

Trafficking in Persons: An Annotated Legal Bibliography*

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Since the 1990s, trafficking in persons as an international human rights issue has garnered significant attention on both international and national levels. As a result, there has been an increase in the number of scholarly articles that have analyzed the problem, its root causes, and its forms, and discussed the international and national efforts to combat it. Professor Mattar's bibliography is an effort to identify, organize, and describe this growing body of literature.

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Introduction

¶1 Trafficking in persons is an international human rights issue that has recently garnered significant attention on both international and national levels. This form of slavery has been practiced for hundreds of years, but only since the beginning of the 1990s has this issue been brought to the forefront of the United Nations and the United States human rights agenda. In particular, the phenomenon of trafficking in persons received broad recognition after the end of the Cold War and the collapse of the Soviet Union resulted in a dramatic increase in the numbers of victims of trafficking from that region.

¶2 In recent years governments have made some efforts to prevent the act of trafficking, protect victims of trafficking, and prosecute cases of trafficking. There has also been a surge of domestic legislation recognizing trafficking in persons as a criminal offense and treating the trafficked person as a victim. In the United States, the Trafficking Victims Protection Act¹ was signed into law on October 28, 2000. On the international level, the 2000 United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children,² supplementing the United Nations Convention Against Transnational Organized Crime,³ has provided the first comprehensive international law to address the issue.

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1. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 101, 114 Stat. 1464, 1466 (codified as amended at 22 U.S.C. §§ 7101-7110 (2000)).
 2. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Annex II, art. 3(a), Dec. 12, 2000, G.A. Res. 55/25, U.N. Doc. A/55/383 (2000) [hereinafter UN Trafficking Protocol].
 3. Convention Against Transnational Organized Crime, Nov. 2, 2000, 40 I.L.M. 335 (2001).

¶3 As a result of this international and domestic attention, there has been an increase in the number of scholarly articles published in recent years analyzing the problem of trafficking in persons, its root causes, its forms, and the appropriate international and national responses to the problem. This bibliography is an effort to identify, organize, and describe this growing body of literature.

¶4 This bibliography takes an expansive view of the definition of trafficking and is designed to cover all forms of trafficking in persons, including sex trafficking, labor trafficking, trafficking for the purpose of marriage, trafficking for the purpose of illicit intercountry adoption, trafficking for domestic servitude, trafficking for the purpose of sex tourism, and organ trafficking. It includes articles dealing with trafficking and the smuggling of aliens, trafficking and slavery, trafficking and globalization, and trafficking and organized crime. It also covers articles dedicated to the debate on the legalization of prostitution, since trafficking and prostitution are interconnected and the link between them must be examined. Finally, it addresses the issue of trafficking within the framework of international human rights law, United States law, and covers trafficking in different countries and regions, including Brazil, Cambodia, China, Europe, Germany, Greece, India, Japan, the Middle East, Russia, Southeast Asia, Thailand, and Ukraine.

¶5 This bibliography is the first comprehensive attempt to compile articles about trafficking in persons into one source. It is also the first bibliography to address the issue of trafficking in persons exclusively.⁴

¶6 This bibliography is needed to guide further scholarship in the growing field of trafficking in persons. Although many articles on the topic have been published, as evidenced by the length of this bibliography, several areas have yet to receive adequate coverage. In my judgment, these areas include the link between legalized prostitution and trafficking in persons, the issue of demand, the economics of trafficking, and trafficking and AIDS. I hope that this bibliography will serve to point out the areas in which scholarly work remains lacking.

Bibliography

Definition of Trafficking in Persons

Everts, Dan. "Human Trafficking: The Ruthless Trade in Human Misery." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 149–58.

4. Previous bibliographies included very few articles on topics related to trafficking in persons. See, e.g., the *Women's Annotated Legal Bibliography* included in each issue of the *Cardozo Women's Law Journal* since 1997; Rebecca J. Cook & Valerie L. Oosterveld, *Religious and Cultural Rights: A Select Bibliography of Women's Human Rights*, 44 AM. U.L. REV. 1429 (1995); and JUDITH ENNEW ET AL., CHILDREN AND PROSTITUTION: HOW CAN WE MEASURE AND MONITOR THE COMMERCIAL EXPLOITATION OF CHILDREN? LITERATURE REVIEW AND ANNOTATED BIBLIOGRAPHY (2d ed. 1996), available at <http://www.child-abuse.com/childhouse/childwatch/cwi/projects/indicators/prostitution/biblio.html> (a collaboration between the Children in Especially Difficult Circumstances Section of UNICEF, the Centre for Family Research of the University of Cambridge, and Childwatch International).

Everts, the Netherlands' ambassador to the Organization for Security and Cooperation in Europe (OSCE), discusses the reasons behind the designation of trafficking in persons as one of the main priorities during the Dutch chairmanship of the OSCE. This article is an overview of various issues related to trafficking, including the definition of trafficking, the need to go beyond human rights aspects of trafficking, and the need for cooperation between international organizations in combating trafficking. The article also reviews specific anti-trafficking measures that have been suggested by the Dutch chairmanship of the OSCE and recommends the additional international efforts that need to be implemented.

Joshi, Aiko. "The Face of Human Trafficking." *Hastings Women's Law Journal* 13 (2002): 31–52.

This comment provides an overview of trafficking in persons and an in-depth discussion of the linkages between globalization, industrialization, and trafficking, as Joshi attempts to explain the reasons women are compelled to leave their homes and pay large sums of money to be smuggled. Joshi seeks to define what constitutes a victim of trafficking and discusses legal remedies and contributing factors to trafficking.

Laczko, Frank, and Marco A. Gramegna. "Developing Better Indicators of Human Trafficking." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 179–94.

This article analyzes the reasons behind the limited availability of reliable data on the magnitude of the problem of human trafficking, including the wide range of incompatible sources of data and reluctance to share data by national government agencies responsible for counter-trafficking efforts. The article also suggests alternative methods for improving these data, such as making greater use of information collected by the International Organization of Migration (IOM) and victim-assistance NGOs (nongovernment organizations) throughout the world. As an example of a successful undertaking aimed at developing better indicators of trafficking, the authors provide a detailed analysis of IOM's database on trafficking in the Balkan region, which was launched in 2001.

Stewart, Alison N. "Report from the Roundtable on the Meaning of 'Trafficking in Persons': A Human Rights Perspective." *Women's Rights Law Reporter* 20 (1998): 11–19.

The Roundtable on "The Meaning of 'Trafficking in Persons': A Human Rights Perspective" was held on January 29, 1998, in Washington, D.C. Composed of human rights' and women's rights' advocacy group members, the roundtable sought to define human trafficking and to formulate appropriate responses to it. The roundtable identified the root causes that make women vulnerable to trafficking, including the unequal status of women in families, stereotypes of women as property, and the feminization of poverty. It also identified the root causes that make minorities vulnerable to trafficking, such as migration policies that allow traffickers to prey on their illegal or underground status; poverty and unequal distribution of wealth; corruption in countries of origin, transit, and destination; and reduction of public services for them.

Distinction between Trafficking in Persons and Smuggling of Aliens

Bhabha, Jacqueline. "Lone Travelers: Rights, Criminalization, and the Transnational Migration of Unaccompanied Children." *University of Chicago Law Roundtable* 7 (2000): 269–94.

When unaccompanied children become transnational migrants, their legal situation is often questioned, and the criminalization of the situation is difficult to analyze. The difficulty comes with trying to define whether or not the child leaves the home by consent or coercion. Bhabha examines what the best interest of the child is, whether it is family and the "natural environment," or if leaving the country could provide more opportunities for the child.

Heckmann, Friedrich, et al. "Transatlantic Workshop on Human Smuggling Conference Report." *Georgetown Immigration Law Journal* 15 (2000): 167–82.

This article is a report of a workshop that dealt with issues related to human smuggling and human trafficking. First, the participants examined smuggling and trafficking through case studies in China, the Western Hemisphere, and Europe. The discussion was then broadened to review other related issues, such as trafficking for sexual exploitation, smuggling of asylum seekers, and the relationship between human smuggling and fraudulent documents. Finally, the participants discussed the issues that need to be addressed and researched, which include the different types of human smuggling organizations, countries of origin, the money trail from smuggling, and the effectiveness of different law enforcement strategies.

Trafficking in Persons as a Form of Slavery

Azmy, Baher. "Unshackling the Thirteenth Amendment: Modern Slavery and a Reconstructed Civil Rights Agenda." *Fordham Law Review* 71 (2001): 982–1061.

Azmy examines the modern problem of trafficking in persons internationally and in the United States as it relates to the pre-Civil War system of American slavery, describing trafficking as a tool of a new modern form of slavery and specifically focusing on legal remedies for victims of trafficking. He concentrates on the Thirteenth Amendment to the United States Constitution as a means of pursuing civil litigation against known traffickers, asserting that the Amendment, which eliminated slavery and involuntary servitude in the United States, should be used as a tool in empowering the victims of trafficking against traffickers and those who hold them in bondage. He further explains how present day lawyers can utilize the Thirteenth Amendment in prosecuting traffickers and proposes that victims of trafficking be enabled to sue their captors for remedy under the Amendment.

Bales, Kevin, and Peter T. Robins. "'No One Shall Be Held in Slavery or Servitude': A Critical Analysis of International Slavery Agreements and Concepts of Slavery." *Human Rights Review* 2 (Winter 2001): 18–45.

Bales and Robins attempt to create a new universal definition of contemporary slavery, incorporating both sexual slavery and slavery as a result of forced marriage.

Cook, John M. "Involuntary Servitude, Modern Conditions Addressed in *United States v. Mussry*." *Catholic University Law Review* 34 (1984): 153–79.

Section 1584, which forbade holding any person in involuntary servitude, was first interpreted in 1964. In *United States v. Shackney*,⁵ Judge Friendly "concluded that a holding in involuntary servitude existed only if the servant had, or believed he had, no way to avoid continued service or confinement" (p.156). The use of threats of physical violence, physical restraint, or immediate imprisonment was required to create the above condition. However, in 1984, § 1584 was revisited in *United States v. Mussry*.⁶ In this case, Judge Reinhardt considered modern economic realities and ruled that involuntary servitude could be coerced by any means, including conduct not covered under Judge Friendly's test. According to Cook, *Mussry* clearly covers a broader scope of conduct than *Shackney*. However, the analysis of legislative history in *Mussry* is inadequate and undermines its potential for influencing other courts.

Murphy, Margaret. "Modern Day Slavery: The Trafficking of Women to the United States." *Buffalo Women's Law Journal* 9 (2000–01): 11–16.

Murphy describes the various methods employed by traffickers of sex workers as well as various legal measures designed to combat and punish trafficking in persons. She believes that "slavery is alive and well in the United States" (p.11). Thousands of women enter the United States each year, mostly illegally, and are forced to "work in situations that are often both inhuman, and against American law" (p.11). They are brought into the country by various methods. Some are outright kidnapped, while others are given false promises of jobs as domestics or models, and still others are lured under diplomatic guises, under the impression that they will work as support staff. Murphy discusses the actions that have been taken to combat trafficking in persons, such as the Trafficking Victims Protection Act of 2000⁷ enacted in the United States and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.⁸

Rassam, Yasmine A. "Contemporary Forms of Slavery and the Evolution of the Prohibition of Slavery and the Slave Trade under Customary International Law." *Virginia Journal of International Law* 39 (1999): 303–52.

Rassam presents the argument that international law regarding modern slavery needs to be revised. Slavery is accepted as an illegal practice internationally, but contemporary slavery, which includes trafficking in persons, bonded labor, domestic work for immigrants, and forced labor, is not illegal. Rassam examines the framework of international law, treaties, and conventions, which can be ambiguous in defining slavery, thereby rendering crimes against humanity difficult to assess in the international courts. An "inclusive definition" of slavery is needed in order for victims to be able to bring a case before the International Court of Justice when legislation and customary law in their own countries are not sufficient. In order for the U.N. and the International Court of Justice to be efficient, international law must be expanded to accurately assess the current situation in human rights violations.

5. 333 F.2d 475, 486–87 (2d Cir. 1964).

6. 726 F.2d 1448 (9th Cir. 1984).

7. Trafficking Victims Protection Act of 2000, 114 Stat. at 1466.

8. UN Trafficking Protocol, *supra* note 2.

Trafficking in Persons and Globalization

Naim, Moises. "Five Wars of Globalization." *American University International Law Review* 18 (2002): 1–18.

Naim explores the five global wars currently fought by the governments worldwide, namely, the illegal international trade in drugs, arms, intellectual property, people, and money. Naim views these wars as more than just different examples of transnational crime; rather, he treats them as "different expressions of a broader phenomenon fueled by globalization" (p.2). With respect to traffickers of people, he presents some statistics on the global scale of the problem and illustrates responses enacted by some governments. Naim concludes by discussing the "enormous" role of international law and the need for the states to strategically surrender portions of their sovereignty" in order to prevail in these five wars.

Samarasinghe, Vidyamali. "Controlling Globalization in Anti-Trafficking Strategies in Asia." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 91–104.

Samarasinghe examines the links between globalization and the rise in trafficking in women in Asia, referring to trafficking as "the darker side of globalization" (p.93). Beginning with a brief overview of global policy on sex trafficking and of the United States Trafficking Victims Protection Act of 2000,⁹ Samarasinghe suggests that women are the most vulnerable to trafficking and provides proof for this suggestion by defining the concepts of "feminization" of flexible labor and of migration. Samarasinghe also analyzes the role of the state in combating trafficking in the globalized world, focusing on "the three P's" of anti-trafficking strategy: prevention of trafficking, protection of victims, and prosecution of traffickers. Finally, the article explores the debate on legalization of prostitution, concluding that anti-trafficking strategy should focus on the little-researched "male-dominated demand side."

Trafficking in Persons and Organized Crime

Abramovsky, Abraham. "Prosecuting the 'Russian Mafia': Recent Russian Legislation and Increased Bilateral Cooperation May Provide the Means." *Virginia Journal of International Law* 37 (1996): 191–222.

The fall of the Soviet Union has brought about an expansion in Russian organized crime. This problem is undermining the international community for various reasons. First of all, it is difficult to prosecute these organized criminals because the members and victims come from all over the world, which makes the legal processes time-consuming. Secondly, law enforcement cooperation between the United States and Russia was lacking because of the Cold War and their continuing mistrust of one another. Until 1996, the two countries did not have treaty relationships. However, that year witnessed significant steps to improve the cooperation between Russia and the United States, as the Mutual Legal Assistance Agreement was formed, which should eventually lead to a mutual legal assistance treaty. Russia has also created a new penal code, which will allow for prosecution of Russians who commit offenses in foreign countries.

9. Trafficking Victims Protection Act of 2000, 114 Stat. at 1466.

Abramovsky explains these new steps that Russia has taken toward fighting Russian organized crime and its relationship with the United States in this respect before and after 1996.

Cormaney, Mike. "RICO in Russia: Effective Control of Organized Crime or Another Empty Promise?" *Transnational Law and Contemporary Problems* 7 (1997): 261–311.

Cormaney begins by discussing the causes of the proliferation of Russian organized crime, then explains American organized crime from the 1950s and the use of the Racketeer Influenced and Corrupt Organizations Act (RICO)¹⁰ to combat this problem through legal efforts. He analyzes how RICO was used to stop organized crime in America and then presents ideas about how its principles may be utilized to fight Russian organized crime. Cormaney concludes by arguing that transforming the criminal law alone will not end organized crime because there are obstacles such as "a trend toward authoritarianism and the lack of an appropriate legal culture" (p.311).

Enck, Jennifer. "The United Nations Convention Against Transnational Organized Crime: Is It All That It Is Cracked up to Be? Problems Posed by the Russian Mafia in the Trafficking of Humans." *Syracuse Journal of International Law and Commerce* 30 (2003): 369–94.

In this student note, Enck suggests that in order for the United Nations Convention Against Transnational Organized Crime,¹¹ and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,¹² to achieve their intended success in combating transnational organized crime, especially in the area of human trafficking, it must create a strategy focusing on more domestic legislation coupled with enforcement everywhere, an international system of punishment, and greater means of protection for trafficking victims in all countries. With the creation of the convention and the protocol, governments now have more resources to deal with transnational organized crime and, in particular, its connection to human trafficking. Enck discusses the responses to the human trafficking problem undertaken by two countries—the United States and Russia. Enck identifies as one of the significant achievements of the U.S. policy, the creation of a new category of visas for victims of trafficking ("T" visa), and states that those who do not qualify for this visa will, under section 107 of the Trafficking Victims Protection Act, "still qualify for programs established by the secretary of state and the administrator of the United States Agency for International Development to 'assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking.'"¹³ The article also suggests that, unlike the United States, Russia will be among the countries that will pose the greatest obstacles to effective implementation of global anti-trafficking initiatives, concluding with the additional measures that are to be undertaken in order to effectively combat trafficking in persons.

10. 18 U.S.C. §§ 1961–1968 (2000).

11. Convention Against Transnational Organized Crime, *supra* note 3.

12. UN Trafficking Protocol, *supra* note 2.

13. Trafficking Victims Protection Act of 2000, § 107(a)(1), 114 Stat. at 1474–75 (codified at 22 U.S.C. § 7105 (2000)).

Levitsky, Melvyn. "Transnational Criminal Networks and International Security." *Syracuse Journal of International Law and Commerce* 30 (2003): 227–40.

In this essay, Levitsky pinpoints the difficult transitional period in the former Soviet bloc, describing a series of internal and cross-border disputes, a plethora of failed and failing states, and how the reluctance of the remaining superpower to engage actively in the shaping of post-Cold War events contributed to disorder and instability in many areas of the world. He provides a brief survey of general trends in transnational organized crime that reveals a rich, powerful, and complex network of illegal enterprise. He then moves on to discuss the impact of organized crime on contemporary transnational security, and the responses undertaken by the international community to combat transnational organized crime. In conclusion, Levitsky suggests that, while major developed nations have attempted to coordinate their programs more fully, making a greater use of the United Nations and regional organizations and creating broader alliances among national law enforcement, border and customs, and diplomatic agencies, such international coordination must be extended in order to effectively combat the various types of transnational organized crime.

