

THE U.S. CONGRESS' POLITICAL CONSTRUCTION OF "CHILD TRAFFICKING"
AS A GLOBAL SOCIAL PROBLEM, 1999-2013

by

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DEDICATION

This is dedicated to my wonderful parents, Admir and Zulmira Bay, who have always been there for me. *Eu tenho tanto para lhes falar, mas com palavras não sei dizer: como é grande o meu amor por vocês* – Roberto Carlos.

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LIST OF ABBREVIATIONS AND SYMBOLS

United States of America	U.S.
United Nations	UN
United Nations International Children’s Emergency Fund	UNICEF
International Labour Organization.....	ILO
International Organization for Migration.....	IOM
United Nations Office on Drugs and Crime	UNODC
United Nations Global Initiative to Fight Human Trafficking	UN.GIFT
Office of the High Commissioner for Human Rights	OHCHR
United Nations Convention on the Rights of the Child	CRC
Trafficking in Persons.....	TIP
Trafficking Victims Protection Act	TVPA
Racketeering Influenced Corrupt Organizations	RICO
United States Code.....	U.S.C
Section Sign	§
Trafficking Victims Protection Reauthorization Act.....	TVPRA
House of Representatives.....	H.R.
Violence Against Women Act	VAWA
Child Soldiers Prevention Act	CSPA
Non-Profit Organization	NPO
The National Association of Evangelicals.....	NAE
Faith Alliance Against Slavery and Trafficking	FAAST
Inter-Governmental Organization.....	IGO
Non-Governmental Organization.....	NGO
Commercial Sexual Exploitation of Children.....	CSEC
Torture Victims Relief Act	TVRA
U.S. Department of Justice	DOJ

U.S. Department of Homeland Security	DHS
U.S. Immigration and Customs Enforcement	ICE
Human Trafficking Prosecution Unit.....	HTPU
Child Exploitation Investigations Unit	CEIU
United Nations Educational, Scientific and Cultural Organization	UNESCO
Criminal Investigation Division of the U.S. Army	CID
Center for Strategic and International Studies	CSIS
U.S. Department of Defense	DOD
North Atlantic Treaty Organization	NATO
ArmorGroup.....	AG

ABSTRACT

THE U.S. CONGRESS' POLITICAL CONSTRUCTION OF "CHILD TRAFFICKING"
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George Mason University, 2015

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This thesis describes how "child trafficking" has only recently been constructed as a global social problem by the U.S. Congress (with strong influences from intergovernmental organizations), even though it has been around for decades. This thesis is not an attempt to provide a solution to eradicating this problem, but rather it is an attempt to provide insight into what was occurring during 1999 and 2013 that caused the U.S. Congress to keep changing its perspective on child trafficking and its relevance. It also discusses the need for social institutions to recognize that traffickers are not the only actors that permit the progression of the trafficking trade, but rather that there are other contributing factors that have not been recognized as facilitators of this practice. In the process of researching and writing this thesis, I have used a social constructionist approach to analyze Congressional hearings, Government bills and reports, international organizations' publications, and scholarly research that have helped me to better

understand how the U.S. Congress politically constructed “child trafficking” as a specifically “global” social problem between the years of 1999 and 2013.

SECTION ONE: INTRODUCTION

This thesis is focused on the political construction of child trafficking as a global social problem. Child trafficking, as defined by the United Nations International Children's Emergency Fund (UNICEF), "is the recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation" (UNICEF 2012). According to UNICEF and the International Labor Organization (ILO), around 1.2 million children are being trafficked annually (ILO 2010). Non-profit organizations and the U.S. Government have been discussing possible ways to prevent this ongoing transnational criminal practice; however, this is not a recent problem. Child trafficking has been practiced for many decades, since the 19th century (Anti-Slavery Society 2003), so why has it only recently been recognized as a social problem? And how has this issue been constructed as a social problem?

The purpose of my thesis is to analyze the political conditions in which child trafficking has been socially constructed as a problem. The term "child trafficking" has negative connotations -- it invokes ideas of children suffering, reprehensible adults, deceitful migrant smuggling operations, or organized crime associates kidnapping children for money and delivering them to corrupt businesses that illegally exploit their labor or otherwise abuse them. Diverse advocates pressing for more rigorous or expansive child trafficking legislation have wide-ranging reasons for doing so. Some are

concerned about how child trafficking fuels a global market in pornography or prostitution; some are concerned about cheap labor undermining union wages; some are generally concerned about the spread of “illegals” (undocumented migrants with or without families); and some are concerned about global health and the possible threat of unvaccinated children spreading disease through transnational migration circuits linking healthy (and wealthy) and unhealthy (and poor) communities. There are numerous reasons motivating advocacy for child trafficking legislation that seeks to construct it as a malevolent social problem in need of immediate solving. But there are a far narrower range of representations that advocates are willing to invoke in the process of contributing to the institutionalization of such legislation. This is in no small part due to strategizing for morally and politically contentious agendas that may have less to do with child trafficking per se, but to which “public concern” for “child trafficking” (based on particular popular images that draw on shared norms) opens the door for advancing. For example, take the case of children willingly getting trafficked with the purpose of better economically providing for their family or wanting a better life in another country. Such cases are not included in most reports seeking to promote awareness of child trafficking as a social problem, even though they may well fit the general definition. In practice, however, legislation proposed to deter child trafficking, and enforcement of such legislation, entraps many actors who engage in practices that clearly have little to do with those we typically think of when we invoke images of child trafficking. That is, legislation meant to prevent such practices as kidnapping, sexual abuse, and the exploitation of child labor may also become a tool for policing more ambiguous (or even

humane) practices of migration involving children. Thus this study will attempt to explore how “child trafficking” has been socially constructed and negotiated as a social problem for public consumption to garner public support for legislation aimed at curbing certain (but not all) practices that might be associated with the concept. By using a social constructionist approach, this thesis will attempt to examine the contested discourse on child trafficking by studying some of the key institutional contexts in which this term is produced.

Child trafficking is a social practice that is embedded in complex social relations. A wide variety of actors struggle within competing cultural contexts and institutional settings to give meaning – often conflicting meanings – to this practice. Increasingly the news media in the United States, taking cues from NGOs proposing their various solutions, has recently been portraying child trafficking as a social problem that requires immediate Government and public attention. In this thesis, I take a social constructionist approach to analyze how child trafficking has been politically and socially constructed by the U.S. Government from 1999 to 2013.

SECTION TWO: METHODOLOGY

My thesis is based on a content analysis of U.S. Government documents which will help to discuss and analyze the political construction of child trafficking. Child trafficking is a complex problem that has international and domestic ramifications. To understand it, I attempt to examine child trafficking using a methodological combination of the case study approach and content analysis. The case study method allows me the opportunity to obtain fast and sufficient information systematically (Berg 2001: 225). I then use an “objective coding scheme” (Berg 2001: 238) to analyze the data that I collect on each of my case studies. For this study, the units of analysis will be the actors that influenced and contributed to the recent recognition of child trafficking as a global social problem. By using content analysis, the units of analysis will be identified from research documents which may be accessible online or offline. Because all documents to be analyzed were initially published in print then electronically distributed, I decided to analyze the online versions because of its easy accessibility. Such documents I analyzed stemmed from the works of intergovernmental organizations, Government campaigns and documents, public records, and scholarly research.

This approach enables me to analyze and code various research on the topic of child trafficking in an attempt to find major recurring themes that can then be critically analyzed. Because of the easy accessibility to the data, the sample that is used for

analysis is based upon the data of the United States. I understand that this choice limits my ability to analyze the international ramifications of how this issue was socially and politically constructed. And though choosing to collect data from one country does limit the results of my study, it does allow me to look at the problem from a domestic (U.S.) perspective. Analyzing the issue from both an international and domestic sample data would require a more elaborate study as it will provide immense data collection that will need to be analyzed over time. The content analysis is based upon the following years: from 1999 to 2013. I chose the year 1999 as the basis for data collection because I wanted to explore the pathways and reasons that led the 106th Congress to enact the TVPA in 2000. This piece of legislation is significant as it marks the beginning of the Congress' understanding of human trafficking and its many dimensions. The Trafficking Victims Protection Reauthorization Act (TVPRA) was last updated in 2013, thus I chose the present as an endpoint so as to analyze the progress of the social construction of child trafficking after the last TVPRA was updated.

My data collection encompasses official reports from both Government and intergovernmental organizations (IGOs) such as: *The Trafficking in Persons Report* (U.S. Dept. of State: 2001-2014) and *Global Report on Trafficking in Persons* (UNODC 2009). Such reports help to demonstrate possible data trends that have developed over a period of time, which can then be analyzed from a social and political perspective. Other than these types of reports, transcripts of Congressional hearings (from each year the TVPAs were enacted) help to supplement the content analysis. The accessibility to these transcripts allows me the opportunity to identify who the main players insisting on anti-

trafficking legislation were – thus providing a possible pathway to look into the campaigns and discourse and networks of collaboration behind their determination. It was essential to this thesis, to observe the specific periods in which anti-trafficking legislation was enacted and enforced, so as to examine what was occurring during those periods socially, politically, and economically to have caused the legislation to suddenly be introduced.

Since my thesis is focused on understanding the construction of child trafficking and how the U.S. Government and intergovernmental organizations have built and labeled this issue over time, I had to consider how the trafficked children depict themselves in their own situations. When I first began exploring this research topic, I had planned to interview trafficked children that were being sheltered by a domestic organization, since this would provide an inside perspective on how they label or think of themselves after their experiences. But unfortunately, I was unable to pursue this approach because the research subjects to whom I had access did not want to participate (understandably, in retrospect). Thus I wasn't able to gain access to their stories (i.e., my intended source of data). Because I wasn't able to interview them, I decided that I would attempt to find out if important data from other child trafficking victims was included in the testimonies that they (as young adults) presented during Congressional hearings, interviews that they contributed to official public reports, or stories that they provided for non-profit organizations' publications.

Child trafficking is evidently a social problem; but rather than looking at it from a “prevention” perspective, this thesis looks at it from a historical sociological perspective.

By taking a historical sociological approach, this thesis analyzes the history of how the United States framing of child trafficking has developed over time. To be more specific, this thesis explains how child trafficking became socially constructed as a global social problem. I examine how the very term “child trafficking” emerged and developed. I explain when, how, and why has there emerged a distinction between child “slavery” and child “trafficking”. And I explain the political significance of this distinction.

To better comprehend how child trafficking became a social problem, one must also look at the legal dimensions of this crime. The legal framework is critically analyzed from a sociological perspective, in an attempt to better understand the construction of this social dilemma in ways that hold certain actors (but not others) criminally liable. While analyzing the legal framework of child trafficking, this thesis identifies trends that demonstrate several patterns that can be sociologically analyzed to explain how this issue came to be socially constructed as a social problem. There are some obvious reasons that can explain why child trafficking consistently occurs. For example, it’s a profitable business. But this does not explain why or how this practice came to be viewed as a social problem.

Globalization, governance, public perception, and policy making are only some of the influential trends in trafficking that are discussed by other researchers (Shelley 2010; Schendel & Abraham 2005). The purpose of my thesis is not to provide a solution to child trafficking or to dispute if it is right or wrong; but rather to analyze the political framing of the matter. My aim is to examine the political definition of child trafficking, so as to demonstrate that there are more actors in play (other than the traffickers) that

help make it successful. I don't think child trafficking is a simple problem that can just be fixed by increasing strict policies that criminalize traffickers. I think there are essential factors that need to be considered to better understand and solve this social problem. This thesis explores such prospects by analyzing the debated factors that are commonly associated with child trafficking. Providing a new perspective can lead to a better grasp of the problem and maybe even a way to help eradicate the problem.

