

Trafficking of Women:

U.S. Policy and International Law

Despite the varied settings into which people are trafficked, the common element in all cases is the ongoing violation of the person—physical force, threats of physical force, deception, fraud, intimidation, isolation, debt bondage, threats of deportation, and threats to family members.¹



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Seventy percent of the 600,000-800,000 people trafficked across international borders every year are women.² And while the complex issue of trafficking occurs in different forms and affects both women and men around the world, it is women and girls who suffer most acutely. Women are particularly vulnerable to trafficking, largely due to gender inequalities that affect their economic and social status.

In addition, trafficking in all its forms uses coercive tactics, including deception, fraud, intimidation, isolation, threat and use of physical force, or debt bondage, as a way to control women.³ There are also increasing problems of corrupt government officials facilitating the trafficking, and treating the victims as criminals.

What is Trafficking?

Trafficking is a complex issue that takes a variety of forms. Trafficking can include sex trafficking, debt bondage, involuntary servitude, and coerced or forced prostitution or labor. While the issue of trafficking is broad, the disproportionate effects of trafficking on women is the impetus for this publication's focus.

Definition of Trafficking Under U.S. and International Law

The United States' Trafficking Victims Protection Act defines "severe forms of trafficking in persons" as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery."

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children defines trafficking in persons as "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, of fraud, of deception, of the abuse of power or 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 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..."

1. Patten, Wendy. "U.S.: Efforts to Combat Human Trafficking and Slavery," Human Rights Watch Testimony Before the U.S. Senate Judiciary Committee.

2. Ibid.

3. Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report, U.S. Department of State: June 2004.

U.S. Domestic and Foreign Policy:

Limited Protections for Women

The greatest challenge for governments is seeing and respecting, at the most basic level, the humanity of all survivors of trafficking and, therefore, working with survivors in a way that demonstrates their commitment to protecting the equality and dignity of all human beings.⁴

There are a variety of federal and state laws that address trafficking at home and abroad, some of which include certain protections for trafficked women. In addition, there are several international conventions concerning trafficking.

Trafficking Victims Protection Act of 2000

The Trafficking Victims Protection Act seeks to protect victims of trafficking by the creation of a non-immigrant T-visa allowing trafficking victims to stay in the U.S. and increased funding and support for NGOs, shelters and health care providers. The law also created new provisions to prosecute traffickers and mandated the Department of State to produce an annual Trafficking in Persons report.

Trafficking Victims Protection Reauthorization Act of 2003

This amended act called for increased cooperation between foreign governments, assistance for family members of victims and enhanced prosecution of traffickers. The reauthorization also allows victims to sue their traffickers and permits the government to terminate international contracts with companies or individuals found to be engaged in trafficking.

State-level legislation⁵

In addition to the federal laws concerning trafficking, there has been legislative action on a state level, in collaboration with women's groups. As of April 2005, legislatures in Washington, Texas, Missouri, Florida, and Arizona, for example, enacted laws to make trafficking a state felony. Similarly, Hawaii, Texas, and Washington have passed laws to regulate "international matchmaking organizations" (IMOs) that operate in the state and Washington, Connecticut, and Colorado have established task forces on trafficking by statute. Additionally, legislators are continuing to work to pass anti-trafficking laws in several states, including Idaho, Maine and Alaska,⁶ among others.

UN Convention Against Transnational Organized Crime

This convention is the first international instrument against transnational organized crime. Its purpose is to promote international police and judicial cooperation and to prevent and combat transnational organized crime. While it doesn't speak specifically to trafficking in persons, it does offer for victim and witness protection and mutual legal assistance. The U.S. has signed, but not ratified this convention.

United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

This convention, a supplement to the Organized Crime Convention described above and proposed by the United States and Argentina in January 1999, focuses specifically on trafficking in persons and defines trafficking for the first time in a legal document. While the U.S. has signed the protocol, it has yet to be ratified by the Senate. Ratification is necessary for full support of the protocol's implementation.

Building a Human Rights Approach

The U.S. has taken specific steps to address trafficking and its effect on women through federal and state legislation and international policy. Yet, the focus of U.S. anti-trafficking efforts has been primarily on the prosecution of traffickers, rather than protecting and advancing the victim's human rights. In addition to prosecution, the U.S. also needs to utilize a human rights framework in its efforts. The U.S. can take several concrete steps to continue to combat trafficking⁷:

- The U.S. Senate must ratify the UN Trafficking in Persons Protocol. The protocol establishes a global standard for government action and offers an opportunity for countries of origin, transit, and destination to work together in combating trafficking.
- The U.S. should also enhance its capacity to provide witness and victim protection and support, instead of focusing primarily on prosecution of traffickers. This is necessary to put the focus back on the victim and to work on trafficking within a human rights framework. For example, according to Department of Justice statistics, while the Trafficking Victims Protection Act allows for 5,000 protective T-visas a year, enabling victims to avoid deportation, only 683 victims have been granted these visas since 2001.
- In addition, more emphasis should be placed on expanding efforts to train federal law enforcement, prosecutors, and victim-witness personnel, and conducting outreach to state and local police, prosecutors, and service providers.
- Finally, Human Rights Watch points out that the annual State Department Trafficking in Persons report mandated by the Victims of Trafficking and Violence Protection Act of 2000 has failed to comprehensively evaluate governments' efforts to combat trafficking.⁸ Human Rights Watch criticizes the State Department report for giving undue credit to countries which have shown minimal effort and for ignoring bad government practices in other countries, such as deportation and incarceration—effectively punishing the victim.

4. Human Rights Watch, www.hrw.org.

5. Center for Women Policy Studies, Fact Sheet from the National Institute on State Policy on Trafficking of women and Girls, 2004.

6. Center for Women Policy Studies, www.centerwomenpolicy.org.

7. Patten, Wendy. U.S.: Efforts to Combat Human Trafficking and Slavery, Human Rights Watch Testimony Before the U.S. Senate Judiciary Committee.

8. Finley, Bruce. *Human Trafficking is a Moving Target*, Denver Post: 28 March 2005.

9. Human Rights Watch, *U.S. State Department Trafficking Report Undercut by Lack of Analysis*, June 2003.

Resources

Organizations

Human Rights Watch www.hrw.org

Vital Voices Global Partnership www.vitalvoices.org

Center for Women Policy Studies www.centerwomenpolicy.org

Urban Justice Center www.urbanjustice.org

Publications

Fact Sheet from the National Institute on State Policy on Trafficking of Women and Girls, Center for Women Policy Studies: 2004.

U.S. Efforts to Combat Human Trafficking and Slavery, Patten, Wendy; Human Rights Watch Testimony Before the U.S. Senate Judiciary Committee.

U.S. State Department Trafficking Report Undercut by Lack of Analysis, Human Rights Watch: June 2003.

Assessment of U.S. Activities to Combat Trafficking in Persons, U.S. Department of Justice: June 2004.

Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report, U.S. Department of State: June 2004.



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