Re-Conceptualizing Human Trafficking: From Slavery Ships to European Trips

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“Slavery is a weed that grows on every soil.”
-Edmund Burke
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Introduction

The smuggling of drugs is a world old practice, used today to garner huge profits in the Mexican cartel and for the occasional high or energy boost of the average college kid, and stems back to older times via the smuggling of opium at the hands of the British Empire onto Chinese borders to open up its five treaty borders. It is easy to label such smuggling a vice, as drugs do harm onto bodies, but what do we make of smuggled bodies across borders? How do we characterize bodies, coerced or not, to perform duties in foreign lands? This is the most basic way to define human trafficking, and yet it is not even close.

The body is a sacred, spiritual being and often the focal object when considering principles of pollution, purity, sanctity and the like. It is protected in the image of a woman, mourned after during times of war and purified in regards to birth and death. How is it possible therefore to defile it, to abuse it, to sell and commodify it? What logic allows for such a transition and what conditions push for the transport of bodies from place to place? The complex nature behind human trafficking is a fascinating one. Although many regard it as a relatively modern phenomena, (the rationale often attributed to globalization) it is incredibly old in nature, garnering similar origins in the grim Trans-Atlantic slave trade of the 19th century and the similar legal attempts that followed at curbing and dissuading the crime. Such a comparison is germane to trafficking theory and understanding the different legal ramifications that emerged to combat slave trading, although often ineffective; these laws proved to be as soft as International and Local laws are today in regards to human trafficking.

As of 2005, $44.3 billion in worldwide profit was accrued at the expense of 12.3 million trafficking victims- an astounding amount.¹ Despite the year used in this statistic, the breakdown

¹ Please see the International Labour Organization’s statistics for 2005.
of human trafficking must be understood as a historical case with roots delving deep in legal, 
social and economic implications of suffering countries and host nations that have a demand for 
victims of these said implications. The chapters that follow will expand upon human trafficking in 
its dark earlier years, where the goal was accruing monetary advancement and supply and demand 
relied on the demand for labor. It is through the implementation of a federal law and ineffective 
policing that this early form of trafficking permeates and the Progressive Era (1890-1920) of the 
United States develops the sexual rhetoric that shrouds the definition of human trafficking, 
rendering it an incomplete definition to this day. From this fallacy, arise common misconceptions 
of human trafficking, often associated with sexual exploitation and prostitution, which are not in 
fact interchangeable terms. Sexual exploitation makes up less than fifty percent of all forms of 
human trafficking, a percentage that varies on a per country basis, but nevertheless is 
 misrepresented on a global scale. At this point of departure, we can start to assess the human 
 trafficking problem in present day and the international response via legal instruments, in 
 particular the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in 
Persons, Especially Women and Children, Supplementing the United Nations Convention Against 
Transnational Organized Crime, labeled UN Protocol from this moment on. The ineffectiveness of 
such a legal document is faulted for two reasons: the vague definition of “trafficking” attached and 
the sovereign nation response in enforcing this law within its own respective borders. This is 
supplemented with a case study of two nations, the United States, predominantly as a receiving 
country, as formerly in the Slave Trade, and its response to UN legislation with the enactment of 
its own policy, the Trafficking Victims Protection Act of 2000 and Ukraine, a source country 
suffering the aftermath of geopolitical, institutional and economic shifts following the collapse of 
the Soviet Union in 1991. This will be followed with my overall conclusion.
Originating with the Transatlantic Slave trade in the 16th century, the first chapter will give a detailed account of the Transatlantic Slave Trade, especially in the 19th century in response to the Abolition Act of 1808, which banned foreign slaves from being brought onto US borders, and the various limits of this federal legislation. The insufficient form of policing that followed resulting in initiatives such as the Africa Squadron, navy ships geared to managing and repelling slave ships, proved to exacerbate the problem as illegal slave trading became more prominent, spiking at this time. The black market that emerged, shrouded by corruption, was fully visible to those who needed the money. To supplement this understanding, it is germane to note that the South had perceived a threat to its economy with the enactment of the Abolition Act alongside its already poor conditions. The subsequent turn of average citizens to illegal slave trading was almost inevitable, as the average day laborer made meager wages as a day laborer. The economic imperative of the South was further supplemented by the recent acquisition of the Louisiana Purchase of 1803, which created high demand for labor on its cotton fields. By the end of 1850, 1.8 million slaves will be implemented specifically for cotton plantations and the (il)legal slave trade concludes with the Civil War in 1865. This will serve as a point of comparison to modern day slavery that is, human trafficking, in order to critique and understand the new “commodity” in demand and what obstacles lie in its abolition.

The United Nations Charter was signed in 1945 to tackle such global epidemics. The Preamble illustrates one of its relevant goals, “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” As a global entity, the United Nations takes upon the responsibility of ensuring that

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2 By 1850, the country had around 3.2 million slaves with 1.8 million responsible for cotton production at a time when the United States was one of the biggest exporters of cotton, a huge economic boost. Among other cash items included rice, tobacco and indigo. Please see, The African-American Migration Story site.

3 Preamble, United Nations Charter.
human dignity is maintained and educating the ideals of equality. The Transatlantic Slave Trade was not afforded the same global support, and yet human trafficking, the modern day form of slavery still voraciously exists. As this piece will illustrate, it is a relatively difficult issue of contention, as intentions, laws and actions are entirely separate factors. The United Nations operates under the presumption that Nations exercise a form of selflessness, whereas they naturally practice selfishness fueled by nationalistic needs. The goal lies in uncovering a bit of that selfishness by analyzing a host nation that is a destination country for trafficking victims to arrive in.

To compare the U.S.’ response in 1808 with the passage of its Abolition Act and its role as a host nation in present day. African kingdoms were not afforded a narrative in what made them particularly susceptible to the Europeans and the US. Ukraine, a nation still in recovery from the dissolution of the Soviet Union in 1991 will be the second case study. The United States offers a conceptual understanding of how destination nations react to trafficking persons on sovereign land and what deadly concoctions result when international laws are invoked in a sovereign nation context. This will be analyzed through its legislation, in particular its passage of the Trafficking Victims Protection Act of 2000 and how it uses its international aid. Ukraine, will be discussed at great length in regards to its vulnerability following a huge geopolitical and socio-economic shift and what conditions allow it to be one of the most prominent source nations in human trafficking, in particular sex trafficking. The role of destination countries will also be addressed and how destination nations like The Netherlands maintain this heavy influx of human trafficking from Ukraine.

This thesis utilizes sources in the form of Law, both international and national in respects to Ukraine and the United States, Non-Governmental and Governmental Organization surveys,
newspaper articles, statistical data and interviews with traffickers and trafficking victims. It attempts to make sense of the limits of International Law at its foundational conception and what faults sovereign nations encounter when implementing their version of anti-trafficking laws and policies.

Trafficking Theory

The word traffic, originates from the French word, “trafficare”, meaning to “carry on trade” and arguably from the vulgar latin word, “transfricare”, a twist of the words, “trans” meaning across and “fricare” which means to rub, and therefore to “rub across”. From its very origins, trafficking seems to carry the equivalence of transporting goods in a particularly inhumane or immoral manner. It has not strayed far from its origins or from its counterpart in the 19th century, the slave trade. This careful comparison will be shortly made in the upcoming section, as the concept of trafficking needs to be established first.

Adam Smith noted that of all things that cross borders, people are the “most cumbersome and difficult to transport.” This has indeed changed over the course of the past few decades, where despite closed borders, the emigration of people has prompted the easiness of which criminals are able to maneuver in the transnational system. To incorporate migration talk, the crossing of bodies across sovereign nations and borders is the very basic concept of the trafficking of bodies. The very act of it is quite different from the trafficking of drugs or other paraphernalia; it requires the stripping of agency, freedom and consent in order to serve economic interests of the actual smuggler and the market it is reaching. Without borders, no such distinction of markets

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4 The few interview testimonials provided were given anonymously and serve to be more credible and less susceptible to alterations based upon what organization was providing the interview. Otherwise NGOs and other organizations can serve their respective goals by providing certain kinds of testimonials.  
5 Etymology Dictionary  
6 Andreas, P. Smugglers Nation p. 130.
would exist. These markets are often fueled by the legislation that drives trafficked goods underground, therefore raising the risks and raising the rewards. In the case of the United States, the profits would prove to be extremely rewarding and low-risk.

Chapter One: Trans-Atlantic Slave Trade

Human Trafficking today is viewed as a consequence of globalization and black markets composed of immoral actors. A similar notion can be applied to the Trans-Atlantic Slave Trade, where the smuggling of slaves was prevalent up to the 1820s in the United States. Often regarded as the first true instance of globalization, the Trans-Atlantic Slave Trade victimized about 17 million, many of whom did not survive the grueling trip across the Atlantic.\(^7\) This particular grim portion of history is incorporated into the discussion of human trafficking for two main reasons: to understand the simple rationale behind the illegal trade during the 19\(^{th}\) century and what prompted its success and illustrate the influence federal laws, alongside seemingly international propositions, have on fueling a black market.