Social Constructionist Perspective

For my thesis, I decided to take a social constructionist approach to better understand child trafficking. Just as the focus of my thesis is not about finding a solution to this issue, this approach will help me comprehend how child trafficking became a social problem from a social and political perspective. Because I would like to better comprehend the political construction of child trafficking, I must deconstruct the social construction of this issue by analyzing what factors led it to be considered a social problem. But before doing this deconstruction, I had to ask myself: what is a social problem? Many scholars have theorized how to best define a "social problem" (Harris 2013; Spector & Kitsuse 1977; Best 2001; Henslin & Light 1983; Manis 1976). But for this study, I'd like to take the approach that a "social problem" can be defined as an activity that has been perceived by social institutions and a large number of people as problematic which must now be controlled for the benefit of society. Similar to my approach, sociologist Donileen R. Loseke, for example, has suggested that: "In our daily lives, we tend to use the term *social problem* to categorize conditions that we believe are troublesome, prevalent, can be changed, and should be changed" (Loseke 2003: 7). I am

aware that my approach to social problems is a simple one, but I believe it works with the issue I am trying to deconstruct in this thesis. In other words, the spirit of my approach is that, with regard to some contentious practices we define as social problems, we sometimes need to do a bit of “problem dissolving” before we begin engaging in “problem solving”. Child trafficking, I have come to believe, represents one such social problem.

As I mentioned above, I would like to define a “social problem” as a practice that is deemed problematic by a number of people and their social institutions. Scholars such as Loseke (2003), Spector and Kitsuse (1977) also approach social problems as conditions or activities claimed by the public and government as problematic. This approach allows human beings to openly interpret, understand, and categorize a social condition as a problem. For example, Spector and Kitsuse defined social problems as the “...activities of individuals or groups making assertions of grievances and claims with respect to some putative conditions” (Spector & Kitsuse 1977: 75). Spector and Kitsuse (1977) observed social problems as a claims-making activity, in which the public, media, or the government would describe an alleged condition as dangerous or a threat. “We are interested in constructing a theory of claims-making activities, not a theory of conditions” (Spector & Kitsuse 1977: 76). Their theory significantly implies that a condition may be defined as a social problem, even though it may not be a “real” problem. In other words, the condition is interpreted through the definitions given by the government, the media, or other personnel with claim-making status. Spector and Kitsuse’s theory suits this research since its focus is not necessarily on the harmful action of child trafficking, but

rather on the “definitions of the situations” (Thomas 1924) surrounding and leading to child trafficking.

Child trafficking is an example of what may be perceived as a social problem. It has been perceived as a social problem because it has been constructed from many assumptions: children are helpless and vulnerable against their traffickers, they are always either sexually abused or used as slaves for labor, they are taken against their will, and traffickers are the deviants that perpetuate this crime. These assumptions are only a few of many that have been discussed in relation to this topic; but what all these concepts have in common is that they all attribute negative meanings and motives to the practices associated with child trafficking. These concepts perceive the children as “victims” and the traffickers as the “villains”. Since child trafficking is not a simple issue, it should not only be perceived from this one single standpoint. There are other perceptions that should also be considered. For example, the U.S. Government and non-profit organizations may identify trafficked children as “victims”, but some of these children may identify themselves as “family providers” because they are trying to help their overworked parents by providing extra income. Furthermore, when parents knowingly sell or give their children to traffickers in hopes of them getting a better life or of gaining more money to help feed their family – should the traffickers be considered evil or are they providing better opportunities for these types of families? In using a social constructionist approach, I will attempt to explore these other meanings and practices that child trafficking entails, provide additional insight to the different dimensions of child trafficking, and raise significant questions about the meanings and motives that the U.S.

Congress has institutionalized through its legislation in the process of constructing child trafficking as a global social problem. I will attempt to show, for example, that important issues relating to the politics of labor and migration are negatively impacted by Congress' framing of child trafficking, and explain how these issues raise important policy considerations that they have ignored but that shape the very process they deem problematic.

“Constructionist analyses examine claims (the rhetoric used to define social problems and promote policy solutions for them), the claimsmakers who presented those claims, and the ways the public, press, and policymakers responded to claimsmaking” (Best 2001: 1). The social constructionist approach that I take in this thesis is not focused on child trafficking as a deviant action per se. Rather I focus on the competing framings of child trafficking as a social problem. Indeed, sometimes this approach identifies certain institutional actors' constructions of child trafficking as a deviant action. Certainly this is a familiar framing of child trafficking to most of us who read newspapers or public policy reports. But there are many different ways to form child trafficking as a social problem grounded in deviant action, and I also identify competing constructions of child trafficking that conceptualize the problem quite differently altogether without invoking any discourse on deviance. The social constructionist approach provides me with the opportunity to analyze the varying conceptualizations of what makes child trafficking a social problem.

Grounded Theory and Content Analysis

Other than using a social constructionist approach to better understand this thesis, Glaser and Strauss' grounded theory may also help to understand the chosen methods. Unlike other research methods, grounded theory does not begin with a hypothesis but rather by collecting data; with that collection of data, the researcher is able to create codes and codings which may then be categorized and then synthesized to possibly create a theory. Thus grounded theory works inductively, rather than deductively, in attempting to build its theoretical insights. I also use content analysis which may be considered part of some grounded theory methods, as the researcher will be using a coding scheme to help better understand the issue and then conclude a possible theory from the data. To be more specific, I attempt to use logical deduction (from the Congressional hearings, bills, reports, etc.) to create codes in order of finding common recurring themes. These themes which may shed light on what factors influenced the U.S. Government's recent construction of child trafficking.

Though grounded theory supports the method chosen for this thesis, Glaser and Strauss' grounded theory supplements the basis for this research because Glaser and Strauss believed it was possible to induce a theory out of qualitative data (Glaser & Strauss: 1967). Glaser and Strauss look at grounded theory as it "can be presented either as a well-codified set of propositions or in a running theoretical discussion, using conceptual categories and their properties" (Glaser & Strauss 1967: 31). They discuss the possibility of creating a theory from comparative analysis by analyzing the data and observing possible arising patterns that can help generate concepts which may then lead to a general theory to explain the data/behavior. Because this is a short study, I will not

be providing a theory to explain the construction of child trafficking. However, I will be analyzing possible patterns arising from the Congressional hearings on the Trafficking Victims Protection Act (TVPA) and the Reauthorization Acts (TVPRAs) which may help explain why child trafficking is now gaining public and political attention. With these patterns, I plan to discuss how the political construction of this issue occurred over time.

Becker's Theory of Social Deviance

In his classic, *Outsiders* (1973), Sociologist Howard Becker explains that deviance can be defined in several ways, yet, it nevertheless derives from society itself. Becker believed that: “*social groups create deviance by making the rules whose infraction constitutes deviance*, and by applying those rules to particular people and labeling them as outsiders” (Becker 1973: 9). Becker’s theory of social deviance can also help complement this thesis because, like Becker, I am attempting to provide a different perspective on this social problem. Traffickers are typically depicted as “villains” and “abusers”. Rarely are they depicted as “helpers,” or “opportunity facilitators”. Why? I believe Becker would argue that this is because our social institutions have labeled the traffickers’ actions as deviant and as such they are automatically categorized as deviant and criminal. As Becker states: “the deviant is one to whom that label has successfully been applied; deviant behavior is behavior that people so label” (Becker 1973: 9). With this excerpt, Becker (1973) suggests the possibility that society should reflect on how deviant behavior is observed, because what may make it deviant is not the action itself but rather how it was labeled by the rest of society. In terms of child trafficking, the U.S. Government and intergovernmental organizations enforce the idea that traffickers are

inherently “bad”, thus they should be removed from society as they are deviants causing a social problem. But if we go by this logic, what about those cases in which the parents willingly sell their children or the corrupt businesses that pay and demand traffickers for more underage workers? Then the traffickers are not being deviant (at least not fully), but rather the family members and the corrupt industries should be considered the deviants. These types of cases demonstrate that there are other contributing factors to the progress of child trafficking, and yet these actors are barely discussed or mentioned as deviants that contribute to the demand of child trafficking. If the actions of traffickers are to be labeled deviant, we cannot only label traffickers as deviants because there are others that sometimes condone or participate in these actions. Though traffickers may be helping this problem to grow, they are not the only contributors, therefore taking into consideration, Becker’s theory (1973) of looking at deviance from different angles would provide the opportunity for our social institutions (i.e., our government, academics, etc.) to observe traffickers from a different perspective.

Other than suggesting that deviance is created and labeled by those who create the rules to punish deviants, Becker (1973) states that deviance also depends upon the response of the public towards the action committed. In this case, the public refers to people within a society. To be more specific, the public’s reaction after an activity has been committed decides whether an action is labelled as deviant, regardless if that action is in fact deviant. “Whether an act is deviant, then, depends on how other people react to it... The point is that the response of other people has to be regarded as problematic” (Becker 1973: 11-12). Becker’s idea of the perception of deviance can then also be

supported by Loseke's (2003) and Spector and Kitsuse's (1977) theories, as they discuss the idea of claims-making activity and how the government and public's perception of an activity can make it into a social problem, or deviant action.

“In addition to recognizing that deviance is created by the responses of people to particular kinds of behavior, by the labeling of that behavior as deviant, we must keep in mind that the rules created and maintained by such labeling are not universally agreed to” (Becker 1973: 18). My emphasis of Becker's theory (1973) of social deviance is simply to highlight the possibility that trafficking and traffickers may be being labelled negatively by the Government and by the public; either because of a political agenda or lack of information from all dimensions of the issue. Though traffickers do break laws, it should be noted that their purpose may not necessarily always be one of exploitation. Overall, this is not to say that traffickers are necessarily 'good', but rather it is to point out that the public must reflect on the issue from all angles before automatically making a judgment about a social issue. It is not just a question of blaming and punishing the traffickers, there are other key players contributing to the success of child trafficking.

SECTION THREE: LEGAL FRAMEWORK & FINDINGS

In this Section of my thesis, I begin discussing my findings in relevance to the data collected from analyzing the legal framing of practices associated with child trafficking. These framings work as my units of analysis and were collected from U.S. Government documents and intergovernmental organizations' reports and publications. I start with discussing the most relevant documents that shed a light on how child trafficking has been politically constructed by both the U.S. Congress and some collaborating intergovernmental organizations. The intergovernmental organizations I discuss below are mainly focused on the work of United Nations Agencies because they provide the clearest influence over the Congress' knowledge on this practice, as my findings will demonstrate. The bills, reports, and publications mentioned below will demonstrate how the definition of human trafficking has changed over time, how child trafficking finally gained recognition, and how Congress has been influenced by international organizations in its construction of child trafficking.

The Convention on the Rights of the Child

Before discussing the United States' legislative history, one must understand the United Nations Convention on the Rights of the Child (CRC) and how it plays an important role in relation to child trafficking. Under the jurisdiction of the Office of the High Commissioner for Human Rights (OHCHR), the Convention was adopted on

November 20, 1989 and was implemented on September 2, 1990 (OHCHR 1989). As part of the Charter of the United Nations and the Universal Declaration of Human Rights, the United Nations recognizes that every human being has rights, including children. It asserts that children deserve protection, guidance, and freedom to grow as individuals in society: “recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance, . . . considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity” (OHCHR 1989: 1). The purpose of the Convention on the Rights of the Child is to establish as an international norm the idea that children need to be protected from any social harm, and to reinforce what has been said in previous declarations, such as the Geneva Declaration of the Rights of the Child of 1924, the Declaration of the Rights of the Child adopted on November 20, 1959, and the Universal Declaration of Human Rights (OHCHR 1989).

The Convention on the Rights of the Child is focused on reaffirming human rights, and reinforcing the idea that adults must strive to help provide children a successful means of development within society with their rights intact (regardless of their sex, gender, race, religion, etc.). “State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development” (OHCHR 1989: 9). This

excerpt from Article 32 is one of many statements that stipulate that children should not be used for sexual, economic, labor, arms, drugs or other forms of exploitation: as expressed in Article 33 through Article 39 (OHCHR 1989). Though all of the Articles mentioned in this Convention are important, the most pertinent to this thesis are those Articles mentioned above, and Article 35: “State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form” (OHCHR 1989: 10).

The Palermo Protocol

The language that the U.S. Congress draws on in discussing human trafficking generally, as opposed to child trafficking in particular, comes primarily from the Palermo Protocol of the United Nations Office on Drugs and Crime (UNODC). The Palermo Protocol is named after the conference (dedicated to the protocol) which was held in Palermo, Italy. There are three protocols that fall under the UNODC’s mandates: 1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; 2) the Protocol against the Smuggling of Migrants by Land, Sea and Air; and 3) the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition. These three protocols are all part of the overarching Palermo Protocol which was created and revised to best combat transnational organized crime during the annual Conference of the Parties to the UN Convention against Transnational Organized Crime (United Nations General Assembly 2001; UNODC 2004). Though all of these protocols are important in combatting transnational organized crime, the most relevant to this thesis, is the first one -- the Protocol to Prevent, Suppress

and Punish Trafficking in Persons, especially Women and Children -- which served as the basis for the fight against human trafficking. The Protocol was discussed and created by the General Assembly on November 15, 2000; and it became effective on September 29, 2003. On December 9, 1998, the General Assembly had decided to create an intergovernmental committee especially for the discussion of preventing trafficking against women and children, combating illegal trafficking and transporting of migrants, and fighting the illegal manufacturing of and trafficking in firearms (United Nations General Assembly 2001; UNODC 2004). Because the United Nations had set up this ad hoc committee to discuss manners to combat transnational organized crime, the three protocols mentioned above were created.

