

Georgia State University Law Review

Volume 36
Issue 4 Summer 2020


Article 3

6-1-2020

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Recommended Citation

Jonathan Todres, *Foreword: Preventing Human Trafficking*, 36 GA. ST. U. L. REV. vi (2020).
Available at: <https://readingroom.law.gsu.edu/gsulr/vol36/iss4/3>

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FOREWORD: PREVENTING HUMAN TRAFFICKING

Jonathan Todres*

Referred to as “one of the great human rights causes of our time,” human trafficking has been condemned by global leaders.¹ In response, the first two decades of the twenty-first century have been marked by dramatic developments in law, policy, and programs aimed at confronting human trafficking.² These measures have led to some notable achievements such as an increase in prosecutions of perpetrators.³ Yet despite these advances and the unwavering efforts of many antitrafficking advocates, the consensus among experts is that the prevalence of human trafficking has not declined.⁴

* Distinguished University Professor and Professor of Law, Georgia State University College of Law. I would like to express my heartfelt thanks to the *Georgia State University Law Review* for organizing this Symposium. I am especially grateful to the Symposium Editors, Michael Foo and Taylor Lin, whose extraordinary work made this Symposium possible.

1. Barack Obama, Remarks by the President to the Clinton Global Initiative (Sept. 25, 2012), <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative> [<https://perma.cc/U9BF-ZK7W>] (“Our fight against human trafficking is one of the great human rights causes of our time[.]”); *see also* U.N. Secretary-General, Message on World Day Against Trafficking in Persons (July 30, 2019), <https://www.unodc.org/endht/en/statements.html> [<https://perma.cc/R6LF-3PUK>] (“Human trafficking is a heinous crime that affects every region of the world.”); *Sustainable Development Goal 8*, SUSTAINABLE DEV. GOALS KNOWLEDGE PLATFORM, <https://sustainabledevelopment.un.org/sdg8> [<https://perma.cc/7RTB-2GZM>] (last visited May 30, 2020) (including Target 8.7, which provides “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking . . .”).

2. Jennifer M. Chacón, *Human Trafficking, Immigration Regulation, and Subfederal Criminalization*, 20 *NEW CRIM. L. REV.* 96, 97 (2017) (“In less than two decades, the issue of human trafficking has evolved from a relatively obscure concept to a widely discussed international social problem that has engendered a host of interventions at the international, national, and subnational level.”); *see also* JONATHAN TODRES & ANGELA DIAZ, *PREVENTING CHILD TRAFFICKING: A PUBLIC HEALTH APPROACH* 58–76 (2019) (detailing legal, policy, and programmatic developments in response to human trafficking since 2000).

3. *See, e.g.*, U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT* 38 (2019), <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf> [<https://perma.cc/ABB2-HNPK>] (noting an increase in trafficking prosecutions globally from an estimated 7,705 in 2012 to 17,471 in 2017, though numbers declined to 11,096 in 2018).

4. *See, e.g.*, U.N. OFFICE ON DRUGS AND CRIME (UNODC), *GLOBAL REPORT ON TRAFFICKING IN PERSONS 2018*, U.N. Sales No. E.10.IV.2 (2018), http://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf [<https://perma.cc/34ES-2Z4X>] (finding no evidence of a decline in prevalence of human trafficking); Maria Tavano, *Trafficking in Persons: A Focus on Preventing Forced Labor*, 32 *WOMEN’S RTS. L. REP.* 324, 351 (2011) (“[W]hile more and more countries have joined the war on human trafficking, there is no evidence of a decrease in the prevalence

There are many reasons for the lack of progress on reducing prevalence of human trafficking, including: the early and ongoing emphasis on sex trafficking cases at the expense of addressing labor trafficking, the over-reliance on criminal justice frameworks in many jurisdictions, the failure to develop meaningful responses to the root causes of human trafficking, the limited evaluation of existing antitrafficking law and programs, and, ultimately, a failure to take prevention seriously.⁵

