A Child is Not a Commodity: Stopping Domestic Child Sex Trafficking

Michelle Tomes

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ARTICLES

A CHILD IS NOT A COMMODITY: STOPPING DOMESTIC CHILD SEX TRAFFICKING

Michelle Tomes *

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INTRODUCTION

I swore never to be silent whenever and wherever human beings endure suffering and humiliation. We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented.

Ellie Wiesel

Only twelve years old, Carissa Phelps ran away from the foster home where her mother had abandoned her, and before long, she ended up in the world of sex trafficking. A man three times Carissa’s age “befriended” a fearful and lonely little girl not ready for a world without parental or state guidance. For just the price of a small meal consisting of a hot dog and a Coke, the man talked her into going to a hotel and prostituting herself to survive. Twenty years after the initial exploitation, and after having sex for money with countless men, Carissa escaped the lifestyle that most girls never break free from. Unfortunately an increasingly common occurrence in the United States, older men often take advantage of runaway children in order to sell them to consumers for sexual use.

The United States is one of the top three destinations in the world for human sex trafficking. Men, women, and children forced into the illegal sex trade each year need advocates for their protection. The U.S. Government estimates that approximately 50,000 women and children are trafficked into the country each year to work as prostitutes in the sex trade. The average age of a person’s entry into prostitution in the United States is between the ages of 12 and 14. Seventy percent of
In 2000, Congress first passed the Victims of Trafficking and Violence Protection Act (TVPA), which recognized the need to prosecute offenders for the act of trafficking human victims. The TVPA was part of Congress’s effort to protect women and children. Because of its establishment of harsher penalties for traffickers of human beings instead of punishing the trafficked victim, the TVPA was a radical step in the right direction. Advocating for the victims of severe forms of trafficking, the TVPA developed stronger penalties for sex traffickers of children and established that all trafficked victims who are minors are unable to consent to the crime of prostitution.

The TVPA expired at the end of 2011. Now, Congress needs to reauthorize the TVPA. Few state statutes properly address this issue, and without the Act, the loss of funding to federal anti-trafficking programs jeopardizes the progress made in the last decade. Domestic sex trafficking of minors is the sexual exploitation of American children under the age of eighteen within the borders of the United States. The current statutes do not properly address how children forced to work as prostitutes under the age of majority should be treated under the trafficking laws.

The TVPA defined child sex trafficking as a severe form of trafficking persons, specifically 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.”


10. The current Act is important to help combat child sex trafficking. Because children are not able to consent to sex with an adult, they should not be treated as prostitutes. Instead, they should be treated as victims. The TVPA should be reauthorized so that there are strong protections on a federal level and states must pass statutes that decriminalize underage prostitution by declaring that youths are not able to consent and therefore should not be prosecuted.


12. Throughout this Article, variations of the descriptive phrases “sexually exploited youth” and “teenage prostitute” will be used. While these phrases are used interchangeably, there is no ill intent behind either of these terms. The intent of this Article is to show that children that are involved in the sex trade are victims and deserve protection and empowerment, not condemnation.
The efforts of Congress are commendable for recognizing that traffickers need to be punished and for recognizing that children are not able to consent to sex. Because the federal government does not usually prosecute prostitutes, there must be stronger state customs and laws to address underage prostitution, a form of sex trafficking.

This Article will argue that Congress needs to reauthorize the TVPA as soon as possible. Additionally, this Article argues that most states have inadequate laws addressing human trafficking and new stronger laws must be written in order to address the problem. These state laws should include provisions stating that children should never be convicted for prostitution because they are unable to consent to sex with adults. Additionally, to reduce the number of child prostitutes, there must also be laws more severely punishing adults who purchase sex from children. Finally, stronger state laws must administer stricter sentencing in the prosecution of the people who traffic children for use in the sex industry.

Part I of this Article will look at the federal government's attempts at solving the problem of child sex trafficking and examine the problems with the current federal government's model. The government has attempted to stop the spread of domestic child sex trafficking through the Mann Act, the TVPA, and the PROTECT Act, but these laws are inadequate to solve the problem. Part II of this Article looks at the state statutes that exist and their strengths and weaknesses. Part III will explain what should be done among the states to better address the problems of child sex trafficking within state jurisdictions. Part IV offers the reasons why Congress and states should adopt this new model, especially if they are serious about addressing the growing epidemic of child sex trafficking.

