

# Human Rights and Existing Contradictions in Asia-Pacific Human Trafficking Politics and Discourse

Nancie Caraway\*

I. INTRODUCTION .....	295
II. NO TRAFFICKING WITHOUT DEMAND .....	301
III. THE WEST AND THE REST.....	304
IV. CONCEPTUAL CLARITY AND REDEFINITIONS.....	306
V. “SECOND GENERATION” TRAFFICKING PARADIGM .....	310
VI. CONCLUSION—ACTION AGENDA .....	313

## I. INTRODUCTION

Never have the ethical dimensions of modernity been drawn more sharply than at the contemporary intersection of globalization and human rights, as manifest in the burgeoning practice of trafficking in persons.<sup>1</sup> In our globalizing world, with its accelerating contractions and human dislocations, trafficking has increased in magnitude and reach, becoming a major human rights concern. Trafficking has grown almost fifty percent from 1995 to 2000, bringing into sharp relief those who are winners and losers in the global marketplace.<sup>2</sup>

In the past decade, considerable units of the United Nations—the Economic and Social Council, the United Nations Children’s Fund (UNICEF), the United Nations Development Fund for Women (UNIFEM), the International Organization for Immigration (IOM), the

---

\* Ph.D., Director of Women’s Human Rights Projects, Globalization Research Center, University of Hawaii at Manoa, Honolulu, Hawaii. E-mail: nancie@hawaii.edu; telephone: 808.956.9385.

1. The critical literature on globalization is immense, with many analysts pointing to the human costs. See, e.g., ALTERNATIVES TO ECONOMIC GLOBALIZATION: A BETTER WORLD IS POSSIBLE (John Cavanagh & Jerry Mander eds., 2002); NAOMI KLEIN, NO LOGO: TAKING AIM AT THE BRAND BULLIES (1999); PETER SINGER, ONE WORLD: THE ETHICS OF GLOBALIZATION (2002); JOSEPH E. STIGLITZ, GLOBALIZATION AND ITS DISCONTENTS (2002); Michael Ignatieff, *Human Rights: The Midlife Crisis*, 46 N.Y. REV. BOOKS 58 (1999). For globalization’s impact on Asian working women, see WOMEN AND WORK IN GLOBALISING ASIA (Dong-Sook S. Gills & Nicola Piper eds., 2002).

2. UNITED NATIONS DEV. FUND FOR WOMEN, ISSUE BRIEF ON VIOLENCE, [http://www.womenwarpeace.org/issues/violence/violence\\_pfv.pdf](http://www.womenwarpeace.org/issues/violence/violence_pfv.pdf) (last visited Apr. 19, 2006).

International Labour Organization (ILO), and increasingly, the U.N. Centre for International Crime Prevention (CICP)—have engaged in global awareness-raising campaigns, grassroots preventive programs, and modeled bilateral and multilateral cooperative agreements among states. The United Nation's highest profile initiative to date is the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime.<sup>3</sup> Coupled with the mobilization of global nongovernmental organizations (NGOs), women's and children's rights organizations, immigrant and refugee support groups, trade unions, and international media attention, the dynamics of globalization are increasingly challenged and held up to scrutiny.

The human misery created by this new global trade involves the recruitment, transport, harboring, and often sale of individuals, who are exploited for their labor in any of a variety of sectors: the organ trade, domestic service, agriculture, mining, textiles, and increasingly, prostitution and the sex industry. In recognized supply and demand zones for trafficked persons, such as South and Southeast Asia, the practice is fueled by economic disparity, lack of education, unemployment, the second-class status of women and girls, lax law enforcement, and corruption.<sup>4</sup>

The United Nations estimates that over two million women and children are trafficked each year.<sup>5</sup> Researcher Kevin Bales defines trafficking as "the new slavery," calculating the existence of as many as twenty-seven million slaves alive today, which is more than all the persons taken from Africa during the transatlantic slave trade."<sup>6</sup> The United States Central Intelligence Agency (CIA) estimates that as many as 50,000 persons are trafficked into the United States each year as maids, migrant workers, and prostitutes.<sup>7</sup> Because of its clandestine nature, human trafficking remains an increasingly underreported crime.

---

3. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 55/25, Annex II, U.N. Doc. A/55/383 (Nov. 15, 2000) [hereinafter U.N. Protocol].

4. YAYORI MATSUI, *WOMEN IN THE NEW ASIA: FROM PAIN TO POWER* 19-22 (Noriko Toyokawa & Carolyn Francis trans., 1999).

5. Mikel Flamm, *Exploited, Not Educated: Trafficking of Women and Children in Southeast Asia*, U.N. CHRON. ONLINE EDITION (2003), <http://www.un.org/Pubs/chronicle/2003/issue2/0203p34.html>.

6. KEVIN BALES, *DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY* 9 (1999).

7. Joel Brinkley, *Vast Trade in Forced Labor Portrayed in C.I.A. Report: Traffickers Prey on Women and Children*, N.Y. TIMES, Apr. 2, 2000, § 1, at 22.

In the 1990s, the Clinton Administration demonstrated tremendous commitment to battling trafficking, alerting the world community—particularly Southeast Asia—to the prevalence and serious nature of the crime. On March 11, 1998, President Clinton issued an executive order institutionalizing a strong U.S. antitrafficking policy based on Three P's: protection, prevention, and prosecution.<sup>8</sup> An interagency task force on women enlisted the National Security Council, the State Department, the Department of Labor, and the Department of Justice, among other relevant agencies, in the world's first comprehensive national antitrafficking initiative.<sup>9</sup> Determined that human trafficking would be a central U.S. foreign policy concern, Secretary of State Madeline Albright and First Lady Hillary Rodham Clinton traveled the globe in the 1990s publicizing the horrors of trafficking and sharing the stories of victims.

In 2000, grassroots programs of Asian NGOs and international agencies working in the region received a powerful jump-start in their efforts to put traffickers in jail and keep them there. The world spotlight focused on Manila and the Asian Regional Initiative Against Trafficking (ARIAT), a high-level conference sponsored by the United States Department of State and the Philippine government, which brought together twenty-three nations, NGOs, and international organizations to confront publicly what had become the scourge of the entire region.<sup>10</sup> Attended by foreign ministers, cabinet heads, senior diplomats, and experienced antitrafficking NGO professionals, ARIAT broke the silence about trafficking in the region.<sup>11</sup> Never before had East and Southeast Asian governments opened themselves up to critical evaluation and faced the enormity of trafficking in their neighborhood. The ARIAT Plan of Action, adopted unanimously, enhanced regional cooperation, solidified state and civil society partnerships, and called for each country to adopt national plans of action against trafficking.<sup>12</sup>

---

8. Francis T. Miko, Cong. Res. Serv., *Trafficking in Persons: The U.S. and International Response*, CRS-8 (2003), <http://www.usembassy.it/pdf/other/RL30545.pdf>.

