Exploitation*, 34 CRIME & JUST. 133, 138 (2006) (“The current growth in migratory prostitution and related trafficking is also connected with rapidly increasing economic and social inequalities between industrialized and third-world countries.”).

¹¹ See S.B. 261, 2010 Leg., 427th Sess. (Md. 2010); S.B. 463, 2010 Leg., 427th Sess. (Md. 2010); H.B. 283, 2008 Leg., 425th Sess. (Md. 2008); H.B. 514, 2008 Leg., 425th Sess. (Md. 2008).

II. HISTORY OF SEX-TRAFFICKING

Sex-trafficking can be attributed to multiple historical factors, all of which are connected to prostitution. The “first prostitution” was considered a sacred function of the ancient Sumerians. Sumerian religious practices mandated that every woman, once in their lives, had to reach the sanctuary of Mylitta, a god similar to the Roman Aphrodite, and have sex with a foreigner as a sign of hospitality for a symbolic price.¹² Furthermore, prostitution was heavily practiced in biblical times; for example, King Solomon kept thousands of concubines that he purchased from their families to work in his harems.¹³

Modern prostitution originated during the Victorian era with the onset of industrialization in Europe and the United States.¹⁴ In the United States, prostitution was widely legal due to the lack of policy against prostitution in the European nations upon the colonization of the Americas.¹⁵ Between 1910 and 1915, the Woman’s Christian Temperance Union, also famous for leading the alcohol prohibition movement, successfully lobbied most states to make prostitution illegal, but they were not able to pass any federal law.¹⁶

The first wave of migrant prostitution occurred after the colony was ended around the 1840s.¹⁷ A relatively open colony immigration policy allowed for easy travel for workers, including prostitutes. Sex-trafficking became associated with these migrant prostitutes. International disdain culminated in the 1904 Paris Conference and Convention, which argued against what was known as the white slave trade.¹⁸ A second convention in 1910 criminalized the exploitation of minors for prostitution and allowed for the punishment of a person who “procured, enticed, or led away a woman or girl over age, for immoral purposes.”¹⁹ A large hole in the policy remained as it did not allow for any regulation of brothels.

In 1913, a Spanish coalition established eight primary focuses, including the abolition of licensed brothels, the creation of programs for

¹² Gerda Lerner, *The Origin of Prostitution in Ancient Mesopotamia*, 11 Signs 236, 243 (Winter 1986).

¹³ “He had seven hundred wives of royal birth and three hundred concubines, and his wives led him astray.” 1 Kings 11:3 (New Int’l Version), available at <http://www.biblegateway.com/passage/?search=1+Kings+11%3A3&version=NIV> (last visited Feb. 2, 2011).

¹⁴ Iris Leos Hickenbottom, *Prostitution Then and Now, Women’s Issues Then and Now: A Feminist Overview of the Past 2 Centuries*, http://www.cwrl.utexas.edu/~ulrich/femhist/sex_work.shtml (last updated May 18, 2002).

¹⁵ See Lehti & Aromaa, *supra* note 10, at 134.

¹⁶ RUTH ROSEN, *THE LOST SISTERHOOD: PROSTITUTION IN AMERICA, 1900-1918*, 12-19 (Johns Hopkins Univ. Press 1982).

¹⁷ Lehti & Aromaa, *supra* note 10, at 136.

¹⁸ *Id.* at 165-66.

¹⁹ *Id.* at 166-67.

assisted repatriation and rehabilitation of victims, and the ability of employment agencies to offer jobs abroad.²⁰ These focuses were later integrated into the Convention of 1921.²¹ After the dissolution of the League of Nations and the creation of the United Nations, the United Nations integrated the aforementioned conventions into its policies.²²

During and after World War II, the United States experienced a major flux in immigration after entering the world stage as an influential power.²³ In response, the United States developed stringent immigration laws, which, among other things, emphasized maintaining family unity.²⁴ In 1945, Congress passed the *War Brides Act*.²⁵ From 1941 to 1950, 1,035,000 people immigrated to the United States. Over 400,000 of the immigrants were Europeans, immigrating under the *Displaced Persons Act of 1948*.²⁶ The *Act* granted amnesty to Western Europeans displaced as a result of the war.²⁷ To counteract the huge influx of immigrants, the United States passed the *McCarran-Walter Immigration Act* to lower the yearly immigration quota to 175,455, one-sixth of one percent of the United States population in 1920. People who originated from Western Europe were favored within the quota.²⁸

During that era, national origin was of particular importance. For example, in 1954, Operation Wetback expelled thousands of Mexican nationals from the United States, but little was done about the large influx of Europeans.²⁹ In 1965, the United States' focus on national origin reverted back to family unity with the *Hart-Celler Act*.³⁰ This Act allowed for "chain migration," which permitted parents, children, and

²⁰ *Id.* at 167-68.

²¹ *Id.*

²² *Id.* at 169.

²³ Raymond L. Cohn, *Immigration to the United States*, EH.NET, <http://eh.net/encyclopedia/article/cohn.immigration.us> (last updated Feb. 1, 2010).

²⁴ See generally *infra* notes 26, 27.

²⁵ Pub. L. No. 79-271, 59 Stat. 658 (1945) The War Brides Act allowed for foreign-born wives and eventually fiancés of United States servicemen to easily immigrate to the United States. See U.S. Immigration and Naturalization Service, *Populating a Nation: A History of Immigration and Naturalization*, http://www.cbp.gov/xp/cgov/about/history/legacy/ins_history.xml (last visited Feb. 2, 2011).

²⁶ Pub. L. No. 80-774, 62 Stat. 1009 (1948).

²⁷ *Id.*

²⁸ See Aristide Zolberg, *Rethinking the Last 200 Years of US Immigration Policy*, June 2006, <http://www.migrationinformation.org/usfocus/display.cfm?ID=401>.

²⁹ See Fred L. Koestler, *Operation Wetback*, <http://www.tshaonline.org/handbook/online/articles/00/pq01.html> (last visited Feb. 2, 2011).

³⁰ Pub. L. No. 89-236, 79 Stat. 911 (1965); see also *Three Decades of Mass Immigration: The Legacy of the 1965 Immigration Act*, CENTER FOR IMMIGRATION STUDIES, Sept. 1995, <http://www.cis.org/articles/1995/back395.html>.

siblings of legal immigrants to also immigrate to the United States.³¹ This refocus on family unity caused issues for employers that hoped to attract skilled foreign workers. Edward Kennedy, the chairman of the Senate Subcommittee on Immigration at the time, spoke on the philosophy behind the statute by stating that “the bill will not flood our cities with immigrants.” Furthermore, he said the statute would “not upset the ethnic mix of our society . . . [and] it will not cause American workers to lose their jobs.”³² Very few avenues of employment immigration and “non-immigration”³³ existed, and as a result, the United States saw an influx of illegal immigrants.³⁴

To address this issue, the United States enacted the *Immigration Reform and Control Act* of 1986,³⁵ which created penalties for employers who knowingly hired illegal immigrants.³⁶ Additionally, the Act granted amnesty to millions of migrants who were already living and working in the United States.³⁷ Although the penalties were rarely enforced against employers, the threat remained enough to deter wanton disregard for the law.³⁸ After passage of the *Illegal Immigration Reform and Immigration Responsibility Act* in 1996,³⁹ individuals found to be working without legal authorization were vigorously prosecuted.⁴⁰ The 1996 Act imposes deportation on any individual found to be in violation of their non-immigrant status, which includes working without authorization.⁴¹ Since

³¹ See James Edwards, Jr., *Two Sides of the Same Coin: The Connection Between Legal and Illegal Immigration*, CENTER FOR IMMIGRATION STUDIES, Feb. 2006, <http://www.cis.org/node/263>.