I. THE EVOLUTION OF FEDERAL ANTI-TRAFFICKING LAWS

A. The Mann Act

Congress passed the first law that outlawed sex slavery in 1910 which became known as the White Slave Traffic Act (Mann Act). The Mann Act criminalized prostitution based solely on the immorality of the act of prostitution, which allowed prosecution of consensual sexual acts. The Mann Act "penalized those 'who knowingly transport[ed] any individual in interstate or foreign commerce . . . with [the] intent that such individual engage in prostitution, or in any sexual activity for

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which [an individual could] be charged with a criminal offense."

By focusing only on the behavior of the victim and not the customers, the Mann Act had a crucial flaw. It criminalized the behavior of the victim much more than it blamed the traffickers. For example, in Caminetti v. United States, married defendants were charged with transporting their mistresses across state lines for a weekend getaway that included sex. In Cleveland v. United States, Mormon men who transported their plural wives across state lines were charged with violating the Mann Act. Used more often to charge defendants with crimes that were immoral rather than charging human traffickers, the Mann Act failed. Additionally, the Mann Act did not address the global scale of trafficking.

Although the Mann Act was a landmark law in its acknowledgement that human trafficking exists, it ignored the well-being of the victims and the need to prosecute traffickers as well as the consumers. The Mann Act also overlooked psychological and physical needs of minors sexually trafficked in the United States. The Mann Act made it possible to prosecute the victim of the crime, therefore blaming the trafficked victims. The Mann Act dealt more with protecting women from their own immorality rather than punishing the traffickers of women and children.

Because of the requirement of intent to convict someone of human trafficking, this amendment proved very ineffective. Proving intent behind sex trafficking is very difficult because it requires proving the offender’s state of mind.

B. Trafficking Victims Protection Act of 2000

The TVPA defined sex trafficking as "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act."\(^2\) The TVPA defines the sex trafficking of minors as "severe forms of trafficking in persons . . . 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."\(^2\)

The Trafficking Victims Protection Reauthorization Act of 2003 mandated campaigns attempting to eliminate sex tourism. Additionally, the TVPA created new civil actions allowing sex trafficking victims to sue their traffickers in federal court.\(^2\) This allows trafficked victims to have a tort claim against their traffickers because Congress recognized their need to recover for the pain and suffering they experienced at the hands of their traffickers. Finally, victims were enabled to take a stand against their traffickers, recover for any losses that occurred, and make a statement to the world that they are no longer a victim.

In 2005, Congress passed the Trafficking Victims Protection Reauthorization Act of 2005, which amended and reauthorized parts of the original TVPA. Again, the TVPA received bipartisan support and passed with a great majority both in 2005 and then again in 2008. The TVPA provides victims of severe trafficking (such as children) with services such as a Guardian Ad Litem Program and access to counsel.\(^2\) By providing victims with these significant programs, the government is making a statement that the victims of sex trafficking are important, deserve to be heard, and are entitled to legal counsel.

Throughout the evolution of the TVPA, Congress addressed the shortcomings of the previous Act by redefining conditions, adding new definitions, and granting victims more rights. The development of the TVPA displays the difficulty Congress has had establishing adequate remedies for sex trafficking through federal law.

One major flaw in the TVPA is that it ignores the role of the people buying sex from sexually exploited children. By ignoring the role of consumers in child sex trafficking, it seems as though Congress is allowing these criminals to go free without consequences. For example,

If a 45-year-old-man had sex with a 14-year-old-girl and no money changed hands . . . . he was likely to get jail time for statutory rape . . . . If the same man left $80 on the table after


\(^{23}\) 22 U.S.C. § 7102(9).


\(^{25}\) Id. at 413.
having sex with her, she would probably be locked up for prostitution and he would probably go home with a fine as a john.26

The TVPA should be amended to include that law enforcement agencies must investigate the age of any alleged sex trafficking victim who appears to be underage before investigating the issues of consent.27

Finally, the TVPA should focus more on domestic victims of child sex trafficking.28 Whether the child being trafficked comes from India or Indiana, the children are victims and should be treated as such.

C. The PROTECT Act

The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (PROTECT Act) strengthens federal legislation to protect children and prosecute the people that sexually exploit children.29 The PROTECT Act incorporates the Truth in Domain Names Act (TDNA). The TDNA prohibits people from using misleading domain names with the intent to deceive a person into seeing pornography or other obscenities.

The PROTECT Act increases the maximum potential incarceration rate of convicted sex traffickers from fifteen to thirty years and removes the intent needed for any individual involved in the organization or participation in sex tourism.30 Additionally, it eliminates the statute of limitations for child abuse and child abduction cases. This was significant for children kidnapped and trafficked and then forced into prostitution. Instead of kidnappers hiding behind the statute of limitations, the traffickers can be charged and prosecuted for all aspects of their crimes.