Although prevention is the ultimate goal, it has rarely received top priority in antitrafficking responses. To address this, the *Georgia State University Law Review*'s 2020 Symposium—"Prioritizing Prevention in Human Trafficking: Research, Innovation, and Advocacy"—brought together some of the leading thinkers (and advocates) on human trafficking and tasked them with exploring how the field can move toward prevention. The result is an invaluable collection of articles. These articles explore a breadth of critical issues—from understanding the root causes of human trafficking, to sector-specific initiatives, to the challenge of building a comprehensive, integrated response.

The Symposium begins with two articles that focus on law and policy responses to human trafficking. These articles by Kathleen Kim and Janie Chuang, respectively, call for antitrafficking discourses and responses to be much more inclusive. In *The Thirteenth Amendment and Human Trafficking: Lessons & Limitations*, Kathleen Kim returns to the Thirteenth Amendment's prohibition on slavery and involuntary servitude to re-anchor antitrafficking discourses. She highlights the misuse of slavery narratives, explaining that many antitrafficking advocates

disregard the role of systemic race subordination in facilitating human trafficking They analogize

of the crime.”).

5. E.g., Jonathan Todres, *Widening Our Lens: Incorporating Essential Perspectives in the Fight Against Human Trafficking*, 33 MICH. J. INT'L L. 53 (2011) (discussing the overemphasis on sex trafficking and criminal justice responses and the lack of attention to root causes, evaluation, and prevention).

antebellum slavery with human trafficking to harness its moral opprobrium but avoid consideration of the racism that slavery perpetrated. Such disconnect from the structural conditions that gave rise to slavery and that facilitate human trafficking dilutes the significance of the Thirteenth Amendment and its enforcement statute, the [Trafficking Victims Protection Act], which were designed to overcome unfree labor and the conditions of race-based economic subordination that support it.⁶

Kim explains the importance of focusing attention on labor trafficking and overhauling the immigration system to ensure that it does not exacerbate workers' vulnerability to human trafficking.

Janie Chuang then offers a global perspective on labor, migration, and human trafficking. In *Preventing Trafficking Through New Global Governance over Labor Migration*, Chuang focuses on the Global Compact on Safe, Orderly and Regular Migration (GCM), adopted in 2018, and its capacity to shape labor migration. She also explores the role of the International Organization for Migration (IOM) and the potential of an IOM-led effort. Although the GCM expressly addresses human trafficking, Chuang argues that “perhaps even more significant for antitrafficking efforts are the *non*-trafficking-specific provisions of the GCM that, if meaningfully implemented, would significantly reduce vulnerability to trafficking by targeting structural contributors to migrant worker exploitation.”⁷ Chuang highlights the need to address labor brokers and recruiters as one example of confronting migration issues that increase susceptibility to exploitation. Through such examples, Chuang underscores how trafficking is inextricably linked to larger migration issues and conditions.

Together, the articles by Kim and Chuang make a compelling case for broadening and deepening our approach to human trafficking—broadening to account for all individuals vulnerable to

6. Kathleen Kim, *The Thirteenth Amendment and Human Trafficking: Lessons & Limitations*, 36 GA. ST. U. L. REV. 1005, 1013 (2020).

7. Janie A. Chuang, *Preventing Trafficking Through New Global Governance over Labor Migration*, 36 GA. ST. U. L. REV. 1027, 1037 (2020).

exploitation, and deepening our approach by acknowledging and confronting systemic and structural issues that undergird inequality and exploitation.

Reflecting the interdisciplinary nature of the Symposium and the relevance of multi-sector responses to human trafficking, the Symposium issue includes two articles from physicians who are leaders in the field of human trafficking: Drs. Jordan Greenbaum and Kimberly Chang. Greenbaum maps the components of a public health response to human trafficking in *The Public Health Approach to Human Trafficking Prevention*,⁸ while Dr. Kimberly Chang and her coauthors, Hamida Yusufzai and Anna Marjavi, provide an on-the-ground look at health care responses in *Medical–Legal Collaboration and Community Partnerships: Prioritizing Prevention of Human Trafficking in Federally Qualified Health Centers*.