Rumpf, Robin M. "The New Slavery: The United Nations' Interregional Crime and Justice Research Institute's Global Program against Trafficking in Human Beings." *New York Law School Journal of Human Rights* 19 (2003): 879–88.

Rumpf addresses the growth of human trafficking and provides a list of the best practices for addressing the involvement of organized crime groups in human trafficking. The article focuses particularly on the activities of the United Nations Global Program Against Trafficking in Human Beings, discussing in detail the four phases of the program. As a part of the second phase, technical cooperation projects have been established in several countries. These projects have facilitated some criminal justice responses to trafficking problems, such as establishing national coordination programs, raising awareness of and providing training to law enforcement officers, providing investigation and prosecution guidelines, formulating victim protection and support recommendations, and developing a database on organized crime involvement in trafficking. Rumpf concludes by describing additional anti-trafficking projects that were instituted in different countries and regions since the inception of the Global Program.

Shelley, Louise. "Trafficking in Women: The Business Model Approach." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 119–32.

Shelley addresses trafficking in women in terms of business, showing how trafficking differs regionally in accordance with business practices in each region. Because the profits from trafficking are high, and the risk of penalties is low, trafficking is a thriving business. The corruption of officials and lawyers also keeps this trade alive. Business models for post-Soviet organized crime, Chinese traffickers, the U.S.-Mexican trade, crime in the Balkans, trafficking in Nigeria and West Africa, and regulation in the Netherlands are considered. Each regional case study demonstrates how the trafficking in persons, especially in women, is integrated into business patterns of trade, and how the culture of each region affects the methods of trafficking. Shelley concludes by stating that trafficking needs to be combated through an economic approach, not just by legal means.

***Trafficking in Persons and the Prostitution Debate:
Criminalization, Legalization, and Decriminalization***

Adler, Libby. "New Perspectives on Labor and Gender: An Essay on the Production of Youth Prostitution." *Maine Law Review* 55 (2003): 191–209.

Adler's purpose is to shed light on some gaps in the prevailing legal conception of youth prostitution. She draws on earlier empirical studies of youth prostitution in the United States to define youth prostitution, summarizes the existing laws used to combat this problem, and presents proposals for reform of these laws. She contends that the prevailing conceptions of youth prostitution in the United States are inadequate and, therefore, calls for a more compound view of youth prostitution.

Almodovar, Norma Jean. "For Their Own Good: The Results of the Prostitution Laws as Enforced by Cops, Politicians, and Judges." *Hastings Women's Law Journal* 10 (1999): 119–33.

Almodovar argues that current laws regarding prostitution are misguided. Although they seek to protect women in prostitution from exploitation and unhealthy lifestyles, they end up doing more damage than good. The police officers who enforce the laws also harm women in prostitution by violating their right to privacy. Almodovar cites instances in which prostitutes were marginalized from society and prevented from seeking legal assistance for their problems by the very laws that were supposed to protect them. She seeks to refute the notion that prostitution is usually forced on people and that it is degrading to them, insisting that some people choose to work as prostitutes in order to attain a better life. Finally, she argues for decriminalization rather than legalization since the latter would allow the state to regulate prostitution excessively.

Baldwin, Margaret A. "Strategies of Connection: Prostitution and Feminist Politics." *Michigan Journal of Gender and Law* 1 (1993): 111–55.

Baldwin asserts that society's attitudes toward prostitution and the laws that society enacts concerning prostitution exhibit its true beliefs concerning gender equality and inequality. Society casts women in prostitution as indecent and sees them as immoral, a scourge of decent society. Laws prohibiting prostitution are a reflection of society's unequal views that prostitutes are more immoral than those who pay for their services. Cast as degenerate and void of respectability, prostitutes lose their rights as full and equal citizens. Even laws meant to protect women in prostitution end up harming them by reinforcing inequalities and inappropriate social hierarchies. Finally, Baldwin advocates disrupting existing inequalities and the dichotomy of decency/degeneracy by ceasing to penalize those used in prostitution, penalizing instead those who purchase their services, seek to benefit financially from them, or both.

Balos, Beverly, "Teaching Prostitution Seriously." *Buffalo Criminal Law Review* 4 (2001): 709–53.

Balos discusses the manner in which prostitution is addressed in criminal law courses, describing the findings of a report published in 1990¹⁴ that examined the

14. Nancy S. Erickson, *Final Report: Sex Bias in the Teaching of Criminal Law?* 42 RUTGERS L. REV. 309 (1990).

sex bias in such courses by studying how seven criminal law casebooks addressed issues related to prostitution. Balos also examines three casebooks currently used in universities to see how they treat the issue of prostitution, concluding that current textbooks continue to afford prostitution the same minimal treatment as found in the earlier report. She concludes by urging criminal law teachers and casebook authors to include more material regarding the nature of prostitution and to challenge the existing stereotypes of women in prostitution.

Balos, Beverly, and Mary Louise Fellows. "A Matter of Prostitution: Becoming Respectable." *New York University Law Review* 74 (1999): 1220–1303.

Balos and Fellows utilize the concept of respectability to illustrate inequalities and biases within the social hierarchy system regarding prostitution. Society tends to place more emphasis on protecting the rights of women who hold higher positions within the social hierarchy and who are perceived as respectable. Because prostitutes are perceived to embody the immoral social ills of degeneracy, they tend to receive unequal treatment under the law. The authors compare the treatment of victims of domestic abuse, sexual harassment, and rape to the treatment of women engaged in prostitution who are seeking protection from harm. Finally, they maintain that society must relinquish its notion of worthiness as well as its built-in hierarchical bias when considering prostitution in law reform.

Becker, Mary Ann. Review of *The Prostitution of Sexuality: The Global Exploitation of Women*, by Kathleen Barry. *DePaul Law Review* 52 (2003): 1043–57.

Becker applauds *The Prostitution of Sexuality*¹⁵ for exposing the coercion, force, and trickery used to lure women into prostitution. The book attacks the deceptive notion of prostitutes as "bad" girls by arguing that no woman will choose a degrading, demoralizing, and dehumanizing existence in which her only mission is to satisfy sexual demands of men. Analyzing prostitution through the lens of radical feminist theories, the book argues that prostitution is a product of a patriarchal and male-dominated society and continually emphasizes the process of dehumanization and commodification of women through prostitution. It then shifts focus to the phenomenon of international trafficking in women, arguing that the same process of commodification occurs to the victims of sexual trafficking. Consequently, the author calls for examination of sexual exploitation and trafficking from a feminist human rights perspective based on actual experiences rather than theoretical occurrences. In conclusion, the book addresses state approaches to prostitution, such as prohibition, regulation, and abolition, finding them inadequate and suggesting instead criminalization of customers of prostitution and providing social services and training to victims.

Bernstein, Elizabeth. "What's Wrong with Prostitution? What's Right with Sex Work? Comparing Markets in Female Sexual Labor." *Hastings Women's Law Journal* 10 (1999): 91–117.

The outcome of debates among radical feminists and pro-sex feminists would essentially form the moral underpinning for keeping prostitution illegal, making it legal, or decriminalizing it. Attempting to add practical knowledge to the theoretical debates regarding prostitution, Bernstein draws on her experiences and observations during eighteen months of fieldwork and interviews with a variety

15. KATHLEEN BARRY, *THE PROSTITUTION OF SEXUALITY: THE GLOBAL EXPLOITATION OF WOMEN* (1995).

of San Francisco prostitutes. She concludes that in a "post patriarchal" world, prostitution could very well not exist. She further contends that whether radical feminists or pro-sex feminists are right depends on the situation. In some circumstances, prostitution can be empowering or liberating. Under other circumstances, however, it can be "the most disempowering of exchanges" (p.117). She asserts that feminists must recognize both sides before calling for political solutions.

Bingham, Nicole. "Nevada Sex Trade: A Gamble for the Workers." *Yale Journal of Law and Feminism* 10 (1998): 69–99.

Within the context of the Nevada sex trade where prostitution is legal but regulated, this article analyzes the debate between those who contend that prostitution is exploitation and those who contend that it is simply work. Bingham contends that despite the institution's legality, prostitutes in Nevada gain little from permission to work in the sex trade. In fact, they suffer many of the disadvantages of being exploited, since most of the sex trade regulation is meant to protect customers rather than purveyors. She asserts that both the prostitution as exploitation and prostitution as work arguments are overly simplistic, each failing to recognize that women are exploited in other forms of work that are legal. She concludes that the legal sex trade in Nevada should not be used as a model for the rest of the country. Decriminalizing the sex trade would allow prostitutes more freedom to claim protection through the law.

Carter, Vednita, and Evelina Giobbe. "Duet: Prostitution, Racism, and Feminist Discourse." *Hastings Women's Law Journal* 10 (Winter 1999): 37–57.

The authors of this article, who are former prostitutes, view prostitution as "a system of institutionalized violence against women" (p.38). Their article examines the sex industry within its underlying context of race, class, and gender oppression. They begin by drawing an historical nexus between prostitution and slavery, then move to a discussion of the social stigma and negative social, psychological, and health consequences of commercial sex work. They follow with a critique of the current international prostitutes' rights movement, and close by looking at various mechanisms for legalization and decriminalization of prostitution, concluding that both approaches represent mere "social experiments that have repeatedly failed" (p.54) to effectively provide for the needs of women in prostitution.

Cooper, Belinda. "Prostitution: A Feminist Analysis." *Women's Rights Law Reporter* 11 (1989): 99–119.

Cooper examines American law concerning prostitution, which is based largely on two competing schools of thought: "traditional moralist" beliefs, which cast prostitution as a degenerate activity, and "liberal individualist" beliefs, which allow individuals the greatest possible freedom in determining their own actions. Radical feminists have come to challenge both schools of thought, asserting that male power is expressed through society's treatment of sex, which is inherently unequal and unfair to women. Liberal individualists and liberal feminists would demand equality in the current societal and legal frameworks while radical feminists insist that it is not possible. Even if prostitution were decriminalized and placed under the control of women, it would still be an institution that, by its very nature, subordinates women to the desires of men.

Drexler, Jessica N. "Government's Role in Turning Tricks: The World's Oldest Profession in the Netherlands and the United States." *Dickinson Journal of International Law* 15 (1996): 201–36.

Prostitution, the "oldest profession in the world," has almost always been regulated in some manner. There are three general legal approaches to the regulation of prostitution. One is the criminalization approach generally utilized in the United States. Another is decriminalization, which exists in the Netherlands, where prostitution is legal but running a prostitution enterprise is not. The last approach is legalization, the choice of the state of Nevada, where prostitution and prostitution enterprises are legal, but the state regulates every aspect of the trade. Drexler contends that of the three, decriminalization is the preferred approach since it seems to correlate with lower crime rates and decreased incidences of sexually transmitted diseases and grants prostitutes more legal recourse and better working conditions.

Farmer, Mary K., Donn G. Kessler, and Lawrence J. Rosenfeld. "A Proposal for the Legalization of Prostitution in Connecticut." *Connecticut Bar Journal* 49 (1975): 162–78.

In justification of their proposal to legalize and regulate most forms of prostitution, the authors contend that doing so would enable the state to regulate it and to protect the public from the harassment of solicitation from prostitutes. Legalized prostitution would also allow the courts and police to focus their attention on much more serious matters than prostitution. Finally, legalization would allow the regulation necessary to protect the prostitutes from the dangers and exploitation that come with their jobs.

Freeman, Jody. "The Feminist Debate Over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists, and the (Im)Possibility of Consent." *Berkeley Women's Law Journal* 5 (1990): 75–109.

Prostitution rights groups and radical feminists differ in their views toward prostitution. The former, like liberal feminists, view prostitution as an honorable profession, performed by respectable women. Radical feminists, in contrast, view prostitution as just another form, possibly the worst form, of gender-based coercion and subordination. Although more sympathetic to the views of radical feminists, Freeman believes that the eradication of prostitution is unattainable as a short-term goal, that it can only be achieved in the long-term. She sides with prostitution rights groups in calling for the decriminalization of prostitution since, although it will not eradicate the practice, it will stop many of the abuses that prostitutes suffer. Since the laws prohibiting prostitution are more concerned with protecting property values than protecting the victims, decriminalization will also stop casting the victims, the prostitutes themselves, as the only criminals involved.

Jennings, M. Anne. "The Victims as Criminal: A Consideration of California's Prostitution Law." *California Law Review* 64 (1976): 1235–84.

Prostitution is currently considered a criminal offense in the state of California. However, with increases in both crime rates and the costs of law enforcement, it is time to address the actual harm that prostitution does versus the costs of enforcing prostitution laws. The question of the extent of the harm caused to the prostitutes and others by law enforcement officials should also be addressed.

Prostitution is a victimless crime, committed through a private transaction between two consenting adults. The victims of prostitution emerge only in association with prostitution or in the openness of its solicitation. Jennings argues that not all acts of prostitution should be prohibited, just certain public solicitations. In addition, law enforcement should be equally directed at the customer and the prostitute. Aside from that, prostitution should be merely regulated.

Kandel, Minouche. "Whores in Court: Judicial Processing of Prostitutes in the Boston Municipal Court in 1990." *Yale Journal of Law and Feminism* 4 (1992): 329–52.

The enforcement of prostitution laws is extremely costly in terms of time and money spent to process each offense and incarcerate each offender. A 1985 study of prostitution arrests in Boston estimated the cost of processing each arrest at \$1196. The same study estimated the total cost of enforcing prostitution laws in Boston at \$6,156,133. Despite these figures, no significant efforts have been made to rehabilitate or deter prostitutes. Thus, Kandel recommends that prostitution be decriminalized and that the funds presently spent on criminalization be shifted to counseling, safe havens, and rehabilitation programs for prostitutes.

Larson, Jane E. "Prostitution, Labor, and Human Rights." *U.C. Davis Law Review* 37 (2004): 673–700.

Larson analyzes the legal status of prostitution as an unsettled issue in nations throughout the world, particularly in the West. When the debate on prostitution shifted into the legal arena in the nineteenth century, prostitution became an issue of international law. This resulted in the adoption of international agreements and conventions aimed at eradicating the cross-boundary trade in human sexual labor, known as trafficking, and at condemning prostitution as a practice akin to slavery and violence. As a result, two conflicting positions on prostitution emerged: the abolitionist position and the autonomy, or tolerance, position. The former "treats all prostitution as a problem of human rights, to be condemned uncompromisingly, like slavery, and never to be equated with acceptable practices like work, or with legitimating ideas like consent and contract" (p.680). "Autonomy advocates invoke the human right to work and to self-determination guaranteed by basic human rights instruments, such as the Universal Declaration [of Human Rights]" (p.680). In conclusion, Larson suggests that the "labor rights as human rights" movement can be formulated in terms of the prostitution debate.

Law, Sylvia A. "Commercial Sex: Beyond Decriminalization." *Southern California Law Review* 73 (2000): 524–610.

The United States penalizes prostitution more severely than most other countries. A substantial portion of police resources in the United States is used to apprehend and punish women who sell sex for money. Unfortunately, police efforts usually concentrate on streetwalkers, the poorest and most exploited of all prostitutes. Also unfortunate is that a disproportionately small amount of police resources is used to apprehend and punish those who provide the demand for their services or those who profit from their work. This article suggests that prostitution should be decriminalized, but admits that decriminalization has the potential to draw more women into the sex trade. Author Law does, however, call for decriminalization as a first step toward more protection for sex workers from exploitation and abuse.

Leigh, Carol. "A First Hand Look at the San Francisco Task Force on Prostitution."

Hastings Women's Law Journal 10 (1999): 59–90.

Leigh, a former prostitute and a member of San Francisco Board of Supervisors' Task Force on Prostitution (representing San Francisco's Commission on the Status of Women), explains how she came to define the terms commonly used in the debate surrounding prostitution law reform. She deals with various issues of the debate, including legalization, decriminalization, regulation, and abolitionism. She concludes that the task force report has been important in articulating the benefits of a system that does not penalize prostitutes, provides a basis to improve conditions for sex workers, and attempts to eliminate the discrimination that they endure.

Milman, Barbara. "New Rules for the Oldest Profession: Should We Change Our Prostitution Laws?" *Harvard Women's Law Journal* 3 (1980): 1–82.

Milman addresses the question of whether prostitution should be decriminalized from a strictly pragmatic standpoint. She asks whether prostitution is truly a "victimless" crime. Most answers to this question are merely philosophical without hard empirical evidence. Thus, this article presents the empirical findings on the question collected by the Harvard Center for Criminal Justice. The study finds that prostitution does victimize society and the prostitutes themselves in some ways. Laws regarding prostitution should therefore address the ways that prostitution victimizes society and decriminalize those aspects that do not.

Murphy, Marjorie E. "A Question of Procurement: Not Prostitution." *Columbia Law Review* 87 (1987): 1075–91.

Murphy offers a review critical of *Working Women: The Subterranean World of Street Prostitution*¹⁶ for its apparent biased view toward the repeal of laws prohibiting street prostitution. The authors of the book contend that such laws are responsible for the violence and low self-esteem that street prostitutes experience. Murphy contends, however, that the prostitutes' concerns must be balanced against community interests. To do so, it is important to draw a distinction between procurement and delivery of sexual services. Murphy believes that decriminalizing the delivery of sexual services and regulating procurement would instead allow streetwalkers to work through massage parlors and escort services where they would be safer from abuse and exploitation and free from police harassment.

Nussbaum, Martha C. "Whether from Reason or Prejudice: Taking Money for Bodily Service." *Journal of Legal Studies* 27 (1998): 693–724.

The stigma attached to prostitution is based on beliefs that are indefensible and should be rejected by feminists. They should instead view prostitutes as poor working women who do not have many options open to them. Nussbaum contends that there is nothing wrong, per se, in taking money for sexual services. It is merely using one's own body, perhaps in a menial way, to earn money. She compares the sexual work performed by prostitutes to the menial work performed by agricultural laborers and factory workers. She further contends that the answer is not to prohibit an option that may be the only livelihood for many women, but rather to strive to enhance their economic autonomy and their dignity.