9. See HILLARY RODHAM CLINTON ET AL., PRESIDENT'S INTERAGENCY COUNCIL ON WOMEN, AMERICA'S COMMITMENT: WOMEN 2000, at 131-39 (2000), available at [http://secretary.state.gov/www/picw/2000commitment/americas\\_commitment.pdf](http://secretary.state.gov/www/picw/2000commitment/americas_commitment.pdf). One of the most proactive victim support programs instituted by the United States Department of Justice is the multilingual hotline 1-888-428-7581 publicized widely in flyers that read: "Sexual and labor exploitation are against the law in the United States. Federal law prohibits slavery." See also U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT § VI (2004), available at <http://www.state.gov/g/tip/rls/tiprpt/2004/33202.htm>.

10. HumanTrafficking.org, *The Asian Regional Initiative Against Trafficking (ARIAT) in Women and Children*, <http://www.humantrafficking.org/events/88/> (last visited Apr. 12, 2006).

11. See *id.*

12. See *id.*

Building on the Clinton-era initiatives, the successful lobbying by human rights and feminist activists convinced the United States Congress to pass groundbreaking bipartisan legislation in 2000 with the Trafficking Victims Protection Act (TVPA).<sup>13</sup> The TVPA provided tools to combat trafficking worldwide and domestically: legal and social service benefits for victims, a special T visa allowing victims who assist in the prosecution of their traffickers to remain in the United States, and an annual report published by the State Department that ranks countries affected by trafficking.<sup>14</sup>

The subsequent 2001 and 2002 Trafficking in Persons Reports drew considerable criticism both in the United States and abroad for glossing over state complicity in trafficking, being vague on law enforcement details, and focusing solely on sex trafficking rather than all forms of forced labor.<sup>15</sup> The State Department report also exempted the United States from evaluation, did not include data on the numbers of victims in each country, failed to report the number of convictions, and did not provide concrete information on sentencing rates.<sup>16</sup> Of particular concern to activists was the fact that the report did not indicate how many state officials were investigated, tried, and convicted of trafficking: essential indicators of corruption.

The report's ranking system was also flawed. Many countries, such as Pakistan and Japan, should have been ranked in the third tier of nations making the least progress in preventing trafficking. Of Asia's developed nations, Japan has long neglected the rights of trafficking victims, treating them as illegal immigrants or criminals.<sup>17</sup>

Sadly, human trafficking is a global goldmine for those who exploit and defraud others. The practice is tied to hugely profitable local and global criminal economies—estimates range from US\$7<sup>18</sup> to US\$13 billion a year, with a much higher indirect value.<sup>19</sup> Traffickers thrive in a

---

13. Trafficking Victims Protection Act, 22 U.S.C. §§ 7101, 7105 (2000).

14. See U.S. Dep't of State, *Trafficking in Persons Report*, <http://www.state.gov/g/tip/rls/tiprpt> (last visited Apr. 14, 2006) (indexing the reports from 2001 through 2005) [hereinafter TIP Index].

15. See *id.* (follow "2001 Report" or "2002 Report" hyperlink); cf. Anne Gallagher, *Trafficking in Persons Report*, 23 HUM. RTS. Q. 1135 (2001) (book review); Gary Haugen, *Blind Eye on Sexual Slavery*, HONOLULU ADVERTISER, June 20, 2002, at A18.

16. See TIP Index, *supra* note 14; cf. Gallagher, *supra* note 15; Haugen, *supra* note 15.

17. HUMAN RIGHTS WATCH, WORLD REPORT 2000: WOMEN'S HUMAN RIGHTS 448 (1999).

18. Ctr. For Int'l Crime Prevention, *Introduction to the Centre for International Crime Prevention*, <http://www.uncjin.org/CICP/cicp.html> (last visited Apr. 14, 2006). CICP estimates the direct economic earnings of trafficking to be up to US\$7 billion a year. *But see infra* note 19 (discussing Bales' method).

19. Kevin Bales employs a broader definition of trafficking, includes a greater number of victims, and projects the indirect value of slave-made goods into the world economy. According

high-profit, low-risk legal environment. The United Nations Office on Drugs and Crime (UNODC) is monitoring the rapid growth of this practice, reporting human trafficking as the fastest-growing criminal enterprise in the world, ranking behind only trafficking in drugs and weapons.<sup>20</sup> UNODC anticrime campaigns are beginning to track criminal syndicates' use of electronic technology to expand their networks in both developed and developing nations.<sup>21</sup> Young women and teenagers are often lured into prostitution rings by advertisements for domestic positions abroad, only to find themselves bought and sold via catalogues and online services by close family members.<sup>22</sup>

The most common form of labor exploitation is the system of debt bondage.<sup>23</sup> Workers are compelled to repay the traffickers for their passage abroad, using their lives and future labor as collateral.<sup>24</sup> The calculation of the debt and the interest—an open-ended debt until the bosses decide the debt is repaid—is completely in the hands of the landowner, factory owner, or brothel owner. In India, where inherited family debt is an accepted tradition by laborers and plantation masters alike, this cycle of exploitation can carry over into second and third generations.<sup>25</sup>

As long as people have moved to escape deprivations in their homeland and sought a better livelihood abroad, voluntary migration has been a feature of world population mobility. With the rise of the modern nation state and its regime of border controls, documents, and quotas, population movements have become regulated. Nonnationals who have failed to meet the entry criteria set by destination countries were deemed illegal, “irregular migrants,” giving rise to people smuggling and trafficking. While the two are related, there is a crucial difference between smuggling and trafficking. Smuggling is a violation of a border, whereas trafficking is a violation of a human being. The crucial factor in

---

to Bales, “27 million slaves [generate] the total yearly profit . . . of \$13 billion.” BALES, *supra* note 6, at 23. Slave-made charcoal in Brazil, for instance, has a much greater value when it is made into steel—illustrating his point that slave-produced goods both increase profits and lower consumer prices. *Id.* at 23.

20. See U.N. Office on Drugs & Crime, *About Us*, <http://www.unodc.org/unodc/en/about.html> (last visited Apr. 14, 2006).

21. See U.N. Office on Drugs & Crime, *Technical [sic] Cooperation by Geographical Region*, [http://www.unodc.org/unodc/en/trafficking\\_projects.html](http://www.unodc.org/unodc/en/trafficking_projects.html) (last visited Apr. 14, 2006).

22. See U.N. Office on Crime & Drugs, *Trafficking in Human Beings*, [http://www.unodc.org/unodc/en/trafficking\\_human\\_beings.html](http://www.unodc.org/unodc/en/trafficking_human_beings.html) (last visited Apr. 14, 2006).

23. BALES, *supra* note 6, at 19.

24. *Id.* at 19-20.