I. Abolition Act of 1808

The United States flourished during the Trans-Atlantic Slave Trade. It is of no surprise that the nation maintained slavery for so long considering its expansion and addition of the Louisiana Purchase in 1803. The year 1808 is now typically marked as the beginning date of the federal prohibition on American involvement in the international slave trade but certainly not the last day a slave entered US soil from abroad. In fact, this historic date was actually the culmination of a series of state and federal efforts to restrict U.S. participation in slave

\(^7\) Figure provided by UNESCO.
trafficking that began years earlier and would exacerbate the slave trade to remain underground for the next few decades.

The 1808 law began as a response to the British passing of its own foreign-slave-trade ban in 1807, responding to pressure from its English abolitionists. England’s “Act for the Abolition of the Slave Trade” prohibited slave traders, citizens, and subjects from outfitting vessels on British ports for slave voyages while also banning them from trafficking slaves except in the British West Indies, where intracolonial slave trading was permitted. 8 Serving as the world power at this time, Britain could not be rendered an unmoral, universal entity and responded to domestic pressure to respond as well as international, following after Denmark outlawed the trade in 1802. The United States had a somewhat different rational for imposing the 1808 ban.

A unique aspect of the ban was that this was not its first attempt, indeed this was the first of many. Indeed in 1794 the first federal anti-slave trade ban was passed making it illegal to partake in slave trafficking to non-American ports. Section 1 notes:

No citizen or citizens of the United States, or foreigner, or any other person coming into, or residing within the same, shall, for himself or any other person whatsoever, either as master, factor or owner, build, fit, equip, load or otherwise prepare any ship or vessel, within any port or place of said United States, nor shall cause any ship or vessel to sail from any port or place within same, for the purpose of carrying on any trade or traffic in slaves, to any foreign country; or for the purpose of procuring, from any foreign kingdom, place or country, the inhabitants of such kingdom, place or country, to be transported to any foreign country, port, or place whatever, to be sold or disposed of, as slaves. 9

This was shortly followed by an addition in 1800 to ban American citizens from serving as crew members on slave ships and participating in the trade abroad via investment in foreign

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8 See Bill for Abolition of Slave Trade (1807).
9 Slave Trade Act Ban of 1794.
slave trade. State laws also previously chimed in with their own versions; Rhode Island was a leader in the abolitionist movement, pushing its own bill in 1787 under Moses Brown, “making it illegal to for any citizen of the state to ‘directly or indirectly import or transport, buy or sell, or receive on board their vessel…any of the natives or inhabitants of any state or kingdom in that part of the world called Africa, as slaves or without their voluntary consent’” ¹⁰ Sadly Moses could not celebrate for long as the number of Africa-bound ships from Rhode Island tripled between 1798 and 1799. ¹¹ These laws did not garner teeth in regards to enforcement, as the government initiated statutes to demonize the international abroad while domestic slavery flourished and needed further nourishment with additional foreign labor. These laws served as abolition sentiment but also as the catalyst to more tension in the South and pushed the trade underground, where it flourished.

The preconditions that allowed the African slave trade to morph into a vast criminal enterprise are worth noting. It was enabled by American merchant complicity-in violation of U.S. anti-slave trade laws-and fueled by growing demand for slave labor in new world plantations economies. ¹² In other words, the procession of laws motivated at stopping the foreign slave trade were triumphed by the demand of the South for slaves in its growing cotton market, and merchants were the men responsible. The culture of economic imperative in the South was strong as the frontier opened for Louisiana to enter, prompting the demand for more labor to work plantations and the average Southerner remained relatively poor. Urbanizing the frontier economy without institutional support systems prompted stiff competition and by 1850-1860, the annual earning of a day laborer was less than $100 while the illegal sale of one slave

¹⁰ Quoted in Andreas p. 136.
¹¹ Rappleye, C. Sons of Providence, p. 312.
¹² Andreas p. 130.
could amount anywhere from $400 to $1500.\textsuperscript{13} The economic advantage of participating in the now illegal slave trade is certainly apparent, as Southerners take it upon themselves to preserve their livelihood. Fear and economic self-interest fueled this initiative to maintain the slave trade at all costs.

Between 1790 and 1800, the slave population doubled in Georgia from 29,264 to 59,699 and Mississippi rose from 3,489 to 17,088 in the first decade of the 1800s.\textsuperscript{14} The Abolition Act was nothing more than a huge interference with internal regulations for the South, as the entire slave trade accumulated a total of 9,566,000 slaves post 1808 according to estimations held by Philip D. Curtin.\textsuperscript{15} The tasks of those explicitly involved were divided into two job descriptions-the slave trader and the traffickers. Slave traders worked within borders on a professional level and were responsible for redistributing, reselling and hiring employees to watch their business. Meanwhile, traffickers served a more hidden agenda by violating laws, participating in clandestine transactions and built connections through their reputation and word of mouth connections. Cooperation from corrupt US Marshalls, immune to prosecution and with a broad discretion to confiscate smuggled slaves and auction them for cash, lead to problems in enforcing the 1808 Abolition Act. With international credibility at stake, the United States needed to find a new way to enforce its new law.

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II. British Austerity & the Africa Squadron
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\begin{itemize}
\item \textsuperscript{13} Cited in Freebooters and Smugglers, 7. (2007).
\item \textsuperscript{14} Freebooters and Smugglers p. 6.
\item \textsuperscript{15} Philip D. Curtin is one of the first historians to estimate number of slaves accrued via the Slave Trade onto US borders between the 16\textsuperscript{th} and 19\textsuperscript{th} century. Please see for more info: The Atlantic Slave Trade. A Census by Philip D. Curtin.
\end{itemize}
Britain began patrolling the waters soon after it passed its own ban on foreign slave trading in 1807. By the 19th century, it had interjected several hundred illegal slave voyages and sought to ensure the United States was fully in compliance with its own federal law. Britain proposed the Law of Nations in 1822, a law that would categorize the slave trade as a form of piracy and allow the reciprocal right of search and slavers to be returned and sent to respective native lands for trial. Slaves would be returned to their homelands as well. The United States mutilated the treaty removing the reciprocal Right to Search vessels and Right to Search citizens on a vessel of a third world nation; Britain refused to sign it in this form. Suspicions of Britain began to rise and made the abolition agenda harder to push on US soil and waters. Many felt that Britain was utilizing this ban on the slave trade to profit from commercial deals and advantages. The Right to Search coupled with a grand navy and discretionary authority certainly raised doubts on Britain’s purity agenda. It seemed that Britain had coupled purity with profit by cutting out its opponents. In fact, who would patrol and investigate suspicions in regards to Britain’s vessels if the United States had not ratified the treaty for reciprocal Right to Search? U.S. suspicions were not completely paranoid as many treaties with African tribes established a British protectorate over the treaty tribe where incidents of refusal resulted in military force.

In response to Britain’s lead on international affairs, the United States decides to employ its own Navy to ensure the compliance of the foreign slave trade ban. Hence, the U.S. Navy’s Africa Squadron was deployed to patrol Africa’s West Coast in 1843, with its priority mission to protect U.S. commercial vessels from the British rather than policing slavers. During this time, the squadron failed to intercept a single slaver in its first two years and Washington met bare minimum obligations stipulated in Webster-Ashburn treaty (also known as the Treaty of

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17 The British for example, established the East Africa Protectorate in 1895 occupying what is now known as Kenya.
18 Warren S. Howard, Africa Squadron: The U.S. Navy and the Slave Trade, 1842-1861, 56-57
Washington) with Britain. The Webster-Ashburn treaty was signed on August 10, 1842 to, “Maintain on the Coast of Africa a sufficient squadron to enforce separately and respectively, the laws, rights and obligations of the two countries.”

Reasons for this poor performance lies in many reasons overall. The minimal resources allotted for this federal initiative alongside no motivation to see its success concluded the Africa Squadron’s mission.

The Squadron remained on the coast for five years with a total of eighty guns. Complications arose when the climate, minimal ventilation below deck and outbreak of malaria made patrolling nearly impossible. Africa Squadron was instructed to avoid “bad air”, the literal translation of malaria in Latin. Bad air constituted humidity and swamp conditions, which thus meant avoiding the continent of Africa itself. The Navy presence peaked between 1836 and 1837, with a mere total of four naval cruisers to cover the entire African coast.

The aesthetics of the entire operation are best illustrated with the Navy secretary’s instructions to Flag Office Perry that read:

The rights of our citizens engaged in lawful commerce are under the protection of our flag; and it is the chief purpose as well as the chief duty of our naval power to see that these rights are not improperly abridged or invaded.

…It is to be borne in mind, that while the United States sincerely desire the suppression of the slave trade, and design to exert their power, in good faith, for the accomplishment of that object, they do not regard the success of their efforts as their paramount interest, nor as their paramount duty. They are not prepared to sacrifice to it any of their rights as an independent nation; nor will

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20 *Africa Squadron*, 24.
the object in view justify the exposure of their own people to injurious and vexatious interruptions in the prosecution of their lawful pursuits.²¹

This directive places into perspective the context with which the Squadron operated under and set the precedent for the future navy deployments in regards to how effective they have to be. Maintaining the sovereignty of the nation away from the interference of Britain upset the agenda for abolition while US economic interests remain intact. Enforcement remained inadequate but criminalizing the slave trade held significance. It pushed the trade more out of sight and therefore more out of the public mind. The government could disapprove of the international trade without substantially utilizing federal resources or undermining support for domestic slavery. ²² This criminalization offered the United States a competitive edge internationally while maintaining the façade of enforcing its federal laws.