Within the Protocol (most relevant to this thesis), it specified goals which were: “1) to prevent and combat trafficking in persons, paying particular attention to women and children; 2) to protect and assist the victims of such trafficking, with full respect for their human rights; and 3) to promote cooperation among States Parties in order to meet those objectives” (UNODC 2004: 42). As part of its resolutions, it goes on to revise and define the most relevant terms to the protocol. This Protocol defines the “trafficking in persons” as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs – (UNODC 2004: 42).

This extensive definition of trafficking in persons, allows its readers to better understand the different forms in which a person may be trafficked. Other than this definition, the protocol also discusses how a ‘child’ is any person under the age of 18; and it explicitly states that the recruitment or harboring of trafficked victims will still be considered “trafficking” even though it may not necessarily have been through the means mentioned in its own definition (i.e., people may be trafficked through other means) (UNODC 2004: 43). It also specifically states that even when a victim of trafficking does consent to being trafficked, their consent is insignificant as the act of trafficking is still counted as criminal conduct (UNODC 2004: 43). This is noteworthy, because the text of the Protocol is not explicit about whether that applies to all victims of trafficking (adults included) or just children who are trafficked and say that they consent.

Part of the protocol also discusses what each State Party (those countries that supported and added the protocol to their own laws) shall be expected to do in terms of protecting trafficking victims and condemning traffickers (UNODC 2004). One of those important provisions includes that each State Party must implement methods to help rehabilitate victims and provide physical, psychological, and social care to help the victims integrate back into society, while also providing them with safe housing, counseling, medical help, and educational and employment prospects (UNODC 2004: 44). This protocol also discusses the possible need for each State Party to adopt or repatriate each victim of trafficking depending upon their case and what is safest for each of them.

Before discussing final provisions of the Protocol, it mentions the prevention measures that need to be considered by each State Party. Some of the measures mentioned include: "...2) States Parties shall endeavor to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons; 3) Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society" (UNODC 2004: 46). These particular prevention measures specify the need for more knowledge about this social problem and the need to use the media to help combat it. This enforces the need for the media to play a responsible role in helping to combat the issue as it provides communication and knowledge to its audience (the rest of society).

As part of the last prevention measures, the Protocol states that legislative measures need to be taken and strengthened to help minimize the factors that make women and children vulnerable to being trafficked. The Protocol discusses border measures and the need for training of law enforcement on the issue based on the domestic laws of each State Parties (UNODC 2004). It is important to remember these Protocol prevention measures because the same language and suggestions can be found in the Trafficking Victims Protection Reauthorization Act (TVPRA) (U.S. Congress 2003). This language pattern is an initial example of how the UN Protocol influenced the U.S. Congress' understanding of human trafficking. Familiarity with the details of the Palermo Protocol and its purpose of combatting transnational organized crime and human trafficking, makes it evident that the U.S. Congress drew their information and framing of

human trafficking from this source. It helped to educate the U.S. Congress about the dangers of international trafficking and, later on, the dangers of domestic human trafficking.

Overview of U.S. Legislative History

Human trafficking is seen as a direct violation of the 13th Amendment constructed by the Constitution which states that: “neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction” (*Legal Information Institute* n.d.). Other than it being a violation of the 13th Amendment, it is also a violation of U.S. Federal law. Aside from human trafficking violating the 13th Amendment, there are also the U.S. Code Chapter 77 offenses in Title 18 to consider. The Chapter 77 offenses relates to human trafficking as it generally discusses offenses against those who participate to coerce and force others into different forms of slavery. Since there are different types of trafficking, there needs to be different offenses that can help encompass all those unlawful acts, and Chapter 77 of Title 18 helps with that. For example, Amy Farrell et al. (2012) discusses the different types of punishments for different forms of trafficking:

Labor trafficking offenses (18 U.S.C.1589 and 18 U.S.C. 1590) begin at a base offense level of 22 (out of 42 levels in the guidelines), meaning depending a defendant’s criminal history they could face a sentence between 41 months and 105 months in federal prison. Sex trafficking offenses (18 U.S.C. 1591) involving a child or through force, fraud or coercion are codified in the federal guidelines at a base offense level of 34 which carries a term of imprisonment between 151 months and 327 months in federal prison (USSC, 2011) – (Farrell et al. 2012: 195).

With these offenses mentioned, it is evident that traffickers can be charged several times for different offenses. Having Chapter 77 offenses as a resource, allows greatly enhances the possibility of prosecuting the traffickers even more severely for their crimes against their victims. Otherwise, if the court were only to prosecute offenders based on 18 U.S. Code § 1590 (Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor) which seems to encompass human trafficking as a whole, the charge against the traffickers would be relatively light:

Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both – (*Legal Information Institute n.d.*).

Another law that has been passed and helps support the TVPA and the 13th Amendment, is 18 U.S.C. § 1591, the law against Sex Trafficking of Children by force, fraud, or coercion. This states that:

(a) Whoever knowingly - (1) in or affecting interstate or foreign commerce, or within the...territorial jurisdiction of the United States, recruits, entices, harbors, transports, provides, obtains,...to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b) – (*Findlaw n.d.*).

Aside from the statutes, Congress also prepared a report to begin raising awareness of human trafficking. On November 22, 1999, the Committee on International Relations released a report that supported H.R. 3244 called the Trafficking Victims

Protection Act (TVPA). Included in the Report was the evidence that convinced the Committee to support the legislation. Some of the findings included:

- Around 50,000 women and children are trafficked into the United States per year, and those who are trafficked are mainly women and girls;
- Those trafficked are vulnerable and are often forced into sexual activities (such as prostitution, pornography, sex tourism, etc.);
- Traffickers threaten victims with verbal and physical abuse so they won't leave out of fear;
- Existing laws do not adequately protect victims and punish traffickers thoroughly;
- Some countries do not punish traffickers accordingly because of possible official corruption – (U.S. Congress 1999: 2).

The Report on the legislation included definitions necessary to understand the purpose of the Act. The report defined terms such as: “sex trafficking”, “severe forms of trafficking in persons”, “slavery-like practices”, “coercion”, “act of a severe form of trafficking in persons”, “victim of sex trafficking”, “commercial sex act”, and more (U.S. Congress 1999: 4). It is clear from these definitions, that the focus of the Trafficking Victims Protection Act (TVPA) was on helping victims of sex trafficking. This focus is evident in their first definition of trafficking, which is of “sex trafficking”, which was described as: “the purchase, sale, recruitment, harboring, transportation, transfer, or receipt of a person for the purpose of a commercial sex act” (U.S. Congress 1999: 4). This Report did not discuss the different forms of trafficking, or indicate that this Act is dedicated to helping to eradicate human trafficking in general.

As the 1999 Report was discussed, Senator Paull Wellstone was the one who sponsored and argued for the TVPA the most. Senator Wellstone was a Democratic Representative of Minnesota. He and his wife, Sheila Wellstone advocated for and played

crucial roles in the enactment of the TVPA. As described by Luis CdeBaca, “Senator Wellstone was not just the conscience of the Senate, a voice for the dispossessed and an inspiration to so many, he was the sponsor of the Trafficking Victims Protection Act of 2000... And without Sheila Wellstone’s activism, women in Minnesota and around the world would have had no protection from their batterers and traffickers” (CdeBaca 2012). Though Senator Wellstone was known for his contribution to the TVPA, he was also helped by Republican Party Senator Sam Brownback of Kansas. Not only did Senator Wellstone advocate for the TVPA to be enacted, he also promoted the Violence Against Women Act (VAWA). Both bills passed on October 28, 2000. In a Senate Session, held on October 6, 2000, Senator Wellstone stated:

And just so colleagues know, these two pieces of legislation have a lot of integrity in terms of how they interrelate with one another. One deals with violence against women and children and families...So what this legislation does is, it focuses on prevention, where we have an outreach through aid, with some of the nongovernment organizations and others, who really do the information work so that young girls and young women know what might be happening to them and know about trafficking and know what the dangers are and hopefully will have some knowledge about this before they’re exploited – (C-SPAN 2000).

Senator Wellstone’s remarks emphasized that both Acts were important and connected because they help protect women and children from domestic violence and trafficking. During this Senate Session, Senator Wellstone thanked other Senators for their help with the Act (such as Senator Brownback and Senator Joe Biden); and he acknowledged the work of nongovernment organizations that helped to provide more information on human trafficking (C-SPAN 2000). The TVPA was eventually passed October 28, 2000 by the 106th Congress, and with it the President established a new Interagency Task Force to

Monitor and Combat Trafficking in Persons to provide reports to the President on all matters related to human trafficking. The TVPA further stated that the Chairman of the Task Force would be the Secretary of State and that the rest of the members of the Force include: the Administrator of the United States Agency for International Development, the Secretary of Labor, the Secretary of Health and Human Services, and the Director of Central Intelligence (U.S. Congress 2000: 11). The TVPA's goal was to "combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes" (U.S. Congress 2000). In shorter terms, this Act was meant to protect the victims of trafficking, prosecute the traffickers, and hopefully prevent human trafficking from continuously occurring.

The Victims of Trafficking and Violence Protection Act (TVPA) has been revised and reauthorized four more times (2003, 2005, 2008, and 2013) since 2000. In 2003, it was amended to allow survivors of trafficking to sue their exploiters, it allowed for establishing extra victim protection (including for their families) from being deported, and human trafficking was able to be added to the Racketeering Influenced Corrupt Organizations (RICO) statute (Polaris Project 2014). A method that was not previously mentioned in the TVPA, but was mentioned in the TVPRA of 2003, was the use of international media: "The President shall establish and carry out programs..., to inform vulnerable populations overseas of the dangers of trafficking, and to increase awareness of the public in countries of destinations regarding the slave-like practices and other human rights abuses involved in trafficking..." (U.S. Congress 2003: 2). By Congress

recognizing the need for the Government to use the media to raise awareness within the public, provides evidence that trafficking had started to become a social problem at that time. Following Spector and Kitsuse's theory (1977), by the Government and the media *claiming* that trafficking is dangerous and a threat to society, it becomes a social problem.

It is also evident in the subsequent amendments that the Government recognized its need to learn more about trafficking, thus it would be using all sources available (U.S. Congress 2003). The TVPRA stated: "[The President] shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this division and provides data to address the problems identified in the findings of this division" (U.S. Congress 2003: 10). This shows the Government's reliance and alliance with nongovernmental organizations, international organizations and U.S. Government agencies to better understand and define trafficking.

In the TVPRA of 2005, programs were created to help give refuge for victims of trafficking, and grants were given to assist state and local law enforcement in its efforts to fight trafficking better (Polaris Project 2014). Part of the prohibitions included that Government officials were prohibited from entering into Government contracts with those who approve or participate in trafficking (Polaris Project 2014). Unlike the previous Acts, in which Congress stated they needed more information on human trafficking, the TVPRA of 2005 emphasized the need for more statistical data but from State and local police authorities (U.S. Congress 2005: 10). With a given budget of \$1,000,000, it stated an annual trafficking conference should take place, in which

research data and the different dimensions of trafficking would be discussed (U.S. Congress 2005: 12). This may show that Congress understood that international data is not sufficient to understand the problem, especially when trying to analyze and diminish the problem internally.