³² *Three Decades of Mass Immigration*, *supra* note 39.

³³ Non-immigration refers to a visa that is obtained with the intention of remaining in the United States for a short period of time for a specific purpose without changing residency. U.S. Dept. of State, Temporary Visitors to the U.S., http://travel.state.gov/visa/temp/temp_1305.html (last visited Feb. 2, 2011).

³⁴ See Edwards, *supra* note 40.

³⁵ Pub. L. No. 99-603, 100 Stat. 3359 (1986) (codified as amended at 8 U.S.C. § 1324 (2006)).

³⁶ 8 U.S.C. § 1324a (2006).

³⁷ 8 U.S.C. § 1255a (2006); see also Betsy Cooper & Kevin O’Neill, *Lessons from the Immigration Reform and Control Act of 1986*, MIGRATION POL’Y INST., Aug. 2005 at 1, 3, available at http://www.migrationpolicy.org/pubs/PolicyBrief_No3_Aug05.pdf (stating that approximately 2.7 million people received amnesty as a result of the Immigration Reform and Control Act).

³⁸ David Z. Izakowitz & C. Simon Davidson, *Implementing an Effective Workplace Immigration Compliance Program*, in NEW DEVELOPMENTS IN IMMIGRATION ENFORCEMENT AND COMPLIANCE: LEADING LAWYERS ON ANALYZING RECENT ENFORCEMENT TRENDS, COLLABORATING WITH GOVERNMENT AGENCIES, AND DEVELOPING COMPLIANCE PROGRAMS 131, 132-33 (Aspatore Books 2010).

³⁹ Pub. L. No. 104-208, 110 Stat. 3009 (1996).

⁴⁰ Izakowitz & Davidson, *supra* note 47 at 132.

⁴¹ John F. Gossart, Jr., *Lady Liberty Blows Out Her Torch: New Immigration Law is Unforgiving and Far More Restrictive*, 27 U. Balt. L.F. 25, 25 (1997) (stating that those who

the passage of the Act, the United States has deported more than one million individuals.⁴²

Prostitution's illegality does not deter hundreds of thousands of people in the United States from engaging the act. The high demand for the services of those in the profession and the profession's illegality has led to the establishment of a black market good for organized crime rings. To meet the needs of clients and to ensure the ease of procuring services, organized crime rings have resorted to what is known as sex-trafficking.

The strict enforcement and deportation of violators created an optimal market for a black market commodity.⁴³ Organized crime rings created resourceful and often risky means to accommodate the dramatic increase in people seeking to illegally enter the United States.⁴⁴ The would-be immigrants' desperation made them prime candidates to be exploited through sex-trafficking.⁴⁵ The strong demand for prostitution in the United States, in conjunction with the large supply of individuals seeking to enter the country but unable to do so legally, made sex-trafficking extremely lucrative for crime ring organizers.⁴⁶

The 20th century saw a proliferation of sex-trafficking. During World War II, soldiers often sought prostitutes.⁴⁷ In Japan, for example, the Japanese military employed "comfort women."⁴⁸ Later, in 1967, Thailand and the United States signed the "Rest and Recreation" agreement, which allowed United States servicemen the use of the "services" of Thailand.⁴⁹ This type of behavior extended into the late 20th century with the deployment of United Nations peacekeepers to Thailand, countries in Africa, and elsewhere across the globe. To meet the demand, prostitution rings grew everywhere peacekeepers were stationed.⁵⁰

enter the United States illegally will likely be deported regardless of their tenure in the United States or contributions to the workforce).

⁴² CONG. BUDGET OFFICE, THE CONG. OF THE U.S., IMMIGRATION POLICY IN THE U.S. 15 (2006), available at <http://www.cbo.gov/ftpdocs/70xx/doc7051/02-28-Immigration.pdf> (last visited Feb. 2, 2011).

⁴³ Salvador A. Cicero-Domínguez, *Assessing the U.S.-Mexico Fight Against Human Trafficking and Smuggling: Unintended Results of U.S. Immigration Policy*, 4 NW. U.J. INT'L HUM. RTS., 303, 317-18 (2005).

⁴⁴ *Id.* at 318.

⁴⁵ *Id.* at 304-05.

⁴⁶ *Id.* at 322.

⁴⁷ Tara Hartsough, *Asylum for Trafficked Women: Escape Strategies Beyond the T Visa*, 13 HASTINGS WOMEN'S L.J. 77, 79-80 (2002).

⁴⁸ *Id.* at 79.

⁴⁹ Sara K. Andrews, *U.S. Domestic Prosecution of the American International Sex Tourist: Efforts to Protect Children from Sexual Exploitation*, 94 J. CRIM. L. & CRIMINOLOGY 415, 429 (2004).

⁵⁰ Michael Fleshman, *Tough UN Line on Peacekeeper Abuses*, AFR. RENEWAL (2005), available at <http://www.un.org/ecosocdev/geninfo/afrec/vol19no1/191peacekeep.htm> (last visited Feb. 2, 2011).

Today, almost anywhere servicemen are stationed “one will typically find a ‘red-light’ district filled with illegal sex workers.”⁵¹ The exposure to women from poorer countries to the western world, and the demand for exotic women in the United States, greatly increased the number of trafficked persons in the United States.⁵²

In 2000, western countries made the first concerted effort to cease illegal immigration for the purpose of human trafficking, and the United Nations ratified the *Convention against Transnational Organized Crime and a Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* (“CTOC”).⁵³ In contrast to the previous conventions, CTOC was intended to fight the proliferation of organized crime sex-trafficking.⁵⁴ Additionally, the CTOC did not attempt to regulate all prostitution, just the commercial sex acts that occur as a result of sex-trafficking.⁵⁵ Furthermore, this protocol dealt with the “trafficking in persons,” an international legal principle that does not allow a trafficker to present the consent of the trafficked person as a defense for the trafficker.⁵⁶ The clear set of definitions created a standard by which nations, like the United States, were able to develop their own policies.

Human-trafficking was first widely reported in the United States after an article in *The New York Times* that recounted the story of sixty-two deaf Mexican nationals being held captive in a New York City sweat shop.⁵⁷ Most United States citizens were startled to learn of the forced labor that these people endured, including eighteen hour shifts selling trinkets on the city’s subway system. Stories that seemed unique to third-world countries existed right next door. As similar stories began to emerge, tales of sex-trafficking also began to surface.⁵⁸

One of the most disturbing incidents was a four-part series printed by the *San Francisco Gazette*, recounting the story of a South Korean girl

⁵¹ Hanh Diep, *We Pay – The Economic Manipulation of International and Domestic Laws to Sustain Sex Trafficking*, 2 LOY U. CHI. INT’L L. REV. 309, 315 (2005).

⁵² See Hughes, *supra* note 1, at 8.

⁵³ United Nations Convention against Transnational Organized Crime and the Protocols Thereto, G.A. Res. 55/25, ¶ 1, U.N. Doc. A/RES/55/25 (2000), available at <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf> (last visited Jan. 8, 2011).

⁵⁴ *Id.* at 5.

⁵⁵ See *id.* at 42.

⁵⁶ *Id.* at 43.

⁵⁷ Deborah Sontag, *Dozens of Deaf Immigrants Discovered in Forced Labor*, N.Y. TIMES, July 20, 1997, § 1, at 1.