Overall, United States legislation bore no teeth in regards to curbing its activities in the illegal slave trade. The waning Deep South craved a high demand for cheap labor via the Slave Trade took the practice underground and utilized slave traders, traffickers and corrupt government officials to get it. Mistrust of the British agenda in regards to policing and searching American vessels prompted the United States to sign the Treaty of Washington and enforce its own version of patrolling the African coast, free from British interference. The Africa Squadron proved to be nothing more than an aesthetic front to quell British discontent and falsely comfort abolitionists back home. The economic imperative to partake in the illegal slave trade was too valuable.

²¹ Soulsby, *The Right of Search*, 129.
²² Andreas, 136
Chapter Two: Modern Day Trafficking & International Response in 2000

The League of Nations, predecessor the United Nations, passed its International Convention for the Suppression of the Traffic in Women and Children in 1921, as a multi-lateral treaty addressing international trafficking. At this time, minimal research was done on the causes and real dangers but nevertheless certain guidelines were set. Article 6 stated that "The High Contracting Parties agree, in case they have not already taken licensing and supervision of employment agencies and offices, to prescribe such regulations as are required to ensure the protection of women and children seeking employment in another country." Article 7 added to "undertake in connection with immigration and emigration adopt such administrative and legislative measures as are required to check the traffic in women and children. In particular, they undertake to make such regulations as are required for the protection of women and children travelling on emigrant ships, not only at the points of departure and arrival, but also during the journey and to arrange for the exhibition, in railway stations and imports of notices warning women and children of the traffic and indicating the places where they can obtain accommodation and assistance." 23 These vague assessments of what the problem is and the role of sovereign nations in addressing trafficking in their own borders are quite clear. It only serves to address emigration in regards to sea travel and that regulations of work will govern who will be deemed a victim and who will not. Policing is also minimally addressed as it is the task of employment agencies to create regulations. After the League’s disbandment at the end of World War II, the United Nations was created to continue its legacy.

On a global scale, the United Nations (UN) has failed to accomplish its mission—trafficking has not ceased, traffickers remain in the midst and proper services and support for

23 See the United Nations Treaty Collection, Chapter VII.
victims have not been successful or nearly as attainable. But establishing this as useless as reiterating that there is a human trafficking problem--the relevance remains in why. The UN’s bi-polar approach to trafficking is establishing global legislation and developing a framework for action from the legislation, an admirable duo-process. The two mottos of global unity align with this approach: “think global, act local” and “end the crime that shames us all.” Instead of focusing on a solution per sovereign state as the mottos suggest, the emphasis becomes on what actions preserve sovereign autonomy and non-interference in domestic socio-economic and cultural affairs, particularly from the outside world.\textsuperscript{24} In the case of the United States during the 19\textsuperscript{th} century responding to pressure from Britain to ban the Foreign Slave Trade, it could not fully commit to the principle because of economic reasons and issues of maintaining sovereignty. The same logic is applied in modern day forms of slavery, rendering human trafficking a huge tool in reclaiming sovereignty.

Three International legal documents exist that attempt to directly address human trafficking and aid trafficked peoples—the United Nations Millennium Declaration, the Convention Against Organized Crime, and the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.\textsuperscript{25} The UN Protocol is the most recognizable and arguably, the conceptual base of the collaborative, global community and as I will argue is the root for many of the misconceptions associated with the human trafficking globally, particularly in the United States, a huge market and host country for trafficking victims to enter.

Language, especially on a global piece of legal document is absolutely vital. As a global entity, the United Nations must take caution in constructing legislation and treaties to ensure that

\textsuperscript{24} As emphasized in Kaneti’s piece, Project Trafficking: Global Unity in Addressing a Universal Challenge?
\textsuperscript{25} As explained in Kaneti’s piece, all three of these legal documents show the multi-faceted structure the UN strives to tackle this problem.
as many countries as possible understand and can feel comfortable signing on. At the same time, cultural boundaries and differences will always serve as an obstacle to diplomacy and international response and unity if they are clearly written and displayed. For example, all nations can agree that a certain degree of torture is inhumane and should be banned, however if the UN were to list various forms of torture to ban, (ie: waterboarding), perhaps the United States and other countries would not sign such a document if they actively participate and cannot agree on the severity of such a form of torture. Therefore, it is simply easier for the United Nations to maintain vague, obscure wording and thus gain greater success on the surface. However, ambiguity comes with its own set of problems as the UN Protocol illustrates in its refusal to define, “trafficking” in all nations. It instead allows nations to set their own precedent in establishing who to protect, criminalize and ultimately alienate. Thus, the dilemma of misconception becomes very clear and the UN’s naïveté in expecting sovereign nations to set aside personal interests for a global issue becomes apparent.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, Article 3 (a) states that,

“Trafficking in Persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, or fraud, of deception, of the abuse of power of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum the

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26 I reference water boarding as an example because the United States implemented such a usage of coercive violence during the Iraqi War from 2002-2003 in CIA operations. It has since been publicly criticized by the International community including the United Nations as a form of torture and was officially banned in January 2009 along with other forms of torture by President Obama.
exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or
services, slavery or practices similar to slavery, servitude or the removal of organs.27

The Protocol provides a definition and yet is ambiguous enough to foster lack of
consensus regarding action. Also, the strong emphasis on legality and criminality, through the
persecution of the criminal, allows room for sovereign states to view this matter on moral
grounds, addressing only specific aspects of trafficking, such as sexual exploitation.28 In other
words, the United Nations’ vague language allows nations to interpret trafficking as they see best
fit; following the UN’s strong commitment to seeing trafficking as a war-like cause, addressing
trafficking on moral grounds becomes the best way to speak about it publicly. Trafficking
remains to be properly defined, and the lack of consensus translates poorly into legislation,
crippling the global initiative to address the issue. If trafficking cannot be properly understood,
then there remains no distinction between who qualifies as a trafficked person and a migrant
worker. Providing the United States as a case study in this point, US legal interpretation spells
out that,

Trafficking needs to involve both migration from one sovereign territory to another (i.e., illegal
crossing of an international border) and provable coercion. The latter stipulation, coercion, seeks
to distinguish between ‘smuggling’ and ‘trafficking’ where smuggling is based on the person’s
consent (and payment) to gain illegal entry as well as job opportunities provided in a foreign
country are legally arranged. The former stipulation—‘sovereign border crossing’—implies that
‘trafficking’ cannot account for any illegal, coercive, and violent exploitation of persons that
happens within the country.29

27 Notice the refusal to define trafficking in this definition. The United Nations uses this opportunity to allow
nations to decide for themselves what that will look like in order to gain approval from the most countries possible.
Relying on context of their respective nations leads to a lackluster interpretation and thus the inability to police the
problem properly. Please see the following site for the UN Protocol in its entirety:
28 Desyllas, 63-64.
29 Kaneti, 349
After such a long winded definition, many discrepancies still arise. Many victims of trafficking agree to travel across borders for job opportunities and consent, sometimes providing a small payment for travel costs but are then forced into sexually exploitative situations, therefore are they trafficking victims, even though consent and minimal payment is involved as characterized by smuggling? Under the United States’ legal interpretation, trafficking becomes isolated to a simple trans-national issue rather than one that can be addressed regardless of occurring within native borders or not. What if a victim receives a visa and it becomes legal for them to stay, are they no longer being trafficked? Are citizens of the United States not eligible to be trafficking victims if it is within borders? Are they simply kidnapped persons at that point? Trafficking opens up a very gray area in the U.S. as in many other countries in an already foggy definition provided by the United Nations. The definition remains premature and the topic complex.

Perhaps the only true consensus the global community and sovereign nations seem to agree on is the image of a helpless, sexually exploited woman—the recurring victim of trafficking.

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30 As part of an Office-supported campaign of the Office for Security and Co-Operation in Europe (OSCE). Please see for more info: http://www.osce.org/secretariat/104083.
31 Blue Campaign poster as part of the initiative of the U.S. Homeland Security Department. For more info please see: http://www.dhs.gov/blue-campaign/resource-catalog
The images of the victims help narrow in who the enemy is and on what grounds this entire issue stands on. Drug trafficking and other forms of inanimate object trafficking are not heavily sexualized nor are they accompanied by female images while the narrative behind human trafficking remains under the scope of a desperate, helpless, sexually exploited woman. Trafficked persons are nearly two-thirds women and children and therefore half of the rhetoric is true; however, the images of women and children forced into prostitution with minimal to no narratives leave the public in an awkward place to render the trafficker amongst common criminals.  

Prostitution is not a new concept to sovereign nations and since the stories and lines presenting human trafficking are virtually invisible, public opinion consequently groups human trafficking consequently under the same scope.  

Trafficking and prostitution tensions are particularly palpable in the European Union, where citizens of the EU are allowed to practice prostitution so long as they have a permit. The response in the United States is entirely different because prostitution is illegal, and thus the market is in more demand there. Nevertheless, equating sexual exploitation with trafficking so heavily leaves the public to draw conclusions and biases on their own and results in a discourse of criminal and public opinion focused on the morality and legality in regards to prostitution instead of what are the causal roots to trafficking.