The PROTECT Act allows law enforcement to use wire taps to help combat sex trafficking.31 By allowing law enforcement to use wire taps, authorities are permitted to delve deeper into the secretive world of child sexual trafficking.

Additionally, the Act makes it harder for defendants accused of extreme crimes against children to be awarded bail.32 The PROTECT

27. Id. at 1144.
28. Id. at 1144–45.
29. Buckwalter et al., supra note 24, at 413.
32. Id.
Act produces a rule that requires life imprisonment for those who commit two extreme sexual assault crimes against a child, and it restricts judicial ability to reduce sentences for those convicted of sexual assault.33

The major issue of the PROTECT Act comes from its focus on children who are not American citizens.34 While international children deserve strong protections from sexual exploitation, a major focus of the federal government must be on stopping domestic sex trafficking. Displayed in the Department of Justice’s own statement, the intent behind the PROTECT Act is to “make it illegal for U.S. citizens and legal permanent residents to travel outside the United States to engage in sexual acts with children.”35 These words say nothing about the importance of the PROTECT Act to domestic children. Although definite advantages of the PROTECT Act exist, there should be stronger laws exclusively concerning domestic child sex trafficking.

II. CURRENT STATUTES WITHIN STATES

A. Current State Statutes Concerning Child Sex Trafficking

Until 2003, there were no anti-trafficking laws in any states.36 Now there are more states that have anti-trafficking laws than states that do not.37 Forty-five states have passed anti-trafficking legislation. However, these states’ laws vary, thus creating huge inconsistencies.38 Because states are often in the best position to identify and prosecute victims of sexual exploitation, states should enact strong statutes that declare minors as victims, rather than willing participants of prostitution, and prosecute consumers of child sex trafficking.

State law enforcement officers often arrest children believed to be prostitutes and incarcerate them at juvenile centers. The children are

33. Id.
34. Id. at 915.
37. Buckwalter et al., supra note 24, at 416.
then held for weeks on material witness warrants. By holding minors without charging them with a crime or releasing them to child protective services, their families, or another organization, the police are treating victims of sexual exploitation in a way that is extremely harmful. Children of sexual crimes are extremely vulnerable and state statutes ignore their vulnerable status.

In order to help states, the Department of Justice created a Model Anti-Trafficking Criminal Statute (DOJ Model statute) that describes three criminal felony crimes. This statute allows any child under the age of eighteen to be considered a victim and not a criminal. Like the TVPA, however, the DOJ Model statute has a major flaw: it does not give children immunity from any crimes they commit as a result of their being trafficked. Extending immunity to trafficked victims would prevent minors from being prosecuted for prostitution or other crimes they only committed as a result of being trafficked (i.e., stealing or lying to the police).

Forced prostitution of juveniles is considered a human rights violation in Minnesota through the legislature’s Safe Harbor for Sexually Exploited Youth Act (SHSEYA). Additionally, the Act attempts to give amnesty to those juveniles convicted of prostitution. The Minnesota legislature declared that children have the same basic human rights of every citizen and Minnesota has a duty to protect those rights.

B. The Inadequacies of the Current Statutes and the Lack of Statutes

Current conditions of state statutes concerning stopping or prosecuting child sex trafficking is very limited. If there is no connection to interstate commerce, any exploitation of children will be prosecuted in state, not federal courts. Only ten states have statutes with specific provisions that address the sexual trafficking of children.

Washington was the very first state to pass legislation that criminalized human trafficking in 2003. Soon after the TVPA became

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41. Id. at 106.
43. Id.
44. Buckwalter et al., supra note 24, at 417.
45. Id. at 418.
a law, the Washington legislature passed its own statute that led the way in state statutory reform. Under Washington’s laws, anyone who trafficks a person will be guilty of a first degree crime.46 Additionally, Washington conducted a workshop to establish the needs of trafficking victims, which included examining whether victims needed legal assistance, housing, or medical needs.47 The Washington statute still needs a provision for protecting victims and for the stronger prosecution of consumers.48

States rarely attempt to stop the “johns” that make up the demand for the sexual exploitation of children.49 More often than not, the only punishment that the customers receive is a citation that is more like a ticket.

Only nine states and the District of Columbia offer state funding to benefit victims of sexual trafficking.50 This is a remarkably low number considering the traumatic nature of the crime of sex trafficking. Victims of sex trafficking usually need counseling, access to adequate health care, and legal services to deal with their experiences.