⁵⁸ See Howard French, *The Ritual Slaves of Ghana: Young and Female*, N.Y. TIMES, Jan. 20, 1997, at A1 (describing the sale of young girls by their families into numerous forms of slavery, including sex slavery).

tricked into sex-trafficking after running up \$30,000 in credit card debt.⁵⁹ The story revealed that the girl was forced to service as many as fourteen men in one day, leaving her in great pain and in fear for her life.⁶⁰ She referred to the hidden sex markets in the United States, specifically in Los Angeles and San Francisco, as much more frightening than those of South Korea, which operate more openly.⁶¹ The “behind closed doors” policy, according to the young girl, trapped the victim in a vicious cycle.⁶² She recounted an arrest in which she told police officers of her captivity.⁶³ Her candor landed her a night in prison, and her bail money added to the debt she owed her captors.⁶⁴ As similar stories surfaced, the call for action became deafening.⁶⁵

Congress passed legislation to combat sex-trafficking in 2005 by passing the *Trafficking Victims Protection Act* (“TVPA”).⁶⁶ The TVPA was not the first admission by the United States government that there was a problem. Trafficking legislation had been introduced in Congress as early as 1999.⁶⁷ The issue came to the forefront after the tragedy of September 11, 2001, when United States’ citizens and government became increasingly wary of illegal foreigners entering the country.

Legislation can play an important role in fighting sex-trafficking – both nationally and internationally. Due to the global nature of the problem, a consensus between nations is necessary; otherwise, any national laws would be without profit. There is no formula for combating this heinous offense, which is often perpetrated against helpless victims,

⁵⁹ Meredith May & Deanne Fitzmaurice, *A Youthful Mistake: You Mi was a typical college student, until her first credit card got her into trouble*, S.F. CHRON., Oct. 8, 2006, at A6, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/10/08/MNGAULL53D1.DTL>.

⁶⁰ Meredith May & Deanne Fitzmaurice, *You Mi is put into debt bondage – life becomes an endless cycle of sex with strangers*, S.F. CHRON., Oct. 9, 2006, at A4, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/10/09/MNGM5K215270.DTL>.

⁶¹ Meredith May & Deanne Fitzmaurice, *You Mi begins to put her life back together – but the cost is high*, S.F. CHRON., Oct. 10, 2006, at A6, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/10/10/MNGN9LFHRO1.DTL>; Meredith May & Deanne Fitzmaurice, *A Youthful Mistake: You Mi was a typical college student, until her first credit card got her into trouble*, S.F. Chron., Oct. 8, 2006, at A6, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/10/08/MNGAULL53D1.DTL>.

⁶² May & Fitzmaurice, *supra* notes 68-70.

⁶³ May & Fitzmaurice, *supra* notes 68-70.

⁶⁴ May & Fitzmaurice, *supra* notes 68-70.

⁶⁵ See, e.g., U.S. Embassy to the Holy See 20th Anniversary Conference, A Call to Action: Joining the Fight Against Trafficking in Persons, June 17, 2004, available at <http://vatican.usembassy.gov/policy/topics/trafficking/trafficking.pdf>.

⁶⁶ Pub. L. No. 109-164, 119 Stat. 3559 (2006) (codified as amended at 22 U.S.C. §§ 7101-7112 (2006)).

⁶⁷ William Branigin, *A Different Kind of Trade War*, WASH. POST, Mar. 20, 1999, at A27; Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1466 (2000) (codified as amended at 22 U.S.C. § 7104 (2006)).

but each country must face the problem and communicate with other countries to develop an international standard.

III. CURRENT LEGISLATION IN THE UNITED STATES

The United States has attempted to curtail the sex-trafficking epidemic through numerous methods, including enacting statutes specifically focused on human trafficking.⁶⁸ Unfortunately, these policies have done little to rectify the problem. Although international action is necessary to combat sex-trafficking, one of the largest issues with current law in the United States is that it does not deter either the supply or demand of sex-trafficking.⁶⁹ Rather, the current laws merely attempt to deal with trafficked victims after law enforcement officials have discovered the crime and have taken action.⁷⁰ The lack of preemptive action leaves a wide gap in policy.

Statutes that directly and indirectly influence human trafficking fall into three categories – immigration policy, assistance to victims of trafficking, and prosecution against trafficking organizers. Immigration policy refers to the rules that apply to all those attempting to immigrate to the United States. As discussed above, these laws were developed during the 1960s after a large influx of immigrants during and after World War II.⁷¹ Although Congress has passed multiple bills in an attempt to pacify the influx of illegal immigrants, the bulk of these laws remain unchanged.

Lately, immigration has been a hotbed of issues, but lawmakers largely continue to ignore the problems. In the summer of 2006, immigrants, both legal and illegal, protested in Washington, D.C., challenging Congress to acknowledge contributions immigrants make to the United States economy.⁷² Nevertheless, immigration policy remains intact and outdated.

The status of the immigration laws encourage hundreds of thousands of foreign-nationals to enter the United States illegally each year. The disproportionate family to employment allowances creates disharmony between the supply and demand of available visas.⁷³ For individuals seeking to better their lives through employment in the United States, the availability of a legal means to move to and work in the United States is

⁶⁸ 22 U.S.C. §§ 7101-7112 (2006).

⁶⁹ *Id.*

⁷⁰ *See, e.g., id.* § 7107 (2006).

⁷¹ *See supra* text accompanying notes 23-35.

⁷² Karin Brulliard & Darryl Fears, *Rally May Gauge Future of Immigration Movement*, WASH. POST, Sept. 7, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/09/06/AR2006090601790.html>.

⁷³ *See* Steven Malagna, *How Unskilled Immigrants Hurt Our Economy*, CITY JOURNAL, Summer 2006, available at <http://www.city-journal.org/printable.php?id=2038>.

extremely limited.⁷⁴ Individuals with low job skills and little education pose the most prevalent problem. Visas for unskilled employment are virtually unattainable, making illegal immigration inevitable.⁷⁵ People who feel that the only way to ensure their financial survival is to migrate to the United States will risk everything, including their lives, to do so.

Another recent policy issue emerged during the Bush administration. The “guest worker program” would allow Mexican and Canadian citizens to enter the United States for work, in hopes of deterring the same people from illegally migrating to the United States.⁷⁶ This bill was one of the few liberal-leaning bills to originate from the conservative administration. Even still, Congress rejected the bill.⁷⁷

In 2000, the United States passed the *Trafficking Persons Protect Act* (“TPPA”), which directly addressed sex-trafficking.⁷⁸ The definitions section of the TPPA solidifies the United States’ stand on sex-trafficking and prostitution.⁷⁹ Although the statute does not separate sex-trafficking from any other type of trafficking (i.e., trafficking for labor), it establishes that “severe” human trafficking requires the performance of “commercial sex acts.”⁸⁰ To differentiate between prostitution and sex-trafficking, the TPPA requires that the victim has been “induced by force, fraud or coercion” or be under eighteen years of age.⁸¹ This places at issue whether there was consent to perform commercial sex acts.

Rather than focusing on sex-trafficking as the means of the supply of prostitutes, the language of the TPPA demonstrates that the United States continues to refuse to address the real problem behind sex-trafficking. The crisis derives from the supply and demand for prostitution. *Severe* trafficking should not be defined by the act that brought the victim into this country; instead, it should focus on the intent behind the recruitment of the victim and the acts the victim is forced to perform. The definition of *severe* human trafficking is important because the victim must meet all

⁷⁴ See *id.*

⁷⁵ See *id.*; see also Andres Oppenheimer, *Why Don't They Come Legally? They Can't*, MIAMI HERALD, Apr. 29, 2010, available at <http://www.miamiherald.com/2010/04/29/1603473/why-dont-they-come-legally-they.html> (stating that “the current U.S. immigration system allows for only 5,000 permanent visas” for low skilled workers).

⁷⁶ George W. Bush, U.S. President, Remarks by the President on Immigration Policy: President Bush Proposes New Temporary Worker Program, Jan. 7, 2004, transcript available at <http://georgewbush-whitehouse.archives.gov/news/releases/2004/01/20040107-3.html>.

