

Trafficking in Humans: The TIP Report

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Abstract

Human trafficking occurs throughout the world and is considered to be ‘modern day slavery’. To end such victimization, the United States began to take an aggressive stance against human trafficking by enacting the Trafficking Victims Protection Act (TVPA) in 2000. Pursuant to the TVPA, the US government has attempted to assess the nature and extent of human trafficking. Since 2001, the US Department of State has compiled data on various forms of international human trafficking and published an annual Trafficking in Persons (TIP) report. Within the report, countries are designated as Tier 1, Tier 2, Tier 2 Watch List, or Tier 3 depending upon whether they are taking active measures articulated in the TVPA to create strong laws, assist victims, and punish traffickers. Until this past year, 2010, the United States did not include itself within the report. Such an omission enabled other nations to challenge the objectivity of the tiered system. In June 2010, for the first time, the TIP Report included the United States in its analysis. This paper will review the positive and negative aspects of the TIP Report and indicate what the potential impact of the US’s self-analysis could be on future efforts to end worldwide human trafficking.

The Trafficking Victims Protection Act (TVPA) requires an annual report from the US Department of State on trafficking in persons around the world (TVPA 2000). Since 2001, the US Department of State has published Trafficking in Persons (TIP) Reports that assess foreign governments’ anti-trafficking efforts. The TIP Reports use data on human trafficking from a variety of sources including: “information from US embassies, foreign government officials, nongovernmental and international organizations, published reports, research trips to every region, and information submitted to tipreport@state.gov” (U.S. Department of State 2010, p. 19–20). As a ‘diagnostic tool’ (U.S. Department of State 2010, p. 7), the TIP Report ranks foreign countries into one of three tiers based on the quality of their anti-trafficking legislation, programs and efforts to eradicate human trafficking and compliance with the TVPA’s requirements. Tier 1 nations are doing the most to end human trafficking and fully comply with the TVPA’s minimum standards. Tier 2 nations are either attempting to comply with the TVPA or are making significant progress. Finally, Tier 3 nations are not making progress to end human trafficking and do not meet the minimum standards set by the TVPA (Bernat and Zhilina 2010; Trafficking in Persons Report 2010). In 2003, a new Tier 2 Watch List was applied with the purpose of keeping countries from falling into Tier 3 (Tiefenbrun 2007). This additional tier was implemented for countries that have failed to provide evidence that they have improved their anti-trafficking efforts (Mattar 2008). The Watch List falls between Tiers 2 and 3; hence, it is reserved for countries that are attempting to increase their compliance with the TVPA’s minimum standards but have not yet achieved the Tier 2 level (Zhang

2007). In order to increase the TVPA's international impact, the US Government established disciplinary economic sanctions to Tier 3 countries (Tiefenbrun 2007). The Tier system analyzes the degree to which nations are 'proscribing' human trafficking, 'protecting' victims and 'preventing' it from occurring. The strengths and weaknesses of the TIP Reports will be discussed further.

Human trafficking is a worldwide problem

Human trafficking occurs in virtually every country around the world. According to the 2010 TIP Report, slightly more than 12 million adults and children are victims of forced labor, bonded labor or forced prostitution (U.S. Department of State 2010). Finding actual victims, despite the fact that they number in the millions, and helping them is a serious problem for governmental authorities and agencies wanting to end human enslavement. Among the most common reasons for not being able to locate victims is that victims may not want to come forward because they may feel ashamed of their predicament, they may distrust the criminal justice system, they may not speak the language if they have been moved across borders, and they may not fully realize that they are a victim. This last reason is particularly salient if they were/are trafficked as a child or have come to accept their life as a 'slave'.

Compounding the problem of identifying victims is the problem of identifying offenders. Human trafficking is a multi-billion dollar business; it can involve illicit international criminal cartels who have significant wealth within which to hide their identities. These actors are effective at resorting to violence and death to quiet persons who oppose them. In addition, the criminal justice system may not have adequate laws in place to prosecute human trafficking activity. In some parts of the world, the criminal justice system may be corrupt and enable human trafficking. Worldwide, 1.8 per 1000 persons is a victim of trafficking with 3 per 1000 victims coming from Asia and the Pacific; 104 nations do have laws (or regulations) regarding human trafficking; and while there were over 4,000 successful prosecutions of traffickers in 2009, 62 nations have not convicted any traffickers (Barnes 2011; U.S. Department of State 2010).