16. ARLENE CARMEN & HOWARD MOODY, *WORKING WOMEN: THE SUBTERRANEAN WORLD OF STREET PROSTITUTION* (1985).

Pearl, Julie. "The Highest Paying Customers: American Cities and the Cost of Prostitution Control." *Hastings Law Journal* 38 (1987): 769–90.

In almost all of the large cities in the United States violent crime is increasing while the number of police arrests for such crimes remains stagnant. Simultaneously, police forces in those large cities are devoting more and more time to enforcing prostitution laws. Pearl contends that these police forces are using too much valuable time and manpower to enforce prostitution laws when they should be focusing their efforts on fighting violent crime. She seeks to bolster her argument by conducting a cost-benefit analysis of the enforcement of prostitution laws. With the incidence of violent crime on the rise in their cities, Americans will soon be faced with the decision of the feasibility of retaining and enforcing existing prostitution laws.

Reanda, Laura. "Prostitution as a Human Rights Question: Problems and Prospects of United Nations Action." *Human Rights Quarterly* 13 (1991): 202–28.

This essay addresses the aspects of prostitution within the parameters of human rights. It first addresses the issue of whether prostitution is a human rights violation. Trying to determine if the international system can help the problem of prostitution, Reanda summarizes the international approaches to the problem of prostitution and assesses their effectiveness. She also addresses the issue of the rise in the drug problem and the prostitution problem. She concludes that the problem is not the result of inadequate international standards, but instead a reflection of societal attitudes that consider prostitution and sexual abuse of women as a fact of life that does not need to be treated as a priority issue.

Rosenbleet, Charles, and Barbara J. Pariente. "The Prostitution of the Criminal Law." *American Criminal Law Review* 11 (1973): 373–421.

This article points out the injustice of current prostitution laws and their enforcement. The authors' main argument is that although prostitution is illegal, prostitution laws are enforced unevenly and unjustly against prostitutes in contrast to their customers. The authors also challenge the government's proscription of prostitution without a compelling state interest. They argue that the injustices being committed will not wait for legislative reform, which does not seem imminent. Instead, some headway should be made in the courts.

Shuster, Kenneth. "On the 'Oldest Profession': A Proposal in Favor of Legalized but Regulated Prostitution." *University of Florida Journal of Law and Public Policy* 5 (1992): 1–31.

After briefly examining the history and different definitions of prostitution, Shuster refutes the three main arguments against prostitution: that it victimizes and denigrates women, that it contributes to the moral degeneration of society, and that it promotes the spread of sexually transmitted diseases. He proposes the legalization and regulation of prostitution and provides a "Model Prostitution Regulation and Licensing Act."

Stout, James R., and Thomas S. Tanana. "Could California Reduce AIDS by Modeling Nevada Prostitution Law?" *San Diego Justice Journal* 2 (1994): 491–506.

Public concern over the increasing prevalence of AIDS in California has provoked its lawmakers to pass stricter laws concerning prostitution. Statistics from Nevada, however, suggest that California should follow its lead, since in that state, where prostitution is legal but regulated, the incidence of sexually trans-

mitted diseases has decreased significantly. California lawmakers must decide between the practicality of legalizing prostitution to save lives and the morality of continuing to criminalize it. Rather than increasing the amounts of resources spent on the enforcement of strict anti-prostitution laws, California should reduce the spread of STDs by legalizing prostitution.

Thompson, Susan E. "Prostitution: A Choice Ignored." *Women's Rights Law Reporter* 21 (2000): 217-47.

Thompson first notes that prostitution was a respected profession in ancient Greece and Rome and during early Christianity, and then describes its downfall as a respectable profession in the United States. She also compares and contrasts the traditional and ideological approaches, as well as feminist approaches to prostitution, and analyzes the three legal approaches to prostitution: criminalization, legalization or regulation, and decriminalization. She contends that decriminalization is the most favorable legal approach in offering prostitutes access to benefits and protection from exploitation. Maintaining that prostitution is "as American as apple pie" and that it is a respectable choice for women who wish to attain economic freedom and sexual autonomy, she argues that current laws continue to support the mistaken belief that women in prostitution are degenerate, immoral, and/or helpless.

Trafficking in Persons for the Purpose of Prostitution

De Ming Fan, Mary. "The Fallacy of the Sovereign Prerogative to Set De Minimis Liability Rules for Sexual Slavery." *Yale Journal of International Law* 27 (2002): 395-421.

This comment begins with a discussion of the background of sex trafficking in Japan in the first half of the twentieth century and the "comfort women" system of state-sponsored "commodified sexual slavery." According to *Hwang v. Japan*,¹⁷ commodified sexual slavery fails to meet the criteria for the commercial activity waiver to modify foreign sovereign immunity in 28 U.S.C. § 1605(a). The author discusses why commodified sexual slavery should qualify as commercial activity, and also argues that *Hwang* allows U.S. courts to recognize a state's "purported sovereign prerogative" to promote forced prostitution and to set limits on liability for victims of trafficking and forced prostitution.

Demleitner, Nora V. "Forced Prostitution: Naming an International Offense." *Fordham International Law Journal* 18 (1994): 163-97.

According to Demleitner, the difficulty in prosecuting and punishing the traffickers of women and children derives from a "general unwillingness to recognize forced prostitution as an offence in its own right" (p.197). In fact, the acts that comprise the crime of forced prostitution are labeled as individual offenses instead of being acknowledged as a composite crime. Demleitner suggests attaching the label "forced prostitution" to the whole range of abuses it encompasses and recognizing the procurer or financier as well as the customer as offenders. This will make it easier to prosecute the offense domestically.

17. 172 F. Supp. 2d 52 (D.D.C. 2001).

Dunbar, Michelle O. P. "The Past, Present, and Future of International Trafficking in Women for Prostitution." *Buffalo Women's Law Journal* 8 (1999–2000): 103–28.

In addition to reviewing the history of trafficking in women for prostitution, Dunbar emphasizes that more effort must be effected on a domestic level in order to put a glitch in the thriving business of trafficking in women. International conventions must be evaluated in terms of the difference between international trafficking and forced prostitution, and enforced to a greater degree in order to change the global sex industry. Traffickers must be prosecuted and brought to justice by the proposed international criminal court.

Flowers, Barri K. "The Sex Trade Industry's Worldwide Exploitation of Children." *Annals of the American Academy of Political and Social Science* 575 (2001): 147–55.

Flowers provides a general overview of the status of international trafficking of children and sexual exploitation of children, addressing such issues as the scope of the problem, sex tourism, child pornography, AIDS, and the rights of the child. Flowers asserts that sexual exploitation of children needs to be addressed as a human rights issue.

Hanna, Cheryl. "Introduction to 'Symposium on Sexual Slavery: The Trafficking of Women and Girls into the United States for Sexual Exploitation.'" *Hastings Women's Law Journal* 13 (2002): 1–7.

Hanna introduces a symposium on trafficking in women and girls, providing a synopsis of the issue but not an in-depth legal analysis. Her article cites new capabilities in communications technology and globalization as causes of increased commercial sexual exploitation of women and girls. She touches on the relationship between legalized prostitution and trafficking, the victimization of women, and immigration issues.

Hauber, Laurie. "The Trafficking of Women for Prostitution: A Growing Problem within the European Union." *Boston College International and Comparative Law Review* 21 (1998): 183–99.

Hauber examines the problem of trafficking in women for the purpose of sexual exploitation within the European Union, noting that it is either directly or indirectly addressed in EU resolutions and by individual member states. The EU suggested formulating a common strategy for combating trafficking as early as 1989 and continues to address the problem within the community. Hauber concludes that the EU must "develop a comprehensive response that includes both legal and non-legal measures" (p.199). She suggests that the necessary provisions in laws should include law enforcement cooperation, witness protection, victim assistance, and victim rehabilitation.

Katyal, Neal Kumar. "Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution." *Yale Law Journal* 103 (1993): 791–826.

Katyal describes forced prostitution as a form of slavery for purposes of the Thirteenth Amendment's prohibition against slavery and involuntary servitude. He defines forced prostitution, stating that it has many elements in common with antebellum slavery, including "physical abuse, lack of free will, forced labor, and social stratification" (p.793). He also explores the views of early abolitionists on sexual exploitation of female slaves, which was equated with prostitution. He

then reviews pertinent jurisprudence interpreting the Thirteenth Amendment, demonstrating how it makes the case for forced prostitution as slavery. Finally, Katyal explores remedies available to women in forced prostitution against pimps and conspirators, as well as potential remedies against the government and its officials for failing to protect constitutional rights of prostitutes.

Trafficking in Women for Military Prostitution

Agathangelou, Anna M., and L. H. M. Ling. "Desire Industries: Sex Trafficking, UN Peacekeeping, and the Neo-Liberal World Order." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 133–48.

This article explores sex trafficking as the "dirty secret of UN interventions around the world" (p.133). The authors contend that, given the nature of peacekeeping as a transnational project, sex trafficking that accompanies peacekeeping operations "is but the most superficial and obvious response to [the] nexus of technology, power, and capital utilized by one configuration of race, gender, and class against others" (p.134). The article looks at trafficking as a natural by-product of neo-liberal world economic order, arguing that individual states and international powers are often complicit in the growth of sex-trafficking industries. The authors also argue that peacekeepers follow the colonialist logic in reconstructing the identities of the host countries, so that "race, class, and sexuality figure centrally in peacekeepers' constructions of power and sex in the field" (p.142). In conclusion, they urge the international community to undertake concrete steps to address the connection between peacekeeping, prostitution, and sex trafficking.

Argibay, Carmen M. "Stefan S. Riesenfeld Symposium 2002: Speech—Sexual Slavery and the 'Comfort Women' of World War II." *Berkley Journal of International Law* 21 (2003): 375–89.

Argibay analyzes the Japanese system of "comfort women" as a system of slavery that restricted its victims' freedom of movement and forced them to perform sexual labor, thus violating the international law. She provides a historical background by describing the establishment of "comfort stations" for the Japanese military and the practices used to recruit women for such stations. She then analyzes the international law prohibitions of slavery and trafficking that existed both before and after World War II, as well as the definitions of various terms used in the international instruments, including "slavery" and "sexual slavery." Finally, she discusses the indicia of sexual slavery that were inherent in the Japanese comfort system, and concludes by urging the international community to undertake effective steps to eliminate all forms of discrimination underlying modern-day slavery.

Askin, Kelly D. "Prosecuting Wartime Rape and Other Gender-related Crimes under International Law: Extraordinary Advances, Enduring Obstacles." *Berkeley Journal of International Law* 21 (2003): 288–349.

Throughout the history of civilization, warring parties have used sexual violence as an instrument of war and an illicit weapon that generates mass terror, panic, and destruction. Askin begins with an overview of the historical development of international humanitarian law on gender crimes committed during war periods, arguing that, until recently, treaties and customary practices prohibiting wartime

sexual violence remained largely ignored and gender-related crimes neglected by the post-war criminal tribunals, including by the Nuremberg and Tokyo tribunals. However, the last decade has witnessed the establishment of critical precedential authority for redressing wartime crimes committed against women and girls, particularly rape and sexual slavery. In particular, “the Yugoslav and Rwanda tribunals have successfully prosecuted various forms of sexual violence as instruments of genocide, crimes against humanity, means of torture, forms of persecution and enslavement, and crimes of war” (p.288). Askin concludes by contending that crimes of sexual violence are finally considered amongst the most serious international crimes and have risen to the level of a jus cogens norm.

Chinkin, Christine. “Gender, Human Rights, and Peace Agreements.” *Ohio State Journal on Dispute Resolution* 18 (2003): 867–86.

Chinkin considers the relationship between gender, peace agreements, and international human rights, as well as the role of gender and human rights in peace-building processes. Traditionally, the participation of women in these processes has been very limited, and gender relations almost always omitted from peace negotiations processes. Chinkin analyzes possible issues that should be covered by peace agreements that take into account gender-related factors, including steps toward limiting the potential for prostitution associated with the presence of peacekeeping forces and measures to provide greater physical, economic, and legal security for women. In conclusion, she urges the international community to consider gender issues in subsequent peace negotiations.

Chinkin, Christine M. “Women’s International Tribunal on Japanese Military Sexual Slavery.” *American Journal of International Law* 95 (2001): 335–41.

In this editorial comment, Chinkin discusses the evidence uncovered during the Women’s International War Crimes Tribunal in Tokyo in 2000, which considered the criminal liability of high-ranking Japanese military and political officials, as well as that of the state of Japan, for rape and sexual slavery which the Japanese military engaged in during the 1930s and 1940s in the Asia Pacific region. She goes on to discuss the importance of other “peoples’ tribunals” in the developing role of civil society as an international actor. Similar tribunals also dealt with the international law perspective on the untimely official actions in the egregious violations that took place under the Soviet military occupation in Afghanistan, Indonesia’s occupation in East Timor, as well as the Armenian genocide. Finally, she addresses the increased suffering of sexually violated women who are further humiliated due to the cultural dismissal of their innocence, expressing the hope that the tribunal will contribute to the appropriate attribution of responsibility and assist in changing the worldwide pattern of sexual stereotyping that continues to be pervasive today.

Meade, Christopher P. “From Shanghai to Globocourt: An Analysis of the ‘Comfort Women’s’ Defeat in *Hwang v. Japan*.” *Vanderbilt Journal of Transnational Law* 35 (2002): 211–88.

Meade begins this case note with a disturbing personal account from a young girl trafficked into the Japanese “comfort stations” during the Rape of Nanking and early World War II. He paraphrases her experiences, including rape, assault, forced labor, and horrific medical treatments. By employing the girl’s story as a transition into the body of the article, he documents the treaties, laws, protocols, and information sources used to successfully prosecute high-ranking Japanese

military officers in the crimes of trafficking and sexual exploitation. Meade compares the claims of former “comfort women” against the Japanese military to those brought against the perpetrators of other incidences of mass genocide and rape, such as those by the victims of the Nazi Holocaust against Germany. He provides several case studies and legal reviews explaining the interpretation of the United States’ involvement in retribution for victims of trafficking, under jurisdiction of the Aliens Tort Claims Act, and the challenges to the enforcement of such judgments posed by the Foreign Sovereign Immunities Act.¹⁸

Murray, Jennifer. “Who Will Police the Peace-Builders? The Failure to Establish Accountability for the Participation of United Nations Civilian Police in the Trafficking of Women in Postconflict Bosnia and Herzegovina.” *Columbia Human Rights Law Review* 34 (2003): 475–527.

Protecting human rights and working to put an end to the trafficking in persons is difficult work when peacekeeping mechanisms are corrupt. The United Nations established a peacekeeping force after the Cold War, bringing together military personnel from all of the countries involved. During the conflict in Bosnia, the peacekeeping force exploited women and trafficked them for prostitution. This article defines modern peacekeeping essentially as post-conflict peace-building, and provides a description of the UN mission in Bosnia. There is also an overview of globalized trafficking and organized crime coming from Russia, Eastern Europe, and Asia. International responses have included treaties and domestic legislation, but peacekeeping forces such as the International Police Task Force that was stationed in Bosnia, receive privileges and immunities from such legislation, thereby allowing for trafficking in persons to exist among peacekeeping forces. Murray lays out the responsibilities and duties of the United Nations and contends that it must be held accountable for human rights violations in order for it to be a credible peacekeeping mechanism for the international community.

Nearey, Joseph P. “Seeking Reparations in the New Millennium: Will Japan Compensate the ‘Comfort Women’ of World War II?” *Temple International and Comparative Law Journal* 15 (2001): 121–45.

Nearey examines the Japanese government’s responses, or lack thereof, in addressing complaints of “comfort women” from World War II. Beginning with a history of the problem and explaining the crimes of sexual slavery committed by Japanese troops during World War II, the article progresses to an historical examination of international conventions that prohibit trafficking in women. These conventions, such as the International Convention for the Suppression of the Traffic in Women and Children of 1921–22,¹⁹ could be used to prove Japan’s liability and responsibility for sexual war crimes, making a case for reparations to the comfort women. Nearey asserts that Japan must commit itself to redressing human rights complaints if it would like to be an important member of the international community.

18. Foreign Sovereign Immunities Act, Pub. L. No. 94-583, 90 Stat. 2891 (1976) (codified as amended at 28 U.S.C. §§ 1330, 1332, 1391(f), 1441(d), 1602–1611 (2000)).

19. International Convention for Suppression of the Traffic in Women and Children, Mar. 31, 1922, 9 L.N.T.S. 417.

Reynolds, Sarnata. "Deterring and Preventing Rape and Sexual Slavery during Periods of Armed Conflict." *Law and Inequality* 16 (1998): 601–31.

Reynolds asserts that as long as the belief exists that sexual violence is natural during war, rape and sexual slavery during war will be accepted. It is therefore necessary to enunciate what constitutes acceptable behavior during war before the problem can be eradicated. Additionally, since military units are isolated from the rest of society, it is necessary to educate them from the inside. Reynolds argues in favor of an international presence during armed conflicts in order to protect women's rights. She contends that eradicating sexual violence against women during conflict is possible, but it requires a multilateral and multifaceted commitment to combat it.

Rho-Ng, Elizabeth. "The Conscripted of Asian Sex Slaves: Causes and Effects of U.S. Military Sex Colonialism in Thailand and the Call to Expand U.S. Asylum Law." *Asian Law Journal* 7 (2000): 103–30.

Rho-Ng describes how "the power relationship between industrialized countries and the underdeveloped countries in the Southeast Asian region" (p.104) has led to troops stationed in "underdeveloped countries" paying for sexual services. This was the case from the 1950s through the 1970s in Thailand as the U.S. troops stationed there frequented women in prostitution, establishing the country as a global destination for sex tourism. The Thai economy grew dependent on the sexual service sector, and demand for commercial sexual exploitation of women increased dramatically, leading to increases in trafficking in women to Thailand. The second part of the article focuses on trafficking in women as a human rights violation that requires international intervention. Rho-Ng contends that the United States has a "moral impetus" to grant asylum to victims of trafficking.