⁷⁷ See US Immigration Support, *Immigration Reform*, <http://www.usimmigrationsupport.org/immigration-reform.html> (last visited Jan. 8, 2011); see also Charles Babington, *Senate Blocks Immigration Bill*, ASSOCIATED PRESS, June 28, 2007, available at <http://www.breitbart.com/article.php?id=D8Q1UNF00>.

⁷⁸ 22 U.S.C. § 7101(b)(2) (2006).

⁷⁹ *Id.* at § 7101(b)(14)-(15).

⁸⁰ 22 U.S.C. § 7102(8)(A) (2008).

⁸¹ *Id.*

elements under this definition to receive any aid from the United States.⁸² Such aid includes benefits under federal and state programs, and possibly a visa that could lead to permanent residency.⁸³

This scheme fails for a number of reasons. First, it creates an imbalance between types of trafficked persons, which further perpetuates avenues for traffickers to bring victims into the United States. Second, the scheme creates an opportunity for those willing to enter the United States by any means necessary and who often do so with no marketable skills to gain permanent residency. Additionally, requiring victims to prove the severest form of sex trafficking will impede judicial efficiency, while overlooking victims who are truly in need of help.

The act also fails to properly address the need to more harshly punish those caught promoting sex-trafficking, including both the trafficker and the purchaser.⁸⁴ Although the United States took a step toward thwarting sex-trafficking by passing the TPPA, much remains to be done to prevent this crime from further infiltrating the United States.

The United States integrates the definition of severe sex-trafficking into its elements for the criminal act of human trafficking, but it also recognizes a lesser crime that targets the recruitment, enticement, harboring, transportation, or providing of a person who will be caused to engage in commercial sex acts.⁸⁵ Thus, through this statute, the United States attempts to sweep all levels of sex-trafficking rings. However, the statute fails in the same manner that most statutes addressing organized crime fail – it under-punishes the lesser crimes, thereby establishing a criminal hierarchy. This hierarchy focuses on the force, fraud, and coercion set forth in the severe human trafficking definition. Therefore, those caught in the middle of the hierarchy serve light sentences or no sentences at all, just so that law enforcement can catch those involved in the force, fraud, or coercion elements of the crime.⁸⁶ Unfortunately,

⁸² 22 U.S.C. § 7105(b)(1)(A) (2008).

⁸³ “That a person referred to in subparagraph (c)(ii)(II) –

- a. Is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and
- b. Has made a bona fide application for a visa under section 1101(a)(15)(T) of Title 8, as added by subsection (e) of this section, that has not been denied; or
- c. Is a person whose continued presence in the United States the Attorney General and the Secretary of Homeland Security is ensuring in order to effectuate prosecution of traffickers in persons.”

Id. § 7105(b)(1)(E).

⁸⁴ The punishment for sex trafficking, “(1) if the offense was effected by force, fraud, or coercion...by a fine under this title and imprisonment for any term of years not less than 15 or for life or (2) if the offense was not so effected...by a fine under this title and imprisonment for not less than 10 years or for life.” 18 U.S.C. § 1591(b) (2006).

⁸⁵ *Id.*

⁸⁶ *See* 18 U.S.C. § 1591(b) (2006).

criminals with direct connections to the force, fraud, and coercion elements often usually conduct their nefarious business in a country with relatively weak laws regarding human trafficking.⁸⁷ These countries harbor such criminals in part because of corrupt officials and the great financial boost their economies derive from human trafficking for the purpose of sex.⁸⁸

Purchasers of commercial sex acts in the United States are rarely prosecuted. According to statistics, once arrested the purchaser is rarely caught again.⁸⁹ Studies accept that this is a result of the leniency of the prosecution system, not because the crime is being committed less frequently.⁹⁰ Currently, purchasing commercial sex acts is prosecuted in the United States on the state level.⁹¹

Several states have taken steps beyond making prostitution illegal and have criminalized the purchase of commercial sex acts.⁹² Under the California Penal Code, procuring a person for prostitution is punishable by three to six years imprisonment.⁹³ "Pimping," while punishable for the same amount of time,⁹⁴ has a similar definition to that of offenders under the United States' TPPA.⁹⁵ The California law prosecutes offenders for promising or threatening violence and scheming, causing, inducing, persuading, or encouraging someone to become a prostitute.⁹⁶ California's statutes criminalize almost every other act used to entice or solicit prostitution.⁹⁷ Surprisingly, the act of selling oneself into a commercial sex act is not punishable under California law, although there is a law against living in a house of ill-repute, which is a misdemeanor.⁹⁸

Unfortunately, few states have followed suit. As such, the United States continues to ignore the link between the supply and demand of

⁸⁷ See Richard Poulin, *Globalization and the Sex Trade: Trafficking and the Commodification of Women and Children*, SISYPHE, Feb. 12, 2004, http://sisyphe.org/article.php3?id_article=965.

⁸⁸ *Id.*

⁸⁹ Hughes, *supra* note 1, at 40.

⁹⁰ *Id.* at 40-41.

⁹¹ See, e.g., MD. CODE ANN., CRIM. LAW § 11-303 (LexisNexis 2002). Legalized prostitution in Nevada has created a hotbed for human trafficking for the purpose of sex. Sam Skolnik, *Do We Have a Human Trafficking Problem?*, LAS VEGAS SUN, Jan. 29, 2007, available at <http://www.lasvegassun.com/news/2007/jan/29/do-we-have-a-human-trafficking-problem/>.

⁹² See, e.g., 720 ILL. COMP. STAT. 5/11-15 (2010); N.Y. PENAL LAW § 100.00 (McKinney 2009); CAL. PENAL CODE §§ 266e, 647(b) (West 2008).

⁹³ CAL. PENAL CODE § 266i (West 2006).

⁹⁴ CAL. PENAL CODE § 266h (West 2008).

⁹⁵ See 22 U.S.C. § 7102(9) (2010).

⁹⁶ See CAL. PENAL CODE § 266i(a)(2) (West 2008).

⁹⁷ See CAL. PENAL CODE §§ 266i & 266e (West 2008).

⁹⁸ See CAL. PENAL CODE §§ 266i(a)(3) & 309 (West 2008).

prostitution and human trafficking. Through the passage of the TPPA,⁹⁹ the United States has attempted to regulate the prosecution of the organizers of trafficking rings, but the country still ignores the supply and demand for prostitution. To date, the statute is ineffective. An examination of the supply and demand reveals that the United States must create laws based on these factors to have any positive effect in the fight against sex-trafficking and to reduce the supply and demand of commercial sexual acts.

IV. CURRENT LEGISLATION IN MARYLAND

Maryland attempted to address the growing concern on human trafficking during the 2006 legislative session.¹⁰⁰ Several new statutes were adopted into the Maryland Code in 2007, specifically dealing with “pandering.”¹⁰¹ That title was quickly amended to “human trafficking” during the next session.¹⁰² Additionally, extortion laws in Maryland were expanded to include acts of human trafficking.¹⁰³

Maryland’s current human trafficking law is broader than its federal counterpart.¹⁰⁴ Although the Maryland law requires specific intent, it does not require that “force or threat of force” be used to procure the acts of prostitution.¹⁰⁵ In fact, section 11-303 of the Criminal Law Article of the Maryland Code requires that a person may not knowingly:

- (i) take or cause another to be taken to any place for prostitution;
- (ii) place, cause to be placed, or harbor another in any place for prostitution;
- (iii) persuade or encourage by threat or promise another to be taken to or placed in any place for prostitution;
- (iv) unlawfully take or detain another with the intent to use force, threat, or persuasion to compel the other to marry the person or a third person or person or perform a sexual act, sexual contact, or vaginal intercourse; or

⁹⁹ See 22 U.S.C. §§ 7108-7109 (2000).