In 2008, the TVPRA seemed to solely be focused on combatting trafficking both from an international and internal standpoint, rather than looking into more statistical data as the previous TVPAs. This TVPRA discussed new methods of combating human trafficking, provided more assistance for potential trafficked children, and added better anti-trafficking programs (U.S. Congress 2008). It should be noted that the previous TVPRA of 2005 emphasized the need for more domestic-based statistical data, and this TVPRA lacks such data on trafficking within the United States. This TVPRA was mainly focused on combatting the issue rather than understanding how the issue has developed domestically. Part of this TVPRA discussed severe penalties for those who financially benefit from trafficking crimes. Those who benefitted from such crimes, would allow for the trafficking supply-and-demand structure to continue thus making it hard to diminish the issue. This is the first TVPRA to discuss child trafficking and the United States' effort to prevent it. It discussed the United States' attempt to make certain that the alien children are safe and unharmed and to make sure the children will not be trafficked when returned to their country of origin (U.S. Congress 2008: 35). In addition to its discussion of child trafficking, this Act included a separate Act called the Child Soldiers Prevention Act (CSPA). The CSPA defines child soldier as:

Any person under 18 years of age who takes a direct part in hostilities as a member of governmental armed forces; any person under 18 years of age

who has been compulsorily recruited into governmental armed forces; any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or any person under 18 years of age who has recruited or used in hostilities by armed forces distinct from the armed forces of a state – (U.S. Congress 2008: 46).

With this Act, Congress emphasized that it does not condone the forced recruitment of children for war or any other purpose as it violates their basic rights (U.S. Congress 2008). It also stated that there is a great need for more psychological and rehabilitative assistance for children with trauma. This TVPRA's new discussion of child trafficking and Child Soldiers Prevention Act, can be seen as the Congress becoming more aware of the different forms of trafficking, especially since sex trafficking is no longer the focus of this particular TVPRA.

In the TVPRA of 2013, Congress authorized programs to help prevent child marriage, programs to ensure that U.S. citizens don't buy merchandise created by trafficking victims, and to broaden the capacity of emergency response conditions within the State Department (Polaris Project 2014). The TVPRA of 2013 is similar to the TVPRA of 2005, as it is also divided into combatting sex trafficking internationally and within the United States. However, this Act is different because it doesn't only discuss sex trafficking, but it also focuses on child trafficking. Unlike the TVPRA of 2008, which discusses child soldiers, the TVPRA of 2013 discusses child marriage. This TVPRA was amended to provide programs to help prevent child marriage. However, this recent TVPRA did not provide findings, it ended up reverting back to discussing sex trafficking. The difference with this Act, is that rather than generalizing about sex trafficking, this Act does separate sex trafficking of children, sex tourism, and child trafficking (U.S.

Congress 2013). This may be an example of Congress understanding the varying dimensions of human trafficking, even though its focus has repeatedly been over time on sex trafficking. The repetition of sex trafficking throughout the Trafficking Victims Protection Reauthorization Acts and the recent interest in child trafficking can be seen as an effort by the U.S. Government to set priorities in dealing with this social problem. This particular interest may be related to the public's interest, the media's attention to the issue, or foreign politics influencing how Congress interprets this dilemma.

According to its legislative history, human trafficking was criminalized because, in addition to it being a violation of human rights, Congress also found that slavery seemed to still be present even in the 21st century and that trafficking can be seen and described as the new equivalent of slavery (U.S. Congress 2000: 4). Congress also realized that: "at least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year" (U.S. Congress 2000: 4). Congress (2000) found that women and girls who were trafficked could be led to do sexual labor which would lead to them being raped, involved in prostitution or worse. Some victims of trafficking can be transported internationally or over to another state so as to avoid having the victims find an easy escape back to their families and friends. By being in a different country or state, the victims would not be in familiar ground and may find it difficult to find authorities or help in general (U.S. Congress 2000). By not being able to find any help, the victims will be left vulnerable and dependent upon their

traffickers. These are some of the findings that the 106th U.S. Congress mentioned as relevant to their decision to pass the first TVPA.

It seems that the U.S. Government understood trafficking to have two forms – labor and sex trafficking. Initially, the Government focused on and believed that sexual exploitation of human beings was the most pressing issue. Though the umbrella term was “human trafficking”, the focus seemed to be on sex trafficking as it led women and children into criminal conduct, as illustrated by one of the first State Department *Trafficking in Persons Report*: “Originally, coverage focused on trafficking of women and girls for sexual purposes” (U.S. Department of State 2001: 3). Though the TVPA and TVPRAs discuss the findings and amendments that have occurred over the years, they do not fully explain what events made this issue pertinent and in need of awareness. Though Congress explains why human trafficking is a problem to be eliminated, I felt it was important to investigate what brought this issue to the Senate in 1999.

“The U.S. Department of State began monitoring trafficking in persons in 1994, when the issue began to be covered in the Department’s Annual Country Reports on Human Rights Practices” (U.S. Department of State 2001: 3). The 1993 Report did not mention anything about trafficking, but the 1994 Report did:

Of particular concern is the problem of violence against women. In early 1994, the U.N. Human Rights Commission established a Special Rapporteur on Violence Against Women to examine its causes and consequences. The 1994 Human Rights Reports document that physical abuse of women, including torture, systematic rape, female genital mutilation, domestic violence, sexual abuse, harassment, exploitation and trafficking of women, and female feticide continued throughout the world – (U.S. Department of State 1995).

The U.N. Human Rights Commission was monitoring domestic violence, human trafficking was in their report as a form of domestic violence. The State Department following the Commission then began to monitor this issue. This also explains why the TVPA and TVPRAs emphasized helping trafficked women and girls the most (U.S. Congress 1999). It explains why women's organizations advocated bringing the issue to the Senate; and it also explains how the initial definition of human trafficking focused on women being sexually abused or exploited (C-SPAN 2000; Cavalieri 2011; Chuang 2010; Wolken 2006).

To go even further back to analyze how human trafficking came to be mentioned in the U.N. Special Report, one must understand what caused the U.N. Human Rights Commission to create this report. According to the U.S. Annual Reports, the years of 1994 and 1995 were a time in which women's rights were in the international agenda: "this year saw an increased international focus on women's human rights and the advancement of the status of women" (U.S. Department of State 1995). The following conferences were held to address women's abuse of their rights: The International Conference on Population and Development in September 1994, the World Summit for Social Development in March 1995, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (entered into force March 1995), and the Fourth World Conference on Women, to be held in Beijing in September 1995. These conferences all discussed and created objectives which were repeated and amended in the Fourth World Conference on Women Report (1996). The most important mandate related to the construction of the definition of trafficking was that: "Sexual and

gender-based violence, including physical and psychological abuse, trafficking in women and girls, and other forms of abuse and sexual exploitation place girls and women at high risk of physical and mental trauma, disease and unwanted pregnancy” (United Nations 1996: 37).

After the 1995 Beijing Conference discussed women’s rights and the importance of their equality and safety, a broader declaration that encompassed children’s rights was set in 1996. “The 1996 Declaration and Agenda for Action for the First World Congress Against the Commercial Sexual Exploitation of Children provided the first working definition of the commercial sexual exploitation of children and youth” (U.S. Department of Justice 2010: 1). The Commercial Sexual Exploitation of Children (CSEC) stated that:

[CSEC] comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against children, and amounts to forced labour and contemporary form of slavery – (U.S. Department of Justice 2010: 1).

This initial definition demonstrates once again how human trafficking, regardless of its effect on women or children, was assumed to exploit humans for sexual purposes which later led to forced labor purposes. Though this explanation of child trafficking was provided in 1996, it is clear that it encompassed human trafficking, which was later divided into sex trafficking and then labor trafficking. It is evident that a working definition in anything related to trafficking, developed because of the insistence of women’s organizations in this attempt to take the issue more seriously:

As for the issue itself, the lack of agreement on how to define ‘trafficking’ hasn’t slowed campaigners’ fight. Rather, defining trafficking has become their fight... The dominant contemporary understanding of trafficking

took hold only around the turn of the century, driven in significant part by the advocacy of women's rights groups who sought to redefine trafficking specifically as the 'sexual exploitation' of women and children. Indeed, this is the definition that groups like the Coalition Against Trafficking in Women succeeded in getting written into the first international laws related to trafficking – (Grant 2012).

Though the U.S. Government had been monitoring human trafficking since 1994, through their Human Rights Practices Annual Reports, they were monitoring international human trafficking. This is further evidenced by the TVPRAs that they only recognized the issue domestically around the year 2005 (U.S. Congress 2005). The UN agencies were not the only contributors to the U.S. Government's data on trafficking. In a Senate session from the 11th October 2000, Senator Brownback mentions the help of several congressman, senators, and organizations that contributed to bringing human trafficking for Congress to recognize it as a big issue (C-SPAN 2000). Senator Brownback and Senator Wellstone went on to emphasize certain Senators: "the strong voice of Senators from Senator Biden to Senator Leahy to Senator Boxer and others have made a huge difference..." (C-SPAN 2000). It should be noted that Senator Biden had drafted the Violence Against Women Act (VAWA) and worked with Senator Wellstone, amongst other Senators, to have it enacted in 1994 (U.S. Senate 1994).

One of the organizations associated with helping provide data on this issue, was the National Association of Evangelicals. The National Association of Evangelicals (also known as NAE) have a resolution called the Trafficking in Women and Children 1999, in which the organization asks that evangelicals assist victims and become more knowledgeable upon this growing transnational organized crime (NAE 2012). With the help of World Relief, the NAE organized a group called the Faith Alliance Against

Slavery and Trafficking (FAAST), which involves a group of Christian organizations that come together to create programs and trainings to prevent trafficking from occurring and help the survivors rehabilitate into society (The National Association of Evangelicals 2012). Another organization that was mentioned within the early reports of the TVPA, was the Minnesota-based organization, The Center for the Treatment of Torture Victims. Senator Wellstone referenced the center in one of the Senate sessions in October 2000 and called it a “holy place” as it helps tortured victims: “I have had an opportunity to meet with staff and meet with many men and women who have been helped by this center. These girls, these women have gone through the same living hell...” (C-SPAN 2000). Senator Wellstone collaborated with this organization and others, as he was an advocate for the TVRA, better known as the Torture Victims Relief Act. Just like the TVPA, Senator Wellstone also brought the TVRA to the 105th Congress with Senator Rod Grams (who represented the Republican Party in Minnesota) (U.S. Senate 1996).

Historical Construction

Aside from the U.S. legislative history, one must also take into consideration the work of the State Department and the publications of the organizations that have seemed to shape the data provided by Congress in the TVPRAs. These documents provide better insight into what influences played a part in the construction of child trafficking. Based on influential work presented by UNODC, UNICEF and other organizations, the U.S. State Department created a yearly report that discussed the countries affected by human trafficking and their progress.

In 2010, the United Nations General Assembly delegated that UNODC provide a report that demonstrated the increase or diminishment of human trafficking from a global perspective; hence the creation of *The Global Report on Trafficking in Persons* (UNODC 2014). This report involved coverage of data from the years of 2010 to 2012 (or in some cases even more recent data). Some of the core results that they had found from using a global perspective were: “at least 510 trafficking flows have been detected; some 72 per cent of convicted traffickers are men, and 28 per cent are women; 49 per cent of detected victims are adult women; 33 per cent of detected victims are children, which is a 5 per cent increase compared to the 2007-2010 period” (UNODC 2014: 5). Part of the results discussed the forms of trafficking that victims were trafficked for in each of the continents. In Africa and the Middle East, 53% of victims were trafficked for sexual exploitation, 37% trafficked for forced labor, and 10% for other forms of exploitation (UNODC 2014: 5). In the Americas, 48% trafficked for sexual exploitation, 47% for forced labor, 4% other forms of exploitation (UNODC 2014: 5). In East and South Asia and the Pacific, 26% trafficked for sexual exploitation, 64% trafficked for labor/slavery, and 10% for other forms of trafficking (UNODC 2014: 5). Lastly in Europe and Central Asia, 66% trafficked for sexual exploitation, 26% for forced labor, and 8% for other forms of exploitation (UNODC 2014: 5).

From the data presented above, it is apparent that sexual exploitation is not the only purpose for which victims are being trafficked. In fact, UNODC reported that they were seeing increases in the other different forms of trafficking, for instance:

Trafficking for exploitation that is neither sexual nor forced labour is also increasing. Some of these forms, such as trafficking of children for armed

combat, or for petty crime or forced begging, can be significant problems in some locations, although they are still relatively limited from a global point of view – (UNODC 2014: 9).

This recognition that sexual exploitation is no longer the main demand of trafficking, signifies that human trafficking has come to encompass other forms of human rights' violations and now countries must change their perception of human trafficking. In other words, UNODC recognized and attempted to make their audience understand that human trafficking no longer just supplies people to meet the demands of sexual slavery, it also supplies people to meet the demands of many other kinds of illicit and illegal labor that constitute human rights violations.