25. *Id.*

human trafficking is the presence or threat of force, coercion, or deception for the purpose of exploitation.<sup>26</sup>

Currently, labor migration is conducted by an increasing numbers of women and girls. At the same time, the IOM estimates that in 2001, as many as two million women and girls were trafficked across borders.<sup>27</sup> For example, there is a high demand in the Middle East for Asian maids (principally from the Philippines) because they are stereotyped as docile and easily manipulated.<sup>28</sup> The magnitude of this “maid trade” renders overseas maids valuable economic agents in their home country economies, capable of repatriating thousands of dollars to their families.<sup>29</sup> The resulting feminization of migration patterns indicates that women and girls are increasingly at-risk of being trafficked and exploited, be it as maids, domestic servants, legal or illegal mail-order brides, or as sex workers.<sup>30</sup>

Yet despite growing world opinion that condemns these dehumanizing practices, the political will, effective law enforcement strategies, and regional cooperation are lacking. Compared to the extensive regulations, sanctions, personnel, and well-funded bureaucracies devoted to stopping the global flow of drugs and preventing trade and copyright violations, antitrafficking policies (if they exist) are rarely enforced. Human traffickers know they can get rich quicker and easier trading women than drugs. In its present terms, the global system values property over human life. Governments and businesses are more likely to suffer international penalties today for counterfeiting a Michael Jackson CD or for blocking the free movement of dead cows across borders than for using slave labor.<sup>31</sup> Economist

---

26. For the first time, the international community has agreed to a definition of trafficking, which includes sexual exploitation *and* all forms of forced labor. The full definition is spelled out in the U.N. Protocol, *supra* note 3, art. 3(a). The threat clause of this definition is essential: “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the *threat* or *use of force* or *other forms of coercion*, of *abduction*, of *fraud*.” *Id.* (emphases added).

27. *Trafficking in Migrants*, QUARTERLY BULLETIN (Int’l Org. for Migration, Geneva, Switz.), Apr. 2001, at 1, available at [http://www.iom.int/DOCUMENTS/PUBLICATION/EN/tm\\_23.pdf](http://www.iom.int/DOCUMENTS/PUBLICATION/EN/tm_23.pdf).

28. See Rhacel Salazar Parreñas, *Transgressing the Nation-State: The Partial Citizenship and “Imagined (Global) Community” of Migrant Filipina Domestic Workers*, 26 SIGNS 1129 (2002); David Diamond, *One Nation, Overseas*, WIRED, June 2002, at 139-45.

29. THE TRADE IN DOMESTIC WORKERS CAUSES, MECHANISMS AND CONSEQUENCES OF INTERNATIONAL MIGRATION 104-05 (Noeleen Heyzer et al. eds., 1994); MATSUI, *supra* note 4, at 42-51.

30. For a look at how mail order bride services in Canada exploit women, see the film, SAY I DO (Red Storm Productions 2002).

31. BALES, *supra* note 6, at 249-50.

William Greider disputes the conventional assumption that the terms of trade are strictly commercial.<sup>32</sup> To Greider, the pronouncements and policies of the World Trade Organization (WTO) and the International Monetary Fund (IMF) serve as implicit statements of moral values: “When human lives are stolen . . . nothing happens to the offenders since, according to the free market’s sense of conscience, there is no crime.”<sup>33</sup>

## II. NO TRAFFICKING WITHOUT DEMAND

Trafficking in persons has created a human rights crisis in Asia: operating within the flow of labor, migration, capital, and transnational business. The practice is driven by demand factors in the developed world where markets seek cheaper goods and services. Western media images feed a growing culture of consumerism, flooding Asian markets with the message to buy more and more material goods. These ideas entice young women, for example, to take the risk of signing on with traffickers in search of clothes, jewelry, and the good life.<sup>34</sup> The demand issue is most apparent in the high-profile sex tourism sector in Southeast Asia with its new forms of packaging commercial sex—including massage parlors, nightclubs, and lap dance clubs—aimed at the tourist market.<sup>35</sup> Estimates about the scope of this sector vary widely, but a 1998 ILO study detailed the growing demand for sex services as a vital part of regional economies, as well as a significant source of foreign exchange.<sup>36</sup> Perhaps one and one-half percent of the total female population in Indonesia, Malaysia, the Philippines, and Thailand are prostitutes in the sex sector, which accounts for as much as fourteen percent of gross domestic product.<sup>37</sup> It is likely that billions more circulate in the region’s underground economies.

The prevalence of U.S. military bases in the Asia-Pacific region—historically in the Philippines, and presently concentrated in Okinawa and South Korea—has contributed to extensive red light enclaves (“juicy-girl bars”) that increasingly draw on non-Korean trafficked

---

32. WILLIAM GREIDER, *ONE WORLD, READY OR NOT: THE MANIC LOGIC OF GLOBAL CAPITALISM* (1997).

33. *Id.* at 359.

34. *Combating Trafficking of Women and Children in the Philippines, USAID/Solidarity Center/TUCP Anti-Trafficking Project*, <http://www.trafficking.org.ph/poca/front.htm> (last visited Apr. 14, 2006).

35. INT’L LABOUR ORG., *HUMAN TRAFFICKING FOR SEXUAL EXPLOITATION IN JAPAN* 13, 27, 40-42, 59 (2004), available at [http://www.vitalvoices.org/files/docs/ILO\\_Japan.pdf](http://www.vitalvoices.org/files/docs/ILO_Japan.pdf) [hereinafter *TRAFFICKING IN JAPAN*].

36. LIN LEAN LIM, INT’L LABOUR ORG., *THE SEX SECTOR: THE ECONOMIC AND SOCIAL BASES OF PROSTITUTION IN SOUTHEAST ASIA* 1, 1 (1998).

37. *Id.* at 7.

women from the Philippines and Eastern Europe to service the troops.<sup>38</sup> These U.S.-flavored clubs operate with the tacit approval of local governments and the U.S. military as a necessary safety valve for servicemen—despite occasional exposés by the media.<sup>39</sup> The August 2002 cover of *Navy Times* is splashed with gaudy colors, a risqué photo of an Asian woman performing a strip tease, and the headline, *Sex Slaves & the U.S. Military*.<sup>40</sup> The story, picked up by major newspapers, wire services, and the Internet, detailed Korean trafficking operations near Camp Casey, Camp Hovey, Osan Air Base, and Kunsan Air Base.<sup>41</sup>

It is easy to see why sex trafficking, with its socially destructive consequences and its demand for young children, has become the most visible form of human slavery in Asia. The sex industry preys on young girls and women and is deeply integrated into the economic, social, and political life of countries in the region.<sup>42</sup> By focusing on the *demand* for sex, researchers can point out the inequities in existing prostitution laws, which are selectively enforced against the female prostitutes and not their male clients.<sup>43</sup> Indeed, studies show that “women prostitutes [are] overwhelmingly penalized, while the men who derive profit . . . or pleasure . . . are often [exculpated].”<sup>44</sup> Class factors operate in this equation as well: male clients are often well-respected, legitimate members of their communities, while female prostitutes are likely to be poor and ostracized by their society as immoral.<sup>45</sup>

The Asian sex sector provides sought-after foreign currency and involves vested and powerful interests and networks of dependencies. Viable alternative economic opportunities are essential to stemming the flow of persons into the sex sector, but it is misleading to view the rate of absolute poverty as the most important push factor. Recent studies have shown that the pattern of development and the types of macroeconomic policies adopted by countries greatly influence the growth of the sex sector.<sup>46</sup> Policies that emphasize exportation and industrialization contribute directly and indirectly to the neglect of rural and agricultural employment and increased gaps between rural and urban incomes.<sup>47</sup>

---

38. Barbara Demick, *Off-Base Behavior in Korea*, L.A. TIMES, Sept. 26, 2002, at 1.

39. *Id.*

40. William H. McMichael, *Sex Slaves: How Korean Women are Lured into South Korea's Flesh Trade*, NAVY TIMES, Aug. 19, 2002, at 1-18.

41. Demick, *supra* note 38, at 1.

42. Lim, *supra* note 36, at 1.

43. *See id.* at 22.