A victim often does not wish to report instances of abuse by their traffickers because they are honestly scared of the police, based on their own experiences or what their traffickers have told them. Victims are also likely to experience abuse by law enforcement or other authority figures that make them less likely to speak up in the future.51 Even for minors, the crime of prostitution is very disreputable, and as a result, officers are more likely to treat the child prostitutes unsuitably. Law enforcement officers need to remember that they are victims of exploitation and not criminals.

Federal law enforcement do not have adequate resources to combat the sex trafficking problem on their own; states must step in and help. All states need to have criminal anti-trafficking legislation in order to avoid being a safe haven for traffickers, who could travel to a state without legislation enforcing prosecution.52 If every state in the country had strong anti-trafficking laws, there would be nowhere for the traffickers to run.

Consequently, there must be a strong uniformity among state laws. If there is a weak statute in one state, traffickers will set up their

46. Id. at 419.
47. Id.
48. Id. at 420.
49. Primrose, supra note 38, at 327.
50. Harlan, supra note 26, at 1141.
51. Golke, supra note 42, at 209.
businesses in that state. For example, in Minnesota, sophisticated trafficking rings became aware that the laws are stricter there, so they moved much of their business to surrounding states where the laws are weaker. Traffickers should be guilty of the same crime and face equally severe penalties no matter where they set up their businesses.

A trafficker can earn up to $30,000 per child, with younger children usually raising more money for their traffickers. Therefore, children are a huge commodity and their traffickers are not going to go away without some significant changes in federal and state legislations punishing them.

III. How to Fix the Problem

A. Stop Prosecuting Domestic Juveniles for Prostitution

States must stop the prosecution of minors as prostitutes. Every state criminalizes prostitution (except certain parts of Nevada) and states integrate their penal codes into their juvenile court systems. In juvenile court, minors face the same crimes and penalties that adults face in their respective court. The current system treats young girls the same way they treat above-age criminals, which terrifies them and results in them often refusing to seek help.

Because federal and state laws hold that children are unable to consent to sex until the age of majority (defined individually in each state and at eighteen in the earlier mentioned federal statutes), children are unable to consent to prostitution. Therefore, states should not prosecute children for doing something they cannot legally consent to do. Instead of prosecuting juveniles for prostitution, states should give the juveniles access to medical services, legal services, and counseling for their aid as victims of a crime.

Between the years 2000 and 2006, the Florida Department of Juvenile Justice charged and prosecuted 364 children as prostitutes. In Las Vegas, over 19 months from 2006 to 2007, 139 juveniles were prosecuted for prostitution and of those, 9 reoffended. These two examples show a definite contradiction with TVPA laws, displaying the

53. Id.
54. Id.
55. Geneva Brown, Women and Children Last: The Prosecution of Sex Traffickers as Sex Offenders and the Need for a Sex Trafficker Registry, 31 B.C. THIRD WORLD L.J. 1, 7 (2011) [hereinafter Brown, Women and Children Last].
56. Annitto, supra note 19, at 25.
57. Primrose, supra note 38, at 328.
58. SMITH ET AL., supra note 11, at 52.
59. Id. at 55.
need for every state to eliminate prosecutions against juvenile prostitutes through statutes.

If a police officer suspects that a prostitute is underage, until it is verified that he or she is not underage, the police officer should appoint an advocate to help make the arrest process less traumatic for the child. Often, because of material witness holds, juveniles are not charged with a crime, but instead held for long periods of time without any access to legal counseling. Holding juveniles until they agree to testify against their “pimp” or trafficker, or whatever other motive law enforcement has in mind, violates the juvenile’s right to due process.

B. Appointing a Youth Counselor to Assist in the Interviewing of Minors

There are a number of causes that put a girl more at risk for becoming a victim of sex trafficking. Even if police have been sufficiently trained to properly identify an underage victim and how to interview them, underage victims should still be appointed some type of youth counselor. This would allow the victims to better understand their situation, how they can help themselves by testifying against their trafficker, and how to get out of the prostitution lifestyle by starting to deal with emotional scars. Often juvenile victims fear law enforcement, and appointing a counselor who is solely there for the victim’s interest can help build trust and help the victim heal from the trauma and injuries they experienced.