¹⁰⁰ See MD. CODE ANN., CRIM. LAW §§ 11-303--11-306 (West 2008).

¹⁰¹ MD. CODE ANN., CRIM. LAW § 11-303 (West 2008).

¹⁰² *Id.*

¹⁰³ MD. CODE ANN., CRIM. LAW § 3-705 (West 2008).

¹⁰⁴ Compare MD. CODE ANN., CRIM. LAW § 11-303 (West 2008) with 18 U.S.C. § 1591 (2006).

¹⁰⁵ See generally MD. CODE ANN., CRIM. LAW § 11-303 (West 2008) and 18 U.S.C. § 1591(b) (2006).

- (v) receive consideration to procure for or place in a house for prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation.^[106]

The acts punishable under Section 11-303 are misdemeanors, punishable by ten years imprisonment, a \$5,000 fine, or both.¹⁰⁷ However, if the victim of trafficking is a minor, the acts are felonious and are punishable by 25 years imprisonment, a \$15,000 fine, or both.¹⁰⁸ Since most defendants rarely have prior convictions under the recently passed law, and because the majority of the crimes are considered misdemeanors to be tried in district court, increased penalties are unlikely to deter the unwanted behavior. Under the United States Code, the mandatory minimum sentence for human trafficking is ten years, a term more likely to serve as a greater deterrent.¹⁰⁹

Although no one has been charged in a human trafficking case in Maryland, the addition of human trafficking under the extortion statute may assist in deterring trafficking. Maryland's extortion statute criminalizes the act of obtaining "anything of value from another person without the person's consent" by "force or violence."¹¹⁰ It would be difficult to place a value on sexual acts, which is likely a key reason why extortion has not been included among other charges in human trafficking cases. In comparison to the human trafficking statute, extortion is a felony if the value is greater than \$500 and is often tried in circuit court.¹¹¹ Extortion also carries a maximum sentence of ten years.¹¹²

As early as last year, additional bills were introduced in the Maryland House and Senate focusing on two issues. First, one bill proposed criminalizing additional acts involved in human trafficking, such as destroying passports and involuntary detention.¹¹³ Most importantly, this bill would cause the traffickers to face charges for "scheme" and "aiding and abetting."¹¹⁴ Prior to this bill, the concept of "scheme" has been related only to the "theft" statutes under Maryland law.¹¹⁵ Expanding the concept of "scheme" allows for the prosecution of acts that may not

¹⁰⁶ MD. CODE ANN., CRIM. LAW § 11-303 (West 2008).

¹⁰⁷ MD. CODE ANN., CRIM. LAW § 11-303(c)(1) (West 2008).

¹⁰⁸ MD. CODE ANN., CRIM. LAW § 11-303(c)(2) (West 2008).

¹⁰⁹ 18 U.S.C. § 1591 (2000).

¹¹⁰ MD. CODE ANN., CRIM. LAW § 3-701 (West 2008).

¹¹¹ MD. CODE ANN., CRIM. LAW § 3-701(c) (West 2008).

¹¹² *Id.*

¹¹³ H.B. 283, 2010 Leg., 427th Sess. (Md. 2010).

¹¹⁴ *Id.*

¹¹⁵ See generally, MD. CODE ANN., CRIM. LAW § 7-102 to 7-104 (LexisNexis 2002 & Supp. 2010).

culminate in the final act of human trafficking, but cause the victim to believe that “if [he or she] did not take part in a sexually explicit performance” harm would befall the victim or a third party.¹¹⁶ The new bill essentially criminalizes acts leading up to trafficking. Aiding, abetting, and conspiracy would also be significant potential additions to the trafficking statute, as codification would further criminalize the acts leading up to actual trafficking.

Another proposed bill provided for the forfeiture of property used for human trafficking; this bill was not voted on, and it will likely be reintroduced during the 2011 legislative session.¹¹⁷ Forfeiture is an important step in ceasing criminal enterprises because trafficking is increasingly lucrative. The risk of losing large amounts of property and money seized by police would most likely act as a deterrent. The seized money and property would be placed into a fund to aid victims and non-profit organizations that combat human trafficking. Allowing for forfeiture would highlight the striking correlation between drug and human trafficking and counteract both types of trafficking in similar ways.

Maryland may be making strides to fight human trafficking by criminalizing the acts of the traffickers, but little is being done to reduce the supply and demand of prostitution. These new bills acknowledge the imperative need to address trafficking, but questions remain as to whether they will be successful in prosecuting and deterring traffickers, and ultimately reduce trafficking in the state.

V. THE SUPPLY SIDE OF THE ISSUE

Sex-trafficking is an extremely lucrative business.¹¹⁸ According to a 2005 article, “[t]rafficking brings in approximately \$124 million dollars annually, making up almost sixty percent of Thailand’s GDP.”¹¹⁹ To bring in the exorbitant amounts of money, traffickers have learned both how to sustain the demand of sex-workers and, more importantly, how to sway victims into the profession.¹²⁰

A. Sex-Workers

Sex-workers can include men, women, and children. However, this article will focus specifically on the supply of female sex-workers.

¹¹⁶ H.B. 283, 2010 Leg., 427th Sess. (Md. 2010).

¹¹⁷ H.B. 514, 2010 Leg., 427th Sess. (Md. 2010); see generally Polaris Project, <http://www.polarisproject.org> (last visited Jan. 8, 2011).

¹¹⁸ Hanh Diep, Comment, *We Pay—The Economic Manipulation of International and Domestic Laws to Sustain Sex Trafficking*, 2 LOY. U. CHI. INT’L L. REV. 309, 311-12 (2005).

¹¹⁹ *Id.* at 317 (citing Poulin, *supra* note 96).

¹²⁰ Lehti & Aromaa, *supra* note 10, at 153.

World economics, poverty, education, and gender discrimination contribute to the supply of female sex-workers.¹²¹ According to the policy statement behind the TVPA, “[t]raffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and lack of economic opportunities in countries of origin.”¹²² These causes are different in each country and for each victim.

Most victims are trafficked from Southeast Asia, the former Soviet Union, and South America,¹²³ with the largest sex-trafficking ring rooted in South Korea.¹²⁴ The victims are flown into either Canada or Mexico, both of which have relatively lax border patrol. Most visitors to Mexico are not required to have a visa.¹²⁵ From there, the victims cross the border through Indian reservations, across expanses of desert or through busy custom and immigration routes with false travel documentation.¹²⁶ Once the victims reach the point of destination, they are locked in a room and kept in hiding.¹²⁷ At some point, the victims are informed that their traffickers’ promises of legitimate work were false.¹²⁸ Depending on the intentions of their captors, some women are kept in brothels, while others languish in bars or massage parlors.¹²⁹ In the most atrocious of situations, women are forced to service as many twelve men a day.¹³⁰

Women may be unaware of what risks lie ahead for them, or they may choose to take the risk and go with their traffickers because of dire circumstances in their personal lives. Most have only a basic education, while some never attended school.¹³¹ Studies show that of the victims, women from Central and Eastern Europe are the most educated, with many holding bachelor’s degrees.¹³² Motivations for entering prostitution may be tied to Eastern Europe’s armed conflicts, which have led to severe economic hardship and a lack of career prospects for women.¹³³ Studies show that women who are trafficked out of these countries tend to have

¹²¹ *Id.* at 158 (2006).

¹²² 22 U.S.C. § 7101(4) (2006).

¹²³ Meredith May, *SEX TRAFFICKING, San Francisco is a Major Center for International Crime Networks that Smuggle and Enslave*, S.F. CHRON., Oct. 6, 2010, available at <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/10/06/MNGR1LGUQ41.DTL&ao=all>.

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ May, *supra* note 133.

¹³⁰ *Id.*

¹³¹ See Lehti & Aromaa, *supra* note 10, at 150.