44. *Id.*

45. *See id.* at 206-08.

46. *Id.* at 206.

47. *Id.* at 206-07.



Unfortunately, as a result, rural families may rely on survival strategies that include selling their children into prostitution.<sup>48</sup>

Direct protests against foreign sex tourism, including noisy demonstrations at European airports, have been effectively employed by Western NGOs to call attention to the pull factor created by Western men.<sup>49</sup> Recent successes in extraterritorial prosecution enable Western judicial systems to sentence their own nationals for sex crimes committed against children overseas.<sup>50</sup> But Asian researchers point out that client demand for prostitution has long existed within Asian countries among local male populations—a separate sector from foreign sex tourism.<sup>51</sup> In South Asia, interventions aimed at preventing trafficking for sexual purposes have been primarily directed at reducing the supply of at-risk girls, boys and women.<sup>52</sup> But NGOs, researchers, and service providers in the region are now broadening their analyses to address local demand forces and the myriad of businesses and individuals that benefit from the use of trafficked persons, including brothels, pimps, tour operators, food vendors, and taxi drivers.<sup>53</sup>

Extending the legal reasoning of criminal prosecution to spin-off enterprises, those who reap economic benefits from the crime of human trafficking would be legally culpable and prosecuted as accomplices. The analogy to drug trafficking has been a useful template for activists such as Kevin Bales to make the case for broader, more aggressive law

---

48. *Id.*

49. The international NGO, End Child Prostitution, Child Pornography, and the Trafficking of Children for Sexual Purposes (ECPAT), is one of the most experienced antitrafficking NGOs working in Asia and the world. ECPAT has a long history of working to change the status of Asia as a sex destination. Its transit campaigns staged at airports aim to stigmatize men booked on special “sex charters” to Southeast Asia. ECPAT, *Prevention Project in Northern Thailand*, <http://www.ecpat.net/preventionproject/eng/index.html> (last visited Apr. 14, 2006).

50. ECPAT legal experts actively promote extraterritorial laws, which have been passed in Germany, France, Australia, United States, Belgium, New Zealand, Canada, and Ireland. ECPAT Int’l, ECPAT International, <http://www.ecpat.net/eng/index.asp> (follow “Programmes” hyperlink; then follow “Promoting Law Enforcement and Best Law Practices” hyperlink) (last visited Apr. 12, 2006).

51. Professor Vitit Muntarbhorn of Thailand is one of the region’s most respected human rights activists and antitrafficking experts. He consistently speaks out about the chauvinistic attitudes of Asian males as a driver of the Southeast Asian sex trade. See Vitit Muntarbhorn, Chairman, Thai Comm. on the Rights of the Child, Human Rights Versus Human Trafficking in the Face of Globalization, Keynote Address at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference, at 1 (Nov. 15, 2002), available at [http://www.hawaii.edu/global/projects\\_activities/Trafficking/Vitit.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/Vitit.pdf).

52. See TRAFFICKING IN JAPAN, *supra* note 35, at 1 n.6, 2-3, 75-77; see also U.N. Protocol, *supra* note 3.

53. See TRAFFICKING IN JAPAN, *supra* note 35, at 1.

enforcement and prosecution.<sup>54</sup> Bales argues that traffickers, or slaveholders, do with people what organized crime does with heroin—only more successfully.<sup>55</sup> This version of globalized slavery “uses false passports and airline tickets . . . [stuffs] slaves into trucks and bribes border guards . . . cover[ing] its tracks with false work contracts and fraudulent visas.”<sup>56</sup>

In recent years, media sensationalism has voyeuristically probed into the intimate details of trafficked and sexually exploited women and children—but without contesting the root cause: male demand. Both Asian and Western feminist activists are increasingly challenging patriarchal ideologies that mythologize the Asian male sex drive and rationalize the social utility of brothels.<sup>57</sup> These groups believe that strategies that fail to address the entire spectrum of sex trafficking, supply and demand, and the accepted roles of men, will remain partial and thus fail. Unsurprisingly, there is a general reluctance to challenge the environment which tolerates certain male behaviors and attitudes that sustain the sex trafficking industry.<sup>58</sup>

### III. THE WEST AND THE REST

It may be true today that “we are all global people,” but what does that cliché mean in political terms? Addressing the demand for labor exploitation as an aspect of globalization has had a demonstrable political impact in the United States and Europe, spawning passionate global antisweatshop campaigns.<sup>59</sup> The debate over sweatshops pits labor and student activists against neoliberal economists who view boycotts as

---

54. BALES, *supra* note 6, at 24.

55. *Id.* at 250.

56. *Id.*

57. The First and Second World Congresses against Commercial Sexual Exploitation of Children in Stockholm (1996) and Yokohama (2001) explored these issues in several panels. Denise Ritchie, Stop Demand Foundation, “Demand” & the Child Sex Trade, Address Before ECPAT (Nov. 8-10, 2004), *available at* [http://www.ecpat.net/eng/Ecpat\\_inter/projects/monitoring/MTR/stopdemand.htm](http://www.ecpat.net/eng/Ecpat_inter/projects/monitoring/MTR/stopdemand.htm). For example, Southeast Asian female delegates loudly condemned the notions held by Asian males linking their virility to sex with young virgins, which is precisely the kind of idea that fuels the child sex trade. *Id.* Many commented on the irony of holding the massive 2001 conference in Japan, which drew 4000 participants and was hosted by the Japanese government, because many of these ideas about male sexuality proliferate as accepted stereotypes in that nation. *See id.* *See generally* ECPAT Int’l, World Congress Against SCEC, <http://www.ecpat.net/eng/csec/worldcongress/index.asp> (last visited Apr. 14, 2006).

58. ECPAT legal expert Denise Ritchie of New Zealand is a leading advocate of challenging the traditional rationalizations for male demand. I thank her for this insight. *See, e.g.,* Ritchie, *supra* note 57.

59. *See, e.g.,* SweatShop Watch Home Page, <http://www.sweatshopwatch.org> (last visited Apr. 14, 2006).

feel-good exercises for naïve reformers. In the view of these economists, sweatshops are a necessary feature of development, offering a precarious escape from the crushing poverty of the developing world. Nicholas Kristof and Sheryl WuDunn, authors of *Thunder from the East: Portraits of a Rising Asia*, claim that the greatest downside of globalization is not exploitation of workers but rather the toxic air and water.<sup>60</sup>

Recent antiglobalization mobilizations around the world bring these issues home to Western and upper class citizens who have been forced to confront the ethical dimensions of their purchasing habits.<sup>61</sup> Researchers are engaged in tracing how slave-made goods fit into the global economy, linking chief executive officers (CEOs) in the board rooms to workers in the fields. These investigations have implicated developing-world demand with the crime of trafficking in persons, while at the same time providing narrative space for the personal histories of those formerly invisible impoverished others who toil on the other side of the world.<sup>62</sup> William Greider describes this new global convergence of oppressors and oppressed:

The deepest . . . meaning of the global industrial revolution is that people no longer have free choice in this matter of identity. Ready or not, they are already of the world. As producers or consumers, as workers or merchants or investors, they are now bound to distant others through the complex strands of commerce and finance reorganizing the globe as a unified marketplace.<sup>63</sup>

