

**Captive Workforce:
Human Trafficking in America and the Effort to End it**

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Abstract

This thesis examines the phenomena of human trafficking in the United States as experienced by migrant workers, with the following goals: 1) Re-orient the present-day discourse on human trafficking away from the global ‘periphery’ and toward the ‘demand-end’ within the United States; 2) Broaden the discussion of what drives human trafficking to better account for the roles of economics, international migration and public policy; and 3) Focus on the experiences of those victimized by human trafficking without over-simplifying or sensationalizing.

Chapter one describes the context and purpose of this study, definitional issues surrounding the term “human trafficking” and the methodological approach I employ in this thesis. Chapter two examines two historical examples of human trafficking in the United States in the late nineteenth and early twentieth centuries and discusses some of the issues that have influenced public and governmental responses to these problems in the past. Chapter three provides a detailed account of human trafficking in the United States today as a form of “corrupted migration” and a manifestation of migrant labor abuse. Chapter four provides a detailed analysis and critique of current United States laws and policies to address human trafficking. Chapter five contains a discussion of human trafficking today as a symptom of structural oppressions on a global scale.

In conclusion I argue the following specific measures should be taken to improve the American response to human trafficking: 1) All policies and laws directed at human trafficking should be understood within the global context of labor inequality. Any proposed solution should aim to decrease this inequality by empowering migrant workers; 2) These efforts should be coordinated with immigration laws and policies so that they work in synergy instead of in opposition to one another; 3) Policymakers should be aware of the ways in which human trafficking is implicitly connected to racist, sexist and classist oppression; 4) Both the United States government and non-governmental organizations should work actively to promote media coverage and representations of human trafficking that are accurate and that avoid stereotypes; 5) The United States government should work in cooperation with non-governmental organizations to conduct a comprehensive study of human trafficking within the United States. A significant component of such a study should involve input from migrant workers and actual victims of human trafficking.

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This thesis is dedicated:

To my teachers, mentors, and friends. To Professor Julie Novkov, Professor Barbara Pope, Professor Joseph Fracchia, and all the faculty at the Clark Honors College and University of Oregon Women's Studies Department. To Mom and Dad, Grammy Lois, and most of all to Ryan, for his patience, encouragement and corny jokes.

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Chapter 1—“America... Land of the Free, Home of the Slaves”¹

In early 1999, Nguyen Thi Le, a Vietnamese mother of two, signed a four-year contract to work for a garment factory in American Samoa.² Dazzled by the opportunity to ‘live in America’ and earn ‘American wages’ Nguyen eagerly looked forward to her new job, despite the fact it required her to move an ocean away from her family and take out high interest loans to cover the five thousand dollar fee for airfare and ‘work permits.’ For all the hardships, the job seemed to be her good fortune, offering the chance to earn wages more than twelve times those available at home. Working abroad for just a few years, she would be able to dramatically improve the quality of her family’s life.

However, upon arrival, Nguyen found a situation radically different from what she had been led to expect. She and the other workers were paid only a fraction of the wages promised. The factory owner deducted high fees, sometimes half their monthly paychecks for room and board that had been promised to them for free, and when orders were slow, failed to pay them at all. Kept in a guarded compound that they were rarely allowed to leave, Nguyen and her fellow garment sewers were forced to work sixteen to eighteen hour days in factories where temperatures regularly exceeded ninety degrees Fahrenheit. Their exorbitantly priced ‘room and board’ consisted of rat-infested barracks that were so crowded the women were sometimes forced to sleep two per bunk, and

¹ Chuck D. (with Public Enemy), “Aintnuttin Buttersong” on *Muse Sick-N-Hour Mess Age*. Def Jam Records, 1994.

² American Samoa is a United States Territory, and thus while local authorities exercise a degree of independence, the island is generally subject to United States federal laws, including labor and civil rights laws. The minimum wage however, is only \$2.66, making it a lucrative place for garment factories and other enterprises that wish to benefit from cheap production costs while still being able to use a “Made in USA” label.

meals of watery porridge. When workers complained, the factory owner and managers punished them with violence, intimidation and starvation. The workers' passports were taken away, and deportation threatened if anyone should attempt to alert the authorities. Even when the United States Labor department got wind of complaints and fined the factory owner more than three hundred and fifty thousand dollars for failing to pay back wages, the abuse continued, and workers were forced to give up their reimbursement checks. When American authorities finally took notice of the violence and the factory shut down in 2001, the women were left out on the streets with no means to return to their families. Stuck in Samoa, Nguyen learned that back home, loan sharks were hounding her family to repay the debt she had incurred for airfare and 'recruitment fees.' Meanwhile, her husband had lost his job because news of her "reputation as a troublemaker" at the garment factory in Samoa had reached Vietnam. Finally in 2002, Nguyen and the other workers received United States government aid that allowed many to move to the American mainland and acquire jobs there. Still, though she now saves every penny possible to try to bring her family to live with her, her children only continue to resent her, thinking she has abandoned them for a life of luxury in America while they suffer in Vietnam. It will take many years for Nguyen and the others to recoup the awful damages to their personal and financial lives.³

³ For more on Nguyen Thi Lee and the case against Daewoosa Samoa Ltd. See John Gittelsohn, "U.S. Sends Strong Message to Those Who Traffic in Human Lives," *Global Issues* 8 no. 2 (June 2003). Also see Federal Bureau of Investigation, "Anatomy of an International Human Trafficking Case," (Press release) 16 and 19 July 2004. Available at <http://www.fbi.gov/page2/page2index/civil.htm>; Internet; Accessed 5 April 2006; Steven Greenhouse, "Beatings and Other Abuses Cited at Samoan Apparel Plant That Supplied U.S. Retailers," *The New York Times*, 2 June 2001; and "Made in the U.S.A.? Clothing for J.C. Penney, Sears and Target Made by Women Held Under Conditions of Indentured Servitude at the Daewoosa Factory in American Samoa," (New York: The National Labor Committee, 2001).

Most of the publicity about the kind of modern day human bondage that Nguyen experienced, known more generally as “human trafficking,” focuses on sensational stories in the poorer parts of the world—places like Thailand, Nepal, Ukraine, and Mali are labeled by the American media as corrupt havens for slavery in its last vestiges. A story rarely told, however, is that of human trafficking and the abusive labor practices it entails within the United States and its territories. For, along the unseen roads of the underground economy, the traffic in human beings moves throughout the world from the poorest places to the richest—and the United States, as one of the richest of all, is a top destination.

Though much has been written about the tragedy of human bondage around the world, the American people know frighteningly little about human trafficking in their own nation. And a significant problem it is—the Department of Justice estimates that anywhere from fourteen to eighteen thousand people are trafficked into the United States every year to work under varying degrees of coercion.⁴ While these numbers indicate the scale of the problem, they say little about the issues underlying them, and littler yet about the lives of the many individuals who make up these statistics. For beyond the mere facts of immigration and labor abuse, lies a deeper truth—that migrant workers of all kinds are terribly vulnerable to exploitation within the United States.⁵

Although Nguyen Thi Le suffered terribly in her ordeal at the Daewoosa factory,

⁴ *Report on Activities to Combat Human Trafficking: Fiscal Years 2001-2005*. (Washington D.C.: U.S. Department of Justice, March 2006), 9-10. Available online at <http://www.usdoj.gov>; Internet; accessed 24 April 2006.

⁵ “Country Report—The United States,” (Washington D.C.: The Protection Project, 2002); available at <http://www.protectionproject.org/projects.htm>; Internet; accessed 28 April 2006.

she was relatively fortunate. For just as she and the other workers sought to take control of their situation, the United States government was mounting a new charge against the ‘trade in human misery.’ In March 2003, just as the Department of Justice was in the process of prosecuting Kil-soo Lee, the Korean owner of the garment factory where Nguyen was held captive, with charges ranging from involuntary servitude to extortion and bribery, President George W. Bush stood before the United Nations General Assembly and denounced such “modern day slavery”:

Each year, an estimated eight hundred to nine hundred thousand human beings are bought, sold, or forced across the world’s borders... Those who create these victims and profit from their suffering must be severely punished. Governments that tolerate this trade are tolerating a form of slavery... We must show new energy in fighting back an old evil. Nearly two centuries after the abolition of the transatlantic slave trade, and more than a century after slavery was officially ended in its last strongholds, the trade in human beings for any purpose must not be allowed to thrive in our time.⁶

In this speech and many others, President Bush has sought to establish the United States as a leader in the fight against the trafficking of human beings. However, when one more closely examines the United States’ own policies its position seems much less clear. For, while the government has sought to address the problem of human trafficking in a direct and aggressive way, its efforts have also been deeply influenced by politics and ideology.

Though human trafficking is inherently a transnational issue, this thesis primarily examines human trafficking within the United States and its territories. In doing so, I argue that human trafficking in the present day is part of a long tradition of American exploitation of migrant labor. Since the founding of the United States, I argue, the

⁶ U.S. President George W. Bush. *Speech to the United Nations General Assembly*, (New York: March 2003); quoted in Leslie Ann Jeffrey, “U.S. Anti-Trafficking Policy and Neo-Imperial Masculinity: The Right Man for the Job,” [forthcoming], 1. In Lexis Nexis [Database online], accessed 20 January 2005.

economic development of this nation has been heavily dependant upon the importation of foreign-born workers to perform essential but low-paying jobs. Both in the past and the present, this fact has been the source of an enormous contradiction between American immigration and labor policies and our national ideology of freedom and democracy. For, our nation was founded on political principles antithetical to the many forms of slavery that have been foundational and essential to the economic development of our nation.

Historically, Americans have attempted to resolve this conflict by attributing the existence of economic oppression to the individual failings of those who are oppressed. Just as slaves were proclaimed to be ‘naturally suited’ to their station, the same was argued of migrant workers who were exploited upon coming to America. When this kind of attribution was not possible, the public laid the blame on the evil (and presumably foreign) natures of those who committed such oppression. Today, many of the same strategies are alive and well, as Americans attempt to reconcile the reality that human trafficking exists in a country that is supposed to be the capital of the ‘free world.’

However, as was the case a century ago, human trafficking today does not simply exist because there are ‘bad people’ who commit such acts. Rather, human trafficking exists because of structural problems at the global level that both make certain populations vulnerable to human trafficking and trafficking others a lucrative business. For these reasons, I argue it is impossible to make a coherent and effective anti-trafficking policy without taking into account the complex intersections between human trafficking, immigration and migrant work in the United States and its territories. In the current state of American policymaking, such a nuanced understanding of human

trafficking is lacking. As a result, I argue, the issue has become a vehicle for political rhetoric to the detriment of effective policies.

My research analyzes how both the American government and public have understood and approached human trafficking, historically and presently. My primary sources for this project include: U.S. government studies, congressional hearings, presidential speeches and news releases. In addition, I read and examine the commentary of governmental and non-governmental stakeholders as published in news articles and interviews. Accompanying these, my secondary sources include a wide variety of published reports, journal articles and books on human trafficking in the past and present. Quite often these works focus on human trafficking as a ‘third world’ phenomenon. By integrating these studies into an American context, I attempt to re-center the global intellectual and political discourse on human trafficking at the ‘demand’ end. In this process, I ask three fundamental questions: What is the complex relationship between immigration and work, economics and politics that encourages the practice of human trafficking within the United States? How might we better address these issues? And finally, what does the problem of human trafficking say about America’s relationship with the rest of the world, as workers of all kinds continue to try to find a better life here? However first, it is necessary that I establish precisely what I mean by the term “human trafficking.”

According to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, “human trafficking” is defined as the “recruitment, transportation, transfer, harboring or receipt of persons by means of threat or use of force or other means

of coercion, abduction, fraud, deception, abuse of power or position of vulnerability...for the purpose of exploitation.”⁷ By this definition, “human trafficking” necessarily includes three components: 1) movement over geographical space, either across or within national borders; 2) the extraction of profits by the exploitation of victims’ bodies; 3) the coercion of victims, which may include a wide range of tactics and take a variety of forms. This definition, established by the United Nations in only the last few decades describes a specific form of economic exploitation that is integrally connected to the global movement of people. However, in the public realms of media and politics, the term “human trafficking” has been applied broadly to describe a wide range of ‘buying’ and ‘selling’ activities involving human beings as commodities. Within the United States, “human trafficking” has been used to describe everything from illegal migrant smuggling to the sex trade. Each of these usages reflects the particular ideological orientation of the organization or individual that employs it as well as the specific project(s) for social and/or political change to which they are committed.

Even when used in its strictest sense, according to the United Nations’ definition of the term, “human trafficking” can still describe a wide variety of activities and occur in a number of different ways. Human trafficking involves both legal and illegal migration. Consequently, victims of human trafficking can be indistinguishable from ordinary immigrants, and even citizens of their destination country. Human traffickers may use many different tactics to ply their trade. In some cases individuals are literally kidnapped and transported. However, most cases involve people who migrate willingly but under

⁷ Anne Gallagher, “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis,” *Human Rights Quarterly* 23 (2001): 986-987.

false pretenses, and are then ‘sold out’ by those who claimed to be helping them. Many victims of human trafficking are willing migrants who simply fall into ‘the wrong hands’ either during transit or upon arrival. Thus while it is true that many of those who suffer under coercive and abusive labor conditions are taken and trafficked against their will, the vast majority, like Nguyen, fall somewhere in the middle of coercion and choice. Moreover, an individual does not have to be a trans-national migrant at all to be victimized by human traffickers. For example, in 2000 one trafficking ring in Florida recruited African-American homeless men in cities and then used beatings, threats and debt bondage to force them to work picking oranges.⁸

As a result of these variations, it can be very difficult for authorities and policymakers to determine who is a legitimate victim of human trafficking, and how such victims should be treated. For example, what should the state do with victims of human trafficking who were at the same time ‘voluntary’ participants in illegal immigration? Similarly, those who simply smuggle illegal immigrants are sometimes confused with those who traffic them. In Collier County Florida, where a number of major human trafficking cases have hit the news media since 1999, local police have begun an all-out offensive on human smugglers, treating these cases in the same vein as human trafficking. Area news media have followed suit, and now are reporting smuggling cases as manifestations of human trafficking, even though few of those cases reported actually qualify as such under the legal definition of the crime.⁹

⁸ *Report on Activities*, 32.

⁹ See Kristen Zambo, “Driving While Hispanic: It’s not a crime,” *Naples Daily News*, 26 March 2006. Available at <http://naplesnews.com/news>; Internet; accessed 24 April 2006; and Janine Zeitlin, “Slavery:

While illegal immigrants may use many of the same tactics to enter a country as human traffickers, such as forging documents or employing a professional human smuggler, and are likewise sometimes subject to abuses at the hands of their American employers, illegal immigration in general is different from human trafficking in important ways. For though illegal immigrants are frequently subjected to treatment that violates their human rights, these experiences of oppression represent one end on a continuum of abuse of which human trafficking represents the other extreme. Though they may be faced with a variety of problems—from employment discrimination to deportation—they are relatively free to move as they please and choose their places of residence and employment. Though lack of rights as a result of immigration status is a frequent problem for illegal immigrants, most are not subjected to human trafficking under the United Nations’ definition of the term. Thus, though I will often discuss the ways in which human trafficking is related to migration patterns and the legal status of migrant workers, I will always distinguish human trafficking from illegal immigration in this thesis.

Likewise, there are important distinctions between migrant smuggling and the forms of human trafficking I will be examining in this thesis. For one, human trafficking occurs within as well as across borders, while smuggling only occurs when international borders are crossed. Also, trafficking always includes some form of coercion or deception, whereas smuggling is usually considered a service voluntarily purchased. In addition, smugglers end their contact with their clients once they are delivered on the

‘other side’ of the border. On the other hand, human traffickers transport their victims with the purpose of future exploitation, and are able to profit from the labor of their victims for months and even years after. According to United States law, illegal immigrants who purchase the services of a smuggler are criminals; however those who are trafficked are considered victims and are entitled to certain rights and protections.¹⁰

Because human trafficking tends to be a trans-national crime involving complicated networks of perpetrators, it is often problematic to determine who is actually involved and responsible. Since the original trafficker often acts as a ‘broker,’ selling their victims to a separate ‘employer,’ they are able to distance themselves from the crime committed. This was the case for Nguyen. For, while her employer in Samoa was eventually charged under human trafficking laws, the ‘employment agency’ that had worked in collaboration to supply him with workers was not. In situations such as these, who should be considered the ‘head’ of the operation? The ‘employment agency,’ the owner of the factory, or its manager? Moreover, how can the state investigate and prosecute individuals whose trafficking operations take place primarily overseas? This is complicated by the fact that the best definition of “human trafficking” is relatively vague about what persons in these networks are culpable. Is every person involved at every stage of the crime equally criminally responsible? Or are certain individuals more responsible than others? So far, the United States government has attempted to treat

¹⁰ “Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking,” (Washington D.C. The Human Smuggling and Trafficking Center [U.S. Department of State], January 2005); available at <http://www.state.gov>; Internet; accessed 28 April 2006; Alexis Aronowitz, “Smuggling and Trafficking in Human Beings: The Phenomenon, The Markets that Drive It and The Organizations That Promote It,” *European Journal on Criminal Policy and Research* 9 no. 2 (2001): 164-168.

human trafficking as a manifestation of organized crime and has approached the question of culpability according to this model. However, especially with respect to those who participate in trafficking operations outside of American borders, the state has yet to establish an effective means of identifying and punishing all those involved. As a result, many traffickers continue to be able to evade punishment.

Questions of victims' agency also complicate how human trafficking is defined and understood. For in practice, human traffickers coerce their victims in a variety of non-physical ways, ranging from psychological intimidation to the confiscation of important documents, such as passports and visas. Contrary to the term itself, cases of human trafficking do not always begin with the evident transport of persons against their will. At first, a victim of trafficking might willingly participate, hoping to gain from greater economic opportunities within their destination country.¹¹ Upon arrival, abuse might be relatively mild, only intensifying over time. Because of this, whether or not a case constitutes human trafficking is sometimes unclear. What should be the determining factor? Clearly in many cases victims choose to accept their working and living conditions, especially when the alternative is being sent back to their country of origin. And yet, the legitimacy of such choices is often questionable, raising questions about the true agency of those who are victimized. As one Guatemalan woman who had not yet left her abusive employers told investigators:

I am the single mother of two daughters. The salary there [in Guatemala] is not sufficient for their studies, their food, their clothes. I want them to get ahead in life...Sometimes one is pressured by the economic situation. It's terrible what one

¹¹ Daan Everts, "Human Trafficking: The Ruthless Trade in Human Misery," *Brown Journal of World Affairs* 10 no. 1 (Summer/Fall 2003): 150.

suffers... Sometimes I ask myself why I put up with so much. It's for this, for my mother and my daughters.¹²

Such questions of coercion are particularly complicated when one takes into account how the relationship between a trafficked person and their trafficker (or employer) is complicated by nationality, gender and race. Sometimes both victims and perpetrators are connected in their countries of origin as well as in the United States, resulting in an added dynamic of power. For example, the power to shame victims and their families in their home countries may also act as an effective way to exert control over them.

Human trafficking occurs within the borders of the United States as well as across them, victimizing American citizens as well as foreign nationals. However, migrant workers are particularly vulnerable to human trafficking. Because they are migrants, these workers usually rely upon informal networks for everything from the act of immigration itself to finding work, housing, and other assistance once they arrive. With many barriers, from legal to linguistic, blocking their ability to go through more 'legitimate' channels, it is relatively easy for traffickers to prey upon them by offering 'assistance.' This is particularly the case for migrants who enter the country illegally.

Moreover, once victimized by traffickers, migrant workers tend to be more easily coerced into accepting continued exploitation. There are many reasons for this. For one, most migrant workers have families in their home country who are dependent upon their financial support, and so even when work conditions are dreadful they are sometimes unwilling to walk away, especially if a great deal of back-pay is owed. The possibility of

¹² Carol Pier. *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*. New York: Human Rights Watch, June 2001), 9-10.

not being able to find another employer similarly causes many migrant workers to accept abuse. This is especially true in some sectors, such as the garment industry, where the threat of being ‘black-listed’ is very real for workers who are labeled as troublemakers. Likewise, because many victims of human trafficking migrate illegally, the threat of deportation is seen as a real and terrible threat worth avoiding at all costs. Finally, literal ‘strangers in a strange land,’ migrant workers often do not fully understand their rights, and will thus tolerate bad situations because they are unaware such practices are illegal. Such lack of awareness is compounded by the way that many traffickers intentionally keep their victims dependant and isolated: As one Filipina domestic worker who was trafficked into the United States and exploited for seventeen years explained: “I couldn’t just leave them. I did not know anyone here. I had no friends. I had no outlet. I could not just go out if I wanted because I had no where to go.” In her case, it wasn’t until she gained legal status that she felt she was able to escape.¹³ In this way, the lack of the resources and knowledge necessary to seek justice can be a more effective a means of keeping migrant workers in abusive situations than physical coercion.¹⁴

For the purposes of this thesis, I examine the particular nexus between human trafficking and migrant workers. For, though they are not the only group subjected to human trafficking in the United States, current statistics suggest that migrant workers are

¹³ Rhacel Salazar Parreñas. *Servants of Globalization: Women, Migration and Domestic Work*. (Stanford: Stanford University Press, 2001), 168-169.

¹⁴ Bridget Anderson and Julia O’Connell Davidson. *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*. (International Organization for Migration, December 2003); Ann D. Jordan, “Human Rights or Wrongs? The Struggle for a Rights-Based Response to Trafficking in Human Beings,” *Gender and Development* 10, no. 1 (2002): 28-37; and Parreñas, 168-171.

by far the most common group to be exploited in this fashion.¹⁵ In this discussion, I use the broad definition for human trafficking set out by the United Nations, which can be summarized as the buying, selling or transporting of human beings for the purposes of exploitation.¹⁶

In my discussion of migrant workers, I expand upon the definition set out by the United Nations in the International Convention on the Protection of the Rights of All Migrant Workers. The UN defines a migrant worker as: “A person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national.”¹⁷ I include with this definition, those who engage in activity for which they *intend* to be remunerated—recognizing that in some human trafficking cases, individuals migrate for the purposes of working, but upon being trafficked are forced to perform activities with zero compensation.

Because the driving force of human trafficking is economic gain, my discussion of migrant labor focuses on cases in which traffickers (and the employers with which they collude) coerce migrant workers into accepting abusive and therefore illegal working conditions. Employers at all kinds of jobs abuse migrant workers. However, this study concentrates on those fields in which victims of human trafficking are most

¹⁵ For example, two thirds of all trafficking cases prosecuted since 2001 have involved migrant workers entering the United States from over fifty different countries. Immigration and Naturalization Service or Customs agents initiated only thirty percent of these investigations. See *Report on Activities*, 16, 34, 75-91.

¹⁶ The UN definition of ‘exploitation’ is fairly broad, including everything from coercing labor from one’s victims (by far the most common), to the selling of organs. See “Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime,” (New York: United Nations, 2000); available online at <http://untreaty.un.org> (United Nations treaties depository); Internet; accessed 23 April 2006.

¹⁷ “International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families,” (New York: United Nations, 1990) Reprinted in Brownlie and Goodwin-Gill eds. *Basic Documents on Human Rights*. (Oxford: Oxford University Press, 2002), 274.

frequently employed—agriculture, manufacturing (including sweatshops), prostitution, and the service sector (from waitresses to nannies). In this discussion, I determine the ‘abusiveness’ of a work situation according to the International Labour Organization’s (ILO) definition for “forced labor”¹⁸: “All work or servitude which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”¹⁹

Historically, it has been notoriously difficult to establish what labor practices constitute human rights violations. Even violent compulsory labor, which has been most widely accepted as illegal and inappropriate, poses a number of definitional problems. For, the line between choice and compulsion is often ambiguous: “The margin between the planned use of labour and the direction of labour, between free and compulsory labour, can become almost indiscernibly narrow.”²⁰ Even when one takes the ILO definition of “forced labor” in its broadest sense, the question of volition poses major problems. What if a person agrees to a certain kind of work, but under differently presumed conditions? Moreover, some argue that because migrant workers are compelled to leave home and find work elsewhere, their agency is always severely circumscribed by the severity of their economic necessity.

For my purposes, I choose to take the ILO’s definition in its widest sense, focusing on the ‘extraction’ of labor by coercion. By this understanding, “the menace of

¹⁸ Here the term ‘forced’ is misleading. For, as the term’s definition suggests, this form of exploitation occurs via a variety of methods of coercion, many of which are not physical.

¹⁹ “Forced Labour Convention no. 29,” (Geneva: International Labour Organization, 1930). Reprinted in Brownlie et al., 310.

²⁰ James Fawcett. *The Application of the European Convention on Human Rights*. (New York: Oxford University Press, 1987), 56-63.

any penalty” can include a wide variety of actions, depending upon the situation and relative vulnerability of the victim—ranging from threats of physical violence, to physical bondage, debt bondage, or deception in recruitment and the signing of contracts. To address the question of volition, I use the test of informed consent—for a case to fall outside of the definition of “forced labor,” a worker must accept a position with the full disclosure of its conditions and consequences.²¹

Finally, in my discussion of immigration, I take care to delineate the legal and illegal migration of workers in general from the specific occurrence of human trafficking, working to understand how and why they are so closely interconnected. In this analysis I discuss the forces that compel migrant workers to re-locate, as well as the ways in which immigration policy deeply affects the tendency for individuals to fall into the hands of traffickers.

Prior to the middle of the twentieth century, “human trafficking” in its modern sense was referred to by a wide variety of terms, from “Padronism” to “White Slavery.” In the present day, “human trafficking” has not only been used to describe a wide range of activities with respect to the commodification of humans, but other terms, from “modern-day slavery,” to “involuntary servitude” have been loosely used to describe situations that qualify as “human trafficking” under the United Nations’ definition. Thus because the terms “human trafficking,” “slavery” and “forced labor” have been and

²¹ A similar stance is taken by the UN treaty body in the “Protocol to Prevent, Suppress and Punish Trafficking in Persons,” Wherein it provides a long list of factors by which the informed consent of a victim may be abridged: “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,” see “Protocol,” Article 3 Sections a-b.

continue to be used with enormous variation, any study on the subject has a tendency to be enormously confusing. For my part, I attempt to be as clear and consistent as possible in the application of terms throughout my work. However, readers should be aware that there is a great deal of over-lap between each of these concepts, and thus any discussion of the subject is bound to contain semantic slippages and blurred conceptual boundaries.

From a philosophical standpoint, such definitional problems are logical.

Throughout the last two centuries a significant body of work has been produced within the academic and political realms, critiquing the ways in which modern capitalism makes human bodies commodities and thereby de-values of human life. From this perspective, all forms of wage labor might be labeled as types of “human trafficking,” and in fact the usage of the term “wage slavery” to critique the condition of workers within industrial economies suggests just this. However, because of the limits of time and space inherent in a work of this size, I have chosen to instead focus my discussion on one particular aspect of human body commodification—“human trafficking” as a form of coercive labor exploitation experienced by migrant workers at any and all stages of the migration process. In doing so, I attempt to address this issue in the broadest way possible, acknowledging that human trafficking represents only one of many ways in which migrant workers are subjected to exploitation. Limiting my discussion in such a way is not easy. In some places I intentionally leave out certain types of exploitation that some might call “human trafficking” but that do not fit within the parameters of the type of migrant worker experiences I aim to examine. In the concluding chapter of this thesis, I endeavor to tie my own limited discussion into some of these larger themes. Regardless, a

full examination of these connections could fill the space of many more books. As other scholars take up this issue in the years to come, I hope to see just that.

Human trafficking is an issue in which Western nations are fundamentally implicated. Throughout this thesis, I aim to re-orient the present-day discourse on human trafficking away from the global ‘periphery,’ and toward the wealthy nations that are the biggest receivers of human traffic—in this case, the United States. In this effort, I would like to broaden the discussion of what drives human trafficking to better account for the roles that economics, international migration and public policy play. Finally, by emphasizing the individual experiences and needs of the migrant workers most frequently victimized by human trafficking, I hope to help enter them into the discussion where they have previously been left out, recognizing them as complex human beings who actively attempt to make the best life possible in a context of inequality.

Chapter 2—A Story of Two Discourses

“Such an immigrant is forced to come [to America]... out of the pain and pinch of necessity which our [tariff] laws have forced upon him...Frequently he becomes a chattel, a serf, with a number instead of a name, a piece of brutalized, degraded, human machinery, consigned in a freight car to some great corporation.”²²

“White Slavery signifies the buying by insidious means, thousands of pure, trusting and innocent girls, the casting of them into the horrifying flesh markets and the auctioning of them to infamous, polluted and brutal slave masters and mistresses for a blood price”²³

Any study of human trafficking in America today necessarily requires an understanding of its cultural, social and historical underpinnings. The United States, like much of the Western world, carries its own legacy of slavery and forced labor. Human trafficking has existed within United States in a variety of forms since colonial times and still exists today. Beginning with chattel slavery and indentured servitude, human trafficking has often been foundational to the development of American politics and economics. More relevant to this thesis, is the history of human trafficking in the United States since the Emancipation Proclamation, because this history reveals two divergent perspectives that not only laid the foundations for labor and immigration law as they stand today, but that continue to influence how we think about human trafficking in the present. These perspectives emerged in the late nineteenth and early twentieth centuries in response to semi-voluntary migrant labor and the White Slave ‘Scare.’

In this chapter, I will examine these divergent perspectives through two notable

²² McAdoo, “Immigration and the Tariff” *Forum* 11 (1891): 402. Quoted in Matthew Lindsay, “Preserving the Exceptional Republic: Political Economy, Race, and the Federalization of American Immigration Law,” *Yale Journal of Law and the Humanities* 17, no. 2 (Summer 2005): 17.

²³ Robert Harland. *The Vice Bondage of a Great City, or The Wickedest City in the World*, quoted in Frederick K. Grittner. *White Slavery: Myth, Ideology, and American Law*. (New York: Garland Publishing Inc., 1990), 71.

controversies of the late nineteenth and early twentieth centuries: the exploitation of migrant laborers by “Padrones,”²⁴ and the exploitation of young poor women via ‘White Slavery.’ While both of these cases are examples of American public and political responses to human trafficking, each represents a different approach to understanding and addressing the problem: one in terms of immigration and economic development, and the other as a moral and social issue. As a result, while both of these controversies generated a public response, the way that each was played out would be very different. Because the “Padrone system” of exploiting migrant workers implied the need for tighter regulation of both immigration and labor laws to the detriment of profits, those reforms aimed at ending it were undermined and rejected within a few decades. To the contrary, because it appealed widely to American concerns about morality and social good without implicating larger systems of economic oppression, the White Slave scare resulted in policies and beliefs about human trafficking that have endured into the present day.

Immigrant Labor and “Alien Contracts”

Prior to the middle of the nineteenth century, it was a great deal easier to immigrate to the United States. With few regulations on what persons could become an American resident, the main obstacle for most migrants was the cost of an ocean passage. To overcome this barrier, poor migrants often relied on contracts for indentured servitude to pay their way. Under this system, which throughout the seventeenth and eighteenth

²⁴ “Padrones” were labor bosses that would exploit poor immigrants by signing them up with exploitative contracts, and frequently keeping them in debt bondage. For more on this definition see page 30 of this chapter.

centuries constituted one of the largest and most critical sources of labor for the American colonies, persons who wished to immigrate to the Americas would sign a contract selling themselves into the servitude of another party, who would pay the cost of their passage, and for whom on arrival, they would be forced to labor a set number of years. In the case of apprentices, children and young adults would be bound to a master for whom they would be required to work in exchange for training.²⁵

Though indentured servants and apprentices usually signed themselves into servitude, its terms were often extremely misleading and coercive. Desperate for workers, the Chesapeake Colony disseminated large amounts of propaganda throughout Europe advertising the Americas as a kind of beautiful haven where a person could work a few years and then start their own farm. In reality though, the situation in the Chesapeake and other colonies was anything but ideal. While their masters were obligated to provide for the upkeep of their servants and apprentices, labor conditions were very harsh, and quality of life extremely poor. Servants and apprentices were subject to corporeal punishment at the will of their masters, and were often prone to abuse. Like black slaves, indentured servants could be sold on the auction block, and runaways were fairly common.²⁶

In addition, not all indentured persons chose their fate; some were sold into their

²⁵ Jacqueline Jones. *A Social History of the Laboring Classes: From Colonial Times to the Present*. (Oxford: Blackwell Publishers Inc., 1999), 5-33; Nancy Woloch. *Early American Women, A Documentary History 1600-1900*. (Boston: McGraw Hill, 2002), 46; and Christopher Tomlins, "Reconsidering Indentured Servitude: European Migration and the Early American Labor Force, 1600-1775" *Labor History* 42, no. 1, (2001): 7-10.

²⁶ Jones, 5-8; Philip Foner. *History of the Labor Movement in the United States Vol. 1: From Colonial Times to the Founding of the American Federation of Labor*. (New York: International Publishers, 1947), 19-22; and Foster Dulles and Melvyn Dubofsky. *Labor in America: A History*. (Arlington Heights, IL: Harlan Davidson, Inc., 1984), 3-15.

positions against their will. In general, selling kidnapped children, debtors and convicted (or accused) criminals into servitude constituted a major trade. Up until American independence, English convicts were regularly sold into indenture to work from seven years to a lifetime in the American colonies. Likewise, such contracts of indenture were sometimes created outside the courts, for punishment and profit alike. One such case was that of Elizabeth Sprigs, whose father sold her into indenture as punishment for her ‘bad conduct.’ Faced with horrible living conditions, endless work, and a brutal master, she wrote home to her father in 1756, begging him to show her some compassion by sending some clothing.²⁷ Similarly, many Native Americans were also forced into indentured servitude by the colonial governments as a means of filling the labor shortage while avoiding the Indian ‘problem.’²⁸ Likewise, even for those who chose to go, promises of land and wealth often proved unfulfilled. Once free, procuring one’s pledged land often proved very difficult, and masters sometimes attempted to extract additional labor illegally by holding their servants and apprentices for longer than their contracts determined.²⁹

While indentured servants fulfilled the need for labor in the American North and West, by the early eighteenth century black slaves had surpassed them in the South, becoming the largest example of state-sanctioned human trafficking the world has ever seen. Under this system of ‘chattel slavery’, which would be legally and socially

²⁷ Woloch, 55-56.

²⁸ Zbigniew Mazur, "Compelled To Servitude And Drudgery: Indians and the Development of the Institutions Of Unfree Labor in Early Colonial Virginia." *American Studies* 13 (1994): 73-83; and David John Silverman, "The Impact of Indentured Servitude on the Society and Culture of Southern New England Indians 1680-1810." *New England Quarterly* 74 no. 4 (2001): 622-666.

²⁹ Woloch, 48-62; Foner, *History Vol. 1*, 19-22.

institutionalized in the United States for more than two centuries, millions of Africans were kidnapped and brought across the Atlantic Ocean to work in the homes and fields of white Americans. Millions more, born in America, would be bought, sold and forced to work for their entire lives.³⁰ The history of chattel slavery in America is enormously important and any account of human trafficking in the United States cannot fail to acknowledge it. Though involuntarily so, African slaves were migrant workers that contributed hugely to American economic development.³¹ However, as I will discuss in the third chapter of this work, there are important distinctions between chattel slavery and the kind of human trafficking that is the subject of this thesis. For this reason, I focus in this historical study on forms of human trafficking that were more similar to its present-day, non-state sanctioned form, in which voluntarily migrating workers make up the vast majority of victims.

By the end of the Civil War, indentured servitude was no longer a legally sanctioned means of importing labor. However it would continue to exist throughout the United States in a variety of forms as employers of all kinds sought to overcome chronic labor shortages, and migrant workers from Europe and Asia continued to come to the United States in search of a better life. When the influx of immigrants exploded

³⁰ Vernon Briggs. *Immigration Policy and the American Labor Force*. (Baltimore: John Hopkins University Press, 1984), 16-17; Also John Hope Franklin and Alfred A. Moss, Jr. *From Slavery to Freedom: A History of African Americans*. (New York: Alfred A. Knopf, 2002), 33-214.

³¹ It is worth noting here, that the coercion and abuse of black laborers continued well into the 20th century through the use of black codes and debt peonage. Though not the subject of this study, these practices also constituted a form of forced labor, which is an important part of the overall history of exploitative economic practices in the American past. For more on this see W. Kloosterboer. *Involuntary Labour Since the Abolition of Slavery: A Survey of Compulsory Labor Throughout the World*. (Leiden, Netherlands: E.J. Brill, 1960); Suzanne Miers. *Slavery in the Twentieth Century*. (Walnut Creek, CA: Altamira Press, 2003); and Daniel Novak. *The Wheel of Servitude: Black Forced Labor After Slavery*. (Lexington: University Press of Kentucky, 1978).

dramatically in the middle of the nineteenth century, the potential for abuse dramatically increased.