Talleyrand, Isabelle. "Military Prostitution: How the Authorities Worldwide Aid and Abet International Trafficking in Women." *Syracuse Journal of International Law and Commerce* 27 (2000): 151–76.

Prostitution, aided and abetted by military organizations, is widespread. Whether it is utilized as a tactic of war for sexual slavery and ethnic cleansing or merely for "rest and relaxation" for the troops, prostitution associated with the military is usually coerced and conducted with the approval of military organizations. Military prostitution is not normally considered a crime because there is an assumption that prostitutes are willing participants. However, the prostitutes often are coerced into prostitution, and when the military actually aids in the management of brothels, prostitutes have nowhere to turn for help. Talleyrand believes that military prostitution encourages the trafficking of women worldwide and contends that national laws are not enough to address the problem of military prostitution. International law is the proper approach to tackle the problem.

Tree, Timothy. "International Law: A Solution or a Hindrance Towards Resolving the Asian Comfort Women Controversy?" *UCLA Journal of International Law and Foreign Affairs* 5 (2000): 461–98.

Beginning in 1991, the former "comfort women" who were forced into sexual slavery by the Japanese Imperial Army during World War II broke the fifty-year silence about the horrors imposed on them. Although rape and sexual slavery are widespread during the times of war, Japan's systematic mobilization and rape of more than 200,000 women far surpasses any other incidence of state-sponsored

sexual coercion and abuse. Tree argues that the Japanese government's involvement in the recruitment and abduction of young Asian women for the purpose of sexual slavery constituted a violation of international law. He discusses the legal options currently available to the former "comfort women," and argues that the International Court of Justice should find Japan guilty of violating international law and require it to provide monetary compensation to victims and issue an official apology. Only then will Japan's relations with formerly conquered neighbors, particularly South Korea, be normalized.

Vanderweert, Susan Jenkins. "Seeking Justice for 'Comfort' Women: Without an International Criminal Court, Suits Brought by World War II Sex Slaves of the Japanese Army May Find Their Best Hope of Success in U.S. Federal Courts." *North Carolina Journal of International Law and Commercial Regulation* 27 (2001): 141–83.

Vanderweert provides a general background on the Japanese military's sex slave system and an overview of the unsuccessful legal efforts made thus far on behalf of the victims to acquire compensation. She identifies the major impediments present in the extraterritorial trial of international cases such as Japanese military sexual slavery, as well as war crimes such as genocide and rape committed under the Bosnian-Serb command in former Yugoslavia. She concludes that despite the fact that the U.S. federal courts recently started exercising jurisdiction over extraterritorial violations of international law, the absence of an international criminal court is a fundamental obstacle in bringing justice to international war victims.

Watanabe, Kazuko. "Trafficking in Women's Bodies, Then and Now: The Issue of Military 'Comfort Women.'" *Women's Studies Quarterly* 27, issue 1–2 (1999): 19–31.

Watanabe contends that military conflict intensifies violence against women, thus increasing trafficking in women. Trafficking is defined as "an institution of sexual slavery," and the case of World War II "comfort women" in Japan is given as an example. Watanabe compares the background for and the practice of trafficking during World War II and in the 1990s. The current role of the United States military in Asia and its effect on trafficking are also discussed.

Trafficking for the Purpose of Marriage: The Mail-Order Bride

Brinig, Margaret F. "In Search of Prince Charming." *Journal of Gender, Race, and Justice* 4 (2001): 321–36.

In this article, Brinig presents the concept of today's "courtship and marriage" society, and indicates how it carries different implications for men and women. Raised in most cultures as seekers of domesticity and stability, women are more vulnerable to exploitation from arranged marriages, domestic violence, and emotional despair. Brinig concludes that because women have been taught to obtain "wealth and happiness" through means of a husband, they are willing to put physical and emotional health at risk in desperate search of courtship and marriage. As their standard of living decreases, these women become more vulnerable to traffickers or abusers who seek to empower themselves by shaming the weak. Traffickers and abusers search for and prey on women willing to travel for better opportunities, strip them of their passports and identities, and ultimately end the women's journey in an arranged marriage or as a mail-order bride.

Chun, Christine S. Y. "The Mail-Order Bride Industry: The Perpetuation of Transnational Economic Inequalities and Stereotypes." *University of Pennsylvania Journal of International Economic Law* 17 (1996): 1155–1208.

The mail-order bride industry is a thriving and legal business between the United States and several developing countries such as the Philippines and Russia. Unfortunately, the industry perpetuates sexism, racism, and economic subordination among the mail-order brides and their husbands and between the two countries. Immigrant mail-order brides who are separated from friends and family and often unfamiliar with laws, customs, and even the language of their new country are placed in vulnerable situations. The potential for abuse at the hands of their new husbands is great. Often immigration laws worsen their situations. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996²⁰ makes only a minimal effort to protect mail-order brides. Chun suggests the establishment of an international legal structure regulating the mail-order bride industry.

Encarguez Perez, Beverly. "Woman Warrior Meets Mail-Order Bride: Finding an Asian American Voice in the Women's Movement." *Berkeley Women's Law Journal* 18 (2003): 211–36.

This article examines the mail-order bride industry operating between the United States and the Asian nations, focusing on the need for an Asian American feminist response to the problem. It provides an overview of the history of Asian women's status in the United States and discusses the racial and gender stereotypes effectively keeping these women "behind a veil of invisibility" (p.214). The article then provides an overview of the contemporary mail-order bride industry and the exploitation suffered by numerous women in mail-order marriages. Finally, the article analyzes the inadequacy of current government responses to the industry, focusing in particular on the United States and the Philippines approach, and calls for Asian American women to push for more effective and multicultural solutions to the problem.

Jackson, Suzanne H. "To Honor and Obey: Trafficking in 'Mail-Order Brides.'" *George Washington Law Review* 70 (2002): 475–569.

Jackson analyzes the responses of the American legal system to the needs of immigrant women trafficked through international matchmaking organizations (IMOs). After offering a brief overview of the "mail-order bride" industry and sex trafficking in the United States, she examines earlier studies on the extent of the problem, concluding that they failed to address the mail-order bride phenomenon as a form of trafficking. She reviews U.S. legislative and judicial responses to trafficking, which culminated in the adoption of Trafficking Victims Protection Act of 2000 (TVPA).²¹ She considers the possible application of the TVPA to IMO-facilitated marriages, concluding that, although the Act does not specifically address trafficking accomplished through IMOs, it can apply to some instances of such abuses of immigrant women. She concludes by recommending

20. Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009546 (1996) (codified as amended in scattered sections of 8 U.S.C.).

21. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 101, 114 Stat. 1464, 1466 (codified as amended at 22 U.S.C. §§ 7101–7110 (2000)).

changes to the Act and the law enforcement and societal responses to effectively combat the abuses associated with the mail-order bride industry.

Lee, Donna R. "Mail Fantasy: Global Sexual Exploitation in the Mail-Order Bride Industry and Proposed Legal Solutions." *Asian Law Journal* 5 (1998): 139–79.

In this comment, Lee looks into the international mail-order bride industry, focusing on procurement of wives from Asian Pacific countries by men in industrialized nations, particularly the United States. The focus of the article is on the relationship of mail-order bride marriages to international trafficking of women, prostitution, and involuntary servitude. Lee finds it astonishing that, while the United States seeks to eliminate prostitution and involuntary servitude, it does very little to regulate the mail-order bride business. She argues that existing anti-prostitution laws are better suited to combat abuses inherent in mail-order marriages because the industry is simply "one specific manifestation of the international prostitution of women and a direct outgrowth of that institution" (p.140). To illustrate this connection, she compares this industry to the history of prostitution of Asian women and their contemporary "commodification . . . through military prostitution and sex tourism" (p.140). She concludes with recommendations for applying existing domestic and international legal instruments to counter the mail-order bride industry and for criminalizing the actions of male customers of international matchmaking agencies.

Lilith, Ryah. "Buying a Wife but Saving a Child: A Deconstruction of Popular Rhetoric and Legal Analysis of Mail-Order Brides and Intercountry Adoptions." *Buffalo Women's Law Journal* 9 (2000–01): 225–62.

Lilith explores the parallels between intercountry adoptions and mail-order brides, focusing particularly on adoptions of Chinese girls and marriages to Filipina women by Americans. She finds it distressing that despite the similarity in American expenditures for and increasing numbers of Asian brides and children, as well as the similarity of immigration laws and procedures governing these phenomena, legal scholarly works commonly argue for the continuation of intercountry adoption and the prohibition of mail-order marriages. She argues that the two phenomena are indistinguishable, at least with respect to U.S.-Asian transactions, contending that "mail-order brides make explicit what is implicit in intercountry adoptions—the purchase of Third World citizens to complete the families of a (former) colonial and imperial power" (p.229). Therefore, both practices can be characterized as forms of trafficking in women and girls. Lilith concludes that, once the notions of mail-order brides as prostitutes and intercountry adoptions as noble acts are stripped away, the equivalence of the two practices becomes apparent.

O'Rourke, Kate. "To Have and to Hold: A Postmodern Feminist Response to Mail-Order Bride Industry." *Denver Journal of International Law and Policy* 30 (2002): 476–97.

O'Rourke analyzes the global mail-order bride industry and its legal framework from the viewpoint of postmodern feminist legal theory. She provides a broad historical overview of the industry and of the factors contributing to its expansion, and analyzes international and national legal attempts at regulating this social phenomenon. She focuses particularly on the legislation of the United

States and the Philippines, and criticizes the deficiencies of the current legal framework. She urges countries worldwide to adopt a more comprehensive approach to the mail-order bride industry, including a multilateral response to the supply and demand forces driving the industry.

Vergara, Vanessa B. M. "Abusive Mail-Order Bride Marriage and the Thirteenth Amendment." *Northwestern University Law Review* 94 (2000): 1547-99.

This student comment analyzes the applicability of the Thirteenth Amendment of the United States Constitution to abusive mail-order marriages that result in the enslavement of mail-order brides. Vergara draws parallels between contemporary mail-order brides and pre-Civil War slavery, stating that many women in mail-order marriages are abused and treated like slaves. In exploring the application of the Thirteenth Amendment in the mail-order bride context, she focuses on the judicial construction of "involuntary servitude" in criminal statutes, concluding that it can be a powerful source of constitutional protection for abused mail-order brides. She also considers potential legal and public policy remedies to the problems facing abused mail-order brides.

Trafficking in Children for the Purpose of Sex Tourism

Berkman, Eric Thomas. "Responses to the International Child Sex Tourism Trade." *Boston College International and Comparative Law Review* 19 (1996): 397-422.

A child sex trade that is ruining the lives of untold children is flourishing in Southeast Asian countries such as Thailand, Sri Lanka, and the Philippines. Industrialized consumer countries such as the United States, Germany, Great Britain, and Australia are to blame for providing the demand that feeds the trade. Berkman's article examines the parties involved in the child sex industry and measures taken against their activities in those countries in which it thrives. He also describes the actions that consumer countries have taken or could take to stop child sex tourism. He concludes that, although countries that host child sex industries have passed laws forbidding such activities, without the cooperation and involvement of industrialized consumer countries, those industries will continue to thrive.

Bevilacqua, Elizabeth. "Child Sex Tourism and Child Prostitution in Asia: What Can Be Done to Protect the Rights of Children Abroad under International Law?" *ILSA Journal of International and Comparative Law* 5 (1998): 171-84.

Prostitution, trafficking, and sex tourism involving children are growing problems in many developing countries such as Thailand and the Philippines, where laws condemning sexual offenses against children are rarely enforced. Industrialized countries do not escape blame for the success of the international child prostitution industry, since much of the demand originates with their citizens. Bevilacqua examines the laws of the countries renowned for their sex industries and those of the countries that provide much of the demand for those industries, namely the United States. She discusses the implementation of national laws mandated by international law and the potential to successfully prosecute American customers of foreign child prostitution.

Beyer, Nancy. "The Sex Tourism Industry Spreads to Costa Rica and Honduras: Are These Countries Doing Enough to Protect Their Children from Sexual Exploitation?" *Georgia Journal of International and Comparative Law* 29 (2001): 301–33.

Beyer examines the origins and spread of the sex tourism industry and describes government responses to the growing industry, including national legislation, law enforcement, and criminal implications. She argues that both Costa Rica and Honduras are obligated to protect minors from exploitation under international treaties such as the United Nations Convention on the Rights of the Child,²² and concludes with additional suggestions for the prevention of child sexual exploitation in these two particular countries.

Edelson, Daniel. "Prosecution of Persons Who Sexually Exploit Children in Countries Other Than Their Own: A Model for Amending Existing Legislation." *Fordham International Law Journal* 25 (2001): 483–540.

Edelson begins by explaining the problem of sex tourism, providing a brief history of sex trafficking, and discussing the legal definition of a child in terms of the sex tourism culture. He then continues by addressing extraterritorial legislation on sex tourism and specific laws and instances of prosecution in countries such as Japan, Sweden, Australia, the United Kingdom, Canada, and the United States.

Giordanella, Heather C. "Status of § 2423(b): Prosecuting United States Nationals for Sexually Exploiting Children in Foreign Countries." *Temple International and Comparative Law Journal* 12 (1998): 133–57.

In response to the growing child sex industry, the United States has criminalized the intent to solicit child prostitution abroad with the Child Sexual Abuse Prevention Act, which allows prosecution of United States citizens who travel across state or national borders to engage in sexual activity with children. This student comment explores the societal influences that explain involvement in prostitution such as poverty, demand, and kidnapping. Giordanella focuses on the identities of the offenders and lists international responses to child prostitution, as well as recent measures undertaken against the child prostitution industry.

Healy, Margaret A. "Prosecuting Child Sex Tourists at Home: Do Laws in Sweden, Australia, and the United States Safeguard the Rights of the Children as Mandated by International Law?" *Fordham International Law Journal* 18 (1995): 1852–1923.

Healy surveys existing national laws directed at sex tourism, paying particular attention to the distinct laws and approaches of Sweden, Australia, and the United States. These countries have recently enacted laws or are exploring existing laws to prosecute child sex tourists. Healy notes that, although these laws are significant, they are not enough to protect young victims. The problem of sex tourism will not be solved until individual countries develop comprehensive strategies involving legislation, international cooperation, and support of child advocacy NGOs.

22. Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

Todres, Jonathan. "Prosecuting Sex Tour Operators in U.S. Courts in an Effort to Reduce the Sexual Exploitation of Children Globally." *Boston University Public Interest Law Journal* 9 (1999): 1–23.

The sexual exploitation of women and children is a huge business, especially in Southeast Asian countries such as Thailand, Malaysia, Indonesia, and the Philippines. Sex tourism, most of which originates in Western countries, contributes significantly to this business. Several of the "sending countries" have enacted laws criminalizing overseas travel for the purpose of engaging in sexual activity with a minor. However, such laws address the problem for only one violator at a time. They do nothing to reduce these individuals' access to sex tours. Todres focuses on the U.S. government's ability to prosecute sex tour operators under current law, specifically through utilization of the Mann Act. He also examines state law, particularly that of New York where several sex tour operators do business, and other efforts to combat the sexual exploitation of children. He asserts that prosecutors have the means to address the problem of sex tourism and that it is their duty to do so.

Trafficking in Children for the Purpose of Illicit Intercountry Adoption

Berger, Dan. "Improving the Safety and Efficiency of Foreign Adoptions: U.S. Domestic Adoption Programs and Adoption Programs in Other Countries Provide Lessons for INS Reform." *Cornell Journal of Law and Public Policy* 5 (1995): 33–65.

In the past, parents from developed countries adopted children from developing nations as an act of charity, but now international adoption has become a means for individuals who cannot naturally have children to become parents. Due to restrictive domestic adoption regulations, international adoption has become the next best option for many parents. Recently, intercountry adoption has diminished as developing countries, concerned with the safety of their children due to baby trafficking, have reacted by restricting international adoption. Because the United States is the country receiving the most adopted children, it must encourage developing countries to allow international adoptions. This article examines the U.S. state domestic adoption programs, the current INS systems for foreign adoptions, and the Hague Convention proposals, and proposes new ways to reform intercountry adoption.

Bogard, Howard E. "Who Are the Orphans? Defining Orphan Status and the Need for an International Convention on Intercountry Adoption." *Emory International Law Review* 5 (1991): 571–616.

In this student comment, Bogard discusses the international laws explaining the rights of children, such as the United Nations Convention on the Rights of the Child.²³ He indicates the preference for internal adoptions but notes its impracticality in developing countries due to the lack of demand for adopted children. Therefore, international adoption helps to resolve the problems associated with the lack of domestic adoptions. Bogard analyzes the strengths, drawbacks, and procedures of intercountry adoption. The efficacy of two intercountry adoption

23. *Id.*

conventions is examined, as well as the adoption regulations of the United States and Romania.

Carlson, Richard R. "The Emerging Law of Intercountry Adoptions: An Analysis of the Hague Conference on Intercountry Adoption." *Tulsa Law Journal* 30 (1994): 243–93.

This article analyzes the provisions of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption,²⁴ which seeks to fill the legal vacuum in the intercountry adoption process by creating rules of procedure, conduct, choice of law, international recognition of adoption decrees, and by establishing institutions for international oversight and cooperation. After a brief summary of the origins and scope of the convention, Carlson analyzes certain provisions that are likely to provoke significant controversy in the United States and discusses the implications of the convention for the United States as a potential country of origin for intercountry adoptions.

Carro, Jorge L. "Regulation of Intercountry Adoption: Can the Abuses Come to an End?" *Hastings International and Comparative Law Review* 18 (1994): 121–55.

Intercountry adoption has become an option for parents who do not wish to remain on the waiting lists of local social services agencies for years, but it carries its own problems, such as potentially lengthy processing and clearance of children under the immigration laws. The great demand for adoptable babies has created a growth in child trafficking through baby smuggling and kidnapping. Thus, certain countries have outlawed or restricted international adoption. Carro explains the history and current trends in international adoption, the reasons for changing a country's adoption policies, the reforms already undertaken in some countries, and the domestic and international attempts by receiving states to fight the abuses found in international adoption. He concludes that despite the recent attempts to curb abuses through international and regional conventions, these steps will not succeed without effective enforcement mechanisms.

