

Marshaling Every Resource: State and Local Responses to Human Trafficking

Dessi Dimitrova, Editor

A collection of essays and commentary sponsored by the Policy Research Institute for the Region at the Woodrow Wilson School of Public and International Affairs, Princeton University, and the Vera Institute of Justice.

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The Policy Research Institute for the Region was established by Princeton University and the Woodrow Wilson School of Public and International Affairs to bring the resources of the University community to bear on solving the increasingly interdependent public policy challenges facing New Jersey, metropolitan New York, and southeastern Pennsylvania.

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Cover design by Leslie Goldman
Printed by PrintMedia Communications, Anaheim, CA
Produced by the Office of Communications, Princeton University

The views expressed in this publication are those of the authors and are not necessarily the views of Princeton University or its Policy Research Institute for the Region.

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Preface

According to the U.S. Department of State Trafficking-in-Persons (TIP) Office an estimated 600,000 to 800,000 people are trafficked across international borders annually, 80 percent of whom are female, and up to up to 50 percent of whom are children. Victims of trafficking are considered commodities, used and reused while being held in bondage and forced to perform labor that ranges from unpleasant at best to criminal at worst. The open market for human beings is a black mark on our global society and on our local communities.

For those of us in the policy world, trafficking has proven a truly intractable problem. A number of factors make trafficking in persons a particularly complicated issue to address. These include the illicit nature of the crime, which makes it difficult, if not impossible, to measure the scope of the problem; competing views about the definition and dynamics of trafficking, which create challenges in creating anti-trafficking legislation; and the globalization of criminal networks, which makes it hard to locate and exercise jurisdiction over many pieces of trafficking networks.

Moreover, while, in the U.S. at least, the vast majority of law enforcement and service delivery resources are located at the state and local level, remedies to trafficking have historically been pursued mainly in Washington. More recently, however, states, and even a few cities, have started to take trafficking on as well, realizing that they are vital partners in the struggle against trafficking.

As international, federal, state, and local authorities have turned their attention to combating trafficking, academia has remained strangely silent. There is very little work done on trafficking, and much of the research that does exist is focused on one element of the problem: the need for more and better data.

So when the Policy Research Institute for the Region and the Vera Institute of Justice came together to consider a joint project on trafficking, we quickly decided that we wanted to concentrate our energies elsewhere. While the data deficit is real and a critical problem, we wanted to try to advance our thinking at least a little bit on what we can do now to fight trafficking, even as we wait for better data. Since the Policy Research Institute's work focuses on the New York—New Jersey—Pennsylvania region, it was natural for us to look first at the growing trend toward state-level anti-trafficking legislation. As it turned out, all three states either have or are working to pass legislation, and even some of the major metropolitan areas have begun their own trafficking efforts. These efforts became the center of our project.

The work that follows will, we hope, serve as a thoughtful introduction to state and local anti-trafficking legislation. It highlights the daring work some states are doing in this field, but also catalogues the difficulties that states are having in putting together legislation that makes an impact on the ground. The challenges states and localities face in combating trafficking are not the same as the UN's or the federal government's, but they are no less daunting and will require the combined efforts of policymakers, law enforcement and service providers, and the research community to meet.

We are very grateful to our partners at the Vera Institute for their help on this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'AS', followed by a period.

Anthony Shorris
Director
Policy Research Institute for the Region
Princeton University

State Law and Human Trafficking

Jim Finckenauer
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BACKGROUND

A. DEFINITIONS

Human trafficking is both a relatively new and yet a very old crime. Its definition is as new as the 2000 *UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* and the *U.S. Trafficking Victims Protection Act (TVPA)* of 2000 that was reauthorized in 2003 and again in 2005 (United Nations 2000; United States 2000). With respect to its makeup, however, human trafficking is as old as slavery, servitude, kidnapping, and prostitution, as well as assault, rape, and extortion. The latter acts have been historically outlawed by both state and federal laws.

The United Nations adopted its *Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others* as far back as 1949, but it was more than a quarter of a century later—in the 1980s and 1990s—that we saw a rapid growth of global interest in what have come to be defined as human smuggling and human trafficking. Among the many reasons for this increased attention and concern are the development of a global

economy that created new supply and demand equations; the increased ease and rapidity of international travel; and new information technology such as the Internet.

Before examining the legal and policy responses to these old but newly defined problems, it is important to understand the context in which and from which the latest responses have developed. We will begin by addressing the difference between human smuggling and human trafficking.

Briefly, smuggling is the facilitation of or participation in the illegal entry of a person or persons from one country to another. The person being smuggled is generally cooperating and thus there is no actual or implied coercion. Smuggling always involves crossing an international border; the smuggled person is complicit in the crime; and the person is free after arrival at their destination to leave, to change jobs, etc.

Human trafficking, in contrast, must contain the elements of force, fraud, or coercion. There must be forced labor and/or exploitation, which means that trafficked persons are not complicit but are victims. Trafficking need not involve the actual movement of the victim, nor is there any requirement for crossing an international border to qualify for this designation.

B. COMPLICATIONS IN THE DEFINITIONS

There are three complications in defining “trafficking”: (1) conflation of human and sex trafficking; (2) conflation of trafficking and smuggling; (3) what constitutes “sex trafficking.”

Human trafficking, or what is designated by the TVPA of 2000 as “severe forms of trafficking in persons,” is further delineated by U.S. law into *sex trafficking* and *trafficking involving forced labor*, e.g., involuntary servitude, peonage, debt bondage, and slavery. Despite this delineation, there has been in the eyes of many a conflation of human trafficking and sex trafficking, and that has resulted in considerable controversy with respect to both the UN Protocol and the U.S. legislation. For example, the Council on Foreign Relations referred to what they viewed as a virtual overlap as “both incorrect and dangerous, taking needed attention away from other kinds of trafficking (such as forced labor, bonded labor, and slavery-like working conditions)” (Council on Foreign Relations 2006).

One of the difficulties of maintaining a distinction between smuggling and trafficking for legal and policy purposes is that many trafficking cases begin as smuggling cases (Shriner 2006). Recognizing that individual case scenarios can vary widely, at some point the elements of force, fraud, or coercion must enter to transform a smuggling case into a trafficking case. To complicate matters further, such crimes as rape, assault, and kidnapping may be included in a smuggling case *without* necessarily making it a case of trafficking. The legal complexities involved begin to become evident.

Beyond what some regard as a disproportionate emphasis on sex trafficking, there is even further controversy about what actually constitutes sex trafficking. Exemplary of this latter dispute and debate are the positions of the Coalition Against Trafficking in Women (CATW) on one side, and a loose affiliation of organizations known as the Human Rights Caucus on the other. The latter is comprised of such other affiliations as the Global Alliance Against Trafficking in Women and the Network of Sex Workers Project.

CATW and their supporters argue that any and all forms of recruitment and transportation for prostitution are trafficking. Others, including the Human Rights Caucus, argue for a more expansive definition that includes trafficking of women, men, and children for different types of labor and agriculture, as well as prostitution. In addition, stakeholders or interest groups such as CATW argue that there is never consent to prostitution, and thus all prostitutes are by definition victims of trafficking. Some of those on the other side counter that adult women may indeed consent to engage in prostitution as a form of legitimate labor, and are thus not victims.

C. POLITICS, POLICY, AND PRACTICE

There are also fundamental policy questions implicated in the trafficking debate—questions that apply in state capitals as much as in Washington or at the UN. How broadly or narrowly are trafficking offenses to be defined? Who should be regarded as victims and provided with victims’ services? Are the subjects of trafficking seen as victims or as accomplices?

What about the victim's sexual history or prior convictions for prostitution? Can such history be a defense against a charge of human trafficking? Etc.

In spite of the presence of these very real issues, a phenomenon that may appear in this policy debate is the role of what has been termed "symbolic politics" (Edelman 1964). In a nutshell, symbolic politics refers to a policymaking situation wherein perceptions trump substance; where the appearance of action, sometimes without actually doing or intending to do anything, becomes paramount in reassuring political constituents. According to this particular view, such political acts as the passage of legislation with respect to certain issues are largely symbolic.

Because of the sensational media coverage of sex trafficking cases and their related horror stories, the actual magnitude and seriousness of the problem—the true reality of it—may have been vastly overstated. Given the current state of the data, this is an unknown at the moment.