¹³² See *id.* at 150.

¹³³ See *id.*

been professional prostitutes in their native countries and are more adequately referred to as “migrant prostitute[s].”¹³⁴

The least educated victims tend to be from the African countries.¹³⁵ Studies of Nigerian trafficking victims found that, before being trafficked, these women were usually uneducated and unemployed.¹³⁶ Most Nigerian victims knew the person who sold them into trafficking and were aware that they were being trafficked.¹³⁷ However, they had little to no choice but to be sold as educational and employment opportunities at home were scarce.¹³⁸ Additionally, those trafficked from Africa tend to be younger than their counterparts in Europe.¹³⁹

Western governments cite repressed economic and social conditions as causes of human trafficking.¹⁴⁰ For example, Sweden’s trafficking policy report correlates the lack of paid work for unskilled laborers and the need for females and young people to go to work to help support their families.¹⁴¹ The great disparities between wealthy industrialized countries and poverty-stricken third-world countries is a major contributor to the ready supply of victims hailing from poor countries.¹⁴² As the world has become more acclimated to western culture, a desire to travel and migrate to Western countries has grown tremendously.¹⁴³ The ideology of America’s “streets of gold” still exists in most third-world countries, but few avenues are available for people from those countries to enter the United States without direct familial ties in the United States.¹⁴⁴ As discussed above, the United States’ immigration policy obstructs employment based immigration.¹⁴⁵

Clearly, numerous causes lead to victims being trafficked to the United States. Whether a victim is migrating, coerced, or merely surviving, the supply of sex-workers perpetuates the offense. The United States must not focus on why these women entered the country, but rather

¹³⁴ *Id.* at 151.

¹³⁵ *See id.* at 150.

¹³⁶ *Id.* at 152.

¹³⁷ Lehti & Aromaa, *supra* note 10, at 152.

¹³⁸ *Id.* at 152-53.

¹³⁹ *Id.* at 153.

¹⁴⁰ *See* Michelle R. Adelman, *International Sex Trafficking: Dismantling the Demand*, 13 S. CAL. REV. L. & WOMEN’S STUD. 387, 389 (2004).

¹⁴¹ DEPARTMENT FOR GLOBAL DEVELOPMENT (SWED.), *supra* note 9.

¹⁴² Lehti & Aromaa, *supra* note 10, at 138.

¹⁴³ *See id.* at 136-38.

¹⁴⁴ *See supra* notes 30-31 and accompanying text; *see also* U.S. Dept. of State, Overview – Family Based Immigrant Visas, http://travel.state.gov/visa/immigrants/types/types_1306.html#1 (last visited Jan. 8, 2011).

¹⁴⁵ *See supra* notes 32-34 and accompanying text; *see also* Mike Aytes, *Addressing Employment-Based Visa Wait Times*, Homeland Security Leadership Journal, Apr. 24, 2009, <http://journal.dhs.gov/2009/04/addressing-employment-based-visa-wait.html>.

on how best to stop the flow of the supply through improved immigration law and international communication.

B. Organizers

Organizers control their victims through violence, threats of violence, and by taking advantage of “economic, social, and cultural vulnerabilities.”¹⁴⁶ A widely used method is the creation of a debt to the traffickers based on the cost of the victim’s travel to the United States and inflating their room and board fee.¹⁴⁷ Offering freedom once the debt has been refunded to the trafficker, the trafficker requires the victim to work hard to gain freedom.¹⁴⁸ However, the goal is often unattainable as victims never handle their own finances and any money received for their services is filtered first through the trafficker.¹⁴⁹

Organizers vary as much as their victims, but their intentions invariably center on the profits flowing from the trafficking of humans. Sex-trafficking has one of the highest profit margins and lowest risks to members of organized crime.¹⁵⁰ Traffickers’ methods also change based on national origin, gender, and size of the trafficking ring.

Recruiters and transporters usually share the same national origin as their victims, but the gender of the recruiters changes from country to country.¹⁵¹ In parts of Russia and Asia, recruiters tend to be women who are former prostitutes.¹⁵² Western European recruiters are likely to be men.¹⁵³ In African countries, recruiters are typically women, but transporters are usually men.¹⁵⁴ How the victims are recruited also changing from country to country. For example, in African countries, recruiters are generally related to the victim.¹⁵⁵ In these situations, the recruiter also usually gets a substantial cut of the victim’s earnings.¹⁵⁶

As stated above, trafficked victims rarely see the money traffickers promise. The trafficker creates an unrealistic debt, which he claims the

¹⁴⁶ Lehti & Aromaa, *supra* note 10, at 158.

¹⁴⁷ *Id.*; see also AMY O’NEILL RICHARD, CENTER FOR THE STUDY OF INTELLIGENCE, INTERNATIONAL TRAFFICKING IN WOMEN TO THE UNITED STATES: A CONTEMPORARY MANIFESTATION OF SLAVERY AND ORGANIZED CRIME 5, April 2000, <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/trafficking.pdf>.

¹⁴⁸ Lehti & Aromaa, *supra* note 10, at 158.

¹⁴⁹ *Id.*

¹⁵⁰ See Donna Hughes, *The “Natasha” Trade: Transnational Sex Trafficking*, NAT’L INST. OF JUST. J. 13 (2001) (citing Michael Platzer of the United Nations Center for International Crime Prevention), available at <http://www.ncjrs.gov/pdffiles1/jr000246c.pdf>.

¹⁵¹ Lehti & Aromaa, *supra* note 10, at 155.

¹⁵² *Id.*

¹⁵³ *Id.* at 156.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 156-57.

¹⁵⁶ *Id.*

victim owes him. The victim rarely receives any money; instead, the trafficker handles the money and deducts the victim's earnings from her debt. The inflated debt created by the trafficker leads to huge profits for the trafficker.¹⁵⁷ In some cases, there is no debt and the victim is kept indefinitely, creating more profits for the traffickers. The most lucrative features of trafficking exist because the commodity is reusable. Unlike drugs or organs, sex services can be sold over and over again.¹⁵⁸

These businesses thrive for a number of reasons, including governmental corruption in the victim's country of origin, evasiveness, and lack of international cooperation. These "businesses" often involve police and government officials who assist the traffickers physically and legislatively.¹⁵⁹ Similar to other black-market networks, these trafficking networks offer protection, money, and services to the officials, as well as contributing to that nation's economy through sex tourism and forced labor. According to the policy statement behind the TPPA, "[t]rafficking in persons substantially affects interstate and foreign commerce."¹⁶⁰

Supply in the United States is two-fold: the desolate victims, who have no other option but to enter this lifestyle; and the organizers who supply the victims through threats, violence, and debt. Both elements of the supply must be addressed to defeat the perpetuation of sex-trafficking. The United States has taken some action against the supply of victims through the TPPA, but unfortunately, it is not enough. The United States must create a means of entry for employment to stop the perceived need of these women to enter this line of work. Likewise, the United States must confront the organizers where they live. Little can be done to stop the crime once the victim arrives in the United States. Prosecuting one part of the ring or helping one victim does little for the hundreds of thousands being trafficked every year. Therefore, the United States must create a means of international communication regarding the supply of sex-trafficking victims and organizers.

VI. THE DEMAND SIDE OF THE ISSUE

[G]oing to a prostitute is like going to McDonald's; most people are looking for a quick, cheap meal. It's satisfying, it's greasy, and then you get the hell out of there.^[161]

¹⁵⁷ Hanh Diep, Comment, *We Pay – The Economic Manipulation of International and Domestic Laws to Sustain Sex Trafficking*, 2 LOY. U. CHI. INT'L L. REV. 309, 311 (2005).