Dillon, Sara. "Making Legal Regimes for Intercountry Adoption Reflect Human Rights Principles: Transforming the United Nations Convention on the Rights of the Child with the Hague Convention on Intercountry Adoption." *Boston University International Law Journal* 21 (2003): 179–257.

Dillon argues that the exploitative reputation of intercountry adoption is largely a product of the lack of legal clarity and of adoption infrastructure. In particular, she discusses the relationship between the almost universally ratified United Nations Convention on the Rights of the Child²⁵ and the more recent Hague Convention on Intercountry Adoption,²⁶ holding that the main weakness of both instruments is the substantial discretion afforded to participating states. She also attempts to correct the misperceptions about intercountry adoption by conceptualizing this phenomenon. Finally, she presents case studies from Cambodia, Vietnam, Romania, and Guatemala, analyzing the problems in these countries

24. Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, May 29, 1993, 32 I.L.M. 1134 (1993) [hereinafter Hague Convention on Protection of Children].

25. Convention on the Rights of the Child, *supra* note 22.

26. Hague Convention on Protection of Children, *supra* note 24.

that resulted in imposing the barriers on intercountry adoption. Dillon concludes with recommendations to improve the existing intercountry adoption regimes, urging developed countries to invest in curbing the abuses inherent in some intercountry adoptions.

Gates, Crystal J. "China's Newly Enacted Intercountry Adoption Law: Friend or Foe?" *Indiana Journal of Global Legal Studies* 7 (1999): 369–92.

Because of the increasing supply of orphans in developing countries, the growing demand for children in developed nations, and the lack of domestic adoptive parents, intercountry adoption has become increasingly common. However, developing nations do not view this practice in a positive manner, but rather as a way to exploit their children. Therefore, developing countries have attempted to limit or forbid international adoptions. Gates examines the evolution of intercountry adoption, including the relationship between the restrictive laws adopted by sending countries and the strengths and weaknesses of intercountry adoption. She concludes that countries should not forbid international adoptions, but merely regulate them in order to stop the abuses associated with illegal adoptions.

Gordon, Robert S. "The New Chinese Export: Orphaned Children—An Overview of Adopting Children From China." *Transnational Lawyer* 10 (1997): 121–52.

Noting that in international adoptions, the United States is the greatest receiver nation and China the greatest supplier nation, Gordon explains why China is in this position, how attorneys can assist adoptive parents regarding applicable state, federal, and foreign laws, and the reasons behind the demand for international children. Gordon concludes that the China Adoption Law and its reforms have made it easier for foreign couples to adopt Chinese children.

Graff, Nicole Bartner. "Intercountry Adoption and the Convention on the Rights of the Child: Can the Free Market in Children Be Controlled?" *Syracuse Journal of International Law and Commerce* 27 (2000): 405–30.

On the surface, international adoption appears to be a positive experience both for children and for birth and adoptive parents, but in reality it is not always pleasant for the children or birth mothers. Graff explains the problems children encounter, discusses which nations are the senders of these children, and analyzes the international conventions concerning this issue. She argues that the United States must ratify the Hague Convention²⁷ so that its regulations can be used to prevent child traffickers from taking advantage of the social upheaval found in many of the baby-supplying developing countries.

Hubing, Bridget M. "International Child Adoptions: Who Should Decide What Is in the Best Interest of the Family?" *Notre Dame Journal of Law, Ethics, and Public Policy* 15 (2001): 655–98.

Hubing presents the history of international adoptions, and arguments for and against them. She addresses topics relevant to international adoptions such as single-person adoptions, gay and lesbian adoptions, and interracial adoptions, and reviews regulations, both national and international, regarding child adoption. Hubing concludes that a need exists for international bodies to regulate international child adoptions.

27. *Id.*

Jonet, Ahilemah. "Legal Measures to Eliminate Transnational Trading of Infants for Adoption: An Analysis of Anti-infant Statutes in the United States." *Loyola of Los Angeles International and Comparative Law Review* 13 (1990): 305–30.

Jonet begins by discussing the growth in illegal international adoption and noting the lack of laws to prohibit this occurrence. The conventions addressing child trafficking for adoption are ineffective and greatly depend on national laws, which themselves are not able to combat such trafficking. This article analyzes "three categories of adoption statutes: statutes outlawing independent adoption, statutes regulating independent adoption, and statutes criminalizing illicit placement" (p.307), with Jonet concluding that the adoptive parents must also be penalized if they violate the various adoption laws.

Katz, Lisa M. "A Modest Proposal? The Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption." *Emory International Law Review* 9 (1995): 283–328.

Unlike the West, developing countries do not see international adoption as a way to increase the well-being of impoverished children, but as an "imperialistic, self serving, . . . return to a form of colonialism in which whites exploit and steal natural resources" (p.283). Katz notes that the Hague Conference's aim was to protect the rights of the child, but the convention²⁸ it produced does not protect the child's basic needs. She also analyzes the history of intercountry adoption, its problems and procedures today. She concludes that countries must first reform their domestic laws regarding international adoption before the convention's global aims can be met.

Kennard, Holly C. "Curtailing the Sale and Trafficking of Children: A Discussion of the Hague Conference Convention in Respect of Intercountry Adoptions." *University of Pennsylvania Journal of International Economic Law* 14 (1994): 623–49.

Kennard begins by discussing the growth of black markets alongside the practice of intercountry adoptions, noting that before 1993 there was no applicable international convention, just national laws that banned this. In 1993, the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption²⁹ was adopted for this purpose. She critically analyzes the convention and puts forth proposals to have federal implementing legislation that could be used to ensure that gray markets or independent agencies are not illegally profiting from these adoptions.

Lippold, Jennifer M. "Transnational Adoption from an American Perspective: The Need for Universal Uniformity." *Case Western Reserve Journal of International Law* 27 (1995): 465–503.

American families have difficulty adopting children because state and international laws differ from one another. Couples must meet the requirements set forth in state, federal, and foreign nations' laws. Lippold discusses in broad terms the practice of international adoptions in the United States, analyzes the national and

28. *Id.*

29. *Id.*

foreign laws and the difficulties resulting from their differences, and suggests the creation of a single international adoption law, such as the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption.³⁰ She also suggests ways to better enforce adoption laws to avoid abuses, for example, using a cost ceiling for intercountry adoptions so that individuals will not be able to illegally profit from this practice. An appellate review board should also be created to penalize people who violate adoption treaties and to review cases in which couples are denied the ability to adopt.

Myers, George William, Jr. "Independent Adoptions: Is the Black and White Beginning to Appear in the Gray-Market Adoptions?" *Duquesne Law Review* 18 (1980): 629–52.

Myers discusses how adoptions occur in the United States: through an adoption agency or a private nonprofit agency, both of which are monitored through state policies, or through unlicensed persons referred to as the *gray market*. The gray market has been under surveillance or banned due to the concern that it is profiting from the trafficking of children. To combat abuses, some states have required these markets to submit facts about the "placement" and imposed penalties on those who gain from this industry. Because states do not have the same adoption regulations, individuals can circumvent a state's restrictive laws by simply traveling to another state. Myers recommends that all states should have uniform adoption legislation.

Pfund, Peter H. "The Hague Intercountry Adoption Convention and Federal International Child Support Enforcement." *University of California at Davis Law Review* 30 (1997): 647–61.

Pfund examines the Hague Convention on Intercountry Adoption³¹ and the possibility of its ratification by the United States by the year 2000. By ratifying this convention, the United States would be in a better position to cope with the problems that accompany the international adoption of children.

Stein, Jonathan G. "A Call to End Baby Selling: Why the Hague Convention on Intercountry Adoption Should Be Modified to Include the Consent Provisions of the Uniform Adoption Act." *Thomas Jefferson Law Review* 24 (2001): 39–82.

Stein details the history and practice of adoption, focusing upon the current rise and popularity of baby selling with case studies from Romania, Guatemala, Russia, Hungary, and China. The practice of baby selling, which is akin to trafficking, has been condemned by several international conventions, including the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery,³² and the United Nations Convention on the Rights of the Child.³³ He argues that the practice of baby selling is contrary to the spirit of adoption, which should be carried out in the child's best interests, and calls for legislation to regulate and control international baby selling.

30. *Id.*

31. *Id.*

32. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, Sept. 7, 1956, 18 U.S.T. 3201, 226 U.N.T.S. 3.

33. Convention on the Rights of the Child, *supra* note 22.

Thompson, Shannon. "The 1998 Russian Federation Family Code Provisions on Inter-country Adoption Break the Hague Convention Ratification Gridlock: What Next? An Analysis of Post-ratification Ramifications on Securing a Uniform Process of International Adoption." *Transnational Law and Contemporary Problems* 9 (1999): 703–26.

Thompson discusses the increase in the adoption of Russian children by Americans caused by economic suffering in Russia, which makes it difficult for Russians to adopt children. Americans have previously been accused of harming their Russian adopted children, and this led the Russian Parliament to contemplate eliminating inter-country adoption. Thompson asserts that the Hague Convention³⁴ can serve the interests of all interested parties in the Russian-American international adoption process: the children and the natural and adoptive parents. She concludes that both the United States and Russia must ratify the convention to combat the abuses found in Russian-American international adoption and to ensure the safety of Russian children in the United States.

Wallace, Sara R. "International Adoption: The Most Logical Solution to the Disparity between the Numbers of Orphaned and Abandoned Children in Some Countries and Families and Individuals Wishing to Adopt in Others?" *Arizona Journal of International and Comparative Law* 20 (2003): 689–724.

Wallace questions whether international adoption is truly the most logical solution to solving the problem of the disparity in the number of orphaned and abandoned children in developing countries and the number of families in industrialized countries finding it increasingly difficult to adopt. She first describes the origins and current state of international adoption and the United Nations instruments addressing this practice. She also describes recent developments in the adoption law of popular countries of origin, such as China, South Korea, and Romania, as well as the potential effects of the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.³⁵ Wallace contends that while international adoption may be the most logical solution to the immediate problem, in the long term it is unlikely to cure the underlying causes of the high numbers of orphaned and abandoned children in the world. She expresses hope that the worldwide attention drawn by the Hague Convention will lead to social and legal changes to the current international adoption regime.

Wilken, Kristina. "Controlling Improper Financial Gain in International Adoption." *Duke Journal of Gender Law and Policy* 2 (1995): 85–96.

Wilken focuses on the abuses inherent in international baby selling and how they can be resolved through the Hague Convention on Protection of Children and Cooperation in Respect of Inter-country Adoption.³⁶ In particular, she details how it can be used to limit illegal profiteering from inter-country adoption. She urges the United States to bring its adoption and immigration laws in conformity with the Hague Convention's mandates against improper profiteering.

34. Hague Convention on Protection of Children, *supra* note 24.

35. *Id.*

36. *Id.*

Wittner, Kelly M. "Curbing Child-Trafficking in Intercountry Adoptions: Will International Treaties and Adoption Moratoriums Accomplish the Job in Cambodia?" *Pacific Rim Law and Policy Journal* 12 (2003): 595–626.

War, poverty, and corruption in Cambodia contribute to the problem of the trafficking of children for international adoption. In addition to these factors, increased demand and worldwide involvement in international adoptions keep the black market for infants in business. Cambodia's attempts to regulate the trafficking of children have had few results. The requirements for adoption of Cambodian children are minimal and fail to effectively prevent child trafficking for adoptive purposes. There is also no enforcement of a number of international conventions, and the procedures are ineffective. Moreover, Wittner believes that the Hague Convention,³⁷ which attempts to curb the trafficking of children on an international level, is not feasible for developing and poverty-stricken countries. There are, however, proposals to reform the Hague Convention, which could help regulate the trafficking of children worldwide.

Trafficking in Children for Military Purposes

Escobar, Veronica. "Reclaiming the 'Little Bees' and the 'Little Bells': Colombia's Failure to Adhere to and to Enforce International and Domestic Laws in Preventing Recruitment of Child Soldiers." *Fordham International Law Journal* 26 (2003): 785–869.

Three hundred thousand children throughout the world fight in armed conflicts. In Colombia, as many as 6000 children are in illegal armed forces such as guerilla and paramilitary groups. Escobar provides background on the scope of the problem around the world and its causes, and discusses unsuccessful attempts by the Colombian government to curb trafficking in children for exploitation as child soldiers. She also discusses international treaties that prohibit the use of children in armed conflict, and proposes measures the Colombian government should take to remedy the problem, including greater enforcement of international treaties and national laws.

Hick, Steven. "The Political Economy of War-Affected Children." *Annals of the American Academy of Political and Social Science* 575 (2001): 107–21.

Hick focuses on the sexual exploitation of children by men in the armed services, noting that children either abandoned or orphaned by war easily fall victim to predators searching for new additions to the increasingly lucrative commercial sex trade. In a war-driven economy, children are often used as spies, messengers, porters, and cooks, and are forced into arranged marriages and sexual exploitation. While occasionally a child's participation in military combat is voluntary, most children are abducted and forced to support their country. These children are traumatized, both emotionally and physically, and even in stable surroundings have developed severe psychological problems. Hick concludes with a summary of international efforts to protect children, including an optional protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.³⁸

37. *Id.*

38. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, G.A. Res. 263, U.N. GAOR, 54th Sess., Annex I, U.N. Doc. A/54/49 (2000) [hereinafter Optional Protocol on the Involvement of Children in Armed Conflict].

***Trafficking in Persons for the Purpose of
Domestic Servitude: The Maid Trade***

Fitzpatrick, Joan, and Katrina R. Kelly. "Gendered Aspects of Migration: Law and the Female Migrant." *Hastings International and Comparative Law Review* 22 (1998): 47–112.

This article explores one particular phenomenon of female migration, the "maid trade" service, identifying its trends, patterns, and the inadequacies of international law to protect the interests of migrant household workers.

Gatmaytan, Dan. "Death and the Maid: Work, Violence, and the Filipina in the International Labor Market." *Harvard Women's Law Journal* 20 (1997): 229–61.

Gatmaytan discusses abuses against Filipina domestic workers throughout the world, focusing particularly on their experience in countries of the Middle East. He analyzes the reasons for these abuses, the government's reactions to them, the benefits of allowing people to work overseas, and ways to combat this problem. He believes that this transport of labor must be stopped to combat the suffering of these contract workers even if it causes the Philippine economy to suffer.

Romero, Mary. "Immigration, the Servant Problem, and the Legacy of the Domestic Labor Debate: 'Where Can You Find Good Help These Days!'" *University of Miami Law Review* 53 (1999): 1045–64.

Romero addresses the "servant problem" reflected in the exclusion of immigrant female household workers from immigration and employment legal discourse in the United States. She argues that "domestic service is an occupation that borders on white-collar crime" (p.1049). She reviews "Nannygate"—the public controversy that arose out of the hiring practices of President Clinton's nominees for attorney general—using it to highlight the tensions between lawmaking and law-breaking that accompany the servant problem. She concludes with recommendations for addressing the domestic servant problem through both immigration and labor regulations.

Romero, Mary. "Nanny Disputes and Other Stories: Imagining Immigrant Women's Labor in the Social Reproduction of American Families." *DePaul Law Review* 52 (2003): 809–47.

Romero explores the vulnerabilities and exploitation of immigrant domestic laborers, mainly women, in the United States. While these women are perceived as "invisible" within the society at large, "the nexus of immigration, nationality, and markets is central to the social reproduction of the 'American' family, communities, and country" (p.812). Through her analysis of popular myths and social science research on female domestic workers from third-world countries, Romero contends that the restrictions and opportunities available to these women are shaped through social, economic, and legal conditions that reproduce the system of gender, race, and ethnic inequalities and "reinforce the existing social stratification" (p.812). She concludes that existing immigration and labor regulations, coupled with employers' hiring preferences, result in the commodification of immigrant women and the prolongation of their subordinated status.

Labor Trafficking

Chaiyarachta, Charles R. "El Monte Is the Promised Land: Why Do Asian Immigrants Continue to Risk Their Lives to Work for Substandard Wages and Conditions?" *Loyola of Los Angeles International and Comparative Law Journal* 19 (1996): 173–97.

Illegal immigrants continue to enter the United States even while earning less than minimal wages and suffering in horrible conditions. An example of this suffering may be found in El Monte, California, where there are many Thai workers. The Thailand government is aware of their plight but remains uninvolved in order to "save face." In reality, the problem is hard to resolve because organized crime members who recruit workers are involved. These groups may force laborers to continue working against their will. Chaiyarachta discusses why Thai immigration to the United States is growing, what life is typically like for the Thai workers, and the United States' efforts to combat illegal immigration. He argues that the employers must be held strictly liable to ensure that the workers are earning at least minimum wage and are not being exploited.

Inglis, Shelley Case. "Expanding International and National Protections Against Trafficking for Forced Labor Using a Human Rights Framework." *Buffalo Human Rights Law Review* 7 (2001): 55–104.

Inglis assesses current international legal norms and existing legislation regarding trafficking for the purpose of forced labor and suggests a broadened scope of activities to be covered by reformed legislation. Recommendations are offered to combat trafficking within a human rights framework by strengthening legislation and law enforcement and increasing victim protection.

Liao, Fang-Lian. "Illegal Immigrants in Garment Sweatshops: The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights." *Southwestern Journal of Law and Trade in the Americas* 3 (1996): 487–508.

Immigrants enter the United States hoping to advance their economic situation, but they typically do not have the academic background to meet the credentials required for higher wage jobs. Immigrants are forced to accept positions in places of employment with extremely low wages and deplorable working conditions. The Universal Declaration of Human Rights³⁹ and other international covenants that denounce and prohibit slavery must be reinforced through political rights. Liao argues that it will take a curb on immigration combined with the "concerted effort of workers, manufacturers and employers, consumers, and government agencies to stop and prevent the enslavement of illegal immigrant workers" (p.508).