32 Ukraine campaign poster provided by OSCE. [http://www.osce.org/ukraine/101392](http://www.osce.org/ukraine/101392).
33 Kaneti, 351.
In a recent public opinion poll in Russia, respondents indicated, “trafficked women (a) bear direct responsibility for being trafficked and (b) have either been duped into being trafficked or have themselves wanted to migrate.” This conception argues that women are in full control and are capable of making rational choices, in fact having unlimited options to pro-actively decide to go abroad or not. The consequence that may follow does not necessarily mean women were coerced into being exploited because the consent was present in the initial stage. Much like in gambling, one may lose a great deal of money even though the intent to make more and consent to play was present. The circumstances that lead a person to make such a gamble are completely ignored and unaddressed both internationally and domestically.

Chapter Three: Destination Nation: United States

As a developed nation, the United States is one of many countries that are primarily destinations for victims of human trafficking. A long term strategy of destination countries is to use their power and influence to shape laws and policies on trafficking and prostitution that favor domestic industries and social agendas. U.S. involvement or lack thereof in this worldwide phenomenon is as multi-dimensional and complex as the actual issue of human trafficking. I would like to examine the United States’ agenda on the matter in two different categories: legislative response and international aid (whether in giving or receiving). The case of the United States’ involvement in this modern day form of slavery is just as salient as it was after passing the 1808 Abolition Act in regards to foreign slave trading.

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34 Buckley, 222-223.
I. Legislative Response

In 2000, the US passed the Trafficking Victims Protection Act (TVPA) in response to the
global crisis of human trafficking, following suit after the United Nations passed its UN
Protocol. Much like the United States followed suit after Britain passed its 1807 ban on foreign
slaves centuries ago, it needed to foster the same principles of morality as the UN proposed in
2000. The few beginning sentences of TVPA quickly illustrate that the purpose behind the
Federal Law is due to the booming sex industry and is thus the rationale behind its enactment:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the
world. Trafficking in persons is a modern form of slavery, and it is the largest
manifestation of slavery today. At least 700,000 persons annually, primarily women and
children, are trafficked within or across international borders. Approximately 50,000
women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into international sex trade, often by force, fraud or
coercion. The sex industry has rapidly expanded over the past several decades. It involves
sexual exploitation of persons, predominantly women and girls, involving activities
related to prostitution, sex tourism, and other commercial sexual services. The low status
of women in many parts of the world has contributed to a burgeoning of the trafficking
industry.35

This would imply that there is a severe problem of sex trafficking on US soil or perhaps a
direct link between trafficking and prostitution. But this interpretation proves to be an issue as

Please see the US Department of State site.
prostitution and human trafficking, even sex trafficking arise from different precursors. Furthermore, the United States only defines severe forms of trafficking and focuses exclusively on transnational movement of persons. In addition, there are such austere criteria for proving coercion and lack of consent that trafficked victims are considered criminals and stripped of protections until they can prove themselves innocent. Both the United States and the European Union require “cooperation with the competent authorities” to grant temporary legal status to trafficked persons. In other words, legal protection is contingent upon cooperation of victims and ensuring that they are not just prostitutes essentially.

The trouble remains that at the very root of this understanding lies an unconstitutional approach to these victims. Rather than assumed innocent until proven guilty, which is the constitutionally warranted assumption of all U.S. Courts and Law, trafficking persons are presumed guilty until they can prove themselves useful and innocent. Inability leads to deportation or at times, confinement in jail and thus a re-victimization of the trafficking person. To this end, Human Rights Watch published a letter addressing the US Department of State’s Senior Coordinator, Mark Taylor in response to the 2010 Trafficking in Persons Report stating, “in the course of research for numerous reports on immigration enforcement activities, Human Rights Watch has been confronted with cases in which trafficking victims have in fact been detained, sometimes at great length.” This deems trafficking victims at the bottom of the criminal list, completely deprived of basic rights afforded to all those on US soil. Even prisoners of war as elaborated on by the Geneva Convention of 1950 provide more human treatment than trafficking victims in the U.S.; Article 14 states that Prisoners of War that refuse to answer

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36 Quoted in Kaufmann and Hemingway, 23-24. For clarification, the temporary legal status is known as a T-visa in the United States and a Residence Permit in the European Union.
cannot be threatened, insulted, or exposed to any unpleasant or disadvantageous treatment.\textsuperscript{38}

How can this be so? How can a sovereign nation of so many liberties allow such treatment? Are not these victims entitled to universal human rights?

United States law regarding trafficking is certainly more stringent than its International counterpart, however the prosecution and sentencing is not. Sex trafficking offenders face up to life imprisonment with a mandatory minimum sentence of 10 years for the sex trafficking of a minor under the age of 14 through force, fraud, or coercion.\textsuperscript{39} If a minor is trafficked in a manner that does not necessarily use coercion or force (both undefined here), this is still illegal; minors are typically used for cheap labor and/or sexual exploitation, both of which are completely illegal in the U.S. so what is the purpose of making this explicit distinction?

Of the 91 convicted trafficking offenders who did not appeal courts' decisions in 2011, 53 received sentences with prison terms. Sentences ranged from less than two years' to ten years' imprisonment. This is in essence, almost nothing in regards to effectiveness. Criminals that have appealed court decisions are the bigger entities in this Trans-National Political Nexus. Convicted trafficking offenders are more likely to be the middle men in the grand scheme. The responsibility for investigating human trafficking offenses reverted from the specialized Department of Combatting Cyber Crime and Human Trafficking to a subordinate unit in the Criminal Search Department, which held this responsibility until 2005. The government finally passed a law that would at least improve the delivery of services to victims in the future. On September 2011, the legislature passed the “Law on Combating Trafficking in Human Beings, which assigned anti-trafficking responsibilities to various government agencies and codified the

\textsuperscript{39} U.S. Dept of State, 2000, 2011.
government's anti-trafficking protection policies."40 According to the Ministry of the Interior, the government, “identified 294 victims, compared to 277 in 2010 and 359 in 2009. In 2011, IOM, working with its local NGO partners, provided reintegration assistance to 823 Ukrainian victims, a decrease from 1085 victims in 2010, about three quarters of whom were victims of labor trafficking.”41 Labor trafficking is perhaps easier to identify and less embarrassing to admit to.

The reality of the matter is that there is a scarce amount of attention to the issue because there is no perceived problem aside from illegal migration and prostitution which emerge. As Suzanna B. Seltzer, Partner at Klasko Rulon Stock & Seltzer notes, “No one is raiding a factory looking for trafficking victims; they are looking for illegal immigrants.”42 To further expand prevention, coordination with civil society needs to be established. Trafficking assistance and prevention programs need to be reintroduced particularly for judges and law enforcement so that victims are not treated like criminals instantly. This will prove to be a hard venture as European law and the US require a certain degree of cooperation to label a trafficking person anything but a criminal.

II. International Aid-

The United Nations General Assembly understands that preservation of sovereignty and boosting police authority has become an issue of higher priority in the fight against trafficking and thus wanted to address this issue:

While many countries have laws against human trafficking, the dark truth is that very few have good records for combating it, for enforcing these laws. This must change. Today’s dialogue will

41 Ibid., 354.
42 Ibid., 252.
be successful if we identify the tools and strategies to enable us, as governments, as non-governmental organizations and as individuals, to press for legislation and the enforcement of that legislation.  

In attempts to correct this fatal flaw, the United Nations also declared that nations failing to collect data on trafficking can request additional assistance in order to boost their monitoring and policing activities. In other words international aid will supplement the funds sovereign nations should already be implementing to collect data to help aid the United Nations’ survey of the trafficking problem. This instead leaves states eager to display incapability to properly report and collect data and in turn, request additional funds from international organizations. Taking advantage of this attempt on the United Nations’ part to correct past deficiencies allows for sovereign nations to get away with improperly reporting or not reporting at all on the status of human trafficking, while also becoming donors to international aid. The global unity against the trafficking problem serves to further state interests versus resolving this problem. Thus in turn, Trafficking as a phenomenon is not treated with universal implications but rather as a monetary scapegoat for nations to rely on behind the cloak of sovereignty.

In attempts to relieve tensions between international values and goals coupled with state democratic principles, the image of the exploited trafficker has become one of a foreign woman, sexually abused. Compassion for suffering bodies exploits the understanding that should be addressed in regards to what allows for these conditions to arise. The obsession with suffering and otherness, in the forms of prostitution, third-world women, slavery, shifts the focus of trafficking to other arenas of domestic concern, such as coercion and morality. Advocacy groups

focus on prostitution and illegal migration rather than socio-economic issues of which these victims arrive from. The emphasis on the negative takes away from the overall discussion the Untied States should be addressing. In correspondence with law assuming a trafficked person is a criminal until proven innocent, re-victimization continues. Trafficking persons are not afforded a voice nor universal protections in advocating for themselves.