For though both slavery and indentured servitude were made illegal with the passage of the Thirteenth Amendment in 1865, a new system of contracting foreign workers was already developing. According to this system, which some hoped would fill the gaps left by the abolition of chattel slavery and the growing needs of the industrial North, foreign workers agreed to work for an American company for a set period of time in exchange for passage to America. Hoping that the use of such labor would stabilize the workforce, American lawmakers legally sanctioned the practice in 1864, by passing “The Act to Encourage Immigration.” Essentially a type of cash advance, these contracts required a contracted worker to stay with their employer a certain number of months, during which portions of their pay would go towards paying back the cost of their passage. In addition, it guaranteed that such workers would not be drafted into the American armed forces, and provided a national American Emigrant Company to act as a broker for such contracts.³²

Though seen initially by lawmakers as a great way of facilitating the immigration of much needed labor, the system of contracting foreign workers resulted in serious problems. Because they were obligated to work for a certain period of time to pay off their debts, contracted workers were sometimes trapped into a kind of debt bondage

³² Act to Encourage Immigration 31 Stat. § 385. Briggs, *Immigration Policy*, 24; and Dulles et. al., 92. The law provided that: “All contracts that shall be made... whereby emigrants shall pledge the wages of their labor for a term not exceeding twelve months, to repay the expenses of their emigration, shall be held valid in law, and may be enforced in the court of the United States... and such advances shall operate as a lien upon any land thereafter acquired by the emigrant.” Quoted in Foner, *History Vol. 1*, 327.

analogous to indentured servitude. This was especially true for some workers, who because their employers subtracted large portions of their wages for company housing and store purchases, were forced to keep extending their contracts in order to pay off the debt.³³ Because they were often ignorant of American wages and conditions, and desperate to leave their home countries, contracted laborers tended to agree to wages and working conditions significantly worse than the American norm.

As labor unions grew in power and size in the decades following the Civil War, these groups made migrant workers a major issue, pushing for tighter regulation of immigration, and an end to the practice of contracting immigrant laborers. Because of their relative cheapness and controllability, the unions argued, contracted workers were frequently used as scabs when unionized workers went on strike. Likewise, they complained, by encouraging the immigration of degenerate foreigners, such a system made the unions' struggle for higher wages all the more difficult: "The struggle of wage workers for a higher living...is rendered more desperate by the constant addition of others... who, accustomed to lower standards of living, make possible the sweat-shop and slum."³⁴

The controversy over contracting foreign workers was closely related to a series of dramatic shifts in the American labor market that changed public perceptions of wage

³³ Vernon M. Briggs. *Immigration and American Unionism*. (Ithaca: Cornell University Press, 2001), 33-35.

³⁴ Henry White, "Immigration Restriction as a Necessity," *American Federationist*, (June 1897): 67-69. Interestingly, the claim that some workers, because they were inherently more degenerate, depressed wages and conditions was also made of Black workers in the South: "The meager wants of the Negro hold their own wages down and also the wages of the white." See Jerome Dowd, "Cheap Labor in the South," *Gunton's Magazine* (February 1900): 115.

labor and the place of immigrants in the American economy. After the 1860s, the percentage of wage earners in the American workforce dramatically grew in size and permanency. At the same time, the working class itself was increasingly made up of the ‘less desirable’ components of foreign-born and workers of color.³⁵ These changes, combined with a series of economic and social crises that began in the 1870s and continued well into the early twentieth century, threw an entirely new light on Americans’ vision of the laboring classes. For, while the American economy was expanding at an unprecedented rate, it tended to move in fits and starts, with each downturn accompanied by strikes and calls for revolution by the growing ranks of self-identified socialists and opponents of “wage slavery.”³⁶ Throughout this period, cities swelled and for the first time, Americans saw large-scale dependency as many in the working classes now found themselves unable to ‘make it.’³⁷ By the end of the century, middle and upper class Americans began to see the working class as a dangerous and degenerative force, and incoming migrant workers (most of whom were from economically distressed parts of the world) as a threat to the virtue and spirit of American society.³⁸ For many, America was being faced with an invasion of immoral immigrants, and the only solution was to stem the tide: “No matter how high a moral standard a

³⁵ Glickman, 20-22.

³⁶ Paul Boller Jr. *American Thought in Transition: The Impact of Evolutionary Naturalism 1865-1900*. (Lanham, MD: University Press of America, 1981), 94-122; and Philip Foner, *History Vol. 1.*, 338-497; and *History of the Labor Movement in the United States Vol. 2: From the Founding of the Federation of Labor to the Emergence of American Imperialism*. (New York: International Publishers, 1955), 9-345.

³⁷ Louise Stevenson. *The Victorian Homefront: American Thought and Culture, 1860-1880*. (Ithaca: Cornell University Press, 2001), 185-186.

³⁸ Lindsay, 187-191; and John Kasson. *Civilizing the Machine: Technology and Republican Values in America 1776-1900*. (New York: Hill and Wang, 1999), 53-106, 186.

community may attain, the introduction into that community of any considerable number of persons of a lower moral tone will cause a general moral deterioration, just as sure as night follows day.”³⁹ Instead of an “important addition to the wealth of the country,” immigrants had become a “great evil” of “foreign paupers, idiotic insane and criminals.”⁴⁰

As the meaning and value of wage labor was increasingly contested in the late nineteenth century, a number of different critiques emerged, both in support and in opposition to the wage labor system, especially with respect to unskilled immigrant workers. Those in favor of contract labor argued that the very act of contracting oneself to an employer was the embodiment of freedom, regardless of the tangible benefits of such an “unfettered ability to sell oneself.”⁴¹ Fueled by abolitionist ideologies, which treated free labor as the ultimate embodiment of American republican virtue, many believed that free men ought to be able to rise up and make their own way in the world regardless of their born station. The state, which now sought to integrate a massive and newly liberated wage-earning workforce, had a vested interest in encouraging such ideology. As Abraham Lincoln remarked with confidence at the end of the Civil War: “The man who labored for another last year, this year labors for himself, and the next

³⁹ Gwendolyn Mink, “The Lady and the Tramp: Gender, Race, and the Origins of the American Welfare State,” Linda Gordon ed. *Women, the State, and Welfare*, (Madison: University of Wisconsin Press, 1990), 95.

⁴⁰ Lindsay, 110-112.

⁴¹ Glickman, 21.

year...will hire others to labor for him.”⁴² Such attitudes toward laborers were especially strong with respect to migrant workers, who by simply living on American soil were presumed by some to be blessed by greater freedom than they had ever known, which was supposed to act in of itself as an ‘uplifting’ force. Combined with a growing tendency for laissez-faire attitudes under the influence of Social Darwinism, many intellectuals and lawmakers argued against any kind of protective or social welfare legislation that would ‘interfere’ with what they assumed to be a natural and appropriate competition between individual workers and their employers.⁴³ In the public realm, a large number of popular stories glorified the ‘self-made man’ as the pinnacle of American virtue and progress.

However, as the nineteenth century progressed and anti-immigrant sentiments grew, some Americans questioned the assumption that immigrant workers were capable of such self-made success. To the contrary, critics argued, the plight of immigrants, who represented the bottom rung in American labor, was almost worse than chattel slavery. For, in contrast to slaves, employers saw these workers as entirely expendable. As one critic lamented: “[An] employer has no care whatever of the workers. Live or perish, they are none of his concern.”⁴⁴ There was some truth to such claims. Conditions were often very bad for recent immigrants, especially those with few marketable skills. As one such worker proclaimed, he would rather “be a bond slave for the rest of his life,” if it meant

⁴² From Basler et al. eds. *The Collected Works of Abraham Lincoln*. (New Brunswick: Rutgers University Press, 1953), 364. Quoted in Gunther Peck. *Reinventing Free Labor*. (Cambridge: Cambridge University Press, 2000), 9.

⁴³ Lindsay, 184-186; Boller, 71-93.

⁴⁴ G. De Bernardi. “Forms of Bondage,” *Labor Exchange* (April 1897), 8. Quoted in Glickman.

that his employer would actually provide sufficiently for himself and his family.⁴⁵ The consequence, critics argued was that most immigrants did not rise up the economic and social ladder, but remained at the very bottom, becoming a drain on American society. As a result, some believed that foreign contracted laborers, who were presumed to be the very worst off in the immigrant classes, were forcing American society to subsidize the enrichment of a few big corporations.⁴⁶

Such arguments took on a racialized tone, as in the years following the Act to Encourage Emigration, the numbers of those coming to the United States' shores increasingly included Chinese and Eastern European immigrants. For beyond the economic implications of a growing influx of poor workers, many Americans saw these new immigrants as racially 'other' and thus dangerous to the cultural development and traditional values of American society.

Ironically, for all the attention the issue of foreign contract labor drew, the actual practice never really caught on under the framework set up by the American government. Most workers did not like the idea of being tied to a particular employer, and preferred to find another way to reach America's shores. Others attempted to use the system to their advantage, skipping out on their contracts upon arrival in the United States. Though the Act of 1864 had allowed for such contracts to be upheld by the courts, the cost and difficulty of doing so resulted in widespread problems for those who attempted to utilize the contract labor system. By 1866, the problem of "runaway" contract workers had become so great that the president of the American Emigrant Company complained to

⁴⁵ "Hard words of Nobody," *John Swinton's Paper* (February 15, 1885): 2.

⁴⁶ T. V. Powderly. "A Menacing Irruption," *North American Review* 147 (1888): 168-173.

Congress that the penalties should be made a great deal harsher. However, by then the political climate had already begun to change and Congress had no interest in doing so. By 1870, the American Emigrant Company had gone bankrupt.⁴⁷

The claims of unions and other social critics in the 1880s that contract laborers presented a major problem were not entirely unfounded. Outside the official channels established by the Act to Encourage Immigration, a more informal “Padrone”⁴⁸ system of contract labor was already in existence that was in many ways similar the practice of human trafficking today. Working within the informal networks of immigrant communities across the United States, Padrones were local labor contractors who organized and exploited the labor of new immigrants. Though they were not prevalent in all sectors, Padrones were able to gain a strong foothold in construction work of all kinds, particularly in the Western part of the nation.⁴⁹ In many ways, the Padrone system was hardly distinguishable from the practice of contracting foreign laborers via the American Emigrant Company. Padrone bosses primarily focused on un-skilled, foreign-born workers, and sought to create a workforce that was both easily controlled and deployed.⁵⁰ However, long after the Alien Contract Act made it illegal to contract migrant workers in

⁴⁷ Peck, 50-51. Also see Charlotte Erickson. *American Industry and the European Immigrant, 1860-1885*. (Cambridge: Harvard University Press, 1957), 9-29, 46-50.

³⁰ Italian for ‘landlord’ or ‘boss.’ During the late nineteenth century the exploitation of migrant workers by ‘bosses’ was most popularly associated with Italian immigrants. However, as I discuss in this paper, immigrants of many different ethnicities experienced this type of abuse throughout the nineteenth and twentieth centuries. For the sake of clarity, I am going to use the term “Padrone” throughout this paper to describe the practice of using of contracts to exploit migrant workers of all kinds, outside of the ‘official’ channels of the American Emigrant Company, as occurred both prior to and after the Contract Labor Act in 1885.

⁴⁹ Humbert Nelli. “The Padrone System: An Exchange of Letters,” *Labor History* 17 no. 3 (1976): 406-407.

⁵⁰ Nelli, “The Padrone System: An Exchange of Letters,” 407.

exchange for passage to the United States, the Padrone system continued to flourish.

There were major differences between the Padrone system of contracting workers and the more formal system via the American Emigrant Company that had been established by the federal government. For one, whereas the Act to Encourage Immigration sought to deal with migrant workers in a centralized, institutionalized manner, Padrones functioned in a decentralized manner, building their operations around specific types of labor and colluding with specific American companies.⁵¹ These bosses used a wide variety of means to coerce migrant workers into signing up, and once enlisted, were not squeamish about using physical violence to ensure compliance.⁵² In addition, while the American Emigrant Company made contracts only with potential workers abroad, the Padrone bosses contracted workers in a variety of ways, sometimes helping individuals to migrate into the United States, but more often taking advantage of them once they arrived. Finally, Padrone bosses tended to work within specific ethnic groups to which they were already connected. For example, some bosses built up elaborate operations in Greek, Italian and Chinese immigrant communities, contracting large numbers of migrant workers for mining and railroad projects on the Western frontier.

Like modern day human traffickers, Padrone bosses capitalized on the vulnerabilities of migrant workers to exploit their labor—their lack of familiarity with the American legal system, labor practices, language skills, and contact with prospective

⁵¹ Peck, 15-46; Humbert Nelli. “The Italian Padrone System in the United States,” *Labor History* 5 no. 2 (1964): 156.

⁵² Nelli, “The Padrone System: An Exchange of Letters,” 408; and Malafouris, 80-85.

employers.⁵³ Once a worker was ‘signed up,’ a Padrone boss would often control nearly every aspect of his life: providing him with work, collecting his wages, writing his letters, acting as his banker, providing room and board, and handling all dealings with his employer. While this made things initially easy for workers, especially those who spoke no English, some Padrone bosses abused their privilege, using every means possible to extract profits at the expense of their workers.⁵⁴ For example, not only did workers pay fees for each day they worked, they often had to pay exorbitant prices for all the other services their Padrone boss provided. According to one study of Italian Padrone workers in the 1890s, they were only allowed to buy their clothing and groceries from their bosses, and regularly paid more than double the market price for inferior products.⁵⁵ In addition to these high prices and fees, some bosses intentionally denied work to their charges in order to force them into arrears, creating a system of debt bondage.⁵⁶

Since the 1850s, Padrone bosses and contract labor schemes, legal and illegal, targeted workers of many different nationalities. One example of such a scheme was that of the Six Companies merchants, who exploited hundreds of thousands of Chinese nationals on the American west coast from 1847-1874. Using what was known as a ‘credit ticket’ system, the merchants lent Chinese immigrants, known in the American popular media as “Coolies,” large amounts of money for the cost of migration, and then took advantage of this debt by coercing them into signing exploitative labor contracts to pay it back when they arrived in the United States. Once they began working, high

⁵³ Nelli, “The Padrone System: An Exchange of Letters,” 406; “The Italian Padrone System,” 156-164.

⁵⁴ Nelli, “The Italian Padrone System,” 164; and Malafouris 76- 100.

⁵⁵ Nelli, “The Italian Padrone System,” 160-164.

⁵⁶ Peck, 52-53; Nelli, “The Italian Padrone System,” 160-164.

deductions for room and board made it very difficult for workers to pay off their debt, effectively keeping them in service to the company for long periods.⁵⁷

By the 1860s, when the Act to Encourage Immigration was passed and the need for laborers increased, the practice of contracting migrant workers grew significantly. Irish, Greek, Italian, German, Hungarian, Bulgarian, Austrian, Turkish and Mexican workers were exploited by Padrone bosses as each wave of immigration brought with it new ranks of poor workers unaccustomed to American labor laws and practices. These migrants worked in a wide variety of fields, skilled and unskilled. In the east, contracted laborers peddled flowers, fruits and vegetables, worked as shoe shiners, in factories and for construction companies. However, most were sent to work in the American west, building railroads, working in mines and in the twentieth century, on farms. Almost all such laborers were boys and single men, who tended to be more mobile and suited for manual labor.⁵⁸

In the 1870s, stories began to surface that sensationalized Padrone exploitation of migrant workers. Beginning with a popular novel by Horatio Alger in 1872, which told of the enslavement and exploitation of Italian children in New York City, these stories decried villainous and foreign Padrone bosses who replicated old-world evils in the rapidly growing immigrant ghettos. Responding to these sensational stories, Victorian

⁵⁷ Gunther Peck. *Reinventing Free Labor*. (Cambridge: Cambridge University Press, 2000), 50-53; and Judy Yung. *Unbound Feet: A Social History of Chinese Women in San Francisco*. (Berkeley: University of California Press, 1995), 17-18.

⁵⁸ Peck 1-11; Babus Malafouris, "The Struggle for a Living," *Journal of the Hellenic Diaspora* 14 no. 1 (1987): 79-104.

reformers took up the Padrone system as an issue in the 1880s.⁵⁹ Unlike those in union circles, whose concerns about immigration and labor focused primarily on protecting existing workers against an ‘invasion’ of foreigners, these reformers were concerned with the immorality of Padronism and the individual welfare of migrant workers who fell victim to it. These middle class Americans believed the Padrone system was wrong not only because it kept migrant workers low-down and exploited, but because it represented a kind of old world corruption that many feared was now infiltrating American economic development. In this way, Padrone bosses were seen as wicked foreigners corrupting the American dream. Through a series of public exposés on the abuses of Padrone bosses, Victorian reformers sought to generate political pressure for the creation of new regulations on the labor contracts of immigrant workers. Focusing primarily on young boys and men who were being exploited in large cities like New York and Chicago, these exposés emphasized how Padrone bosses were keeping virtuous individuals from achieving their economic and moral potential.⁶⁰

However, not all Americans concerned with contract labor and Padronism were so sympathetic. Many of the dominant narratives on these issues were deeply underscored with racism, and treated both migrant workers and those who exploited them as an invasion of America’s positive economic and social values. Workers who were exploited were not seen as full and independent human beings but as helpless and degenerate. For many of this viewpoint, the imposition of long hours and hard physical labor on recent

⁵⁹ Peck, 23.

⁶⁰ Peck, 15-23, 49. For another example of such literature, see Rocco Correseca, “The Biography of a Bootblack,” *Independent* 5 no. 4 (December 1902).

immigrants was seen as appropriate, because they believed, the experience of such labor helped instill immigrants with American values of individuality and hard work while keeping them out of the ‘trouble’ associated with idleness. This was especially the case with Chinese workers, who were often portrayed in the American media as idle, immoral, and inassimilable.

The discourse on the Padrone and contract labor systems was implicitly gendered. Unlike discussions of human trafficking today, contract labor and immigration in the late nineteenth and early twentieth century were seen as utterly male issues, despite the fact that women made up a significant part of both new immigrants and the wage-earning workforce. Ironically, it was partly because of this that lawmakers were so reluctant to take action. Many Americans thought that a male worker ought to overcome his oppression, take action and make his way along a path where hardship was to be expected. Women, it was believed, needed protection but real men did not.

Under these conditions, lawmakers took new heed of labor unions’ complaints, and began passing the first restrictive immigration legislation in American history. The first of these, the Page Act of 1875 targeted Chinese contract laborers, banning the entrance of any ‘Oriental’ worker who had not given their “free and voluntary” consent in the signing of their contract. Though the language of the Page Act suggests some concern for the welfare of Asian workers, these new restrictions were equally rooted in racial prejudice against Chinese immigrants. For by 1882, Congress expanded the Page Act to ban the admission of all Chinese laborers, and made all Chinese resident aliens ineligible

for citizenship.⁶¹

However for many reformers and union activists, the exclusion of just Chinese contract laborers was not enough. Congress finally addressed the issue of all “Alien” contracts directly with the Contract Labor Act of 1885 (also known as the Foran Act). Fully reversing the “Act to Encourage Immigration,” this law explicitly outlawed the recruitment of any foreign worker abroad, and in particular the practice of signing labor contracts in exchange for passage.⁶² Proponents of the law argued that when American corporations contracted foreign workers, they effectively degraded the American labor market, worsening conditions for everyone. Moreover, they argued, because it was impossible for foreign workers to make free and legitimate labor contracts from abroad,⁶³ the immigration of such workers under false pretenses was dangerous to American liberty. As one writer complained in the *North American Review* in 1888:

The majority of that class of immigrants comes here...after undue influence has been brought to bear on them by agents of American employers... Place a few intelligent but unscrupulous men of their own race at the head of these men, and continue to turn the screws as they have been turned for the past few years in the field of competition, and the safety of the republic will be seriously threatened...When landing in New York, when the illusion is dispelled and every future step is in an opposite direction from that which was expected, we must not hope that such as have been deceived will ever become good and useful citizens. The object in bringing [these immigrants] hither is not that they may become citizens, but slaves.⁶⁴

As the growing tendency for strikes indicated, the seeds of dissent were already planted in the laboring classes. Contract labor, some argued, might be the final straw to fuel a

⁶¹ Yung, *Unbound Feet*, 32-33. For more on the development of U.S. immigration law, see the Appendix on page 178.

⁶² Contract Labor Act 23 Stat. § 332. Discussed in Briggs, *American Unionism*, 42.

⁶³ Lindsay, 181-251.

⁶⁴ Powderly, 168-169.

revolution, and with it, the demise of democracy in America.

Unfortunately, these new laws had little impact on the overall exploitation of migrant workers. Due to the steady stream of migrant workers arriving daily on American shores, few companies actually went to the trouble to recruit workers overseas. As a result, because the Contract Labor Act did not address at all the use of coercive contracts to exploit migrant workers once they arrived in the United States on their own, it failed to address the way in which the vast majority of migrant workers fell prey to *Padrones*.⁶⁵ Despite attempts in 1887 and 1888 to strengthen the law, including an increase of employer fines to one thousand dollars,⁶⁶ few resources were actually allocated for the investigation of violations. In the end, despite the initial response the contract labor controversy generated, most middle and upper class Americans found the image of the poor, racially 'other,' male migrant worker to be a less than sympathetic character and were unwilling to pass the many additional laws it would have taken to effectively prevent his exploitation.

Sadly, instead of protecting migrant workers, the Page and Contract Labor Acts instead punished certain types of migrant workers while doing nothing to improve conditions for the rest. By establishing the principle that exploitation was an unavoidable attribute of certain races, the Page Act laid the foundation for exclusionary immigration laws that targeted certain races but ignored others. The Chinese Exclusion Act, which was justified in part by the claim that Chinese were more easily exploited than other ethnic groups, would be the hallmark of such discrimination in the name of protection.

⁶⁵ Briggs, *American Unionism*, 42-48.

⁶⁶ Briggs, *Immigration Policy*, 27.

Even the Contract Labor Act, which was not explicitly racialized, had similar consequences. Because the law relied on the ability of immigration officials to filter out illegal ‘contract laborers’ for enforcement, their real impact was not the protection of migrant workers, but rather the complication of the American immigration system. Those who came to understand the system had no problem giving immigration officials the ‘right’ answers and were able to enter the country regardless if they were contracted. Meanwhile, many others who didn’t know better were sent home simply because they belonged to an ethnic group that was seen as prone to exploitation, or because a family member already in the United States had promised them a job.⁶⁷ By putting the blame on migrant workers themselves, and not on those who would abuse them, neither the Page Act or the Contract Labor Act changed little about the ways in which ‘cheap’ low-skilled workers were used to undercut unions and lower wages.

On the whole, even with the passage of the Page and Contract Labor Acts, as well as new laws in several states that mandated greater oversight of immigrant laborers,⁶⁸ the American government remained largely unwilling to actually interfere with the growth of the economy, and the cheap labor this growth necessitated. As a result, the overall trend of American policy and law throughout the late nineteenth and early twentieth centuries was to avoid the regulation of either business or labor. This lack of regulation was constantly exacerbated by the ease with which existing laws were evaded. Though American law enforcement occasionally sought to bring charges against notorious Padrone bosses, these individuals seemed to have an exceedingly easy time avoiding

⁶⁷ Peck, 87-93.

⁶⁸ Peck, 84; Nelli, “The Italian Padrone System,” 166-167.

prosecution. Most often, the job would be done and the workers in question long gone by the time a case came to court. Likewise, bosses frequently used legal loopholes, and even other American laws to justify themselves, often with great success.⁶⁹ Moreover, even those restrictive laws that were passed were open to negotiation. Frequently, Padrone bosses themselves were able to negotiate with lawmakers in order to provide cheap and portable labor. For example, in 1907 the Louisiana State Board of Immigration sought to help meet the labor needs of farms and lumber camps by ignoring the Contract Labor Act and working with Padrone bosses to directly import workers.⁷⁰ That same year, the American Congress negotiated a series of special exceptions to the law with the Mexican government, which allowed for and in fact funded with federal monies the recruitment and contracting of Mexican nationals for work in the United States.⁷¹

By the middle of the twentieth century, this trend would reach its zenith with the creation of the Bracero Program, which recruited and transported thousands of Mexican nationals into United States to work on American farms and railroads. Created initially in 1942 to meet the nation's wartime labor needs, the Bracero Program lasted until the end of 1964. During this span of more than twenty years, the United States federal government facilitated the contracting of young men in Mexico to work on railroads and farms throughout the United States. Though supposedly aimed at helping to regularize Mexican immigration, the Bracero program in fact legitimated and perpetuated abusive

⁶⁹ Peck, 93-115.

⁷⁰ Peck, 105.

⁷¹ This series of agreements was made possible by the "Bracero Program" Act passed in 1949 (63 Stat. §1051). See Jorge Bustamante. *A Virtual Contradiction between International Migration and Human Rights*. (Santiago, Chile: United Nations Economic Commission for Latin American and the Caribbean [ECLAC], 2003), 7-18.

labor practices by defining Braceros as an exceptional group to whom normal labor laws and practices did not apply. In the end, Mexican Braceros, and the generations of foreign-born agricultural workers to follow in their footsteps would be subject to the very human rights abuses that had epitomized complaints against Padronism less than a century earlier.⁷²

In the end, the response of the American public to contract labor and the Padrone system may have had a great deal more to do with assuaging its own fears about a changing society than a real response to human suffering. At each point when the American public and state responded most vehemently to the oppression of these systems, significant events were occurring in the economic and political sphere, which generated fear and uncertainty. For example, a widespread criticism of the foreign contract labor system did not take shape until 1873, when the United States simultaneously experienced a massive increase in immigration and a severe economic depression lasting six years.⁷³ Likewise, in the years immediately preceding the passage of the Contract Labor Act in 1885, Americans were shocked by a series of major labor strikes, led primarily by migrant workers from Ireland and China, including a massive and controversial railroad strike that very year.⁷⁴

Ironically, though many did see the ill treatment of migrant workers as a critical

⁷² Though Braceros signed contracts in Mexico City that stipulated a minimum wage, medical benefits, and the right to organize, many found these agreements to be of little value once they arrived in the United States. Principal complaints included: poor quality and over-priced food (workers were sometimes charged \$1.40 a day for food), very low salaries (as little as \$2.00 per week), lack of medical care, inadequate and unsafe housing, and inability to lodge complaints against their employers or the government administrators running the Bracero Program. See John Mraz and Jaime Vélez Storey. *Uprooted: Braceros in the Hermanos Mayos Lens*. (Houston, TX: University of Houston Arte Publico Press, 1996), 31-52.

⁷³ Lindsay, 188-190.

⁷⁴ Foner, 50-52, 62-63; Dulles and Dubofsky, 108-119.

problem, most Americans located the source of migrant worker impoverishment not in the capitalist free-market system, but especially toward the end of the century, in a kind of social pathology of laziness and incompetence that migrant workers brought with them from the ‘old country.’⁷⁵ Consequently, the solutions proposed often aimed more at maintaining what was seen as a the naturally high standard of living of Anglo-Saxon Americans from ‘foreign degeneracy,’ than actually protecting the rights of immigrants.⁷⁶ In the end, it seems that in some ways the great concern expressed for Padronism provided a convenient means to address obvious abuses of migrant workers without pointing fingers at the actual businesses that profited from their labor, and on a larger scale the burgeoning American economy contract laborers were helping to build.

By the 1920s the Padrone system would all but disappear from American public consciousness. However, the legal and political repercussions of the contract labor controversy would continue to be felt, with the passage of increasingly restrictive immigration laws, and the establishment of a National Quota system, that valued immigrants from prosperous countries over those from poor ones. By the 1940s, both gradual improvements in global prosperity and the increased restriction on immigration had significantly decreased the number of poor working class migrants entering American society.⁷⁷

⁷⁵ Lindsay, 188-191.

⁷⁶ Lindsay, 181-251; Yung, *Unbound Feet*, 31-33; and Lawrence Glickman. *A Living Wage: American Workers and the Making of Consumer Society*. (Ithaca: Cornell University Press, 1997), 85-91.

⁷⁷ In 1921 and again in 1929, Congress established the National Quota System, which limited legal immigration on the basis of the national origin of migrants, and gave preference to highly educated professionals. Building upon earlier legislation in 1917, which established a preference for high-skilled and professional immigrants over low skilled and working class ones, these laws made it far more difficult for

By the middle of the twentieth century, almost all discussion of Padronism and contract labor exploitation would halt. There is some indication that this might have been the result of an actual decrease in this type of worker abuse. For, while the influx of poor migrant workers slowed, those that had already come to the United States were increasingly assimilated and upwardly socially mobile.⁷⁸ Moreover, as American labor practices faced increased regulation, workers of all kinds were more organized and aware of their rights than ever before. However, despite these changes, there is evidence that Padronism is alive and well in at least some sectors of the American workforce today.

Today, America is once again in the middle of an immigration boom. These present day migrant workers are vulnerable in precisely the same ways as their precursors were a century ago. However, their position today is even more precarious. For unlike in the late nineteenth and early twentieth centuries, the majority of today's immigrants are entering the United States illegally, often through the dangerous channels of the international black market. If the barriers of language and knowledge made newly arrived immigrants highly vulnerable to Padrone bosses a century ago, the dangers are even greater today for illegal immigrants who cannot use many 'regular' means of finding employment. Once again, racism and anti-immigrant sentiments have begun to sound loudly in American politics, as conservative Americans now seek to 'close the borders' to the millions of people who enter the United States every year. Sadly, the human rights of

poor migrant workers to legally enter the United States. (The exception to this trend would be the Bracero Program, which later on, attempted to meet the nation's need for cheap labor by the importation of temporary 'guest' workers). For more on the progression of immigration laws in the United States see the Appendix on 178.

⁷⁸ Peck, 84; Nelli, "The Italian Padrone System," 166-167.

these workers whose labor we want and need have received much less notice.

White Slaves and Dark Plots

While concerns over contract labor and the Padrone system were mostly confined to unions and social reformers, one particular form of human trafficking caught the American imagination in a big way during the late nineteenth and early twentieth centuries—“White Slavery.” Distinguished from ordinary slavery, the White Slave trade was particular to the traffic in women’s bodies for sex. In practice, the use of “White Slavery” as a term varied greatly, including everything from the sex trade in general to notions of a vast international conspiracy to kidnap ‘good’ white girls and send them to foreign nations to work in brothels. However, during the period from 1900 to 1912, when the ‘White Slave Scare’ was at its peak, it was generally understood to mean: “the procurement by force, deceit or drugs of a white woman or girl against her will for prostitution.”⁷⁹

Following this definition, narratives of White Slavery in the American media came to embody the nation’s fears about morality, immigration, urbanization, and women’s

⁷⁹ Jo Doezma, “Loose Women or Lost Women? The Re-Emergence of the Myth of ‘White Slavery’ in Contemporary Discourses of ‘Trafficking in Women,’” *Gender Issues* 18 no. 1 (Winter 2000): 23-50. It should be noted that the term, “White Slavery” has been used broadly by a number of different groups and individuals since 1805 to indicate a wide variety of injustices, ranging from the use of child labor in Great Britain to tenant farmers in the American South. For more on the use of the term over time, and its transformation to mean the sexual exploitation of white women, see Gunther Peck, “White Slavery and Whiteness: A Transnational View of the Sources of Working-Class Radicalism and Racism,” *Labor: Studies in Working-Class History of the Americas* 1 no. 2 (2004): 41-63.

role in society.⁸⁰ For with White Slavery, the threat posed by the influx of new, racially ‘other’ immigrants went far beyond the economic and political realms to the very core of American social relations: the gendered space of the family. Reinforced by media representations of White Slavery that emphasized the exploitation of the innocent, the discourse on White Slaves was able to draw on the moral sensibilities of a large number of middle class Americans, and thus was far more successful than other movements of its time in creating and implementing legislation. However, because it was deeply rooted in racist, classist and anti-immigrant assumptions about agency and moral turpitude, the White Slave Scare over-emphasized the exploitation of some women, while failing to recognize at all that of others. Nevertheless, White Slavery as an idea and a cause has continued to play a major role in modern-day discussions of human trafficking, particularly when concerning women and children.

The concept of White Slavery first emerged in the late nineteenth century through popular media. The first stories on White Slavery emerged in the 1870s in Britain, when some tabloids began reporting that young British girls were being kidnapped and sent to the Middle East and Argentina. During the early 1900s, stories about White Slavery had become a mainstay of both British and American publications and works by sensationalist ‘investigative’ journalists like William Coote, George Kibbe Turner and Clifford Roe began garnering a significant deal of public attention. By 1909, moral crusaders of all kinds had taken up the White Slavery issue, and together with journalists,

⁸⁰ See Katherine Aiken. *Harnessing the Power of Motherhood: The National Florence Crittenton Mission, 1883-1925*. (Knoxville: University of Tennessee Press, 1998), 149-152; Wendy Chapkis. *Live Sex Acts: Women Performing Erotic Labor*. (New York: Routledge, 1997), 41-44; and Grittner, 39-62.

authors, filmmakers and politicians whipped the public into a veritable panic.⁸¹ In response, the American public began demanding changes to American law and public policy, so that ‘the evil of slavery would be abolished for once and for all’. Continuing for decades, these efforts would leave a lasting impression on the construction of human trafficking, ranging from the passing of local ordinances to the signing of international treaties.

In this effort, White Slavery tracts became a very influential means of educating the public and swaying opinions in favor of reforms. Written by reformers who saw prostitution as a particular and terrible social evil, these narratives emphasized a particular angle of the supposed phenomena: the coercion of ‘good’ girls into prostitution by criminals. Many of these stories spoke of the horrible tragedy of vulnerable women drawn into the lurid world of prostitution by the dark wiles of foreign men and wicked women:

Eliza was a parlourmaid who fell ill and then, instead of going home to her mother, rather foolishly took a room in London with a friend. One day while the two girls were out together, they met a man and a woman who got into a conversation with them... They talked about the wonderful positions they could get for the girls in France. Of course the young women were flattered. They were quite ready to go out for dinner with their prospective employers and agreed that they would like to work in Paris. The man got passports for them.... And eventually they crossed the Channel and arrived in Lille. Here they were taken to the house of a Madame Cleavier... It was only then that they realized they had landed up in a brothel. In this house the customers paid five francs downstairs and ten francs if they were upstairs for more than a half an hour. Tickets were given out for this, but Madame always told the girls that they were in her debt. They

⁸¹ Grittner, 61-66; and Mark Connelly. *The Response to Prostitution in the Progressive Era*. (Chapel Hill: University of North Carolina Press, 1980), 114-115; and Christopher Diffie, “Sex and the City: The White Slavery Scare and Social Governance in the Progressive Era,” *American Quarterly* 57 no. 2 (2005): 411-414.

were never allowed out by themselves.⁸²

Such images of White Slaves and criminal traffickers played effectively to the dominant nineteenth century conceptions of sex, race and class. Typical of narratives of its time, the story of Eliza demonstrates that victims of White Slavery were poor girls who should have gone home to their mothers, but acted foolishly and were thus taken advantage of by others. Regardless of their real age, White Slaves were presented as perennially childish and helpless.⁸³ Thus no matter what situation a White Slave found herself in, she was presented to the reader as utterly lacking in ability to resist the deceit of traffickers.⁸⁴ This assertion that consent and coercion were virtually non-existent in White Slavery was critical to the narrative's power. As Clifford Roe described in his exposé on the traffic of American women: "White Slavery is the procuring, either with or without their consent, of girls and women for immoral houses and for lives of shame, and detaining them against their wills until they become so accustomed and hardened to lives of vice that they do not care to leave, become diseased, or are too ashamed to face decent people again."⁸⁵

Such stories were intended to elicit an emotional response on the part of the reader. For aside from demonstrating their sad misfortune, such narratives also played on the fears and uncertainties of middle class America—concerns about women stepping outside of their appropriate sphere, the formation of urban society, in which women

⁸² Quoted in Elizabeth Bruch, "Models Wanted: The Search for an Effective Response to Human Trafficking," *Stanford Journal of International Law* 40 (Winter 2004): 8.

⁸³ Brian Donovan. *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917*. (Urbana: University of Illinois Press, 2006), 95-98.

⁸⁴ Doezenia, 6-7; Connelly 115-117, 120-127.