What the TIP Report does

The State Department's TIP Report aims to fill the gaps in the existent knowledge on various forms of human enslavement by providing clear definitions of human trafficking, providing a place for worldwide data collection and analysis, and providing commentary on the state of the world's anti-trafficking efforts. It is believed that if a worldwide effort is made to helping victims by enacting strong laws, enabling governments to prosecute and punish traffickers and fund services to assist victims in their recovery, then human trafficking can be abated and, hopefully, 1 day abolished. To this end, the US State Department has required nations to assist it in identifying the amount of human trafficking that occurs within their borders and to help them understand the efforts that have been made to eradicate it. The TIP Report is a summary of the data collected and a United States assessment of the activities undertaken by other nations to respond to human trafficking. Within the report, countries are classified as source countries, destination countries or transit countries. Often times, nations can have more than one designation. Some nations can be categorized as being both a 'source and transit' nation, others may be a 'source, destination and transit' nation. Figure 1 shows the various categorizations by nation based upon their descriptions in the 2009 TIP Report.

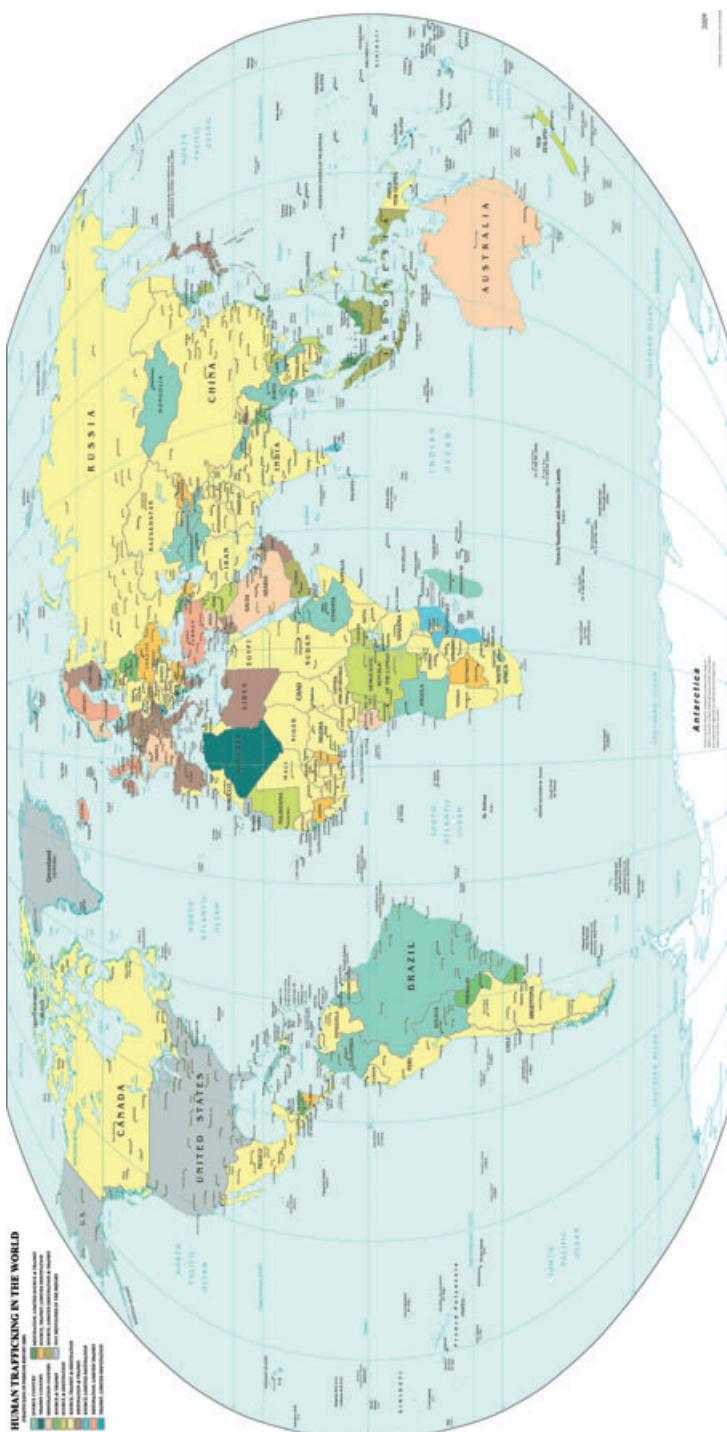


Figure 1 Source, Destination and Transit Nations: 2009 TIP Report.