There are, however, some signs that hyperbole has indeed occurred on both the national and international scenes, and thus could also be true at the state level. For instance, earlier estimates of up to 4 million trafficking victims worldwide have been scaled back to 800,000. U.S. estimates of 50,000 trafficking victims entering the United States annually (O'Neil 1999) have been reduced to between 14,500 and 17,500.

Over the five year period since the TVPA was passed (2001–05), there have been just 59 cases filed for prosecution under that law. And of the 25,000 T visas made available (for minor victims or victims over the age of 18 who have complied with reasonable requests for assistance in the investigation and prosecution of acts of trafficking), only some 1,000 have actually been awarded. There could be various explanations for these unexpectedly low numbers, but one possibility that cannot be ignored is that the numbers are just not there in the first place.

Likewise, it may be that the alleged role of organized crime groups in human trafficking has also been exaggerated, again perhaps to heighten the perception of the seriousness of the problem (Jahic and Finckenauer 2005). So far, there is little hard evidence of organized crime involvement in the trafficking of persons. This is not to say that committing this crime does not indeed require some organization, but that that level of organization should not be equated with traditional organized crime group involvement.

THE UNITED NATIONS AND THE UNITED STATES DEFINE THE PROBLEM

The United Nations Protocol of 2000 was the product of two years of negotiations among UN member states' representatives, UN staff, various experts, and representatives of a variety of nongovernmental organizations. The aforementioned debate and disagreement about prostitution, and whether force or deception should be required means elements, were a major part of those negotiations.

The Protocol stipulates the component acts of human trafficking to be the recruiting, transporting, transferring, harboring, or receiving of persons. These acts must be committed using force (or threats of force), coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability, or by gaining the consent of a third party. The Protocol defines the purpose of the above acts and means as exploitation. Exploitation includes prostitution or other forms of sexual exploitation, forced labor or services, slavery, servitude, or the removal of organs.

The U.S. Office to Monitor and Combat Trafficking in Persons (the so-called TIPs office in the U.S. State Department) has been critical of some of the provisions of this UN Protocol, arguing that they have caused confusion and have substantive omissions. U.S. authorities indicate that “many nations misunderstand this [the UN] definition, overlooking internal trafficking or characterizing any irregular migration as trafficking.” Further, they say, the U.S. definition is clearer because it “does not require that a trafficking victim be physically transported from one location to another” (The State Department 2004).

“Internal trafficking” would appear to be relatively easy to establish by determining whether or not a national border has been crossed. “Irregular migration,” on the other hand, could conceivably contain the elements of transporting, using fraud, deception, or third parties, for work that very much resembles exploitation. Would this then be trafficking or smuggling, or perhaps neither?

The U.S. Trafficking Victims Protection Act (TVPA 2000; TVPRA 2003; and TVPRA 2005) is similar to the UN Protocol in defining the acts of human trafficking to be the recruiting, harboring, transporting, providing, or obtaining of persons. These acts must be committed using force, fraud, or coercion. And, the purpose of the actions must be for commercial sex acts, labor, or services. If however, a victim under age 18 is induced to perform a commercial sex act, this is legally defined as trafficking, regardless of whether fraud, force, or coercion is involved.

According to one analysis, there are three key concepts in the TVPA definition that help both to understand and to frame potential responses to human trafficking.

First, the definition identifies two types of trafficking, including sexual and labor exploitation. Second, the definition includes “force, fraud, or coercion,” which encompasses two of the most common trafficking scenarios: (1) a scheme where victims are falsely promised one job and forced or coerced into another; and (2) a situation where victims choose or consent to a particular job in an industry or the commercial sex trade, but are deceived about the working conditions. Third, the definition distinguishes between human trafficking and human smuggling. Trafficking is distinguishable from smuggling because it includes slavery-like conditions and because it may occur within national borders, while smuggling requires crossing of international borders. The differences between these separate crimes require separate policy, legislative, and law enforcement responses (Gozdziak and Collett 2005).

STATUS OF STATE LEGISLATION

With the encouragement, assistance, and, in some cases, pressure of federal agencies such as the U.S. Justice Department and non-governmental organizations such as the Polaris Project and the Center for Women Policy Studies, some 24 states have enacted anti-trafficking statutes as of October 2006. In many cases, this legislation has built on work done at the national and international level, but the states have sometimes been incubators for innovation as well.

New Jersey is one of these 24 states that have struck out on their own already (see N.J.S.2C:13-8). And there are a number of other states considering such anti-trafficking laws, and these include New York and Pennsylvania. We will look specifically at the New Jersey statute and at legislative developments in this direction in New York and Pennsylvania in a later section; here we will consider the overall situation with respect to state legislation on human trafficking.

Especially among those states that have declined to legislate in this area, but even among some states that have passed anti-trafficking legislation, there have been reservations about doing so. Among these reservations is the belief that human trafficking is a “federal problem” and thus not something to be made the subject of state jurisdiction. For example, in a questionnaire survey of 79 city and county law enforcement agencies from across the country to explore attitudes, training, policy, and actual case experience with trafficking cases, 61 percent of the respondents indicated that human trafficking

was not a local law enforcement problem. Nearly three quarters (72 percent) believed that trafficking was best handled by federal law enforcement agencies (Wilson et al. 2006). Interestingly, in light of the earlier observation about the alleged role of organized crime, nearly two-thirds of these respondents also believed that large national organized crime networks are the perpetrators of human trafficking activities. This belief could at least partially account for the idea that this is best viewed as a federal problem.

One counter-argument to this federal problem perception is that federal resources alone cannot keep up with the size of the problem. Of course, that assumes faith in our knowledge about just how big the problem is. Another counter-argument is that having a state law provides incentive for state and local law enforcement to become engaged in these types of cases, and to become first responders. The latter is particularly important because local police are much more likely (than either state or federal authorities) to run across situations that might ultimately turn out to be human trafficking cases.

The National Institute on State Policy on Trafficking of Women and Girls of the Center for Women Policy Studies cites another prevalent objection to the need for special state laws: “Our state already has laws against prostitution and other crimes, so why do we need an anti-trafficking law?”

The advocates for state anti-trafficking laws, including the Center for Women Policy Studies, answer this question by arguing that

existing statutes outlawing such acts as false imprisonment, promotion of prostitution, kidnapping, rape, and aggravated assault are inadequate to address the unique problems presented by the acts entailed in human trafficking. Existing laws are said to be insufficient because “they do not criminalize all manifestations of exploitative trafficking into the United States and do not offer protections from prosecution for all trafficked women and girls. . . . [Criminalizing human trafficking brings state law into accord with the federal Trafficking Victims Protection Act of 2000, as reauthorized in 2003 and 2005], and enables local and state law enforcement to investigate and prosecute these crimes and work in partnership with federal law enforcement” (The National Institute on State Policy on Trafficking of Women and Girls of the Center for Women Policy Studies 2005).

There are a large number of vexing issues that must be considered in the debate on the need for specific state legislation. These include the aforementioned paucity of information on the true magnitude and seriousness of the trafficking problem. The absence of data fuels opposition to the need for state anti-trafficking legislation, permitting the argument that the prevalence of trafficking is not large enough to warrant new laws and financial appropriations.

One proposal to address this generally acknowledged need for more information in order to better assess and thus address the problem is to create state/local task forces or study commissions. Such bodies can be charged with determining the nature and extent of trafficking in the state and with

making recommendations for legislative, policy, and program responses. This would seem to be a useful first step for states that have not yet enacted legislation. It can also assist other states as they press forward with implementing their newly enacted legislation. States in the latter category that have so far created task forces or research commissions include California, Colorado, Connecticut, Idaho, Minnesota, and Washington.

Other issues for states to consider include the many legal complexities of trafficking cases. The elements of anti-trafficking legislation can be difficult for prosecutors to prove. It is noteworthy in this respect that there have been no state prosecutions of trafficking cases as of this writing. The legal complexities lend support to an argument that prosecutions should focus on other related crimes already outlawed by state law.

One example of the difficulties in prosecution is the question of the burden of proof with respect to such necessary case elements as coercion. It is often only the victim’s perception that determines whether the critical threshold has been met to establish whether coercion has been employed. This requires developing what is referred to as “climate of fear” evidence, and can only be done with the close cooperation of the victims. Gaining that cooperation in turn demands victim support, services, and protection, as well as other incentives for cooperation. Because of the critical role of the victim(s) in any successful prosecution, it is has been stressed by advocates for state-level anti-trafficking laws that these laws must contain such provisions as vic-

tims' services, witness protection, restitution, asset forfeiture, and programs for reintegrating survivors into society.