Maeda, Donna. "Agencies of Filipina Migrants in Globalized Economies: Transforming International Human Rights Legal Discourse." *Berkeley La Raza Law Journal* 13 (2002): 317–42.

Maeda examines migration and globalization issues in the context of international human rights law, its implementation, and interpretation. The theory

39. Universal Declaration of Human Rights, G.A. Res. 217A, U.N. GAOR, 3d. Sess., Pt. 1, at 71, U.N. Doc. A/810 (1948).

behind the discussion is that the discourse surrounding the legal human rights debate shapes and limits the way in which laws are written. To this end, Maeda examines the United Nations' approach to issues of globalization and migration, specifically the human rights of migrants in an age of globalization and how they are vulnerable to trafficking. She also examines how globalization and human rights law affects Filipino migrants.

Su, Julie A. "Making the Invisible Visible: The Garment Industry's Dirty Laundry." *Journal of Gender, Race, and Justice* 1 (1998): 405–17.

Su discusses the civil lawsuit brought by a group of Thai garment workers discovered in El Monte, California, where they had been held in slave-like conditions.⁴⁰ This case brought the issue of modern-day slavery to public attention in the United States. After analyzing the claims put forth in the workers' complaint, including charges of false imprisonment, and civil RICO, labor law, and civil rights violations, Su concludes by discussing the role of the media in increasing visibility and public awareness of this problem.

Organ Trafficking

Jensen, Troy R. "Organ Procurement: Various Legal Systems and Their Effectiveness." *Houston Journal of International Law* 22 (2000): 555–84.

Jensen begins this comment by stating that the disparity between the supply and demand for human organs available for transplantation often leads to illegal methods of procuring needed organs. Consequently, governments throughout the world are now adopting laws to protect the exploited organ donors. Similarly, international organizations, including the World Health Organization and the United Nations, have condemned trafficking in human organs. Jensen then explores the advantages and disadvantages of the Brazilian law on organ donation, as well as approaches adopted by other countries for regulating organ donation and curbing the illegal trade in human organs.

Morelli, Maria N. "Organ Trafficking: Legislative Proposals to Protect Minors." *American University Journal of International Law and Policy* 10 (1995): 917–54.

Currently the demand for organ transplants exceeds the supply due to anti-rejection medication. As a result, certain Latin American countries fear that children will become victims of a black market trafficking in organs. In Guatemala, American women were beaten by a mob accusing them of participating in this illegal organ trade. Morelli examines the nature of this problem and laws that may ensure safety of children and increase the organ supply. She also offers suggestions to further protect children against the trafficking of organs.

Williams, Christian. "Combating the Problems of Human Rights Abuses and Inadequate Organ Supply through Presumed Donative Consent." *Case Western Reserve Journal of International Law* 26 (1994): 315–64.

In this student note, Williams addresses the "flagrant violations of human rights" (p.316) that result internationally from the shortage of transplantable organs. She begins by providing a background on the international market in

40. *Bureerong v. Uvawas*, 922 F. Supp. 1450 (C.D. Cal. 1996).

human organs, followed by an overview of documented instances of criminal acts being committed by private individuals and governments as a result of the worldwide inadequacy of organ procurement legislation. After analyzing recent domestic legislation designed to minimize the human rights abuses in the process of organ transplantation, Williams calls for a greater role for international law in this process, as well as for harmonization and extraterritorial application of national organ transplantation laws.

Trafficking in Persons: Addressing the Issue of Demand

Hotaling, Norma, and Leslie Levitas-Martin. "Increased Demand Resulting in the Flourishing Recruitment and Trafficking of Women and Girls: Related Child Sexual Abuse and Violence Against Women." *Hastings Women's Law Journal* 13 (2002): 117–25.

The article discusses the demand for women and children in the international sex trade and the prevalence of child sexual abuse in the commercial sex industry. Hotaling and Levitas-Martin specifically examine the decriminalization of trafficked women forced into prostitution, the consequences of criminalizing forced prostitution, aftercare needs for victims of trafficking, and the demand for the commercial sex industry.

Seita, Alex Y. "The Role of Market Forces in Transnational Violence." *Albany Law Review* 60 (1997): 635–51.

Seita analyzes how the market forces of supply and demand can lead to transnational violence. Globalization and the lowering of trade barriers have made it easier to move market commodities across national boundaries. However, this has also had a strong impact on the increase in transnational violence. Using the example of child sexual exploitation, he describes trafficking in persons as an example of a "violence commodity," concluding that the price and output for such trafficking are market-driven. He contends that a completely effective solution to transnational violence is unlikely to be developed; nevertheless, it is possible to combat such violence through international agreements that address the market forces behind it.

Health Effects of Trafficking: AIDS

Spectar, J. M. "The Hydra Hath But One Head: The Socio-Cultural Dimensions of the AIDS Epidemic and Women's Right to Health." *Boston College Third World Law Journal* 21 (2001): 1–34.

Spectar looks at the impact of the AIDS pandemic on women and girls in developing countries. Women are more vulnerable to HIV/AIDS because of social and cultural determinants such as gender inequality, lack of access to HIV/AIDS education, poverty, prostitution, and trafficking. A more holistic approach to the treatment of the AIDS pandemic, prescribing social and cultural remedies, is needed to effectively combat the problem.

Trafficking in Women and International Human Rights Law

Abramson, Kara. "Beyond Consent, Toward Safeguarding Human Rights: Implementing the United Nations Trafficking Protocol." *Harvard International Law Journal* 44 (2003): 473–91.

This note addresses the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children⁴¹ by the United Nations General Assembly. Abramson contributes to the debate on definition of trafficking in women and sex work by exploring the issue of consent and its effects on the scope of domestic and international anti-trafficking legislation. She recognizes that, while both autonomist and protectionist scholars present meaningful arguments on the consent debate, neither approach, standing alone, can provide a comprehensive definition of trafficking. Rather than focusing on consent alone, she suggests a holistic approach to the definition of trafficking, which would include “protection, prevention, and enhancement of opportunities for migrants” (p.502).

Askin, Kelly D. “The Quest for Post-Conflict Gender Justice.” *Columbia Journal of Transnational Law* 41 (2003): 509–21.

Askin relates efforts undertaken to combat the problem of gender-related war crimes. For example, the International Criminal Court can be an effective tool in obtaining justice for victims of gender-based war crimes because its statute specifically sanctions the prosecution of rape, forced prostitution, sexual slavery, and trafficking in persons.

Bhabha, Jacqueline. “Boundaries in the Field of Human Rights: Internationalist Gatekeepers? The Tension Between Asylum Advocacy and Human Rights.” *Harvard Human Rights Journal* 15 (2002): 155–81.

Asylum-seekers around the world are subjected to human rights violations and inhumane conditions during their flight from persecution. Bhabha examines the connection between those seeking asylum and the trend of trafficking in persons around the world, and cites many instances of violations of these individuals’ human rights in their countries of destination and even in transit to their final destinations. She examines the roles that countries of asylum should play in protecting and housing those seeking asylum, and analyzes the process of declaring asylum within a human rights framework.

Bond, Johanna E. “International Intersectionality: A Theoretical and Pragmatic Exploration of Women’s International Human Rights Violations.” *Emory Law Journal* 52 (2003): 71–186.

As a result of the recent American and international women’s movement, international attention has been increasingly focused on the abuse of women and women’s rights around the world. Unfortunately, this new attention has created a myopic view of women, so that instead of being viewed as complex individuals with multiple identities and characteristics, they are simplified to a single biological unit, and the plight of women of different races, sexual preferences, and ethnicities is lost to the overall fight of “women.” Bond attempts to create a framework for reconceptualizing human rights to eventually allow for an intersectional analysis that will incorporate all races, ethnicities, and genders. She specifically addresses trafficking in persons as a multifaceted problem in the world that is not simply limited to violence against women.

Cerone, John. “The Human Rights Framework Applicable to Trafficking in Persons and Its Incorporation in UNMIK Regulation 2001/4.” *Human Rights Brief* 11 (Fall 2003): 24–27.

41. UN Trafficking Protocol, *supra* note 2.

Cerone illustrates how United Nations Mission in Kosovo (UNMIK) Regulation 2001/4 has been implemented within Kosovo and how it affects the international community's anti-trafficking legislation. While personnel of international organizations are disproportionately represented among individuals procuring "services" of trafficked women in Kosovo, the clientele consists mainly of Kosovan people. Cerone points out that under the law of state responsibility, conduct is attributable to the state when an organ of the state, which essentially includes any state actor acting as such, commits it. Incorporating a human rights approach to trafficking, the UNMIK regulation provides specific protections and reparations for victims, including immunity against prosecution for prostitution, a right to apply for compensation, and access to legal, medical, and other services. Cerone believes that countries themselves cannot sustain individual state laws and that surrounding countries must make similar laws to make trafficking legislation more effective.

Chuang, Janie. "Redirecting the Debate Over Trafficking in Women: Definitions, Paradigms, and Contexts." *Harvard Human Rights Journal* 11 (1998): 65–107.

Chuang examines the scope and practical efficacy of legal protection for victims of trafficking, and probes alternative approaches to dealing with the issue. These approaches are more attuned to the practical difficulties and normative implications of strategies for combating the issue.

Corrigan, Katrin. "Putting the Brakes on the Global Trafficking of Women for the Sex Trade: An Analysis of Existing Regulatory Schemes to Stop the Flow of Traffic." *Fordham International Law Journal* 25 (2001): 151–214.

Corrigan provides a general overview of trafficking in women and its patterns, describes and analyzes existing laws and their shortcomings, and details what remains unaccomplished in order to combat trafficking worldwide. She focuses on the existing laws of the United States and the European Union, as well as on relevant international treaties. She concludes with several suggestions for combating trafficking.

Farrior, Stephanie. "The International Law on Trafficking in Women and Children for Prostitution: Making It Live Up to Its Potential." *Harvard Human Rights Journal* 10 (1997): 213–55.

Farrior provides an analysis of the international tools available to combat trafficking for the purpose of prostitution. She first addresses the relevant treaties and conventions on trafficking and slavery, focusing on four human rights treaties that are broader in scope and arguably have more meaningful enforcement mechanisms than do the trafficking, slavery, and labor treaties. She goes on to the U.N. Charter-based mechanisms, focusing on the U.N. Commission on Human Rights, its Sub-Commission, and its Working Group on Contemporary Forms of Slavery. She next describes the "soft law" on trafficking, along with various plans of action adopted by U.N. bodies, such as the Program of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography, adopted by the U.N. Commission on Human Rights in 1992. Finally, she recommends mechanisms that activists can use to make the international law on trafficking for purposes of prostitution live up to its potential.

Fitzpatrick, Joan. "Trafficking as a Human Rights Violation: The Complex Intersection of Legal Frameworks for Conceptualizing and Combating Trafficking." *Michigan Journal of International Law* 24 (2003): 1143–67.

Fitzpatrick suggests that the primary influence over implementation of anti-trafficking measures rests with national law enforcement and migration control authorities. The thrust of the United Nations Trafficking Protocol⁴² is to increase information sharing and mutual criminal assistance among states in order to identify and prosecute the organized crime groups engaged in trafficking. The fate of the victims largely remains in the hands of these very officials. She proposes that international development agencies and national officials must collaborate in creating employment and education opportunities for women and children in source countries. Law enforcement and migration control agencies have proved ineffective against trafficking gangs, who demonstrate remarkable flexibility, influence, and ruthlessness. Deportation relief for trafficking victims, however desirable, is more a palliative than a solution for the human rights abuses associated with trafficking. She concludes that significant changes in social attitudes and economies in lesser-developed and transitional states must occur for the objectives of the Trafficking Protocol to be achieved.

Hauge, Carol H. "Prostitution of Women and International Human Rights Law: Transforming Exploitation into Equality." *New York International Law Review* 8 (Summer 1995): 23–50.

Hauge supports the view that prostitution is not inherently exploitative, but that it has become exploitative due to social and political inequality. The view that all forms of prostitution are abuses of human rights is "antithetical to efforts which seek to end discrimination against women while simultaneously opening up new opportunities and rights to them" (p.24). Hauge concludes that even though prostitution exists around the world, it can also be a sound economic choice for women. She argues that through strict regulation, prostitution would serve as a proper income source.

Nelson, Kathryn E. "Sex Trafficking and Forced Prostitution: Comprehensive New Legal Approaches." *Houston Journal of International Law* 24 (2002): 551–78.

Nelson contends that international anti-trafficking treaties will not be effective unless backed by domestic efforts to curb trafficking in persons. The article analyzes the 1949 United Nations Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others,⁴³ the United Nations Convention on the Elimination of All Forms of Discrimination Against Women,⁴⁴ and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁴⁵ It then considers anti-trafficking laws in the United States, particularly the Trafficking Victims

42. *Id.*

43. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Dec. 29, 1949, 96 U.N.T.S. 271.

44. Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

45. UN Trafficking Protocol, *supra* note 2.

Protection Act of 2000,⁴⁶ arguing that the TVPA and the UN Protocol must be implemented in conjunction with one another to work effectively.

Peratis, Kathleen, et al. "Markets and Women's International Human Rights." *Brooklyn Journal of International Law* 25 (1999): 141–60.

In this edited transcript of a panel discussion, the participants reflect on the connection between globalization and the violation of women's rights. The discussion focuses on three cases that involve sex-based employment discrimination and rape in the Russian Federation, pregnancy-based sex discrimination by Mexican Maquiladora employers, and the trafficking of women and girls into Thailand.

Potts, LeRoy G., Jr. "Global Trafficking in Human Beings: Assessing the Success of the United Nations Protocol to Prevent Trafficking in Persons." *George Washington International Law Review* 35 (2003): 227–49.

In this note, Potts argues that trafficking in human beings is one of the fastest growing criminal businesses in the world. After the signing of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,⁴⁷ in Palermo, Italy, in December 2000, public awareness on the issues of trafficking began to increase. The Protocol contains provisions calling for states to criminalize trafficking offenses, provide assistance and protection for victims, and fight trafficking through cooperative programs and information sharing. Potts suggests that bilateral and multilateral cooperation is critical to successfully combat the trafficking problem.

Raviv, Tal. "International Trafficking in Persons: A Focus on Women and Children—The Current Situation and the Recent International Legal Response." *Cardozo Women's Law Journal* 9 (2003): 659–68.

Raviv notes that trafficking in persons as a grave violation of human rights has drawn the renewed attention of the international community in recent years. A number of international laws to combat trafficking have been in place since the early twentieth century, but their lack of effective enforcement mechanisms have made them essentially useless. A modern comprehensive international tool to combat trafficking did not exist until 2000, when the United Nations Protocol to Prevent and Punish Trafficking in Persons, Especially Women and Children⁴⁸ was adopted. Raviv analyzes the UN Protocol in greater detail, focusing particularly on its victim protection provisions, and points out that a state, by assenting to a human rights convention, undertakes a dual obligation: not to act in a way that results in a human rights violation and to prevent private actors present in its territory from acting in such a way.

Smith, Linda, and Mohamed Mattar. "Creating International Consensus on Combating Trafficking in Persons: U.S. Policy, the Role of the UN, and Global Responses and Challenges." *Fletcher Forum of World Affairs* 28 (2004): 155–78.

46. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 101, 114 Stat. 1464, 1466 (codified as amended at 22 U.S.C. §§ 7101–7110 (2000)).

47. UN Trafficking Protocol, *supra* note 2.

48. *Id.*

Smith and Mattar address the seriousness of the United States' efforts in combating international trafficking in persons. The United States Trafficking Victims Protection Act of 2000⁴⁹ (TVPA) has had a significant impact on how the government perceives and fights the practice of trafficking in persons. Establishing the Interagency Task Force to Monitor and Combat Trafficking in Persons, providing financial and economic support to countries that reform their actions in order to curb trafficking, and recognizing the link between HIV/AIDS and trafficking have made the TVPA an important legal mechanism to monitor the status of the trafficking in persons. The authors suggest, however, that only through diligence and international cooperation will trafficking be eliminated.

Toepfer, Susan Jeanne, and Bryan Stuart Wells. "The Worldwide Market for Sex: A Review of International and Regional Legal Prohibitions Regarding Trafficking in Women." *Michigan Journal of Gender and Law* 2 (1994): 83–128.

In this essay, Toepfer and Wells discuss the problems surrounding the enforcement of international treaties prohibiting trafficking in women. Although treaties such as the United Nations conventions explicitly prohibit trafficking in persons, they often contain unresolved substantive issues and enforcement problems that undermine their effectiveness. They argue that regional human rights treaties, such as the European Convention for the Protection of Human Rights and Fundamental Freedoms⁵⁰ and the American Convention on Human Rights,⁵¹ may be better suited for enforcing trafficking laws in their particular domains. In certain cases, individuals may directly assert claims under such conventions in regional human rights courts. Consequently, they urge human rights organizations and feminist groups to start paying greater attention to the regional treaties.

Ulrich, Jennifer L. "Confronting Gender-based Violence With International Instruments: Is a Solution to the Pandemic Within Reach?" *Indiana Journal of Global Legal Studies* 7 (2000): 629–54.

Ulrich discusses, in general terms, international law and its approaches to violence against women, and specifically comments on trafficking as an example. She covers the United Nations Convention for the Elimination of All Forms of Discrimination against Women (CEDAW),⁵² which is discussed in depth, including its provision mandating that states prohibit all forms of trafficking in women.

Trafficking in Children and International Law

Dennis, Michael J. "Newly Adopted Protocols to the Convention on the Rights of the Child." *American Journal of International Law* 94 (2000): 789–96.

This article analyzes the provisions and protections granted to children through the Protocol on the Involvement of Children in Armed Conflict⁵³ and the Protocol

49. Trafficking Victims Protection Act of 2000, 114 Stat. at 1466.

50. European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221.

51. American Convention on Human Rights, Nov. 22, 1969, OAS Treaty Ser. No. 36, 1144 U.N.T.S. 123 (1978).

52. Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 44.