Victims of human trafficking, while numbering in the millions, still seem to be invisible within nations. It was not until the annual TIP Report that worldwide attention seemed to crystallize on the issue. In addition to measuring the scope of human trafficking worldwide, the TIP Report can measure the impact of the TVPA in reducing the problem (Tiefenbrun 2007). Countries listed in Tier 1 or Tier 2 must meet the minimum standards set out in the TVPA and be working to resolve human trafficking within their borders. Countries in the Tier 2 Watch List or in Tier 3 must change their designation (upwards) by complying with the TVPA requirements. Nations on the Tier 2 Watch List nations may be at risk of losing US aid if they fail to improve their nation's response to human slavery. The TVPA provides for economic sanctions for nations that are in Tier 3. Nations have taken heed that they could not only lose US aid but perhaps political favor with the United States as well if they fail to have strong trafficking laws, attempt to identify victims and participate in effective anti-trafficking efforts. Thus, Zhang (2007) believes that the TIP Report is helpful in determining an amount of US financial aid foreign countries can receive for their anti-trafficking programs. Countries who are making efforts to comply with the TVPA are more likely to receive US aid and assistance. Tier 3 nations are those whose ranking can subject them to international condemnation for a lack of efforts to end modern day slavery and their failure to stop the atrocities within their borders. In response to the 2010 TIP Report, President Barack Obama sanctioned Eritrea and North Korea for being in Tier 3 and he partially sanctioned Burma, Cuba, Iran and Zimbabwe for its Tier 3 placement (Siskin and Sun Wyler 2010) (Figure S1).

Criticisms of the US TIP Report

Through its TIP Reports, the TVPA imposes the US definition of severe forms of trafficking onto foreign countries. Thus, the TIP Report could undermine the United Nations' definition of human trafficking. The TVPA does not include as many forms of human trafficking that are included in the UN Protocol. Thus, foreign countries following the US anti-trafficking legislation instead of the internationally recognized definition of trafficking may not be working on eradicating all forms of human slavery. Trafficking for the purpose of illicit adoption, forced marriage, practices similar to slavery, or trafficking in organs were not recognized as human trafficking under the TVPA and receive virtually no attention in the TIP Reports (Mattar 2008). In the 2010 TIP Report, the following forms of human victimization are excluded: illegal adoptions, trading in human organs, prostitution and child pornography (unless it is 'induced').

The early TIP Reports were criticized by Members of the International Justice Mission for their lack of accurate statistics on the number of victims, investigations, prosecutions, convictions, and misplacing the countries, for example, giving a country a Tier 2 rank when it really belongs to Tier 3. Tiefenbrun (2007) believes that these objections were addressed in subsequent reports by providing statistics, if possible to obtain, and establishing the Tier 2 Watch List. The US Government Accountability Office (GAO) had also been skeptical about the quality of data presented in the TIP Reports. In 2006, the GAO assessed the methodology of gathering data on human trafficking by the US Department of State, ILO, IMO, and United Nations Office on Drugs and Crime. The GAO claimed that the data presented in the TIP Reports were neither replicable nor reliable; it stated 'the US government's estimate was developed by one person who did not document all his work, so the estimates may not be replicable, casting doubt on its reliability' (United States Government Accountability Office 2006, p. 2).

The TIP Reports' ranking system and economic sanctions receive the most criticism. The US Department of State ranking system evaluates a country's anti-trafficking efforts and its compliance with US federal law rather than negotiated international standards. Moreover, threats of economic sanctions and shame are used as part of the reviewing process (Friman 2009). Because of economic sanctions and the fact that the United States may intervene in foreign governments' anti-trafficking policies, Chuang argues that the United States "has proclaimed itself global sheriff on trafficking" (2006, p. 438). Problematically, it is the poorest nations that have found themselves in the Tier 2 Watch List and Tier 3 categories. Poor nations might complain that if they lose US aid then they will be vulnerable to political unrest and be unable to help their citizens with basic necessities for living. However, it is in times of economic downturn that human traffickers take advantage of the economic plight of a community and expand human suffering. The United Nations Office on Drugs and Crime (2010) stated "[e]ven under difficult conditions ..., the rights of smuggled migrants and of the victims of trafficking in persons must be upheld and trafficked victims appropriately identified and supported". Only with coherent and comprehensive laws and collaboration among nation states can human trafficking be detected and victims protected.