Restrictive immigration policies in developed countries such as Japan, Australia, New Zealand, and the United States have made migration difficult for all but highly skilled workers, which forces the vulnerable populations who are desperate for work into the arms of unscrupulous recruiters who promise good jobs and opportunities. Village girls and women are susceptible to these opportunities because of

---

60. NICHOLAS D. KRISTOF & SHERYL WUDUNN, THUNDER FROM THE EAST: PORTRAIT OF A RISING ASIA 294-96 (2000).

61. See NAOMI KLEIN, FENCES AND WINDOWS: DISPATCHES FROM THE FRONT LINES OF THE GLOBALIZATION DEBATE (2002) (discussing strategies and approaches of worldwide antiglobalization groups); KLEIN, *supra* note 1, at 325-43 (analyzing several decades of anticorporate movements); Dan Baum, *You Say You Want a Revolution? The Ruckus Society*, ROLLING STONE, July 5, 2001, at 82-85 (examining the tactics of protest group The Ruckus Society); William Finnegan, *After Seattle: Anarchists Get Organized*, NEW YORKER, Apr. 17, 2000, at 40-51 (discussing antiglobalization movements after the 2000 WTO meeting in Seattle).

62. Michael Finkel, *Is Youssouf Malé a Slave?*, N.Y. TIMES, Nov. 18, 2001 (Magazine), at 43; Norimitsu Onishi, *Flow of Oil Wealth Skirts Nigerian Village*, N.Y. TIMES, Sept. 24, 2002 (Magazine), at 1.

63. GREIDER, *supra* note 32, at 333.

cultural, filial, and religious obligations imposed on them.<sup>64</sup> Yet, these women are making rational economic choices, given the lack of economic alternatives in their homelands, even if they fear ending up in brothels. The chance to earn a better living abroad remains a highly appealing choice. What these workers fail to realize is that many of them will be sold into slavery and confined: their passports confiscated by traffickers or factory owners, and threatened with deportation if they complain to police, who conspire with traffickers for bribes.<sup>65</sup>

Trafficking remains a hidden crime that is difficult to document precisely because the victims are intimidated into silence. Often poorly educated, without knowledge of their human rights, and unable to speak the language of the destination country, trafficked persons live in an invisible world. One of the most tragic aspects of this bondage is the psychological damage that the victims suffer.<sup>66</sup> In Japan, trafficked women in the flourishing entertainment sector, for instance, face double victimization when police raid brothels and arrest the women, criminalizing the victims in a “detain and deport” cycle.<sup>67</sup> The prevalence of organized crime in the region—the *Yakuza* in Japan being the most blatant example—and the open climate in which traffickers operate as normal businessmen, render victims commodities of a transnational criminal enterprise.<sup>68</sup>

#### IV. CONCEPTUAL CLARITY AND REDEFINITIONS

The phrase “human trafficking” has been used to address a wide variety of crimes and human rights abuses associated with the recruitment, movement, and sale of people into a wide range of oppressive circumstances. But many of the elements and definitions used to circumscribe this social phenomenon are often limited in scope, mask moralistic or political motives, and do not adequately reflect the

---

64. Lucinda Joy Peach, *The Influence of Buddhism in the Trafficking of Women and Girl Children for the Sex-Trade in Thailand*, Paper Presented at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference 28 (Nov. 15, 2002), abstract available at [http://www.hawaii.edu/global/projects\\_activities/Trafficking/abstracts.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/abstracts.pdf); see also DAUGHTER FROM DANANG (Balcony Releasing & Cowboy Pictures 2002) (exploring the cultural clashes over Asian filial obligation).

65. See Miko, *supra* note 8, at CRS-3 to -4.

66. Kevin Bales, *The Social Psychology of Modern Slavery*, SCI. AM., Apr. 2002, at 82, 86-87.

67. See HURIGHTS OSAKA, *Protecting Foreigners in Japan: Some Proposals*, 2002, [http://www.hurights.or.jp/asia-pacific/no\\_29/03mnetjapan.htm](http://www.hurights.or.jp/asia-pacific/no_29/03mnetjapan.htm) (last visited Apr. 14, 2006).

68. Kinsey Alden Dinan, *Trafficking in Women from Thailand to Japan: The Role of Organized Crime and Governmental Response*, 6 HARV. ASIA Q. 4 (2002).

totality of the problem.<sup>69</sup> Two analytical considerations of the global trade in human beings are essential to understanding its complexity, one conceptual and one procedural.

Human rights advocates have insisted on the need for conceptual clarity in the human trafficking paradigm, arguing for a distinction in approaches to address the different needs of both women and children as separate target groups. Challenging the coupling of women and children common in antitrafficking discourse empowers women and identifies them as adults possessing agency, with an independent status apart from the domestic care-giving role. This move highlights the call for a human rights approach to trafficking, which would prevent targeted punitive interventions that ensnare victims. In such instances, women's human rights are at risk of being violated by so-called rescue missions, despite the good intentions of would-be rescuers.<sup>70</sup>

Human rights considerations also warn against the restrictive potential of protectionist legislation that would hinder female emigration, such as the policies recently considered in Nepal.<sup>71</sup> These policies are aimed at preventing adult women from freely migrating and traveling beyond borders and often requiring women to be in the company of a male relative when they do so.<sup>72</sup> These protectionist policies are better suited to underage children.

Researcher and activist Kevin Bales has radically changed the conceptual framework of trafficking in persons, offering new definitions of harm, exposing hidden economic links, and contesting the prerogatives of international business, thereby forcing the world to confront its own responsibility.<sup>73</sup>

---

69. Many antitrafficking laws refer to the trafficking of "women and children" into prostitution, excluding numerous male victims held in a variety of trafficked conditions. For instance, the South Asian Association for Regional Cooperation (SAARC), comprising Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka, adopted a Convention on Combating Trafficking in Women and Children for Prostitution in January 2002. NGOs have proposed amendments to broaden the agreements to include men and to address labor as well as sex trafficking. See Eur. Comm'n, The EU & South Asian Association for Regional Cooperation (SAARC), [http://europa.eu.int/comm/external\\_relations/saarc/intro/index.htm](http://europa.eu.int/comm/external_relations/saarc/intro/index.htm) (last visited Apr. 14, 2006).

70. Questionable tactics such as "rescue" missions at border crossings and brothels have long been practiced in South Asia to general approval. New thinking and sensitivity to victims' rights is beginning to change these interventions, with NGOs in the region developing viable alternatives. See Protection Project, *Nepal*, 6-7, <http://www.protectionproject.org/nepal.doc> (discussing the influence of NGOs) (last visited Apr. 14, 2006).

71. The government of Nepal has from time to time considered such laws to prevent female migration. See *id.* at 5-6.

72. See *Gender & Migration*, 16 BRIDGE 1, 3-4 (Oct. 2005), available at <http://www.bridge.ids.ac.uk/Docs/InBrief16.pdf>.