⁸⁵ Quoted in Grittner, 67.

increasingly ventured outside of the home, and the menacing body of immigrants and ‘undesirables’ that were filling these urban spaces.⁸⁶ Like other forms of publicly perceived immorality, many Americans in the late nineteenth and early twentieth century saw sexual impropriety as a growing threat to American society: “The prostitute and procurer represented threats to women’s role in the home and nation, and to male independence. Procurers also posed, at least in the minds of progressive-age Americans, a threat to white purity.”⁸⁷ For many, immoral behavior was a social blight of which immigrants were dangerous carriers.⁸⁸ As Charles W. Eliot proclaimed in 1913: “We have got to remove this evil, or this country will not be ruled by the race that is now here. The family life of the white race is at stake in its purity, in its healthfulness, and in its fertility.”⁸⁹

Thus ironically, while anti-trafficking activists forcefully defended the ‘pure innocents’ of the white middle class, many of the same reformers treated immigrant women who actually were victims of human trafficking and sexual exploitation with contempt. For example, throughout the period from the 1870s to the 1890s, Chinese American women brutally victimized by trafficking rings were denounced as polluters and carriers of vice, capable of “destroying the very morals, the manhood and the health of our people...ultimately destroying whole nations.”⁹⁰ As one newspaper reporter proclaimed in 1876: “not one virtuous Chinawoman has been brought to this country.”

⁸⁶ Grittner, 65-72; Chapkis, 41-45.

⁸⁷ Connelly, 59-65; and Torrie Hester. *Deportation: Origins of a National and International Title*. (Dissertation, University of Oregon, 2007), Chapter 4, 17.

⁸⁸ Hester, 3-4.

⁸⁹ Charles Eliot, “New Methods of Grappling with the Social Evil,” *Current Opinion* (1913): 308-309, quoted in Connelly, 60.

⁹⁰ Yung, *Unbound Feet*, 32.

Similarly, Latina women brought into the United States as indentured servants and forced into prostitution were frequently condemned and abused with impunity. Vilified as lewd and shameless, these women too were often singled out for moral condemnation and legal suppression, while white prostitutes were left relatively alone.⁹¹ Though not all Americans agreed with such unequal treatment, those who were sympathetic to such women most often sought to ‘rescue and rehabilitate’ them by culturally and religiously assimilating them to White middle class standards of femininity and morality.⁹²

White Slave narratives often echoed the racist, classist and anti-immigrant sentiments of the public at large.⁹³ For just as the purity, ‘whiteness’ and moral turpitude of victims was pivotal to the representation of White Slavery, so was the image of the corrupt foreigner who procured and abused them. In this way, White Slave tracts were often strikingly similar to colonial-era Indian ‘captivity’ literature, depicting ‘white slavers’ as dark, barbaric and alien figures that stole young girls away into an urban wilderness.⁹⁴ As one author reported: “America’s black traffic in white girls is carried on and exploited by a foaming pack of foreign hellhounds... the moral and civic degenerates of the French, Italian, Syrian, Russian, Jewish or Chinese races...an American or Englishman conducting such a business is almost unknown.”⁹⁵ From 1907 to 1909, George Kibbe Turner produced a series of muckraking articles alleging that a conspiracy

⁹¹ Yung, *Unbound Feet*, 31-32.

⁹² Chapkis, 42.

⁹³ In addition to concerns over foreign corruptors, White Slavery also was closely related to racial relations between ‘whites’ and ‘blacks’ in the United States, and was thus seen by many as a racially transgressive act. For by forcing a ‘pure’, ‘innocent’ white girl to become a prostitute, she was being degraded to the position of a woman of color, whose sexual impurity was assumed and expected. For an excellent study on the intersections between race, sex and nationality in White Slave narratives and public response to them see Donovan, 5-16, 56-128.

⁹⁴ Connelly, 117-119.

⁹⁵ Jean Turner Zimmerman. *America’s Black Traffic in White Girls*. (Chicago: [no publisher], 1912). Quoted in Connelly, 118.

of Russian Jews was running a massive trade in White Slaves in New York, Boston, Chicago and New Orleans. Other journalists emphasized the supposed connection between Catholicism and sexual impropriety, claiming that Irish immigrants were much more likely to be involved in the White Slave trade.⁹⁶ Likewise, newspaper stories often described the exploitation of immigrant girls as a project that entire communities of Japanese, Chinese and Polish immigrants participated in, with parents willingly selling their daughters and prominent businessmen and women enforcing slave contracts. Immigration officials often shared such assumptions, and as a result, those who were racially 'marked' as prostitutes or procurers often found it exceedingly difficult to enter the United States.⁹⁷

Thus White Slavery narratives also contained more disturbing images of feminine depravity, usually targeted at 'non-white' immigrant and poor women. Frequently, the foreign-born (and non-white) 'Madam' was a corrupt antithesis to feminine chastity, charity and care. Often pretending to be a girl's mother in order to smuggle her into the United States and evade authorities, the Madam made a parody of motherly devotion and trust, betraying other women for material gain. In constant menace to the pure innocence of the narrative's victim, she represented the ultimate threat of White Slavery to

⁹⁶ Yung, *Unbound Feet*, 29-41; and Connelly, 60-65.

⁹⁷ Nancy Cott. *Public Vows: A History of Marriage and the Nation*. (Cambridge, MA: Harvard University Press, 2000), 148-155. The tendency to demonize an entire immigrant community was especially strong when those who were seen as especially different and foreign. See articles in *The San Francisco Chronicle* and *Californian Illustrated Magazine* from the 1890s to the 1910s, reproduced in Judy Yung, *Unbound Voices: A Documentary History of Chinese Women in San Francisco*. (Berkeley: University of California Press, 1999).

American society by undermining the sanctity of womanhood and the home.⁹⁸

White Slave narratives tended to gloss over the underlying economic situation of the girls who were purportedly victimized. For, in order to generate a sympathetic character, the connection between prostitution and labor had to be effectively erased. For though she is vulnerable, the White Slave girl of the popular narrative tottered on an edge between sympathy and contempt. She could only be loved through her redemption, her rescue.⁹⁹ White Slave narratives only worked when nefarious gangsters captured and exploited 'good' girls against their will. Should a victim's state of economic desperation be made evident, her story would become suspect. In Eliza's case, the fact that she is in need of employment is barely mentioned, but rather it is insinuated that she would have had someone to take care of her if she had only been wise enough to go home to her mother. For any woman who made the economic choice to become a prostitute was not only a direct threat to standards of appropriate female behavior, but in contradiction with the symbolic place of the feminine in American society. Any woman who admitted doing such was liable to be treated with utmost disgust. In contrast to the White Slave, the whore who chose prostitution was a traitor among women, a social disease who threatened the order and morality of society.¹⁰⁰

While there is no doubt some women were being exploited by pimps and procurers, White Slave narratives tended to exaggerate the incidence of such crimes. Many tracts argued that every prostitute in America was a victim of White Slavery, while

⁹⁸ Yung, *Unbound Feet*, 33-35.

⁹⁹ Doezema, 7.

¹⁰⁰ Chapkis, 44-45.

others made unsubstantiated claims that there were hundreds of thousands of White Slaves in American cities.¹⁰¹ However, despite the prolific nature of White Slavery in the American public imagination, the actual number of women whose lives fit these narratives seems to have been rather small. When federal investigators tried to uncover evidence of White Slavery they had an exceedingly difficult time finding any. In fact, according to one survey of 6,309 prostitutes, only 7.5 percent listed White Slavery or extreme coercion as a reason for their position, and whether or not these claims were actually true and not simply excuses on the part of the women was not determined.¹⁰² The vast majority of women and girls reported entering the trade as a consequence of economic need. As one woman told investigators: “[I was] tired of drudgery as a servant... I’d rather do this than be kicked around in a kitchen.”¹⁰³ While no doubt many women did get caught up in abusive and coercive situations, the typical narrative of vulnerable female stolen away rarely fit the reality of the women who actually worked in the sex trade. In reality, the much-purported increase in ‘vice’ seems to have come instead from the growing number of women in urban settings who found it impossible to live adequately or to find ‘respectable’ work.¹⁰⁴

Despite the many problems in the way that White Slavery was defined and understood, the social reformers who sought to bring attention to their cause saw it as a fundamental and righteous struggle. Jane Addams, who helped to popularize the term

¹⁰¹ Connelly, 130.

¹⁰² Grittner, 64.

¹⁰³ Chapkis, 42.

¹⁰⁴ Doezema, 4-5; Yung, *Unbound Feet*, 24-28. For an excellent study of prostitution among working-class women in nineteenth century America, see Christine Stansell. *City of Women*, (New York: Alfred P. Knopf, 1986), 171-192.

“White Slavery” in her 1912 book *A New Conscience and an Ancient Evil*, drew parallels between sex trafficking and chattel slavery a half a century earlier. She and other anti-vice crusaders who sought to end the immoral sale of human beings were the “new abolitionists” and the social organizations that sought to ‘rescue’ and ‘rehabilitate’ fallen women were like the stations in the Underground Railroad. These ideas were widely shared and disseminated by those who concerned themselves with such ‘social evils.’ Said one pamphlet printed in Virginia by the Florence Crittenton League, a prominent ‘rescue’ organization: “What can a girl do if she is led astray and is desirous of retracing her steps and making good? There is nothing but the suicide grave or a house of sin unless she comes across an organization like the Florence Crittenton League of Virginia.”¹⁰⁵

Likewise, anti-vice activists saw themselves as essential protectors of the female population, not hesitating to make frequent forays into the nation’s red light districts, raiding brothels and holding large prayer circles. Many activists devoted their time to prowling dance halls, movie theaters and other areas of public entertainment with the aim of saving potential victims from impending harm at the hands of ill-intentioned male procurers. In one such instance, a moral crusader named Margaret Luther intercepted and rescued “a girl who had stayed out too late with an escort” by preventing her from going with him to a hotel room, where, according to Luther, she would have been certainly defiled and then sold into prostitution.¹⁰⁶ While it is likely that the girl was in no such danger, but rather was enjoying herself and knew very much what would be in store at

¹⁰⁵ Aiken, 153-154; and Diffie, 411-413.

¹⁰⁶ Aiken, 155.

the hotel, this was clearly not in the framework of Luther and others like her. Because their ideas about prostitution were so deeply underlined with narratives of naivety and trickery, the notion that young women ought to be entitled to freedom of action and choice did not enter into their perceptions. Such young women were only actors insofar as they made foolish decisions or when victimized, as they resisted their captors' attempts to 'defile their souls.'¹⁰⁷

The excited discourse on the international evil of White Slavery would not be lost on the governing bodies of the Western world. Beginning in 1899 with the First International Congress on White Slavery, a series of agreements would be born that defined the trafficking of women as a serious problem and sought to correct it.¹⁰⁸ In 1904, a second international treaty on the suppression of White Slavery was drafted, and the United States signed it. Under this treaty, the United States government committed itself to taking strong new measures to control White Slavery in America.¹⁰⁹

In the United States, popular concerns over White Slavery became encoded in domestic law through a series of new immigration restrictions, which would eventually be brought together under the Immigration Act of 1917.¹¹⁰ With these new laws, which were passed in part to meet the state's obligations under the 1908 treaty, the United States government expanded its powers over immigration to allow for the deportation of any

¹⁰⁷ Aiken, 155, 169-170.

¹⁰⁸ Grittner, 39.

¹⁰⁹ Langum, 23; Cott, 146; and Connelly 58-59.

¹¹⁰ The 1917 Act (39 Stat. §874) brought together a number of new immigration policies, some of which were developed and codified as early as 1903. In addition to these restrictions of prostitutes, the law also restricted the immigration of vagrants and the mentally insane, as well as affirmed bans on Asians and contract laborers. See the Appendix on page 178 for more.

non-citizen who was involved in any way with prostitution, ‘procurement’ or other indecent activity, even if purely by coincidental association:

Any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitution; or who is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists, protects, or promises to protect from arrest any prostitute, shall be deemed to be unlawfully in the United States and shall be deported.¹¹¹

Building on the tradition of the Page Act, which in addition to banning Asian laborers contracted under coercion targeted Chinese women suspected of prostitution or ‘lewdness,’¹¹² these new laws reflected Americans’ fears of a morally degenerate immigrant class: “By blaming foreign villains, native-born Americans affirmed the basic purity of the nation and simplified the solutions to white slavery and vice; immigration should be restricted and undesirable aliens deported.”¹¹³ Rooted in racist and nativist assumptions about the role of immigrants in what many perceived as a growing degradation of American society, proponents of these laws sought to protect America’s ‘natural’ virtue by exposing and dispelling sexually deviant foreigners.¹¹⁴

By labeling all immigrant women as potential prostitutes, these laws gave the state unprecedented power to control the comings and goings of migrant women, and in

¹¹¹ Connelly, 51.

¹¹² The Page Act (18 Stat. §477), passed in 1875, was the first restrictive immigration law. It banned the importation of Chinese laborers under contract, and the importation of women for prostitution or ‘lewdness.’ Though the law technically applied to women of all nationalities it was only used to block the entrance of Chinese women.

¹¹³ Grittner, 130.

¹¹⁴ Hester, 3-4; George Anthony Pepper. *If They Don’t Bring Their Women Here: Chinese Female Immigration Before Exclusion*, (Chicago: University of Illinois Press, 1999), 3-11.

doing so, the establishment of ethnic communities within the United States. For, by preventing many immigrant women from following their men into the country, the state was able to prevent ‘undesirable’ groups of migrant workers from establishing families and thereby putting down roots in American soil.¹¹⁵ As one American judge would note of migrant workers in support of excluding their wives: “If they would never bring their women here and never multiply and we would never have more than we could make useful, their presence would always be an advantage to the State.”¹¹⁶

The way in which these new laws were enforced thus depended greatly upon how immigrant women played into the assumed narrative of White Slavery. For, as much as reformers were concerned with protecting American society from the intrusion of wicked foreigners, they also were deeply invested in bringing those foreigners deemed assimilable into the fold of American cultural values. As a consequence, immigrant prostitutes who were deemed racially white and who acted the part of the White Slave victim were sometimes able to escape deportation. This was especially true for those who claimed to have been tricked and abused by fellow immigrants. For example, in 1908 Maria Schetter, a German immigrant, was able to avoid deportation on prostitution charges because she claimed to be a victim of White Slavery at the hands of two other immigrants, who allegedly tricked her and forced her to work in their brothel in Seattle. Likewise, the guilt of the woman in question often depended as much on her intentions and agency in immigrating, as it did on her actual illegal activity once she arrived in the United States. Another woman escaped deportation in part because she had paid for her

¹¹⁵ Peffer, 8-9, 45-56.

¹¹⁶ Peffer, 108-109.

own passage, dispelling the claim that another immigrant man with whom she had a relationship was her procurer and pimp.¹¹⁷ However, while authorities' belief in certain White Slavery stereotypes helped some women to escape the new laws, it caused other women to be targeted. Women who even remotely resembled the role of the Madam procurer were subject to extreme suspicion and had virtually no chance of successfully fighting their deportation.¹¹⁸

The Mann Act, otherwise known as the 'White Slave Act,' was created in tandem with these new immigration laws in 1910.¹¹⁹ While immigration reforms sought to exclude foreign prostitutes and procurers from entering American society, the Mann Act sought to protect 'native' girls from procurement and punish American citizens who participated in the White Slave trade. With the passage of this Act, the sex trade was to be controlled on the national level for the very first time by banning the transporting of women and girls across state lines for purposes of prostitution or any other 'immoral purpose.'¹²⁰ Like the White Slavery discourse on the whole, the Mann Act was riddled with problems. Through there were practical reasons for focusing on the transport of women (Congress had to invoke the commerce clause in order to have the constitutional authority to pass such legislation), the way in which the act was written and later enforced assumed that women were utterly passive and unable to act either on their own behalf, nor to independently decide to enter a particular profession. Rather, that a woman transported for any 'immoral' reason would be White Slave is assumed, her actual choice

¹¹⁷ Hester, 32-33.

¹¹⁸ Hester, 33-35.

¹¹⁹ White Slave Traffic Act (Mann Act) 36 Stat. §825.

¹²⁰ Aiken, 167; Grittner, 86-96; and Connelly, 57-60.

in the matter immaterial to the application of the law. In doing so, the creators of the Mann Act failed to recognize the right of a woman to travel where and live with whomever she wants. By treating women's bodies as inherent commodities, the Mann Act legitimates taking away their personal liberties in the name of public morality and female protection. Finally, by framing the issue of sex trafficking in the simplistic terms of White Slavery, the creators of the Mann Act drew discussion away from the necessary and complex realities behind prostitution to the simple narrative of a victimized woman and a criminal manipulator.

Though public concern for and discussion of White Slavery would nearly disappear by the 1930s, it would leave a lasting impact on the larger question of human trafficking and forced labor. One impact has been on United States immigration law, which still treats "immorality" as grounds for rejecting citizenship. Likewise, the Mann Act, and the tradition of creating legislation aimed at 'protecting' American women at the expense of their own liberty continues to this day in the formation of prostitution laws.

One of the biggest impacts of the White Slave Scare has been the establishment of an international discourse on human trafficking. It was the idea of 'White Slave Traffic' that first brought the term 'trafficking' into usage in the early twentieth century, with the League of Nations' International Convention on the Suppression of the Traffic in Women of Full Age in 1933, which required party states to punish those who procured prostitutes or ran brothels.¹²¹ By the end of the Second World War, the newly formed United Nations would revive the immense emotional power of the human-trafficking-as-White-Slavery

¹²¹ Bruch, 8-10; and Haynes, 228.

framework once more, in response to new and different forms of human trafficking with several Protocols and Conventions in 1947 and 1949, which were explicitly concerned with defining human trafficking as a form of international organized crime that must be addressed by law enforcement. These treaties consciously framed human trafficking as a problem distinct from slavery and other forms of forced labor, and were concerned primarily with women, children and the sex trade.¹²² Though today the usage of the term “human trafficking” attempts to frame the issue in a less racialized and gendered fashion, the very idea of such exploitation as a specific and international phenomena was laid out in the creation of these White Slavery treaties.

Chapter 2 Conclusions

Historically, the way in which human trafficking has been understood and addressed has been shaped by assumptions of gender, race, and nationality that generated two divergent perspectives on human trafficking: human trafficking as a problem of economic development and labor rights, and human trafficking as a digression of moral and social propriety. The controversy over the abusive contracting of migrant workers and the White Slave scare are two examples of how human trafficking was understood and addressed differently according to these perspectives.

Many Americans in the late nineteenth and early twentieth centuries felt that the state “must be in its legislation and its political operation a supplement to the integrity and moral righteousness of the home, or it will inevitably disintegrate and become a

¹²² Bruch, 9-11. Texts of all of these treaties are available from the United Nations Treaties Depository at <http://untreaty.un.org>; Internet; accessed 23 April 2006.

destroyer of the home.”¹²³ Women, and in particular middle class white women, were supposed to act as the essential guardians of the home and family, upholding moral righteousness in the nation as a whole. Men, on the other hand, were supposed to be hardworking and independent, providing for the material as well as the physical protection of their families, especially their daughters.

Popular assumptions about race were deeply embedded in these ideas. For most Americans, the ideal family was white, Anglo-Saxon and native born. Other racial groups, who were imagined as being fluid and capable of both absorbing and passing on traits to others, posed an implicit threat. In order to protect the presumed values of ‘virtuous’ Anglo-Saxon Americans, many felt that immigrants had to be either assimilated fully into an ‘American way of life,’ or kept out entirely. Otherwise, they feared, these groups would “arrest the advancement of [American] civilization.” These fears were particularly directed at those whose appearance and behavior marked them as both highly deviant and un-assimilable, such as the Chinese.¹²⁴

These assumptions were reflected in the way Americans understood human trafficking in the late nineteenth and early twentieth centuries. Though Padronism and foreign contract labor were understood almost exclusively in the masculine terms of American economic development, the existence of immigrant exploitation called into question assumptions about the masculine capability of these laborers, for, the claim that many immigrant workers were being exploited and were unable to help themselves ran counter to dominant masculine ideals. As a result, many Americans rebuked such men as

¹²³ Mink, 108.

¹²⁴ Cott, 134-136.

feminized, ‘voluntary slaves’ who simply ‘declined’ to take care of themselves in the ‘American fashion.’ Consequently, the debates about contract labor and the Padrone system were often openly racist in their interpretation of immigrants, with the capable white ‘American’ man contrasted to the incapable and un-masculine Asian ‘Coolie’ or ‘slavish’ colored man.¹²⁵ In the end, these kinds of gendered and racialized assumptions ended up justifying the exploitation of immigrant and non-white laborers in the minds of many Americans, and ultimately made the public less concerned about their fate.

The discourse on White Slavery was also deeply marked by race, gender and nationality. However, whereas the controversy over contract labor emphasized an ideology of economic freedom, the White Slave scare was concerned with the preservation of traditional social mores. The existence of White Slavery in American society was seen as a dire threat to American feminine virtue. By deliberately removing its assumed victims from an economic context, the discourse on White Slavery emphasized the need for women to be guarded from vice, not the right of women to be free. As the very notion of White Slavery suggests, most discussions of White Slavery were concerned primarily with the exploitation of ‘white’ women and girls, and not with immigrant women and women of color.¹²⁶ As a result, though the assumed naïveté and racial purity of the young white women supposedly targeted by White Slavery helped draw support for those who crusaded against it, the new laws and policies that resulted tended to deny the agency and freedom of all women. For, while the choices of white women were increasingly questioned and their freedom of movement restricted, foreign-

¹²⁵ Mink, 96.

¹²⁶ Chapkis, 44-46.

born women and women of color were stigmatized and rejected as a threat to ‘American virtue.’

Though the controversy over contract labor and the White Slave scare represented two divergent views of human trafficking, they were also similar in many ways. For many reformers and lawmakers in the late nineteenth and early twentieth centuries, social policy and immigration policy went hand in hand—as two critical components of shaping and preserving American society.¹²⁷ As a result, immigration law reform played a significant role in how both the contract labor controversy and White Slavery were addressed. Unfortunately, this emphasis on immigration law did not simply stem from the recognition that immigration and human trafficking were closely connected. Rather, in response to both the contract labor controversy and the White Slave scare, the United States federal government came to see immigrants as purveyors of degeneracy and sought to protect its citizens by restricting the entrance of ‘undesirables.’ By treating the importation of foreign men and women as an immoral invasion, new immigration laws allowed the state to take a stand without directly addressing the economic conditions within the United States that contributed to the exploitation of immigrant and non-white men and women.

Likewise, the contract labor controversy and White Slave scare were not always utterly divided as purely economic and purely social issues. Some concerned with White Slavery did go beyond the dominant narratives to emphasize the economic component of prostitution. These reformers emphasized the moral evil of prostitution, but argued its

¹²⁷ Hester, 5.

solution lay at least in part in improving the economic conditions of women's lives.¹²⁸

Such efforts were met with some success. For example, the threat of prostitution posed by too low of wages contributed to the creation of some protective labor laws for women in the late nineteenth century.

Similarly, not all opponents of contract labor and Padronism saw these problems in a purely economic light. Many believed such abuses were an immoral perversion of the relationship between a worker and employer and connected the existence of such abuse to a lack of virtue. Other labor activists went beyond the mainstream view to advocate for the social and economic rights of immigrant laborers. Resisting the inherent racism and nationalism in dominant claims about economics and labor that blamed individuals for their own oppression, these groups sought to understand the economic exploitation of immigrants in a more systematic way. Building upon the work of Marx and other theorists of class struggle, they argued instead for the re-structuring of American society and an equalization of power relations between the employers and the employed.¹²⁹ Unfortunately, more nuanced understandings of human trafficking such as these tended to be marginalized in the larger discourses of why it occurred and what ought to be done about it.

The discourses that surrounded both controversies were deeply influenced by the production of literature that represented each issue through a particular narrative form. By appealing to the emotions and anxieties of the American public, these stories allowed

¹²⁸ See Jane Addams. *A Plea for More Play, More Pay and More Education for Our Factory Girls and Boys*. (Chicago: Chicago Association of Commerce, 1914).

¹²⁹ Boller, 94-122; Dulles and Dubofsky, 200-214.

reformers to draw attention to and generate concern for both the exploitation of migrant workers and White Slavery. However, for the same reasons, these narratives tended to limit and direct public discussion of human trafficking in ways that were not always useful. While in both cases the producers of these narratives were sympathetic to those whom they perceived as victims, the ways in which his or her ‘story’ was re-told in the public sphere tended to distort reality in ways that actually obscured the experiences and needs of trafficking victims. In the end, the narratives that surrounded both contract labor and White Slavery resulted in laws and policies that were not particularly helpful in either preventing human trafficking, or alleviating the suffering of its victims.

Both the controversy over contract labor and the White Slave scare grew out of a profoundly changing economic and political landscape in which new threats to traditional American values and democracy were perceived. In the existence of both prostitutes and degraded immigrant laborers, many reformers saw a grave sign of the breakdown of the ideal family, and by extension, the American state. By the end of the Civil War, the United States was undergoing a dramatic shift from a pastoral society to an industrial power. To meet the new demands of production, a massive and multi-national workforce was taking shape. Though these changes brought about unparalleled prosperity, they also generated a sense of uncertainty and threat. Where did liberty fit into this new capital-driven America? The controversy over the contracting of immigrant workers was indicative of these concerns. Similarly, White Slave narratives were manifestations of Americans’ anxieties about the changing place of women in the public realm, as increasingly women went to work for wages and began demanding the right to take an

active role in the shaping of American politics and society. Faced with these changes, many Americans came to feel that the traditional controls on women's behavior were being eroded, and sought to regain it by focusing on White Slavery.¹³⁰

Ultimately, the controversies over contract labor and White Slavery were understood and addressed very differently by the American public. Because they were seen in masculine, economic terms, contract labor and Padronism did not generate as much concern as other issues of the time, and few lasting laws were created to address them. On the other hand, because White Slavery was framed as a highly charged moral and social issue, centered on the preservation of femininity and innocence, the public response was swift, dramatic and lasting. However in both cases, reformers, who were deeply influenced by their earlier work as abolitionists, sought to combat what they saw as another manifestation of slavery. In doing so, they attempted to cement and stabilize American social and economic order, while also upholding ideals of democracy, liberty and virtue.¹³¹

In light of the way human trafficking has occurred and been understood historically in the United States, it is evident that the way it is framed at present needs some serious revision. In the late nineteenth century, policymakers and reformers also sought to address human trafficking through the extension of law enforcement and the restriction of immigration. And yet, neither of these had any significant impact. Today, instead of attempting once again to eradicate human trafficking by proclaiming it illegitimate, the United States government and its allies must deal with the underlying

¹³⁰ Connelly, 30-47; and Doezema, 40-50.

¹³¹ Peck, 89-99.

economic and social divisions that drive and facilitate such exploitation, no matter how close they come to home, and no matter whom they implicate.

For, in the end, though wrought with contradictions and fallacies, these examples of the exploitation of migrant workers in the United States' past represent two very real aspects of human trafficking that are still relevant today. Like the late nineteenth and early twentieth century, the United States today is in the midst of a massive influx of migrant workers. Drawn by the rapid growth of the American economy, and its high demand for low-skill, low-pay labor, these men and women are changing the face of the American workforce. As it was a century ago, many Americans today perceive these new additions as a threat to the political, social and economic order. And yet, migrant workers are perhaps the most vulnerable group in the United States. At every step, they are subject to those who would take advantage of them, exploiting their labor by whatever means necessary at the expense of human rights and human decency. In order to make a coherent and effective policy for addressing human trafficking in the present, we need to find a way to incorporate both these perspectives, while avoiding the pitfalls that have undermined past efforts to end 'the trade in human life.'

Chapter 3—Trading Humans

In order to understand human trafficking as it occurs in the United States today, one must ask a number of fundamental questions. What does the term “human trafficking” actually mean for migration and labor practices today? Who is being trafficked? How are they being trafficked? And what for? And finally, what are the broader contexts that make human trafficking possible and profitable? As the previous chapter’s analysis of human trafficking practices in the American past suggests, the answers to these questions are very complex.

As I discussed in the introductory chapter, “human trafficking” is a particular form of exploitation by which individuals are transported either against their will or under false pretenses for the purpose of economic exploitation. Human trafficking can occur both within and across national borders, and can involve anywhere from a single perpetrator to an organized criminal network of recruiters, transporters, sellers and buyers. Human trafficking always involves some component of transport or migration as a precursor to the exploitation of the individual. However the exploitation a victim faces on arrival exists on a continuum with all kinds of abuses to which migrant workers are often subjected. Victims of human trafficking are usually individuals who are already seeking to migrate and seek new employment. Human traffickers usually pose as employers, employment agencies, or smugglers, and offer to ‘help’ a victim by assisting them enter a country or providing them with a job. Once an individual accepts this ‘help,’ the trafficker may keep up the charade for a considerable amount of time, so that once the victim realizes what has happened he or she may feel they have no choice but to submit

to the trafficker's control. Throughout the trafficking process, human traffickers prey upon the vulnerabilities of individuals to coerce them into performing labor in an abusive and illegitimate fashion. Tactics can range wildly, from physical violence, to the threat of turning victims over to immigration authorities and having them deported

Once traffickers transport a victim, he or she is usually forced to perform some kind of labor for little or no compensation. One common method used by traffickers, is to claim a victim owes them money for transport, etc., and then force the victim to 'work it off.' The economic exploitation of trafficking victims can take a number of forms, but usually involves some kind of physical labor, from working in a field to working as a prostitute. Once victimized in this way, it can take years for a person to get free from his or her traffickers.¹³²

In recent years, many politicians and activists have taken to referring to human trafficking as a modern day form of slavery. However, although human trafficking often results in abuses that are similar in many ways to slavery, there are significant differences between the type of human trafficking that is the subject of this study, and other forms of forced labor and human commodification that exist in the world today.¹³³

¹³² *A Global Alliance Against Forced Labor*. (Geneva: 93rd International Labour Conference [International Labour Organization], 2005), 46-55; *Trafficking in Persons Report*. (Washington D.C.: U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, June 2004), 5-11; and *Human Rights Standards for the Treatment of Trafficked Persons*. (Washington D.C.: Global Alliance Against Traffic in Women, Foundation Against Trafficking in Women, and Global Rights, 1999), 4-7.

¹³³ This tendency results in part from the fact that the definition of slavery itself has been subject to a great deal of debate and confusion, as governments and international bodies have attempted to encode the right to "freely choose or accept" the conditions of their employment. Throughout the twentieth century, the legal definition of slavery and 'slavery-like' practices has been significantly broadened. However, I believe there are still significant differences between human trafficking and other types of forced labor. For more on the legal definition of different types forced labor and the historical development of these definitions see Kevin Bales. *Understanding Global Slavery*. (Berkeley: University of California Press, 2005), 40-68

According to the 1926 Convention on Slavery, “slavery” is defined as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”¹³⁴ Thus according to its internationally accepted definition, slavery involves the absolute control over one person (or group of persons) by another individual or social group. However, slavery is a far more institutionalized form of forced labor than human trafficking. Often times it is a publicly recognized and sanctioned form of economic activity. Though slaves are often trafficked in countries where such transactions are technically illegal, it is generally based on existing societal mores and traditions that legitimate and facilitate its existence: “[Slavery] tends nevertheless to be embedded in older beliefs, customs or agrarian and other production structures, sometimes as a legacy of colonialism.”¹³⁵ Unlike most present-day victims of human trafficking, persons who are enslaved are generally not migrating workers who are ‘tricked’ individually into servitude. Rather, slavery tends to be a more permanent station, and is frequently related to systematic discrimination against one particular, vulnerable group, such as a tribal or caste minority. Most slaves are either born into their station, or placed there because they were sold by a family member, or taken in a conflict. Because of this, slaves are not necessarily immigrants, though they can constitute an important diaspora when taken across international borders. Likewise, in some areas

¹³⁴ “Slavery Convention,” (Geneva, 1926), Article 1. In Brownlie and Goodwin-Gill eds. *Basic Documents on Human Rights*. (Oxford: Oxford University Press, 2002), 131-135. A United Nations Supplementary Convention updated this Convention in 1956, which broadened the Convention to include “Institutions and practices similar to slavery,” including: debt bondage, serfdom, and forced marriage or wife inheritance for purposes of exploitation. See “Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,” (New York: United Nations, 1956). In Brownlie et al., 136-141.

¹³⁵ *A Global Alliance*, 9.

foreign nationals are far more susceptible to becoming enslaved because of their relatively low status and lack of resources. Today, slavery in its traditional form is more commonly practiced in developing countries, with its highest incidence in Asia and the Pacific region, followed by Latin America, Sub-Saharan Africa, and the Middle East and North Africa. Worldwide, sexual slavery represents a very small percentage of cases, with other forms of economic exploitation far more prevalent. However, slaves of all kinds are subject to a wide range of abuses and human rights violations.¹³⁶

In addition to slavery imposed by cultural and economic institutions, forced labor is sometimes imposed by states and militaries (including rebel groups). As is the case with slavery, there are a number of distinctions between this type of forced labor and human trafficking. One of the primary differences is again in the level of institutionalization. Though state-imposed forced labor is usually temporary, it often takes the shape of work extracted from inmates in labor camps and prisons. Sometimes, this type of forced labor is extracted from the general population in order to meet a specific need. Individuals exploited in this fashion may be put to work doing anything from building public works, to providing services for the government (or army) itself or for a commercial enterprise supported by the government. During the colonial era, many states used forced labor to build roads, extract natural resources, and work plantations. Contemporary examples of state or military imposed forced labor have been found everywhere from war zones to military dictatorships like the current government in

¹³⁶ *A Global Alliance*, 1-9, 12-13, 30-45.

Myanmar (Burma).¹³⁷ In contrast, though human trafficking is frequently facilitated by institutional structures within a destination country, such as widespread discrimination against migrant workers, the act of human trafficking itself is almost always illegal and not directly supported by the state.

According to a recent worldwide survey by the International Labour Organization (ILO), human trafficking represents about twenty percent of the total incidence of forced labor today, with an estimated two and a half million victims worldwide. However in industrialized and transitioning nations, human trafficking is much more common, accounting for more than seventy five percent of all forced labor in these countries.¹³⁸ Both because of its enormous wealth, and because it is a destination country for millions of migrant workers every year, the United States is considered to be one of the major terminals for trafficked persons worldwide.¹³⁹ In the late nineties, estimates of the number of individuals annually trafficked into the United States ran on the high side, from twenty to even fifty thousand per year.¹⁴⁰ Today, there has been a downward revision of these estimates. Nevertheless, the Department of State still estimates that between fourteen and eighteen thousand individuals are trafficked across our borders each year.¹⁴¹ By

¹³⁷ *A Global Alliance*, 24-26.

¹³⁸ *A Global Alliance*, 46-55.

¹³⁹ *A Global Alliance*, 14; and “Country Report—The United States,” (Washington D.C.: The Protection Project, 2002); available at <http://www.protectionproject.org/projects.htm>; Internet; accessed 28 April 2006.

¹⁴⁰ Dina Francesca Haynes, “Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and the Prosecution of Traffickers,” *Human Rights Quarterly* 26 no. 2 (2004): 221-228.

¹⁴¹ *Trafficking in Persons Report* (2005), 1-4. It is unclear how these numbers were reached. However, these figures appear to be consistent with global estimates on human trafficking. For further discussion on the downward revision of trafficking estimates in the United States, and questions of how these numbers

combining these figures with the estimated incidence and duration of different types of trafficking, it is possible to extrapolate that in any given year there are about fifty thousand people in the United States being subjected to human trafficking.¹⁴² This estimate is supported by a recent joint report on human trafficking by Free the Slaves and the Human Rights Center at the University of California, Berkeley. From a detailed analysis of reports by American non-governmental organizations, law enforcement, the federal government and news media, the authors found that during the period from 1998 to 2003 there were 131 cases of human trafficking uncovered in the United States, involving more than nineteen thousand men, women and children.¹⁴³

Human trafficking is an enormously profitable venture. For example, one group who trafficked Thai immigrants to work in a sweatshop in El Monte, California, was able to earn eight million dollars over the course of six years.¹⁴⁴ According to the ILO, the average victim of human trafficking generates a little over one thousand dollars each

are calculated see *Hidden Slaves: Forced Labor in the United States*, (Berkeley, CA: University of California Human Rights Center, September 2004), 57-58.