Because they are considered an “other” on US soil, victims are often jailed and root causes of the problem go unaddressed. The problem of trafficking is brushed as it is far more complex to understand versus charges of prostitution, illegal entry/migration. It appears that trafficked victims do not bear any value as there are no clear estimates of their numbers, which should not be an issue surveying with the international funding the US receives after claiming its inability to survey numbers. 45 Without a proper number, the magnitude of the problem remains unknown and the victims become the perfect targets to becoming criminalized. Trafficking victims are now the criminals, the obstruction to territorial integrity but a tool in gaining international aid.

Chapter Four: Source Nation: Ukraine

Much of the theory and historical context that allows for human trafficking to remain so lucrative cannot be properly understood without a case study. Ukraine, until in recent years has remained relatively under the radar, often succumbing to sitting in the shadows of its big brother, Russia. As one of the primary source countries for human trafficking, it is a perfect case study in understanding what makes a nation particularly vulnerable to this black market and modern day slavery. It is also a rare instance in which a nation involved in sex trafficking accounts for the majority of the human trafficking present.

45 See for example, UNODC Global Report on Trafficking 2009, p. 12.
To begin, human trafficking is a side effect of poorly developed countries plagued with socio-economic disparities and often geopolitical issues. In other words, countries where jobs are not readily available due to economic insufficiencies are susceptible to becoming source nations. This does not exclude developed nations like the United States, Germany and Israel from partaking in human trafficking, but these nations often serve as destination countries rather than source nations.46

Overly sexualized images associated with trafficking victims from different exotic places are not completely inaccurate in depicting women in such a manner. These regions of vulnerability stricken by poverty, minimal opportunities for survival or further advancement and environments of extreme violence and crime, perpetuate a weak civil society incapable of fighting these parasites.

One of the most common causes of these vulnerable regions are regime shifts and thus new imposing economic alterations which place certain nations predisposed to the vices of trafficking. Ukraine remains a unique nation to examine in the scope of human trafficking as it traffics for the purpose of sex trafficking.

It’s susceptibility to human trafficking lies in three key areas: the dissolution of the Soviet Union, its vulnerability as a transitioning country with open borders and the role Non-Governmental Organizations (NGOs) play in agenda setting. These three key aspects in chronological order, I argue are what permeate this rampant problem.

46 These are just a few destination countries participating in human trafficking. Netherlands and Greece are some of the bigger destination countries in regards to the percentage of sex trafficking alongside Germany and Israel.
I. Dissolution of the Soviet Union in 1991

The collapse of the Soviet Union in December 1991 prompted a series of features to serve as a breeding ground for corruption and organized crime, the driving force in promoting human trafficking in Ukraine. The first issue is the inability to properly transition in regards to legal framework to accommodate for the newfound sovereign state. Inherent inability to impose the same degree of order on a population after normal constraints are removed to mold and govern the new society is detrimental. Transitioning from a Communist state to the introduction of a free market leads to a power vacuum of opportunity, and if the government is incapable of seizing this moment and placing relevant laws, this allows for organized crime to become a surrogate for government authority.

In September 2000, the head of the Kiev police, Col-Gen Yuriy Smirnov, told a working meeting of the Kiev police leadership and heads of district state administrators that Kiev had “become an asylum for rogues, prostitutes and drug addicts.” Although four main criminal gangs had been dealt with, another twelve gangs continued to operate with around sixty enterprises, including some banks, under their control. The deputy interior minister of Ukraine added that the authorities had proven helpless to deal with this, with the result that criminals were becoming stronger and more blatant. They have even “become sponsors, people’s deputies of all levels and speak on television.” Perhaps most important of all, Smirnov noted that the Ministry of Interior’s directorate for combating organized crime had been compromised and that “protection” for criminal gangs had been established. After a recent clash between criminal organizations, one of the leaders had been informed that the police were seeking him.47

This article touches upon the immense amount of power that criminal organizations have in mobilizing and essentially ruling in a rather anarchic nation. Transparency International

reported in 2001 Ukraine landed number 83 of 91 countries in regards to its Corruption Index, and of the 14 European countries, the most corrupt.\textsuperscript{48} Criminals are free to roam, participating in everyday life and luxury with the police in their pockets through bribery in exchange for protection. Such an instance of compromised authority was displayed and discussed earlier in regards to United States Marshalls allowing illegal slave trading for a type of commission as well.

Annual profit generated by criminal networks is estimated at, “USD 32 billion; and since the 1990s, there are 27 million trafficked persons globally.”\textsuperscript{49} The argument remains today that the increase of trafficking since the 1990s could be attributed to a combination of factors, including the collapse of the Soviet bloc and opening of state borders, challenges to economic and political transition in Eastern Europe, all of which are permeating features that stimulate organized crime.\textsuperscript{50} Approaching organized crime in regards to how one approaches markets, it moves in areas to fill voids and a struggling democracy allows the power vacuum to be filled up very quickly. Demand remains high for vices and the commodity is usually cheap and readily available. Much like gangs emerged in poor communities in the United States to protect and ensure economic welfare and defend the interests of the community, Ukrainian mafias emerged in efforts to be patriotic and seek some sort of lifestyle outside the consistent destitution that followed the collapse.

**Ukrainian Law**

In formal attempts to combat trafficking, the Ukrainian Criminal Code supplements the International Law in place. Article 149 of the Ukrainian Criminal Code, entitled, “Trafficking in human beings or other unlawful agreement in respect of a person” reads as follows:

\textsuperscript{48} Transparency International 2001.
\textsuperscript{49} Polaris Project 2007
\textsuperscript{50} UNODC 2008
1. “Trafficking in human beings or other unlawful agreement in respect of a person, as well as recruitment, transportation, harbouring, transfer or receipt of a person, committed for the purpose of exploitation by means of deception, blackmail or abuse of a person’s position of vulnerability, is punishable by deprivation of liberty for a term of three to eight years.

2. Any such actions as provided by paragraph 1, committed in respect of a minor (up to 18 years of age) or perpetrated upon two or more person, or repeatedly, or by a group of persons as a result of prior conspiracy, or by an official through the abuse of authority, or by a person upon whom the victim was dependant materially or otherwise, or committed in combination with violence that is not endangering the life or healthy of the victim of his/her relatives, or in combination with threats of such violence, is punishable by deprivation of liberty for a term of five to twelve years, with or without the forfeiture of property.

3. Any such actions as provided for by paragraphs 1 or 2 committed in respect of a child up to age 14 years of age, or by an organized group, or in combination with violence that is endangering the life or health of the victim or his/her close relatives, or in combination with violence that is endangering the life or health of the victim or his/her close relatives, or in combinations with threats of such violence, or committed by an organized group, or if causing grave consequences, are punishable by deprivation of liberty for a term of eight to fifteen years, with or without the forfeiture of property.”

In the case of the Ukrainian Criminal Code, it addresses key forms of coercion and threats especially in regards to family and addresses violence in various respects while also addressing key age gaps. Exploitation and the “vulnerable condition” are addressed; “exploitation” defined in note 1 includes,

“all forms of sexual exploitation, use in pornography businesses, forced labour or services, slavery or practices similar to slavery, servitude, involvement in debt bondage, extraction of organs, experimentation over a person without his/her consent, adoption for commercial purposes forced pregnancy, involvement into criminal activity, use in armed conflicts, etc.”

While the Criminal Code is certainly stringent and offers a well detailed account of crimes and punishment for such crimes, consent is not explicitly addressed in regards to whether or not it is a concern when addressing exploitation or rendering a trafficked person, a victim. Irrelevance of consent in regards to exploitation is not mentioned and thus begs the question, if a

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51 Unofficial translation provided by the Ukrainian authorities.
52 Unofficial translation provided by the Ukrainian authorities.
person consents to traveling abroad or even sex work, and no longer wants to pursue it after a certain point, can their victimizer, the trafficker be criminally charged?

In response, the Ukrainian authorities provided examples of case law where a crime was charged even with victim consent. One such case, considered by Khmelnitsky City District Court in 2013 charged a person under Article 149, paragraph 2 of Criminal Code and sentenced to over five years for misleading two women that agreed to certain terms of employment but subsequently subject to sexual exploitation.  

G RETA (Group of Experts on Action against Trafficking in Human Beings) notes that explicitly regarding consent as irrelevant in the matter of trafficking would improve policing, education and awareness of the issue and improve self-reporting rates. Social stigma as will be properly explained further in the text, is a relevant condition that women consider before reporting. Removing the precondition that essentially allows for many of these women to agree to job commitments abroad because of economic concerns and beyond, would create a healthy conversation on the matter and switch blame from the victims to the traffickers.

**Economy**

Economically, Ukraine was suffering; it’s GDP in 1992 was 73.94 billion in USD in comparison to the U.S. GDP, the lowest in 1933 during the Great Depression at 0.78 trillion USD and 9.45 trillion in 1992 according to the World Bank Database. Between 1989 and 1998, the economy declined by 57%, failing to see a year of positive growth. In addition, inflation spiked to approximately 200% in 1991, spiking to 2,730% in 1992 when the removal of price controls resulted in hyperinflation. It remained economically disadvantaged until reaching a

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53 See GRETA’s *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ukraine*, 2014.
54 See Aslund, A., “Problems with economic transformation in Ukraine. 30 September 1999.
55 Ibid., 1999.
record high unemployment rate in 2000 of 1,234,000 people. Interestingly enough, this is the same year the UN Protocol was established in combating human trafficking.