Including these kinds of provisions can obviously present serious resource and jurisdictional challenges for states. In addition, sometimes the relevant events in trafficking cases span decades, thus demanding considerable commitment of investigatory resources. Then there is the issue of the international aspects of many (most) human trafficking situations that many state and local authorities regard as being beyond their mandate. These complexities must also be addressed.

The states that have so far chosen to criminalize human trafficking have done so in several ways. Some states, e.g., Arizona, Florida, Minnesota, and Missouri, have created separate trafficking offenses—distinguishing between trafficking for forced labor and trafficking for sexual exploitation. Other states, e.g., Arkansas, Illinois, Kansas, Louisiana, Texas, and Washington, have criminalized the broader offense of human trafficking. Florida and Missouri created a separate offense for trafficking of minors, and Minnesota and Missouri also criminalized forced servitude and unlawful use of government documents.

Some states have legislated against so-called “bride trafficking.” These laws regulate international marriage brokers, or what are known as “mail order bride” companies. Four states (including Alaska and Washington) currently outlaw “sex tourism” in their statutes by regulating travel services providers that facilitate this particular form of sexual entertainment.

The Alaska statute, for instance, includes in the crime of sex trafficking, “organizing, arranging, selling, or advertising tourism packages or activities using and offering sexual acts as enticement for tourism” (AS 11.66.410).

MODEL STATE CODES

In addition to the previously mentioned *Resource Guide for State Legislators—Model Provisions for State Anti-Trafficking Laws* developed by the Center for Women Policy Studies, there are a number of other models for states to consider. These include the *U.S. Department of State Model Anti-Trafficking Law* (2003) and the *Department of Justice’s Model State Anti-Trafficking Criminal Statute* (2004). There is also the TVPA of 2000 and its 2003 and 2005 reauthorizations, and the *Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today* (PROTECT) Act of 2003 (P.L. No. 108-21). These are all good sources.

One model that draws upon all of these sources is the one issued by the Polaris Project (See *Model Elements of Comprehensive State Legislation to Combat Trafficking in Persons*). Polaris is an international nongovernmental organization created to combat human trafficking. In addition to definitions and criminal provisions, the model outlines elements for states that focus on preventing trafficking and protecting victims.

Prevention is defined as including creation of the kinds of state task forces referred to earlier that would be mandated to develop and implement a state plan for the prevention of human trafficking. Linked to this is the need to create a mechanism for collecting and

disseminating data on trafficking. Minnesota's statute, for example, includes a provision for this kind of statewide assessment intended to provide feedback on how well their law is working and continuing to assess the extent of the trafficking problem. This type of monitoring information would ideally include not only statistics on criminal case processing, but also on such more difficult topics as trafficking routes and patterns, transportation methods, and the social and economic factors that act to push and pull trafficking victims. The latter can (and should) include, for example, gathering information on businesses employing illegal workers who could be trafficking victims. This, of course, would be particularly controversial and sensitive.

All the models call for the training of law enforcement and other officials. This would mean incorporating extensive training materials into both pre-service and in-service police training curricula, and into workshops and other training for prosecutors, defense attorneys, and judges.

There is also a recognized need for public awareness campaigns, and especially for close collaboration with and support of nongovernmental organizations. Both public awareness and NGO cooperation will be vital to finding, assisting, and gaining the important assistance in prosecution on the part of trafficking victims.

The victim protection called for includes witness protection, access to crime victims compensation funds, and support for victims' services and protection of trafficking and domestic violence shelters. The prevention

and victim protection measures make very clear that any comprehensive state effort to combat human trafficking must extend far beyond simply criminalizing the acts that are included in trafficking. This is a critical consideration for the states.

STATUS OF STATE LAW IN NEW JERSEY, NEW YORK, AND PENNSYLVANIA

Table 1 shows a snapshot of the current legal status in New Jersey, New York, and Pennsylvania. To date, New Jersey is the only one of the three states that has a law on the books. Interestingly, as the table indicates, New Jersey's is the least comprehensive of these particular anti-trafficking laws. Unlike many other statutes, including those proposed in New York and Pennsylvania, New Jersey's law does not delineate minor victims of sexual servitude for special status. It also does not provide for asset forfeiture, as would the other two states' statutes. New Jersey's law has no particular sentencing enhancements, although the penalties for a first-degree crime are substantial—minimum 20 years to life. There is currently a bill in New Jersey providing for a mandatory term of imprisonment and increasing the fine for trafficking, and also providing for an extended term of imprisonment if the victim is a minor.

None of the three states includes a provision for holding employers to legal account for working conditions, irrespective of the employee's legal status. Accomplice liability, strict liability for business entities, and provision for civil liability are called for only in New York Assembly Bill 1898.

TABLE I
New Jersey, Pennsylvania, and New York: A Comparative Perspective

<i>Elements</i>	<i>New Jersey</i>	<i>Pennsylvania</i>	<i>NYA1898</i>	<i>NY-S8485</i>
Criminalized or not	Y	Y	Y	Y
Sexual servitude of minors	N	Y	Y	Y
Involuntary servitude	Y	Y	Y	Y
Accomplice liability	N	N	Y	N
Victim immunity	Y	N	Y	N
Non-Defense	N	N	Y	N
Business entities	N	N	Y	N
Restitution	Y	Y	Y	Y
Civil liability	N	N	Y	N
Forfeiture	N	Y	Y	Y
Labor standard	N	N	N	N
Sentencing enhancements	N	Y	Y	Y
Witness protection	N	N	Y	Y

Notes to table:

Minor means any person less than 18 years of age.

Accomplice liability: Any person who knowingly aids, abets, or conspires with one or more persons to violate any section of the criminal provisions of the law shall be punishable in the same manner as principle violator of that section.

Aggravated trafficking: In New York Assembly Bill 1898, a person will be guilty of aggravated trafficking for sexual servitude or aggravated trafficking for labor servitude, whether as a principle or accomplice, when in the course of committing the offense in the first or second degree, he or she intentionally, knowingly, or recklessly causes serious physical injury or death to the victim.

Victim immunity: Victims of human trafficking will not be prosecuted, because they were under duress and/or were coerced into committing the offenses for which they might otherwise be subject to prosecution.

Non-defense to trafficking charges: Evidence of certain facts, e.g., victim's sexual history; victim's

permission, or the permission of anyone else on the victim's behalf, etc., shall not constitute a defense against the charge of trafficking.

Business entities: Any business entity that knowingly aids or participates in the trafficking of persons shall be criminally liable for the offense and shall be subject to a fine or loss of business license in the state, or both.

Restitution: A person convicted of violations of this law shall be ordered to pay mandatory restitution to the victim.

Civil liability: An individual who is a victim of trafficking may bring a civil action in the appropriate state court. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.

Labor standard: Standards for working conditions specified in appropriate law shall apply equally to persons with or without the legal right to work in the United States.

Taken together, the legal response to human trafficking in the tri-state area appears to be very limited. Provisions with respect to prevention and protection in the models cited above are largely if not completely absent in New Jersey, New York, and Pennsylvania. The all-important role of the victim has been pretty much ignored.

CONSIDERATIONS IN DEFINING HUMAN TRAFFICKING

A number of definitional issues and questions for states to consider as they contemplate adopting anti-trafficking legislation have been outlined above. This final section will highlight others and reiterate some of the more important of those already discussed. According to a presentation by the Polaris Project at the most recent National Conference on Human Trafficking (October 2006), some of the most common problems with state bills include:

- Limiting the definition of trafficking to that involving foreign nationals;
- Requiring “force, fraud, or coercion” for minors involved in commercial sex acts;
- Limiting the definition of force to require “bodily harm”;
- Defining transportation as a required element;
- Requiring transportation across state lines;
- Stipulating penalties not commensurate with the harm done; and
- Enacting only criminal code revisions without victim protections.

State policymakers should certainly proceed cautiously and judiciously in considering anti-trafficking legislation. Symbolic actions should be avoided. And it should be recognized that half-way measures may well be worse than no measures at all. If the decision is taken to

proceed with anti-trafficking laws, there is a general consensus around the need to include aspects of each of three “Ps” in this legislation: *prevention, prosecution, and protection.*

Among the means for *preventing* trafficking are (1) adopting the task force model for information gathering and monitoring, and (2) providing for public awareness programs, for the training of law enforcement personnel, support for victims’ services providers, and the creation of hotlines. Prevention can also be achieved via the deterrence of potential violators through increased awareness, costs, and penalties.