Greenbaum outlines the rationale for a public health approach to human trafficking, highlighting in particular the value of public health’s emphasis on rigorous, evidence-based research as the basis for policy and program development, and its focus on identifying and addressing risk and protective factors. Greenbaum then identifies a set of ways in which lawyers and the legal community can help address human trafficking. In this regard, Greenbaum’s recommendations set the table for the article on medical–legal partnerships in human trafficking responses by Chang, Yusufzai, and Marjavi.

Chang and colleagues focus their article on Federally Qualified Health Centers (FQHCs) and the potential of FQHCs to respond in communities where individuals are vulnerable. As Chang and her colleagues note, the federal government requires that FQHCs operate in medically underserved areas and for medically underserved populations: “FQHCs serve a disproportionate share of the nation’s poor and uninsured. Most patients are members of racial or ethnic minorities, and millions of health center patients are served in a language other than English. Trafficked persons may

8. Jordan Greenbaum, *The Public Health Approach to Human Trafficking Prevention*, 36 GA. ST. U. L. REV. 1059 (2020).

disproportionately share these characteristics.”⁹ But it is not simply that FQHCs are well-situated in relevant communities, but also that they have special skill sets and unique attributes that position them to intervene successfully on this issue. As Chang and her colleagues explain, FQHCs provide “services that address the root cause of some of the most challenging problems related to health and health care utilization and enable a patient to access care.”¹⁰ This includes enabling services such as outreach, case management, translation or interpretation, eligibility assistance, civil legal aid, and many other critical services.¹¹

Using selected case studies from their health care practice and drawing on parallel experiences responding to domestic violence, Chang and her colleagues demonstrate the value not only of community health centers but also of partnerships with legal services to create more holistic responses to, and support for, survivors of human trafficking and attendant forms of exploitation.

Following the public health and health care perspectives are three articles from social scientists, further emphasizing the value of interdisciplinary perspectives. Hannah Britton’s work drives home how important it is for lawyers, and arguably even more so for legislators, to include social scientists in the development of law and policy on human trafficking. In her article, *Understanding Risk and Prevention in Midwestern Antitrafficking Efforts: Service Providers’ Perspectives*, Britton details seven years of survey work with service providers, which contains critical information on risk factors and other key insights that are essential to building a response that can *prevent* human trafficking. Britton’s work also reflects a genuine appreciation for those individuals working day-to-day with vulnerable populations. As she describes, “service providers stand at an ideal vantage point from which to understand their individual clients’ histories and case files. They are also well-positioned to identify larger social, political,

9. Kimberly S.G. Chang, Hamida Yusufzai & Anna Marjavi, *Medical–Legal Collaboration and Community Partnerships: Prioritizing Prevention of Human Trafficking in Federally Qualified Health Centers*, 36 GA. ST. U. L. REV. 1075, 1081 (2020).

10. *Id.* at 1082.

11. *Id.*

and structural issues that may contribute to or that may block exploitation.”¹²

In sum, Britton’s work reveals important opportunities to identify both at-risk individuals and new potential partners, and it uncovers an uncomfortable truth that government leaders must confront: “As many political leaders rally around ending human trafficking and call for the ‘rescue’ of individual survivors, they are simultaneously cutting the very programs that could have protected against a wide range of abuse and exploitation.”¹³

In *Toward Trauma-Informed Professional Practices: What Legal Advocates and Journalists Can Learn from Each Other and Survivors of Human Trafficking*, Kirsten Foot urges that “all professionals who engage with trafficking survivors should do so in a trauma-informed way.”¹⁴ Trauma-informed practices have been a key component of selected health care responses, but Foot makes a compelling case for their relevance to lawyers and journalists. As Foot explains, trauma-informed practices will reduce harm to trafficking survivors, who may feel “drained, disrespected, and distrusted” following interviews with attorneys, improve lawyers’ (and journalists’) listening so they can better serve survivor clients, and “make[] it possible for the ideals of each profession to be actualized.”¹⁵ Foot’s article highlights the importance of genuinely hearing and learning from survivors, who are essential partners in any effort to prevent human trafficking.