Just as economic needs prompted Southerners in the U.S. to employ their services for illegal activity in the slave trade, the same is present in response to poor economic conditions in Ukraine. People begin to choose between criminal and legal forms of existence, with the youth (those between 18 and 24 years) comprising almost a third of the organized crime membership. A shadow economy emerged in response to the heavy unemployment and poor economic conditions, substituting for 50% of the overall economy in the late 1990s.

**Trafficking as a Bustling Market**

A female trafficker explains that, “People are a good commodity as they do not easily perish, but they can be transported over long distances and can be re-used and resold.” In regards to supply and demand, as it grows, the sex trade becomes an increasingly efficient industry and steps have been taken to ensure that prostitution businesses runs smoothly-serving as many customers, using as little space and getting as much work out of the women as possible. Israel as a receiving country offers a good example, with high demand and a huge influx of women trafficked from Russia and Ukraine fueling a bustling sex industry in parts of that country. To accommodate the influx, rigid and efficient systems have been created. Working conditions in Tropicana, a brothel in Tel Aviv, Israel is noted to having work conditions where, “there are 12 cubicles at the Tropicana where 20 women work in shifts, 8 during the daytime, 12

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at night. Business is always booming, and not just with foreign workers. Israeli workers, with rifles on their shoulders, frequent the place, as we do business executives and tourists. In the Tropicana in Tel Aviv, described earlier, women serviced up to 15 men a day. The low cost and low risk associated with this market makes it such a profitable industry. Economy of scale that is objects moved in bulk versus individually render less moving expenses, allow for these victims to be moved in large quantities. Control mechanisms are used to create dependency on pimps and traffickers and deter disobedience.

A pimp (who remained anonymous and reported to the U.S.-Ukraine Research Partnership) who worked in Moscow referred to her tactics as that of a business woman. She recalled:

From 1995 to 1998, I was a pimp in Moscow. I started by getting eight women from one of the pimps who left. The women were being raped and needed someone to organize them. Later, I had up to 20, even 25, women working for me…I recruited women from Zaporizhia and other parts of Ukraine. I paid $100 for each girl who was sent. One woman recruited for me from Zaporizhia. Over the three-year period, about 15 women came from Zaporizhia, Dnipropetrovsk, L’vov, and other cities in Ukraine. Women were also sent from Belarus and Moldova. Russian women were sent from Staropol, Irkutsk and other Russian cities and regions. When the girls first arrived, I kept them in a flat for one month. I had them watch pornography and learn what to do. I spend US $2000-$3000 on clothes for them. I took their passports until they repaid me the

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60 Human Trafficking: Hidden in Plain Sight, 36.
money. I taught the women on how to treat the men. How to act. How to talk. Some of the women only stayed 2-3 months; some were with me the entire time I was there. 61

The figures the female pimp relayed are eerily familiar to the amounts as needed to pay for slaves and selling them during the Trans-Atlantic slave trade. In the case of Ukraine, the majority of those participating in trafficking are very aware of the place they are operating in and often have family, friends and acquaintances in the area to appear more reliable to victims. These women also travel legally in the case of Ukraine, often trafficked through travel or employment agencies. Traffickers can extract travel expense money from these women by charging as much as they can give. Around seventy percent of trafficked women travel on authentic documents, such as tourist visas. These are provided by corrupt officials. 62 Minimal costs, risks and “training” of these women to perform their forced tasks are evident. The coercive tactics to maintain these women are far darker.

Coercive tactics include physical, emotional and economic forms of force. The same trafficker-pimp mentioned earlier, a Ukrainian, described the way women were controlled. She set up a system of fines to punish those who broke her rules.

I was strict with the girls. They received fines of approximately $50 for things such as being drunk, taking narcotics, taking men to the apartment, not keeping the apartment clean. I expelled some women. They only made problems. They brought men to the apartment, began taking drugs, and spent all their money on heroin. Some were not in good form. They didn’t buy new

61 The Transnational Political Criminal Nexus of Trafficking in Women from Ukraine, 49.
62 Ibid., 49.
clothes, had poor body shape, and were not interested in their job…the women could refuse anal sex, but had to do everything else.\textsuperscript{63}

In addition to economically punishing the women, threats of exposing these women to their family and loved ones is a key form of coercion. Photographs in obscene positions with minimal or no clothing are often used to leverage obedience and cooperation of these trafficked persons. They are used to maintain their silence, obedience and willingness to stay. Trafficking when viewed as an economic endeavor reveals the mechanisms revealed to maintain this increasingly “booming” industry. Trafficking maintains its place amongst the Black Market because of its intricate and invasive way of coercing its “commodity” and the mere fact that as a black market trade, it is heavily hidden as such. When women do escape, they find little assistance from Ukrainian embassies. Even worse, the Ukrainian consul reported that they do not have the money to send victims home when they ask for assistance.\textsuperscript{64}

II. Open borders

As a relatively new sovereign nation, Ukraine quickly became susceptible to a certain degree of permeability to the outside world. Open borders, allowing the free movement of peoples in relatively loose borders, created difficulty in controlling who and what enters and what legal and illegal goods pass as well. The land borders seven countries-Poland, Slovakia, Belarus, Hungary, Moldova, Romania and Russia. Its geographical position makes it the ideal transit country bordering land and sea borders, thus easier to pass customs. In addition, the government’s inability to fill the void of authority left organized crime with the ability and

\textsuperscript{63} Ibid., 55.
\textsuperscript{64} Human Rights Watch 2001;13.
power to move freely. Corruption coupled with these loose restrictions leaves Ukraine prone to an outflow of its people. Coupled with lack of employment urges Ukrainians to seek work outside of the country and thus Ukraine has become a migrant country.

The United States Department of State published an update on Ukraine in regards to the human trafficking, entitled, “Trafficking in Persons Report: Office to Monitor and Combat Trafficking in Persons” in 2013 that made a valid attempt at navigating and understanding the key socio-economic plagues that Ukraine had been overcoming the past few decades since the fall of the Soviet collapse.

The report, an online published survey of data and conclusions gathered over the course of ten years, explains that, “Ukrainians most at risk of trafficking are from rural areas with limited access to employment opportunities and are often targeted by Ukrainian recruiters using fraud, coercion, and debt bondage.”65 Victims of labor trafficking are exploited in construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and forced begging. Children in orphanages and crisis centers continue to be particularly vulnerable to trafficking within Ukraine. “The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.”66 Countries with a noticeable Diaspora are also more susceptible to human trafficking violations due to discontent with the current nation. In addition, Ukraine serves as one of the biggest source countries for sex trafficking, with women accounting for about half of the work force but making about a third or more less than their male counterparts, despite the position.67 As demonstrated by its huge working class of women, the poverty and turmoil women face working hard hours and not receiving the same amount as men place them in difficult situations and more prone to

65 Trafficking in Persons Report: Office to Monitor and Combat Trafficking in Persons in 2013
66 Trafficking in Persons Report: Office to Monitor and Combat Trafficking in Persons in 2013
67 Sex Trafficking: The Global Market in Women and Children
seeking labor work elsewhere. In Ukraine, 70% of women asked to seek work in the form of cleaning hotels, working in restaurants or engaging in some form of care taking, take this venture and fall into a sex trafficking scheme.

An ongoing argument as to the foolishness and naïveté of Ukrainian people in falling for these schemes begs the question, how are they so fooled? Any why aren’t prostitutes, the more vulnerable population being targeted?

The economy of Ukraine is so poor that prostitutes run for around $3 average price and nations like the US range into high hundreds into thousands. Prostitutes in Ukraine note they heard many stories of women going abroad but they are too afraid themselves to go, and would rather stay in a place they are familiar with. One story of a prostitute being recruited abroad to Egypt was never heard from again. A relative was unable to locate her after she disappeared. It appears that prostitutes are more aware of trafficking in women rather than healthier women outside of prostitution.

Investment wise, prostitutes are risky for investment due to drug dependency. Poor health and drug dependency would render the women low in value and fear that any money made would be used for drugs and limit her ability to do her work. As in the case of the pimp-trafficker mentioned earlier, trafficking victims would be punished for drug use and possibly kicked out if she began to use.

High unemployment allows manipulative traffickers and their propositions to seem reliable and persuade these women to trust the opportunity. The fear of retaliation combined with corrupt officials and a general concern that their innocence cannot be proven, keep women silent after they endure the trauma.
Eighty percent of victims are unemployed before coercion into sex trafficking and sixty percent remained unemployed after their escape or rescue. 68 Traffickers seek out healthy, young women which will prove to be good investments. Trafficking is a flexible process, where homeless children are vulnerable, sometimes being sold by alcoholic, and destitute parents for money. As flexible as traffickers are, they choose not to pick prostitutes, who are often drug addicted as well. Interestingly enough, it is the prostitutes that know more about human trafficking than most Ukrainians.

III. NGO Interference in Agenda Setting

The prostitution market is demand driven. The demand comes from brothel, clubs or bar owners who pay the suppliers and put women to work. Above all, it comes from clients. Collapse of values and the view that with money one can buy everything, even the bodies of underage children, characterize the clients. During the 1990s, the clients’ preference for a young submissive, docile and obedient coloured woman changed. Now the choice is for a woman from Central and Eastern Europe: white, beautiful, educated, but poverty-stricken, so that she may comply with all their wishes (Emke-Poulopoulos 2001:31).