Some countries are believed to be mis-categorized. The United States' political likes and dislikes arguably play the main role when placing a country into one of the tiers (Zhang 2007). In order to avoid a negative ranking of its allied countries, the Department of State used to exclude them from the TIP Reports. For example, although Mauritania has 'supported chattel slavery since ancient times', it was not included in the 2003 TIP Report because of the US's political agenda to keep up the good relationships with this 'moderate Islamic' country (Schauer 2006, p. 153). Some U.S. allies may receive a 'higher' ranking without any evidence of actual improvement; for example Indonesia in the TIP Report of 2004 may have received an elevated ranking than warranted by the evidence. Moreover, many criticize the TIP Report's ranking system for its selectiveness when it comes to imposing sanctions on Tier 3 countries (Giampolo 2006). Thus, nations that are designated as Tier 2 Watch List or as Tier 3 are concerned with the designation and may complain that they have been incorrectly categorized or that the report is political.

The past TIP Reports (2001 through 2009) needed improvement if continued international cooperation was to be sought in the collection of data and the US governments efforts to end human trafficking was to be viewed without suspicion (see Friedrich et al. 2006). The 2010 TIP Report shows that the United States has responded to problems with its data collection efforts by attempting to be more consistent, has included discussion of international protocols on trafficking in persons, has provided a charting feature that shows how nations have been rated since 2001 and discusses what nations, even poor nations, have done and can do to respond to the vulnerability of their citizens to traffickers or protect trafficking victims within their nations.

In 2010, as in previous years, some countries continued to show their dissatisfaction with the Report's results. The Guyana government, for example, did not agree with the Report's conclusions and their placement on Tier 2 Watch List. Guyana's Human Services and Social Security Minister Priya Manickchand claimed that the Report's findings are inaccurate and do not describe the human trafficking situation in the country (The British Broadcasting Corporation 2010). Singapore also claimed that the Report had 'factual errors and mistaken claims' (The Straits Times 2010). In the 2010 report, Singapore had its Tier 2 listing lowered to Tier 2 Watch List. The Singapore response was to deny that it was not doing enough to end human slavery. The nation stated (retrieved on 1 March 2011 from: http://app.mfa.gov.sg/2006/press/view_press_print.asp?post_id=6130):

We have read the latest TIP Report. It is rather puzzling because the US has not satisfactorily explained how it had arrived at its conclusions. The Singapore Government is committed to tackling the TIP issue, and our efforts in dealing with this issue have certainly not weakened since last year. We will respond in detail as appropriate in due course.

But let me say that the TIP Report is more a political ritual than an objective study. How, for example, can the US rank itself in Tier One when it is well known that the US has been unable to stem a flood of illegal workers, many of whom are trafficked by organised criminal gangs? It has not been able to cope adequately with the problem and that is among the reasons why immigration is such a hot political issue in the US. The US should perhaps examine its own record more carefully before presuming to pronounce on other countries. Then its reports may be more credible.

Predictably, then, many countries react negatively to their Tier 2 Watch List or Tier 3 placement and accuse the United States of political interference and false characterization of their country.

TIP Report can have positive results

The TIP Report, if nothing else, has brought heightened attention and financial incentive to anti-trafficking efforts. Anti-trafficking groups and NGOs are able to learn more about the efforts made worldwide to thwart the multiple ways in which humans are victimized. In Cambodia, for example, international public shame that Cambodian girls have been forced into prostitution has resulted in national laws against human trafficking and the ability of shelters to assist victims. In Japan, new laws have cracked down on the misuse of visas to bring girls into Japan for ‘tourism’ or ‘the entertainment industry’ when the females are actually placed in brothels.

Concern that the ranking system is wrong might invoke internal debate on the nature and extent of human bondage within a nation. In 2007, Malaysia’s foreign minister, Syed Hamid Albar, claimed that the TIP ranking was wrong and Malaysia accused the US State Department of being an uninvited ‘judge, jury and prosecutor’ of its nation. It was upset with its Tier 3 which placed it alongside the world’s ‘worst offenders’ and politically antagonistic nations to the United States, North Korea and Iran. Oppositional leaders within the nation, however, supported the Tier 3 ranking (IPS 2007). Forced to respond to the Tier 3 placement and to attempt to respond to political pressures, Malaysia enacted a new anti-trafficking law. Yet in 2009 despite its legal changes, Malaysia was once again placed in Tier 3 (U.S. Department, 2009). Continuing to work on its anti-trafficking efforts, Malaysia’s governmental officials began to respond to both internal and external pressures to change the nation’s response to human trafficking. In 2010 although the nation was still found not to comply with the TVPA’s minimum standards, Malaysia was upgraded to the Tier 2 Watch List because it attempted to implement more stringent anti-human trafficking laws and the nation’s Prime Minister publicly acknowledged that it had a labor trafficking problem. Additional steps were taken by the government to abate human trafficking from 2009 to 2010, including a public awareness campaign, increased prosecutions of traffickers, more assistance/shelters for victims, and expanded public officials’ training. In short, the TIP Report has helped countries understand what they need to do to improve (Sherr 2009).