Prosecution must clearly be made comprehensive rather than piecemeal if it is to have a chance at success. The U.S. Department of Justice model code suggests that one option for beginning to do this is by bundling existing appropriate statutes (dealing with such offenses as involuntary servitude, kidnapping, and false imprisonment) into a new trafficking chapter that will make it more likely that such crimes will be recognized and charged.

Enhanced prosecution also means many new criminal provisions, such as criminalizing involuntary servitude, the trafficking of persons for forced labor or services, and the sexual servitude of a minor. It means precluding such defenses to prosecution as the so-called “happy slave” defense—the claim that victims are “better off” than in their earlier life; that they could have easily escaped if they wished; that they initially consented or that there was parental consent; that they were paid, etc.

Aggressive prosecution means creating criminal liability for the enablers of human trafficking such as travel agencies that sponsor sex tourism, marriage brokers who operate bride trafficking enterprises, and the owners and operators of massage parlors, strip clubs, bars, and any other commercial establishments that exploit trafficking victims. It means prosecuting corporate or business entities such as farms and factories that facilitate trafficking by not being diligent in knowing just who their employees are and not checking their documentation. It also means acting on the demand side of the trafficking equation by providing for the prosecution of customers of any commercial sex establishments that exploit trafficking victims.

Sentencing enhancements to go with the enhanced prosecution can include, when the evidence warrants, sentencing convicted traffickers as rapists or other violent offenders are sentenced. Bodily injury, time in servitude, and numbers of victims can be considered elements for sentence enhancement. It is recommended by the advocates for anti-trafficking statutes that sentencing include provisions for restitution and perhaps for asset forfeiture as well. The latter ensures that states can seize and confiscate assets resulting from human trafficking.

New Jersey law makes human trafficking a first-degree crime, meaning a prison sentence of at least 20 years. This law also includes a provision for restitution to any victim. Another take on prosecution and sentencing in anti-trafficking laws is the Florida statute. Florida law makes all human trafficking cases RICO

(Racketeer Influenced and Corrupt Organizations) offenses. The current Pennsylvania bill also includes trafficking in persons as a form of racketeering activity within its RICO statute. RICO statutes, which exist on both the state and federal levels, are intended for the prosecution of criminal enterprises that entail patterns of racketeering activity. The policy implication from the Florida law (and Pennsylvania's proposed bill) is that trafficking will be treated as a form of organized crime. Because RICO statutes have their own history of complexity and controversy, it remains to be seen whether Florida's is a good approach.

Finally, *protection* is the third critical leg of anti-trafficking policy. For both humanitarian and practical reasons trafficking victims must have social services, shelters, and means for reintegrating into society. This is a clandestine crime. It is a crime in which victim testimony is crucial to successful prosecution. Victims are, however, often reluctant to cooperate with prosecution because of trauma, shame, fear, loyalty, and distrust.

The subtle and complex psychological dynamics involved require collaboration and cooperation between law enforcement and human services that extend beyond that needed for practically any other crime. The potential for international and/or multi-jurisdictional aspects requires collaboration and cooperation between state and local authorities and their federal partners that is likewise unprecedented. The 42 Department of Justice anti-trafficking task forces spread around the country help bring together state, local, and federal law enforcement with partners from NGOs to collaborate on inter-

disciplinary solutions to human trafficking in their respective areas.

Some victim benefits, such as the issuance of T visas, can only be done by the federal government. Eligibility is dependent upon meeting TVPA definitions, but state and local law enforcement can support individual applications for T visas. It should also be recognized that the availability of victims' benefits can result in fraudulent or otherwise illegitimate claims, and thus some validation procedure is a necessity. The latter possibility should not, however, preclude extending the full panoply of victims' benefits.

CONCLUSION

Enough is known about the evils of human trafficking to know that this is a horrible crime. There are, however, a great many unknowns with respect to the practical details of trafficking: its nature, magnitude, and seriousness; its trends and projections; the persons most affected (including victims and victimizers); the effectiveness of previous responses; and, most importantly, the origins and causes of the problem. Until we are much better informed on all these dimensions, effective policy responses are likely to remain elusive.

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State Human Trafficking Legislation

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INTRODUCTION

Over the past decade intense national and international concern has been raised about a perceived rise in the number of men, women, and children trapped against their will in inhuman working conditions, often forced to perform services for little or next to nothing. The U.S. Department of Justice estimates hundreds of thousands of people are trafficked across international borders each year, the majority of whom are women and girls trafficked for commercial sexual exploitation (United States Department of Justice 2006). Though conditions of extreme exploitation and slavery are not new in the United States or abroad, they have been popularly redefined in the 1990s as the crime of human trafficking.

To date little is known about the true extent and nature of human trafficking. Estimates of the number of potential victims and offenders vary widely.¹ Despite the relatively scarce information about the extent of victimization, anecdotal information and preliminary projections suggest the problem of trafficking in persons poses significant harm to individual victims and may be growing. Trafficking of per-

sons is believed to be fueled by the enormous pressure on people to leave the economic struggles of their home countries and seek opportunities abroad. The human trafficking crisis has recently been exacerbated by factors including a global economy, increased travel, high demand for low cost labor, inadequacy of law enforcement and legislation, and the potential criminalization of trafficking victims, particularly for immigration-related offenses (Shelley 2003).

Human trafficking has emerged in the national and international discourse as both a human rights violation and a serious threat to security. According to the Federal Bureau of Investigation, revenue from human trafficking is estimated at \$9.5 billion a year with profits potentially supporting other criminal activities such as money laundering, drug trafficking, document forgery, and human smuggling (U.S. Department of State 2006). In response to these mounting concerns, human trafficking has been thrust onto the public policy agenda. In the United States significant efforts have begun at both the federal and state level to confront this newly defined social problem. A primary response has been the enactment of federal and state legislation providing significant resources to both law enforcement and victim service agencies working to identify

and assist trafficking victims and prosecute traffickers.

The Victims of Trafficking and Violence Protection Act (commonly referred to as the TVPA, 2000) was the first comprehensive federal law to protect victims of trafficking and prosecute offenders. The TVPA accomplished five main goals: (1) defined a specific crime of human trafficking;² (2) enhanced the penalties for slavery, involuntary servitude, and peonage from 10 to 20 years; (3) created a new visa category which allows trafficking victims to receive benefits and services in the United States; (4) ordered a report which ranks countries based on their response to trafficking and specifies sanctions that can be applied to those countries whose governments have not taken adequate steps to prevent trafficking; and (5) provided significant funding for enforcement of anti-trafficking provisions and new assistance programs. The TVPA has been reauthorized twice (2003 and 2005) to expand the legal parameters and penalties for trafficking by making trafficking crimes predicate offenses for RICO charges, directing the Federal Bureau of Investigation to investigate acts of international and domestic trafficking, and expanding the jurisdiction of U.S. law to federal employees and contractors overseas. Additionally, the 2003 and 2005 reauthorizations directed federal government agencies to gain a better understanding of the scope and sufficiency of our current response to trafficking in persons (See Table 1 in appended materials for a description of the major components of all TVPA legislation).

The TVPA (2000) provided a legal structure for prosecuting individuals engaged in human

trafficking activities. Following its passage, trafficking in persons has been categorized and addressed predominately as a federal crime. Despite efforts to prosecute offenders of human trafficking in federal court, it was understood at the time of drafting the legislation that the TVPA was insufficient to prosecute all human trafficking operations throughout the United States. It was understood, for example, that state and local authorities were most likely to encounter and identify trafficking incidents within their own communities. As such, the effective enforcement of human trafficking would necessitate state and local law enforcement agencies have the statutory tools necessary to prosecute such cases locally.