73. See BALES, *supra* note 6, at 259-61.

Slaveholders, businesspeople, even governments hide slavery behind smoke screens of words and definitions. We have to penetrate this smoke and know slavery for what it is, recognizing that it is not a “third world” issue but a global reality—a reality in which we are already involved and implicated.<sup>74</sup>

In Bales’ book, *Disposable People: New Slavery in the Global Economy*, he revises the discursive foundation of how the world thinks about human exploitation by naming the problem as *slavery*.<sup>75</sup> The term “slavery” is not a metaphor; it is an essential *logos* in understanding a major factor in today’s global economy. Slavery is not peripheral to the profitability of global business; slave-made goods function as a crucial feature of the global market.<sup>76</sup> Bales’ rhetorical strategy of insisting on the term “slavery”—“a strong word” and “hard language”<sup>77</sup>—provides researchers with a potent vocabulary and an analytical model with which to unmask the bureaucratic language of governments and corporations that try to hide this exploitation in legal fictions:

Today accepted systems of labor relations are used to legitimate and conceal slavery. Much modern slavery is hidden behind a mask of fraudulent labor contracts. . . . [These] contracts have two main uses for the slaveholder—entrapment and concealment. The use of false contracts is part of the globalization of slavery; the basic process of recruitment into slavery by fraudulent contract is the same from Brazil to Thailand.<sup>78</sup>

Slavery has never disappeared; it is evolving and taking new forms.

According to Bales’ research, the principal factor in slavery under globalization is the nature of the short-term relationship between slaves and slaveholders: a glut of impoverished workers has rendered slaves disposable, dramatically increasing the profitability.<sup>79</sup> Today’s global slaves—whether in brothels, brick kilns, or plantations—are consumable items that have no legal ownership, have very low purchase price, and result in very high profits.<sup>80</sup> Unlike eighteenth-century antebellum slavery in the United States, the modern slave owner feels no obligation, or *noblesse oblige*, to provide for the material welfare of the slaves or to feed or house the slaves, thereby rendering them “disposable people.”<sup>81</sup>

---

74. *Id.* at 260.

75. *Id.* at 259.

76. *Id.*

77. *Id.* at 259-60.

78. *Id.* at 26.

79. *See id.* at 14.

80. *Id.*

81. *See id.* at 14-16.

In addition to the emotional impact of conceptualizing human trafficking with the evocative and powerful term “slavery,” which is meant to name and shame timid governments and the United Nations to act more forcibly to end this practice, Bales demystifies the routinized categories and legalisms of international business and trade.<sup>82</sup> However, human rights advocates are becoming more and more capable of seeing through phony categories meant to serve as smokescreens for slave labor.<sup>83</sup> For example, when displaced farmers in Indonesia are classified as “attached workers,” when women in Filipino sweatshops are identified as “piece workers,” when diplomats in Western capitals enslave the servants they bring from their home countries as “*au pairs* and nannies,” or when Thai women held in Japanese brothels enter the country on entertainer visas, human rights advocates see *slaves*.<sup>84</sup> The real problem is that slave owners are given a license to oppress these workers by international organizations, immigration officials, local politicians, and labor law regulators who look the other way:<sup>85</sup>

Contract slavery shows how modern labor relations are used to hide the new slavery. Contracts are offered that guarantee employment . . . but when the workers are taken to their place of work they find themselves enslaved. The contract is used as an enticement to trick an individual into slavery, as well as a way of making the slavery look legitimate. If legal questions are raised, the contract can be produced, but the reality is that the “contract worker” is a slave, threatened by violence, lacking any freedom of movement, and paid nothing.<sup>86</sup>

The value of these conceptual critiques is their insistence on transparency in language and labor practices and their ability to expose the political implications of doing business as usual in the lean, mean, and mobile, global marketplace. A spotlight has exposed the social implications of the policies of international organizations such as the IMF and the WTO that, along with the Washington consensus view of economic development (expansion of the so-called “free-market” capitalism), indicate that globalization can be sabotaged by its own inequities.<sup>87</sup>

The second analytical consideration essential to understanding human trafficking is procedural. It is essential to understand the multidimensional processes involved in the phenomenon of human

---

82. *Id.*

83. *See id.* at 260.

84. *Id.*

85. *See id.*

86. *Id.* at 20 (emphasis omitted).

87. Tina Rosenburg, *The Free-Trade Fix*, N.Y. TIMES, Sept. 1, 2002 (Magazine), at 18.

trafficking. As Mary Robinson, the U.N. High Commissioner for Human Rights, has insisted in speeches in international forums, “[t]rafficking is not one event but a series of constitutive acts and circumstances implicating a wide range of actors.”<sup>88</sup> To understand the practice from a human-centric perspective rather than an abstract macro-level enables activists to address the entire cycle of trafficking.<sup>89</sup> This requires policymakers to implement human rights responses at each stage of the trafficking process: from origin, to transit, to destination country. In her capacity at the United Nations, Robinson oversaw the July 2002 release of an important document, the *Recommended Principles and Guidelines on Human Rights and Human Trafficking*.<sup>90</sup> Robinson urged a focus on the rights of each individual victim to ensure that trafficking was not simply reduced to a problem of migration, a problem of public order, or a problem of transnational crime—but rather something that involved all of those areas.<sup>91</sup> This U.N. document was designed to ensure that all parts of the international system fulfilled their legal obligation to protect trafficked individuals at every stage of the process.<sup>92</sup>

#### V. “SECOND GENERATION” TRAFFICKING PARADIGM

The overlapping and dynamic nature of trafficking has resulted in inadequate approaches to the problem that emphasize some forms of trafficking and overlook others. Because human trafficking is comprised of so many discreet steps, it is difficult to encapsulate all of the variables in one agreed-upon framework. Trafficking can be defined in a number of different ways: as a legal problem, a human rights problem, a religious or moral issue, a gender issue, a child labor problem, a migration problem, a public health issue, a feature of multinational crime—or an amalgamation of several or even all of these.<sup>93</sup> Likewise,

---

88. Mary Robinson, High Comm’r for Human Rights, *Combating Trafficking in Human Beings: A European Convention?*, Remarks Before OHCHR/Council of Europe Panel Discussion (Apr. 9, 2002), *available at* <http://www.unhchr.ch/hurricane/hurricane.nsf/0/E67E7C3664630619C1256B970031AD16?opendocument>.

89. Matthew S. Friedman, *Conceptual Clarity in the Human Trafficking Paradigm: The Bangladesh Experience*, Paper Presented at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference, at 1 (Nov. 13, 2002), abstract *available at* [http://www.hawaii.edu/global/projects\\_activities/Trafficking/abstracts.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/abstracts.pdf).

90. U.N. Econ. & Soc. Council [ECOSOC], *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, U.N. Doc. E/2002/68/Add.1 (May 20, 2002).

91. Robinson, *supra* note 88.

92. *Id.* at 2.

93. Friedman, *supra* note 89.



the feature of trafficking emphasized will dictate what solutions are posited and, ultimately, which are necessary. Whether trafficking is a problem of organized crime, labor and immigration, or a moral issue affects how it is presented by the media and addressed by policy-makers.