This shift in preference is one of the key factors that explain trafficking out of Eastern Europe in the 1990s. The question of whether or not the instability of the Eastern bloc fueled the preference or vice versa is not particularly clear. For example, the Netherlands legalized brothels in 2000 and prostitution now makes up five percent of the Dutch economy. The United Nations argued that it was in direct violation of its Convention Against All Forms of Discrimination

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Against Women (CEDAW). The Netherlands responded with the argument that prostitution is not a form of violence against women and criticized CEDAW for labeling prostituted women as victims. This in turn creates a gray line in differentiating coerced women with willing women in prostitution. What results is a legal ability to maintain the flow of women from sending countries to maintain flow of women. I use the Netherlands in this case because it has a particularly interesting stake in Ukraine; it funds its biggest NGO against trafficking.

Unlike the United States, the Netherlands does not gain from anti-trafficking laws by falsely saying it does not have sufficient funds but instead through the NGO agenda it sets. In the Ukraine particularly, La Strada, is the most powerful NGO with the Netherlands funding 80%. It defeats the grassroots organizations that actually take into account what Ukraine needs. Part of its many duties in Ukraine includes representing and recording the voices of its clients, the trafficking victims. In a translated first hand interview, “Marina” explains her situation and how she entered a compromising situation in Germany.

“I was born in 1981 in Poltava region, Ukraine. I had never known who my father was. My grandmother told that he had worked at the collective farm and had died there during the fire. My mother died when I was 3 years old and my grandmother brought me up. I studied at school and worked hard at the collective farm and at home. In 1997 I finished the 9th form. I couldn’t continue studying, because I had to go to the region centre. Once in summer my friends and I went dancing. There were so lot of young people and some boys from Kyiv among them. The boy from my school came up to me and said that one of the Kyivites wanted to speak to me. His name was Rostik. He proposed me to work in Germany as a nurse. When my friend Nadja learned about this work she also was very interested in it. We decided to go together but Rostik
hadn’t come to our village for a long time. My grandmother got very little pension and I worked at the collective farm. I was waiting for Rostik. He came to the village only before Christmas and proposed me to go to Germany at once. He persuaded my friend and me that everything will be good. But Nadja’s parents didn’t allow her to go. I also started to hesitate but he persuaded me. Rostik promised that one women who also wanted to work in Germany would go with me. I consider him to be a reliable and thoughtful person. So I agreed to go and promised to my grandmother to be back in a month. Rostik asked me whether I had a foreign passport. But I hadn’t even Ukrainian passport. Then he said that would set the affair by himself. We went by car. There was a woman in the car, but she disappeared somewhere during the trip. I didn’t notice that we crossed Poland border. In Poland we stopped for a night in the house of one of Rostik’s friend. His name was Stefan. He helped us to cross a river at night and we got to Germany. We continue our trip by car. Guys brought me to some house and told me that the owner was waiting for me inside and that I had to set the affair by myself. I left all my things in the car and came in. The owner was middle aged man. He told me some words in bad Russian and pushed me in a room and locked me there. I couldn’t understand what had happened with me. I’d sat there for a long time and didn’t know what to do. Then a nice women came to me and brought me some food. She asked about my parents and my birthplace. The woman was Polish and I understood her quite well. She asked me weather I knew I had to work as prostitute. I began to cry. Two weeks past. I was crying all the time. I wasn’t allow to go out and I was scared. The same women brought me food. Once the women asked me how old I was. She didn’t believe that I was 16. Next morning she came to me again and said she was very sorry for me. She gave me some money and explained how to escape. She asked me didn’t tell anybody that she had helped me. The woman said that the owner paid big money for me. So I’ve got to
Holland. The police helped me to make contact with NGO which helps those women who were sold. They helped me to come back to Ukraine. Now my grandmother died. I can’t live in my village because the pimps are looking for me. They are very angry that I escaped. They said to my neighbors that I was a prostitute in Germany. I don’t have any place for living. Two months I have lived with my uncle, another two months with my friend. I would like to enter to a hairdresser school but it cost money. I don’t have any.” 69

Various inconsistencies arise from this relatively fortunate experience. The story certainly includes plenty of desperation and naivete on Marina’s part but does not follow the usual patterns of these types of sex traffickers. This is not to say that there is a certain formula for trafficking but inherent traits such as the form in transporting and a kind of traveler’s fee charged are usually present. For instance, more commonly these women are moved in bulk, an easier and cheaper resort to transporting goods one by one and Marina was not charged any transportation costs. In addition, these women are often placed into the work they originally signed up for (ie: cleaning, nursing) and then forced into sexual exploitation work or directly placed in sex work. Marina’s story is rather unusual in that she is locked up for two weeks and not trained or dressed for her work as a prostitute.

In fact, a story like this would serve to persuade the Ukrainian population that not only is prostitution not a violent form of work but also places a certain degree of blame on women rather than the industry itself. Nadja listened to her parents and did not go, while the naïve and desperate Marina went away looking for work from a stranger. The social stigma present in this interview is very relevant however, and is certainly a heavy feature in Ukraine in regards to prostitution as will be further explained. The other interviews showcased by La Strada include

69 La Strada Ukraine Case
Poland, Jordan and the United Arab Emirates, thus avoiding the Netherlands, the funder of the NGO, and one of the biggest destination countries for Ukrainian women.

La Strada outshines all grassroots organizations in Ukraine. In 2000, only five NGOs that somewhat addressed human trafficking included mostly religious organizations and La Strada. 70 Earlier in September 1998, a televised debate on prostitution pitted La Strada and a less well known, grassroots Ukrainian NGO, DANA. La Strada proceeded to defend prostitution and offered legalization as a viable option for Ukraine, while DANA vehemently argued against this and opposed prostitution as something the public would accept as an acceptable form of work. And DANA was right.

Prostitution has never been considered an acceptable form of work in the Soviet Union and even the era before that. Prohibition of prostitution has remained the rhetoric and policy of the region for hundreds of years and in the midst of high unemployment, economic turmoil, corruption and rampant organized crime, this has not changed. In 1998, the same year as the televised debate between the two NGOs, the International Organization for Migration (IOM) surveyed women in ten urban regions of Ukraine ages fifteen to thirty-five. Out of 1,189 women, none of them agreed that prostitution was an acceptable job to seek abroad. However, all the girls, aged fifteen to seventeen indicated that being a “stripper” or “dancer” was an “acceptable job abroad,” while none of the women ages eighteen to thirty-five said yes to this being acceptable. 71 The question remains, how are other NGOs unable to defend its constituents and public consensus such as this?

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70 Whether or not this is a coincidence regarding the spike of Ukrainian and Eastern European women working in sex work in the Netherlands in the early 2000s remains unlikely. Most likely a shift in preference resulted in the availability of these women after the vulnerable collapse of the Soviet Union, which prompted the NGOs to combat the issue but in the case of La Strada, to maintain the flow of women into the Netherlands.

In 1999 at the United Nations Commission on the Status of Women, two Ukrainian organizations arrived to combat prostitution in their native Ukraine with the hopes of prohibiting the exploitation of prostitution. With the support of the World Federation of the Ukrainian Women’s Organizations and the World Movement of Mothers, Ukraine signed and ratified the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others. This Convention states: “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.”

La Strada opposed this, publicly criticizing the Convention as an affront to the needs of Ukrainian community, when it is quite clear from earlier interviews that the public opposes prostitution as a means of work. La Strada has gone further in blocking conference resolutions that criticize sex work or regard prostitution as harmful to women. Rather than following the needs of the people this well-funded NGO enforces the needs of its funders, the Netherlands.

The Netherlands has a large range of sexually exploitative industries, including brothels and various escort services. A trafficking in women conference in Kiev, Ukraine revealed that, “in the last thirty years, prostitution in The Netherlands has tripled in size and economic importance en [sic] has become a relative [sic] open and integrated segment of society.” This is relevant in that five percent of the Dutch economy, an estimated US $1 billion a year industry flourishes. This was heavily influenced by the legalization of brothels in late 2000, which prompted the spike in trafficked women. The legalization of brothels resulted in pimps distributing illegal women to private homes and escort services among other agencies that

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72 1949 Convention for the Suppression
operate outside of regulated prostitution. These women are usually outside of the European Union, ranging around sixty to seventy percent, and thus unable to legally work in legal, regulated brothels. Thus, the country gains from the exploitation of women outside of its local region and those in vulnerable, impoverished nations like Ukraine. Continuing and maintaining this industry is vital and thus, The Netherlands has challenged international opposition by arguing for “good exploitation.”

In 2000 The Netherlands published a compliance report addressing accusations of violating the United Nations’ Convention against All Forms of Discrimination against Women in legalizing brothels. It criticized the Convention for regarding prostitution so negatively stating, “prostitution is in and of itself no problem and can’t be regarded as a form of violence against women.” It also went on to note that viewing women engaging in prostitution as victim is inappropriate and that prostitution can be deemed a problem when force is involved. Further critique argued for a distinction between “good” and “bad” exploitation, claiming the distinction is not clear in CEDAW. The nation-state continues this logic in legally maintaining the flow of women by arguing that a demand exists and should thus simply be regulated. Regulation would come in the form of granting permits and paying taxes.