After looking at the overall core results from a global perspective (provided by UNODC), one must now consider the data provided that may be more pertinent to this thesis, the data on the Americas and the effect on children. It is interesting to note that in the Americas, when dividing by gender and being trafficked for the use of forced labor, boys and men are trafficked more by 68% (32% of women and girls are trafficked for forced labor) (UNODC 2014: 10). UNODC has also come to recognize that child trafficking is increasing; it is at a point that “globally, children now comprise nearly one third of all detected trafficking victims” (UNODC 2014: 11). This is also shown by UNODC's awareness that by calculating child victims, there had been an increase of 5% since the last report (UNODC 2014: 5). According to UNODC's recent report, though child trafficking is increasing, certain regions are more centered on it than the Americas. For example, in Africa and the Middle East's victims are 62% children, while the victims detected in the Americas are 31% children and 69% adults (UNODC 2014: 11). These

are a few details discussed in the *Global Report* (2014) in relevance to the Americas and their data on child trafficking.

After looking at what has been discussed through U.S. legislative history and the work of non-profit organizations, it is also important to recognize supplemental work and efforts by different groups to help combat child trafficking as recognition of the issue grows. For example, UNICEF and ILO both provide different training manuals and technical notes to help countries learn more about this social problem. As child trafficking involves different forms of trafficking, it is understandable why these particular organizations are actively involved in providing education about this issue. The UNICEF's focus is on providing proper development and protection for the child; the ILO's focus with their manual is on diminishing the abuse of child labor; UN.GIFT (United Nations Global Initiative to Fight Human Trafficking) is focused on combating human trafficking as whole; these are only some of the United Nations organizations that discuss and attempt to combat human trafficking.

The UNICEF's technical notes, *Guidelines on the Protection of Child Victims of Trafficking*, are about understanding child trafficking and providing prevention measures, as well as providing procedures to carefully handle trafficked children. Presented in September 2006, this publication is meant to help explain the rights of the child victims of trafficking and present measures that protect children, and eventually rehabilitate them so they can re-enter society. With this guidelines, UNICEF applies the principles presented and supported by the Committee of the Convention on the Rights of the Child, Save the Children, World Vision, UNHCR, and other organizations; it also provides tools

from a global perspective so as all State Parties (or participating countries) may be able to apply such measures to their own domestic laws and procedures. The UNICEF begins its notes by providing a working definition of child trafficking: “child trafficking is the act of recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation regardless of the use of illicit means, either within or outside a country” (UNICEF 2006: 9). Other than this working definition, UNICEF states that a child constitutes any given person under the age of 18. As such, according to UNICEF, consent given by a person under the age of 18 years old is immaterial as this child is vulnerable and does not have the capacity to make such a decision. As part of their definition of child trafficking, UNICEF also provides what forms of exploitation can be considered as part of child trafficking:

All different forms of exploitation shall be considered within the definition, including: exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery or servitude, the removal of organs, use of children associated with the armed groups or forces, begging, illegal activities, sport or related activities, illicit adoption, early marriage or any other forms of exploitation – (UNICEF 2006: 9).

By elucidating these possible forms of exploitation, UNICEF clarifies the purposes for which a child may be trafficked, and thus broadening the understanding of what child trafficking encompasses.

The ILO’s training manual, *Training Manual To Fight Trafficking in Children for Labour, Sexual And Other Forms of Exploitation*, presented in 2009 also focused on combatting child trafficking and the many forms of child exploitation. Similar to message presented by other UN agencies, such as UNICEF, ILO discusses the importance of

combatting human trafficking and its many forms. The ILO goes further to say that for the past decade as child trafficking increases, it has become part of the international agenda to find methods to eliminate it (ILO 2009). The ILO, unlike the other UN agencies mentioned, has argued that children are not only used for sexual exploits, but are also used for labor. The ILO discusses this at length in their manual: “Only recently, however, has the international community recognized that child trafficking is also undeniably a labour issue... Children are frequently trafficked into labour exploitation in agriculture, both long-term and on a seasonal basis” (ILO 2009: 3). As ILO’s purpose is to promote work whilst protecting the rights of the workers, it is not surprising that ILO would insist on the need to protect children from being trafficked to work when they are not of consenting age.

Though UNICEF focuses overall on the child’s protection, ILO focuses on making sure underage individuals do not become labor slaves and have their rights violated. This training manual focuses on explaining and defining child trafficking and its surrounding concepts. To begin, ILO defines a child using the same definition provided by the CRC (1989) and UNICEF (2006). Using the Palermo Protocol (2000), CRC (1989), and UNICEF for reference, ILO shortly defines child trafficking as: “the recruitment, transportation, transfer, harbouring, or receipt of a child for the purpose of exploitation” (ILO 2009: 14). The ILO provides similar insight into forms of exploitation as provided by the other UN agencies; but it goes further to elaborate that there is a difference between trafficking and smuggling. The ILO states that trafficking and smuggling are not the same; trafficking involves some sort of coercion for the purpose of

exploitation and: “if would-be irregular migrants pay someone to move them into a country clandestinely, then they are considered to be ‘smuggled’” (ILO 2009: 16).

The ILO believes that children who are trafficked for work will lose the opportunity for an education, may face sexual or physical abuse, may face health issues, and more; as such, ILO states that child trafficking is a violation of children’s rights (ILO 2009). Interestingly, ILO recognizes that there is in fact a supply-and-demand structure that surrounds child trafficking; it also acknowledges that those who help create the demand are the corporations or businesses that exploit trafficked children because there are high profits. “The true ‘demand’ for the children comes from the factory operator who is trying to keep prices low and therefore profit margins robust and who is willing to take trafficked children in order to do that” (ILO 2009: 23). This recognition of the supply-and-demand structure is interesting as other UN documents have not discussed it as playing a role in the continuation of child trafficking. The ILO goes further and discusses two types of demands: the consumer demand and the derived demand. The consumer demand are those who buy products that were made from trafficked laborers; but according to the ILO, “research suggests that most of this kind of demand does not directly influence the trafficking” (ILO 2009: 23). The derived demand, however, refers to those who make a direct profit from the trafficking, such as: corrupt factories, businesses, pimps, and more. Overall, ILO’s training manual provides a different perspective into child trafficking as it looks into it from a labor trafficking perspective.

After other organizations came out with yearly reports (i.e. UNODC *Global Report*, etc.), the U.S. State Department came out with the *Trafficking in Persons Report*.

As the reports have been coming out every year since 2000, there are currently 14 reports. These reports are based upon information provided by U.S. embassies and consulates around the world, collaborative work and discussion with international NGOs, non-profit organizations, immigration officials, academics, victims of trafficking, the media, and related UN agencies (U.S. Department of State 2002). Each report discusses the issue of human trafficking, its definition, and its progression each year; as it places each country in a Tier, it also discusses each countries' progress and understanding of the problem. The report varies depending upon new knowledge about solutions to the problem, and also if any of the countries have progressed or declined from their Tier of the previous year. Some of these significant changes are demonstrated in some the reports. For example, as of the 2003 report, the U.S. Government began imposing penalties on countries that did not cooperate with the standards of the TVPA: "countries in Tier 3 will be subject to certain sanctions, principally termination of non-humanitarian, non-trade-related assistance..." (U.S. Department of State 2002: 10). Introduced in the 2004 report, were photographs which presented women and children doing hard labor in rural areas, which create empathy and understanding for why this problem should be addressed and diminished (U.S. Department of State 2004). In the 2006 report, the photographs became more graphic or disturbing, some show children naked holding money, hungry children begging on the street, young women prostitutes on the street and in brothels, and children tied up (U.S. Department of State 2006). The 2007 report began to discuss child trafficking more elaborately under their category of "Special Interests" (U.S. Department of State 2007). The 2010 report marked the 10th Anniversary of the

TVPA's passage and the beginning of the annual Trafficking in Persons Report. This report discussed the progress that has been made in the anti-human trafficking front since the year 2000. This report was also the first time in which the United States was placed as one of the countries that should be ranked in a Tier; the United States was ranked as Tier 1 (U.S. Department of State 2010). In the 2011 report, the United States was still ranked in Tier 1, as it complies with the TVPA standards, but it was noted that there needed to be more data collection from a federal, state, and local agencies to broaden knowledge of the issue (U.S. Department of State 2011). For the 2012 report, victims' stories and the psychological effect of trafficking were presented as part of the data collection (U.S. Department of State 2012). The United States remained in a Tier 1 ranking, but it was noted that visa programs and border movement needed to be strengthened (U.S. Department of State 2012). In the 2013 report, "Victim Identification" was introduced into the reports to discuss the risks of over-victimization and identifying victims in the media (U.S. Department of State 2013). Lastly in the 2014 report, the United States still remains as a Tier 1 ranking, but the report discusses the need for the Government to focus on identifying trafficked persons, by protecting and helping vulnerable populations (i.e., juvenile delinquents and disabled people) (U.S. Department of State 2014). Overall these reports demonstrated and emphasized the knowledge and standards presented in the TVPA and each of the revised TVPRAs.

The State Department human trafficking reports and the TVPA act as significant sources to other Government agencies. Other agencies like the Department of Justice (DOJ), the Department of Homeland Security (DHS) and the U.S. Immigration and

Customs Enforcement (ICE), for example, use these sources to better understand the issue and how to address it. The DOJ, for example, have a Human Trafficking Prosecution Unit (HTPU) which serves under their Civil Rights Division. This Unit focuses on prosecuting traffickers and enforcing the statutes which protect victims and penalize traffickers. Aside from the Unit, the DOJ has stated that the TVPA has been significant in the Government's efforts to decrease human trafficking (U.S. Department of Justice 2008: 1). With the Department of Homeland Security (DHS), it has addressed human trafficking as: "a form of modern-day slavery, and [it] involves the use of force, fraud, or coercion to exploit human beings for some type of labor or commercial sex purpose" (U.S. Department of Homeland Security 2015). The DHS do not go into extensive detail about the different forms of trafficking, but it does reiterate Congress' findings mentioned in the TVPA briefly that "victims are often lured with false promises of well-paying jobs or are manipulated by people they trust..." (U.S. Department of Homeland Security 2015). The role of DHS is to work with NGOs, the private sector, and domestic and international governments as it investigates human trafficking, arrest traffickers and protect its victims (U.S. Department of Homeland Security 2015). The ICE's information also seems to be based on the TVPA as it defines "trafficking in persons" as: "Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age..." (U.S. Immigration and Customs Enforcement n.d.). The ICE has a dedicated office called the Human Smuggling and Trafficking Center which handles all subject matter related to human smuggling and trafficking; this Center incorporates information

provided by other U.S. agencies and policy makers to better assess the issue (U.S. Immigration and Customs Enforcement n.d.). Unlike the DHS, ICE does have a Child Exploitation Investigations Unit (CEIU) dedicated to finding those who exploit children. Though this Unit is focused on helping and rescuing children from being victims, it once again focuses on the sex trafficking aspect of the problem. Thus the Unit's focus is to prosecute those who actively participate or watch child pornography, travel overseas to have sex with minors, or simply those who engage in sex trafficking of children in general (U.S. Immigration and Customs Enforcement n.d.). This is a demonstration of how the TVPA has come to influence Government agencies and how they approach human trafficking. Because these different branches of U.S. Government all work together to combat human trafficking, it is not so surprising that they draw from Congress' and other Government agencies (i.e., the TVPA and the State Department reports) to comprehend and define the issue at hand.

Making Child Trafficking Relevant

Though the media tends to use *ethos* (credibility), *pathos* (create empathy), or *logos* (logical reasoning) to attract their viewers and readers to the issues they discuss, they are not the only ones that use these tactics to emphasize the importance of a social issue. Governments also use these tactics to attract attention or empathy for a cause that needs to be reviewed and analyzed. This can be seen and heard in the reports and Senate sessions that discussed the significance of the TVPA and TVPRAs. In the reports and the Senate sessions, the language used to discuss data about human trafficking, or especially child trafficking, created an image of vulnerable victims for its audience.