¹⁵⁸ *Id.*

¹⁵⁹ DONNA M. HUGHES, UNIVERSITY OF RHODE ISLAND, BEST PRACTICES TO ADDRESS THE DEMAND SIDE OF SEX TRAFFICKING (Aug. 2004), available at http://www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf.

¹⁶⁰ 22 U.S.C. § 7101(b)(12) (2006).

¹⁶¹ JULIE BINDEL & LIZ KELLY, LONDON METROPOLITAN UNIVERSITY, A CRITICAL EXAMINATION OF RESPONSES TO PROSTITUTION IN FOUR COUNTRIES: VICTORIA, AUSTRALIA;

The supply and demand of sex-trafficking work together to form an integrated system generating millions of dollars each year for organized crime syndicates. Neither supply nor demand could function without the other, and addressing only one side of the problem accomplishes nothing in the fight against sex-trafficking. Because the United States offers financial opportunities and freedoms for women, its allure attracts women who fall victim to sex-trafficking. However, without the demand for their services, the criminal activity would never take place.

Demand for sex-trafficked women and children is linked to the demand for prostitution.¹⁶² Prostitutes are supplied based on economic necessity, but because women in the United States are able to get an education, get decent paying jobs, and support themselves financially, there no longer the need to become a prostitute.¹⁶³ Nevertheless, a demand for prostitutes still exists in the United States, and “consequently, the faces of the victims have changed but not the flow.”¹⁶⁴ In short, there is now a need for a supply of prostitutes from countries where a woman’s economic and social position greatly differs from that of an American woman.

Solicitors of commercial sex acts rarely base their decision to use the services of a prostitute on whether the prostitute was trafficked, creating a market for criminals who transport and harbor foreign women in the United States.¹⁶⁵ Traffickers need only to recruit young women to the adventurous United States. Although some solicitors are drawn to a particular race or ethnicity, rarely do they specifically request someone held against their will or who has been trafficked.¹⁶⁶ Therefore, what causes the demand for prostitution, which in turn leads to the demand for sex-trafficking, must be investigated. The following three facts most affect the demand for human trafficking: cultural attitudes, psychology, and economic interests.

IRELAND; THE NETHERLANDS; AND SWEDEN (2003), available at <http://www.glasgow.gov.uk/NR/rdonlyres/C19E010B-1A4F-4918-97BD-F96AF7D7F150/0/mainreport.pdf>.

¹⁶² HUGHES, *supra* note 172, at 2-3; see also Michelle Adelman, Comment, *International Sex Trafficking: Dismantling the Demand*, 13 S. CAL. REV. L. & WOMEN’S STUD. 387 (2003-04) (“According to the State Department, women and girls trafficked into the United States are often forced into prostitution.”).

¹⁶³ DEPARTMENT FOR GLOBAL DEVELOPMENT (SWED.), *supra* note 9 (“Global trafficking in human beings may be seen . . . [as] a product of poverty – relative as well as absolute, and as a consequence of the subordinate position of women and children in society.”).

¹⁶⁴ Christa Crawford, *Cultural, Economic and Legal Factors Underlying Trafficking in Thailand and Their Impact on Women and Girls From Burma*, 12 CARDOZO J.L. & GENDER 821, 821 (2006).

¹⁶⁵ HUGHES, *supra* note 172, at 3.

¹⁶⁶ *Id.* (“Men said that they did not want to have sex with someone forced into prostitution because it was ‘a sexual turn-off.’”).

Numerous studies have been conducted investigating phenomena associated with sex. Alfred C. Kinsey conducted one of the first United States studies on sexual behavior in the 1940s.¹⁶⁷ Kinsey's studies on sexual behavior heightened awareness of the basic sexual tendencies of humans. Kinsey's findings included that after the age of thirty, married couples had sex an average of 2.9 times per week.¹⁶⁸ Additionally, his study also indicated that 50% of men had extramarital affairs.¹⁶⁹ Based on both figures, it appears that the need for sexual satisfaction is not the cause of most extramarital affairs.

The question remains as to what causes extramarital affairs and, in the context of this article, the demand for commercial sex acts. Certain basics lay out what the average solicitor looks like, which create a starting point for examining the issue.¹⁷⁰ The average solicitor is male, although females can solicit as well.¹⁷¹ The age at which men first solicit sex varies widely from nine years old to sixty-two years old.¹⁷² The average age is twenty-four.¹⁷³ The number of times a man solicits sex in his lifetime also varies noticeably.¹⁷⁴

There is a common misconception that men who solicit sex from a prostitute are unable to sustain a healthy sexual relationship, and thus, resort to prostitution out of desperation.¹⁷⁵ Researchers have found that this is rarely the case.¹⁷⁶ In fact, one study found that 70% of men who solicit sex acts were married or had a steady romantic partner.¹⁷⁷ A survey of 495 men arrested for soliciting prostitution in Vancouver, Canada found that 53% of the men surveyed had children.¹⁷⁸ In a study conducted in the United States, 80% of men caught soliciting sex stated that they had a sexually satisfying relationship with their wife or steady partner.¹⁷⁹ The men provided two relatively common answers as to why they solicited sex, neither based on the presence of an unfulfilling or unhealthy relationship. Those men were either newly married and seeking sex from a prostitute for a sense of risk taking, or they had been

¹⁶⁷ Herbert Blumer, *A Sociologist Looks at the "Kinsey Report,"* 29 *ECOLOGY* 522, 552 (1948).

¹⁶⁸ ALFRED C. KINSEY ET AL., *SEXUAL BEHAVIOR IN THE HUMAN MALE* 569, 585 (Indiana University Press 1975) (1948).

¹⁶⁹ *Id.*

¹⁷⁰ Hughes, *supra* note 1, at 8-9.

¹⁷¹ *Id.* at 2.

¹⁷² *Id.* at 12.

¹⁷³ *Id.*

¹⁷⁴ *Id.* at 13.

¹⁷⁵ *Id.* at 14.

¹⁷⁶ Hughes, *supra* note 1, at 14.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

married for a long time and sex with their spouse had began to wane.¹⁸⁰ In either situation, most people seeking sex from a prostitute already had multiple sexual partners in addition to their spouse or partner.¹⁸¹ These studies suggest that a man's so-called "need" for commercial sex acts is emotional rather than physical.

Most men claim, when caught by authorities, that they were soliciting prostitution for the first time.¹⁸² However, it is hard to determine whether these men provided honest answers as the nature of the subject matter is so sensitive.¹⁸³ Researchers have also found that habitual users "account for a disproportionately high percentage of the demand for commercial sex acts."¹⁸⁴ According to a study done in the United States, 22% of men had purchased sex up to four times, 19% between five and ten times, 14% between eleven and twenty-five times, and 11% more than one hundred times.¹⁸⁵ Men who regularly purchase commercial sex acts are more immune to moral arguments against prostitution than the occasional user. According to studies, the more a man purchases commercial sex acts, the more he believes that sex is a commodity and that women facilitate rape and violence.¹⁸⁶ The more times a man purchases sex, the more violent he becomes and less respectful of his sexual partners.¹⁸⁷ The more times a man purchases sex, the fewer times he wears a condom during sex.¹⁸⁸ A Norwegian study found that "the 'habitual buyers' [sustained] the 'buyer side' of the sex trade."¹⁸⁹ These studies exemplify the lack of respect for sexual partners and a nature that perpetuates and supports prostitution.

Occasional users tend to be less resilient against legal measures, and if caught, a low percentage of the occasional users purchased sex again.¹⁹⁰ Those who are habitual users usually suffer from deeper problems such as sex addiction or obsessive compulsive disorder.¹⁹¹ As a result, the high volume users are rarely deterred by police action. Of 140 men surveyed in a 2000 study, one-third who were arrested for soliciting commercial

¹⁸⁰ *Id.* at 14-15.