Finally, technology has garnered greater attention, and at times is celebrated, as a tool for addressing human trafficking. Yet in her article, *The Limits and Possibilities of Data-Driven Antitrafficking Efforts*, Jennifer Musto offers a cautionary tale: “While it is evident that the goals of antitrafficking technology initiatives are well-intentioned, the impact of tech-augmented efforts is mixed at best

12. Hannah E. Britton, *Understanding Risk and Prevention in Midwestern Antitrafficking Efforts: Service Providers’ Perspectives*, 36 GA. ST. U. L. REV. 1105, 1107 (2020).

13. *Id.* at 1120.

14. Kirsten Foot, *Toward Trauma-Informed Professional Practices: What Legal Advocates and Journalists Can Learn from Each Other and Survivors of Human Trafficking*, 36 GA. ST. U. L. REV. 1129, 1135 (2020).

15. *Id.* at 1136, 1138.

and questionable at worst.”¹⁶ Musto explains that while we should recognize the “immense value of data” in antitrafficking efforts, we must also appreciate that “the benefits of this data are not equally shared or evenly distributed.”¹⁷ Echoing Foot’s emphasis on survivor-focused approaches to human trafficking, Musto asserts that improving data-driven antitrafficking responses means “centering the experiences of end users (i.e., people viewed by tech experts as vulnerable to trafficking), who currently have little control or say over how their data is used.”¹⁸ Musto concludes by calling for an ethics-informed approach to technology that ensures foremost that antitrafficking efforts do no harm.

In addition to the above Symposium articles, Laura Shoop’s note, *Uncovering the “Hidden Crime” of Human Trafficking by Empowering Individuals to Respond*,¹⁹ has been included in this issue because of its relevance to antitrafficking efforts. Her insightful article, which examines state law initiatives aimed at enhancing public awareness of human trafficking and improving identification of survivors, reflects among other things the growing interest in human trafficking among law students.

Every year, new students reach out to me to express that the reason they came to law school was to help contribute to the effort to end human trafficking. Human trafficking is motivating a new generation of students inspired to seek justice. That is another reason why the articles in this Symposium are so critical—they can serve to educate both current and future leaders in the effort to respond to human trafficking. The goal of ending human trafficking can be achieved only if we understand the problem in a much more nuanced way and build comprehensive, integrated responses that reflect the realities that individuals and communities face.²⁰

16. Jennifer Musto, *The Limits and Possibilities of Data-Driven Antitrafficking Efforts*, 36 GA. ST. U. L. REV. 1147, 1149 (2020).

17. *Id.* at 1170.

18. *Id.* at 1171.

19. Laura Shoop, *Uncovering the “Hidden Crime” of Human Trafficking by Empowering Individuals to Respond*, 36 GA. ST. U. L. REV. 1173 (2020).

20. See, e.g., TODRES & DIAZ, *supra* note 2 (calling for the development of a comprehensive, integrated response to child trafficking).

2020]

FOREWORD

xiii

Through all the articles in this Symposium issue, there is a common thread: a genuine appreciation of the ethical obligations in research, advocacy, and work on human trafficking. All the authors reinforce—both expressly and implicitly—the importance of understanding the lived experience of individuals and communities at risk of and harmed by human trafficking and related forms of exploitation. A deeper appreciation of these lived experiences can help us develop a better understanding of the root causes of human trafficking and craft more effective responses that ultimately can *prevent* such harm from occurring.