¹⁴² The average duration for which a person is trafficked into sex work is 2.5 years. The average duration for those trafficked into other forms of labor is 4.5 to 6.5 years. Taking the minimum number of persons trafficked into the United States each year and breaking this number into the ratio of sex trafficking to other forms of labor trafficking in industrialized countries (approx. 2.5:1), we can assume that 10,440 additional persons are trafficked into sex work in the U.S. each year, and 4,060 additional persons are trafficked into other forms of labor. Assuming that each population turns over every 2.5 and 6.5 years, that leaves a population of 26,100 persons who have been trafficked into sex-work and a population of 26,390 persons who have been trafficked into other forms of work existing within the U.S. in any given year. Note that these figures are a minimum, as there are no figures available for how many people become trafficked each year within our borders (note that the 14,500 only includes those trafficked *across borders into* the U.S.). Figures taken from *Trafficking in Persons Report* (2005), 4; *Matrix of Some of the Major Trafficking Cases in the United States of the Last Eight Years*. (Washington D.C.: US Department of State, May 2003), 6-9; and *A Global Alliance*, 46-55. A recent study by the University of California, Berkeley, based on the actual number of cases revealed in the last five years, suggests a much lower minimum of 10,000 victims, though the authors state that the actual number is likely much higher. See *Hidden Slaves*, 10, 57(note #6).

¹⁴³ *Hidden Slaves*, 5.

¹⁴⁴ Amy O'Neil-Richard. *International Trafficking in Women in the United States: A Contemporary Manifestation of Slavery and Organized Crime*, (Washington D.C.: Center for the Study of Intelligence, State Department Bureau of Intelligence, US State Department, 2000), 19.

month in profits for his or her exploiters.¹⁴⁵ In the United States, a number of convicted traffickers have been required to pay their victims millions in restitution from the profits of their crimes.¹⁴⁶ Globally, it is believed that human trafficking generates about thirty-two billion dollars each year, with about half of these profits in the industrialized nations of Europe and North America.¹⁴⁷ Because the potential for financial gain is so high, and the punishments for human trafficking are considerably less than those for other kinds of illegal economic activity, it is now estimated that human trafficking ranks closely behind the drug and arms trades as a major source of black market profits worldwide and is growing in magnitude every year.¹⁴⁸

Human Trafficking in the Global Context

Human trafficking is distinct in part because of its transnational tendencies.

Unlike other forms of forced labor, human trafficking is frequently tied to international migration trends:

“Trafficking” is a corrupted mode of migration, that transforms very specific migratory projects, such as the desire to accumulate savings or support one’s dependants by migrating to work, the dream of securing a better future for one’s children by sending them to be raised and educated abroad, the desire to transform one’s life by marrying “well” and so on, into nightmares.¹⁴⁹

¹⁴⁵ *A Global Alliance*, 55.

¹⁴⁶ *Report on Activities*, 75-91.

¹⁴⁷ *A Global Alliance*, 55. Other studies have pegged annual profits to be much lower, from 5 to 10 billion dollars. See Bales, *Understanding Global Slavery*, 151.

¹⁴⁸ Michelle Anne Clark, “Trafficking in Persons: An Issue of Human Security,” *Journal of Human Development* 4 no. 2 (July 2003): 249; and *Update: Trafficking in Human Beings*. (New York: United Nations January 2000). Available at http://www.unodc.org/unodc/en/trafficking_human_beings.html; Internet; accessed 5 April 2006.

¹⁴⁹ Bridget Anderson and Julia O’Connell Davidson. *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study (Migration Research Series no. 15)*. (Geneva: International Organization for Migration, December 2003), 8.

Though not all of those victimized by human trafficking in the United States are foreign-born workers, this population is particularly vulnerable to such exploitation. For example, in the United States, two thirds of all the human trafficking cases investigated and brought to court since 2001 involved foreign-born migrant workers.¹⁵⁰

There are a number of reasons for this correlation. In general, most migrants to developed countries rely on networks of family, friends, and acquaintances both to make the journey and help them find work and become established once they arrive. This is especially the case in the United States, where it is usually necessary to have an employer or family member already in the country to legally migrate here.¹⁵¹ However, when individuals do not have close friends and family in their destination, they are forced to utilize more tenuous networks of ‘helpers,’ relying on individuals who are far more likely to exploit them:

Migrants who often lack access to the necessary knowledge and financial or logistic means, feel compelled to appeal to specialized networks in order to accomplish the final steps to their country of destination... Putting him/herself into a subordinate position, he/she loses completely control over the situation, as a result of which migrant smuggling may easily degenerate into the trafficking of persons.¹⁵²

In the United States, human traffickers prey upon migrant workers in all stages of the

¹⁵⁰ *Report on Activities*, 75-91.

¹⁵¹ Virginia Parks. *The Geography of Immigrant Labor Markets: Space, Networks, and Gender*. (New York: LFB Scholarly Publishing, 2005), 19-22; and “U.S. Citizenship and Immigration Services,” (Washington D.C.: U.S. Department of Homeland Security); available at <http://www.uscis.gov>; Internet; accessed 2 May 2006. Except for refugees and those seeking asylum, it is very difficult to migrate legally to the United States. There are only a few thousand visas available each year for low-skilled workers. Because the demand for these visas far exceeds their availability, and because these visas still require the ‘sponsorship’ of a U.S. employer, it is nearly impossible for most low-skilled and poor workers to come to the United States legally.

¹⁵² Kristof Van Impe, “People for Sale: The Need for a Multidisciplinary Approach Toward Human Trafficking,” *International Migration* 1 (2000): 114; and *A Global Alliance*, 54.

migration process. For this reason, human trafficking is fueled by the large number of persons who are pressured to move to areas with greater employment opportunities, but are faced with barriers that make it difficult for them to do so: “Human trafficking represents an opportunistic response to the tensions between the economic necessity of migrating, and the politically motivated restrictions on doing so.”¹⁵³ In the United States in particular, the large numbers of migrant workers who wish to come to this country, but lack the resources and connections to do so fuels human trafficking.

Human traffickers prey on both legal and illegally migrating individuals, as well as those in between, whom become illegal by overstaying their visas.¹⁵⁴ However, illegal immigrants of all kinds are particularly vulnerable to human trafficking. Illegal immigrants are more likely to rely on smugglers, document forgers and other illegal entrepreneurs to cross the border who can take advantage of their relative position of vulnerability. In the process of entering the country illegally, some migrants end up unwittingly aiding their traffickers by lying to customs and immigration. Likewise, once they arrive, illegal immigrants are compelled to work in the informal sector ‘under the table’ and avoid authorities at all cost, which makes it much easier for traffickers to exploit them.¹⁵⁵ Often, these jobs are within individual homes, or at businesses owned by

¹⁵³ *A Global Alliance*, 46, 56.

¹⁵⁴ About 40 percent of undocumented migrants in the United States enter the country on limited visas and then overstay them. Many human traffickers use forged documents to gain legal entry for their victims. Because it is left almost entirely up to the individual to abide by the law and not overstay their visa, this has proved to be an effective means of evading authorities. See Janice Raymond et al. *A Comparative Study of Women Trafficked in the Migration Process*. (North Amherst, MA: Coalition Against Trafficking in Women, 2002), 15.

¹⁵⁵ Marmora Lelio. *International Migration Policies and Programmes*. (Geneva: International Organization for Migration, 1999), 68-69; Vernon Briggs, *Immigration Policy and the American Workforce*. (Baltimore: John Hopkins University Press, 1984), 166-167.

other immigrants within tightly knit ethnic communities. Because of their lack of language skills, many victims of human trafficking find it very difficult to go beyond these parameters, and thus traffickers are moreover able to exert control over them.¹⁵⁶

These problems are worsened by the fact that illegal (and even legal) immigrants in the United States are often treated with disdain as an “alien invasion” and seen as undeserving of rights.¹⁵⁷ As one congressional staff member reportedly said: “No one gives a damn about illegal immigrants because they are nobody’s constituents.”¹⁵⁸ In recent years there has been a significant effort to overcome this problem by affording greater rights to victims of human trafficking who are illegal immigrants. However, in the current political climate of cracking down on illegal immigration, it is evident that most illegals remain distrustful and afraid of American authorities. Sadly, this makes them easy targets for those who aim to profit from such vulnerability.

Just as most victims of human trafficking in the United States are migrants, a large number of those who participate in human trafficking are as well. Because data is available for only a small sample of the human trafficking cases that occur, it is difficult to know precisely what percentage of human traffickers in the United States are immigrants themselves. However, a survey of cases prosecuted by the federal government suggests that a significant proportion of those caught are foreign born.¹⁵⁹

¹⁵⁶ Ko-Lin Chin. *Smuggled Chinese: Clandestine Immigration to the United States*. (Philadelphia: Temple University Press, 1999), 5-6.

¹⁵⁷ Jorge Bustamante. *A Virtual Contradiction between International Migration and Human Rights*. (Santiago, Chile: United Nations Economic Commission for Latin American and the Caribbean [ECLAC], 2003), 22-24.

¹⁵⁸ Briggs, 167.

¹⁵⁹ *Report on Activities*, 75-91; and *Hidden Slaves*, 18-20.

There are a number of likely reasons why immigrants may be more likely to participate in human trafficking. For one, immigrants are much more prone to have the transnational connections that are necessary to carry out a human trafficking operation. Frequently, traffickers utilize their transnational family and social ties to network across borders. These partners can help recruit victims, and secure paperwork, and likewise, threaten the families of victims who are especially uncooperative. In addition, immigrants are more likely to have knowledge that aids them in their crime. They are more likely to understand how to thwart immigration laws, and likewise, may use their cultural and language skills to prey upon and manipulate certain populations of migrants. For this reason, traffickers of a particular nationality have been known to ‘specialize’ in victims from their own country.¹⁶⁰ However, despite these factors, there is nothing essential about immigrants that make them prone to be human traffickers. Many traffickers are American citizens, and of those who are not, no single nationality dominates the scene. Rather, it appears that like all criminals, immigrants who become human traffickers are simply individuals who are in an advantageous position to commit a particular crime, and choose to capitalize on it.

In many ways, the relationship between human trafficking and international migration is deeply ironic. The forces of supply and demand drive both, and both are extremely difficult for governments to control. Attempts to more tightly control borders have little impact on the desire of migrant workers to come to this country nor on the willingness of Americans to exploit their labor. Rather, it sets up conditions under which

¹⁶⁰ *Matrix*, 1-6.

migrant workers are forced to take increased risks in their attempts to cross American borders, risks that put them in an increased danger of falling prey to human traffickers: “A lack of viable and legal migration options leads people into trafficking; fear of deportation often keeps them there.”¹⁶¹

Victims of human trafficking come to the United States from all over the world. According to the United States Department of Justice, persons have been trafficked into the United States from over fifty countries in recent years. In a survey of trafficking cases prosecuted since 1990, the most common countries of origin for victims of human trafficking were China, Mexico, Vietnam and Russia. However, victims came from throughout Asia, Africa, South America and Eastern Europe.¹⁶² In the last five years, there have been several studies on human trafficking patterns worldwide, and what factors contribute to them. In one study by the International Organization for Migration, the authors identify several important factors that tend to correlate between sending countries and the numbers of individuals from them who become victimized by human traffickers: rapid population growth, persistent poverty, high unemployment, internal conflicts, oppressive political regimes, and grave human rights violations.¹⁶³

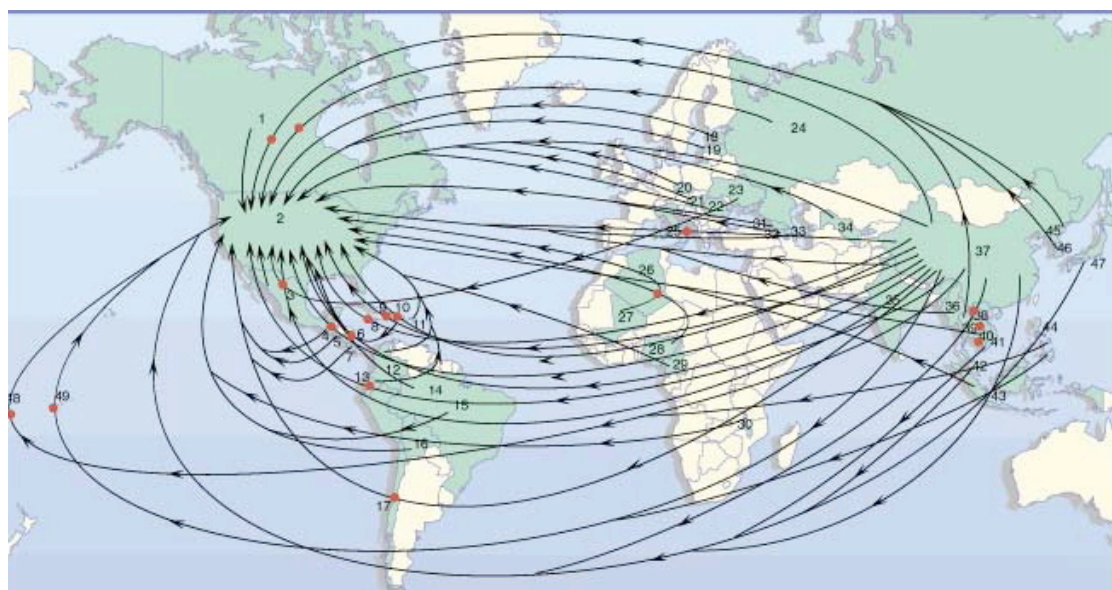
However, while these factors can contribute to the likelihood of an individual

¹⁶¹ Haynes, 257.

¹⁶² *Hidden Slaves*, 1; *Report on Activities*, 75-91; “Country Report—United States,” 1-5; *Hidden Slaves*, 18-20; and *Matrix*, 1-5. Aside from China, Mexico, Vietnam and Russia, victims came from the Czech Republic, Ukraine, Azerbaijan, Uzbekistan, Latvia, Romania, Hungary, Thailand, Indonesia, Burma, Cambodia, the Philippines, South Korea, Japan, Singapore, Malaysia, India, Sri Lanka, Guatemala, El Salvador, Nicaragua, Peru, Honduras, Costa Rica, Jamaica, the Dominican Republic, Puerto Rico, Colombia, Ecuador, Tonga, Mali, Cameroon, Ghana, South Africa, and Nigeria. See Figure a. on page 78 for more detail.

¹⁶³ G. Gunatilleke. *Summary of the Report of the Rapporteur, International Cooperation in Fighting Illegal Immigration Networks*. (Geneva: International Organization for Migration, Seminar on International Responses to Trafficking in Migrants and the Safeguarding of Migrant Rights, 26-28 October 1994), 64.

attempting to migrate to another country, they are not in any way deterministic of that person's likelihood of being exploited: "Trafficking is not a problem in every region of the world that has been ravaged by economic poverty, political instability or apathy. Neither does trafficking occur strictly from an economically devastated region to a more affluent one."¹⁶⁴ Trafficking victims are not always impoverished, and also come from relatively stable and well-developed nations. Rather, in addition to these factors, it is evident that individual circumstances and preferences also play a critical role in the



KEY:

1) Canada, 2) USA, 3) Mexico, 4) Guatemala, 5) El Salvador, 6) Nicaragua, 7) Costa Rica, 8) Jamaica, 9) Haiti, 10) Dominican Republic, 11) Puerto Rico, 12) Colombia, 13) Ecuador, 14) Peru, 15) Brazil, 16) Bolivia, 17) Chile, 18) Estonia, 19) Latvia, 20) Czech Republic, 21) Hungary, 22) Romania, 23) Ukraine, 24) Russia, 25) Italy, 26) Algeria, 27) Mali, 28) Nigeria, 29) Cameroon, 30) Malawi, 31) Georgia, 32) Armenia, 33) Azerbaijan, 34) Uzbekistan, 35) India, 36) Burma, 37) China, 38) Laos, 39) Thailand, 40) Cambodia, 41) Vietnam, 42) Malaysia, 43) Indonesia, 44) Philippines, 45) North Korea, 46) South Korea, 47) Japan, 48) Nauru, 49) Kiribati

Figure a. International Human Trafficking Patterns: Sending Countries and Routes of Transport.¹⁶⁵

¹⁶⁴ Clark, 254.

¹⁶⁵ Source: The Protection Project, John Hopkins University School of Advanced International Studies.

decision to leave one’s country, and the conditions under which one does so. Migrants choose to leave for reasons as diverse as escaping problems in their personal lives, to pursuing fantasies of wealth and success in America “the heaven filled with gold.”¹⁶⁶

Migrants can be exploited by traffickers simply because they were in the wrong place at the wrong time and were taken advantage of. The fact that many migrants remain ignorant about the risks of human trafficking contributes to the ease with which traffickers are able to take advantage of all kinds of persons.¹⁶⁷



Figure b. Geographical Distribution of Human Trafficking Cases in the United States¹⁶⁸

¹⁶⁶ Chin, 22-27.

¹⁶⁷ Daan Everts, “Human Trafficking: The Ruthless Trade in Human Misery,” *Brown Journal of World Affairs* 10 no. 1 (Summer/Fall 2003): 149-150.

¹⁶⁸ Source: *Hidden Slaves*

Once trafficked into the United States, there are a number of factors that influence where a victim will end up. As one would expect, trafficking victims often stay in the area where they initially entered the country. Consequently, border-states and states that have major international air and seaports seem to have a higher incidence of human trafficking than those that do not. Perhaps in part because many traffickers are immigrants themselves, areas of the United States that have a higher density of immigrant populations, such as Los Angeles, New York, San Francisco, Miami and Chicago, also tend to harbor more cases of human trafficking.¹⁶⁹

However, evidence suggests that some victims of human trafficking are moved over great distances to accommodate the marketplace demand for low-cost immigrant labor in the agricultural, manufacturing, sex work and service sectors. For example, some sex trafficking rings have been known to take their victims on ‘national tours’ from one urban area to the next. Likewise, persons trafficked into other types of labor, such as farm work or manufacturing, tend to end up where those industries are already established on a large scale. However, some trafficking victims simply end up wherever in the United States their traffickers live. Women have been trafficked into domestic service to places as different from each other as a trailer park in Texas and a mansion in Maryland.¹⁷⁰

¹⁶⁹ *Hidden Slaves*, 9-10.

¹⁷⁰ *Report on Activities*, 75-91; *Matrix*, 7-9. For more on patterns of immigrant employment see Parks. *The Geography of Immigrant Labor Markets*.

Human Trafficking and Organized Crime

A significant amount of material has been written in recent years emphasizing the connection between human trafficking and transnational organized crime. Alexis Aronowitz argues that organized crime becomes connected to human trafficking primarily because many of these organizations are already involved in smuggling operations. Human trafficking, because it generates profits prior, during and following the smuggling of its victims, is thus a logical extension for criminal enterprises already in the habit of illicit profiteering.¹⁷¹

Some argue that human trafficking has become a major source of profit for international criminal organizations, even to the point of providing significant income for terrorist organizations.¹⁷² While the use of human trafficking enterprises to fund terrorist projects has not been substantiated, there does seem to be a connection to organized crime in at least some cases, especially when it comes to sex trafficking, given that an estimated seventy percent of United States prostitution operations in urban areas are already controlled by organized crime enterprises.¹⁷³ Criminal organizations take advantage of weaknesses in international law enforcement to create sophisticated systems

¹⁷¹ Alexis Aronowitz, "Smuggling and Trafficking in Human Beings: The Phenomenon, The Markets that Drive It and The Organizations That Promote It," *European Journal on Criminal Policy and Research* 9 no. 2 (2001): 172; Andreas Schloenhardt, "Organized Crime and the Business of Migrant Trafficking: An Economic Analysis," *Crime, Law and Social Change* 32 no. 3 (1999): 203-233; and S. Stoeker, "The Rise in Human Trafficking and the Role of Organized Crime," *Demokratizatsiya: The Journal of Post-Soviet Democratization*, 8 no. 1 (Winter 2000): 137.

¹⁷² Shelley, Louise, "Human Trafficking: Transnational Crime and Links With Terrorism (Hearing testimony)," (Washington D.C.: House Committee on International Relations Subcommittee on International Terrorism, Nonproliferation and Human Rights, 25 June 2003). In Lexis Nexis [Database online], Congressional, accessed 20 January 2005.

¹⁷³ Janice G. Raymond and Donna Hughes. *Sex Trafficking of Women in the United States: International and Domestic Trends*. (Washington D.C.: Coalition Against Trafficking in Women, 2001), 9.

of victim recruitment and delivery: “Crime syndicates frequently [take] advantage of structural dislocations within countries due to economic crises or conflicts in order to establish flow routes and recruit/kidnap individuals for placement into the transnational sex industry.”¹⁷⁴

In general, large-scale criminal enterprises that participate in human trafficking tend to be highly specialized, de-centralized and flexible in their organization, allowing them to re-organize quickly to meet the demand for their ‘product’ and to avoid law enforcement.¹⁷⁵ In a 2003 study conducted by the United States Department of State, it was found that there were definite links between several human trafficking cases and a number of well-known Russian, Chinese and Thai organized crime syndicates. Many of these organizations are widely involved in alien smuggling, and have been known to operate enterprises within the United States that utilize trafficked persons, ranging from brothels and strip clubs to begging rings.¹⁷⁶

However, though there have been several major instances of large international organizations of recruiters, smugglers and employers colluding to traffic large numbers of individuals, it is unclear whether this model represents the dominant form of human trafficking practiced in the United States today. A significant number of traffickers seem to work alone, or through loose, family-based networks that are neither large-scale nor organized in a systematic fashion.¹⁷⁷ In a survey of human trafficking cases prosecuted in

¹⁷⁴ Peter Mameli “Stopping the Illegal Trafficking of Human Beings,” *Crime Law and Social Change* 38 (2002): 67; and Clark, 253.

¹⁷⁵ Van Impe, 119.

¹⁷⁶ *Matrix*, 5-9.

¹⁷⁷ *Matrix*, 5-6; and Chin, 41-42.

the United States since 2001, only thirty percent of cases involved more than two defendants.¹⁷⁸ Likewise, a number of individual families have been charged for importing foreign women to work as nannies or maids, and then subjecting them to abusive and cruel treatment. For example, in 2000 one Maryland couple enticed a fourteen-year-old Cameroonian girl to come to the United States under their sponsorship with the promise of an American education. However, once she arrived, they imprisoned her in their home and forced her to work as their personal servant.¹⁷⁹ Frequently, traffickers such as these have some sort of connection to the person (or persons) they traffic, either because they employed him or her previously in his or her country of origin, or because they themselves are nationals of the same country. This often complicates matters for law enforcement. For example, when a Ghanaian family was charged for a similar offense, several of the defendants escaped to Ghana, where they have since been fighting extradition.¹⁸⁰

In addition, not all traffickers are involved in large-scale criminal enterprises such as smuggling. Many of them are ‘legitimate’ business owners who utilize methods that are technically legal, such as the importation of foreign workers by overseas ‘employment agencies.’ This was the case with the owners and managers of the Daewoosa plant in American Samoa. While it was illegal for them to hold their employees in debt bondage, to force them to work long hours in bad conditions, and to subject them to abuse, it was perfectly legal for Kil Soo Lee, the owner, to operate a

¹⁷⁸ *Report on Activities*, 75-91

¹⁷⁹ *Report on Activities*, 76.

¹⁸⁰ *Report on Activities*, 77.

garment factory on American Samoa. Likewise, his associates in Vietnam and China did not break any American law by charging his employees exorbitant ‘fees’ for their jobs, even though doing so set up the necessary conditions for their debt bondage. Instead, the common factor that seems to link all human traffickers is not their association with organized crime, but the fact they see an opportunity for exploitation and take it.¹⁸¹

Demographic Trends in Human Trafficking

Human traffickers victimize men, women and children. However, though all victims of human trafficking tend to be deceived, coerced and transported in a similar fashion, there is a significant correlation between the age and sex of victims, and the types of forced labor they are trafficked into. According to the ILO, women make up the majority those victimized by human traffickers, consisting of ninety-eight percent of those trafficked into sexual exploitation and about fifty six percent of those trafficked into other forms of forced labor.

There are no precise numbers on what percentage of trafficking victims worldwide are children. However, the ILO reports that as many as half of all victims of forced labor are children.¹⁸² Because human trafficking in the United States generally involves individuals who are already in the process of migrating on their own, it is likely

¹⁸¹ Though the Kil Soo Lee case has been the most visible one, there have been a number of cases of a similar nature. One such case was tried in Oklahoma in 2004, wherein an American businessman used a well-known international labor-recruiting agency to bring a number of Indian nationals to come work for him in the United States. The men were promised long-term employment and good wages, but instead were subjected to debt bondage and terrible, abusive conditions. See *Hidden Slaves*, 8; and *Chellen v. John Pickle Co.* 344 F. Supp.2d 1278.

¹⁸² *A Global Alliance*, 12-15; and *Hidden Slaves*, 7-8.

that the incidence of child trafficking is far lower (excluding the trafficking of babies via international adoptions, which is outside the scope of this study).

It is possible to place these figures in perspective by comparing them to a sample of trafficking cases that have been federally prosecuted in the United States since 2001.¹⁸³ Because there are no precise figures for how many men, women and children have been victimized in recent years, it is not possible to do a statistical breakdown of relative incidence. However, it is possible to examine certain trends within known cases. In a sample of forty-two human trafficking cases, almost half involved children. However, this does not mean that half of all the victims since 2001 were children. In several cases children were trafficked along with their parents, not independently. Moreover, considering that almost all cases had multiple victims and that few involved only children, there were overall, significantly more adult than child victims.

Because the sex and age of victims was not always indicated in the sample, it was not possible to create a precise statistical breakdown of different types of human trafficking victims in the United States. However, there were general trends apparent between the sex and age of victims and the type of work they were forced into. Most child victims were trafficked into the informal sector, to work as prostitutes or domestic servants. Men tended to be trafficked into manual labor in agriculture, mining, or contracting. Women, on the other hand, were predominantly trafficked into sex work, manufacturing, and jobs in the service industry. While these observations can provide some idea of trends in the United States, they should not be taken as absolute indicators

¹⁸³ This sample was taken from the 2006 *Report on Activities*, 75-91.

of how human trafficking functions in this country. Women, men and children have been found trafficked into all different kinds of work. In order to truly understand how human trafficking differently impacts men, women and children in the United States, a much more comprehensive and scientific study is needed.

The connection between human trafficking and race is much more clear. Though victims of human trafficking in the United States come from a wide cross-section of ethnic and social backgrounds, men and women of color make up a significant majority of those who are trafficked. One explanation for this is that all but one of the primary sending countries for persons trafficked into the United States are in Asia and Latin America. Because globally persons of color are more likely to be economically disadvantaged and therefore propelled to migrate in search of work, the argument goes, such persons are overall more likely to become victims of trafficking. Another explanation lies in the demands of American labor markets. In a study conducted by Bridget Anderson and Julia O'Connell Davidson on the 'demand end' of human trafficking, the authors concluded that the demographic break-down of trafficking victims is also closely related to the types of work into which they are trafficked:

When employers and consumers pay for services/labor, they do not always simply wish to purchase a "thing" (the worker's disembodied power to labor or serve) but also often wish to consume what has been termed "embodied labor." This is to say that they may wish to make use of the labor/services of persons of specific age, sex, race, nationality, caste or class.¹⁸⁴

Because the demand for certain types of work in the United States carries with it a

¹⁸⁴ Bridget Anderson and Julia O'Connell Davidson. *The Demand Side of Trafficking Part 1: Review of Evidence and Debates on "The Demand Side of Trafficking."* (Bangkok: Global Alliance Against Trafficking in Women, 2002), 18.

demand for certain *types* of workers to fill these jobs, certain individuals are more likely to be victims of human trafficking than others. Often the demand for particularly embodied workers results from racialized stereotypes about the suitability of such persons for certain work. For example, it has been well documented that certain sweatshop owners prefer Chinese or Vietnamese women workers because they believe them to be more docile and controllable.¹⁸⁵ Finally, beyond these explanations, I believe that the tendency for persons of color to be victimized at higher rates than whites, also lies in the fact that existing racism within the United States tends to legitimate the economic exploitation of persons of color, especially those who are immigrants.

Human Trafficking and Migrant Labor in America

Human trafficking is closely related to the demand for certain types of labor in the United States. Those who are victimized by human traffickers are usually individuals seeking employment. Likewise, traffickers capitalize on sectors of labor in which there is a high demand for workers, strong downward pressure on wages, and a lack of regulation and monitoring of conditions. Workers in these sectors are frequent victims of abuse and illegal activity on the part of their employers. Human trafficking in these sectors often represents an existing tendency for abuse taken to the extreme. Victims of human trafficking are forced to work a wide variety of jobs throughout the United States, in both the informal and formal sectors.¹⁸⁶ Most of these can be roughly assigned to one of four

¹⁸⁵ See Miriam Ching Yoon Louie. *Sweatshop Warriors: Immigrant Women Take on the Global Factory*, (Cambridge, MA: South End Press, 2001).

¹⁸⁶ The International Labour Organization defines the informal sector as: “all remunerative work—both self

categories: agricultural work, manufacturing work (including sweatshops), sex work, and the service industry (from custodial and restaurant work, to domestic service).¹⁸⁷ As these categories indicate, victims of human trafficking tend to be employed in areas where large numbers of immigrants are already present, though this is not always the case.¹⁸⁸

Agriculture

Of all the sectors of the American workforce in which large numbers of immigrants work, the agricultural industry is the only one in which foreign-born workers have become the dominant demographic. Today there are more than one and a half million farm workers in the United States, the vast majority of who are immigrants from Latin America. Since the late 1990s, foreign-born, mostly Hispanic immigrants have made up more than seventy percent of hired workers on crop farms in the United States. Though immigrant farm workers have increasingly begun to put down roots in particular communities instead of unceasingly following the crops, most farm workers are individuals that have been in the United States less than a decade. For, just as ‘older’ immigrants have become increasingly naturalized and have moved on to other forms of

employed and wage employment—that is not recognized, regulated, or protected by existing legal or regulatory frameworks and non-remunerative work undertaken in an income producing enterprise.” See *Women and Men in the Informal Economy: A Statistical Picture*. (Geneva: International Labour Organization, Employment Sector, 2002), 12. Several researchers have noted that human trafficking is more common in the informal sector. See *Hidden Slaves*, 9.

¹⁸⁷ According to a report by the ILO, two thirds of human trafficking victims are forced into sex work and a little less than one third are trafficked into other forms of economic exploitation. See *A Global Alliance*, 46-55. However, according to a University of California, Berkeley study of forced labor patterns in the United States, *Hidden Slaves*, forty-six percent of cases involve prostitution, thirty-one percent the service industry, ten percent agriculture, and five percent manufacturing. (The remaining percentages involved entertainment, mail-order brides and unidentified cases). See *Hidden Slaves*, 14.

¹⁸⁸ The exception to this tendency is sex work, in which foreign-born women are actually much less likely to participate than American citizens. For more on this discussion see the section *Sex Work* in this chapter.

labor, a large number of ‘new’ immigrants, mostly indigenous peoples from the rural areas of Central and South America, have been entering the United States farm workforce in record numbers. According to the Department of Labor’s National Agricultural Worker Survey, more than a quarter of these workers nationwide are undocumented, illegal immigrants, and more than a half lack proper work authorization.¹⁸⁹

Despite increased mechanization, the American agricultural industry is heavily dependent upon low cost farm labor. As the global demand for American crops continues to increase, the demand for these workers is also on the rise.¹⁹⁰ However, of all the types jobs dominated by immigrants in the United States, agricultural work is considered to be both the most difficult and worst compensated. Farm work is generally hard manual labor, and often lasts from daylight to dusk. Farm workers spend long hours reaching, bending and carrying heavy loads, often in the hot sun. Despite this, household earnings for farm workers average well under ten thousand dollars per year. As a result of these factors, most farm workers treat agriculture as a temporary job, working for a few months or seasons, and then either returning to their home countries or moving on to another kind of job.¹⁹¹

¹⁸⁹ Lindsay Lowell ed. *Foreign Temporary Workers in America: Policies that Benefit the U.S. Economy*, (Westport, CN: Quorum Books, 1999), 191-192. In 2000 the U.S. Department of Labor reported that 81 percent of all farm workers employed in the U.S. were foreign-born, 77 percent of who were Mexican. More than half of hired farm workers surveyed lacked appropriate work authorization. See *Findings from the National Agricultural Workers Survey (NAWS): 1997-1998, Research Report no. 8*. (Washington D.C.: U.S. Department of Labor, March 2000), 5 and 22.

¹⁹⁰ See “Outlook for U.S. Agricultural Trade,” in *Electronic Outlook Report from the Economic Research Service and Foreign Agricultural Service*. (Washington D.C.: Department of Agriculture, 25 November 2003).

¹⁹¹ David Griffith and Edward Kissam. *Working Poor: Farmworkers in the United States* (Philadelphia: Temple Univ. Press, 1995), 30; NAWS, 33; and Daniel Rothberg. *With These Hands: The Hidden World of Migrant Farm Workers Today* (New York: Harcourt Brace, 1998), xiii; and Lowell, 192-193.

According to a 2003 study of human trafficking cases across the United States, agricultural workers make up ten percent of trafficking victims.¹⁹² One such case occurred from 2000 to 2001, when a New Hampshire couple recruited four Jamaican men to come work for them on their tree farm. When the men arrived, the couple took their passports, and used threats and violence to keep them from leaving the farm property. During the two years the men were held captive, they were forced to work on the farm during the day, and were kept at night in a tool shed without adequate plumbing or heating, for which the men were charged fifty dollars per week in rent. Throughout their ordeal, the men were subjected to brutal violence and denied medical care. When finally discovered by local authorities, the couple was charged with forced labor and human trafficking as well as a host of other fraud related crimes, sentenced to more than five years in prison, and charged thousands of dollars in fines.¹⁹³

There are a number of structural aspects within the agricultural sector that contribute to a tendency for human trafficking. For one, migrant farm workers are not subject to the same kinds of oversights and controls as other kinds of workers. Under the National Labor Relations Act, agricultural workers are not considered “employees,” and are thus not guaranteed the right to organize and participate in collective bargaining.¹⁹⁴

Though farm workers are supposed to be guaranteed minimum wage and protected from

¹⁹² *Hidden Slaves*, 1.

¹⁹³ *Hidden Slaves*, 7-8.

¹⁹⁴ *U.S. Code* 29 § 152 (2003). Though the Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act stipulate that agricultural workers are entitled to at least the Federal minimum wage and should be protected from excessive paycheck deductions, these laws are not adequately written, nor enforced to protect agricultural workers’ rights. See *Hidden Slaves*, 16. In California, laws were passed in 1975 that attempted to address some shortfalls by guaranteeing farm workers within the state the right to organize. However, many farm workers have had a very difficult time exercising these rights. See James Ciment ed. *Encyclopedia of American Immigration Vol. 4*. (Armonk, NY: M.E. Sharpe, 2001).

excessive deductions to their paychecks, there is a chronic lack of oversight and investigation of labor standards throughout the industry. Because many farm workers fear reprisals and deportation, officials are rarely alerted to abuses, allowing them to continue on unabated for many years.¹⁹⁵

Another structural aspect that contributes to human trafficking, is the practice of using Farm Labor Contractors (FLCs) to recruit and manage agricultural crews. Legally, FLCs are allowed to recruit workers for a job and then take a cut of their earnings. In exchange, FLCs are supposed to represent the interests of the workers, as well as pay out payroll taxes and insurance for each of the workers. In theory, FLCs are registered and regulated by the Department of Labor. However, un-registered, illegal FLC operations have been increasing across the nation. Thus, though not all farmers use FLCs to provide for their labor needs, recent surveys suggest that they may employ as many as a third of all farm workers.¹⁹⁶

Relative to the workers they employ, contractors are in a position of great power. Many FLCs have been known to charge their workers high fees, while failing to pay the appropriate taxes to the government. Some collect their workers' wages for them, and several have subsequently run off and disappeared with the money. These vulnerabilities are especially true for recent immigrant workers who do not speak English. Frequently, these workers rely on FLCs to act as interpreters, to help them find housing and other

¹⁹⁵ *Hidden Slaves*, 16-17.

¹⁹⁶ Lowell, 183-184; and *Hidden Slaves*, 16. For an excellent discussion of the relationship between labor laws and the propensity for abuse in the black market of the agricultural sector, see Eric Schlosser. *Reefer Madness: Sex, Drugs, and Cheap Labor in the American Black Market*. (Boston: Houghton Mifflin, 2003), 77-108, 229-233.

services. Several studies have suggested that for this reason, these workers are more likely to be abused by FLCs—being charged high fees, and being paid below the going rate for their labor.¹⁹⁷

Several FLCs have been prosecuted for human trafficking in recent years. In one case, prosecuted by federal authorities in 2000, a contractor in South Florida held more than thirty tomato pickers prisoner in a trailer, forcing them to work all day, and keeping them under armed guard at night. When three workers escaped, the contractor tracked them down, and ran one of them over with a car as punishment. It took investigators five years to uncover and finally prosecute the perpetrators in this case.¹⁹⁸ In another case, two agricultural crew leaders, Juan and Ramiro Ramos, were convicted on human trafficking charges from recruiting Mexican nationals to work on American farms, and then subjecting them to involuntary servitude. Together with their cousin, the Ramos brothers operated as farm contractors under the name R&A Harvesting, and ‘employed’ up to seven hundred farm workers from January 2000 to June 2001. The Ramos brothers recruited undocumented immigrants in Arizona, and then transported them to Florida. Once they arrived, the immigrants were told they owed a ‘transportation debt’ of one thousand dollars and were forced to work for the brothers until they were able to pay.¹⁹⁹

¹⁹⁷ Lowell, 193.