In October 2000 in one of the Senate sessions, Senator Wellstone made his case to his peers about human trafficking:

There are some two million women and mainly girls that we're talking about every year where you see this trafficking of women and girls for the purposes of forced prostitution and forced labor. Some 50,000 [are trafficked] to our country... This kind of rivals drug trafficking, in terms of how scummy it is and how exploitative it is. What is going on is these women – these girls – in countries that are going through economic chaos and disarray, are recruited, told that they'll have an opportunity to be a waitress, told they'll have an opportunity to come to another country, like our country, and be able to make an income and be able to build a good life... These young girls – they don't know their rights, they don't know what they're getting into, they come to these other countries and then it becomes a nightmare – (C-SPAN 2000).

This excerpt is an example of how Senator Wellstone was trying to convince his peers of how important it is to eliminate human trafficking. Senator Wellstone, along with Senator Brownback, used many types of examples to convey their message. Senator Brownback, for example, read from a popular 1998 article from the *New York Times* that told the story of a girl who got trafficked, also known as the Story of Irina (Specter 1998). In one of the Senate sessions, Senator Brownback went so far as to say:

If I can encourage you any more, I say pull out a picture from your billfold, pull out a picture of a child or grandchild. Those are the ages, somewhere between 9 and 15, who are the most frequently trafficked victims. Young ages – (C-SPAN 2000).

Senator Brownback used his peers' attachment to their families and loved ones to stir emotions in Congress and to pass the TVPA bill. His repetition of the words “young ages” deliberately emphasized that children are vulnerable of being trafficked.

If a Government official is not using personal attachments or trafficked survivor stories, they may try another approach. A possible approach would be to present the

political benefits of accepting and enacting a legislation on the issue. For example,

Senator Wellstone said:

We should take this seriously. We will be the first country, I think, to really pass such strong legislation. The first government in the world, and this will be a model for a lot of other governments all around the world. I think this is one of the best human rights bills, pieces of legislation, to pass the Congress in sometime. I'm not objective because I had a chance to be a part of it – (C-SPAN 2000).

In raising this point, Senator Wellstone attempted to appeal to his colleagues on the basis of national pride to understand that this issue is important and that the United States should set an example for other countries to fight this issue. The use of language implies that the United States would be ahead of other countries and thus an active lead in facing this issue. This can be seen as an appeal to those who have a political agenda.

Other than governments, organizations tend to use language to create empathy towards victims. This is not to say that one should not feel empathy towards trafficked victims, but rather that at times the language used can be exaggerated to captivate an audience. For example, this statement by the ILO: “Isolated in this way, they are commonly the victims of abuse of power. Trafficked children are totally at the mercy of their employers or the people who are controlling their lives and so risk sexual aggression, starvation, loss of liberty, beatings and other forms of violence” (ILO 2009: 18). Though the ILO is providing facts of what victims suffer, their choice of language creates the imagery of a helpless child “at the mercy” of an evil trafficker which is not always the story for those who are trafficked. When organizations and the Government use this type of language and imagery, they create a misconception that trafficked individuals are always victims and never consent to being trafficked, which is not the

case for all trafficked human beings. This choice of language is engaging but it does create the idea that trafficking is a simple dilemma. It is not. There are different circumstances surrounding each trafficking situation. The choice of words leads the audience to focus on the victim and the trafficker and it excludes the other components that lead to the trafficking to be successful. There would be no traffickers, if there wasn't a market for trafficking.

Society relies upon the Government and the media to inform it about the issues that occur both in our society and in other countries. Unfortunately, the media has a tendency to over-victimize trafficked survivors, or provide sensationalism instead of factual information.

Ask most people where their information about human trafficking comes from, and the answer is often 'I heard about it on the news.' Unsurprisingly, the media plays an enormous role shaping perceptions and guiding the public conversation about this crime. *How* the media reports on human trafficking is just as important as *what* is being reported, and the overall impact of these stories is reflected in the way the public, politicians, law enforcement, and even other media outlets understand the issue. In recent years, a number of reports about trafficking have relied on misinformation and outdated statistics, blamed or exploited victims, and conflated terminology. Instead of shining a brighter light on this problem, such reports add confusion to a crime that is already underreported and often misunderstood by the public... When media report on only one type of human trafficking, the public is left with only part of the story. Human trafficking includes sex trafficking, child sex trafficking, forced labor, bonded labor, involuntary domestic servitude, and debt bondage. *Strengthen the public's understanding of human trafficking and the full scope of the crime* – (U.S. Department of State 2014).

This passage from the State Department demonstrates how the U.S. Government has come to understand that the public needs factual information, rather than sensationalized stories, so to gain a better perspective into the issue. It is interesting to note that in this

passage, the State Department now recognizes that human trafficking does not only include sex trafficking but other forms of trafficking. This demonstrates that the U.S. Government has made progress in terms of understanding how human trafficking is not solely based on sex trafficking alone.

Despite this gradual conceptual acknowledgement by Congress of the diverse practices that constitute human trafficking, Congress still seems to be recycling obsolete or fabricated statistics uncritically gleaned from questionable media sources. Both the media and the Government have great influence over how the public interprets social problems. The public relies on the guidance from both the media and Government to have an idea of what is moral and immoral in society; and because of this reliance, the media can sometimes take advantage. Best (2001) theoretically describes this dynamic:

In fact, claimsmakers seek a national forum in the form of network news coverage, certification from a daytime talk-show 'expert', or the subject of the television docudrama, in large part because the exposure increases the likelihood that others will come to share the same moral vision. Newsmakers and talk-show and movie producers cooperate in this process, not because of an intrinsic interest in the grievances being expressed, but because they derive organizational benefit from the exploitation of novelty – (Best 2001: 20).

The Link between the UN, the TVPA and the TVPRAs

As I was analyzing the United Nations documents and the U.S. Government reports and bills, I noticed that there seemed to be many similarities in the language used in each of the documents. As mentioned above, the State Department began to monitor the problem of human trafficking, interestingly, around the same time as the U.N. Human Rights Commission (1994). Even more fascinating, is that the U.N. Human Rights

Commission had prepared a Special Rapporteur on Violence Against Women and put domestic violence and trafficking of women in the same category in terms of violence. This may draw a parallel to the U.S. Government passing the Violence Against Women Act (VAWA) in 1994. Just like the U.N. Human Rights Commission, Congress linked both trafficking and domestic abuse against women together.

Even the language from the Palermo Protocol is present in the initial TVPA and even reports. “The Department also reviewed information from other sources including, but not limited to, UNICEF, UNHCR, the International Organization for Migration...” (U.S. Department of State 2001: 4). They very likely based their knowledge on data presented by international organizations. Another example of a link between U.S. Government reports and UN documents is the UNODC *Global Report*. Interestingly, UNODC discusses the response to trafficking by region, and in terms of the Americas, UNODC reports that: “most of the countries in this part of the world did not include trafficking in persons in their criminal code before the entry into force of the Trafficking in Persons Protocol in 2003” (UNODC 2014: 75). Though UNODC’s reference to the Americas involves North, Central and South America, United States does play a part in that situation; and as such, one can link the legislative history of the United States to the information by UNODC’s *Global Report*. For example: as UNODC reported, child trafficking has not been as big of a problem for the Americas (as compared to Africa and the Middle East), but just like UNODC’s 2014 report, the United States’ TVPRA of 2013 now recognizes that it is a possible form of trafficking within the U.S. (UNODC 2014; U.S. Congress 2013). It is evident that one can draw patterns between the information

provided by the United Nations' reports and information from the legislative reports and bills enacted by the U.S. Congress.

It seemed that as Congress drew information from the UN and other organization documents for the TVPA and TVPRAs, the U.S. Department of State's first *Trafficking in Persons Report* in 2001 drew "reliable estimates" from Congress to discuss human trafficking as a social problem (U.S. Department of State 2001). To be more specific, it used the same data about trafficking affecting mainly women and children, just as Congress used when passing the TVPA (U.S. Department of State 2001). This creates the idea of a cycle in which the United Nations and other organizations lead governments into following and making decisions based on their data. Though it may be understandable as to why the U.S. Government would follow data provided by other organizations (since they were uninformed on the issue), it however demonstrates that the U.S. Congress' construction of child trafficking was based largely (or exclusively) on reviewing that information. By reviewing that information only, the Government assumed a definition and only later realized how many forms of trafficking that human trafficking actually encompasses.

The similarities in language between the UN publications and U.S. Government legislation was important to address because it demonstrates the type of method that both the Government and the UN take when approaching the issue of human trafficking. As evidenced by their publications, the UN and the U.S. Government have taken a narrow approach to addressing human trafficking. This approach has limited them to simply looking at child trafficking as a simple problem that may be fixed by prosecuting

traffickers and rescuing victims. I believe their victims-centered approach limits their understanding of the many dimensions of child trafficking. Their similarity in language also demonstrates how the U.S. Government has not taken the lead in better understanding the issue, because they have relied heavily on what information they have received from intergovernmental organizations. As previously mentioned, when discussing the TVPA, Senator Wellstone appealed to the rest of Congress that they should be at the forefront of this issue to act as an example for other countries; but it is clear here that they have not really investigated the several layers of this issue for themselves but have relied on others (C-SPAN 2000). As the U.S. Government has relied on data presented by international organizations, it has thus taken the same narrow approach as these organizations in which there is only two key players: the traffickers and the victims. Though I am not arguing that traffickers shouldn't be prosecuted for their actions, I believe that human trafficking should be treated as a complex problem with many layers that need to be addressed. I advocate that there are some irregular cases which the U.S. Government and the UN have not addressed in their publications. I discuss the dilemma with taking a single approach to child trafficking below.

Problems with Adopting a Single Perspective on Child Trafficking

As I have mentioned throughout my thesis, the main consensus when discussing child trafficking is that it is related to a simple negative idea that: children are victims and traffickers are villains. After analyzing the data, I found that other perspectives have barely, if at all, been mentioned through either U.S. Government documents or non-profit organizations' publications. The lack of mention of particular cases, in which traffickers

are not the only actors at play, may give the impression that all trafficking cases are the same and that is not accurate. Each trafficked child has a different cultural and economic background that may have influenced how their trafficking situation occurred. If cultural and economic contexts are not at play, there is also the need to consider how the victim's consent or even their parent's consent factor into a trafficking equation. There is also the possibility of Government or organization corruption which may sometimes play a more significant role, than traffickers, in human trafficking cases.

“Many children are moved away from their homes and are exploited in the informal economy...” (ILO 2009: 3). What about their own volition to work to help their families? Though UNICEF (2006) and CRC (1989) would argue that their consent is irrelevant (as they are under the age of 18), what about when their parents' consent of their children helping them? That is not included as a possibility in their data, and this is a discrepancy. They are not always “easy prey to exploit”, but can be seen as rather willing survivors or providers (ILO 2009: 3). Organizations have argued that if an individual consents then it is no longer trafficking but rather smuggling (ILO 2009), but what about those who initially consent to being trafficked and look at their forced labor as a form of payment rather than exploitation? Samuel V. Jones for instance argues that consent should be considered viable in both cases of trafficking and smuggling, and that those who are willingly trafficked should not be automatically labeled from “victim” to “criminal” (Jones 2012). Jones provides distinction between cases of smuggling and trafficking, by arguing about the cases of those “individuals who may not have crossed a border illegally, but nonetheless are in such dire need of money, shelter, or food that they

willingly consent to perform sex or slave labor” (Jones 2012: 497). Relying on a monolithic perception of these and many other types of trafficking cases may lead one to assume that because the child or adult consents, then they are no longer victims but rather criminals as they have culpability. But in my opinion, that would be taking an overtly simplistic approach to an extremely complex problem. I am not saying that individuals should not take responsibility. But after analyzing the framing used in the U.S. legislative history and its relation to the intergovernmental organizations reports, one should see that there are irregularities which a simplistic victims-centered perspective has not and cannot cover.

Congress cited several findings that emphasize why trafficking should be condemned, but one must be aware that trafficking and smuggling are not always done with a malicious intent involved. For example, Dale and Kyle (2008) discuss migrants as some of them willingly seek asylum through illegal smuggling means, as well as how the state can also be contributing to this social dilemma through their own political agenda and through having some corrupt state officials. One of the cases they discuss is the Gonzalez case, in which: “...while the Mexican smuggler [is] helping other Mexicans – many of whom come from indigenous minorities or rural backwaters persecuted by Mexican authorities – find a better economic and political environment in the United States is described as exploitative and cruel when a smuggling operation ends in a death, his Cuban counterparts risking choppy seas in little more than rafts are almost never so described” (Dale et al. 2008: 32). It is these types of cases, which Dale and Kyle (2008) describe, that are almost never used or told to describe human smuggling or trafficking.