These conceptual issues have surfaced in dramatic fashion over the issue of prostitution, a long-standing emotional lightning rod in the movement which has generated rancorous debates and much moral posturing. The issue inevitably devolves into disputes over legalization, the free will of trafficked women to choose prostitution as a livelihood, and the appropriate methods of intervening to protect adult victims.<sup>94</sup> Currently the antitrafficking movement is severely divided, split into opposing camps of “abolitionists” and “pro-sex workers,” each talking past one another.<sup>95</sup> These divisions thwart cooperative efforts, influence foundation and governmental funding decisions,<sup>96</sup> and divert attention from the plight of trafficking victims.<sup>97</sup>

Some feminist NGOs—aligned with faith-based organizations and governments unwilling to criticize business and trade practices that involve forced labor—focus solely on sex trafficking and the ills of prostitution, excluding other egregious forms of human slavery.<sup>98</sup> These groups argue that no woman willingly stays in prostitution, a practice that is inherently exploitative, regardless of the working conditions.<sup>99</sup> Other feminist activists and NGOs agree that prostitution is demeaning and exploitative to women, but look for other solutions.<sup>100</sup> These advocates view prostitutes as workers with rights and campaign to empower sex workers with better working conditions, more control over client selection, AIDS awareness, health protections, and a violence-free working environment.<sup>101</sup> Yet, in the current contentious environment, there is little room to analyze decriminalization policies or assess reforms

---

94. See, e.g., Leah Platt, *Regulating the Global Brothel*, AM. PROSPECT, Summer 2001, at 10-11.

95. *Id.*

96. The Bush Administration has threatened the USAID funding of NGOs and victim support agencies that do not “actively fight” prostitution. A draft USAID trafficking strategy circulating last fall on the internet noted: “Organizations advocating prostitution as an employment choice or which advocate or support the legalization of prostitution are not appropriate partners for USAID anti-trafficking activities.” U.S. AGENCY FOR INT’L DEV., TRAFFICKING IN PERSONS: USAID’S RESPONSE 4 (2004), available at [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/trafficking/](http://www.usaid.gov/our_work/cross-cutting_programs/trafficking/) (follow “Trafficking in Persons: The USAID’s Response, March 2004” hyperlink).

97. Platt, *supra* note 94, at 11.

98. *Id.*

99. *Id.*

100. See *id.*

101. *Id.*

put into effect in only some parts of the world.<sup>102</sup> The question of legalizing prostitution is difficult to evaluate because the human rights concerns are difficult to disentangle from concerns over morality, criminality, and public health.

In an attempt to overcome these divisions, a group of NGOs, international organizations, and funders in Bangladesh has collaborated to theorize a Second Generation paradigm to guide antitrafficking stakeholders—much as the HIV-AIDS sector reinvented itself over the past twenty years to accommodate new insights.<sup>103</sup> Over a ten-month period, a mapping exercise was carried out, resulting in the production of a detailed poster that visually traced the overlapping processes in the adult trafficking cycle—focusing on all steps and forms of trafficking. This comprehensive matrix mapped out prevention, migration, demand, the trafficking harm, recovery, integration, repatriation, and prosecution.<sup>104</sup> According to one participant, USAID official Matthew S. Friedman:

The matrix has considerable value in enabling people to visualize the complexities of trafficking and thus exposing the inadequacies of responses that do not consider the full range of complexities. An important difference between this framework and others is that it is “person-centered.” . . . [T]he various boxes and arrows are used to depict that a person goes through a particular process from the point at which they are recruited to the point at which they are integrated back into society. The first generation trafficking framework involved a macro-level perspective which led to over-generalizations of the problem.<sup>105</sup>

This interpretation of human trafficking avoids presenting trafficking as a single event, while highlighting a series of interrelated steps along an extended continuum that spans a given period of time.<sup>106</sup> The second generation human-centric approach ensures that all trafficking outcomes, such as domestic servants, camel jockeys, beggars, factory workers, and prostitutes are given attention when addressing the trafficking problem.<sup>107</sup>

---

102. *But see* GLOBAL SEX WORKERS: RIGHTS, RESISTANCE, AND REDEFINITION (Jo Doezema & Kamala Kempadoo eds., 1998); Achara Ashayagachat & Bhanravee Tansubhapol, *Legalise It?*, BANGKOK POST, Sept. 3, 2002, at 17; Jason Horowitz, *Some Are Fearful as Italy Weighs Legalizing Brothels*, BOSTON GLOBE, Sept. 15, 2002, at A6.

103. Matthew S. Friedman, *Revisiting the Human Trafficking Paradigm: Second Generation Thinking*, in TO PREVENT, SUPPRESS AND PUNISH: IDEOLOGY AND THE POLITICS OF HUMAN TRAFFICKING 18 (Nancie Caraway ed., forthcoming 2006).

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

The Bangladesh experience has served as a hopeful antidote to the political infighting over prostitution. In addition, the matrix poster is an invaluable educational tool, providing a graphical set of reference points to help guide agencies seeking to locate the various forms of trafficking in a variety of social situations.<sup>108</sup> Cohorts in the Bangladesh process articulate an invitation “to reduce the politics” and to seek common ground.<sup>109</sup> By expanding and complicating current debates in the spirit of mutual respect, cohorts honor the gravitas at the heart of the antitrafficking movement.

#### VI. CONCLUSION—ACTION AGENDA

The best humanitarian minds of our era have produced elegant documentation describing the causes, functions, and costs of this epiphenomenal nightmare of globalization. The existence of international legal instruments has placed the issue of human slavery high on the international agenda. The Philippines leads Asia with progressive action to prevent trafficking. It is the only government in the region to have ratified the U.N. Protocol, and since March 2003, it has been in the process of passing its own national antitrafficking legislation.<sup>110</sup> Nonetheless, lax application and enforcement of these regulations continues to frustrate reformers. The world is not lacking in international agreements; it is lacking in aggressive implementation.<sup>111</sup> While more effective multilateral and bilateral agreements are needed in Asia to implement the regional plans of action, several important initiatives can be highlighted:

—Thailand, where the prevalence of human trafficking is among Asia’s highest, has recently completed national Memoranda of Understandings (MOUs) to assure multiagency international cooperation and comprehensive policies. Thailand is also near

---

108. To obtain the poster, e-mail [ctthem@dhaka.net](mailto:ctthem@dhaka.net).

109. Friedman, *supra* note 103, at 18.

110. The Philippines’ Senate ratified the U.N. Protocol on September 30, 2001. The national bill would prohibit the trafficking of women and children for prostitution and forced labor, stop sex tours in the country, criminalize the use of the Internet to promote prostitution and sexual exploitation, and define the roles of government agencies. HumanTrafficking.org, Philippines’ Congress to Pass Anti-Trafficking Act (Mar. 18, 2003), <http://www.humantrafficking.org/updates/134/>.