The TVPA aims to assist victims through its ‘prosecution’, ‘protection’ and ‘prevention’ model. In the ensuing 10 years of international study, the TIP Report has shown that many nations may be thwarting the needs of victims by deporting victims. The TIP

Report's currency has shown that in recent years, nations may not be engaging in the best practices or providing essential services to victims. The Report, then, reflects changing standards of understanding about trafficking victimization. Trafficking is a multi-dimensional problem and the TIP Report provides a base of understanding on the complex interrelationship among victims, offenders, law enforcement communities, cultural norms and social mores, international borders, illicit needs, poverty, sexism and racism. While documenting the extent of human trafficking, the Reports over the past 10 years have provided a forum for international exchange on the issue. It also forces nations to take a hard look at their socio-economic and political systems that contribute to the illicit business of enslaving humans for profit.

The United States has also taken a hard look at itself because of the TIP Report. Between 2001 and 2009, the United States did not evaluate its own efforts and did not include itself within the rating of countries. This omission, led to international criticism that the United States did not comply with its own TVPA requirements and was afraid to evaluate itself. In 2009, the United States' began to consider its own response to human trafficking. No one nation's criticism led to the changes, rather it appears that President Obama's administration realized that it had to analyze and improve its own efforts to end human trafficking. Many people in the State Department, including Secretary Clinton, believe that it is appropriate that the United States assess itself. Clearly, the United States spends a lot of money to support anti-trafficking efforts both domestically and abroad. According to Siskin and Sun Wyler (2010), the federal US government spent about \$76 million dollars internationally and \$20 million domestically in 2009 money spent on administering TIP programs or law enforcement investigations. The heightened public awareness on the issue of human trafficking has resulted in numerous programs and services for victims. In the United States, federal, state and local law enforcement agencies are working together in anti-human trafficking task forces, and almost every state has its own human trafficking penal statutes. On January 11, 2011 many people within the United States participated in a global awareness day to recognize human trafficking around the world (see for example: <http://www.facebook.com/pages/Human-Trafficking-Awareness-Day-Global-Observation-11111/169013733137945>).

The latest TIP Report not only focuses on prosecution, protection and prevention efforts; it adds a new fourth dimension to eradicating trafficking – partnership. It is through partnership efforts at the local, state, national and international levels that human trafficking can be understood, analyzed, addressed and effectively responded to. Human trafficking can be analyzed at the global level, but it is at the local level where effective assistance to victims and prosecutions of offenders is to be implemented (Bernat and Winkeller 2010).

United States and its TIER 1 ranking

In 2009, the State Department's Office to Monitor and Combat Trafficking in Persons underwent some changes. Ambassador Luis CdeBaca, a former federal prosecutor, was appointed by President Obama as the Director of the Office to Monitor and Combat Trafficking in Persons on May 18, 2009 (United States Department of State 2010). The 2010 TIP Report differs from its predecessors in that it ranks the United States' efforts to combat human trafficking for the first time (Ireland 2010). The United States' efforts were assessed according to the TVPA's minimum standards, and the country was placed in the Tier 1 (TIP Report 2010). According to CdeBaca:

A lot of countries see the TIP Report as the U.S. coming to them and saying how bad they are. We wanted to make it very clear by releasing the U.S. government self assessment at the same time that we have people still in bondage right here in the U.S. (Scimone 2009)

It is expected that by including itself within the Report, that criticism from other nations will be lessened because the U.S. has opened itself up to international review of its own limitations and also publicly acknowledges the work that it has to do to end human slavery.