Society may almost always negatively associate the term ‘human trafficking’ with slavery, abuse or violation of rights, either because of media portrayal or political/policy definitions provided to us, and thus one may forget that things are not always as they appear. As Davidson (2010) points out: “...‘what constitutes inappropriate economic exploitation depends partly on what alternatives were or could have been envisaged within a given situation... [and similarly] what counts as force... and what restrictions any society might have to invoke under certain circumstances are left to be determined in context’” (Davidson 2010: 249). Those who are trafficked or smuggled are not always victims of abuse, but rather at times people looking for better economic and job opportunities. As Davidson (2010) expresses, it is important to notice in what situation and context that one labels trafficking as a provider of abuse and violation of rights. Trafficking does not necessarily only lead to negative magnitudes, but can also help provide opportunities depending upon each situation.

Each trafficking case is different as not all victims had the same experience. It is not always the case that a trafficked victim was manipulated and kidnapped. There are cases in which the trafficked participant knows the trafficking situation they are getting involved in. For example, Aronowitz states: “It is a misconception that all trafficked victims have been recruited under false pretenses and that they had no idea what they would be facing upon arrival in the destination country” (Aronowitz 2009: 2). Aronowitz (2009) argues that though human trafficking involves coercion or deception, there are different levels of coercion and deception that each victim experiences. Sometimes the victims may be aware of the mistreatment that traffickers may give, and they still prefer

to be trafficked. This may be because they believe their life will be better economically outside of their country. In child trafficking cases, Aronowitz reported: “Children trafficked for labor in other parts of the world, however, are often sold by their parents or freely given to traffickers in the false belief that the children will receive an education or job training” (Aronowitz 2009: 2). Though sometimes individuals may be deceived into having false beliefs about their trafficking situation, some still accept and are willing participants (Aronowitz 2009). Even when being exploited, victims may sometimes look at it from a positive aspect so as not to be affected by the harm the traffickers may inflict on them. For instance, in one of ILO’s reports, they provide a trafficking case of Chinese workers in France in which: “the exploited Chinese workers may see the light at the end of the tunnel. They may know that this is a finite period of suffering, a sacrifice that parents are willing to make for their children” (Aronowitz 2009: 3). By looking positively at their situation, it may help them better handle their trafficking situation; it also allows them to observe trafficking as a means to make ends meet. Families that may have that mindset may not look at themselves as victims, but rather surviving as they must make a sacrifice to provide for their family.

Unfortunately I have found that there is not extensive data on children willingly being trafficking. Though this is the case, it may not necessarily be because there are no cases of willing participants of trafficking but rather because there already are discrepancies in calculating an actual number of trafficked victims amongst government agencies and international organizations. The U.S. Government and several organizations have mentioned repeatedly that it is hard to state an accurate number of how many

children are trafficked every year because victims do not frequently come forward and thus only approximations can be made. Though making approximations is understandable, it however ends up allowing the possibility of a sensationalized perspective into the problem. For example:

Huge discrepancies exist between the number of actual victims identified and estimates projected by government agencies. Estimates placed the number of trafficked women and children in the United States at 45,000-50,000, while the number of documented cases was 38 involving 5,500 women for the year 1999-2000 – (Aronowitz 2009: 18).

This makes one reflect on the accuracy of the findings provided by Congress in the TVPA, in which they emphasized that 50,000 women and children were suffering from being trafficked (U.S. Congress 1999: 2). Knowing that the data has been sensationalized raises the question of whether Congress exaggerated those numbers to raise an emotional response from its peers. It would not be surprising as Senator Wellstone attempted to appeal to his peers' compassionate side when discussing how children, of the same age as their grandchildren, were being trafficked (C-SPAN 2000). However, it may also not be the case that Congress purposely sensationalized the numbers, because as the United Nations Educational, Scientific and Cultural Organization (also known as UNESCO) stated:

Numbers take on a life of their own, gaining acceptance through repetition, often with little inquiry into their derivations. Journalists, bowing to the pressures of editors, demand numbers, any number. Organizations feel compelled to supply them, lending false precisions and spurious authority to many reports – (Aronowitz 2009: 18-19).

Regardless of whether the U.S. Government and other organizations purposefully exaggerated numbers for their agenda of enacting legislation dedicated to combatting

human trafficking, it does not change that finding accurate data on trafficked victims is usually difficult. Even with the victims that do come forward for Government assistance, it does not encompass the many victims that are in the United States or abroad. “Clearly, however, counting victims who accept assistance and who are repatriated does not accurately identify the number of trafficked victims” (Aronowitz 2009: 20). As it is already difficult to obtain data on those who are trafficked, it is not surprising that there isn’t any data focused on learning about willing trafficked participant cases.

It can also be considered that it is not in the IGOs and U.S. Government’s purpose to focus on willing participants of trafficking, as their purpose is to emphasize how traffickers need to be prosecuted for their crimes. In some cases, like the case of child sex trafficking survivor Holly Austin Smith, police officials may associate willing trafficked participants as deviants: “I was what they call a “willing victim”... ‘Willing victims don’t get the attention they deserve’” (Kiely 2014). In Smith’s case, she was going to run away with a man and then begin a music career, but she soon found out that he and his cousin were actually trafficking young girls (Kiely 2014). Because of her case, she was considered a willing participant of trafficking and thus deviant. This can be a reflection of how narrow-minded the approach to child trafficking is; in which there is no room for the possibility of willing trafficked participants but only for criminals that support or participate in trafficking activities. Interestingly, though Smith was labeled a willing participant, she herself wasn’t willing to be trafficked (she was deceived). This only shows how complex human trafficking can be and how a narrow perspective can lead to misleading interpretations of a situation.

Though there isn't empirical data to fully evidence willing trafficked participants, there is another factor to consider when approaching the topic of human trafficking – the role of political corruption. From a victims-entered perspective, which the U.S. Government and international organizations take, it puts the trafficker as the only contributor (or “villain”) to the succession of human trafficking. What is interesting, however, is the lack of mention of how Government officials and non-profit organizations may be corrupt and be involved in trafficking cases.

Whereas law enforcement officers and statisticians in most countries are usually willing to provide details on cases involving organized crime gangs, the former typically become coy when asked to provide hard information on corrupt behaviour among their own ranks – (Holmes 2009: 84).

If one were to take the narrow approach to child trafficking as the U.S. Government and intergovernmental organizations do, then one wouldn't consider the possibility of corruption as a factor that contributes to trafficking. Though not frequently documented by researchers (Holmes 2009), there have been some incidents over the past 14 years since human trafficking became pertinent. The company DynCorp and the UN were under scrutiny in 1999, as an employee of DynCorp (Kathryn Bolkovac) provided evidence that UN police were having sex with trafficked girls and also aiding traffickers. “She [Kathryn Bolkovac] discovered numerous individuals in the Bosnian and UN police (which was made up of some 1,800 officers from 45 countries) who were not only using trafficked prostitutes but were on the traffickers' pay-roll” (Diu 2012). When Bolkovac provided evidence of the UN officials' involvement in trafficking, she was demoted and

then later on fired by her employer DynCorp. Even though she provided evidence of the UN police's involvement with trafficked girls, the UN officers were not prosecuted:

Most disappointing of all was what happened next: several men were sent home, but none was punished further. No future employer will ever know what these men were guilty of... DynCorp continues to win multimillion-dollar military contracts with the American government in Iraq, Afghanistan and Haiti among other places – (Diu 2012).

The fact that these men exploited trafficked girls and assisted traffickers were not prosecuted makes one question the U.S. Government's and the UN's policies on human trafficking. Their publications repeatedly mentioned the need to prosecute individuals who enable trafficking (Polaris Project 2014; U.S. Congress 2005), and yet their lack of action makes one question their credibility in wanting to combat human trafficking. This is further evidenced by another account on this scandal:

Nine of the employees investigated by CID [Criminal Investigation Division of the U.S. Army] and transferred out of the country by DynCorp were Americans. Only seven were fired and none were criminally prosecuted. The employee who had claimed to own a 12-year-old sex slave was among those investigated and allowed to remain with the company – (Isenberg 2009).

Though traffickers were involved in bringing these girls to the brothels of Bosnia, the UN officials involved in assisting those traffickers must also take responsibility. Thus the approach that traffickers are the root of the problem of human trafficking is inadequate, as other factors such as corruption may come into play. Though Bolkovac never received an apology from DynCorp or the UN for their ill-treatment, her story inspired the movie *The Whistleblower* and thus this issue was discussed thoroughly by the media (Diu 2012).

Though little was done in terms of investigating the UN officials' trafficking activities in Bosnia, it should be noted that the U.S. Department of Defense (DOD) was

also involved in this case. Though the DOD did not participate in the sex trafficking activities in Bosnia, they did demonstrate themselves to be uneducated on how to investigate and approach a human trafficking case. A Center for Strategic and International Studies (CSIS) Report by Sarah E. Mendelson stated:

The Inspector General's formal investigation in 2003 into complicity of DOD personnel in the Balkans, observed by the author, was superficial and pro forma. Had DOD personnel followed the leads they were given, they would have found evidence of civilian contractor complicity in human trafficking – (Mendelson 2005: ix).

Mendelson discusses extensively in her report the role that DOD, the North Atlantic Treaty Organization (NATO), and the UN played in the trafficking incident in Bosnia. Through interviews and reports on the incident, Mendelson found that DOD agents were unskilled on how to investigate a human trafficking case; so much so that they barely examined the case and referred to human trafficking as insignificant (compared to other more imperative issues) (Mendelson 2005). Overall Mendelson's findings showed that:

In addition to the views and the behavior of individual soldiers, police officers, and civilians, organizational attributes and attitudes shared by DOD, NATO, and the UN have determined the weak response to human trafficking in the past. Specifically, each of these organizations has been reluctant to address:

- The security implications of misconduct by uniformed service members and civilian contractors, especially involving human rights abuses, and
- The role of organized crime in shaping the security environment in post-conflict regions – (Mendelson 2005: viii).

The reluctance to discuss and prosecute those who act as representatives of these agencies, raises the question of where the UN and the U.S. Government really do have a “zero tolerance policy” for human trafficking as they proclaim (U.S. Department of Defense n.d.). It seems that their lack of tolerance only selectively applies to traffickers

or others (who are not of governmental status). If their tolerance is selective, it also raises questions about why they would only use such a narrow perspective on human trafficking. By not prosecuting their own officials, it may raise suspicion that they use a singular perspective on child trafficking so as to maintain themselves from taking responsibility and thus putting traffickers as the only contributors to this issue.

Child trafficking is a complex issue, and problems may arise from taking a simple approach because it doesn't begin to encompass the many dimensions of this issue. Traffickers are not the only contributors to the succession of child trafficking. They cannot be considered the only culprits of this issue as there are others factors that contribute to it. There are those who may be willing to be smuggled or trafficked, and then there is the role of corruption in the progression of human trafficking. Traffickers do play a role in trafficking, but they may sometimes only play as facilitator for the supply and demand structure of a society.

Coding and Construction

After looking into the legislative history and non-profit organizations' roles, one can now look at how all this information may come together to politically and socially construct "child trafficking". My analysis of how child trafficking was constructed, began with conducting a word frequency query to determine possible themes or nodes that emerges from analyzing terminology within U.S. Government reports, Congressional legislation, and news articles. Next, I performed a cluster analysis to create a coding scheme to demonstrate the construction of "child trafficking". The coding scheme below,

reveals a possible pattern of how human trafficking was developed and constructed over time.