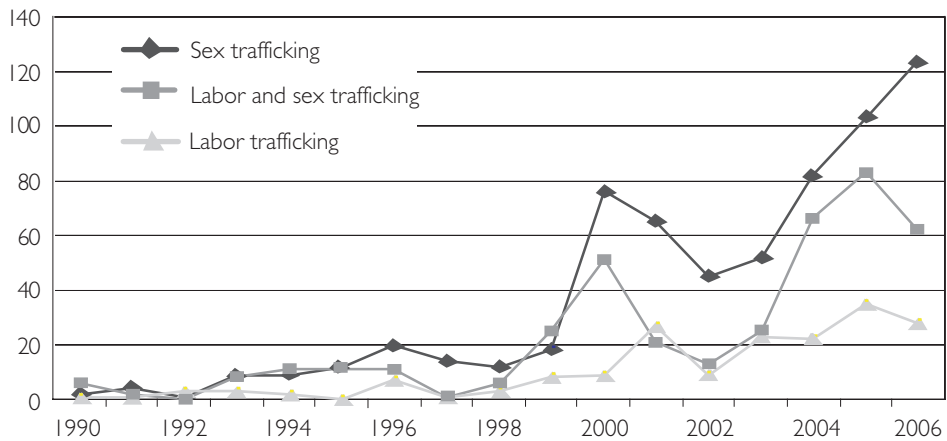
Over the past three years 29 states have adopted statutes specifically addressing the problem of human trafficking, and an additional four state statutes are currently pending (three states have each adopted two statutes bringing the total number of statutes to 32). States generally have passed legislation specific to human trafficking to fill gaps in current criminal law around forced labor that did not explicitly identify psychological coercion as an element of involuntary servitude or forced labor crime. Examining the variation in structure and purpose of these laws helps us understand how legislative bodies have responded to varied public framing of the type of problem human trafficking poses to communities throughout the United States.

THEORETICAL BACKGROUND

Communities define problems which have long existed as needing policy solutions at particular

FIGURE 1

Review of print media: number of human trafficking articles, 1990–2006



moments. While some problems in a society are objectively harmful, scholars across a variety of disciplines recognize that collective sentiments drive attention toward particular social ills at particular historic moments (Friedman 1985; Hilgartner and Bosk 1988) During the problem recognition phases of this process, individuals and groups initiate and frame public discussion about issues of concern, which ultimately leads to some level of public agreement about the nature of and policy implications for an identified problem (Kingdon 1984). Study of agenda-setting examines the processes that structure official governmental decision making, and often result in legislation. For example, pressure from particularly strong interest groups may determine what issues will be taken up by policymakers at particular times. Social interactionists add to our understanding of this process by suggesting stages of problem definition and recognition, which include emergence, legitimation, mobilization of action, formation of official plans and transformation of official plans, into implementation

(Blumer 1971). During the stages of collective problem definition, disparate groups may join together to assert claims about the nature of the problem and propose a series of solutions or reforms. As an official plan is developed, interest groups negotiate and make accommodations to ensure the passage of legislation.

Limited research on legislative responses to human trafficking has identified the role of problem definition and developments of official responses (Stolz 2005). The problem of trafficking in persons could be framed many different ways: as an immigration, criminal, human rights, national security, or economic justice issue. The accepted collective definition of human trafficking will determine the type of legislative responses demanded. The limited research to date on human trafficking policymaking and legislation suggests advocacy organizations specifically concerned with commercial sex trafficking and child prostitution called upon political elites to address the perceived growing threat of exploitation (Weitzer

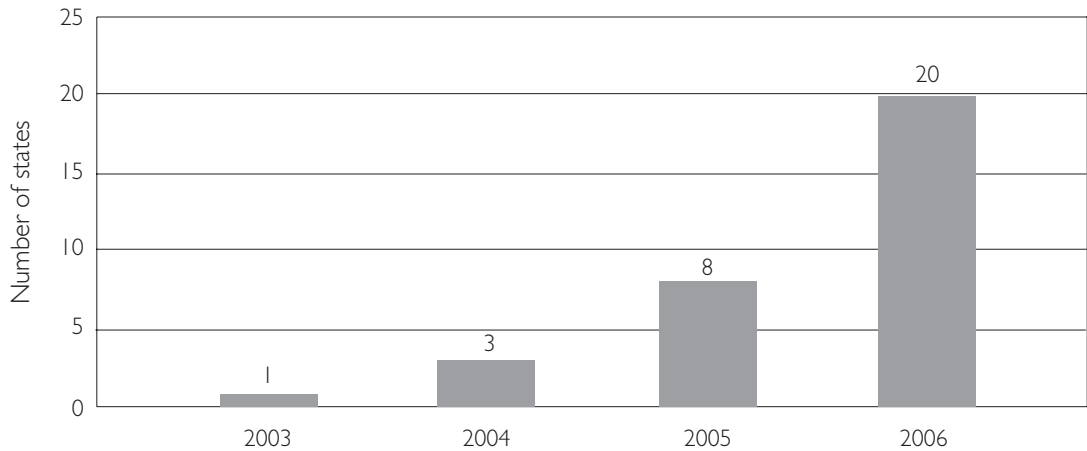
2006). As consensus built around the notion that human trafficking was at its root a crime with innocent victims and culpable offenders, interest groups helped publicize this definition.

Figure 1 illustrates that between 1990 and 2006 the media reports of articles containing the phrase human trafficking increased dramatically signaling a growing recognition of the problem. Analysis of 1,350 print media articles between 1990 and 2006 that contained the phrases “human trafficking” or “trafficking in persons” found media representations of the problem of human trafficking, particularly during the early phases of problem definition, were dominated by articles focused explicitly on sex trafficking. These articles largely describe trafficking victims as innocent, often recounting stories of young girls forced into prostitution by conspiracies of foreign organized criminal networks (Fahy, Farrell, and McDevitt 2006). While horrific and inhumane conditions of sex trafficking in minors should not be discounted, the problem of human trafficking is understood to be much broader, involving many different types of victims and circumstances of victimization than popularly characterized. The problem of human trafficking, as initially defined, called for a relatively simple solution—criminalize trafficking and rescue victims who are waiting to be saved. Though we have come to realize that the realities of trafficking victims and offenders are more complex, this early characterization was instrumental in shaping the types of legislative solutions that were proposed.

B. Stolz (2005) describes critical negotiations and accommodations early groups made to set the stage for the development and passage of the federal TVPA in 2000. Central to this movement was the formulation of trafficking as a new crime with offenders who should be prosecuted and punished and victims who should be protected. Stolz identified that though all interest groups were not in ideological agreement about the nature of trafficking, particularly in the way they viewed trafficking victims, groups found common ground upon which to press for legislation. For example, disparate advocacy groups framed women involved in prostitution as potential victims, emphasizing child victimization and coercive practices that lure and keep adult women in prostitution against their will. Ultimately, negotiations and compromises around an accepted definition of the trafficking problem determined the character of federal legislation.

Similar processes have occurred throughout the states as they sought legislative remedies to the problem of human trafficking. Our understanding of state responses to human trafficking would be greatly advanced by a detailed analysis of state-level problem definition and legislative mobilization, however, such a task is beyond the scope of the present paper. The purpose of this paper is to describe the major components of state human trafficking statutes and identify variations and innovations to these components which may provide a framework for future legislative analysis.

FIGURE 2
States' trafficking legislation, United States, 2003–06



STATE HUMAN TRAFFICKING LEGISLATION—MODELS AND MAJOR COMPONENTS

Following the passage of the TVPA, state legislators began to take up the challenge of addressing human trafficking. In response to internal and external pressure, state legislators began introducing human trafficking legislation shortly after the passage of the TVPA. As Figure 2 illustrates, the number of states that have passed anti-trafficking legislation has increased dramatically in the past four years. In 2003, Texas was the only state with a statute specific to human trafficking. By 2006 an additional 28 states had passed human trafficking legislation (bringing the total to 29 states with some type of human trafficking legislation). There is great variation in the types of state anti-trafficking legislation, in part attributable to the model statutes state actors utilized when drafting legislation.

To help facilitate passage of state legislation the federal government, through the Department

of Justice, developed the *Model State Anti-Trafficking Criminal Statute* (2004), which was widely disseminated as the first model law. The Department of Justice touted its model statute as a tool to ensure “seamless partnerships between state and federal partners in combating trafficking.” The DOJ identified three main goals for the model statute: (1) prevent gaps between federal and state laws, (2) promote a national legal strategy to combat trafficking that would facilitate greater coordination and reduce confusion on the part of both victims and law enforcement, and (3) provide examples of the most effective legislative approaches to address trafficking (Byant 2004). The Department of Justice model legislation covered both “labor,” which outside of the coercion or force would normally be lawful employment, and “services,” which include unlawful activities such as prostitution. Departing from most existing state prostitution statutes, the DOJ model law criminalized conditions in which children are

induced into prostitution without the necessity of proving force, fraud, or coercion.

The Department of Justice model statute provided minimal victim service provision language. In response to this limitation, two human trafficking advocacy groups, Polaris Project and the Freedom Network/Global Rights (2005), developed and publicized alternative model legislation templates. The alternative models both specifically identified a number of victim services provisions that were not explicitly included in the Department of Justice model, such as access to existing state crime victims compensation funding, shelter, medical and mental health treatment, translation services, and protection for the safety and privacy of victims.