Additionally, if the victim has developed Stockholm syndrome and has feelings of affection toward her traffickers, a counselor would be able to help rehabilitate her. Although prosecution of the trafficker is extremely significant, the process of healing for the victim is something that must not be taken for granted. If the victim does not have the proper resources to deal with the situations from the past and the future consequences (i.e., the trial, pregnancy, and disease) the victim has a stronger chance of being re-victimized.

ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) has compiled and developed materials to help rehabilitate children who have been sexually abused and children who have been exploited for use in sex trafficking. The guide explains various aspects of counseling children.

60. See Anitto, supra note 19, at 44 (arguing that the detention of girls on a material witness hold is a form of secondary victimization and that the Las Vegas Metro Police are not abiding by the international standards for human rights set forth by the United Nations).  
63. Id. at 209.
and can be used to help train counselors who should be appointed to help child victims. The organization claims that some type of counseling is necessary for every child who has been a victim of sexual exploitation.64

Guidelines exist that counselors can easily access allowing them to determine whether the victim’s rehabilitation program has developed successfully.65 The guidelines set up by ECPAT International in order to measure the success of whether the cycle of abuse has been ended consist of determining whether (1) “the child is no longer taken advantage of financially;” (2) “the child has more control in power relationships;” (3) “the child has a higher opinion of him/herself;” (4) “the child is less subject to physical ailments or has access to medical care;” (5) “the child is aware of and insisting on birth control, and ways of protecting him/herself from sexually transmitted diseases;” (6) “the child has a reduce dependency on substances;” and finally (7) “the child has plans and a clear goal to leave the CSEC.”66 If these seven steps have taken place, then the child has successfully developed coping mechanisms that will help the victim adequately process their situation.

C. Dealing with the Johns by Stronger Prosecution and Education

Although this Article focuses on underage sex trafficking, it will very briefly discuss the idea of beginning schools for johns to help educate them about sex trafficking. The novel idea of a john school started in San Francisco in 1995. The new concept of an education program for offenders—which allows offenders to avoid a ticket by successfully attending an education program—has shown to be successful.

Trafficking in humans has rapidly become an industry that generates billions of dollars in profit every single year.67 This industry is an efficient one that is very responsive to its clients’ needs.68 For example, the male demand for “clean girls” or “virgins” has led to a direct increase in child prostitution.69 As a result, sex trafficking victims are increasingly younger and it is not uncommon to find child prostitutes in

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65. Id. at 108.
66. Id.
68. Id. at 666.
69. Id. at 666–67.
every major city in America.\textsuperscript{70}

Johns are surprisingly ordinary men, typically around thirty years old, and they are usually married with a full-time job.\textsuperscript{71} Johns seek prostitutes often out of a desire to have a certain kind of sexual activity that their primary partner does not wish to participate in. Johns often find a thrill in having an illicit sexual encounter, and often they wish to fulfill a need to feel power and control over another person.\textsuperscript{72} It is important to establish that johns are average men, who have become desensitized to the sexual objectification of women and children.\textsuperscript{73}

Although the First Offender Prostitution Program ("FOPP") in San Francisco is new, out of 747 participants, 100\% said they learned something.\textsuperscript{74} The program's goal is to expose the truth about the sex industry (like the abuse of prostitutes by their pimps and how many women are forced into the industry) and to teach men about the health hazards of soliciting prostitutes.\textsuperscript{75} The truth about the success comes from the fact that of the 2200 men who participated in FOPP, only 18 were rearrested for an additional offense of soliciting a prostitute.\textsuperscript{76}

States should adopt this program when it comes to johns that have been found soliciting prostitutes who are 18 or older, but the program should not be used when it comes to johns who solicit underage prostitutes. Because children are not allowed to consent to sex, these johns are guilty of statutory rape; they should not be given a ticket for it, and should be arrested and prosecuted for soliciting an underage prostitute. Additionally, because many of the prostitutes who are over 18 started prostituting when they were minors, this program would help all the victims of sex trafficking.

While johns may not be buying sex from a girl under the age of 18, it is extremely likely that the woman he is buying sex from was a child prostitute who was unable to get out of the life of prostitution. Yet, most men are unaware of this fact. The male demand for sex trafficking sustains the trafficking industry. Therefore, one of the most significant steps for the United States to take in order to eradicate child sex trafficking is for states to adopt a multistage strategy that includes stronger penalties against repeat johns as well as an initial educational program.

\begin{itemize}
\item \textsuperscript{70} Id. at 667.
\item \textsuperscript{71} Id. at 670.
\item \textsuperscript{72} Id. at 671--72.
\item \textsuperscript{73} Id. at 673.
\item \textsuperscript{74} Id. at 677.
\item \textsuperscript{75} Id. at 676.
\item \textsuperscript{76} Id. at 676--77.
\end{itemize}
D. Adopt Stronger Statutes Against Traffickers