111. The United States Justice Department is successfully prosecuting traffickers under the TVPA of 2000. A Korean factory owner operating in American Samoa was convicted by a federal jury trial in Honolulu for forcibly confining and failing to pay some 250 Vietnamese and Chinese laborers. Debra Barayuga, *Man Found Guilty of Running Sweatshop*, HONOLULU STAR-BULL., Feb. 22, 2003, at A1. For a story on the plaintiff’s attorney, see Susan McRae, *Cast Away*, CAL. LAW BUSINESS, Aug. 13, 2001, at 11-14.

finalizing a key MOU with Cambodia regarding the return and reintegration of victims.<sup>112</sup>

—CICP is cooperating with the Philippine government in a pilot project to extend technical assistance for training law enforcers, prosecutors, and service providers.<sup>113</sup>

—Major international organizations such as the Asia Foundation, the Asian Development Bank, UNIFEM, and the U.N. Interagency Project on Trafficking in Women and Children Mekong Sub-Region, continue to fund long-standing technical support for antitrafficking programs in South and Southeast Asia.<sup>114</sup>

—Even in Japan, a major market for organized sex tourism,<sup>115</sup> progress is being made. Although the government prides itself on funding high-profile humanitarian events such as the Second World Congress on Commercial Sexual Exploitation of Children in 2001, Japan ranks as a major destination for foreign women trafficked into the sex industry.<sup>116</sup> Japan has failed to ratify the U.N. Protocol, criminalize trafficking, adopt a national plan of action, or prosecute criminal trafficking rings. However, civil society in Japan is increasingly scrutinizing trafficking issues.<sup>117</sup> Moving stories of displaced young victims in newspapers and television, international

---

112. Lance Bonneau, Operationalization of National Policies and Legislation To Combat Trafficking Through the Development of Memorandum's of Understanding (MoU)—The Experience of Thailand, Paper Presented at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference, at 16 (Nov. 14, 2002), abstract *available at* [http://www.hawaii.edu/global/projects\\_activities/Trafficking/abstracts.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/abstracts.pdf).

113. Ceclia Leones, Philippines Pilot Project UN Center for Int'l Crime Prevention, Paper Presented at the Human Rights of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference 24 (Nov. 15, 2002) abstract *available at* [http://www.hawaii.edu/global/projects\\_activities/Trafficking/abstracts.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/abstracts.pdf).

114. The Asian Development Bank has recently completed a Regional Technical Assistance Project (RETA) in South Asia (India, Bangladesh, Nepal) that mainstreams antitrafficking concerns into development strategies and includes consultations on legal and policy models in Thailand. Sonomi Tanaka, Combating Trafficking Through Combating Poverty: A Potential Model for the Asian Development Bank in South Asia, Paper Presented at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference 20 (Nov. 15, 2002), abstract *available at* [http://www.hawaii.edu/global/projects\\_activities/Trafficking/abstracts.pdf](http://www.hawaii.edu/global/projects_activities/Trafficking/abstracts.pdf).

115. It is estimated that some 300,000 Japanese take sex tours to the Philippines each year; in 1999, eighty percent of the world's pornographic literature was made in Japan. Mohamed Mattar, Comparative Analysis of the Elements of Anti-Trafficking Legislation in Asia-Pacific Region, Paper Presented at the Human Rights Challenge of Globalization in Asia-Pacific-U.S.: Trafficking in Persons, Especially Women and Children Conference (Nov. 13-15, 2005), *available at* <http://protectionproject.org/ca.htm>.

116. TRAFFICKING IN JAPAN, *supra* note 35, at 2.

117. *See id.* at 39-40.

criticism, and the work of Japanese NGOs have combined to pressure the government to act.<sup>118</sup> A well-publicized trial in Spring 2003 involving trafficked women from South America may result in that nation's most high-level prosecution and will hopefully spawn even stronger legislation.<sup>119</sup>

Action agendas put forth by the Asian antitrafficking movement continue to reflect great energy and commitment. Sophisticated new forms of analysis, alongside paradigm shifts, have demystified the complexities and gray areas of the evolving forms of new slavery, even as it operates side by side with the old slavery of agricultural debt bondage.<sup>120</sup> Researchers are following the money to understand the business profile of trafficking, linking trafficking to security, development policies, gender, migration, and capital.<sup>121</sup> Law-enforcement agents are reasserting their duty to protect the human rights of victims and lobbying for legislation which allows them to go after the many related fronts that service traffickers, including travel agencies, employment agencies, mail-order bride services, and Internet porn. Private sector institutions are implementing codes of conduct, such as the WTO's campaign to take its industry out of the child-sex business. While voluntary, the WTO's code of conduct establishes an ethical policy regarding commercial sexual exploitation of children and widely publicizes the dangers to children via brochures, in-flight videos, and ticket envelopes.<sup>122</sup> Filmmakers are taking their cameras into the hidden venues of child-labor subcontractors, the despairing warrens of urban brothels, and inside the sparkling villas of diplomats and professionals that serve as virtual prisons for foreign maids.<sup>123</sup> Dedicated individuals, counselors, and volunteers every day provide lifelines at front-line shelters and training centers, nurturing trafficking victims and enhancing their humanity.

---

118. See, e.g., *id.* at 4-39.

119. Taro Karasaki, *Police Land Big Fish in Human Trafficking, but New Laws Remain Elusive*, ASAHI SHIMBUN NEWS SERV., Mar. 13, 2003; Chie Matsumoto, *When Sweet Talk Leads to a Living Hell in Sex Trade*, ASAHI SHIMBUN NEWS SERV., Mar. 12, 2003. The government charged a known trafficker, a travel agent named Hagiwara, for holding Columbian women in debt bondage. Because Japan lacks strong antitrafficking legislation, and prosecutes with existing weak labor laws, it is unlikely Hagiwara will receive a maximum sentence. But the case has provided a climate for reformist legislators such as Social Democratic Diet member Masako Owaki to press for antitrafficking legislation). Karasaki, *supra*.

120. BALES, *supra* note 6, at 16-17.

121. *Id.*

122. See The Code Home Page, <http://www.thecode.org> (last visited Apr. 14, 2006).

123. See TRADING WOMEN (Ophidian Films 2002) (depicting sex trafficking in China, Thailand, and Burma, with particular emphasis on the stateless hill tribes in Northern Thailand).

Yet, nonetheless, human trafficking continues to thrive because the political will of those in power allows it. The United Nations “makes noises” but has yet to end the trafficking of persons. Kevin Bales, for one, combines research with activism, calling for a massive global citizens movement directed toward ending this new form of slavery—which he calls “a new disease for which no vaccine exists.”<sup>124</sup> Motivated citizens can draw upon the tactics and history of the antiapartheid movement in South Africa, which punished slaveholders and corporations by enacting strong economic sanctions, divestments, boycotts, and media condemnations. They can follow the lead of the environmental movement and trace the links between polluters in one country and parent companies in another. They can also convince the WTO and IMF to issue trade credits for entities that adhere to human rights criteria in their operations.<sup>125</sup> Citizens can ensure that governments enact humane emigration policies<sup>126</sup> and demand that governments provide adequate resources to stop human slavery—at least on par with government appropriations to stop drugs. Finally, efforts should mirror United States Drug Enforcement Agency tactics: confiscate cars, trucks, boats, and aircraft; set up sting operations to buy slaves; and bust the dealers.<sup>127</sup>

The complexity of the global economy and the international character of the modern slavery demand the same kind of investigation and public exposure employed by other social justice movements. If slavery stops being profitable, and women are empowered, educated, employed, and respected, the practice of human trafficking will be contained.

---

124. BALES, *supra* note 6, at 32.

125. See John Cassidy, *Master of Disaster: A Leading Economist Says the Protesters Have a Point About the I.M.F.*, NEW YORKER, July 15, 2002, at 82.

126. John Salt & Jeremy Stein, *Migration as a Business: The Case of Trafficking*, 35 INT'L MIGRATION 467 (1997).

127. BALES, *supra* note 6, at 251.