¹⁹⁸ Case quoted on the Coalition of Immokalee Workers website, available at <http://www.ciw-online.org/slavery.html>; Internet, accessed 17 May 2006. Also see Candace Rondeaux, “Fear and Knowing in Immokalee,” *St. Petersburg Times*, 1 December 2002; and John Bowe, “Nobodies: Does Slavery Exist in America?” *The New Yorker*, 21 April 2003.

¹⁹⁹ “Three Men Jailed in Human Trafficking Conspiracy (Press Release),” (Washington D.C.: U.S. Department of State, 21 November 2002). In POLARIS [database online]; accessed 18 October 2005; *Report on Activities*, 76; and *Hidden Slaves*, 7-8.

Manufacturing

Some of the largest human trafficking cases to be uncovered to date have occurred in the manufacturing sector. Most of these incidents have been in the garment industry. Like agriculture, migrant workers today dominate the garment industry in the United States. For example, in Los Angeles, home to the largest number of garment manufacturers, eighty one percent of workers are Asian and Latino immigrants.²⁰⁰ On American territories, where workers are imported from Asia to work in factories, almost all workers in garment factories are foreign-born.²⁰¹

Like other sectors of the workforce dominated by low-cost immigrant workers there is a significant downward pressure on wages in the garment industry. Workers in the American garment manufacturing industry frequently earn less than four dollars an hour, with those who work from home making even less, sometimes as little as two dollars per hour.²⁰² Because American textile factories must compete with overseas factories that can produce goods at much lower costs, American garment manufacturers

²⁰⁰ Louie, 31-32; Edna Bonacich and Richard Appelbaum. *Behind the Label: Inequality in the Los Angeles Apparel Industry*, (Berkeley: University of California Press, 2000), 171-175. Garment workers often earn less than minimum wage because they are paid by piece-rates.

²⁰¹ Most American territories are not subject to the same immigration laws that restrict the importation of foreign workers on the American mainland. As a result, factory owners are able to legally import thousands of employees from Asia and South America as ‘guest workers.’ For these workers, their immigration status is contingent on their employment with a particular company, and as a result they are subject to deportation at any time. See Rebecca Clarren, “Sweatshops on U.S. Territory,” interview by Terry Gross, *Fresh Air*, National Public Radio, 16 May 2006; “Paradise Lost” *Ms. (Magazine)* 16 no. 2 (Spring 2006): 35-41; and Lenore Kuo. *Prostitution Policy: Revolutionizing Practice through a Gendered Perspective*. (New York: New York University Press, 2002), 198-109.

²⁰² According to the United States Bureau of Labor Statistics, sewing machine operators earn about \$9 an hour. See Bureau of Labor Statistics National Compensation Survey at <http://bls.gov/ncs/home/htm>. However, because many factories misreport earnings, and many others operate in the black market, paying their workers only in cash, actual wages are often much lower. For example Chinese women working full time as garment workers average \$5,464 per year, other Asian women \$7,500 and Mexican women \$6,500. See Louie, 33.

seek to stay competitive by cutting costs any way possible. Unfortunately, this leads to a propensity for abuse. Sweatshops, factories where labor laws are not observed, have thus become very common in the United States.²⁰³

For example, one study of textile manufacturing operations in the New York area found that seventy-five percent were sweatshops, operating in the informal sector with substandard wages and working conditions.²⁰⁴ A different study of garment manufacturers in Los Angeles found that sixty one percent were violating wage and hours regulations, underpaying their workers by an estimated seventy-three million dollars every year. Likewise, another study on health and safety found that more than half of firms were in violation to the point of threatening serious injury or death.²⁰⁵

Like other sectors where human trafficking flourishes, workers in American sweatshops lack adequate rights and protections. Because garment workers are paid by the piece, they are often unable to meet minimum wage. Moreover, because they are not paid by the hour, they are not entitled to overtime pay, even though garment workers regularly work sixty to seventy and sometimes as much as one hundred hours per week. Conditions are even worse for sewers who work from home. With virtually no regulation or oversight, home workers frequently labor for seventy hours per week for extremely low wages, sometimes even using the labor of their children to meet quotas.²⁰⁶

On American territories, where manufacturers are not subject to the same labor

²⁰³ Ellen Israel Rosen. *Making Sweatshops: The Globalization of the U.S. Apparel Industry* (Berkeley: University of California Press, 2002), 3, 137, 226-227.

²⁰⁴ See *"Treated Like Slaves": Donna Karen, Inc. Violates Women Workers' Human Rights*. (New York: Center for Economic and Social Rights 1999), 5.

²⁰⁵ Bonacich, 3.

²⁰⁶ Louie, 33-36.

and immigration laws as within the United States mainland, these problems are even worse. Because workers are imported from Asia as ‘guest workers’ who are not eligible for citizenship and whose visas depend upon their employment with a particular firm, the power disparity between workers and employers is even more extreme. Because most take out high-interest loans to pay the thousands of dollars in fees to get their jobs, workers on the territories are even more prone to being coerced into accepting deplorable working conditions than illegal immigrants on the mainland. As a result, human rights organizations and investigative journalists have reported that thousands of garment workers live in severe debt bondage throughout American territories in the Pacific.²⁰⁷

Where protective labor laws and standards do exist, enforcement is wholly inadequate.²⁰⁸ Despite rampant worker abuse throughout the industry, it appears as though most garment manufacturers are able to escape any repercussions. Many operate under the table without being legally licensed and monitored. Moreover, the Department of Labor or the Occupational Safety and Health Administration (OSHA) only rarely visit those factories that do operate legally. Even when a complaint is made, it can take a year for any investigation to be made. When an investigation is made, owners are usually warned in advance, allowing them to conceal violations. Some factory owners have been known to close up shop and disappear, leaving their employees out on the streets with

²⁰⁷ Clarren, “Sweatshops on U.S. Territories,” and “Paradise Lost”.

²⁰⁸ Rosen, 227, and William Branigin, “Made in the U.S.A.: Sweatshops Exploit Immigrant Women,” in Gary McCuen ed. *Modern Slavery and the Global Economy*. (Madison, WI: Gary McCuen Publications, 1998), 21-28.

months of back pay owed.²⁰⁹

One of the biggest factors in the propensity for human trafficking in the garment industry is the practice of contracting out labor to individual factories. Under this system, different factories underbid each other to compete for contracts with major clothing manufacturers. This puts a constant pressure on factory owners to lower costs, which translates to poorer wages and working conditions for those who actually produce the clothing. As a result of the pressure for factory owners to establish a compliant and low-cost workforce, many turn to illegal activity. On the mildest end of the spectrum, factory owners operate ‘under the table,’ paying their employees in cash to avoid taxes and wage regulations. At the extreme end, they use human trafficking to meet their labor needs.²¹⁰

Another factor that contributes to human trafficking in the garment industry is the tendency for factories to be owned and run within tightly knit immigrant communities. Utilizing ethnic networks, some factory owners are able to import immigrant workers, and then use community pressure to keep their victims quiet and compliant. Some owners thus actively work with smugglers to import workers, and then use the smuggling debts and illegal status of their workers to force them to accept abuses. Because a strong fear of immigration officials permeates these communities, factory owners are able to effectively enforce a code of silence on their employees.²¹¹ Likewise, on American territories, where the immigration status of migrant workers is contingent on their employment at a

²⁰⁹ See Louie, 40-41; Andrew Ross ed. *No Sweat: Fashion, Free Trade and the Rights of Garment Workers*. (New York: Verso, 1997), 210-211; and Clarren, “Sweatshops on U.S. Territories” and “Paradise Lost,” 36.

²¹⁰ Bonacich, 137, 177-184; and Ross, 209.

²¹¹ Louie, 30-31, and Bonacich, 144-147.

particular factory, employers use isolation and the threat of deportation as a means of control.²¹²

Aside from the Daewoosa factory in American Samoa, large sweatshops utilizing human trafficking have been found in California, New York, and the Northern Mariana Islands.²¹³ One of the worst cases ever uncovered was discovered in El Monte, California in 1995. In an apartment complex surrounded by razor wire and armed guards, police discovered seventy-two Thai immigrants. The men and women had been trafficked from Thailand, imprisoned in the apartments and forced to work eighteen hours per day sewing clothing for some of the nation's best-known clothing companies for seven years. Under constant threats of violence to themselves and their families at home, the victims were forced to live and work in the same tiny, filthy apartments. Grossly underpaid and forced to buy food and other necessities from their captors at inflated prices, the workers were kept in constant debt. To make matters worse, when police discovered and raided the compound, the workers were arrested for immigration violations and thrown in jail. Only when local community leaders and non-governmental organizations stepped up on the workers' behalf and raised a great deal of public outrage over the case, were the workers released on bond and able to begin living their lives in the American freedom they had once envisioned.²¹⁴

Sex Work

Sex work is both the single largest type of labor into which victims of human

²¹² Clarren, "Sweatshops on U.S. Territories" and "Paradise Lost," 35-36, 38-41.

²¹³ Both Samoa and the Mariana Islands are American territories (Saipan is the largest of the Marianas).

²¹⁴ Ross, 143-147.

trafficking are forced in the United States, and the most publicized. Under the general term ‘sex work,’ individuals are trafficked into activities ranging from prostitution to dancing in strip clubs. According to International Labour Organization estimates, sex trafficking accounts for more than two thirds of all human trafficking cases in industrialized nations.²¹⁵ In a detailed study of forced labor in the United States conducted by the University of California, Berkeley, sex trafficking made up about half of all reported cases.²¹⁶ Unlike other types of human trafficking, it is difficult to know what percentage of sex trafficking victims are foreign-born versus American citizens. In a small sample of cases federally prosecuted since 2001, the victims were American citizens about forty percent of the time.²¹⁷ However, because the number of American citizens who are domestically trafficked is hotly debated, it is impossible to know if this is an accurate percentage overall.²¹⁸

Sex work of all kinds is a major industry in the United States. Though it is not known precisely how many women and men perform sex work in this country, there are estimated to be at least five million prostitutes in the United States. When one includes those who work as dancers, erotic masseurs, models for pornography and ‘cantina girls’²¹⁹ this number is considerably higher. Owners of brothels and clubs are able to make enormous profits from the sex workers they employ, with single brothels

²¹⁵ *A Global Alliance*, 46-55.

²¹⁶ *Hidden Slaves*, 14.

²¹⁷ *Report on Activities*, 75-91.

²¹⁸ See Kamala Kempadoo and Jo Doezema eds. *Global Sex Workers: Rights, Resistance, and Redefinition*. (London: Routledge, 1998).

²¹⁹ ‘Cantinas’ are bars that cater to Latin American immigrants. In these bars, young women are often employed to entertain the customers and sometimes have sex with them. There have been numerous reports of women being trafficked and forced to work in Cantinas in the United States.

sometimes generating millions of dollars in a matter of months.²²⁰ Though there hasn't been a comprehensive study done on the United States sex trade as a profit-making enterprise, it is clear that the sex industry in this country generates billions of dollars in profits every year.

Unlike other sectors of work in which human trafficking occurs, sex work is generally dominated by American citizens. For example in one study of sex workers in Los Angeles, which has the highest per capita rate of immigrants in the entire country, immigrant women made up less than fifteen percent of the prostitute population.²²¹ However, within certain sectors of the sex industry, immigrants make up a much larger percentage of workers. Some massage parlors, bars and nightclubs specialize in workers of certain ethnicities and nationalities. Likewise, workers of the same ethnicity and national origin as their customers are common in establishments that cater to local immigrant populations.²²² Among these immigrants, about half enter the United States legally on visas as tourists or as 'wives' of American citizens.²²³

Women and men of all races and nationalities are victimized by sex trafficking, and have been found in all kinds of establishments, from strips clubs to bars. For example, in one case in Alaska, traffickers recruited nine young female folk dancers in Russia with promises of jobs performing in Vegas-type shows. However, when the women arrived in the United States, their passports and return plane tickets were taken

²²⁰ Kuo, 73-74, 77-79.

²²¹ Jeffrey T. Parsons ed. *Contemporary Research on Sex Work*. (Binghamton, NY: Haworth Press, 2005), 115. The researchers found that 69% of Los Angeles prostitutes were African American, 17% were 'white,' 9% were Hispanic, 4% mixed race/other, and less than 1% Asian.

²²² Parsons, 112-123.

²²³ Raymond et al, *Sex Trafficking of Women in the United States*, 9-12.

from them and they were held captive in Anchorage, Alaska. For a year, the young women were forced to perform as dancers in two strip clubs and prevented from leaving their captors.²²⁴ In another case, prosecuted in 2002, a group of traffickers in Fort Worth Texas brought young women from Honduras with the promise of jobs as waitresses, but then forced them to work in a 'Cantina' entertaining the male customers in order to pay off their 'smuggling debts.'²²⁵

One of the all time most famous sex trafficking cases in the United States was uncovered in 1998. In the 1980s, the Cadena family began smuggling poor Mexicans into the United States. However, by the late nineties, their smuggling operation had expanded into a vast sex trafficking business, wherein members of the Cadena family recruited young Mexican women in small villages and towns to come to the United States. Once the women arrived in the United States, the Cadenas would take the women to a 'safe house' where they were supposed to stay until they were able to find a job and housing. However, in reality, the safe houses were brothels where the women were soon imprisoned, subjected to brutal physical violence and forced to have sex with numerous men on a daily basis. Every fifteen days, the Cadenas moved their victims to new brothels to keep the women disoriented and maximize profits. Throughout their ordeal, the women never saw a dime for their misery. The Cadenas however, were accumulating a small fortune. In just the two-year period before the family was finally caught, they earned more than two and a half million dollars from the exploitation of forty women and girls. When their ordeal was over, many of the women were too ashamed and afraid to go

²²⁴ *Report on Activities*, 76-77.

²²⁵ *Report on Activities*, 76.

home. Many are now single mothers, trying to rebuild their lives in a foreign land.²²⁶

Sex trafficking is by far the most controversial type of trafficking exploitation in the United States. For, while all forms of human trafficking have generally been met with concern and sympathy for victims, the debate over the connections between sex trafficking and sex work in general has led to a major split among activists and policy makers over how sex trafficking should be understood and addressed. In many ways this split is indicative of a larger debate within feminist circles that has been on going for decades. According to one side, all sex is a form of exploitation and violence against women and therefore all sex work is a form of trafficking. On the other, sex work is simply another type of economic activity, into which some women are trafficked, but which the majority of sex workers choose of their own volition. The first of these camps argues that any struggle to end human trafficking requires as well the end to sex trafficking of all kinds (regardless of the situation), whereas the second argues that sex trafficking should not be conflated with sex work in general, and must be addressed separately.²²⁷ The best evidence to date on sex trafficking trends suggests that at least in terms of victims' own attitudes and admissions, the second camp may be more correct in its assumptions. According to studies of sex trafficking victims, almost sixty percent report working as a prostitute prior to their being trafficked. Likewise, many women are aware they will be working in the sex industry and agree to do so, except under different

²²⁶ Craig McGill. *Human Traffic: Sex, Slaves and Immigration*. (London: Vision, 2003), 142-150.

²²⁷ Kuo, 18-22; and Debbie Nathan, "Oversexed," *The Nation* (August 29, 2005), 27-30. For examples of these two viewpoints see Kempadoo, *Sex Workers: Rights, Resistance, and Redefinition*. (Advocating sex worker rights) and Lederer, Laura, "The Sex Trade: The Trafficking of Women and Children in Europe and the United States (U.S. Congressional Hearing (Session 22), 1999)," In Lexis Nexis [Database online], Congressional, accessed 16 November 2005. (Advocating the abolition of all forms of prostitution).

conditions.²²⁸ From this perspective, most victims of sex trafficking are individuals who migrate voluntarily but are then subjected to abuse and exploitation at the hands of their employer.

Perhaps because of its sensational nature and proclivity to incur moral outrage, trafficking for purposes of sexual exploitation has received more attention from the American public and government alike than other types. Since major stories like that of the Cadena family began to appear in the national media in the mid nineties, a significant number of news articles on human trafficking have focused on the sexual exploitation of women and children. As a result, a number of new laws and regulations have been passed in recent years aimed at curtailing sex trafficking. Despite these efforts, there remain a number of factors within the United States that encourage this type of criminal activity.

Because prostitution is illegal in most states, and therefore not considered a legitimate form of work, prostitutes are not entitled to the kinds of protections that help prevent human trafficking in other fields. Except in the state of Nevada, where prostitution is legalized and state-controlled, there are no standards for the rights to which prostitutes ought be entitled. Labeled as criminals and publicly stigmatized, prostitutes and other sex workers are often left with no support network, are subject to extreme discrimination and targeted for violence. Whereas other victims of human trafficking are sometimes freed by investigations by immigration and labor officials, victims of sex

²²⁸ Raymond et al, *Sex Trafficking of Women in the United States*, 9; and Nathan, 29-30. According to "Vlad", former sex trafficker from Ukraine: 70 of women are aware they are going to be employed in sex work. Of the remaining 30 percent, about 2/3rds agree to work as exotic dancers, etc. 1/3 have no idea what they are headed for. See "Sex Slaves," *Frontline* (PBS). Program aired 23 May 2006 (On OPB in Portland, Oregon). Transcripts and DVDs available at <http://www.pbs.org>.

trafficking are reliant almost entirely on police to uncover their situation. This is highly problematic, because nationally police tend to have an adversarial relationship with prostitutes. In general, police target street-walking prostitutes for arrest but frequently choose to ignore and tolerate brothels, massage parlors and ‘escort’ services. When police do make arrests, they tend to let ‘johns’ and ‘pimps’ go, but prosecute prostitutes as criminals. As a result, even though both sides of the transaction are technically illegal, women account for more than seventy percent of arrests. Even when prostitutes are subjected to extreme violence and oppression, both the police and the public are often slow to respond, if they respond at all.²²⁹ While these problems are not necessarily as extreme for those employed in other types of sex work, many of the same attitudes and behaviors prevail, with the consequence of further perpetuating the abuse and isolation of individuals who become victims of sex trafficking.

Service Industry

Another major area of migrant worker employment in the United States with a high incidence of human trafficking is the service industry. Service workers are a critically important sector of the American economy. They clean our homes and offices, prepare our food and care for the young and the elderly. Service workers labor in homes, restaurants, hotels and institutions. Despite their importance, service workers are some of the lowest paid in the entire American workforce.²³⁰ Service work has the second highest

²²⁹ Kuo, 74-76, 102-103.

²³⁰ According to the United States Bureau of Labor Statistics, service sector jobs (excluding protective service jobs e.g. firefighters or police officers), averaged hourly wages from \$4.44 to \$10.90 in 2004.

incidence of human trafficking in the United States, accounting for more than thirty percent of cases.²³¹ Victims have been forced to work in a variety of service jobs, in restaurants, motels, and even nursing homes.²³² However, the highest concentration of trafficking victims is forced to engage in domestic service work.

As in other sectors of the workforce where human trafficking is common, the trafficking of domestic workers represents the extreme on a continuum of abuse to which most domestic workers are subject. Substandard wages and poor treatment run rampant throughout the domestic worker industry. One 1997 survey of live-in domestic workers in Los Angeles showed that on average they received only three dollars and seventy-nine cents per hour and worked sixty four hours per week with no overtime benefits.²³³ In another study in the New York area, workers earned an average of just two dollars and fourteen cents an hour.²³⁴ Because these workers exist within the relative privacy of the home, and overwhelmingly are paid ‘under the table,’ the abuse of such workers is much more easily concealed from authorities. Traffickers are easily able to isolate their victims, and often use threats and intimidation to ensure compliance.²³⁵ This tendency is worsened, by the fact that like agricultural workers, in-home domestics are not considered “employees” and thus are not entitled to the same protections and rights as

Restaurant workers were the lowest paid, and janitors the highest. No wage data was available for service workers employed in-home. Statistics available at <http://www.bls.gov>; Internet, accessed 8 May 2006.

²³¹ *Hidden Slaves*, 14.

²³² Mary Ellen Dougherty, “Against Human Trafficking,” *Health Progress* (September/October 2004): 10-12.

²³³ Rhacel Salazar Parreñas. *Servants of Globalization: Women, Migration and Domestic Work*. (Stanford: Stanford University Press, 2001), 178.

²³⁴ See Carol Pier. *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*. (New York: Human Rights Watch, June 2001), 1.

²³⁵ *Hidden Slaves*, 16.

other workers.²³⁶ In a 2001 study by Human Rights Watch, ninety-eight percent of domestic service workers were subject to forced overtime, sub-standard wages, verbal and physical abuse. Because neither labor nor immigration authorities track these in-home workers, employers who mistreat their domestics rarely face charges.²³⁷

As a result, many domestic service workers have been trafficked into conditions akin to slavery—forced to work extremely long hours with very little or no compensation, physically abused and forbidden to leave their employer’s home.²³⁸ For example, in one case, an Ethiopian woman brought into the United States by an International Monetary Fund staff member was isolated, physically abused, and forced to work seven days a week, fifteen hours a day for less than 3 cents an hour.²³⁹ In another case, a human rights lawyer for the Organization of American States recruited a young woman from Bolivia to come work for him in Washington D.C., promising great wages and opportunities. However, when she arrived she was forced to work twelve-hour days for less than a dollar per hour. Her immigration documents were confiscated, and she was held captive in her employer’s home. When raped by one of her employer’s associates she was even denied medical care.²⁴⁰ In some cases, domestics trafficked into the United

²³⁶ *U.S. Code* 29 (2003), § 152 (3). “The term ‘employee’ shall include any employee...but shall not include any individual employed...in the domestic service of any family or person at his home.” Quoted in *Hidden Slaves*, 15.

²³⁷ Pier, 2, 31-32.

²³⁸ O’Neil Richard, 28.

²³⁹ William Branigin, “A Life of Exhaustion, Beatings and Isolation,” *The Washington Post*, 5 January 1999.

²⁴⁰ Joy Zarembka, “America’s Dirty Work: Migrant Maids and Modern-Day Slavery,” in Barbara Ehrenreich and Arlie Russel Hochschild eds. *Global Woman: Nannies, Maids and Sex Workers in the Global Economy*. (New York: Metropolitan Books, 2003), 142-143.

States have been ‘loaned out’ or ‘sold’ to other families to face similar abuses.²⁴¹

A contributing factor to the frequency with which domestic workers are subject to human trafficking, is the ease with which they can be brought into the United States. Often times, international trafficking rings act as recruiters for women overseas, usually between the ages of 35 and 55 years, who then come to the United States under a B-1 or B-2 Visa.²⁴² The vast majority of these workers come to the United States fully expecting to work as domestics. However, once they arrive, their documents are often seized, and they are sent to work under conditions very different from what they were led to expect. Unfortunately because of lack of knowledge, the language barrier, and the limited nature of their visas, domestic workers who find themselves in such a situation often are afraid to leave their job or seek damages. These problems are exacerbated by the fact that wages sometimes are paid directly to the ‘placement agency,’ thereby controlling domestic workers’ access to resources.²⁴³

Aside from organized ‘nanny rings,’ there have been a number of high-profile cases in which diplomats and officials have brought servants with them from abroad into the United States. According to the State Department, diplomats or foreign staff of non-governmental organizations bring almost four thousand domestic servants into the United

²⁴¹ O’Neil Richard, 28.

²⁴² B-1 visas are issued for individuals migrating for business purposes, usually with the support of a firm located within the United States, and are contingent on their employment with the sponsoring firm. B-2 visas are tourist visas, and are issued with time limits, which vary depending on one’s country of origin. Many others come legally on A-3 and G-5 visas, hired by diplomats or employees of international organizations. See Zarembka, 145-149; and Pier 4-5.

²⁴³ O’Neil Richard, 7-9, 27-28.

States each year under special visas.²⁴⁴ Although these workers are supposed to be subject to American labor standards, many contend that there is virtually no oversight of these cases, leading to widespread abuses. Moreover, because the visas under which the majority of these workers are brought into the United States require them to remain with their original employers, traffickers often threaten their victims with deportation or worse, if they attempt to complain or escape. Some traffickers have punished their escaped victims by pressing criminal charges against them. Sadly, because of the way in which current immigration laws are written, many women who do leave their traffickers end up treated like criminals and are forced to leave the country without any access to justice.²⁴⁵

Chapter 3 Conclusions

Human trafficking is a distinct kind of exploitation, particularly tied to global trends of economic development, migration and international crime that should be understood and addressed in its own right. Within the industrialized nations of the world, human trafficking represents the most significant type of forced labor, affecting many millions of people every year. In the United States, which is one of the biggest receiving countries in the world for trafficked persons, human trafficking represents a special challenge for not only law enforcement, but for the creation of labor and immigration laws that both represent the best interests of American citizens and uphold the human rights of the millions of people who come here every year.

²⁴⁴ Pier, 4.

²⁴⁵ *Hidden Slaves*, 15-16; Zarembka, 147-149, 151; and Pier, 4-6.

Human trafficking affects individuals of all sexes, races, classes and nationalities. According to the studies that have been conducted so far, the tendency for a person to be trafficked has less to do with who that individual is, and more to do with the conditions under which he or she attempts to migrate and seek new employment. Overall, migrant workers of all kinds lack adequate protections, both in the process of migration and once they arrive in the United States. As a result, there is an asymmetry of power between migrant workers and those who aid and employ them.²⁴⁶ Taking advantage of existing migration trends and demands for labor within the United States, human traffickers capitalize on this weakness.

The high incidence of human trafficking in any particular field of labor is closely related to both the demand for low-wage laborers and to the potential for high returns. For example, from a purely economic perspective, it is rational that two thirds of trafficking victims in the United States are trafficked into sex work because a single prostitute can generate more income than several women working in manufacturing. Similarly, because cooking, cleaning and caretaking are all relatively expensive services to buy legitimately, and because there is a shortage of available workers to perform this work in some areas, there is a high incentive for families to import inexpensive immigrant 'help.'

However, each type of labor into which persons are frequently trafficked contains structural aspects that contribute in different ways to the ease and profitability of such exploitation. The trafficking of women for domestic servitude is facilitated by the fact it

²⁴⁶ Bustamante, 21.

is relatively easy to bring such workers into the United States, because live-in domestics are easily confined to their employer's home and because it is the norm to pay such workers 'under the table.' Likewise, the exploitation of women through sex trafficking is facilitated by a high demand for their labor, the ease of recruiting and importing victims, and the lack of either governmental oversight or law enforcement in the sex work sector. In order to create anti-trafficking laws and policies that are effective, we must understand how structural factors such as these contribute to the incidence of human trafficking within particular categories of labor. For human trafficking is inherently connected to the multitude of abuses and injustices faced every day by migrant workers in the United States.

Chapter 4—Twenty-first Century Deja Vú

“The American government has a particular duty, because human trafficking is an affront to the defining promise of our country. People come to America hoping for a better life. And it is a terrible tragedy when anyone comes here, only to be forced into a sweatshop, domestic servitude, pornography or prostitution... This trade in human beings brings suffering to the innocent and shame to our country, and we will lead the fight against it.”

-President George W. Bush July 16, 2004²⁴⁷

Today, as the question of ‘modern day slavery’ has once again taken center stage in dialogues between governments and citizens around the world, the United States has sought establish itself as a leader in the struggle to end the trade in human lives once and for all. However, as American policymakers have sought to create laws that are politically expedient, many of the same conceptual and practical problems that befell lawmakers in the past have reared their heads once again. As a result, the construction of human trafficking in our current time remains deeply rooted in the legacies of the late nineteenth and early twentieth-century discourses on migrant labor exploitation and White Slavery.

A renewed effort to deal with human trafficking was first spurred in the United States in the late 1990s, when a series of sensational stories about organized crime rings that ‘lured’ women across the border to force them into sexual slavery, and widespread abuses in Los Angeles sweatshops hit the news media. In response, the Clinton

²⁴⁷ George W. Bush, “President Announces Initiatives to Human Trafficking” Tampa, Florida: Tampa Marriott Waterside Hotel, 16 July 2004. Published by the White House Office of the Press Secretary. Available at <http://www.whitehouse.gov/news/releases/2004/07/20040716-11.html>; Internet; Accessed 2 December 2005.

Administration put out a series of directives aimed at combating such abuse.²⁴⁸ Promising to work toward substantial changes in American law and policy, President Clinton issued orders before leaving office to the Interagency Council on Women to formulate and implement a far-reaching plan to address human trafficking. Together with a coalition of cabinet-level appointees, representatives from non-governmental organizations, and members of Congress, the government finally set forth a serious effort to evaluate and someday end the scourge of human trafficking within the United States and around the world.²⁴⁹

By the time the Clinton Administration began this task, little had changed since nineteenth century with respect to human trafficking laws and policies in the United States. Though the federal government no longer actively sought out and deported foreign-born prostitutes,²⁵⁰ the legal system did little to protect the rights of foreign nationals who were exploited by traffickers on American soil. Often, trafficking victims who sought assistance from police were arrested and deported by the Immigration and Naturalization Service with no charges pressed against their captors. Moreover, even if targeted and arrested by police, many human traffickers had an exceedingly easy time avoiding punishment. Though the federal maximum sentence for one count of indentured

²⁴⁸ Leslie Ann Jeffrey, "U.S. Anti-Trafficking Policy and Neo-Imperial Masculinity: The Right Man for the Job," [forthcoming], 6-7. In Lexis Nexis [Database online], accessed 20 January 2005.

²⁴⁹ Jeffrey, 7-8.

²⁵⁰ As far as I can determine, the Immigration Act of 1917, which bans the immigration of prostitutes and other persons of 'immoral' character, is still on the books. However, though "moral character" continues to be an eligibility factor for naturalization, it does not appear that the INS actively seeks out foreign-born prostitutes to deport. Despite this, because committing a 'criminal act' is considered grounds for deportation, foreign-born prostitutes who are caught and convicted are still often deported. For more information on citizenship requirements and grounds for deportation under current laws see the Department of Homeland Security's Immigration and Borders Homepage at <http://www.dhs.gov>; Internet, accessed 21 May 2006.

servitude was ten years, sentences remained extremely low for those who were caught, averaging at about six months.²⁵¹ As a result, migrant workers were often subject to outrageous abuses with little recourse.

One such episode occurred in 1983 in East Texas, when two American citizens “bought” nineteen Mexican immigrants from their Coyote²⁵² for fifty dollars each. In the months that followed, the men were forced at gunpoint to work for long hours on a tree farm during the day, kept at night in a windowless shack with no plumbing, and subject to physical abuse. When some of the men were able to escape and alert authorities, the men’s captors were eventually brought to court and convicted on twelve counts of slavery. However, though the maximum sentence was ninety years in prison, the men received just a one thousand dollar fine and five years probation, because the Federal judge contended that the fault lay with the Immigration and Naturalization Service for allowing the illegal immigrants to enter the country in the first place.²⁵³

These problems were hardly resolved by the good intentions of the Clinton Administration. For example, when a Russian-American massage parlor owner was arraigned in 1996 for luring Russian and Ukrainian women into the United States with promises of work as nannies, sales clerks and waitresses, and then forcing them to work as prostitutes, he was able to enter a plea bargain and avoid jail time entirely. Meanwhile, the women he victimized, who were not compensated in any way, were either deported or

²⁵¹ Anne Gallagher, “Book Review: ‘Trafficking in Persons Report.’” *Human Rights Quarterly*, 23 (2001): 1135-1136.

²⁵² A term for a smuggler who brings persons over the southern border of the United States.

²⁵³ Vernon Briggs. *Immigration Policy and the American Workforce*. (Baltimore: John Hopkins University Press, 1984), 167-168.

left the United States voluntarily without any mitigation of damages.²⁵⁴

Because they were aimed primarily at gathering information, the policies of the Clinton era ended up being too limited and too late to effectively articulate a particular approach for the American response to human trafficking. However, in the years since, the Bush Administration has attempted to fill this void by articulating and bringing into force a new ‘protection oriented’ policy, which focuses primarily on ‘rescuing’ trafficking victims and prosecuting traffickers. In both of these efforts, the government has utilized human rights rhetoric to draw attention to human trafficking as an issue. However, the ways in which President Bush and other leaders have framed and portrayed the issue has not necessarily led to effective policies.

Since President Bush has come into office, the United States has become one of the world’s most vocal proponents of the international anti-trafficking movement. In a somewhat uncharacteristic move, President Bush quickly took up where Clinton left off, signing a new United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, and working with Congress to pass domestic legislation as well. Hailed as the toughest anti-trafficking law in the world, the Trafficking Victims Protection Act (2000)²⁵⁵ broadens the definition of human trafficking, increasing the maximum penalty for indentured servitude to 20 years, creates new legal protections and humanitarian assistance for victims, and establishes a foreign policy of not dealing with nations that

²⁵⁴ O’Neil Richard, 33.

²⁵⁵ Trafficking Victims Protection Act 114 Stat. §1464.

fail to comply with certain anti-trafficking law and law enforcement standards.²⁵⁶

Likewise, the PROTECT Act (2003)²⁵⁷ takes special measures to protect child victims of human trafficking, and creates new sanctions to punish American citizens, especially government employees and armed services personnel who participate in human trafficking while abroad.²⁵⁸ In addition, the Department of State has created a new T-visa, which allows at least some trafficking victims to remain in the United States for three years and then apply for permanent residency. Finally, to help implement these new laws, Congress authorized and appropriated sixty million dollars.²⁵⁹

In addition to these measures, the Justice Department has developed several new projects on human trafficking, from creating a monthly newsletter about anti-trafficking activities, to working with local and national law enforcement and other government agencies such as the Federal Bureau of Investigation, and Immigration and Naturalization Service to help improve the recognition and pursuit of trafficking cases.²⁶⁰ To help centralize these efforts, an Office to Monitor and Combat Trafficking in Persons has been

²⁵⁶ Gallagher, "Book Review," 1135-1141. The requirement of not dealing with nations that do not follow anti-trafficking standards has been relaxed since Sept. 11, 2001, for the reason that several of these nations are allies in the United States' 'War on Terror.' For example, though Niger is considered by many to be a modern day bastion of slavery, the United States maintains friendly relations with the nation, and provides significant annual aid. Anti-Slavery International has been particularly vocal on this point. See <http://www.antislavery.org/>; Internet, accessed 25 May 2006. For more on U.S. foreign policy, regarding human trafficking see *Trafficking in Persons Report*. (Washington D.C.: U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, June 2004). Available at <http://www.usdoj.gov/trafficking.htm>; Internet, accessed 1 May 2006.

²⁵⁷ Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT) Act 117 Stat. §650.

²⁵⁸ Christopher Smith. Speech before the U.S House Armed Services Committee. (Washington D.C.: U.S House Armed Services Committee, 21 September 2004). In Lexis Nexis [Database online], Congressional, accessed 20 January 2005.

²⁵⁹ Laura Lederer, "The Sex Trade: The Trafficking of Women and Children in Europe and the United States," U.S. Congressional Hearing (Session 22), 1999. In Lexis Nexis [Database online], Congressional, accessed 16 November 2005.

²⁶⁰ An archive of these bulletins can be found on the Dept. of Justice website <http://www.doj.gov>

added to the State Department, which, in addition, publishes annual reports on the progress of one hundred and fifty different countries to change laws and policies to help end human trafficking. Aside from providing information about global trafficking trends, this publication rates countries on their efforts, information which is used to help determine the distribution of aid. (Nations that refuse to take steps against trafficking risk losing their American aid).²⁶¹ Finally, the President created an Interagency Task Force to Monitor and Combat Trafficking in Persons, which, chaired by the Secretary of State, is directed with maintaining the political will necessary to execute these new projects.²⁶²

Besides creating new laws, the Bush Administration has attempted to take a more proactive approach to human trafficking on United States soil, particularly with respect to the investigation and prosecution of cases. For example, in the last three years, the federal government has begun giving out small grants earmarked for the creation of special task forces in areas identified as trafficking ‘hotspots’ — such as Philadelphia, Atlanta, Phoenix, Newark, Houston, Northern Virginia, St. Louis and Tampa— which form a partnership between federal agencies, local providers of victim services, local law enforcement and community churches and charities. Fundamentally aimed at both doing a better job of reaching out to victims and recognizing trafficking cases when they occur, these task forces are attempting to bridge the gap between victims and authorities that has

²⁶¹ Information about all of these measures, including a description of the T-visa program, are available on the website of the Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip/>. Haynes makes an interesting critique of this policy, namely that when countries change policies solely for the purpose of gaining or keeping foreign aid, they do not do so genuinely, and therefore there is no real positive impact. See Dina Francesca Haynes, “Used, Abused, Arrested and Deported: Extending Immigration Benefits to Protect the Victims of Trafficking and the Prosecution of Traffickers,” *Human Rights Quarterly* 26 no. 2 (2004): 233-234.