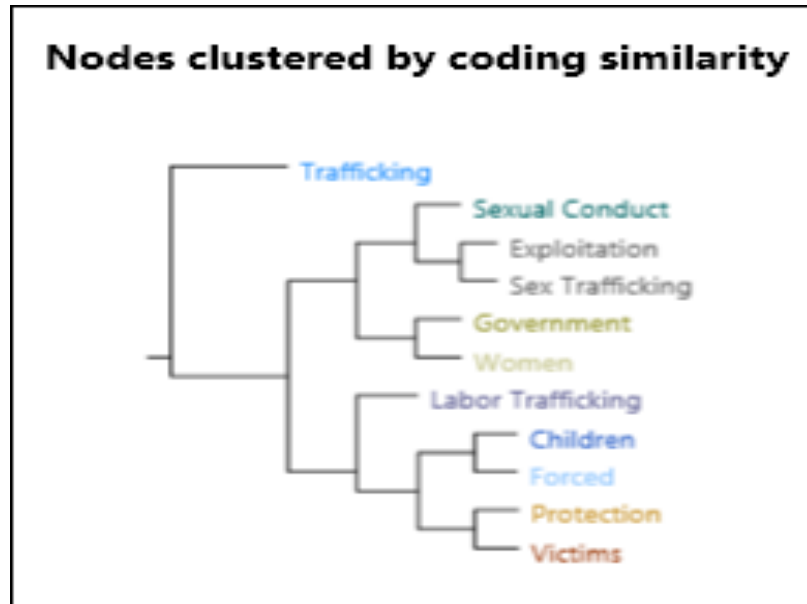


Figure 1: Coding Scheme

This scheme seems to demonstrate that “trafficking” was divided into two categories, one category focused on labor and the other focused on sexual conduct. Once the categories were distinguished by labor and sexual purposes, the two categories divide into further sub-categories. “Sexual conduct” divided into a category emphasizing “exploitation” and “sex trafficking”. This helps to understand how the U.S. Government emphasized “sex trafficking” as they found that victims seemed to be exploited for sexual acts according to the data they presented in the 1999 report before the Trafficking Victims Protection Act of 2000 was enacted (U.S. Congress 1999). “Government” and “women” were merged in a separate category; this could be because, according to the Government reports and Senate discussions when the TVPA of 2000 was introduced,

women's organizations played a major role in raising awareness of human trafficking. Senator Wellstone's remarks in Congress highlighted the role these groups played: "The number of women organizations around this country that have worked on this, they've made this possible" (C-SPAN 2000).

"Labor trafficking" divided into two other categories, such as: "children" and "forced", and "protection" and "victims". The terms "children" and "forced" may have been linked because they are often associated when describing how children are treated as victims of trafficking. As these two terms appear under "labor trafficking", one can possibly surmise from the data collection that: children were often trafficked to be forced into doing labor. This is not to say that children were not sexually exploited, but rather that children were most associated with labor. The other sub-category of "protection" and "victims" can be interpreted as what the U.S. Government emphasized as important through their reports and bills: protect the trafficked victims. It is interesting to note that the protection sub-category did not fall under both emphasized forms of trafficking. This may be seen as protection was mainly discussed under the topics surrounding labor trafficking. It could also be that, since the Government advocated for the elimination of "modern-day slavery", protection was primarily linked to slavery, or forced labor purposes (U.S. Department of State 2000). It is interesting to note that "men" was not a recurring node in the data collected. This may reflect the broadly held misconception that men do not get trafficked; which is evidenced by the minimal or almost lack of mention in the TVPRAs other than in the TVPRA of 2003 (U.S. Congress 2003).

Overall, the coding scheme demonstrates how human trafficking serves as an umbrella term, which over time the U.S. Government then divided into two major categories: labor and sex trafficking. Though the coding scheme demonstrates themes found from the data collected, it does not necessarily go into the core of the construction of child trafficking. As such, one must look back into when the data started to consider child trafficking as its own category of human trafficking.

Constructing the Deconstructed

After reviewing the U.S. Government bills and reports and the media articles over the years, one can see that human trafficking has changed and become an umbrella term for the many different forms of trafficking and exploitation of men, women and children. From analyzing the Acts (TVPA and TVPRAs), Government legislation, and the State Department and UN human trafficking reports, a theme can be detected in which it is clear that the U.S. Government's initial understanding of this social problem has relied upon international data collection. Congress had initially observed this practice as an international issue, but later began to realize that this issue affects us domestically. It seems that only around the year of 2010, the U.S. began to understand that this is a social issue that also affects the U.S. as trafficking occurs in this society as well; as demonstrated by the U.S. finally being ranked in the 2010 U.S. Department of State *Trafficking in Persons Report* (U.S. Department of State 2010). Though U.S. Government officials (such as Senator Wellstone, Senator Brownback, etc.) have argued since the enactment of the TVPA of 2000 that trafficking is a domestic problem as well,

only in later years did it seem that the Government recognized that the United States could also be considered as a growing hub for this issue.

“The International Labour Organization estimates that of the 20.9 million people in human trafficking, 14.2 million are victims of forced labour, as compared to 4.5 million in sex trafficking. Yet sex trafficking captures a hugely disproportionate amount of public focus. This skewed representation of human trafficking leads to imbalanced responses to human trafficking” (Turner 2014). Though the umbrella term “human trafficking” seemed to be divided between the sub-categories of labor trafficking and sex trafficking, human trafficking was mainly associated with the sexual exploitation of human beings. This association was misconstrued, as is later demonstrated by more recent documents, bills and articles, because human trafficking is not only about individuals being abused sexually. “Accurate statistics on trafficking are difficult to come by, which does not stop some anti-trafficking groups from using them anyway... Prostitution is often conflated with ‘trafficking’ in these statistics, in part because the definition of trafficking that has been pushed to prominence refers to exclusively to ‘sexual exploitation’” (Grant 2012). As it seems that the observation into the issue is that men, women and children are either being used for labor services or sexual services.

But there are outliers and irregularities to consider when discussing human trafficking. For example: children willingly working to help their overworked parents (York 2012; Stock & Paredes 2012), or parents that sell their children for money (Hume et al. 2013; McCabe 2008), or corrupt officials that protect trafficking rings (Kyle & Dale 2001, 2008), or successful corporations that pay and demand more trafficked people for

labor (American University 1999). Corrupt officials and businesses are especially ignored or go undiscussed as possible options for players that influence the succession of child trafficking. For example, the case of the company Halliburton (previously headed by ex-Vice President Dick Cheney) which was involved in human rights violations by condoning forced labor in the Yadana pipeline project in Burma (Dale 2001; UE 2001; AFL-CIO 2001). The fact that a U.S. Government official was heading a company that allowed for forced labor to occur should have been considered by Congress when creating and amending the TVPA and TVPRAs. And yet no mention was made of the fact that a Government official was involved in such an incident. Ironically in the TVPRA of 2003, Congress only mentions that foreign officials are sometimes corrupt (U.S. Congress 2003). Overlooking their own link to corruption gives the impression that they are hiding their own political agenda. “Despite knowledge of this trafficking, Congress has failed to pass legislation that would oversee foreign labor contractors and ban recruitment fees that often force workers into conditions of debt bondage or modern slavery” (Sperber 2014). These are loopholes that are not taken into consideration because the perspective into the issue has always remained a simple one: those who are trafficked are victims, and traffickers are the only villains.

SECTION FOUR: LIMITATIONS AND CONCLUSION

Limitations

Though I was able to do content analysis of the online data provided by the U.S. Government and the collaborating international organizations, I admit that there were some factors that limited my analysis. In the Methods Section, I had briefly discussed how I had planned to interview trafficked survivors so as to get an inside perspective into this issue. Though I understand and respect that the trafficked individuals did not or would not be able to participate in an interview with me, I believe that their insight to the issue would have been interesting to juxtapose against the political perspective I analyzed.

For future long-term projects related to my topic, I would suggest that if interviews with survivors are still not possible then it would be intriguing to get interviews with some of the organizations that work with victims. Watching the Congressional hearings on C-SPAN allowed me to see the different perspectives that Senators take when discussing a problematic issue; thus, I would be interested to hear what individuals from some anti-trafficking organizations would say. I would like to see if all organizations would use the same approach and language when discussing their personal opinions on the issue. I would compare their responses with the language used in their publications to find possible trends or outliers that provide new insight into the issue. I would have liked to have had more access to panel discussions of non-profit

organizations and international governments interacting and discussing child trafficking. If I had had the opportunity, I would have also been interested in applying data from other countries (both developed and developing countries) to U.S. data, to see what analysis could be done by having a bigger information supply that was focused on international ramifications on child trafficking. I also would have liked to have gone more in-depth into how certain parts of the media (news channels, newspapers, documentaries, etc.) play a role in marginalizing how the public views child trafficking. I had used news articles when creating a coding scheme, but as I observed varying articles between the 14 years I chose to analyze, it was evident that it was a lot of articles to analyze in a short period of time for a small thesis. Overall, if I could continue this project, I would look into doing interviews with anti-trafficking and non-profit organizations and the media's role in constructing child trafficking.

Conclusion

Throughout my thesis, I have tried to discuss and analyze how child trafficking was politically constructed by Congress and its collaborating partners (intergovernmental, anti-trafficking organizations, etc.) between the years of 1999 and 2013. I used a social constructionist approach to better understand how child trafficking was politically constructed as a global social problem. I found that U.S. Government agencies, with divisions dedicated to fighting human trafficking, shared and used the findings of the TVPA presented by Congress. As each agency worked with other departments and organizations, they have referenced the TVPA as their basis for their data. With this demonstration of cooperation and shared beliefs amongst agencies, the U.S. Government

has presented itself to be monolithic in the topic of human trafficking. As the U.S. Government branches shared the same beliefs represented by Congress in the TVPA, I found that after analyzing my data, a recurring theme I found was that the TVPA's findings relied dependently upon the data provided by intergovernmental organizations (i.e. UNODC, UNICEF, ILO, etc.). The Government observed this issue from an outsider perspective as it thought trafficking was only prevalent internationally; only in later years did the Government begin to acknowledge that human trafficking does in fact also occur within our own back yards. As they followed the lead from feminist organizations and non-profit organizations, they had begun to understand the issue as simply "human trafficking" (which was an umbrella term). With this concept, they had initially believed that trafficked individuals were used for mainly sex, and sometimes for labor. Thus they took "human trafficking" and divided it into two main categories: "sex trafficking" and "labor trafficking". As years passed, they began to realize that these two categories are not enough to encompass the many layers of human trafficking; and alas, "child trafficking" and other categories were created to distinguish between the different forms of trafficking.

Though the U.S. Government did eventually acknowledge that child trafficking does occur domestically and internationally, one thing that has not changed throughout the 14 years I covered is: the single perspective when approaching this social problem. Both the U.S. Government and the intergovernmental organizations focused on eliminating this problem, have not seemed to change their tone or perspective when trying to understand the progression of child trafficking. They have approached this issue

with a simple equation: the children are “victims” and the traffickers are the “villains”. By using this equation, they have focused predominantly on how to stop traffickers from trafficking. But they have barely taken into consideration that traffickers are not the only factors that contribute to this issue. There are other factors that help create the supply-and-demand structure of child trafficking, some examples I have mentioned are: consent given by the parents’ of the trafficked child, parents selling their children for trafficking, corrupt businesses that demand traffickers for underage laborers, children giving consent so as to provide extra income or food for their families, etc. These examples are only small indiscretions that I have only begun to scratch the surface by discussing them in this thesis.

Though I did not provide a theory into understanding why Congress constructed child trafficking as it did over the past 14 years, I hope I was able to depict my point that taking a simple approach to explaining the complexity of child trafficking cases is not helpful in understanding or hypothesizing how to fix this issue. Child trafficking is complex and as such, I think Congress and collaborating organizations should really consider discussing the grey area (the loopholes or irregular cases) of child trafficking so as to better comprehend how to address the issue both amongst themselves and the public. Though it is good that Congress and intergovernmental organizations consider themselves focused on simply trying to help children from being trafficked, their method of only looking at traffickers as the problem will not help the problem diminish. The U.S. Government have only discussed how foreign officials can be corrupt and thus have overlooked how its own power can in some cases also be turned corrupt. By ignoring its

own role in some trafficking cases, it allows one to question their credibility in the fight to “combat” child trafficking. And by Congress taking a simple standpoint in which the traffickers are the only considered criminal actors contributing to this problem, makes them seem like they are taking the convenient and selfish way out to most probably benefit from this practice.

Thus if it is in the Congress’ best interest to eliminate child trafficking, it should consider looking into the irregularities that surround child trafficking. Because with my analysis, I found that Congress looks at the immediate cause of child trafficking rather than from a broader standpoint. Continuing to take a “victims-centered” perspective has not helped child trafficking diminish, thus it may be time to consider other approaches to the matter. I hope that those who read this thesis may at least leave with a small understanding of the importance of learning about the different ramifications of child trafficking.

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