Model statutes provide a useful basis for assessing new state legislation around human trafficking. Based primarily on the components found in model statutes, the following section describes the major components of state legislation, analyzes the frequency of each component in state legislation, and looks at the variations that exist across state legislation. Where appropriate this section draws comparisons between the model statutes, the TVPA, and state statutes.

MAIN COMPONENTS OF ANTI-TRAFFICKING LEGISLATION

Across the country human trafficking statutes vary in their definition of trafficking and proposed remedies. Most statutes begin by defining human trafficking and the conditions that surround human trafficking in a definition section. The DOJ model statute

specifies definitions for blackmail, commercial sexual activity, financial harm, forced labor or services, labor, maintain, obtain, services, sexually-explicit performance, and trafficking victim. The Freedom Network/Global Rights model additionally specifies debt bondage, minor, and venture. The Polaris Project model statute adds definitions of debt coercion, person, minor, and sex act. Great variation exists among the states in the definitions provided.

The model statute proposed by the Freedom Network/Global Rights suggests states specify a purpose for the legislation and report findings about trafficking relevant to their state. A number of state statutes identify the character or causes of human trafficking that may be specific to the state. For example, the Nebraska statute (2006) specifies, “Increasing prostitution in Nebraska has become harmful to communities and neighborhoods, often contributing to both incidents of crime and fears of crime” (Nebraska Legislative Bill 1086, Section 2, a). Though the Nebraska statute covers both sex and labor trafficking, the findings section is specific to prostitution and commercial sex—reflecting the local problem definition.

In some cases, the definition and purpose section identifies the challenges faced by victims in reporting trafficking or receiving services. For example, in Florida the 2006 statute stated: “The legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims

from the public and family members, confiscating passports, visas, or other identification documents... and controlling the victims' funds by holding the money ostensibly for safekeeping" (Senate Bill, Section 787.06, C).

In addition to defining the problem of human trafficking, state statutes contain some combination of three major provisions: (1) problem identification and planning, (2) criminal provisions and penalties, and (3) victim protection and services. Table 2 provides a breakdown of these components across all passed and pending human trafficking legislation to date (see Table 2 in appended materials) and Figure 3 provides a graphical distribution of the statutes containing elements of each component. Each of the three main components and their main characteristics are described in more detail below.

COMPONENT ONE: PROBLEM IDENTIFICATION AND PLANNING

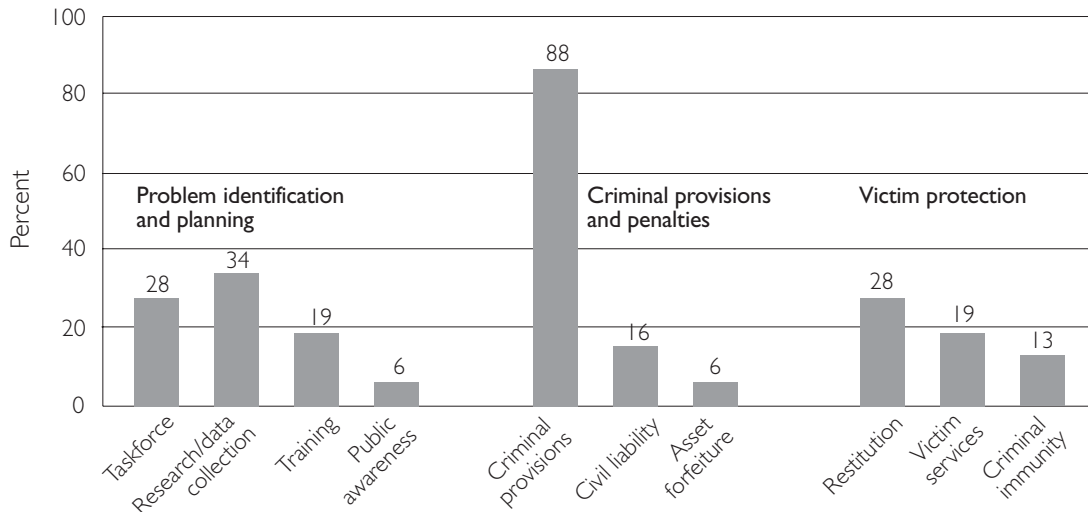
Provisions that call for human trafficking problem identification and planning activities are one component found in the model statutes and are a common part of the state statutes. Here problem identification and planning refers to any provision within the statutes that calls for a state or nongovernmental organization to collect information about human trafficking or develop a plan for possible responses. For example, the DOJ model statute specifies that the State Attorney General in consultation with the Department of Health and Social Services issue a report outlining the needs of trafficking victims, existence of programs to support trafficking

victims, and suggestions of areas for improvement. The Polaris Project and Freedom Network/Global Rights models suggest the establishment of a task force comprised of a broader membership including both governmental and nongovernmental organizations to develop state plans, with a broader mandate including establishing a state human trafficking response plan, coordinating the collection of information, reviewing existing services, and establishing policies.

Twenty-eight percent of all state statutes create a task force to study the problem of trafficking or identify existing services for trafficking victims that exist within the state. In most cases the task force is charged with collecting information about trafficking simultaneously with the adoption of criminal provisions and penalties for trafficking. However, the Hawaii, Maine, and 2004 Connecticut statutes designate task forces to study the issue without any corresponding criminal provisions or penalties. In 2006, Connecticut adopted a more comprehensive statute specifying criminal provisions, penalties, and services for trafficking victims based in part on the findings of the task force created by statute in 2004. In some cases, the task force or another governmental agency is tasked with development of public outreach or training specific to the problem of human trafficking.

Thirty-four percent of state statutes specify data or research to be collected on the extent and characteristics of existing services available to trafficking victims in the state. Nineteen percent of state statutes specify training, usually for law enforcement, and 6 percent

FIGURE 3
Statute component breakdown



provide specific provisions for enhanced community awareness.

COMPONENT TWO: CRIMINAL PROVISIONS AND PENALTIES

The criminal provisions outlined in the DOJ model statute include three main crimes: involuntary servitude, sexual servitude of a minor, and trafficking of persons for forced labor or services. The Polaris Project statute includes nearly identical criminal provisions but includes accomplice liability for a person who knowingly aids, abets, or conspires in trafficking. The Freedom Network/Global Rights additionally includes criminal provisions for unlawful conduct with documents in furtherance of trafficking and accomplice liability.

Consistent with the public framing of human trafficking as a criminal justice problem, the primary statutory response has been the establishment of criminal provisions. As

Figure 3 illustrates, 88 percent of the state statutes include criminal provisions and penalties for trafficking. The most common response has been to create a broad offense of human trafficking that includes both labor and sex trafficking, similar to the model statute proposed by the Department of Justice. For example, the Arkansas statute specifies the crime of trafficking in persons if the person “recruits, harbors, transports, or obtains a person for labor or services, though the use of force, fraud, or coercion for the purpose of subjecting the person to involuntary servitude, peonage, debt bondage, slavery, marriage, adoption, or sexual conduct” [Arkansas House Bill 2979, Section 4, (b)(1)]. In some states such as Arizona, Florida, and Missouri, the statutes have separately defined crimes of labor trafficking and sex trafficking. Although states have largely adopted the involuntary servitude and trafficking of persons for forced labor and services provisions recommended by DOJ,

only 12 state statutes have included provisions for servitude of a minor.

To date the criminal provisions specified in state trafficking statutes generally apply to individual actors. Only two states, Virginia and Georgia, explicitly provide criminal liability for businesses or corporations. Georgia criminalizes “acts or omissions if agents of the corporation engage in trafficking in the course of their employment and agents of the company knew or should have known that the activity was occurring” (Georgia Senate Bill 259). In Virginia the statute specifies, “Any business entity that knowingly aids or participates in the trafficking of persons shall be liable for any criminal offense under this Article” (Senate Bill 291, Section 18.2–76.5).

Sentencing is also an important part of the criminal provisions section. The DOJ model statute recommends a sentence of not more than 15 years for trafficking in persons. Due to the vastly different sentencing structures (e.g., determinate sentencing ranges, guidelines, mandatory minimum structures) that exist throughout the states it is difficult to describe the average type of sentence proscribed by statute. Following the DOJ model, some states specify enhanced penalties for trafficking cases involving minors, severe injury, extreme violence, kidnapping, or death. In most cases, enhanced sentencing allows for sentence ranges for any term of years up to life imprisonment or where allowed by law, the death penalty.