¹⁸¹ SVEN-AXEL MANSSON, COMMERCIAL SEXUALITY, IN *SEX IN SWEDEN: ON THE SWEDISH SEXUAL LIFE* 235, 241-42 (Bo. Lewin ed., 2000).

¹⁸² Hughes, *supra* note 1, at 13.

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 16.

¹⁸⁷ *Id.*

¹⁸⁸ Hughes, *supra* note 1, at 18.

¹⁸⁹ *Id.* at 14.

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

sex acts suffered from some form of psychopathology.¹⁹² The most prevalent form of psychopathology has been deemed sex addiction.¹⁹³

Studies estimate that 3% to 6% of the United States population suffers from sex addiction.¹⁹⁴ This mental disease is very similar to any other addiction; the addict is obsessive compulsive and feels out of control, engaging in the addictive behavior to create an environment of control.¹⁹⁵ Sex addiction tends to begin at a young age, often between mid-childhood to early adolescence.¹⁹⁶ It often involves child abuse, including mental, physical, and sexual abuse and early use of pornography.¹⁹⁷ The early use of pornography develops an unnatural expectation of sex – regarding both what the female feels about sex and what a man can expect from sex.¹⁹⁸ Unrealistic outlooks lead to the desire for women who cannot say no or reject the addict.¹⁹⁹

Enter the need for prostitution. For sex addicts, prostitution is a means to act out pornographic scenes they are either too embarrassed to introduce with their partner or which their partner is unwilling to perform.²⁰⁰ Pornographic materials that an addict once viewed as “shocking, illegal, repulsive, or immoral” become the only way to feed the addiction.²⁰¹ Because addicts are buried in their addiction, they view their behaviors as victimless, leading to a higher probability of violence and rape.²⁰²

Unfortunately, the United States has done little to curb the demand for prostitution. Men caught soliciting prostitution are rarely arrested, which further perpetuates the notion that their actions are victimless. As a result, the perpetrator is permitted to believe that society has accepted the

¹⁹² Steven Sawyer et al., *Attitudes Towards Prostitution Among Males: A 'Consumers' Report*, 20:4 CURRENT PSYCHOLOGY 363, 373-74 (Winter 2001-2002).

¹⁹³ *Id.* at 374.

¹⁹⁴ NATIONAL COALITION FOR THE PROTECTION OF CHILDREN AND FAMILIES, *COMPULSIVE SEXUAL BEHAVIOR AND SEX ADDICTION: TOO MUCH OF A GOOD THING?* 1 (1999), available at <http://www.purehope.net/images/HelpLine/Addiction%20Brochure.pdf>.

¹⁹⁵ *Id.* at 4.

¹⁹⁶ *Id.* at 1.

¹⁹⁷ See Roschbeth Ewald, *Sexual Addiction*, ALLPSYCH JOURNAL, May 13, 2003, available at <http://allpsych.com/journal/sexaddiction.html>.

¹⁹⁸ ARCHIBALD HART, *THE SEXUAL MAN: MASCULINITY WITHOUT GUILT* 33 (Thomas Nelson 1994).

¹⁹⁹ *See id.* at 33.

²⁰⁰ *See id.* at 48-49.

²⁰¹ *See id.* at 45-46.

²⁰² Adelman, *supra* note 150, at 407 (“A review study of eighty-one studies published in peer-reviewed journals found that ‘with fairly impressive consistency’ exposure to pornography negatively affects attitude towards women and increases the likelihood of rape.” (quoting J.S. Lyons et al., *A Systematic Review of the Effects of Aggressive and Nonaggressive Pornography*, in *MEDIA, CHILDREN AND THE FAMILY: SOCIAL SCIENTIFIC, PSYCHODYNAMIC, AND CLINICAL PERSPECTIVES* (Dolf Zillman and Jennings Bryant, eds. 1994))).

purchase of commercial sex acts.²⁰³ Current United States statutes hypocritically attack other countries for their lack of commitment against sex-trafficking, but the United States statutes allow the real cause of the influx of these victims into the United States to continue unabated.²⁰⁴ With a high demand for prostitutes to meet the “needs” of American men, sex-traffickers will continue to generate millions of dollars by supplying young naïve women to the trade. Therefore, the demand for prostitution must be mitigated to stop this unsettling crime.

VII. REASSESSING THE PROBLEM

Sex-trafficking is a global problem. Lapses like the ineffective prosecution of offenders, the lack of legal methods to enter industrialized countries, and the failure to address the demand of such acts has created a world-wide criminal system that caused a sharp increase in the ability to solicit commercial sex acts. Although the United Nations established a Convention against sex-trafficking in 2000, member nations still fail to regulate the problem within their own borders.²⁰⁵ Treating the crisis must occur on a country-to-country basis with international *communication and cooperation*. The supply and demand of sex-trafficked individuals greatly differs across borders; therefore, simply creating an international standard or set of laws is insufficient to deter criminals from participating in this lucrative crime.

The United States has a unique and difficult problem. The United States shares two large borders with countries that observe relatively lax international travel laws. This leads to significant illegal immigration problems. The United States must implement better internal policies to better defend its borders. Current legislation does not deal with the actual causes of the immigration crisis, and unfortunately, legislation alone is not enough to handle the expansive issue. The United States has, however, already taken strides to eliminate one facet of the dilemma through the passage of the TPPA.²⁰⁶ Now, a more practical and nuanced approach is necessary.

The United States must realize that the market for the international sex trade exists because of the rampant demand for prostitution and the supply of desperate victims. The United States must begin to harshly prosecute purchasers of commercial sex acts and promote rehabilitation

²⁰³ See REGIONAL PROGRAM FOR LATIN AMERICA AND THE CARIBBEAN, SAVE THE CHILDREN SWED., THE CLIENT GOES UNNOTICED 37 (2004) (“There is, therefore, no criticism or judgment of [a man’s] sexual activity.”), available at http://www.sclat.org/web/noticias_detalle.php?id=1&tip=P&cod=64&are=&sare=&rgc=1&src=&ani=2--4.

²⁰⁴ 22 U.S.C. § 7107 (West 2006 & Supp. I 2010).

²⁰⁵ See *supra* text accompanying notes 52-57.

²⁰⁶ 22 U.S.C. § 7101(b)(2) (2006).

for sex addicts. Moreover, the United States must create a reasonable legal method for entry into the United States to work – such as the “guest worker program” that was proposed under the recent Bush administration.²⁰⁷ In addition, the United States must create open channels of communication on an international scale to stop trafficking rings where they begin, rather than only focusing on the arms of the trafficking rings operating in the United States.

Maryland has been similarly reluctant to address sex-trafficking within its own borders. The State has concentrated on human trafficking with several sets of statutes, each addressing small pieces of the larger puzzle. Maryland must pass legislation that provides harsher penalties for offenders of both trafficking and prostitution.²⁰⁸ On a local level, police officers must be taught to recognize victims of sex-trafficking and be prepared to address sex-trafficking as a crime with a victim, namely the man, woman, or child being forced to engage in commercial sex acts. Importantly, criminal enterprises must be made to realize the acts will not be tolerated in the State, and more must be done to protect Maryland citizens from the potential harm that could be inflicted at the hands of traffickers.

Sex-trafficking is a despicable crime. Perpetuators believe it to be victimless. Organizers make billions of dollars. Countries supplying and harboring these victims create a lucrative trade. Unfortunately, the profits are made on the backs of the most vulnerable, poor, and destitute of citizens. The United States and Maryland must take action to stop this crime within its own borders and abroad by effectively eliminating the supply and demand of commercial sex acts.

²⁰⁷ See *supra* text accompanying notes 77-78.

²⁰⁸ By “offender,” the author does not include the actual prostitute, but rather those soliciting sex from a prostitute.