²⁶² Lederer, 3

traditionally allowed these cases to flourish without intervention.²⁶³

Policy critiques

The policies of the Bush Administration today raise many of the same issues that complicated the prevention and abolition of human trafficking in the late nineteenth and early twentieth centuries. One of these issues is how human trafficking ought to be understood. In this past, how the American public felt human trafficking ought to be dealt with depended on whether they believed its existence was rooted in the individual behavior of traffickers or victims, or in the larger social and economic structures that enabled traffickers to exploit poor immigrants. Because the Bush Administrations has attempted to address human trafficking in the most politically expedient fashion possible, it has tended to focus on the individual criminal aspect of human trafficking at the expense of a larger contextualization of the problem. Unfortunately, when only the individual criminal aspect of human trafficking is emphasized, many of the issues most critical to trafficking victims—labor protections, immigration rights and civil liberties—remain downplayed and largely unaddressed.

This tendency is made evident by the international treaties that the United States has chosen to participate in. For, though the United States has attempted to establish itself as an international leader in the struggle to abolish human trafficking, the treaties that the Bush Administration has chosen to sign have been limited to those that address human

²⁶³ U.S. Department of Justice, “Administration Officials Announce Anti-Trafficking Task Forces,” *Anti-Trafficking News Bulletin* 1 no. 4-5 (April/May 2004): 1-2; U.S. Department of Justice, “New Anti-Trafficking Task Forces Formed in Florida,” *Anti-Trafficking News Bulletin* 1 no. 10 (October 2004): 2-3; U.S. Department of Justice, “National Trafficking Conference Expands Task Force Approach,” *Anti-Trafficking News Bulletin* 1 no. 6 (June 2004): 1.

trafficking from a narrow, law enforcement perspective. This has made it possible for the Bush Administration to appear ‘tough’ on human trafficking without making substantial commitments to reform American labor and immigration laws to better protect migrant workers.

Historically, the international response to human trafficking has been broken up into two different areas: trafficking and forced labor. From the first international agreements on White Slavery in 1904 to the UN Convention on the Suppression of the Traffic in Persons in 1949, all of the treaties explicitly directed at “human trafficking” have focused primarily on the issue of prostitution with little discussion of how migrant workers are trafficked for the purposes of labor exploitation. On the other hand, all of the international agreements on forced labor have tended to address the problem as something perpetrated primarily by states, not by individual ‘contractors’ and employers. As a result, these treaties have tended not to discuss the interconnected roles that economics, migration and civil rights play in the trafficking of persons.²⁶⁴ Since the 1990s, however, several new treaties have taken shape that attempt to define and address human trafficking in a more comprehensive way.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons is part of a series of Protocols on contemporary transnational crimes, which was created in tandem with the United Nations Convention against Transnational Organized Crime in 2000.²⁶⁵

²⁶⁴ Bruch, 8-35.

²⁶⁵ “Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime,” (New York: United Nations, 2000). Available online at <http://untreaty.un.org>; Internet; accessed 23 April 2006. The United States signed the Protocol on December 13th 2000, and ratified it November 3rd 2005. For more on

The most recent agreement on human trafficking to date, the Protocol was created with the aim of broadening and establishing an international definition of human trafficking,²⁶⁶ setting into motion international standards for how human trafficking should be addressed. In this way, it seeks to push the boundaries of earlier treaties, and bring attention to the wide variety of ways in which human trafficking occurs. However, despite these aims, the Protocol is limited primarily to a legal and law enforcement perspective of the problem. As a result, the Protocol provides few concrete measures for how trafficking ought to be prevented.

The Protocol begins with a statement on the need to articulate a comprehensive anti-trafficking approach:

Effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights.²⁶⁷

This purpose is further articulated in the first article of the treaty, which determines that party states should create new legislation aimed at: (a) preventing and combating trafficking in persons, especially women and children; (b) protecting and assisting trafficking victims; and (c) coordinating their activities with those of other member states to better meet these objectives.²⁶⁸

However, even though the treaty clearly establishes these objectives, the articles

the convention, its formation and implications, see Anne Gallagher, "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis," *Human Rights Quarterly* 23 (2001): 975-1004.

²⁶⁶ For a discussion of this definition, see the introductory chapter of this paper, pages 6-18.

²⁶⁷ "Protocol," Preamble.

²⁶⁸ "Protocol," Article 1.

to follow provide almost no direction for what specific measures states should take to prevent the trafficking and exploitation of individuals, nor how these new laws should fit into larger legal frameworks for labor and immigration, stating only that states should “endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.”²⁶⁹ Moreover, though it outlines some specific rights of trafficking victims, especially with respect to rights of residency, repatriation, and access to justice, it says nothing about how larger immigration policies should be tailored to discourage human trafficking.²⁷⁰ Likewise, though the treaty identifies trafficking victims as individuals who are exploited for any reason, including: “prostitution...or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;”²⁷¹ it does not make any explicit connections between human trafficking and the global migration of workers, nor about the abusive labor practices that accompany and make human trafficking so profitable.²⁷²

Finally, though the Protocol mentions the need for policies to respect the human rights of trafficking victims, it does not articulate universal rights for these individuals beyond one’s right to access the legal system, right to remuneration and mitigation of damages, and right to become a legal resident at least for the duration of criminal proceedings against one’s traffickers.²⁷³ While these rights are important and useful for

²⁶⁹ “Protocol,” Article 9.

²⁷⁰ “Protocol,” Articles 1-15.

²⁷¹ “Protocol,” Article 3.

²⁷² “Protocol,” Articles 1-11.

²⁷³ “Protocol,” Articles 5-9.

trafficking victims, the treaty does not address the fact that in many nations migrant workers are not entitled to the same civil and labor rights as citizens. Moreover, the way the Protocol is written, some states, including the United States, have interpreted it so that certain rights are hinged on trafficking victims' cooperation with law enforcement.²⁷⁴ All of these shortfalls severely impede the ability of the Protocol to actually provide the broad approach it calls for in its Preamble. For in order for human trafficking to be actually prevented, steps need to be taken to actually protect migrant workers from abuses in the first place, not just to allow states to prosecute their exploiters after the fact.

While the United States has signed both the United Nations Convention against Transnational Organized Crime and its accompanying Protocol, it has chosen not to participate in other recent treaties aimed at preventing human trafficking. The most prominent of these is the United Nations Convention on the Rights of All Migrant Workers. Though the primary purpose of this treaty was the suppression of the clandestine movement and illegal employment of migrant workers, it provides a much more concrete framework for how human trafficking ought to be addressed than even the Protocol, which was specifically created to address the issue. Thus even though it only tangentially addresses illegal immigration, focusing instead on preventing employment discrimination and forced labor, the Migrant Worker Convention highlights several very useful anti-trafficking measures.

The Migrant Worker Convention, which opened for signatures in 1990, emerged

²⁷⁴ Lin Chew, "Addressing Trafficking of Persons in the Human Rights Framework," *U.S. Women Without Borders*, 26 December 2005: 1. Available at http://www.fundforward.org/uswomenwithoutborders/featured/archives/2005/12/addressing_traf.html; Internet; Accessed 5 April 2006.

from discussions held throughout the international community about the growing issue of migrant workers. For in an increasingly global economy, many argued, the problems associated with an immigrant workforce were only going to grow. These concerns were particularly shared by the United Nations, which commissioned several studies of migrant workers during the 1980s. The conclusions of these studies confirmed what many human rights advocates had been suggesting for some time—migrant workers lacked necessary legal protections to guarantee the respect of their fundamental rights in their host countries.²⁷⁵

The Migrant Worker Convention was the result of these developments. Consciously built on preexisting human rights legislation, from the Universal Declaration to the International Covenant on Economic, Social and Cultural Rights to the International Covenant on Civil and Political Rights, as well as a number of International Labour Organization conventions and frameworks, the framers of the Migrant Worker Convention sought to establish a uniform international standard for the treatment of all migratory workers.²⁷⁶ Though several studies that focused primarily on the needs and experiences of ‘regular’ (legal) migrants, the convention’s creators recognized the impossibility of separating legally migrating from illegally migrating workers when it

²⁷⁵ See *Migrant Workers: Pertinent Legislative and Administrative Regulations on the Welfare of Migrant Workers and their Families*, (New York: The United Nations (Department of International Economic and Social Affairs), 1983); and Halima Warzazi (Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities). *Exploitation of Labour through Illicit and Clandestine Trafficking*. (New York: United Nations, 1986).

²⁷⁶ The International Labour Organization developed a Convention on the rights of Migrant Workers in 1975. This ILO Convention is much more limited than the UN Convention. However, because it raises many of the same issues, it could also be utilized to fight human trafficking. See Elizabeth Bruch, “Models Wanted: The Search for an Effective Response to Human Trafficking,” *Stanford Journal of International Law* 40 (Winter 2004): 23-29.

came to rights. As a result, the definition of the “migrant worker” to which the convention applies did not differentiate between the means and mode of workers’ migration, giving instead the rather loose definition of “a person engaged in a remunerated activity in a state of which he or she is not a national.”²⁷⁷

A major force in the creation of the Migrant Worker Convention was the belief that migrant workers are especially vulnerable to all kinds of exploitation, including human trafficking. As a result, the problem of human trafficking and the tendency for coercive labor that accompanies it has been set out by the United Nations as one of the primary issues that the Migrant Worker Convention seeks to address:

The globalization of markets, information and technology, as well as the liberalization of many laws affecting individuals' mobility, has enabled vast movements of people on a scale never seen before. The objective of the Convention...is to create international standards for the protection of the human rights of migrant workers and their families...[For], all migrant workers are vulnerable to abuse by virtue of the fact they are living in a foreign country. In fact, many may fall victim to human traffickers who recruit them under false pretenses and some are even held against their will under slave like conditions.²⁷⁸

Thus within the Convention are a number of important protections against abuses faced by migrant workers that also directly apply to human trafficking. For example, Articles 10 and 11 specifically outline the right of migrant workers to be free from cruel and degrading treatment, as well as from forced labor or servitude of any kind. Article 21 makes it a crime for anyone to destroy the passport or other papers of a migrant worker;

²⁷⁷ “Scope and Definitions- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 1990.” Quoted in Brownlie and Goodwin-Gill Eds. *Basic Documents in Human Rights*. (Oxford: Oxford University Press, 2002), 274.

²⁷⁸ “Objectives--International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, New York, 18 December 1990.” In *Multilateral Treaty Framework: An Invitation to Universal Participation Focus 2005*. (New York: United Nations, September 2005). Available online at <http://untreaty.un.org/>

and Article 24 decrees that all migrant workers should be fully recognized and protected by the law, wherever they go, no matter their immigration status.

Similarly, the treaty's framers recognized that one of the biggest and most important underlying issues for the migrant workforce was the prevalence of sub-standard and abusive labor practices toward migrant workers, especially when they are not citizens of the country in which they work. Articles 25, 26 and 27 directly address this disparity, stating that all migrant workers have the right to "enjoy treatment not less favorable than that which applies to nationals of the state in respect of remuneration and other conditions of work, and terms of employment," including with respect to all rights and benefits recognized by the state.²⁷⁹

The Migrant Worker Convention does not provide a comprehensive framework for the prevention of human trafficking. For example, there is some question as to whether the Convention would cover prostitution in places where it is not a legally recognized form of work.²⁸⁰ In addition because the Convention gives deference to the territorial sovereignty of party states, it does not necessarily provide trafficking victims who happen to be illegal immigrants with residency rights, or protection from deportation.²⁸¹ However, despite these shortfalls, The Migrant Worker Convention addresses critical aspects of labor rights and immigration law that are closely related. Though many aspects of the treaty are already encoded in United States law, the treaty

²⁷⁹ "Human Rights of All Migrant Workers and Members of their Families (Part III)" and "Preamble to of the International Convention on the Protection of the Rights of All Migrant Workers, 1990." In Brownlie et al., 273-284.

²⁸⁰ Bruch, 11.

²⁸¹ Janie Chuang, "Redirecting the Debate of Trafficking in Women: Definitions, Paradigms, and Contexts," *Harvard Human Rights Journal* 11(1998): 98-102.

draws attention to the fact that migrant workers are also entitled to these basic rights, even when they are not citizens and are of illegal status. Moreover, it would require the changing of labor laws in the United States that currently allow certain migrant workers to be treated differently than American workers.

Unfortunately, the Migrant Worker Convention has not received enough signatures to come into force.²⁸² As a result, it remains unutilized and largely unrecognized internationally as an important component of international anti-human trafficking policies and legislation. In tandem with the United Nations Protocol on human trafficking, the Migrant Worker Convention could be the basis for a far broader and more comprehensive approach to the human trafficking on the global scale. By refusing to participate in the treaty, the United States continues to deny the connections between immigrant exploitation of all kinds and human trafficking.

This tendency to avoid a larger contextualization of human trafficking is also reflected in the domestic policies of the Bush Administration. As in the late nineteenth and early twentieth centuries, the American government today has been generally unwilling to interfere with the operation of businesses that profit from the exploitation of migrant workers. For example, despite a number of widely publicized cases of human trafficking in the special 'manufacturing zones' on American territories, such as the one on American Samoa in which Nguyen Thi Le lived and worked, the government has taken no steps to better regulate these enterprises. This is highly problematic, for there are

²⁸² The treaty currently has 19 of the 20 signatures and ratifications needed to bring it into force. By signing and ratifying the treaty, the United States would be directly responsible for bringing the Convention into force.

many structural aspects of these zones that contribute to their use as a means to exploit migrant workers.

For example, though American Samoa is generally subject to federal laws, including labor and civil rights laws, there are many exceptions to the rules that allow employers to skirt American labor standards. Though manufacturers may both avoid tariffs and use the “Made in USA” label on clothing produced in Samoa, the minimum wage for manufacturing is only \$2.63, far below that on the American mainland. Beyond cheaper wages, the conditions of labor for migrant workers on American Samoa and other U.S. territories are much different than those in ‘normal’ factories on the American mainland.²⁸³ Relatively far away, factory inspections and monitoring are relatively lax in the territories’ manufacturing zones. With law enforcement mostly left in the hands of local authorities who directly benefit from the factories on their island, labor and civil rights thus go often ignored.

Unlike many small nations that have special ‘free trade zones,’ the manufacturing zones on most American territories do not primarily employ locals, but rather thousands of foreign workers, brought to the island for that specific purpose. By the rules of their contracts (which allow them to work temporarily on U.S. soil), those who work in these factories are not only denied total freedom of movement and residency, but are required

²⁸³ In 2005 the U.S. Department of Labor raised the minimum on American Samoa to just over \$3/ hour. However, the rates of increase varied depending on the type of work, with the bulk of increases going to those working for the government, shipping and tourism sectors. Those in manufacturing had almost no increase in wages, with the minimum still at \$2.63 per hour. As far as I can tell, the raise in wages was in no way related to the prosecution of human trafficking cases there, but principally concerned with industries in which mostly native Samoans work (as opposed to immigrants from Asia). For more on this discussion see “Faleomavaega Supports Minimum Wage Increase in American Samoa,” *US Fed News*, 22 June 2005. In Lexis Nexis [Database online], accessed 10 January 2006.

to live in company supplied housing within the manufacturing compound, providing their employers an immense degree of control over their lives. Because they come to the territory under contract with a specific company, it is very difficult for workers to change employers once there. Beyond this, many factories have been known to force their employees to file “shadow contracts” which restrict their freedoms of speech, religion, reproduction and many other rights Americans take for granted.

Migrants who come to American territories to work are recruited aggressively by firms in their home countries in a manner very similar to the system of contract labor outlawed by the Contract Labor Act in 1885.²⁸⁴ Preying on individuals in poor countries who are often desperate for work and whose families depend on them for survival, these contracting firms mislead potential workers about the location of the factories and the conditions of work there. Moreover, because they both charge exorbitant ‘recruitment’ fees for the job itself as well as for transportation to the island, most workers find it necessary to take out large loans against their future earnings. As a result, even when they arrive and discover they have been misled, many workers end up compelled to stay and accept bad conditions and wages because they cannot afford to go home.²⁸⁵

²⁸⁴ The Contract Labor Act was annulled in part by a series of agreements with the Mexican government in 1910. Though it was re-affirmed by the Immigration Act of 1917, it has not been re-affirmed in subsequent acts, and for all practical purposes is not longer in effect. For a listing of relevant immigration laws over time, see the Appendix on page 178. For more on the Contract Labor Act and the creation of special agreements that contradicted it, see Gunther Peck, *Reinventing Free Labor*. (Cambridge: Cambridge University Press, 2000), 103-106. Since 1917, there has been no law passed that specifically bans the recruitment of foreign workers abroad to labor in the United States or its territories.

²⁸⁵ All of these abuses, while highlighted in the Daewoosa factory case, have been noted by several human rights organizations which have made detailed studies of conditions on American Territories, including: The National Labor Committee, Global Exchange, and Sweatshop Watch. Together, several of these groups filed a class action lawsuit in January 1999 against nineteen different U.S. companies for their complicity in these kinds of abuses throughout another American Territory, Saipan. An online version of the complaint

Though Nguyen and the other workers at the Daewoosa factory were eventually able to gain recourse from the American government and press extensive charges against their employers under new anti-trafficking laws, little has changed with respect to the way that such manufacturing zones operate on Samoa and other American territories since 2001. For though some high-profile American clothing companies have promised to stop contracting with factories in American territories that violate labor laws, the essential set-up of foreign contracted workers brought to the island to work remains the same. The basic structure of special manufacturing zones filled with foreign workers, a set-up that quite arguably facilitates the practices of human trafficking and worker abuse to an enormous degree, remains fully intact.²⁸⁶

Likewise, despite the claims of the manufacturers that the increase of public scrutiny has changed practices, many human rights and labor organizations that continue to work on the ground at these sites disagree. This has been particularly true in the case of Saipan where the manufacturing sector is many times larger than Samoa's, and whose

can be read at the National Labor Committee's homepage, at <http://www.nlcnet.org/campaigns/archive/saipan/complaint.shtml> (Last accessed 5 December 2005). In 2003, this suit was settled out of court, with the plaintiff companies paying out nineteen million dollars in damages and promising to cancel contracts with factories with known violations of worker's rights. However, little of this money has been distributed and many report that abuses continue throughout American territories. For more, see "Infamous 'Made in USA' sweatshop island Saipan facing gloomy future," *Associated Foreign Press*, 27 May 2004. In Lexis Nexis [Database online], accessed 10 January 2006; "Saipan sweatshops no barrier to work-hungry," *South China Morning Post*, 15 January 2005. Business Post Section, 4. In Lexis Nexis [Database online], accessed 12 January 2006.; and Maxine Frith, "The Ethical Revolution Sweeping Through the World's Sweatshops," *The Independent (UK)*, 16 April 2005. In Lexis Nexis [Database online], accessed 5 January 2006.

²⁸⁶ As a part of its 2003 court settlement, the Gap alone has promised to withdraw contracts from over 136 factories with documented abuses. See Frith, "The Ethical Revolution Sweeping Through the World's Sweatshops," also Rebecca Clarren, "Paradise Lost," *Ms. (Magazine)* 16 no. 2 (Spring 2006): 35-41.

factories have been notoriously publicized for their rampant abuses of foreign workers.²⁸⁷ In this way, the justice the Daewoosa workers have received is rather ironic. For while the Bush administration has talked extensively about the Daewoosa factory and role of new anti-trafficking legislation in ‘freeing’ the women who worked there, hundreds of other similar factories continue to function on American territories, with no measurable increase in government oversight, nor changes in the laws regarding labor practices there. Because of this, it is likely that in the future, we will only see more headlines as other abused workers eventually catch the media’s attention.²⁸⁸

Since the late 19th century, the American governmental response to human trafficking has been integrally tied to public opinions on immigration. Often, immigration law has been the primary means by which the state has attempted to control human trafficking. Though the present government has not attempted to create a comprehensive immigration policy targeted at stemming the flow of human trafficking, the way immigration laws are created and enforced continues to have major implications for efforts to take on the problem.

A great deal of publicity in recent years has focused on the connections between human trafficking and illegal immigration. Those who want to restrict immigration, especially from poor countries such as Mexico often point out the correlation between

²⁸⁷ See “Infamous ‘Made in USA’ Sweatshop,” *Associated Foreign Press*, 27 May 2004. In Lexis Nexis [Database online], accessed 10 January 2006; and Clarren, “Paradise Lost” and “Sweatshops on U.S. Territories.”

²⁸⁸ See Suzanne Miers. *Slavery in the Twentieth Century*. (Walnut Creek, CA: Altamira Press, 2003).

illegal status and human trafficking.²⁸⁹ While immigrants of illegal status are in many ways more susceptible to trafficking (as well as a host of other abuses), a significant number of those victimized by human traffickers enter the United States legally. As a result, cracking down on immigrants of illegal status would not necessarily prevent the trafficking of humans across our borders. For example, as we discussed in the first chapter, many of those who are trafficked into the field of domestic labor legally enter the United States on B-1, B-2, A-3 and G-5 Visas under the guise of tourists, students, or legally employed individuals with American companies.²⁹⁰ For immigration officials who are already heavily burdened and notoriously understaffed, determining who is legitimate and who is not is often an impossible task. Moreover, for these officials to take the time to check up on each individual who enters the country on one of these Visas to ensure that they are doing well and following all the terms of their Visa is virtually unheard of.²⁹¹ For the most part, immigration infractions are caught when individuals attempt to leave or re-enter the country, a condition that is not likely to happen if an individual is being held prisoner in a home or business within American borders. Thus even if the Immigration and Naturalization Service was given a significant increase in its budget, the spending of these resources on a nationwide round-up of illegal immigrants and

²⁸⁹ One of the most vocal proponents of stiff immigration reform in recent months has been Representative James Sensenbrenner (R-Wisconsin), who has sponsored HR 4437, which calls for the deportation of all illegal immigrants, a stiffening of border control, and tougher penalties for those who aid and abet illegal immigration. In a March 29, 2006 interview on FOX news, Sensenbrenner argued such a tough law was especially needed to fight human trafficking. See "Immigration Debate Becoming Vitriolic," *Hannity & Colmes*. FOX News, 29 March 2006. In Newspaper Source [database online], EBSCO Host; accessed 28 April 2006.

²⁹⁰ O'Neil Richard, 7-9, 27-28.

²⁹¹ Wayne Cornelius, "Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy," *Population and Development Review* 27 no. 4 (December 2001): 677-681.

smugglers would likely only cause traffickers to become more creative in the ways they 'legally' import their victims.

To date, however, the United States government has not attempted to re-shape the nation's immigration's policies in order to address human trafficking. However, since the passage of the Trafficking Victims Protection Act in 2001, victims of human trafficking can now qualify for refugee status. Under this program, victims can apply for a special Visa that will allow them to stay in the country for at least the duration of the prosecution of their traffickers, with the possibility of earning permanent residency.²⁹² However, victims' advocates have already begun articulating complaints that the program is geared more towards aiding prosecutors than actual victims. This critique is not unfounded. For one, the possibility of earning this residency is conditional, permitting victims to remain in the U.S. only "if it is determined that the victim is a potential witness to [other] such traffickings."²⁹³ Moreover, the T-Visa program is also subject to other limitations. Only 5,000 T-Visas are available each year, regardless of how many individuals qualify for them.²⁹⁴ In addition, these special visas are only available to those subjected to "severe forms of trafficking," who cooperate with law enforcement, not to all victims.²⁹⁵ Exactly what this means in practice is still unclear, and seems to be left open to local law

²⁹² Haynes, 241.

²⁹³ United States Trafficking Victims Protection Act (hereafter TVPA) (2001) § 107(c)(3). Explanation of the law can be found in Assessment of Activities (2005), 5-18.

²⁹⁴ TVPA § 107(e)(2)

²⁹⁵ TVPA § 107(c)(3). "Severe" is defined as "trafficking involving force, fraud, or coercion or any trafficking involving a minor." TVPA § 103 8 (A). For a detailed description on how the Trafficking Victims Protection Act provides aid, including legalized immigration status, to victims of human trafficking see Wade Horn, "U.S. Human Service Agencies Respond to Human Trafficking," *Global Issues* 8 no. 2 (June 2003): 10-13.

enforcement and the Immigration and Naturalization Service in each particular region to determine. Though it has only been five years since the Trafficking Victims Protection Act authorized these new rules in 2001, many are already complaining that it is much too difficult for victims to acquire these visas, and that most migrant workers who are victims of human trafficking continue to be promptly deported.²⁹⁶ Moreover, because many trafficking victims are too afraid to testify against their traffickers, they are disqualified.²⁹⁷ This point is emphasized by the fact that less than half of all T-Visas requested are granted.²⁹⁸ Finally, because these visas are dependant upon the beginning of legal proceedings, victims who qualify for and are granted T-visa are sometimes forced to wait for years before they are able to receive much needed benefits.²⁹⁹

While the federal government has not made significant changes to its immigration laws to help fight human trafficking, it has attempted over the last decade to slowly ‘crack down’ on illegal immigration and increase state control over immigrants. In 1986, the Immigration Reform and Control Act (also known as the Simpson Rodino Act) was passed with the aim of better controlling and managing migration to the United States, particularly from Mexico.³⁰⁰ Though best known for granting amnesty to millions of

²⁹⁶ Haynes, 241.

²⁹⁷ *Hidden Slaves*, 31.

²⁹⁸ In 2003, of 601 requests made for T-visas, 297 were granted. See *Assessment of Activities*, (Washington D.C.: U.S. Dept. of Justice, August 2003), 1. Available at <http://www.usdoj.gov>; Internet; Accessed 5 April 2006. Unfortunately there are no figures available for the numbers of T-visas requested or granted in 2004 and 2005. However from the data available, it appears that while only a small number of requests are denied outright, a very large number of requests end up “pending” for years, in many cases effectively denying victims T-visa protection. Moreover, victims’ advocates report that some trafficking victims are unable to put forward a request in the first place because local or federal officials will not ‘endorse’ one. See *Hidden Slaves*, 28-31, 47-48.

²⁹⁹ *Hidden Slaves*, 28.

³⁰⁰ Immigration Control and Reform Act of 1986 (100 Stat. §3359)

undocumented workers already present in the United States, it also criminalized the employment of illegal immigrants, effectively creating vast inequalities between immigrants with papers and those without. Since its passage, a number of studies have shown that the 1986 law has significantly increased discrimination against Hispanic workers, and further pushed undocumented immigrants into jobs with low wages and a high propensity for abuse.³⁰¹

Immigration reform has continued to be a hot topic in American politics ever since. In 1994, the Clinton Administration attempted to decrease illegal entry by building a massive wall between Tijuana and San Diego. Since then, a series of successive walls have been built at points all along the border with the aim of making it harder for illegals to ‘sneak’ into the United States. Then, in 1996 the Illegal Immigration Reform and Immigrant Responsibility Act was passed, aimed at closing loopholes that made it possible for some individuals to remain legally within the United States, better facilitating the deportation of illegals and increasing border security.³⁰² Finally, following the attacks on September 11th 2001, the Bush Administration has followed this trend with the Enhanced Border Security and Visa Entry Reform Act,³⁰³ which increases the number of border patrol agents and places additional restrictions on individuals residing in the United States on special Visas.³⁰⁴ More recently, in the last few months, conservatives in

³⁰¹ Doreen Mattingly, “Making Maids: United States Immigration Policy and Immigrant Domestic Workers,” in Momsen ed., *Gender, Migration and Domestic Service*. (London: Routledge, 1999), 62-63.

³⁰² Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); See Georges Vernez. *Immigrant Women in the U.S. Workforce: Who Struggles? Who Succeeds?* (Lanham, MD: Lexington Books, 1999), 15-16; and Cornelius, 661-664.

³⁰³ Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173).

³⁰⁴ Rubén Martínez. *The New Americans*. (New York: The New Press, 2004), 19-23.

the Congress have been calling loudly for even stiffer restrictions. In December 2005, the House of Representatives passed HR 4437, which would target all illegal aliens for deportation, regardless of their reason for being here, increase border security, and implement harsher penalties for those who aid and abet illegal immigration.³⁰⁵ Other proposals by the Senate call for more moderate reforms, such as the creation of a “Guest Worker Program” to accommodate migrant workers.³⁰⁶ Though the fate of HR 4437 has yet to be decided, it is likely that by 2007 Congress will have made substantial change of some kind to its current immigration policies. Whatever the government decides to do, it will have enormous implications for how human trafficking is practiced and punished within the United States.

Thus even though it has declared the issues of migrant smuggling and human trafficking to be distinct problems, the Bush Administration has sought to frame human trafficking as an issue of border security: “these related problems result in massive human tragedy and affect our national security, primarily with respect to crime, health and welfare, and border control.”³⁰⁷ However, as the United States federal government once again looks at overhauling its immigration policies, lawmakers should avoid the temptation of using the specter of human trafficking to justify the creation of even more restrictive immigration laws or a ‘cracking down’ on illegals. Despite the claims of some

³⁰⁵ See H.R. 4437 Border Protection, Anti-Terrorism and Illegal Immigration Control Act of 2005, in United States Library of Congress THOMAS [database online]; available at <http://thomas.loc.gov>; Internet; accessed 28 April 2006.

³⁰⁶ See Jim Rutenberg and Rachel Swarns, “Senate Leaders Work to Resuscitate Immigration Bill,” *New York Times*, 26 April 2006.

³⁰⁷ “Fact Sheet: Migrant Smuggling and Trafficking in Persons,” (Washington D.C.: White House Office of the Press Secretary, December 2000); available at http://www.usembassy.it/file2000_12/alia/a0121523.htm; Internet; accessed 28 April 2006.

politicians who support the tightening of American borders, several studies now indicate that tougher border enforcement does not improve wages or work conditions for migrant workers.³⁰⁸ To the contrary, because such an approach does nothing to address the underlying reasons why individuals continue to come to the United States, it is only likely to make problems such as human trafficking worse. For when it is very difficult to gain legal status, migrants are only increasingly forced to turn to more dangerous forms of illegal immigration.³⁰⁹ In the process, they become vulnerable to traffickers who offer to ‘help’ them enter a country, especially when a job is promised on the ‘other side.’³¹⁰

Persons willing to migrate and work abroad in order to look for a better life, but who have no legal possibility to do so, tend to rely on persons who provide them with false documents, arrange the journey and find them employment. As restrictive immigration policies do not allow for enough legal immigration to fill the jobs that exist, migrants are forced to use illegal means to get to those available jobs. Once they arrive, migrants might find themselves forced to work and live under slavery-like conditions.³¹¹

This is already a particular problem with the United States, because it is so expensive and difficult to for migrants to legally migrate here independently.

These problems are exacerbated by the fact that in many places abroad potential migrants lack knowledge about the laws and conditions for work in the United States. As one domestic worker whose employers held her captive notes: “We come with illusions that they will pay a lot here. They offer us many things. They bring us here deceived...

³⁰⁸ Cornelius, 677.

³⁰⁹ Cornelius, 666-676.

³¹⁰ Bridget Anderson and Julia O’Connell Davidson. *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*. (Geneva: International Organization for Migration, December 2003), 8.

³¹¹ Angelika Kartusch. *Reference Guide for Anti-Trafficking Legislative Review*. (Warsaw: Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, 2001) 36-37. Available at <http://www.osce.org>; Internet; accessed 28 April 2006.

They bring women who don't know anything about American laws."³¹²

Without addressing the reasons why there are so many persons worldwide who are desperate to find a way to come to the United States, simply returning victims to their countries of origin will have no measurable effect on human trafficking. Instead, just as the Immigration and Naturalization Service sends back those whom it catches, they will only be replaced by a new wave of victims.³¹³ Instead, the state must find a way to make it easier for individuals to enter the United States legally, while simultaneously working to better educate potential immigrants about both their rights and the risks of migration.³¹⁴

In either case, lawmakers should be wary of placing too much emphasis on the illegal immigration and migrant smuggling aspects of human trafficking. For, if lawmakers place too much emphasis on these aspects at the expense of improving conditions for migrant workers once they arrive in the United States, they risk undermining their whole project. As Leslie Jeffrey points out in her critique *US Anti-Trafficking Policy and Neo-Imperial Masculinity*, the predominant issue for victims of human trafficking is not simply the way they have been coerced, but their condition as workers:

Careful analysis of [those] deemed to have been 'trafficked' shows that the pre-eminent issue for them is the conditions of work upon arrival rather than the fact of migration. [They] may face forced indebtedness, indentured labour, the loss of

³¹² Interview with Liliana Martinez, a Peruvian domestic worker brought to the U.S. by a diplomat. Quoted in Carol Pier. *Hidden in the Home: Abuse of Domestic Workers with Special Visas in the United States*. (New York: Human Rights Watch, June 2001), 4.

³¹³ Nicole Lindstrom, "Regional Sex-Trafficking Networks and International Intervention in the Balkans," (Montreal: 45th Annual International Studies Association Convention, March 17-21, 2004), 4-6. In Lexis Nexis [database online], accessed 20 January 2005.

³¹⁴ Michelle Anne Clark, "Trafficking in Persons: An Issue of Human Security," *Journal of Human Development* 4 no. 2 (July 2003): 255-260.

their passports, mobility restrictions, unregulated hours, and dirty and/or overcrowded working conditions. Some are lied to about [their] legal status...and the amount of money that will be made.³¹⁵

Just as it was in the American past, when lawmakers attempted to control contract labor and Padronism, any effort to stop human trafficking that fails to make an effort to improve the overall conditions for migrant workers already in the United States simply cannot be effective.

Another important factor in how human trafficking tends to be perceived and dealt with by the government is the way that race, gender and nation are implicated in public discourses on the issue. During the late nineteenth and early twentieth centuries, the American response to human trafficking tended to be racist, sexist and often anti-immigrant. While young victims of White Slavery were met with widespread public concern, male immigrant laborers were seen with far less sympathy. As a result, laws passed to address human trafficking tended to treat young white women as inherently helpless victims in need of the state's protection, but blamed and punished immigrant workers for their own exploitation. Though present day policies have not been quite as extreme as those a century ago, many of the same perceptions color the way human trafficking is perceived today.

As was the case with the White Slave Scare in the nineteenth and early twentieth centuries, the most sensational aspects of human trafficking have tended to garner the most public attention today. The Bush Administration has attempted to capitalize on this fact, using prominent stories of sexual slavery to draw attention to the tragedy of human

³¹⁵ Jeffrey, 5.

trafficking and the heroism of American efforts to combat the trade. Consequently, many of the same assumptions that led the discourse on White Slavery are still employed today in discussions about human trafficking.

In a way strikingly similar to the early twentieth century discourse on White Slavery, narratives of human trafficking today tend to emphasize naïve victims and violent coercion. Note the following story, and its similarity to that of Eliza,³¹⁶ in the last chapter:

Lenny (18), Wida (16) and Dewi (20) were three young girls who were prostituted after being recruited in a shopping mall in Medan, North Sumatra, where they met three good-looking, charming and generous young men who offered them job opportunities elsewhere. They three young women did not suspect anything wrong when they were invited to have dinner in a café and were offered promising jobs as bar tenders in a discotheque in Dumai...[but] when they arrived they were repeatedly beaten... made to sign contracts... and were locked in ‘barracks.’³¹⁷

In his popular book *Disposable People*, one of the few contemporary works on forced labor and human trafficking in the world today, author Kevin Bales relies on this same well-worn method for soliciting sympathy. In his introduction, he tells the harrowing story of Seba, a house-slave in Paris, who had come from Mali to France to work and get an education, but who ended up being held in bondage and tortured by her employers. While her story itself is terrible enough, he goes on to emphasize her lack of agency: “Though she was twenty-two and intelligent, her understanding of the world was less developed than the average five-year-old’s...She is baffled by the idea of ‘choice.’ Her

³¹⁶ The story of Eliza emphasizes horrible tragedy of vulnerable women drawn into the lurid world of prostitution by the dark wiles of foreign men and wicked women. See pages 35 of the second chapter of this work.