The United Nations has defined human trafficking 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 . . . for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation. 77

This definition is very broad, and the use of the word exploitation as the crime that is being associated with sex trafficking is very important. The word exploitation is broad enough to cover all types of criminal trafficking behavior. The U.N. definition of sexual exploitation is "any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another." 78 This definition allows more prosecutions under the trafficking statutes and therefore it protects more victims. Although it is difficult to assess the economic profits that traffickers can make by exploiting victims because of the secrecy behind the process, the International Labor Office (ILO) estimated it is a 33.9 billion USD a year business, and from that, 27.8 billion comes from forced commercial sexual exploitation by itself. 79 This is a tremendous amount of money, following only the trafficking of drugs and guns.

State law enforcements are the people who deal with the majority of juvenile prostitution; therefore, state law is where the strong actions need to be put into place. The child trafficked victim's testimony is essential to the prosecution of traffickers. Therefore, states should adopt the U.N. definition of human trafficking and sexual exploitation in order to cover all types of trafficking behavior. This definition is expansive enough to allow prosecution for anyone involved in trafficking from the


79. Erin I. Kunze, Sex Trafficking Via the Internet: How International Agreements Address the Problem and Fail to go Far Enough, 10 J. HIGH TECH. L. 241, 248 (2010).
traffickers to the consumers.

Since Congress enacted the TVPA, a larger number of sex trafficker prosecutions have occurred. Yet, the sentences are very light considering their crimes are a violation of their victims' human rights.

Very often in these cases, prosecutors use plea deals by giving the traffickers a lighter sentence to help save the trafficking victims from testifying against their traffickers in court.

Under the TVPA, the average prison term for sex traffickers is 158 months. Under the PROTECT Act, any person who has a previous conviction of any offense related to sexual exploitation of children—faces increased prison sentences.

E. Adopt Stronger Penalties for Consumers

Consumers of sex trafficking are those persons who buy sexual services of men, women, and children. If state laws were to strongly prosecute the consumers of human trafficking, especially ones who demand the services of underage victims, this would dissuade traffickers from exploiting humans and thus lower the demand.

Although the federal laws punish sex traffickers and consumers, they tend to be used out of proportion against the victims of the sex trafficking and not against the intended targets. By ignoring the consumers, it seems as though society places the blame solely on the victim of the sex trafficking.

Sweden is the very first country to criminalize the customers of sex trafficking, making it illegal to buy sex. The Act Prohibiting the Purchase of Sexual Services enacted in 1998 held that prostitution is a serious oppressive action against women and children, and it targeted the demand side of the problem instead of going after the prostitutes.

By enacting stronger criminal penalties for first time offenders and encouraging aggressive law enforcement, the conviction rates for johns rose 40% in one year. Remarkably, this system worked and after two years the number of johns fell by 75% and the number of female prostitutes dropped 50%. Although our criminal system is different

81. Id.
82. Mathews, supra note 14, at 690.
83. Id. at 692.
84. Diep, supra note 80, at 326.
85. Id. at 323–24.
86. Yen, supra note 67, at 678.
87. Id.
88. Id. at 679.
89. Id.
than Sweden’s, the United States can look at Sweden’s system and make it work in our own. If the United States were to strongly convict consumers of sex trafficking, there would be fewer solicitations of prostitutes.

F. Form an International Sex Trafficking Registry

While ultimately this Article focuses on how to ameliorate the domestic system of sex trafficking, the idea of forming an international trafficking registry deserves some attention. In order to prosecute traffickers effectively, an international trafficking registry would increase public support for prosecution and deter traffickers from trafficking on a global scale. Furthermore, cooperation between states allows law enforcement to share information about traffickers.

In the United States, mandatory sex offender registration began in 1994 with the passing of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act. In 2006 Congress passed the Adam Walsh Act (AWA), restructuring the sex offender laws. The registry proved very effective in deterring offenders from repeating sexual abuse. The registry became a deterrent for pedophiles by holding sex offenders responsible for their crimes, even after their release from prison.

Additionally, states need to work together in order to help combat trafficking across state lines. By enacting similar statutes with homogeneous punishments, states can make it harder to escape one state’s anti-trafficking laws by moving to another. Because sex trafficking occurs in every state in the United States, states need to work together to combat the problem.