Asset forfeiture is recommended by all three model statutes; however, only two state

statutes, Illinois and Pennsylvania, include this provision. The Illinois statute specifies, “A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of this Code shall forfeit to the state of Illinois any profits or proceeds and any interest or property he or she has acquired or maintained in violation of Section 10A-10 of this Code that the sentencing court determines to be acquired as a result of maintaining a person in involuntary servitude or participating in trafficking of persons for forced labor or services” (Illinois House Bill 1469, Section 10A-150).

COMPONENT THREE: VICTIM PROTECTION

Only recently have statutes begun to address the complexities of trafficking, specifically addressing needs of trafficking victims. The more comprehensive statutes have begun to fully flesh out the recommendation by the Department of Justice “prosecution without victim protection is unworkable” (DOJ Model Statute, 2004: 12). Nineteen percent of the statutes provide resources or make explicit provisions for victim services such as shelter, mental and physical health services, translation, and legal assistance. These statutes illustrate a shift from the early recognition that states should provide victim services to help facilitate successful prosecution because successful prosecutions are critical to future victim protection.

The Indiana (2006) anti-trafficking statute provides fairly comprehensive provisions for victims of trafficking. The statute specifies “victims shall be housed in an appropriate shelter

as soon as possible; may not be detained in a facility that is inappropriate to the victim's status as a crime victim; may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; shall receive prompt medical care, mental health care, food, and other appropriate assistance; shall have access to legal assistance, information about the victim's rights, and translation services, if necessary" (House Bill 1414, Chapter 3.5, Section 4, a, 1–5). This Indiana Bill includes in its victim protections immunity from other offenses, but this is a rare provision in state human trafficking legislation.

Only 13 percent of existing state statutes provide immunity to trafficking victims who may be involved in criminal activity as a result of their victimization. For example, sex trafficking victims involved in prostitution would not be arrested or charged with crimes associated with the prostitution. The 2006 Iowa statute specifically specifies, "It shall be an affirmative defense, in addition to any other affirmative defenses for which the victim might be eligible, to a prosecution for a criminal violation directly related to the defendant's status as a victim of a crime that is a violation of section 710A.2" (Iowa Senate Bill 2219, Section 4).

Despite movements by states to recognize the immunity of victims to be prosecuted for crimes associated with their victimization, service providers and advocates suggest victims, particularly foreign victims with immigration status concerns, may be reluctant to seek services or engage with service providers unless the information they share with case workers

is privileged. In response to these concerns Polaris Project and the Global Rights/Freedom Network model statutes specify the parameters of a privileged relationship between victims and trafficking victims' counselors. The caseworker privilege includes a definition of who can hold the privilege, the limitations of the privilege, and the types of communication that are privileged. To date California is the only state which has established a human trafficking caseworker privilege. The California statute (2005) specifies, "A trafficking victim, whether or not a party to the action, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between the victim and a human trafficking caseworker if the privilege is claimed by any of the following persons: (1) The holder of the privilege. (2) A person who is authorized to claim the privilege by the holder of the privilege. (3) The person who was the human trafficking caseworker at the time of the confidential communication" (California Assembly Bill 22, Article 8.8, Section 1038).

While more comprehensive state statutes have provided services to victims and protection from prosecution for offenses committed during their victimization, states are limited in their ability to provide services to foreign victims. The 2006 California statute provides access to social services for immigrant survivors of human trafficking, domestic violence, and other serious crimes while they are waiting for processing from the U.S. Department of Homeland Security (DHS) or U.S. Department of Health and Human Services (HHS).

NEW YORK, NEW JERSEY, AND PENNSYLVANIA: COMPARISON TO THE NATIONAL SPECTRUM OF LEGISLATION

Though located in close regional proximity and potentially sharing similar trafficking victims and networks, the response to trafficking in New Jersey, Pennsylvania, and New York have been different in both timing and characteristics.

NEW JERSEY

New Jersey was the first state in the region to pass a human trafficking statute in 2005. The New Jersey statute defines human trafficking similarly to the DOJ model statute as a broad offense which includes both labor and services. The statute also includes a number of criminal provisions specific to prostitution including soliciting, promoting or compelling another to engage in prostitution, prostitution of a child under the age of 18, and entering in or remaining in a house of prostitution. In line with the model statute, New Jersey's criminal provisions also specify racketeering activity and include restitution to the victim. The New Jersey statute provides narrow victim immunity, protecting victims of trafficking from being charged with prostitution or another human trafficking offense themselves.

The New Jersey statute tasks the Office of Victim–Witness Advocacy to provide information about and assistance with criminal proceedings, individual rights, interpretation, and other services for victims of human trafficking. The attorney general, in consultation with commissioner of the Department of Health and Human Services, superintendent of state police, and services provider represen-

tatives, was designated to establish standard protocols for provision of information and services to human trafficking victims.

The New Jersey statute represents one of the earliest efforts to criminalize trafficking and adopt legislation that begins to tackle the complex needs of victims. Though New Jersey's anti-trafficking legislation is conceptually closer to the DOJ model legislation than either of the more comprehensive advocacy group models, the New Jersey statute provides basic criminal provisions and a number of victim service provisions that allowed the state to begin addressing local human trafficking issues.

PENNSYLVANIA

The Pennsylvania human trafficking statute is the most recent piece of legislation signed into law. Pennsylvania House Bill 1112 was signed into law by the governor on November 9, 2006. The Pennsylvania law codifies the crime of trafficking in persons. Similar to the DOJ model statute, the Pennsylvania statute defines a broad category of trafficking for labor or services, provides for victim restitution, and establishes the provisions for asset forfeiture. Additionally, Pennsylvania modifies the definition of racketeering activity to include trafficking in persons, as suggested by the Polaris Project model statute. An interesting addition to the Pennsylvania statute is a provision allowing the attorney general the ability to apply for wire, electronic, or oral communication interception orders to investigate individuals suspected of trafficking in persons. This provision is designed to enhance the investigative tools utilized to identify and arrest trafficking offenders.

Advocates of the bill suggest it gained momentum after an August raid on two brothels in York County where Korean nationals were accused of forcing women who were smuggled into prostitution (Fellinger 2006). State law enforcement became central to fighting trafficking operations, particularly organized brothels. In line with the popular framing of human trafficking as a crime problem, law enforcement supporters of the Pennsylvania trafficking bill indicated that the statute's strong and detailed provisions for asset forfeiture will help them put traffickers out of business.

NEW YORK

A human trafficking statute was introduced to the New York Legislature in 2005. One version of the legislation (S.3914-B) passed the Senate on June 6, 2006. The Assembly Bill (AB 1898-b) was introduced in the Assembly and has been the subject of much debate and discussion during the 2006 legislative session. At this time the bill remains in the Assembly Rules Committee.

The proposed New York legislation attempts to organize new and existing laws into one specific "trafficking" chapter in New York State's penal law and provide victim services in response to the problem of human trafficking. The proposed statute defines a crime of human trafficking for involuntary labor servitude and human trafficking for involuntary sexual servitude and criminalizes the promoting of human trafficking, patronizing human trafficking victims, and promoting sex tourism. The proposed law also provides victim restitution and requires police agencies to work with federal authorities to assist victims so that they

receive restitution while pursuing avenues to obtain benefits under the TVPA.

Throughout the legislative process numerous victim service and advocacy groups have battled to frame the problem of human trafficking. Women's rights groups strongly opposed to the commercial sex industry, such as Equality Now, emphasized the need for expansive language concerning the use of fraud or deception as additional mechanisms of trafficking victimization. Victim services groups, particularly those focused on immigrant rights, pushed for expanded victim services provisions similar to those passed in California and Indiana. Unfortunately, the legislation has stalled in the Assembly Rules Committee.

In a unique footnote on problem definition, New York Assemblyman Jeffrey Dinowitz (D-Bronx), sponsor of the human trafficking legislation, started off the 2006 legislative session by giving his colleagues a copy of the bill and a DVD of the Lifetime movie *Human Trafficking*, which chronicles the stories of two young women sold into organized sex trafficking rings. Dinowitz said he hopes the film "will illustrate for people the terrible realities of the issue, which is an especially important one in New York" (Smith 2006). As the bill was originally framed, human trafficking was a problem primarily connected to the sexual exploitation of young women, quite similar to the national framing of the trafficking problem. As lawmakers began to address the varied recommendations of advocacy groups, victim services organizations, and law enforcement, the problem of trafficking became more nuanced and the proposed solutions grew

more complex. The legislative struggles in New York represent a classic challenge in the human trafficking movement. As legislation becomes more comprehensive and reflective of the complexities of trafficking victimization it becomes more challenging to craft provisions which satisfy competing interest group demands and more cumbersome to pass through all necessary committees in the legislative process.