³¹⁷ Elizabeth Bruch, “Models Wanted: The Search for an Effective Response to Human Trafficking,” *Stanford Journal of International Law* 40 (Winter 2004): 13.

volunteer family tries to help her make choices but she still can't grasp it."³¹⁸

Though narratives of human trafficking have not reached the degree of popularity today that White Slave narratives did a century ago, a significant amount of media attention has been focused in recent years on human trafficking within the United States, from stories and op-ed columns in national newspapers, to television movies and specials.³¹⁹ Though some, mostly local, stories have covered major busts of trafficking rings in the manufacturing and agricultural fields, most media accounts of human trafficking emphasize the sexual exploitation of poor women and children.³²⁰ In a tone strikingly similar to that of White Slave narratives in the early twentieth century, many of these stories simplistically emphasize that human trafficking is an evil exploitation of the innocent and helpless. Though most victims of human trafficking are migrant workers

³¹⁸ Kevin Bales. *Disposable People*. (Berkeley: University of Berkeley Press, 1999), 3.

³¹⁹ For examples of newspaper and magazine articles see Anderson, Troy, "Trafficking, Smuggling Up in Region; Moving of Humans Lucrative," *Los Angeles Daily News*, 19 June 2004. N3; Nicholas D. Kristof, "In Disgrace, Facing Death" *New York Times*, 28 March 2006, A17; And "Slavery in Our Time," *New York Times*, 22 January 2006, Section 4, 17; Peter Landesman, "The Girls Next Door," *New York Times Magazine*, 25 January 2004; V. Pope, "Trafficking in Women: Procuring Russians for Sex Abroad—Even in America," *U.S. News and World Reports*, 17 (April 1997): 38-44; Aixa M. Pascal, "Human Trafficking Plagues U.S. Cities," *Atlanta Journal-Constitution*, 15 September 2004. F1; and Dave Montgomery, "Dreams of a Better Life End in a Nightmare of Sexual Slavery," *Chicago Tribune*, 3 January 2001, Women's News, 8. Lifetime Television has aired on several occasions and now released on DVD a very popular film: *Human Trafficking*. Directed by Christian Duguay. 240 minutes. Lifetime TV. 2005. Another very similar film *Lilja 4-ever*. Directed by Lukas Moodysson. 109 minutes. (Russian) 2003. has won numerous awards throughout the United States and Europe. Many other television specials and reports have been aired; For one typical example, see "Sex Trafficking in America." *Primetime Live* (ABC News), program aired 9 February 2006. Story transcribed at <http://abcnews.go.com/Primetime>; Internet; accessed 23 April 2006. In addition to these, there have also been several books published recently that give sensational and dramatic accounts of human trafficking in the United States and around the world. One prominent example is *Natashas: The New Global Sex Trade* by Victor Malarek, (New York: Arcade Publishing, 2004).

³²⁰ Debbie Nathan, "Oversexed," *The Nation* (August 29, 2005), 27-30 There has been significant media coverage of both the Daewoosa bust, and that of a trafficking ring in Florida that imprisoned and forced a group of men to work on a farm picking tomatoes. See Steven Greenhouse, "Beatings and Other Abuses Cited at Samoan Apparel Plant That Supplied U.S. Retailers" *The New York Times*, 6 February 2001; and Janine Zeitlin, "Slavery: Collier County's Connection" *Naples Daily News*, 29 January 2006. Available at <http://naplesnews.com/news>; Internet; accessed 24 April 2006.

from countries around the world, the media often obscures the economic and racial components of problem by portraying young, white, middle class women as the dominant victims.³²¹ Like the White Slave narratives of the past, these stories claim that it is evil procurers who travel the United States snatching up innocent, ‘good’ girls that propels human trafficking. As one television special on ABC’s *Primetime Live* proclaimed: “Many victims are no longer just runaways, or kids who’ve been abandoned. Many of them are from what would be considered “good” families, who are lured or coerced by clever predators.”³²²

One strong example of this tendency can be seen in the four-hour feature film *Human Trafficking*, produced in 2005 by the Lifetime Television cable network.³²³ Since it was first shown last fall, *Human Trafficking* has resulted in a significant public response.³²⁴ Due to popular demand, it has now been rebroadcast several times and released on DVD. Viewers of all kinds have reported being shocked and even driven to fear by the film’s suggestion that all women at all times are potential victims of human traffickers. Some have even taken human trafficking up as a cause as a result of the film.³²⁵ In spite of this apparent positive impact, critical analysis of the film reveals it to be full of distortions and inaccuracies that in many ways present viewers with an image

³²¹ *Hidden Slaves*, 9.

³²² “Sex Trafficking in America.”

³²³ *Human Trafficking*. Directed by Christian Duguay. 240 minutes. Lifetime Television. 2005.

³²⁴ One interesting indicator of this point, is that immediately after the film aired on cable in October 2005, the number of “Google” searches for “human trafficking” more than quadrupled, and has remained significantly higher ever since. See <http://www.google.com/trends> and search “human trafficking” to see the chart.

³²⁵ Since the creation of the film, the Lifetime Television network has maintained a website the on the film, which includes ‘real life’ stories and interviews about human trafficking, as well as an active message board on which viewers can post their thoughts about the film and human trafficking in general. See <http://www.lifetimetv.com/movies/originals/humantrafficking.html>; Internet, accessed 16 May 2006.

of human trafficking that is not necessarily correct.³²⁶

Guided by a clear mandate to inform the public and generate an outcry over the existence of human trafficking in the United States today, the film gives a fictional but presumed realistic account of an international sex trafficking ring that preys on young women and the federal authorities who try to rescue them. Though the title of the film suggests a representation of human trafficking on the whole, the makers of *Human Trafficking* address only particular aspects of the crime in a highly dramatized fashion that is highly reminiscent of the late-twentieth-century White Slavery narratives.

The story that *Human Trafficking* tells is a simple one, clearly aimed at raising the sympathies of the white, middle class women who are presumed to be its primary viewers.³²⁷ In both the set-up and resolution of the film's plot, the issue of human trafficking is presented as a simple and morally unambiguous contest between good and evil, with the foreigner who traffic the women in the film portrayed according to White

³²⁶ For an excellent point by point critique of the film's portrayal of women as victims of human trafficking see the open letter sent by members of the National Asian Pacific American Women's Forum. For example, the letter states: "The miniseries falls short of providing a comprehensive and accurate picture of global human trafficking, and, in some instances, misleads the American public by: (1) ignoring the fact that the largest number of victims trafficked into the U.S. are from Asia; (2) disregarding the work of Asian women-led NGOs; and (3) sensationalizing sex trafficking over other forms of human trafficking... Focusing solely on sexual exploitation sensationalizes human trafficking and minimizes the impact of labor trafficking on the most disadvantaged members of our society. In our opinion, the miniseries does a disservice to the advocacy efforts of many organizations around the country lead by courageous women of color and to the lives of Asian women/women of color who are caught in the unfortunate web of human trafficking." For more see National Asian Pacific American Women's Forum, "Letter to Ki Mae Heussner Manager, Public Affairs Lifetime Television 22 November 2005," Available online at <http://www.napawf.org>; Internet, accessed 18 May 2006.

³²⁷ The Lifetime Television network is part of Lifetime Entertainment Services, a company whose holdings include several cable television channels, a radio program and a book imprint called Lifetime Press. In each of its media outlets, Lifetime focuses on material presumed to be appealing to a white, middle class, female demographic. In addition to the production of "original programming" of interest to its viewers, the company proclaims itself to be dedicated to engaging in public advocacy on "a wide range of issues that affect women and their families." According to the network's website, it is now the number one 'women's television' network on basic cable, with a weekly viewer ship of more than 88 million households. See <http://www.lifetimetv.com/about/index.html>; Internet, accessed 18 May 2006.

Slavery stereotypes. Though it is emphasized at one point that they are not connected to 'the mob', their portrayal implies a highly organized and transnational criminal organization. Like the typical thugs of Hollywood action flicks, their characters are extremely one-dimensional, apparently driven only by greed and egoism. In contrast, the single woman trafficker shown in the film is portrayed as both highly sexualized and utterly lacking in empathy—the antithesis of what a 'good' woman should be. In the case of all of the traffickers in the film, their accents, dress and attitudes are constantly used to distinguish them from and contrast them to the Americans in the film. Though such a portrayal of foreigners is somewhat tempered by the innocence of the victims themselves, and the fact that one of the main Immigrations and Customs Enforcement officers trying to help the women was born in Russia, the film leaves one with the overall impression that Eastern Europe is irrevocably corrupt, and that through human trafficking, this corruption is now invading to the United States.

Just as the traffickers in the film are represented as uniformly evil, the American state is portrayed as intrinsically benevolent, and the federal law enforcement officers who take on the case inherently just, highly effective and effortlessly international in their reach. This type of simplification is reinforced at the end of the film, when one of the main characters announces that human trafficking is the result of 'changing global dynamics,' but then proclaims in the same vein that it only exists because we 'choose to ignore it.' The larger contexts of migration and migrant worker abuse are entirely absent from the dialogue.

By showing only women, most of whom are white as the sole victims of human

trafficking, the film reinforces many of the same racist and sexist assumptions implicit in the concept of White Slavery. With the exception of a young Filipina girl sold into slavery by her father, all of the women victimized in the film are white. One is an American girl kidnapped while on vacation with her family in Manila, and the rest are light-skinned Eastern Europeans who fall prey to modeling and international dating service scams. Except for one woman in her late twenties, they are all young girls from twelve to sixteen years old. Throughout their ordeals, they are portrayed as innocent, naïve and powerless. Only vague allusions are made to the economic contexts of their exploitation, and likewise no mention is made of the impact of immigration laws on their situations. For example, the girls victimized by the modeling scam are portrayed as foolish and seeking of adventure. Similarly, there is no explanation of why the Filipina girl's family is forced to sell her to traffickers. Instead, the primary means by which the girls are shown coerced is by violence, implicit and threatened.

Even more nuanced and careful analyses of human trafficking tend to focus almost exclusively on sex trafficking within certain stereotypical paradigms. For example, in one PBS *Frontline* documentary on sex trafficking the producers focus entirely on the experiences of white Eastern European women who were kidnapped and sold into sexual slavery.³²⁸ Though there is some attempt to contextualize the issue by featuring interviews with 'experts' on global trafficking trends, and adding a small discussion of the economic hardship that drives trafficking at the end of the film, the documentary ultimately perpetuates a number of problematic assumptions. For example,

³²⁸ "Sex Slaves," *Frontline* (PBS). Program aired 23 May 2006 (On OPB in Portland, Oregon). Transcripts and DVDs available at <http://www.pbs.org>.

throughout the film, the narrator suggests repeatedly that it is police corruption and a weak judicial system that allows human trafficking to flourish. To support this point, many examples are given of these problems within one destination country, Turkey. However, when at the end of the film an interviewee notes that the vast majority of trafficking victims end up in the United States and Western Europe, no discussion follows on how and why this seems to contradict the fundamental premise of the preceding first forty-five minutes. Likewise even though a brief reference is made to the fact human trafficking exists around the world, the documentary implies that only white young women from Eastern Europe are victims of sex trafficking because no mention is made at all of how women are also victimized in Asia, Africa, South America and North America. Though the *Frontline* documentary does not present the issue of human trafficking in as dualistic a fashion as the Lifetime film *Human Trafficking*, it does maintain the sense that trafficking is a manifestation of evil that can be simply eradicated with proper law enforcement.

The Bush Administration and Congressional leadership have reinforced such portrayals through their choices of language and their policies, both of which tend to over-emphasize sex trafficking at the expense of other types. For example, President Bush has made a significant number of speeches in the last few years, which affirm media stereotypes. As he remarked at a conference of non-governmental organizations in July 2004: “The lives of tens of thousands of innocent women and children depend on your compassion, they depend upon your determination, and they depend upon your daily efforts to rescue them from misery and servitude... You are in a fight against evil, and the

American people are grateful for your dedication and service.”³²⁹ Likewise, as the President stated at a 2004 national conference titled *Human Trafficking into the United States: Rescuing Women and Children from Slavery*: “America will not tolerate slave traders who bring women and children into our country for abuse.”³³⁰

Contributing to this view is the fact that official stance of both the Bush Administration and Republican leaders in Congress (along with a wide array of non-governmental supporters) conflates prostitution in general with all forms human trafficking.³³¹ Supporters of this position argue that prostitution represents the worst form of human trafficking and thus must take a central part in all anti-trafficking efforts.³³² However such a stance may act as a barrier to the creation of a broad and effective anti-trafficking policy. For one, within the United States this has led to an emphasis on trafficking cases that include prostitution at the expense of other types. In a review of

³²⁹ “President George W. Bush Delivers Keynote Address at First National Human Trafficking Conference,” *Anti-Trafficking News Bulletin* (U.S. Department of Justice), 1 no. 7: 1.

³³⁰ *Assessment of Activities* (2005), 3.

³³¹ *Report on Activities*, 6; Haynes, 229-235; and Nathan, 28-29. Because the most widely accepted definitions for human trafficking do not specify whether all or only some instances of prostitution constitute human trafficking, it has been left up to individual nations to decide how sex work should be incorporated into anti-trafficking laws and policies. See Ann D. Jordan, “Human Rights or Wrongs? The Struggle for a Rights- Based Response to Trafficking in Human Beings,” *Gender and Development* 10 no. 1 (2002): 31-32. The Bush Administration has taken the stance that all prostitution is a form of human trafficking, and has attempted to encode this stance in new federal laws, including the “End Demand for Sex Trafficking Act” in 2005. For more discussion on this, see pages 161-162 of this chapter. I contend that prostitution in general should not be uncritically conflated with human trafficking, but should be judged on an individual basis, determined by the degree of exploitation and coercion involved, and the informed consent of the “victim” in question.

³³² Lederer, 3-5; Also see Chuang, 95-96. Many anti-trafficking activists argue that an end to human trafficking means the end of the sex trade, insisting that prostitution is never a legitimate form of work, and that all prostitutes are exploited by their pimps. However others argue that prostitution should be understood as only one part of human trafficking, and not define the government’s overall trafficking policy. A very interesting result of this debate has been the creation of an unlikely political alliance between rightist Christians and certain radical feminist groups for the cause of defining all prostitution as human trafficking, and working overall to end the practice of prostitution in any form. For more on this debate see Kamala Kempadoo and Jo Doezema eds. *Global Sex Workers: Rights, Resistance, and Redefinition*. (New York: Routledge, 1998), 52-64.

trafficking cases during the 1990s, one researcher has reported that trafficking operations where victims worked in the sex industry were much more likely to receive attention from authorities. For while trafficking operations involving prostitution went on for an average of two years before discovery, those in which other forms of labor were involved lasted an average of four to six years before police became involved.³³³ These numbers suggest that in the United States, law enforcement are more likely to investigate and prosecute human trafficking cases that involve sexual exploitation than other forms of forced labor, even at least one third and as many as one half of all trafficking victims are forced to work into the manufacturing, agricultural and service industries.³³⁴

Another consequence of focusing on prostitution and ignoring other forms of human trafficking is that it reinforces the use of a gendered framework in the construction of policies, and with it the assumption that trafficking is a problem particular to women and children.³³⁵ Because human trafficking frequently occurs in sectors of the workforce traditionally seen as ‘feminine,’ such as service work and garment production, the tendency for such a gendering is already present. By further associating human trafficking with the commodification of women’s bodies, the conflation of prostitution with all forms of trafficking contributes even more to the view that women are objects instead of agents, and supports the application of sexist stereotypes that are restrictive of

³³³ O’Neil Richard, 3.

³³⁴ *A Global Alliance Against Forced Labor*. (Geneva: 93rd International Labour Conference (International Labour Organization), 2005), 12-15. In a study specific to the United States, half of all cases uncovered involved some kind of economic exploitation other than sexual. See *Hidden Slaves*, 14. Some advocates for the rights of sex workers argue that this figure should be even higher, because the percentage of prostitutes who are actually victims of sexual slavery is exaggerated See Jeffrey, 3.

³³⁵ This assumption is also reflected in the wording of the UN Protocol, which is subtitled “Especially Women and Children”.

women's rights in the name of protection: "When laws target typically 'female' occupations, they are usually overly protective and prevent women from making the same type of decisions that adult men are able to make."³³⁶

As was the case with the White Slave scare in the early twentieth century, the result of such an assumption of female vulnerability tends to be the creation of laws that disempower women in the name of their own protection. One example of this tendency at play in the present is the government's current policy for the funding of non-governmental organizations that aid prostitutes. As it now stands, because any and all forms of prostitution are considered human trafficking, any aid organization whose activities support or 'condone' prostitution in any way can lose its federal funding, even if their activities are aimed at improving the lives of prostitutes. This is the case regardless of whether or not the prostitutes involved are victims of trafficking or forced labor.³³⁷ Likewise, even though any prostitute can be considered a victim of human trafficking under the language of the Trafficking Victims Protection Act (TVPA), only those who suffer abuse considered 'severe' enough are able to benefit from the law's immigration and social services benefits.³³⁸ As a result, women who admit to being aware they would be working as prostitutes, or who express any kind of agency at all, risk being labeled as not 'severe' enough in their victimization, and therefore not entitled to assistance.

³³⁶ *Human Rights Standards for the Treatment of Trafficked Persons*. (Washington D.C.: Global Alliance Against Traffic in Women, Foundation Against Trafficking in Women, and Global Rights, 1999), 12.

³³⁷ Tara McKelvey, "Of Human Bondage: A Coalition Against Human Trafficking Worked Well Until a Prostitution Litmus Test Was Imposed. Now, Groups are Losing Funding—and the Women Aren't Necessarily Better Off," *The American Prospect* (November 2004): 17.

³³⁸ Nathan, 27-29.

The Bush Administration and its supporters have attempted to justify the creation of gendered, ‘protective’ policies by arguing that women and girls’ inherent vulnerability makes them more frequent victims. As activist and author Ann Jordan argues: “Experts agree that a disproportionate number of trafficked persons are women and girls.”³³⁹ However, though it is true that victimization is closely related to economic vulnerability and social disempowerment, both of which are disproportionately experienced by women throughout the world, it is not necessarily useful to frame human trafficking within such a gendered paradigm. For example, when human trafficking is framed as a “women’s issue” lawmakers are more likely to apply a paradigm of perpetrator-victim that is not necessarily accurate.³⁴⁰ By this model, women tend to be painted as perpetual victims, child-like, lacking in agency, and in need of the paternal protection of the state. This is problematic because in almost all cases, women who migrate are strong, risk-taking individuals who purposely leave their homes to support families for whom they are often the sole provider.³⁴¹

At the same time, when focused on the victimization of women, the discourse on human trafficking tends to become wrapped up in abolitionist rhetoric that demonizes traffickers while failing to address the larger forces that drive human trafficking. In reality, human trafficking is not a simple evil to be eradicated, but rather a complex

³³⁹ Jordan, 28. According to the ILO, women make up 98 percent of those trafficked for sexual exploitation, but only make up slightly more than half of those who are trafficked worldwide for other forms of exploitation. See *A Global Alliance*, 12-15. However, because a large scale, systematic study of human trafficking within the United States that includes all forms of migrant work has not been conducted, we do not know what percentage of human trafficking victims in the United States actually are women and children.

³⁴⁰ Bruch, 32-37.

³⁴¹ Jordan, 30. Global Alliance Against Traffic in Women. *Human Rights Standards for the Treatment of Trafficked Persons*. (Washington D.C.: Global Rights, 1999), 4.

manifestation of economic motives and social justifications.³⁴² As W. Kloosterboer concludes so emphatically in his survey *Involuntary Labour Since the Abolition of Slavery*: “The most important motives have always been of an economico-commercial nature.”³⁴³ When framed as helpless victims, the underlying economic and social reasons why women are trafficked are obscured and left out of policymaking. This is especially the case for women who are trafficked into prostitution: “The underlying economic issues, or more precisely, the issue of global economic injustice and lack of labor rights, which lay at the foundation of global sex worker’s complaints, remain completely ignored.”³⁴⁴ Globally, women are not prone to victimization by human traffickers because they are weak or unintelligent, nor because traffickers are especially clever or evil. Rather, despite the fact that worldwide women are increasingly responsible for the support of their families, there tend to be few opportunities for them to migrate and seek employment in the formal labor sectors. This is especially true for women who lack education and financial resources in the first place. As a result, women worldwide are forced into types of work and migration that make them vulnerable to human trafficking.³⁴⁵

The assumption that victims of human trafficking are exploited because they are naïve and weak results in very real and problematic consequences for the choices of poor women. For while those who generate and propagate such narratives of victimization and

³⁴² Kevin Bales. *Understanding Global Slavery*. (Berkeley: University of California Press, 2005), 39.

³⁴³ W. Kloosterboer. *Involuntary Labour Since the Abolition of Slavery: A Survey of Compulsory Labor Throughout the World*. (Leiden, Netherlands: E.J. Brill, 1960), 215.

³⁴⁴ Jeffrey, 14.

³⁴⁵ Kempadoo ed, 69-78.

dis-agency are usually well meaning, the outcome can be even more disempowering for those they seek to help. This is especially problematic for women who live in countries that have been labeled portals of exploitation, such as in Eastern Europe. As one journalist notes: “One Ukrainian woman I know...when applying for an Italian visa was told she must first bring a declaration from the police stating that she had never engaged in prostitution. Any legitimate travel agency in Kiev will tell you how hard it is now for a single Ukrainian woman to get a tourist visa to any West European country.”³⁴⁶

By so closely associating victimization with dis-agency, such a model fails to recognize and take into account the myriad of situations wherein it is possible to be both an agent and a victim. As a consequence, women (and men) who clearly make choices about their lives run the risk of having their victimization questioned. This has enormous implications for the race, gender and nationality of those who become involved in human trafficking. For as a result of existing stereotypes about vulnerability, some individuals may be labeled only as victims and thus requiring of protection, while others may be seen as incapable of victimization and thus un-entitled to any protection at all.³⁴⁷ By the same token, because some kinds of victims are never seen as workers they can likewise be excluded from certain protections that others take for granted. For example, under the TVPA, victims of sex trafficking are not entitled to back-pay.³⁴⁸ Though the Bush Administration has attempted to employ human rights rhetoric in all of its human trafficking policies, the way in which it has attempted to address the issue has not been

³⁴⁶ Lily Hyde, “Green Light, Red Light,” *New Internationalist* 374 (December 2004): 34.

³⁴⁷ Jeffrey, 5.

³⁴⁸ Melissa Ditmore. *Trafficking and Sex Work: A Problematic Conflation*. (PhD Dissertation. City University of New York, 2002).

necessarily empowering for those it aims to protect.

Aside from the conceptual pitfalls that have riddled the current government's policies on human trafficking, there are a number of important practical issues that ought to be examined. Throughout his terms as President, Bush has been a strong advocate for an approach to human trafficking that relies fundamentally on law enforcement to address the problem. This approach defines human trafficking as "a crime that must be prevented, suppressed and punished,"³⁴⁹ and thus accordingly focuses on both criminalizing activities associated with human trafficking, and then investigating and punishing those who violate these laws. As a result, the government has pushed for the passing of new legislation, the sharing of information between states and agencies, and an increase in prosecutions.

There are a number of advantages to a law enforcement approach to human trafficking. One advantage is that it reinforces the perception that human trafficking is an unacceptable practice, and gives the state the tools necessary to punish individual traffickers, thereby preventing them from harming others. Another advantage is that law enforcement agencies, which have greater access to resources than many others, are more able to take a proactive action against human trafficking.³⁵⁰

However, while many have hailed the current law enforcement approach to dealing with trafficking victims as a critical step forward,³⁵¹ such a means of dealing with human trafficking may actually do more harm than good. As theorist Leslie Jeffrey points

³⁴⁹ Lindstrom, 8.

³⁵⁰ Bruch, 17-19.

³⁵¹ Bruch, 9.

out so aptly “[A law enforcement approach] strengthens the hand of officials, without empowering the women themselves.”³⁵² A case in point can be seen in Sweden, where since criminalizing prostitution in 1999, trafficking in persons has dramatically increased.³⁵³ Clearly, when used as a primary strategy for ending human trafficking, a law enforcement approach is subject to a number of problems that can severely undermine its effectiveness.

Even when authorities are able to clearly and correctly identify human trafficking operations, they do not always take action. For, though there has been a significant push from the federal level to investigate and prosecute these crimes, the resources available for their investigation and prosecution remain inadequate. With so many different demands on officers’ time and on local agencies’ budgets, human trafficking cases, which are both time consuming and difficult, may be a low priority. As a result, non-governmental organizations and community members who intervene in trafficking cases sometimes end up at odds with those mandated to respond. For example, in 2000 when a local non-governmental organization in Immokalee, Florida uncovered a massive trafficking operation in which hundreds of migrant farm workers were being exploited, it took many months of effort on their behalf before local and federal law enforcement would become involved. For, even though the Coalition of Immokalee Workers had gathered a significant deal of evidence over the course of more than a year, police refused to intervene until several victims were able to escape and agreed to be witnesses.

Meanwhile, the remaining workers had continued to suffer under slavery-like

³⁵² Jeffrey, 3-4.

³⁵³ Jordan, 31.

conditions.³⁵⁴

However, even when agencies have the time and money to take on human trafficking cases, they often run find it difficult to address a crime that is in practice so multi-faceted and diverse in a uniform way. Today, even with new anti-trafficking laws on the books, the prosecution of traffickers tends to involve a mish-mash of different charges ranging from kidnapping to sexual assault, involuntary servitude and racketeering. This poses major problems for the prosecution of traffickers: “Convictions are difficult to come by even in the best of circumstances. The list of hurdles is seemingly endless and the number of prosecutions, as compared to the reported numbers of trafficked persons, is infinitesimal.”³⁵⁵ As a result, the sentences handed down to traffickers can range enormously, from as little as a few months to a lifetime in prison.³⁵⁶ Moreover, because certain crimes are weighted more than others, human traffickers may be treated differently depending on what line of work they force their victims to engage in. For example, police might treat a case where a woman was forced to sell drugs more severely than one where she was held captive and forced to clean motel rooms. This is especially true in cases where existing laws apply to some human trafficking cases but not others. Because both the Mann Act and the TVPA provides such strong grounds for the prosecution of sex trafficking cases, federal officers have a greater incentive for investigation in cases where these laws can be fully applied.³⁵⁷ Because of this, police

³⁵⁴ *Hidden Slaves*, 28-30.

³⁵⁵ Haynes, 245.

³⁵⁶ *Report on Activities*, 75-91.

³⁵⁷ The Mann Act (18 U.S.C. § 2421 et seq.) specifically bans the transport of an individual into or within the United States and its territories for the purpose of prostitution or any other sexual activity that is a

tend to place their resources more heavily on trafficking that involves prostitution, even though it occurs relatively less frequently than other more innocuous-seeming kinds of trafficking. For example, in 2005 six of the seven human trafficking cases prosecuted by Federal authorities involved sex trafficking.³⁵⁸

The difficulty of identifying victims also causes a frequent problem for law enforcement.³⁵⁹ The realms in which many victims of human trafficking work are often far away from the public eye. But even when they are not hidden away, human trafficking victims can be indistinguishable from other migrant workers. As a result, most successfully prosecuted human trafficking cases develop only when a victim comes forward and alerts authorities of the situation, and then provides law enforcement with the necessary evidence to make a case. Unfortunately, many obstacles prevent victims from doing so. Aside from the fact traffickers intentionally isolate their victims, and that

criminal offense. The Mann Act has been used widely in human trafficking cases that involve prostitution. However there is no parallel law for individuals transported for other kinds of exploitation. For, current migrant smuggling laws are relatively lax and do not differentiate smuggling in general from smuggling for the purposes of exploitation. Likewise, while the TVPA applies to all types of forced labor, its language on sex trafficking is much broader, allowing the law to apply to a far wider array of cases when prostitution is involved. See Nathan, 28-30.

³⁵⁸ See *Report on Activities*, 75-91; In another study of human trafficking cases over the last eight years, sex trafficking made up about half of all cases prosecuted. See *Matrix of Some of the Major Trafficking Cases in the United States of the Last Eight Years*. (Washington D.C.: US Department of State, May 2003). Available at <http://usinfo.state.gov>; Internet; Accessed 18 October 2005. Nine out of eighteen cases identified involved sex work. Of these, seven involved full prostitution, and two more women who were forced to work as strippers. The rest of the cases involved agricultural labor (2), sweatshop labor (2), domestic service (3), and begging (1). A contrary explanation for this tendency is that victims of sex trafficking have more opportunities to escape and alert authorities because of their increased contact with the public. However, if this was true, it would mean that those put to work in restaurants and other public places would show the same tendency for discovery. See Alexis Aronowitz, "Smuggling and Trafficking in Human Beings: The Phenomenon, The Markets that Drive It and The Organizations That Promote It," *European Journal on Criminal Policy and Research* 9 no. 2 (2001): 168.

³⁵⁹ Since 2001, the Federal government has assisted less than 1,000 victims of human trafficking. Moreover, 200 of these individuals came from the bust of one sweatshop in Samoa, which was an unusual occurrence. Aside from this case, the government has helped an average of 60 to 90 victims per year. See *Assessment of U.S. Activities (2005)*, 16; and *Report on Activities*, 9-10.

the barriers of language, culture and knowledge help to enforce this isolation, many victims of human trafficking harbor a deep fear of law enforcement and thus are unwilling to come forward. There are several reasons for this. For one, police and other officials are often deeply corrupt in the countries from which victims originate. As a result, even when in the United States, many victims of human trafficking do not trust law enforcement to protect or aid them. Second, despite new laws that allow them to remain within the United States, victims of human trafficking, like other immigrant populations, often fear deportation and are thus reluctant to go to authorities.³⁶⁰ Finally, because traffickers often use threats of violence to control their victims, many are simply too afraid to go to police.³⁶¹

Another major critique of the United States' law enforcement approach to human trafficking, is that on the national level, efforts to uncover and prosecute human trafficking are inconsistent and poorly coordinated. Because human trafficking involves a large number of issues and agencies, an effective response requires that officials from very different parts of the government as well as local, state and federal organizations prioritize and synchronize their activities. Because the interests of these different groups, from non-governmental organizations to federal investigators, are often so disparate, the response to human trafficking cases tends to be very slow moving and at times, ineffectual. Even though the Bush Administration has created new inter-agency task forces to help combat this tendency, there remain significant gaps between the local and federal levels. For, though the TVPA defines human trafficking as a federal crime, these

³⁶⁰ Haynes, 241; and Briggs, 166-168.

³⁶¹ *Report on Activities*, 16.

cases are not always recognized and prosecuted as such.³⁶² This problem is reflected by the fact that there are no centralized statistics kept on exactly how many human trafficking cases are uncovered by all the different agencies and organizations in the United States in any given year.

In the end, the effectiveness of a law enforcement approach to human trafficking is heavily dependant upon the cooperation of victims. This can be problematic, because many victims of human trafficking are unwilling or unable to cooperate with authorities.³⁶³ Victims are often severely traumatized by their experiences and find it unbearable to act as a witness against their traffickers. Some develop a sense of deep resentment for their dependence on government aid and the long and difficult bureaucratic process that tends to accompany it. Others still are so eager to get home to their families that they refuse to stay and cooperate. Sometimes, immigration officials mistakenly deport victims of human trafficking, effectively forcing law enforcement to give up the case because the ‘evidence’ is gone. Finally, even after their escape from bondage, many victims of human trafficking report being terrorized by the associates of their traffickers, in the United States as well as in their home countries. Because American authorities remain unable to protect those who cooperate with them, some are too afraid to do so.³⁶⁴

³⁶² *Hidden Slaves*, 25-30.

³⁶³ According to an interview with one attorney who aids victims of human trafficking _ of her clients decide not to apply for T-Visas because they would rather not cooperate with authorities: “They are more terrified of the government than of the traffickers... When we say, you have to sit down with FBI agents, suddenly the trafficking situation doesn’t seem so bad.” Interview with Juhu Thukral, quoted in Nathan, 30.

³⁶⁴ *Hidden Slaves*, 30-41. Traffickers frequently threaten to harm their victims’ loved ones as a means of control. Even after escaping their captors, many victims report fearing for their families lives, especially

As was the case with the Alien Contract Act in the 1880s, it is unclear today whether new anti-trafficking laws and policies have had any significant impact. Though Congress has consistently increased funding for anti-trafficking programs, these have relied primarily on law enforcement with only minimal success. For even when laws are in place, the judicial system is sound, and criminal sanctions are applied, the deterrent to potential traffickers may remain very low. This fact is made even worse when prosecution levels are low and punishments relatively mild.³⁶⁵ Even though several hundred cases have been discovered and prosecuted, these represent only a tiny percentage of the whole problem. Even though several non-governmental organizations have reported hundreds of trafficking incidences each year, the most cases prosecuted in any one year by federal authorities has been thirty-three.³⁶⁶ Further, while more than thirty-five million dollars has been spent on victim assistance since 2003, only several hundred have been helped.³⁶⁷ Meanwhile, evidence suggests that a significant number of trafficking victims continue to have difficulty prosecuting their traffickers because they are promptly deported for immigration violations.³⁶⁸ Though the last three years show an

those back at home in their country of origin. This is especially problematic, because as of yet, the United States government has not established any means to protect family members of trafficking victims abroad.

³⁶⁵ Haynes, 246.

³⁶⁶ Since January 2001, the Justice Department has opened over 400 investigations and prosecuted more than 240 traffickers, triple the number over the prior four-year period. The annual average for prosecutions has risen from 2 in 1998 to 33 in 2005, with the number of defendants charged each year ranging from 19 to 95. In the United States on the whole, the government estimates that between 14,500 and 18,500 individuals are victims of human trafficking each year. See *Assessment of U.S. Government Activities to Combat Trafficking in Persons*. (Washington D.C.: U.S. Department of Justice, September 2005), 1-16; and *Report on Activities*, 9, 25-27.

³⁶⁷ *Report on Activities*, 41.

³⁶⁸ For example, in Florida a number of trafficking cases have been reported dropped because the victims were returned to their home countries, depriving prosecutors of the material witnesses necessary to the

apparent drastic increase in the number of victims assisted, this has been the result of a few relatively large busts, such as the Daewoosa plant where two hundred and fifty workers were released, not from a significant increase in the number of cases where authorities got involved.³⁶⁹ One reason for these discrepancies may be that local law enforcement and aid workers in many parts of the nation lack fundamental knowledge about what human trafficking is, and how the provisions of the TVPA allow for the prosecution of perpetrators and the protection of victims.³⁷⁰ Though the federal government has created several new programs aimed at educating authorities at the local and state levels about the issue, it is clear that far more work needs to be done. Finally, the incredibly low rate of conviction in many trafficking cases suggests that even with the TVPA, the laws on the books are simply inadequate. For example, though ninety-five defendants were charged under various statutes for human trafficking in 2005, only thirty-five were convicted, a rate of only thirty-seven percent.³⁷¹

Though the TVPA is the strongest law yet dealing with human trafficking and forced labor, critical areas remain unaddressed. For one, while more cases are now prosecuted and won, the actual level of punishment for those who participate in these

case. Kristen Zambo, "Driving While Hispanic: It's not a crime," *Naples Daily News*, 26 March 2006. Available at <http://naplesnews.com/news>; Internet; accessed 24 April 2006.

³⁶⁹ Except for 2004, when the government conducted an anti-child prostitution sweep, which resulted in eight additional trafficking cases (making a total of 16 cases for that year), the average number of trafficking cases prosecuted from 2001 to 2005 has remained at about seven per year. See *Report on Activities*, 75-91.

³⁷⁰ Mary Ellen Dougherty, "Against Human Trafficking," *Health Progress* (September/October 2004):10-12.

³⁷¹ *Report on Activities*, 30-32; During 2005, 75 individuals were charged and 25 convicted for sex trafficking, while 20 were charged and 10 convicted for other forms of human trafficking. Overall, the conviction rates from 2001 to 2004 varied widely from 57% to 81%. However, during years with high conviction rates, few cases were prosecuted. For example, in 2003, the year with the highest conviction rate overall, there were only 32 defendants charged nationwide, resulting from just seven cases.

crimes remains hardly changed—an average of eleven years for each count of involuntary servitude.³⁷² This seems relatively light, considering the fact that certain drug trafficking offenses carry life sentences.³⁷³ Similarly, though the government has spent significant resources on human trafficking, the overall issues of immigration and migrant labor in America have not been adequately addressed. For even though there have been a number of significant cases in which workers in the manufacturing, agricultural and service industries were subjected to severe instances of human trafficking, there has been no significant change in federal labor policies regarding these sectors of the workforce.³⁷⁴

Chapter 4 Conclusions

Despite the fact that the United States has attempted to position itself as a champion of the anti-human trafficking cause, there are many ways in which American immigration and labor policies contribute to the ease and profitability of exploiting migrant workers. For despite the myriad of laws and international agreements that the United States has developed and taken part in, its policies continue to reflect a reluctance to interfere with the private labor market.³⁷⁵ In the case of Nguyen Thi Le and the busting of the Daewoosa sweatshop in American Samoa, a case much touted by the Bush administration as a great victory in the government's anti-trafficking efforts, it took authorities more than two years to take real action, even when authorities in the

³⁷² *Assessment of U.S. Government Activities (2005)*, 5-25.