By applying sex offender laws to sex trafficking on an international scale, the idea is that more international cooperation will expand and the database would help enforce trafficking laws internationally. If countries were aware of an offender’s history of sex trafficking, the countries would know when offenders enter the country, allowing the state to observe the person as part of investigating evidence of sex trafficking rings. Having international cooperation would lead to more convictions and a stronger stand against sex trafficking.

Furthermore, the registry should develop information concerning known traffickers based on any warrants that were issued by the state

90. Brown, Women and Children Last, supra note 55, at 55.
91. Id.
92. Id. at 32.
93. Id. at 37.
94. Id. at 38.
entering information or by prior convictions. A registry would assist other nations by working with Interpol to address sex tourism on a global scale. Because sex trafficking even domestically (children brought into the United States from other countries) is an international affair, one of the greatest ideas put forth to help combat it internationally is this sex trafficking registry.

G. Improve the Training of Law Enforcement

Like many citizens, local police departments may be unaware that human sex trafficking occurs in their area and other areas throughout the United States. The departments may even be ignorant that it is a federal crime (or will be when the TVPA is reauthorized). The government needs to take on this important task of training law enforcement officers and not simply relying on non-governmental agencies for such training. Because the government has passed anti-trafficking laws, it is apparent that they find the problem abhorrent and want to change the system. By training officers, an increase in consumer and trafficking convictions will take place.

The Department of Justice has begun encouraging law enforcement officials to stop viewing juvenile prostitutes as criminals, but as victims. One of the biggest problems is identifying sex trafficking victims. Law enforcement officers are not properly trained in how to identify victims of domestic sex trafficking. Additionally, without proper training, these officials do not understand why these children do not trust them and why they are so afraid of their pimps or traffickers.

Officers should also be trained in recognizing the significance of the abuse faced by these victims, especially child victims. Police would be better prepared to interview them about their experiences if they had proper training. By training officers, they will gain knowledge that allows them to identify different types of trafficking, differentiate between severe and non-severe types of trafficking, and distinguish

95. Id.
96. Id. at 39.
97. Buckwalter et al., supra note 24, at 433.
98. Id.
101. Golke, supra note 42, at 214.
smuggling and trafficking. For example, by not wearing their firearms during the interviews with victims, the officers could begin to build trust with the victims because the victim would feel less threatened. Because most of these victims have never had anyone to trust and have often been told for years how the police are not going to help them, the police need to begin to realize that these children need special care and attention.

Law enforcement agencies also need more access to tools that can be used to investigate sex trafficking crimes. While better training is essential to helping eradicate the problem of juvenile sex trafficking, officers must also be able to have access to surveillance tools and wiretap tools to infiltrate the secretive world of sex trafficking.

IV. WHY WE NEED STRONGER STATE STATUTES AND FEDERAL LAWS

A. To Be a Role Model for Other Nations

The United Nations started the U.N. Conventions on the Rights of the Child in an attempt to ensure that children have human rights (which include civil, social, health, and political rights) like adults. The United States and Somalia are the only two countries that have not ratified the U.N. Conventions on the Rights of the Child. By ratifying this convention, countries prove that they acknowledge that children have human rights and reaffirm their commitment to protecting their rights for health care, education, civil and social studies, and legal rights.

Although international law is only binding on those who agree to be bound by it, the U.N. attempt at showing the entire world that children had these rights is an amazing accomplishment which the United States must ratify. Even with the U.S. refusal to abolish the death penalty, the United States does not allow the death penalty to be used on children. Therefore, the United States can still ratify the U.N. Conventions on the Rights of the Child because its own laws have already displayed the higher status of children.

Although there are many U.S. federal and state laws concerning sex trafficking, many countries view the United States as hypocritical. The United States claims that the rights of children are important and

103. Buckwalter et al., supra note 24, at 434.
104. Casey, supra note 100, at 53.
105. Kittling, supra note 31, at 920.
107. Mathews, supra note 14, at 697.
deserve protection but the United States refuses to ratify the Convention on the Rights of the Child (CRC).

One of the main arguments against ratifying the CRC is that human rights treaties jeopardize basic rights coming from the U.S. Constitution, and ratifying the treaties will erode the American legal justice system. Additionally, they claim that the different significant provisions of the treaties are non-self-executing; and therefore by attaching "sweeping declarations," the United States has fulfilled its obligations. By not ratifying the CRC, America seems to put nationalistic ideals above the ideals of human rights advocates.