The world reaction to the inclusion of the United States has been fairly silent. In searching for world reaction in news reports and through a Google Search, no public international response to the United States being listed as a Tier 1 nation has been found. But Andrea Bertone, Director of Human Trafficking.org, said it should be no surprise that the United States is ranked as a Tier 1 nation. The TIP Report shows that there has been a major effort by the State Department for many years to address the issues of human trafficking and its ability to generate action on the human trafficking problem (Wu and Zifcak 2010). The Polaris Project's blog also discussed the inclusion of the United States in the latest TIP Report (see: <http://www.blog.polarisproject.org/2010/06/14/top-ten-takeaways-from-the-2010-tip-report/>). The Polaris Project indicated that the latest TIP report shows that no nation is immune from human trafficking and that even Tier 1 nations have a responsibility to end human slavery. Indeed, the TIP Report indicated that even though the United States is Tier 1, it carries all three designations: it is a source country as some of its own citizens are trafficked for prostitution or their labor; it is a destination country as persons from other nations are brought into the United States and are held captive for the exploitation of their labor or commercial sex; and, it is a transit country as trafficked persons may be moved through the United States to other nations as human slaves (TIP Report 2010). In the end, the Polaris Project (like many anti-trafficking groups within the United States) is hopeful about the future. It looks at the impact of the TIP Reports and notes that the trend has been for nations to begin a concerted response to human trafficking and to begin to partner with other nations (Polaris Project 2010).

Impact of the TIP Report

The TIP Report is one of a few sources that provides comprehensive information on the problem of human trafficking worldwide and covers the majority of countries. Very small nations or islands are not included in the report (Bernat and Zhilina 2010; Zhang 2007).

Worldwide, the TIP Report continues to be read, analyzed and assessed on the measures it uses to categorize nations' efforts to combat human trafficking. The identification of human trafficking victims, the prosecution of human traffickers, the protection of human trafficking victims and, the prevention of human trafficking are important goals set out in the TVPA and the purpose of the annual TIP Report. In recent years, the U.S. Department of State has uncovered a problem with nations attempts to rid itself of human trafficking victims. Instead of attempting to ascertain whether trafficked victims are in need of special attention or care, some nations are detaining victims in their jails/prisons and then deporting them without ascertaining if detention or deportation is appropriate. According the 2010 TIP Report (retrieved from <http://www.state.gov/g/tip/rls/tiprpt/2010/142748.htm>):

Sending victims back to their countries of origin without informing them of a full range of options not only exposes them to possible trauma associated with being identified as a trafficking victim, but it also risks returning them to the same condition and exposing them to the same or even more enhanced pressures that contributed to their initial trafficking

experience, thus raising the prospects for their re-trafficking. Furthermore, when a country jails and repatriates victims without screening or protection, NGOs are deterred from bringing their clients to the government's attention.

Despite its flaws and limitations, the TIP Report continues to serve as a major conduit of information on modern day slavery, and the US efforts to combat human trafficking are reinforced by sanctions that can be imposed when nations fail to take affirmative action to address this heinous, pervasive practice in the 21st century. The US Government has contributed educational and financial assistance to foreign countries' efforts to eradicate human trafficking (Tiefenbrun 2007).

Overall, the TVPA and the TIP Reports are believed to be successful because they turned domestic and foreign governments' attention to the problem. Many states within the United States have Trafficking Task Forces and many nations are working collaboratively with other. In order to avoid being placed on Tier 3 and therefore being stigmatized, many countries also began to develop laws and responses to help eliminate human trafficking (Holman 2009).

Short Biographies

Frances P. Bernat's research analyzes the substantive criminal law and its impact on women, minorities and juveniles; he has authored or co-authored papers in these areas for – her book *Human Sex Trafficking* (Routledge/Taylor & Francis 2010) analyzes human sex trafficking in the United States, Canada, Cambodia, Japan, Norway, Russia, Thailand and Turkey, and the impact of legal, cultural and social changes in responding to sex trafficked victims. Current research aims to determine the nature and extent of human trafficking in Texas and what the state can do to improve its social, health and legal responses to victims. She is the Chair of the Behavioral Sciences Department at Texas A&M International University, and is an Emeritus Faculty member at Arizona State University. She holds a JD from SUNY@ Buffalo and a PhD in Political Science from Washington State University.

Tatyana Zhilina is in her second year pursuing a MA in Social Justice and Human Rights and working as a research assistant at Arizona State University. Tatyana's research interests include human trafficking, modern day slavery, and children's rights, and she co-published an article on human trafficking with Frances Bernat. She served as a summer fellow at Polaris Project, an anti-slavery non-profit organization located in Washington, DC. After completing her Master's, Tatyana hopes to work for a non-profit organization that deals with human trafficking and/or children's rights.

Note

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Supporting information

Additional Supporting Information may be found in the online version of this article:

Figure S1. Human trafficking in the world.

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