³⁷³ The statutory maximum sentence in the United States for dealing ten grams of LSD or distributing a kilo of heroin is life.

³⁷⁴ *Assessment of U.S. Government Activities to Combat Trafficking in Persons, June 2006*. (Washington D.C.: U.S. Dept. of Justice, 2006), 13-18.

³⁷⁵ Suzanne Miers. *Slavery in the Twentieth Century*. (Walnut Creek, CA: Altamira Press, 2003), 436-438.

Department of Labor had been alerted to the conditions within the factory.³⁷⁶ In addition, while the owners of the Daewoosa factory did eventually get caught, they and many others like them had and continue to have no trouble in setting up such situations within US borders and territories alike.³⁷⁷ Ironically, republican leaders in Congress have been instrumental to the continuing lack of immigration and labor regulation on American territories. To date, congressional leaders have halted in committee twenty-nine different bills aimed at improving conditions for migrant workers on American territories.³⁷⁸

While the United States government appears unlikely to make any significant changes to its labor legislation any time soon, there is a great deal of public and political support for the changing of current immigration policies. If in doing so Congress ends up further conflating human trafficking with illegal immigration and migrant smuggling, the result is likely to be detrimental to the rights and needs of trafficking victims. For even now, as regular immigrants find themselves under greater scrutiny, actual trafficking victims risk being labeled as ‘voluntary’ illegal migrants and being deported with no recognition or protection of their human rights.³⁷⁹ In order to make policies capable of sorting out this confusion, much more work must be done to de-lineate the often overlapping relationship between immigration and human trafficking. Expanding our understanding of human trafficking to acknowledge that its victims are most often migrant workers would help emphasize the larger human rights problem it represents:

³⁷⁶ Steven Greenhouse, “Beatings and Other Abuses Cited at Samoan Apparel Plant That Supplied U.S. Retailers” *The New York Times*, 6 February 2001.

³⁷⁷ Miers, 436-438.

³⁷⁸ Clarren, “Sweatshops on U.S. Territories” and “Paradise Lost,” 37-38.

³⁷⁹ Bruch, 21-24.

that while vulnerable persons are exploited for profit around the world, there is no shortage of those in the West who would buy them.

In the end, the concept of human trafficking today has been caught in the middle of an ideological tug-of-war between the sensationalist horror of prostitution rings and sweatshops right here at home, and the sense that the worst human rights abuses occur elsewhere in the world. Or, at least, that if they do occur in the United States, it is once again at the hands of unscrupulous foreigners, like Kil Soo Lee, the Korean owner of the Daewoosa factory, or the famous Cadena family. In his work *Disposable People*, author Kevin Bales brings this contradiction together both perfectly and unconsciously, when after giving a shocking expose on the horrific presence of ‘slave-like’ conditions that exist “*even in the developed countries*” [emphasis added] he goes on to make a long analysis of forced labor and human trafficking everywhere but in the United States.³⁸⁰

Even when academics try to sort out the matter, such misconceptions of how and where trafficking flourishes tends to color the debate and place the problem elsewhere. Time and time again, we can’t seem to let go of the idea that human trafficking, “like trade in other illegal goods, thrives on widespread corruption, porous borders, instability and weak state institutions”³⁸¹ — that is, in poor parts of the world. The result is the creation of certain stereotypes that emphasize certain trends while downplaying other realities. For example, in many analyses, human trafficking has been framed as an issue of the East/West and North/South divide. As one such report states: “Women in the East and Central Europe are trafficked to West for sex, while children in Africa are the

³⁸⁰ Bales, 3.

³⁸¹ Lindstrom, 1 (Abstract).

primary population trafficked for labor.”³⁸² Such simplistic analyses of human trafficking are not helpful for policymaking. For, by failing to account for the larger, complex economic and political forces that contribute to the trade, they obscure its real roots. More importantly, they tend to support the conception that human trafficking rooted ‘elsewhere,’ not within the first world countries where most trafficking victims end up.

Despite the many problems with the current policies and laws promoted by the Bush Administration, there is evidence that alternative viewpoints and attitudes exist within the American political environment. The significant numbers of lawmakers and decision-makers who share these perspectives can be a starting point for the articulation of an entirely different approach to human trafficking. Indeed, recent events in Congress suggest that just such a change may already be taking place. For example, while most new anti-trafficking laws have enjoyed a wide level of bi-partisan support, those laws that broadly conflate prostitution with human trafficking have been met with significant resistance. For example, though initially popular, one bill known as the "End Demand for Sex Trafficking Act of 2005," which calls for the national prohibition of prostitution as a means of fighting human trafficking, has been soundly halted in committee. Some attribute this halt to the significant amount of pressure that some feminist and immigrants rights organizations have applied to lawmakers, critiquing the way this law distorts the

³⁸² Alexis A. Aronowitz, “Smuggling and Trafficking in Human Beings: The Phenomenon, The Markets that Drive It and The Organizations That Promote It,” *European Journal on Criminal Policy and Research* 9 no. 2 (2001): 167.

picture of human trafficking while failing to take substantial measures to curb it.³⁸³

Similarly, though many Americans continue to support the passage of immigration reform laws that would further exacerbate human trafficking, the last few months have been witness to the largest demonstrations in favor of international workers rights in American history. As the November elections draw nearer, it is likely that the issue of how migrant workers should be treated in our nation will become a deeply divisive and controversial issue. Together, these examples suggest that the current trends for anti-trafficking policies in the United States are far from written in stone. Should the political will arise, it can be possible to move in a direction that places far more attention on the rights of trafficking victims, as well as seeks to address the fundamental issues that make human trafficking profitable and possible on American soil.

³⁸³ See Global Rights et. al, "Comments on Bill to End Sex Trafficking Act of 2005," (Washington D.C.: Global Rights, 22 April 2005), available at <http://www.globalrights.org>; Internet; accessed 4 April 2006.

Chapter 5—Can We Put an End to Human Trafficking in America?

The problem of human trafficking presents complex, transnational issues. Globalization, combined with the intense pulls of supply and demand has helped to create a massive worldwide market for humans. Unfortunately, as the vulnerable poor seek to improve their lot, they can fall prey to those who would use them for profit. And yet, we should be wary of locating human trafficking along with a thousand other injustices as an inevitable consequence of shifting global political, cultural, economic and social structures. As feminist theorist Chandra Mohanty has noted: “Globalization is a slogan, an overused and under-understood concept, and it characterizes real shifts and consolidation of power around the world. Institutions, and people in power, rule and maintain inequality in part by hiding or mystifying the working of power.”³⁸⁴

As the United States and the international community on the whole continue to articulate policies on human trafficking, it is essential that they take into account the larger structures of power and privilege that drive this ‘trade in human misery.’ Many Americans are shocked to learn that slavery still exists in any form at all today, let alone that slavery-like conditions exist in their own nation. Upon hearing such news, the response is often that of horror and dismay. Who, we ask ourselves, could be so coarse, so inhuman as to profit from such a cruel and horrible trade? In some cases it is easy to point fingers, from the wealthy family in Long Island, New York who makes use of a trafficked domestic servant, to the man who visits a brothel filled with ‘sex-slaves.’ But

³⁸⁴ Chandra Talpade Mohanty. *Feminism Without Borders: Decolonizing Theory, Practicing Solidarity*. (Durham: Duke University Press, 2004), 171.

the real truth is that we all profit. From cheap consumer products to inexpensive produce, millions of us benefit in ways we would never expect from human trafficking. Human trafficking is a consequence of uncontrolled capitalism, and those whom capitalism benefits are inherently implicated in its existence.

If we are serious about ending human trafficking, policymakers in the United States should go beyond the convenient rhetorical flourishes and rescue gestures that have defined their stance so far. Rather, they should seek to identify the underlying social, economic and political structures that facilitate human trafficking. This kind of ‘structural’ approach should incorporate the many different aspects of human trafficking in order to shape a coherent theoretical framework for understanding it.³⁸⁵ Under such a framework, human trafficking would be seen not as an individual incident of crime, but a symptom of a broad network of relationships: global patterns of migration, economic development and political environments. For it is the disparities between different nations and peoples these patterns generate that drives the trade in human beings.

One of the hallmarks of the late twentieth century has been the growing gap between the rich and the poor. For, though the world overall has undergone unprecedented levels of development, its impacts have been vastly unequal in different nations and regions. Many theorists argue that the consequence of these changes has been a dual downward pressure on wages, and globally, an increased pressure on populations

³⁸⁵ Here I am loosely borrowing the term ‘structural’ from its general use within the field of macro-sociology as “social structure”: “Social Structure is the framework of society...It is the patterns of society, such as the relationships...that characterize a particular society.” Quoted from James M. Henslin, *Sociology: A Down-to-Earth-Approach*, (Boston: Allyn and Bacon, 1999), 94.

to migrate.³⁸⁶ However, when one takes into account the historical patterns for labor and migration, it appears that these are not necessarily new phenomena at all, but a constant and essential component in the evolution of capitalism. Global economic development tends to move in waves of increased demand for labor and raw materials. When this happens, everything from the nature of work itself to the shape of the state and the family undergoes a shift, and globally, just as corporations move in search of new materials and markets, populations of workers shift in order to adapt. The same forces that pushed millions of Italians, Irish, Germans, Greeks, Mexicans and Chinese to come to the United States in the late nineteenth century propel migrant workers across our borders today.

Today the United States is once again undergoing an enormous shift. Despite strong efforts in the last decade to severely restrict immigration, there are now more than twenty eight million first-generation immigrants living in the United States from all over the world. Most of these individuals came to the United States legally, but almost half did not. Since the 1980s, more than eighty percent of these new immigrants have come from Latin America and Asia.³⁸⁷ However, a significant number of individuals continue to come from Europe, Africa and the Middle East.³⁸⁸ Together this diverse group represents the most recent mass migration in a long history of immigration and economic development. As has always been the case, any time a large number of new immigrants enter the American workforce, a significant number of individuals fall prey to individuals

³⁸⁶ Parreñas, 248.

³⁸⁷ Rubén Martínez. *The New Americans*. (New York: The New Press, 2004), 18.

³⁸⁸ *Report on Activities to Combat Human Trafficking: Fiscal Years 2001-2005*. (Washington D.C.: U.S. Department of Justice, March 2006), 9. Available online at <http://www.usdoj.gov>; Internet; accessed 24 April 2006.

who exploit their vulnerabilities—from a lack of knowledge about American laws to a lack of language skills. These vulnerabilities are an essential and timeless part of being a migrant worker, and are just as relevant today as they were in the late nineteenth and early twentieth centuries.

By and large, the fact remains that human trafficking is a comparatively low-risk activity with the potential for enormous profits. Trafficked humans can bring profits of many thousands of dollars, and yet be acquired for nothing. They are relatively easy to smuggle, and unlike drugs and arms, can bring a trafficker gains for many years as forced laborers. However, without the possibility of extracting such labor from its victims, human trafficking cannot be profitable. The willingness of the American government to sign on to treaties that ban the act of human trafficking, while refusing to take part in those that seek to address the labor and immigration issues that underlie it presents a major problem for the effort to end the practice. Unless governments frame the issue of human trafficking in terms of both migration and labor, they cannot fully address the problem. For, though they represent capitalist exploitation at its most extreme, victims of human trafficking are part of the same laboring class to which all migrant workers belong in the United States. In their labors, they embody the international division of labor that is as central to the “establishment, consolidation, and maintenance of the current world order,” as it was to colonial era domination of the ‘East’ by the ‘West’ and the ‘North’ by the ‘South.’³⁸⁹ In the factories, fields, brothels and homes of the United States, trafficked persons—like all migrant workers—provide the necessary laboring material that drives

³⁸⁹ Mohanty, 141.

the economic hegemony of American corporations and availability of a comfortable life for individual Americans. Though human trafficking is a horrendous crime, it exists on a continuum with a long list of injustices and indignities that migrant workers are subjected to every day upon entering, living and working in the United States.

In conclusion, there are several concrete measures that I believe ought to be taken to improve the United States' response to human trafficking:

1) All policies and laws directed at human trafficking should be understood within the global context of labor inequality. Any proposed solution should aim to decrease this inequality by empowering migrant workers. To date, most discussions of human trafficking in the United States have tended to focus on the violence of human bondage without examining the economic underpinnings that drive such victimization. This is deeply problematic because human trafficking is implicitly connected to the international division of labor. Almost all victims of human trafficking are individuals who choose to migrate and seek new employment in order to improve the material situation of themselves and their families. Instead of simply rescuing trafficking victims, the United States government needs to direct its efforts towards creating policies that empower migrant workers of all kinds. Specifically, President Bush should sign the 1990 UN Convention on the Rights of Migrant Workers, and Congress should ratify the treaty. To help bring the United States into compliance, the National Labor Relations Act should be revised so that every worker, everywhere in the United States has employee status and is entitled to the same rights. In addition, specific legislation should be drawn up to mandate better government control and oversight of those industries where migrant workers are

prevalent and human trafficking common. With respect to sex work, state governments should work to de-criminalize prostitution, and shift the emphasis of law enforcement instead toward prosecuting pimps and traffickers who abuse and exploit women. On the federal level, Congress should support such efforts, by affirming the right of all women, regardless of their type of employment or immigration status, to be free from violence and fear. In this effort, lawmakers should develop a plan to improve the response of the Departments of Labor and Justice to all migrant worker complaints, and support the work of non-governmental organizations that seek to provide information and assistance to migrant workers throughout the United States and its territories.

In making these changes, policymakers should avoid uncritically assuming the root of human trafficking to be in the poverty and ignorance of those who fall victim. Rather, even those who have the benefit of higher education and social status in their country of origin can be and are victimized by traffickers.³⁹⁰ Instead, anti- trafficking policies should take into account the many other forces that shape the lives of migrants, and as a result contribute to the possibility and profitability of human trafficking—what Rhacel Parreñas calls the “four key institutions of migration”: the construction of the nation-state, the family, local and global labor markets, and the communities migrants create and shape in their destinations.³⁹¹ We must acknowledge that migrant workers are systematically disadvantaged in the workplace in the United States, and that this makes them vulnerable to human trafficking. In order to end this injustice, we must find ways to

³⁹⁰ Portes, 606-630.

³⁹¹ Rhacel Salazar Parreñas. *Servants of Globalization: Women, Migration and Domestic Work*. (Stanford, CA: Stanford University Press, 2001), 243.

encourage the economic independence of migrant workers.³⁹² Only by addressing victims of human trafficking within the context of migrant worker rights, will policymakers be able to adequately address the concerns of trafficking victims without stripping them of their agency and concealing the real underlying causes for their victimization.³⁹³

2) *Policies directed at human trafficking should be coordinated with immigration laws and policies so that they work in synergy instead of in opposition to one another.* Laws that prosecute traffickers and ‘rescue’ the trafficked are no good without comprehensive immigration and labor laws that seek to prevent the kind of pressures that compel individuals to become victimized, and then accept such victimization:

When there are powerful push factors in countries of origin, or pull factors in receiving countries, and especially when the two fully converge, restrictive measures alone cannot arrest human trafficking. To be effective, a strategy to combat human trafficking needs to be comprehensive enough to address both push and pull factors in a coherent manner.³⁹⁴

Human trafficking, like other abuses faced by migrant workers, is the result of inherent contradictions between America’s immigration laws and the realities of immigration and labor in the United States; what theorist Lisa Lowe describes as: “an officially disavowed and yet unofficially mandated, clandestine movement of illegal immigration, which addresses the economy’s need for low-wage labor but whose dehumanization of migrant

³⁹² Daan Everts, “Human Trafficking: The Ruthless Trade in Human Misery,” *Brown Journal of World Affairs* 10 no. 1 (Summer/Fall 2003): 156.

³⁹³ This is the primary argument of those in the movement for ‘sex worker’ movement, who believe that the problems associated with prostitution will only be addressed when it is recognized as a legitimate kind of labor. For, they argue, it is precisely because prostitution lacks the legal protections and government oversight of other ‘occupations’ that prostitutes are so prone to abuse. See Kamala Kempadoo and Jo Doezema. *Global Sex Workers: Rights, Resistance, and Redefinition*. (London: Routledge, 1998).

³⁹⁴ Kristof Van Impe, “People for Sale: The Need for a Multidisciplinary Approach Toward Human Trafficking,” *International Migration* 1 (2000):115.

workers is politically contradictory.”³⁹⁵ In this way, American immigration law as it stands today creates and reproduces racial and national hierarchies that are inconsistent with our own ideology of the ‘American dream.’ Victims of human trafficking, because they are both victims and criminals according to American visions of immigration—that is America as refuge and America under siege—embody this contradiction.

In the current political climate, there is a strong push for highly restrictive immigration legislation that will ‘clamp down’ on the border and make it a severe crime to be an illegal immigrant. However the last thing the government should do is further criminalize illegal entry and punish illegal immigrants. For, if this happens it will only become easier for unscrupulous traffickers and employers to exploit undocumented workers, and more difficult for the state to prevent and punish such abuses. As the United Nations Secretary General Kofi Annan has noted: "The more we try to deal with migration simply by clamping down on it with tighter border controls, the more we find that human rights are sacrificed - on the journey, at the border, and inside the host countries."³⁹⁶ Instead, the President Bush and Congress should work to resolve the contradictions in American immigration policy, so that the migrant workers the United States labor market demands are able to more easily enter the country through legal means and regular channels. Moreover, a government office should be set up, separate from the Immigration and Naturalization Service, aimed at educating and aiding all migrant workers once they do enter the country.

³⁹⁵ Lisa Lowe. *Immigrant Acts: On Asian American Cultural Politics*. (Durham: Duke University Press, 1996), 21.

³⁹⁶ UN Secretary General Kofi Annan, “Speech to the Columbia University Law School Program on International Migration,” New York, 21 November 2003.

3) *Policymakers should be aware of the ways in which human trafficking is implicitly connected to racist, sexist and classist oppression.* In the past, the United States government's response to human trafficking has been deeply underlined by racist, sexist, classist, and anti-immigrant sentiments. As we seek to understand the tragedy of human trafficking in our own time and create policies and laws to end it, we must not allow the same pitfalls to bias and shape our efforts. Even when guided by our best intentions, the uncritical application of our own 'common sense' assumptions can lead to policies that do more harm than good.

Though victims of human trafficking can and do come from many different backgrounds, poor men and women of color are disproportionately affected.³⁹⁷ Human traffickers are able to capitalize on the vulnerability of individuals who are compelled by economic necessity to migrate. Moreover, once these individuals become victims of traffickers, the ease and profitability of such exploitation is often connected to the ways in which race and class tend to make these individuals 'invisible' to the public. This tendency is worsened by the attitude that such persons are 'suited' for exploitative labor, and that we as Americans are entitled to its fruits. Ultimately, any policy or law aimed at ending human trafficking is incompatible with those that perpetuate and justify the racist

³⁹⁷ By "persons of color" I refer to all persons who would be considered "other" than "white" in American society—persons from throughout Asia, Latin America, or Africa. In this statement, I recognize that not all persons of color are of the same class privilege, and likewise that people of all racial and ethnic backgrounds experience racism to different degrees and in different ways in the United States. However, in a general sense, I wish to point out that despite these variations, persons of color of all kinds (as well of poor persons of all kinds) tend to be systematically discriminated against in the United States. I draw much of this framework from the feminist theorist bell hooks. For further reading on this subject I suggest bell hooks. *Class Matters: Where We Stand*. (New York: Routledge, 2000); and bell hooks. *Feminist Theory From Margin to Center*. (Boston: South End Press, 1984).

exploitation of poor immigrants of color in this country.

Even when victims of human trafficking are seen in a sympathetic light, the forces of sexism and racism still impact how it is understood and addressed. This is particularly the case with the way women are framed as trafficking victims. It is true that a majority of those trafficked today are women.³⁹⁸ The question is what we should do with this knowledge. In the creation of a gender-sensitive paradigm for understanding human trafficking, it is critical that we frame it within the larger context of global patriarchy, which shapes women's lives and choices around the world. However, in doing, we must also acknowledge that 'womanhood' is not a monolithic experience, and that human trafficking has a different meaning depending upon where and how a woman is situated. Woman is not a synonym for victim. However, the forces of sexist, racist and economic oppression victimize women globally. Worldwide, these forces push women into forms of migration and work that make them vulnerable to human trafficking. Once trafficked, the kinds of abuses women are subjected to are both perpetuated and legitimated by this oppression. Any anti-human trafficking campaign aimed at women, must respond to their needs, as agents and individuals. From this frame of reference, a policy that focuses on ensuring the rights of those victimized by human traffickers, but that has no concern for every other type of victimization to which women are subjected worldwide seems ridiculous. The trafficking of women in the United States is inherently connected to the oppression of all women in the United States.

³⁹⁸ According to both estimates by the International Labour Organization, and the best studies of trafficking in the United States to date, women make up at least two thirds of all trafficking victims in the United States. For more on this, see pages 84-86 of this thesis.

4) *Both the United States government and non-governmental organizations should work actively to promote media coverage and representations of human trafficking that are accurate and that avoid stereotypes.* Just as they did in the American past, media representations of human trafficking today have a real impact on what laws and policies are created to address it. In recent years, the media has done a very poor job in its portrayal of human trafficking in America today. Unfortunately, because the Bush Administration has taken a moralizing stance on the issue, it too has helped to propagate inaccurate portrayals of human trafficking that sensationalize the crime and conflate all forms of human trafficking with sexual exploitation. The consequence of these inaccurate representations has been the creation of laws and policies that neither reflect the real needs of trafficking victims nor fully address the problem of human trafficking in a comprehensive manner.

In order to make effective laws and policies, it is extremely important that the impressions and lessons drawn from media representations of human trafficking do not distort and obscure the real experiences and needs of trafficking victims. It is especially important that they do not over-simplify the reasons why human trafficking occurs, nor that they exaggerate the incidence of human trafficking in certain forms, at the expense of other, related issues. As much as the sexual exploitation of poor women represents an important aspect of human trafficking, stories must also be told about the men and women who work in our factories, fields and homes. They must acknowledge the complexity of how and why individuals are trafficked-- from the economic underpinnings of their vulnerability to the interconnectedness of coercion and choice, as the realities of

poverty, fear, ignorance, isolation, responsibility and lack of rights can cause individuals to choose and endure incredibly exploitative situations. To serve the needs of trafficking victims and generate sound public policy, narratives of human trafficking in America must humanize without sensationalizing.

5) The United States government should work in cooperation with non-governmental organizations to conduct a comprehensive study of human trafficking within the United States. A significant component of such a study should involve input from migrant workers and actual victims of human trafficking. To date, the best and most comprehensive studies on human trafficking have been conducted within Europe, analyzing the issue from within a European context.³⁹⁹ These studies provide a good model for how governments can go about improving their understanding of and approach to this issue. However, in the effort to create new laws and policies to fight human trafficking in the United States, it will not be enough to simply apply the same strategies and policies as other nations. For, by attempting to apply studies from South East Asia or the Balkans to our own nation, the result will only be laws that do not fit the particular economic and social environment of the United States.

Within the United States, universities and non-governmental organizations have conducted the highest quality studies so far on human trafficking. Most of these have focused on specific sectors of the American migrant workforce to discover how human rights abuses flourish within them. The University of California, Berkeley, in cooperation with these groups, has conducted the best and most comprehensive of these studies. After

³⁹⁹ Anderson et. al, *Is Trafficking in Human Beings Demand Driven?*, 5-12.

several years of research, its authors concluded that the United States should undertake a broad-based campaign to raise awareness about human trafficking; improve the nation's institutional capacity to respond to trafficking cases; improve the regulation and protection of workers at high risk for human trafficking; correct immigration policies so that they do not encourage human trafficking; and strengthen programs aimed at helping rehabilitate victims.⁴⁰⁰

In comparison to this study, the numerous reports that the United States Department of Justice and Department of State have issued so far are wholly inadequate. More geared toward celebrating the achievements of the Bush Administration than providing a critical analysis of its policies and programs, these documents provide only a limited view of human trafficking in the United States. And yet, despite these shortfalls, the government's annual *Trafficking in Persons Reports and Assessments* have continued to be the most commonly cited sources on human trafficking in the United States.

In many ways, the hallmark of the Bush Administration's approach to human trafficking has been its large-scale cooperation with non-governmental organizations that work to uncover trafficking operations and aid victims. The government should utilize these cooperative arrangements and following the model of the UC Berkeley study, aim to create reports that give as accurate and critical an analysis as possible. Such a study should define human trafficking according to the United Nations Protocol's loose definition, focusing on the forced labor aspect of the problem as well as the smuggling and illegal immigration ones. It should examine all areas of migrant work:

⁴⁰⁰ *Hidden Slaves: Forced Labor in the United States*, (Berkeley, CA: University of California Human Rights Center, September 2004), 52.

manufacturing, agriculture, sex work and the service industry. Moreover, going beyond the UC Berkeley report, a major component should involve interviewing migrant workers of both legal and illegal status to determine what their experiences and attitudes are toward human trafficking, and what they believe needs to happen to prevent it. For while the testimonials of victims have been widely used to support the policies and viewpoints of the government, rarely are America's migrant workers actually asked what they think ought to be done about human trafficking. Migrant workers of all kinds are hands-down the largest stakeholders in any anti-trafficking policy or law. To create such measures without their input is inherently misguided.

Within the United States today, human trafficking remains a complicated and highly contested issue. Though the Bush Administration has taken a fairly consistent stance on the problem in its policies and proposals, the response of the American people to human trafficking has been far more varied. For, while few Americans openly support the blatant abuse of human rights, what constitutes such abuse, and what ought to be done about it continues to be a contentious debate. Even though most politicians and citizens alike have been eager to get behind the banner of 'ending human trafficking,' very different ideological camps have emerged within the United States over what this means. Some believe the end of human trafficking necessitates the eradication of all forms of sex work, for others, the legalization and regulation of prostitution. Likewise, while immigrants rights organizations and their allies insist human trafficking can only be eradicated with the greater liberalization of immigration laws, many conservatives argue that such abuses would be better stopped by halting the influx of all low-skilled workers.

Within this discourse, many different stakeholders seek to influence the kinds of policies created: governmental agencies and politicians, inter-governmental organizations, non-governmental organizations and victims' advocates, and most of all American businesses. All of these groups frame and address human trafficking according to their own concerns and interests.⁴⁰¹

As our local and national governments attempt to determine the proper response to human trafficking, we should pay close attention to how different attitudes and interpretations of the problem shape public policy. It is not enough to settle for the kind of uncritical analyses that have marked the American approach to human trafficking in the past. For as one of the richest nations in the world the United States is one of the top destinations for trafficked persons. Because this is the case, we, as a nation, have an important responsibility to do something about human trafficking, and this time, to do it in a way that actually serves the needs of those who are victimized by this human trade. After all, in the words of our own president: "The American government has a particular duty, because human trafficking is an affront to the defining promise of our country. People come to America hoping for a better life. And it is a terrible tragedy when anyone comes here, only to be forced into a sweatshop, domestic servitude, pornography or prostitution... This trade in human beings brings suffering to the innocent and shame to our country."⁴⁰²

⁴⁰¹ Lindstrom, 9.

⁴⁰² George W. Bush, "President Announces Initiatives to Human Trafficking," Tampa Florida: Tampa Marriott Waterside Hotel, 16 July 2004. (Washington D.C.: White House Office of the Press Secretary). Online at <http://www.whitehouse.gov/news/releases/2004/07/20040716-11.html>; Internet; accessed 2 December 2005.

Appendix: Chronological List of Relevant U.S. Laws and Policies ⁴⁰³

- 1865-** Act to Encourage Immigration legalizes the importation of foreign workers under contract and establishes the American Emigrant Company.
- 1875-** Page Act bans the importation of Chinese Workers under contract without their free and voluntary consent, as well as the importation of women for the purpose of prostitution. Though the language of the law applied to all women, it was particularly directed at Chinese women. Overall, it becomes more difficult for Chinese to migrate to the United States, and especially for them to form families here.
- 1882-** Chinese Exclusion Act expands upon Page Act to ban the admission of all Chinese Laborers, and declares all Chinese aliens residing in the United States to be ineligible for naturalized citizenship.
- 1885-** Contract Labor Act (Foran Act) Reverses the Act to Encourage Immigration, banning the importation of foreign workers under contract with an American firm or individual.
- 1891-** Congress establishes federal control over immigration (and deportation). Bars those with certain diseases, felons, polygamists, and those guilty of “moral turpitude” from entering the United States.
- 1903-** Immigration Act re-codifies existing laws, toughens deportation powers, and bars the entrance of anarchists and ‘subversives.’
- 1904-** “International Agreement for the Suppression of the White Slave Traffic” is signed in Paris, calling on states to take measures to prevent White Slavery. The United States takes a central role in the creation of the treaty and is one of the first to sign on.
- 1907-1908-** “Gentlemen’s Agreement” with Japan limits the immigration of Japanese laborers.

⁴⁰³ Chronological timeline created from the following sources: Vernon Briggs. *Immigration Policy and the American Labor Force*. (Baltimore: John Hopkins University Press, 1984); James Ciment ed. *Encyclopedia of American Immigration Vol. 4*. (Armonk, NY: M.E. Sharpe, 2001); Wayne Cornelius, “Death at the Border: Efficacy and Unintended Consequences of US Immigration Control Policy.” In *Population and Development Review* 27 no. 4 (December 2001): 661-685; Suzanne Miers. *Slavery in the Twentieth Century*. (Walnut Creek, CA: Altamira Press, 2003); E. Willard Miller and Ruby M. Miller. *United States Immigration: A Reference Handbook*. (Santa Barbara, CA: ABC-CLIO, 1996); Reed Ueda. *Postwar Immigrant America: A Social History*. (Boston: St. Martins, 1994); and *The United Nations Treaties Depository*. Available at <http://untreaty.un.org> ; Internet; accessed 23 April 2006.

- 1910-** “International Convention for the Suppression of White Slave Traffic” is signed in Paris, elaborating further the principles lay out in the 1904 treaty. The United States is once more a major participant.
- 1910-** White Slave Traffic Act (Mann Act) bans the transportation of persons over state or national lines for any ‘immoral’ purpose.
- 1910-** Laws are passed in Congress banning the immigration of pimps and prostitutes to the United States.
- 1917-** Immigration Act reinforces and expands upon earlier bans, barring: individuals from within an ‘Asiatic Barred Zone,’ those who are mentally ill and who have certain contagious diseases, the very poor, polygamists, those convicted of felonies and crimes of a ‘moral nature,’ contract laborers, persons who migrate as a result of advertisements for labor, prostitutes and other ‘immoral’ persons, and those who are not “assets to the United States” from entering the country. In addition, the ‘head tax’ is increased and a literacy test is imposed for all migrants over the age of 16. Exceptions are made for certain skilled laborers, professionals, and domestic workers.
- 1921-** First Quota Act is created, limiting all immigration to the U.S. on the basis of nationality.
- 1921-** International Convention for the Suppression of the Traffic in Women is opened for signatures by the League of Nations in Geneva, with the aim of improving upon and consolidating prior treaties. The United States does not participate.
- 1926-** “Slavery Convention,” is signed in Geneva, banning any labor practice in which “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” The United States signs the treaty, but with reservations to the portion of the document addressing forced labor.
- 1929-** National Origins Quota system goes into effect, lowering the ceiling for all admissions, and giving over eighty percent of those left to immigrants from northern and Western Europe. As a result, immigration from all other parts of the world is severely restricted.
- 1930-** “Forced Labour Convention” is opened for signing in Geneva by the International Labour Organization. The United States does not participate.
- 1933-** “International Convention for the Suppression of the Traffic in Women of Full Age,” opens for signatures in Geneva. The United States does not participate.
- 1942-** Bracero Program begins, leading to the importation of thousands of Mexican

nationals to work in the fields and railways of the United States.

- 1943-** Chinese Exclusion Act repealed, and a small number of Chinese admissions are added to the quota system.
- 1945-** War Brides Act makes it easier for foreign women to immigrate as the spouses of American servicemen. Family re-unification as a basis for United States immigration policy takes further root, amid concerns over ‘mail-order’ brides.
- 1947-** “Protocol to Amend the International Convention for the Suppression of the Traffic in Women and Children” and “Protocol to Amend the International Convention for the Suppression of the Traffic of Women of Full Age” open for signatures in New York at the United Nations. The United States does not sign.
- 1949-** “Protocol to Amend the International Agreement for the Suppression of the White Slave Traffic” and the “Convention for the Suppression of Traffic in Persons, and of the Exploitation of the Prostitution of Others” open for signatures in New York at the United Nations. The United States does not sign.
- 1949-** “Bracero Program” Act codifies immigration law exemptions to allow for the importation of temporary migrant workers from Mexico.
- 1950-** McCarran-Walter Act re-codifies immigration and naturalization laws. Quotas based on national origins are retained, and new system of granting visas on the basis of occupation is created. Aliens are required to report their addresses to federal government annually.
- 1954-** “Operation Wetback” responds to political pressure by removing one million Mexican immigrants from the United States. Massive civil liberties violations result, as thousands of American citizens (most of whom are children) are deported with their families.
- 1956-** “Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery” opens for signatures in New York at the United Nations. Building upon the 1926 League of Nations treaty, this Supplementary Convention explicitly broadens the definition of slavery to include peonage, debt bondage, forced marriage and other forms of human trafficking as “institutions and practices similar to slavery.” However, it gives almost no concrete provisions for changing the reality of these practices. The United States is a major player in the formation of this treaty. But though it is one of the first nation’s to sign it, Congress never ratifies the document due to the objection that it would interfere with the ‘legislative powers’ of the states.
- 1957-** “Convention Concerning the Abolition of Forced Labour” adopted by the General

Conference of the International Labour Organization in Geneva. The United States signs the treaty but does not ratify.

- 1965-** Hart-Celler Act abolishes national origins quotas, creating a new quota system that gives an equal number of visas to each sending country. However, admitted aliens are required to show they will not displace or harm existing workers in the United States by entering the country.
- 1968-** Bracero Program ends.
- 1974-** “Migrant Workers Convention” is opened for signatures through the International Labour Organization in Geneva. The United States does not participate.
- 1986-** Immigration Reform and Control Act gives amnesty to illegal aliens and provides opportunities for legalization and creates sanctions for employers that hire illegal immigrants.
- 1990-** “International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families” is opened for signatures in New York by the United Nations. The United States does not participate.
- 1991-** United States ratifies the ILO Convention Concerning the Abolition of Forced Labour.
- 1994-** Border wall is built between San Diego, California and Tijuana, Mexico with the aim of making it more difficult for illegal immigrants to sneak across the United States-Mexico border.
- 1996-** Immigration Reform and Immigrant Responsibility Act closes visa loopholes and makes it easier to deport illegal aliens.
- 2000-** “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime,” is opened for signatures in New York by the United Nations. The United States signs the treaty.
- 2000-** Trafficking Victims Protection Act identifies and clarifies the crime of human trafficking, increases penalties for human trafficking, provides victims with increased rights, and establishes a national anti-trafficking strategy in the United States.
- 2001-** PROTECT Act increases protections for child victims of human trafficking, increases penalties for perpetrators, and makes it a crime for American citizens to engage in human trafficking while abroad.

- 2001-** Enhanced Border Security and Visa Entry Reform Act increases number of border patrol agents and places additional restrictions on visas.
- 2001-** Fatality rate for immigrants attempting to illegally enter into the United States reaches an all time high.
- 2005 -** The United States ratifies the “Protocol to Prevent, Suppress and Punish Trafficking in Persons.”
- 2005-** The End Demand for Sex Trafficking Act gains momentum through a series of senate and house hearings on human trafficking, before it dies in committee.
- 2005-** US House of Representatives passes the Border Protection, Anti-Terrorism and Illegal Immigration Control Act of 2005, which calls for illegal entry to become a felony crime, for the mass deportation of illegal aliens, and for a vast increase in border security measures.
- 2006-** Immigrants and their supporters lead massive protests throughout the United States against the imposition of new anti-immigration measures. Nationwide debate follows, on how the conflict between national security and the nation’s need for immigrant labor ought to be resolved.

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