The refusal of the United States to ratify human rights conventions and all the while mandating standards to other nations displays hypocrisy. If the United States refuses to ratify the different conventions and agrees to the standards that are set up by the United Nations, then other nations will be less willing to follow the guidelines the United States adopts and recommends to other countries. Additionally, other nations may not be willing to help the United States in retrieving stolen American children, to help prosecute their nation's citizens or be willing to extradite U.S. citizens accused of sex trafficking.

The United States must show the world that children are important and worthy of changing the laws for their safety. By enacting stronger state statutes as well as federal statutes, prosecuting the customers, declaring that children cannot be prosecuted as prostitutes, and severely prosecuting the sex traffickers, the United States can be an example for other nations.

B. To End the Suffering of Children

Sexually trafficked children are more than just kids who have been sexually abused, although that fact alone makes it difficult enough for them to recover. Many children come out of being trafficked with sexual diseases, their own children, and both psychological and physical scars. These children have lived lives full of unimaginable pain.

109. Id. at 211.
110. Id.
111. Mathews, supra note 14, at 697.
and strife.

To understand the horrendous nature of the crime of sex trafficking, it is important to look at the suffering that occurs to the victims. Eighty percent of trafficking victims report that they have endured violence-induced injuries.\textsuperscript{114} This is a huge percentage of victims who have been physically hurt while they were being held as sex slaves. Children who are forced out of their lives by being kidnapped or children who run away from home because of physical or sexual abuse only find themselves in the middle of a new abusive relationship. These children deserve compassion and protection from the states and the federal government.

Whether abused by sex traffickers or by pimps,\textsuperscript{115} the suffering of the child is no different. Some of the violence that victims suffer include beatings, burnings, rape, suffocation, and being humiliated in front of other victims.\textsuperscript{116} Whether it is emotional abuse or physical abuse, the abuse displays why the children are often terrified to testify against their traffickers or tell anyone what is happening to them for fear of repercussion.

Many child sex trafficking victims suffer from Stockholm syndrome, which occurs when a victim forms a close bond with his or her captor even though the perpetrator is often abusive.\textsuperscript{117} Children suffering from Stockholm syndrome need adequate counseling for this or they will either run back to their pimps or will refuse to assist the police in prosecuting their offender.

Children who are trafficked for sex often turn to drugs and alcohol in order to mask the pain of their exploitation.\textsuperscript{118} Because of this, once the victims are freed from their exploiters, they need access to proper drug treatment facilities. Federal funds should be set aside for the assistance of the child victims in the area of health care and psychological treatment.

In many cases the child victim who assists in prosecuting their pimp has been incarcerated for the duration of the criminal case against their pimp, then released back into the situation or released without any assistance at all.\textsuperscript{119} By treating the children as criminals and locking them up, this leads to a re-victimization. Additionally, children need to be protected after the traumatic event of testifying in court, and the state or the federal government owes them more than just dropping them

\textsuperscript{114} Primrose, \textit{supra} note 38, at 315.
\textsuperscript{115} The author sustains that pimps and sex traffickers are indistinguishable.
\textsuperscript{116} Primrose, \textit{supra} note 38, at 316.
\textsuperscript{117} \textit{Id.}
\textsuperscript{119} Brown, \textit{Little Girl Lost, supra} note 39, at 501.
Carissa was able to escape from the world of sexual exploitation, but many children are not that lucky. A child is not a commodity. Because of the nature of the sex trade, the demand for children has led to foreign children being trafficked inside the United States as well as domestic children trafficked from within the United States. Without implementing huge changes in anti-trafficking legislation, the demand for children to be used sexually will continually grow and there will be a prolongation of the new slave trade.

Often the customer of the child prostitute is just issued a citation if they are arrested at all, while the juvenile prostitute is the one who is prosecuted and re-victimized by the system. This is an abomination that needs to be strongly addressed by both state legislatures and by reauthorizing the TVPA. If there are no actions taken against the consumers, the sexual exploitation of children will not just miraculously go away.

Through the reauthorization of the TVPA, the adoption of strong state statutes, the decriminalization of juvenile prostitution, the conviction of customers, and stronger punishment for reoffenders, the growth of sex trafficking in the United States can be severely diminished. The United States can develop a strong voice for protecting children and standing up against sex trafficking by adding these measures as stronger penalties for the traffickers and pimps.

As a society, the United States must take a stand. No longer can the United States stay silent on domestic sex trafficking. Silence only encourages the traffickers of children to continue their crimes. If the United States steps up and takes a stronger stance against child sex trafficking at both the federal and state levels, other nations will follow its example.