53. Optional Protocol on the Involvement of Children in Armed Conflict, *supra* note 38.

on the Sale of Children, Child Pornography, and Child Prostitution,⁵⁴ both of which were adopted by the United Nations General Assembly in May 2000.

Doek, Jaap E. "The Protection of Children's Rights and the United Nations Convention on the Rights of the Child: Achievements and Challenges." *Saint Louis University Public Law Review* 22 (2003): 235–74.

This article focuses on the realities of the protection of children's rights under the existing international law. Doek presents an overview of general achievements in protecting the rights of children that have occurred since 1990, including progress in the areas of children in armed conflict, commercial sexual exploitation of children, and child labor. He then discusses the global challenges that remain and focuses on setting priorities among them. He applauds the ambitious commitments undertaken during the Special Session on Children of the UN General Assembly in May 2002, but states that the greatest remaining challenge is "to turn these commitments into visible and considerable progress towards achievement of the goals set" (p.252).

Higgins-Thornton, Shawronda. "Innocence Snatched: A Call for a Multinational Response to Child Abduction That Facilitates Sexual Exploitation." *Georgia Journal of International and Comparative Law* 31 (2003): 619–48.

Higgins-Thornton addresses the response of the international community to the growing problem of international child abduction that lures children into sexual exploitation and illegal activities. While most countries in the world criminalize child abduction and impose severe penalties on the perpetrators, international child abduction remains a persistent problem, with many child victims subjected to sexual exploitation. Higgins-Thornton discusses the current multinational response to international child abduction, including the Hague Convention on the Civil Aspects of International Child Abduction⁵⁵ and the United Nations Convention on the Rights of the Child,⁵⁶ finding it ineffective and resulting in perpetrators remaining largely unpunished. She offers suggestions for drafting new international legislation aimed at correcting the inadequacies of the existing international instruments by means of enhanced multinational cooperation.

Hyland, Kelly E. "The Impact of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children." *Human Rights Brief* 8 (2001): 30–38.

Hyland provides a brief history of the formation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children⁵⁷ and discusses its strengths and weaknesses.

Levesque, Roger J. R. "Sexual Use, Abuse, and Exploitation of Children: Challenges in Implementing Children's Human Rights." *Brooklyn Law Review* 60 (1994): 959–98.

54. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Pornography, and Child Prostitution, G.A. Res. 54/263, U.N. GAOR, 54th Sess., Annex II, U.N. Doc. A/54/49 (2000) [hereinafter Optional Protocol on the Sale of Children, Child Pornography, and Child Prostitution].

55. Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, 1343 U.N.T.S. 22514 (1983).

56. Convention on the Rights of the Child, *supra* note 22.

57. UN Trafficking Protocol, *supra* note 2.

Sexual abuse of children is a global problem that is only ambiguously addressed in existing human rights law. Although international law does recognize that children have the right to be free from sexual abuse, there are practically no specific, enforceable international protections for children against sexual mistreatment. Levesque discusses why nation-states have been reluctant to interfere with other states and even to enact laws within their own borders concerning the sexual mistreatment of children. He argues that an international law should be enacted that defines the right of children to be protected from sexual abuse, urging that it is time to move beyond symbolic gestures and enact explicit laws that protect against specific abuses.

McCoy, Amy. "Children 'Playing Sex for Money': A Brief History of the World's Battle Against the Commercial Sexual Exploitation of Children." *New York Law School Journal of Human Rights* 18 (2002): 499–505.

McCoy describes the history, provisions, and implementation of the United Nations Convention on the Rights of the Child.⁵⁸ Since its implementation, countries are progressively focusing on protecting the rights of children. Western European countries have begun creating databases of children's faces that are frequently found in underground rings of commercial sexual exploitation of children, allowing government authorities to track certain perpetrators and habitual customers. In addition, twenty-one nations have adopted laws that allow the prosecution of a citizen charged with paying for sex with a minor across international borders.

Potts, LeRoy G., Jr. "Global Trafficking in Human Beings: Assessing the Success of the United Nations Protocol to Prevent Trafficking in Persons." *George Washington International Law Review* 35 (2003): 227–49.

Potts details the history of the United Nations Protocol to Prevent Trafficking in Persons, Especially Women and Children,⁵⁹ maintaining that while the Protocol is a step in the right direction, more must be done. He analyzes the "Three-P" approach to trafficking, which focuses on prevention, prosecution, and protection, and suggests measures that must be taken to combat trafficking, such as greater multilateral and bilateral cooperation, with a specific focus on trafficking in children.

Revaz, Cris R. "The Optional Protocols to the UN Convention on the Rights of The Child on Sex Trafficking and Child Soldiers." *Human Rights Brief* 9 (Fall 2001): 13–16.

While recognizing the significance of the action taken by the United States in signing the Optional Protocols⁶⁰ to the United Nations Convention on the Rights of the Child, Revaz discusses the need for the United States to ratify them in the Senate.

Robinson, Laurie Nicole. "The Globalization of Female Child Prostitution: A Call for Reintegration and Recovery Measures via Article 39 of the United

58. Convention on the Rights of the Child, *supra* note 22.

59. UN Trafficking Protocol, *supra* note 2.

60. Optional Protocol on the Involvement of Children in Armed Conflict, *supra* note 38; Optional Protocol on the Sale of Children, Child Pornography, and Child Prostitution, *supra* note 54.

Nations Convention on the Rights of the Child.” *Indiana Journal of Global Legal Studies* 5 (1997): 239–61.

The globalization of economics is partly to blame for the epidemic proportion of female child prostitution. It is largely through economic and partly through cultural motivations that a child is sexually exploited. Robinson discusses international intervention aimed at preventing child prostitution such as the United Nations Convention on the Rights of the Child,⁶¹ the “first legally binding international agreement that protects children from sexual exploitation” (p.240). She discusses Article 39 of the Convention which proposes measures to rehabilitate victims of child prostitution, and argues that child prostitutes should not be punished for their acts. The blame should rest with guilty parents, pimps, and customers.

Valentine, Sandrine. “Trafficking of Child Soldiers: Expanding the United Nations Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict.” *New England Journal of International and Comparative Law* 9 (2003): 109–34.

After defining the concepts of “child soldier” and “trafficking,” Valentine explores the United Nations Convention on the Rights of the Child and its Optional Protocol on the Involvement of Children in Armed Conflict.⁶² Examples of child soldiers used in conflicts in Burundi, Colombia, Uganda, and Rwanda are offered to shed light on the root causes of and trends in child soldier trafficking.

Van Bueren, Geraldine. “Child Sexual Abuse and Exploitation: A Suggested Human Rights Approach.” *International Journal of Children’s Rights* 2 (1994): 45.

In this essay, Van Bueren argues that the prevention of child sexual abuse and exploitation, as well as the protection of those children who have been sexually abused, must be included in the framework of international human rights law. She states that the standards used to protect children against sexual abuse and exploitation should not be changed, but that the concept of what is sexual abuse and exploitation should be redefined so that a human rights approach can be used to combat these practices.

Trafficking in Persons under United States Law

Antimone, Stacey. “Sexual Trafficking: The United States’ Response to a Growing International Problem.” *Suffolk Transnational Law Review* 24 (2000): 149–77.

In this student note, Antimone analyzes the proposed International Trafficking of Women and Children Victim Protection Act of 1999.⁶³ She discusses the methods that are utilized by traffickers to lure women and relates the history of trafficking, as well as national and international attempts that have been made to combat the problem. She concludes that the proposed legislation is a good start, but its weakness lies in failing to “acknowledge the fullness of the problem.” (p.177)

61. Convention on the Rights of the Child, *supra* note 22.

62. Optional Protocol on the Involvement of Children in Armed Conflict, *supra* note 38.

63. S. 600, 106th Cong. (1999).

Asher, Joey. "How the United States Is Violating Its International Agreements to Combat Slavery." *Emory International Law Review* 8 (1994): 215–55.

Asher contends that there is a divergence between the definition of involuntary servitude in human rights treaties and that of United States case law, claiming that the definition used in the latter is too limited and thus cannot adequately discourage modern forms of slavery. As a remedy, he suggests that American courts amend federal law to parallel obligations the United States holds under international human rights treaties.

Barela, Mark J. "United States of America v. Cabrera: People Trafficking—Using Children to Cross Our Borders." *Journal of Law and Family Studies* 5 (2003): 131–39.

In this casenote, Barela focuses on the definition of the phrase "smuggling of 25 or more illegal immigrants" as used in the United States immigration law and interpreted in *United States v. Cabrera*.⁶⁴ Barela addresses the court's argument that since the defendants' intent was to present a family unit by using two illegal aliens and a child, the determination that the defendants achieved the required twenty-five smugglings to allow for an automatically increased sentence was reasonable. "This reasoning provides courts with the ability to help limit people trafficking by reducing the required reasonable assumption of a 'Coyote's' intent to transport a single individual or group across the border. The court is also able to increase the sentences of people-traffickers if the act, a crime, involves the use of children" (p.138).

Barone, Theresa. "The Trafficking Victims Protection Act of 2000: Defining the Problem and Creating a Solution." *Temple International and Comparative Law Journal* 17 (2003): 579–94.

Barone analyzes the history, purpose, and structure of the United States Trafficking Victims Protection Act of 2000⁶⁵ and presents an overview of enforcement measures undertaken by the United States since the passage of the Act. She also describes existing international anti-trafficking efforts and initiatives, focusing particularly on the achievements of the United Nations. She focuses particularly on three specific issues in anti-trafficking measures—definition of trafficking, punishment of traffickers, and protection of victims. She concludes by comparing approaches adopted by the Act to those of international anti-trafficking measures.

Beckman, Marlene D. "The White Slave Traffic Act: The Historical Impact of a Criminal Law Policy on Women." *Georgetown Law Journal* 72 (1984): 1111–39.

Beckman explains the original meaning of the White Slave Traffic Act of 1910 (the Mann Act),⁶⁶ whose purpose was to protect women who were transported into another state or used in foreign commerce and forced into sexual slavery, prostitution, or bondage. Therefore, originally the prostitute or woman was seen as a

64. 288 F.3d 163 (5th Cir. 2002).

65. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 101, 114 Stat. 1464, 1466 (codified as amended at 22 U.S.C. §§ 7101–7110 (2000)).

66. White Slave Traffic Act, ch. 395, 36 Stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424 (2000)).

victim. Later, the courts deviated from this original purpose, punishing the woman in addition to the trafficker on the grounds of conspiracy. Beckman concludes that the Mann Act is still criminalizing men and women, and in fact its impact has actually expanded with a 1978 amendment to criminalize the transportation between states of young boys for sexual acts. She questions whether courts and enforcement agencies will similarly twist the meaning of this amendment.

Candes, Michael R. "The Victims of Trafficking and Violence Protection Act of 2000: Will It Become the Thirteenth Amendment of the Twenty-First Century?" *University of Miami Inter-American Law Review* 32 (2001): 571–602.

Candes discusses recent initiatives to combat the drastic transnational rise in human trafficking. The Victims of Trafficking and Violence Protection Act of 2000⁶⁷ (which incorporates the Trafficking Victims Protection Act) not only revises the definition of involuntary servitude as set out in the *United States v. Kozminski*,⁶⁸ but also creates additional laws to prosecute trafficking-related crimes. Candes believes that the two main obstacles in the effective implementation of the Act are the trafficked victim's fear of law enforcement and deportation. These challenges can be addressed early in the process through education. While the author sees the Act as a sign of serious commitment on behalf of the United States to combat this egregious human rights violation, he cautions that this is a work in progress and that its effectiveness depends upon international cooperation.

Cao, Lan. "Illegal Traffic in Women: A Civil RICO Proposal." *Yale Law Journal* 96 (1987): 1297–1322.

Cao suggests that the Racketeer Influenced and Corrupt Organizations Act (RICO)⁶⁹ might be a way for women in prostitution to defend themselves against prostitution rings and organized crime. It would allow women engaged in prostitution to do, as private parties, what the government has little capacity to accomplish. Cao believes that women's bodies may be viewed as property under the RICO injury requirements which include "business or property." While RICO would cause legitimate businesses to suffer, Cao emphasizes the need to strengthen the battle against organized crime and protect women in prostitution.

Coles-Davila, Teresa. "Violence Against Women Act: Protections for Victims of Abuse." *Texas Bar Journal* 66 (2003): 890–93.

This article provides an overview of changes to the United States immigration legislation created by the Violence Against Women Act⁷⁰ and the Trafficking Victims Protection Act (TVPA).⁷¹ It focuses mainly on the requirements for obtaining permanent residency status by immigrant victims of domestic abuse and violence and the provisions for T visas established by the TVPA.

67. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (codified and amended in scattered sections of 8, 18, 22 U.S.C.).

68. 487 U.S. 931, 948 (1988).

69. 18 U.S.C. §§ 1961–1968 (2000).

70. Violence Against Women Act of 1994, Pub. L. No. 103-322, tit. IV, 108 Stat. 1902 (codified as amended at 8 U.S.C. §§ 1151, 1154, 1186a, 1186a note, 1254, 2245 (2000)).

71. Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, Div. A, § 101, 114 Stat. 1464, 1466 (codified as amended at 22 U.S.C. §§ 7101–7110 (2000)).

Coonan, Terry S. "Human Rights in the Sunshine State: A Proposed Florida Law on Human Trafficking." *Florida State University Law Review* 31 (2004): 289–98.

Arguing that it is not enough to recognize trafficking as a federal offense, Coonan proposes a state law on trafficking in persons that is similar to the laws of Washington and Texas. To be eligible for immigration relief, an individual must be certified as a victim of a severe form of human trafficking by the Office of Refugee Resettlement, a part of the federal Department of Health and Human Services.

Feve, Sabrina, and Christina Finzel. "Trafficking of People." *Harvard Journal on Legislation* 38 (2001): 279–90.

This article discusses the history of the Trafficking Victims Protection Act of 2000,⁷² focusing in particular on the provisions imposing sanctions on countries that do not comply with the Act's minimum standards for the elimination of trafficking.

Hartsough, Tala. "Asylum for Trafficked Women: Escape Strategies Beyond the 'T' Visa." *Hastings Women's Law Journal* 13 (2002): 77–116.

Hartsough touches on the root causes of trafficking and how the United States Trafficking Victims Protection Act⁷³ addresses the issue. Immigration policy, particularly the T-visa, is discussed in depth. The case is made that asylum law is an alternative to the TVPA in protecting victims of trafficking from being deported to dangerous home countries and that trafficked women should be given refugee status.

Hyland, Kelly E. "Protecting Human Victims of Trafficking: An American Framework." *Berkeley Women's Law Journal* 16 (2001): 29–71.

Hyland explores the adequacy of United States legislation in protecting and assisting trafficking victims. After discussing the nature of trafficking and experiences of its victims, she addresses the needs of victims and suggests possible U.S. responses to such needs through legislation and provision of services to meet individual needs. She analyzes the Trafficking Victims Protection Act of 2000,⁷⁴ concluding that its worldwide impact cannot be assessed until it is properly implemented.

Mattar, Mohamed Y. "Monitoring the Status of Severe Forms of Trafficking in Foreign Countries: Sanctions Mandated under the U.S. Trafficking Victims Protection Act." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 159–78.

Mattar examines the Trafficking Victims Protection Act of 2000⁷⁵ and its consequences, specifically the role that the United States has taken upon itself to monitor the status of trafficking in other countries. This role includes reporting on the status of trafficking, placing countries into tiers, and recommending sanctions. He contends that while the United States should continue to combat trafficking on an international scale, it must be careful in administering sanctions to ensure

72. *Id.*

73. *Id.*

74. *Id.*

75. *Id.*

that they do not have harmful effects on the women and children whom the Act intends to protect.

Raghu, Maya. "Sex Trafficking of Thai Women and the United States Asylum Law Response." *Georgetown Immigration Law Journal* 12 (1997): 145–86.

Raghu discusses how international sex trafficking profits from the inequalities between developed and developing countries and between men and women. She explains the conditions in which trafficking flourishes, specifically when former state-controlled economies become export-oriented, and discusses why women are not necessarily granted asylum status under the law. They must prove that they are being persecuted as members of a particular social group. She argues that instead of deporting women in prostitution from the United States, the government should respect their rights as victims and grant them asylum. It should also develop strategies to change the laws, remove gender biases, and increase opportunities for women.

Rothwell, Leila. "VAWA 2000's Retention of the 'Extreme Hardship' Standard for Battered Women in Cancellation of Removal of Cases: Not Your Typical Deportation Case." *Hawaii Law Review* 23 (2001): 555–622.

Thousands of women who immigrate to the United States are physically, sexually, and emotionally abused each year. Many of these women are brought to the United States to be married to an American man who quickly becomes their captor, abuser, and the sole contact within the country. Placed in this horrible position of repeated and unrelenting abuse, yet afraid to return to their home country because of the ridicule and abuse that awaits them upon return, these women are left with few options. Rothwell analyzes how the United States has treated the issue of battered immigrant women through the 1994 Violence Against Women Act⁷⁶ and the 2000 Trafficking Victims Protection Act.⁷⁷ She focuses on the "extreme hardship" provision in delaying or canceling a deportation case once a woman has escaped her abuser, as well as the concept of self-petitioning requirements to remain in the United States.

Ryf, Kara C. "The First Modern Anti-Slavery Law: The Trafficking Victims Protection Act of 2000." *Case Western Reserve Journal of International Law* 34 (Fall 2002): 45–71.

Ryf reviews the Trafficking Victims Protection Act of 2000,⁷⁸ lauding its emphasis on international cooperation while criticizing sanctions it imposes on other nations. The Act's human rights-based approach to trafficking sets it apart from past measures to combat trafficking through immigration policy. She applauds efforts to transform trafficking into a "high risk and low profit industry" (p.70).

Smith, Karen M. "Solving Worker Abuse Problems in the Northern Mariana Islands." *Boston College International and Comparative Law Review* 24 (2001): 381–407.