Most notably, a proposal among many suggests that the demand in market must decide how to approach permits based on what is needed.

The implicit demand that the state issues legal work permits to foreign prostitutes would mean that ‘the market’ decided on job vacancies and that there are no reasons to question the logic of

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74 See “More Trafficking in women…” 2002 for more info.
75 See Daley’s, “New Rights for Dutch prostitutes, but no gain.”
76 The Netherlands is a co-signer of CEDAW, which passed in 1979. Article 6 addresses state parties to “take all measures, including legislation, to suppress the trafficking of women and the exploitation of prostitution of women.”
the consumer market. If the consumer decides and if there is a free labour market then consequently labour can fulfill the demands in the market. …this led to the suggestion to the Ministry of Justice to honour market demands and find a quota system as the Dutch prostitution market demands a variety of “bodies.”

In response, talks of issuing work permits through an established quota became common. The idea of introducing agencies that would mediate between traffickers and foreign women to support the “good” form of exploitation was also discussed.

The answer is quite clear that it is not the needs of Ukrainian women to become prostitutes as La Strada argues but rather the needs of its funder nation, The Netherlands that pushes for prostitution to be viewed as a viable option in working abroad, thus boosting its sex industry and economy. Nations with a weak civil society in combating corruption and organized crime find themselves susceptible to human trafficking, but the introduction of a NGO that has the explicit goal of combating this problem but the implicit goal of boosting its funding nation’s economy and thus exacerbate the problem is truly unique. La Strada further victimizes the Ukraine, acting in itself as a middle man between the supply and demand of two nations, and gaining the trust of its victims, very much like in real cases of human trafficking. Ukraine is not naïve in trusting La Strada, just as women are not naïve in taking an opportunity to make money abroad. A poor nation like the Ukraine trust in opportunity and want to advance but is instead manipulated by those it should be able to trust. And thus the cycle of exploitation continues.

77 Dutting, Gisela, “Legalized prostitution in the Netherlands-Recent Debates.”
Conclusion

Human trafficking as an issue today remains as relevant as its grime beginning. The phenomenon of understanding trafficking as primarily a form of sexual exploitation deserves some merit but warrants the discussion of how this came to be and what are the limits to such an interpretation. The work of a global entity such as the United Nations certainly changes how problems such as these are shaped and tackled. On the one hand, it molds solidarity and an inclusive labeling of this practice as wrong; on the other, it allows for too much room for interpretation and thus an inconsistent definition of trafficking as each sovereign nation sees fit. There is no argument in whether or not trafficking is wrong, but there are certainly individualistic, nationalistic ways of interpreting and treating the issue. And thus the relationships between suppression (via law) and exacerbation of the problem, and supply and demand and a black market emerge.

In the 19th century the United States responded to the immoral deed of slave trading by passing its third attempt at curbing the practice, the 1808 Abolition Act. The South’s appetite for economic advancement coupled with a discontent for Britain’s intrusive attempts at enforcing the law fueled the perfect conditions for illegal slave trading to continue. The Law of Nations that Britain had hoped to pass would reserve the right to search American vessels suspicious of illegal activity but the US never agreed. It would impede on the nation’s sovereignty, an idealistic aspect of American identity that still fuels its approach to international laws and trafficking today. The United States government instead put into force the Africa Squadron, a series of navy ships that would patrol the African Coast and intercept slave ships independently, yet respectively alongside Britain. This would render itself a failure with unusual climate conditions and scarce resources allotted for the Squadron to continue and thus such an initiative
would prove itself worthless. The reality was that the South had grown quite resourceful themselves in creating a black market for incoming slaves to be sold into plantation work. Bribery, manipulation and corruption allowed for traffickers and slave traders to get away with successfully taking advantage of Southerners that desperately needed the money to stay afloat, and thus partook in these illegal activities. The incessant need for cheap labor with a geopolitical shift in gaining more territory, particularly Louisiana exacerbated the need for a black market to reap benefits and fulfill demand for labor.

The 21st century is plagued with its own set of issues and shifts, as the phenomenon of human trafficking was finally addressed in the passing of the United Nations Protocol of 2000. As with most if not all international initiatives, the presupposed belief is that all sovereign nations will participate within their own borders a degree of restriction, monitoring and law that addresses the issue. A selfless precondition is assumed in order to combat the larger issue, but sadly that is not the case. As the United States regarded Britain when imposing its own reciprocal law that included the right to search, the US deems international law as an intrusion as well, and while believing in the same ideals will interpret and enforce in its own manner to preserve its sovereignty.

A key problem that allows for state interpretation is the language involved in international law. The refusal to actually define “trafficking” renders other states responsible for filling in the gap, thus infusing national agendas in an international dilemma. The UN’s eagerness to analyze the problem has shifted to surveying different countries and thus asking for monitoring to be done even if it means funding the entire initiative. This directly serves as an example of nation-states taking advantage of an international problem, and thus countries like the
United States can receive money that it already has to monitor a problem it has shown slight concern in combating.

Aside from legal approaches to trafficking, the rhetoric surrounding trafficking victims remains obscene. The United States passed its Trafficking Victims Protection Act in response to its international counterpart in 2000 and has since used it to gain grounds in combating prostitution. It is so heavily linked due to the severe language of the Act, emphasizing the rampant sex culture and prostitution that prompted the need for the law to be passed. Thus the victimization of trafficking victims on US soil via imprisonment and deportation becomes clear as they are simply condemned as prostitutes. This in part is also a shared issue in regards to the United Nations and trafficking is instantly coupled with images of helpless women in sexually exploitative positions and vulnerability. While this is not the only form of trafficking, it is certainly the most recognizable, especially in nations dealing with paramount changes to the status quo.

Ukraine is an amazing case study because it embodied the many apparent problems that allowed for human trafficking to flourish as well the hidden ones. The geopolitical shift and open borders that resulted from the dissolution of the Soviet Union made room for corruption and a trans-national criminal nexus to operate and take advantage of an unemployed nation. Supply and demand of other nations such as Netherlands also take advantage of such nations to fuel their own economy through agenda setting of NGOs. La Strada as mentioned previously promotes prostitution as a legal alternative for women in a poor country like Ukraine to participate in. Conveniently, it is one of the destination countries where Ukrainian women are sent for sex work and thus removes the middle man which would be present if the job was illegal in the country. It combats NGOs that are in coherence with the public opinion that does not promote sex work as a
viable nor appropriate way to make a living, and thus does not serve the interests of its population but of its funders.

Parallels in time remain, as the 1808 Abolition Act was a direct response to the 1803 British ban and the US 2000 TVPA was in response to UN Protocol in 2000. The US Ban tripled the amount of slaves onto US borders and the UN Protocol correlated to human trafficking spikes. A competitive edge enabled in allowing domestic slavery and banning human trafficking internationally lead to the US receiving excessive international funding to pursue its domestic agenda. Criminal prosecution under slave trade acts were low, and so continue the US prosecution of traffickers.

Just as slaves were demonized and seen as objects to further domestic agendas so is human trafficking today. The existence of national borders and preserving sovereignty, all a front to showing machismo in the international arena, takes away from the true pandemic that is human trafficking. The root causes remain unaddressed both internationally and domestically. The “otherness” of human trafficking victims is present in the US where they are not granted basic universal human rights that are even granted to prisoners of war under the Geneva Convention of 1950. All rights and protections are contingent on difficult requirements and guilt is attached to a trafficking victim before innocence can be proved, an unconstitutional aspect of this entire process. Ukraine deserves special attention to the matter, as it is a prime example of what socio-economic issues cultivate such a vulnerable ground for human trafficking to rise from. The desire for a better life and opportunity does not deem victims naïve or consenting to terrible conditions and consequences that follow, but rather the search for something more. This needs to be properly understood to finally address how to solve this problem in the upcoming years. Rather than focusing blame on the victims, the international world must focus its attention
and budget in changing the face of trafficking victims and reporting a narrative everyone can relate to—one that emphasizes the desire to work hard and courage that came with the aftermath of searching for more than the terrible life one is given. The rhetoric needs to shift to blame those that prey on vulnerable people and economic aid must be pushed to create job programs and help nations with infrastructure. It is time to stop blaming the victim when it appears the entire global world is further shaming these trafficked peoples. They are global citizens and thus deserve full support.

The issue of human trafficking is a multi-faceted one, interpreted differently in each country. The solution remains in setting a universal agenda in regards to combating it, beginning with the language involved. Legalization of prostitution does not solve the problem; it merely makes it legal to coerce those vulnerable to the trade that benefits few at the expense of many. It appears that developed nations are partaking in the trade beginning with their legislation and ending with their citizens physically handling victims. Unless a careful understanding of trafficking at its vantage points, both the historical beginning and present day manifestation, is properly incorporated into legislation and policing efforts, it will find no end. The hesitation to explore and fully critique the failure of anti-trafficking laws and policing efforts may stem from the reluctance to recognize the flawed, selfish nature of individual nations in saving its own economy, moral reputation and perhaps place in the international system. Slavery is a weed indeed to be plucked at its roots; I leave future historians to follow its trail and seek its eventual demise.
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