Smith presents a brief account of the history of the Commonwealth of Northern Mariana Islands (CNMI), its political relationship with the United States, and a

76. Violence Against Women Act of 1994, Pub. L. No. 103-322, tit. IV, 108 Stat. 1902 (codified as amended at 8 U.S.C. §§ 1151, 1154, 1186a, 1186a note, 1254, 2245 (2000)).

77. Trafficking Victims Protection Act of 2000, 114 Stat. at 1466.

78. *Id.*

synopsis of its present-day problems. She describes proposed federal legislation to remedy labor and immigration issues, and explains why such legislation has consistently failed. She concludes that existing U.S. and local legislation are sufficient to solve the problems, but in order for them to have their intended effect, immigration to the islands must be more effectively controlled by extending the federal Immigration and Nationality Act to the CNMI.

Soriano, Jeanne A. "Prostitution: An Economic Activity Entitled to a Federal Civil Remedy under the Commerce Clause." *Journal of Legal Advocacy and Practice* 4 (2002): 207–21.

Soriano theorizes that prostitution is an economic activity that deserves a federal civil remedy under the Commerce Clause. She discusses the relationship between trafficking and prostitution, both of which are gender-based economic activities.

Stroguiludis, Jill C. "The Refugee Act of 1980: An Empty Promise to Exploited Children." *John Marshall Law Review* 29 (1996): 995–1029.

Stroguiludis strives to convey the American government's naiveté in its enactment and interpretation of the Refugee Act of 1980.⁷⁹ The article begins by explaining the concept of a commercially sexually exploited child and children's human rights as interpreted from reading the Act. It is often the case that the child is unprotected by the Act because he or she is unable to establish a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. For example, the exploitation of children for both sexual and employment purposes is tolerated as a cultural value; U.S. law does not interpret cultural mistreatment as "persecution on account of membership in a particular 'social group,'" but simply as a social norm that is accepted in certain countries. Children often slip through the cracks of the protection intended by the Act.

Stumpf, Juliet, and Bruce Friedman. "Advancing Civil Rights through Immigration Law: One Step Forward, Two Steps Back?" *New York University School of Law Journal of Legislation and Public Policy* 6 (2002): 131–69.

The United States has historically used immigration restrictions and civil rights laws as a means of regulating and controlling the domestic labor pool in America. Stumpf and Friedman analyze the new labor pool restrictions and work regulations placed upon immigrants and domestic workers since the passage of the Trafficking Victims Protection Act of 2000.⁸⁰ They examine the Act to determine how it weaves together immigration laws and protection of civil rights to create a cohesive policy toward immigrant workers and victims of trafficking, as well as its methods of combating the growing industry of global trafficking in persons.

Tiefenbrun, Susan W. "The Saga of Susannah—A U.S. Remedy for Sex Trafficking in Women: The Victims of Trafficking and Violence Protection Act of 2000." *Utah Law Review*, 2002, 107–75.

Tiefenbrun analyzes the economic theory approach to eradicating sex trafficking as a contemporary form of slavery. She begins with an overview of the problem

79. Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (codified as amended in scattered sections of 8 U.S.C.).

80. Trafficking Victims Protection Act of 2000, 114 Stat. at 1466.

of sex trafficking, discussing the nature and history of this crime; its underlying cultural, social, political, and economic causes; and the place of these issues within the feminist and critical race legal theories. She then describes international legal instruments, as well as some domestic laws, aimed at addressing the problem, concluding that these “have proven to be largely ineffective in the eradication of sex trafficking because the treaties are not enforced and the penalties are weak” (p.115). In the final part of the article, Tiefenbrun turns to the United States’ responses to sex trafficking, focusing on the Trafficking Victims Protection Act (TVPA) of 2000⁸¹ as an example of legislation that addresses global sex trafficking by increasing penalties for traffickers and rewarding the victims of trafficking. She contends that the Act properly takes into account “the need to make an adjustment to the current cost/benefit analysis in the sex trafficking industry” (p.116).

Tiefenbrun, Susan W. “Sex Sells but Drugs Don’t Talk: Trafficking of Women Sex Workers.” *Thomas Jefferson Law Review* 23 (2001): 199–226.

Tiefenbrun describes the problem of sexual trafficking as a lucrative international business second only to drug trafficking. She seeks not only to raise public awareness of the plight of trafficked women, but also to “probe into some of the economic, social, cultural, and political reasons why this crime continues to spread like an uncontrollable disease” (p.199). She examines the efficacy of solutions adopted in the past as well as the recently enacted Trafficking Victims Protection Act of 2000,⁸² contending that the key is not new legislation but addressing the problem from an economic perspective.

Tiefenbrun, Susan W. “Sex Sells but Drugs Don’t Talk: Trafficking of Women Sex Workers and an Economic Solution” *Thomas Jefferson Law Review* 24 (2002): 161–89.

Tiefenbrun argues that the real solution to trafficking in women lies in curtailing economic profits earned by traffickers, suggesting that the “economic advantage of sexual exploitation seems to outweigh the moral and legal commitment to equality of the sexes and to the protection of women’s rights” (p.163). She discusses the strengths and shortcomings of the Trafficking Victims Protection Act of 2000⁸³ and suggests that “economics” must be a central focus of effective enforcement of that Act and other anti-trafficking laws.

Wetmore, Jennifer M. “The New T Visa: Is the Higher Extreme Hardship Standard Too High for Bona Fide Trafficking Victims?” *New England Journal of International and Comparative Law* 9 (2003): 159–76.

Wetmore begins with a brief overview of the history of trafficking in persons, explains the tactics used by perpetrators to coerce victims into trafficking rings, and documents the retribution and isolation that rescued trafficked persons experience from relatives or members of the community. She reviews the newly developed “T” visa, which is made available each year to 5000 trafficking victims in the United States. Allotted specifically to victims who have agreed to help the government prosecute their traffickers, the “T” visa requires that the appli-

81. *Id.*

82. *Id.*

83. *Id.*

cant prove “extreme hardship involving unusual and severe harm upon removal.” Because this requirement is nondefinitive, broad, and has very few concrete interpretations, victims of trafficking are often deported to their countries of origin and placed immediately back into the hands of the traffickers.

Young, Becki. “Trafficking of Humans across United States Borders: How United States Law Can Be Used to Punish Traffickers and Protect Victims.” *Georgetown Immigration Law Journal* 13 (1998): 73–104.

Young focuses on the ways to address the problem of international human trafficking under the United States law as it existed prior to the passage of the Trafficking Victims Protection Act in 2000.⁸⁴ In particular, she discusses laws prohibiting involuntary servitude; those regulating labor, the sex industry, or organized crime; and laws pertaining to civil rights, immigration, and asylum.

Country and Regional Case Studies on Trafficking in Persons

Brazil

Bailey, Everton. “Should the State Have Rights to Your Organs? Dissecting Brazil’s Mandatory Organ Donation Law.” *University of Miami Inter-American Law Review* 30 (1999): 707–26.

Bailey discusses the Brazilian Presumed Organ Donor Law of 1998, a controversial act aimed at simplifying the organ donation process and increasing the number of donors, as well as reducing the trafficking in human organs. Because there is no domestic organ procurement policy in Brazil, Bailey argues that the resulting importation of organs will in fact encourage organ trafficking.

Mantei, Charles T. “It Takes a Village to Raise a Child: The Role of the Organization of American States in Eliminating the Worst Forms of Child Labor in Brazil.” *University of Miami Inter-American Law Review* 32 (2001): 469–522.

Mantei provides a historical background of child labor in Brazil and the phenomenon that has perpetuated child labor in Brazil since the nineteenth century. He also discusses the modern Brazilian approach of national laws and programs that arose from the international movement to address child labor globally. He argues for the enactment of a regional plan to attack child labor and concludes with “a call for flexible, persistent, creative, cooperative measures and patient steadfastness . . . to transform the underlying social psychology that perpetuates child labor in Brazil” (p.472).

Cambodia

Menon, Anupama K. “Gender Epidemic: Addressing the Specific Needs of Women Fighting HIV/AIDS in Cambodia.” *Berkeley Women’s Law Journal* 18 (2003): 254–64.

Menon begins with an overview of the HIV/AIDS epidemic in Cambodia, the country with the highest prevalence rate of the disease in East Asia, then shifts to an analysis of additional steps that must be undertaken by the Cambodian government in order to effectively implement its 2002 legislation designed to

84. *Id.*

address the problem. Finally, Menon focuses on one of the major contributing factors, human trafficking, and urges the government to recognize its connection to HIV/AIDS so that it can deal effectively with the spread of the disease.

China

Hansel, Mary H. "China's One-Child Policy's Effect on Women and the Paradox of Persecution and Trafficking." *Southern California Review of Law and Women's Studies* 11 (2002): 369–95.

Hansel addresses the one-child policy in China, which has exacerbated the problem of trafficking in women. The policy has led to a shortage of women, in turn leading to trafficking. Women are willing to sell their daughters, abort them, kill them, or abandon them in order to abide by the one-child policy and have a son. With men currently outnumbering women by more than sixty million, women are being abducted and trafficked to China to accommodate for the shortage of Chinese wives and mothers. The government is working to stop trafficking while keeping the population of China under control, but a substantive plan of action is still in the making.

Kleem, Curtis. "Airplane Trips and Organ Banks: Random Events and the Hague Convention on Intercountry Adoptions." *Georgia Journal of International and Comparative Law* 28 (2000): 319–48.

Kleem examines various factors shaping the international adoption policies in China, beginning with an overview of history and procedures of international adoption of children from China, and discussing political and other factors that influenced China's decision to restrict international adoption. He also analyzes the Hague Convention on Intercountry Adoption⁸⁵ and its possible application in the Chinese context.

Europe

Chadwick, Kimberly A. "The Politics and Economics of Intercountry Adoption in Eastern Europe." *Journal of International Legal Studies* 5 (Winter 1999): 113–44.

Chadwick analyzes changes in adoption laws of Eastern European countries since the early 1990s, focusing on the legislation of Russia, Romania, Ukraine, and Georgia. Since the end of the Cold War, countries in Eastern Europe have become a significant source of adoptable Caucasian children, which is seen as a solution to the shortage of adoptable children in the United States. Not all countries in the region view international adoption favorably, and some have imposed moratoria on intercountry adoption. Chadwick focuses on the economics of international adoption as a factor in a country's adoption policy and on attempts to curb illegal profits from adoptions. She discusses the United Nations efforts to regulate intercountry adoption, focusing on the Hague Convention on Intercountry Adoption,⁸⁶ and concludes that such efforts have been largely ineffective.

85. Hague Convention on Protection of Children, *supra* note 24.

86. *Id.*

Kilkelly, Ursula. "Economic Exploitation of Children: A European Perspective." *Saint Louis University Public Law Review* 22 (2003): 321–58.

Kilkelly analyzes international and European child labor standards, including the law of the European Union and the law of the Council of Europe, and the degree to which European nations have complied with these standards. She discusses the possible role of the European Union in the elimination of child economic exploitation globally, suggesting that it can use its trade, development, and enlargement policies to impose its child labor standards on third-world countries.

Wallace, Melanie R. "Voiceless Victims: Sex Slavery and Trafficking of African Women in Western Europe." *Georgia Journal of International and Comparative Law* 30 (2002): 569–91.

Wallace looks at trafficking in persons from Africa to Western Europe for commercial sexual exploitation, documenting how immigration to Western European countries increased dramatically in the 1990s as people immigrated there from Eastern Europe and African nations. Focusing primarily on the anti-trafficking and asylum laws of France, Italy, and the Netherlands, she discusses the reasons why Western European governments have been unsuccessful in their efforts to curb trafficking in persons and what must be done in the future, including recognizing trafficked women as victims and combating organized crime rings.

Germany

Von Galen, Margarete. "Prostitution and the Law in Germany." *Cardozo Women's Law Journal* 3 (1996): 223–28.

Von Galen suggests that the evolution of criminal laws in Germany addressing prostitution has led to the current legal situation which is based on the notion that prostitution is immoral and the law should protect "the individual from the danger of being drawn into prostitution" (p.363). For this reason, the German "morals police" confine prostitution-related activities to certain zones. Von Galen concludes by discussing movements and proposed laws seeking to eliminate discrimination against prostitutes.

Greece

Trapalis, Vicki. "Extraterritorial Jurisdiction: A Step Towards Eradicating the Trafficking of Women into Greece for Forced Prostitution." *Golden Gate University Law Review* 32 (2002): 207–38.

With Greece a destination state for women trafficked for commercial sexual exploitation, Trapalis considers the issue from an international law perspective, examining the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,⁸⁷ and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.⁸⁸ She discusses the thriving commercial sex trade in Greece, citing organized crime and a culture that subordinates women as prime contributing factors.

87. UN Trafficking Protocol, *supra* note 2.

88. Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 44.

India

Kotiswaran, Prabha. "Preparing for Civil Disobedience: Indian Sex Workers and the Law." *Boston College Third World Law Journal* 21 (2001): 161–242.

Kotiswaran explains the current laws regarding prostitution in India, their enforcement, the increase in prostitution in relation to AIDS in the 1990s, and the work of the Indian women's movement with prostitution. The objective is to suggest the possibility of reforming India's legislation dealing with prostitution by looking at past laws from ancient and colonial India. In addition, Kotiswaran argues that to improve the status of women in prostitution, India must include prostitutes in its policy-making procedures, prostitution must be decriminalized, and legislation must be created to protect the rights of these women.

Japan

Morrison, Andrew D. "Teen Prostitution in Japan: Regulation of Telephone Clubs." *Vanderbilt Journal of Transnational Law* 31 (1998): 459–97.

In response to the significant impact telephone clubs have had on the number of teenage girls engaged in prostitution, juvenile welfare groups, parent-teacher associations, and legislatures throughout Japan have worked together to pass laws regulating these clubs. Morrison concludes that the way to stop the rise in teenage prostitution is to change the way Japan regulates prostitution—broadening its definition, making the act of prostitution or of purchasing the services of a prostitute criminally punishable, and altering the provisions for women's guidance homes.

Middle East

Mattar, Mohamed Y. "Trafficking in Persons, Especially Women and Children, in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses." *Fordham International Law Journal* 26 (2003): 721–60.

Mattar examines the scope of trafficking in women and children in Middle Eastern countries, which are countries of origin, transit, and destination for the practice. He discusses each state's responsibility in dealing with trafficking, contending that anti-trafficking legislation in Middle Eastern countries must comply with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.⁸⁹ Furthermore, he emphasizes that trafficked persons must be treated as victims of a crime, and that trafficking requires a transnational approach, as it is a transnational crime.

Russia

Pilkerton, Christopher M. "Traffic Jam: Recommendations for Civil and Criminal Penalties to Curb the Recent Trafficking of Women from Post-Cold War Russia." *Michigan Journal of Gender and Law* 6 (1999): 221–60.

89. UN Trafficking Protocol, *supra* note 2.

Pilkerton begins by explaining how Russian organized crime has expanded its trafficking activities from drugs and weaponry to people. He deals specifically with trafficking from Russia to the United States, the trends the Russian mafia is following, economic corruption in Russia, and the development of international institutions working to combat the trafficking of women and children.

Southeast Asia

Beyrer, Chris, and Julie Stachowiak. "Health Consequences of Trafficking of Women and Girls in Southeast Asia." *Brown Journal of World Affairs* 10 (Summer/Fall 2003): 105–17.

This article focuses on the health impacts of the women-trafficking industry in Southeast Asia, a major source of HIV and other sexually transmitted diseases. Beyrer and Stachowiak examine government responses to the HIV/AIDS problem in Thailand, Burma, Cambodia, Vietnam, and China, as well as interventions by the governments of trafficking destination countries in the region. Finally, they analyze the regional policy options that can be implemented in Southeast Asia to effectively address both the trafficking and HIV/AIDS problems.

Ragsdale, Shannon S., and Vanessa D. Campbell. "Protection of the Female Child: The Mothers of Our Future—Case Studies of India, Pakistan, Bangladesh, and Sri Lanka." *Tulsa Journal of Comparative and International Law* 7 (1999): 177–98.

Ragsdale and Campbell focus on the rights of the female child on the Indian subcontinent, covering such issues as gender discrimination, nutrition, education, sexual exploitation, child labor, early marriage, and dowry killings. They conclude that government action is necessary to implement the UN Convention on the Rights of the Child.⁹⁰ In addition, they suggest that nongovernmental organizations could expand to developing nations and persuade the public and private sectors of society to motivate the respective governments to act.

Rastogi, Vandana. "Preserving Children's Rights: The Challenges of Eradicating Child Sexual Exploitation in Thailand and India." *Suffolk Transnational Law Review* 22 (1998): 259–82.

Rastogi discusses child sexual exploitation in two countries where the problem is most rampant—Thailand and India—stating that it persists despite the existence of specific laws prohibiting the practice. Rastogi blames various political, economic, and cultural factors, as well as ineffective laws, and concludes by urging the countries to take meaningful steps to combat child sexual exploitation, such as ratifying the United Nations Convention on the Rights of the Child⁹¹ and establishing educational programs for children and women.

Thailand

Levan, Patricia D. "Curtailing Thailand's Child Prostitution through International Conscience." *American University Journal of International Law and Policy* 9 (1994): 869–912.

90. Convention on the Rights of the Child, *supra* note 22.

91. *Id.*

Levan explores the root causes of the supply of child prostitutes in Thailand: poverty, family disintegration, domestic violence, and the country's dualistic system of morality. She discusses efforts by Thailand and the United Nations to regulate child prostitution and monitor compliance with international and domestic laws, and provides recommendations for Thailand.

Ukraine

Hughes, Donna, and Tatyana A. Denisova. "The Transnational Political Criminal Nexus of Trafficking in Women from Ukraine." *Trends in Organized Crime* 6, no. 3-4 (2001): 1-64.

Hughes and Denisova posit that organized crime and state corruption are the major contributing factors behind the problem of trafficking from Ukraine. They argue that destination countries are in the best position to enact efficient anti-trafficking legislation, yet it is the origin countries where government officials are most likely to be corrupt and where organized crime groups are most likely to reside. The article is based on research collected through interviews and surveys in Ukraine in addition to articles in local media outlets, conference reports, and NGO and government reports.