The legislation passed and proposed in New Jersey, Pennsylvania, and New York spans the spectrum of potential statutory responses to human trafficking. As these states continue to grapple with the problem of human trafficking it is important to closely monitor the degree to which varied legislative provisions in these three states affect victim identification, prosecution, and ultimately, victim restoration.

CONCLUSION AND NEXT STEPS FOR RESEARCH AND PRACTICE

A few general conclusions can be drawn from the present analysis. First, states have responded cautiously in adopting human trafficking legislation. To date 29 states have enacted legislation specific to human trafficking. Of those, Connecticut, Hawaii, and Maine did not, at least initially, adopt any criminal provisions for human trafficking. Instead these states commissioned task forces to help define and research the local problems associated with human trafficking before enacting more comprehensive legislation. In Connecticut the task force model led to broader statutory changes. After meeting for two years the task force made a series of recommendations for criminalization and victim services that were

adopted in 2006 as part of a more comprehensive human trafficking statute.

Second, the primary response of state legislation has been to define trafficking as a new crime. Twenty-eight out of 32 state statutes (88 percent) adopted new criminal provisions to address human trafficking. Ten of the states mandated only limited criminal provisions without any victim services, research, training, or planning. It is too early to understand the advantages of limited versus comprehensive statutory models. In some cases, passing criminal provisions alone may be the step necessary to spark widespread change. In other states only comprehensive legislation with strong victim service provisions will pave the way to successfully addressing trafficking. We have begun to map out the different types of legislative responses and now we must monitor and evaluate the success of these varied models.

This paper has identified similarities and differences among the components in state human trafficking legislation. More research is necessary to understand how decisions were made about the inclusion of various components during legislative deliberations. As suggested in this paper, the definition of the trafficking problem put forth by local state interest groups may influence the components that are deemed necessary to address trafficking, but we know little about how local and national advocacy groups mobilized for change in each of the states. Additionally, we must begin to understand external factors beyond problem definition that may facilitate or hamper the passage of more comprehensive legislation. Laws with more varied provisions face

additional challenges due to the bureaucratic nature of the legislative committee system. State legislation containing more comprehensive provisions for training, outreach, and victim services may require resources that compete with other legislative priorities.

This paper has identified and discussed the main components of state human trafficking legislation. It draws some preliminary

conclusions about the distribution of these components and makes some suggestions for future research into the agenda setting and policymaking process. In addition to this work, it will be necessary to monitor and understand how legislative mandates are translated into action in each state. Passage of legislation is a first step. Real change will only come when these laws begin to work in practice.

Table 1

Victims of trafficking violence protection acts' main components

Victims of Trafficking Violence Prevention Act (TVPA) 2000

Public Law 106-386 enacted October 28, 2000

- Created a two-tiered definition of trafficking which included severe forms of trafficking in persons and sex trafficking.
- Provided \$95 million, over two years, for enforcement of anti-trafficking provisions and for new assistance programs.
- Provided annual reports on trafficking as part of the State Department Country Reports on Human Rights.
- Provided severe punishment including up to life imprisonment for persons convicted of operating trafficking enterprises within the U.S., and the possibility of severe economic penalties against traffickers located in other countries.
- Authorized grants to shelters and rehabilitation programs, and provided provision for relief from deportation for victims who would face retribution or other hardship if removed from the United States.
- Established an Interagency Task Force to monitor and combat trafficking, which would facilitate and evaluate progress in trafficking prevention, victim assistance, and the prosecution of traffickers.

Trafficking Victims Protection Reauthorization Act (TVPRA) 2003

Public Law 108-194 enacted December 19, 2003

- Reauthorized appropriations for fiscal years 2004 and 2005.
- Created a Watch List to keep pressure on countries on various tiers in the trafficking report and added new criteria for the State Department in drafting the trafficking in persons report, including evaluating progress from year to year.
- Encouraged research initiatives.
- Made human trafficking crimes predicate offenses for RICO charges.
- Allowed trafficking victims to sue their traffickers in U.S. courts.
- Required that U.S. government contracts relating to international affairs contain clauses authorizing termination by the United States if the contractor engages in human trafficking or procures commercial sexual services while the contract is in force.
- Required information for travelers to selected locations about U.S. laws against sex tourism.

Trafficking Victims Protection Reauthorization Act (TVPPRA) 2005

Public Law 109-164 enacted January 10, 2005

- Provided U.S. courts jurisdiction over federal government employees and contractors for trafficking offenses committed abroad.
- Enhanced specified U.S. efforts to combat trafficking in persons, including prevention of such activities by international peacekeepers.
- Required the attorney general to study and report to Congress on the prevalence of severe

forms of trafficking and sex trafficking in the United States and the approach to combating these crimes by law enforcement.

- Established a grant program for states and local law enforcement totaling \$50 million in 2006 and 2007 to investigate and prosecute acts of trafficking in persons and criminals that purchase commercial sex acts within the United States.
- Directed the Federal Bureau of Investigation (FBI) to investigate acts of: (1) severe forms of trafficking in persons other than domestic trafficking in persons; and (2) domestic trafficking in persons.

Table 2
State statutes

State	Criminal provisions and penalties			Problem identification and planning				Victim services			Signed into law
	Criminal provisions	Civil liability	Asset forfeiture	Task force	Research/data	Training	Public awareness	Restitution	Victim benefits/services	Victim criminal immunity	
DOJ Model	X							X			
POLARIS	X	X	X	X	X	X	X	X	X	X	
Freedom Network	X	X	X	X	X	X		X	X	X	
Alaska	X										6/20/06
Arizona	X							X			3/14/05
Arkansas	X										4/13/05
California (a)	X	X		X	X	X		X			10/4/05
California (b)							X		X		9/29/06
Colorado	X			X	X						5/30/06
Connecticut (a)				X	X						10/1/04
Connecticut (b)	X	X				X			X	X	5/8/06
Florida (a)	X										7/16/04
Florida (b)	X	X				X					6/12/06
Georgia	X										4/17/06
Hawaii				X	X	X					7/3/06
Idaho	X				X			X			3/15/06
Illinois	X	X	X					X	X		7/3/06
Indiana	X	X		X	X	X	X	X	X	X	3/24/06
Iowa	X				X	X		X	X	X	4/21/06
Kansas	X										5/13/05

Table 2 continued

State	Criminal provisions and penalties			Problem identification and planning				Victim services			Signed into law
	Criminal provisions	Civil liability	Asset forfeiture	Task force	Research/data	Training	Public awareness	Restitution	Victim benefits/services	Victim criminal immunity	
Louisiana	x										6/29/05
Maine				x	x						4/28/06
Michigan	x										5/25/06
Minnesota	x			x	x						6/2/06
Mississippi	x										4/21/06
Missouri	x							x			6/17/04
Nebraska	x				x						7/14/06
New Jersey	x			x				x	x	x	4/26/05
Nevada	x										5/9/05
N. Carolina	x										8/16/06
Pennsylvania	x		x					x			11/9/06
S. Carolina	x				x			x			5/2/06
Texas	x										6/30/03
Virginia	x	x									3/30/06
Washington	x			x				x			3/27/06

Table 3
Pending legislation

State	Criminal provisions and penalties			Problem identification and planning				Victim services		
	Criminal provisions	Civil liability	Asset forfeiture	Task force	Research/data	Training	Public awareness	Restitution	Victim benefits and services	Victim immunity
Delaware	x			x	x			x		
Kentucky	x									
Massachusetts	x	x	x	x	x	x	x	x		
New York	x		x		x			x	x	
Oklahoma	x									
Rhode Island	x		x					x		
West Virginia	x				x			x		
Wisconsin	x									

State Legislation

Alaska

SB12 "An Act Relating to Human Trafficking," 2006

Arizona

SBI372 "Act Relating to Human Trafficking," 2005

Arkansas

HB2979 "An Act Relating to Trafficking of Persons," 2005

Colorado

SB06-207 "A Bill for an Act Concerning a Prohibition Against Trafficking in Humans, and Making an Appropriation in Connection Therewith," 2006

Connecticut

Special Act 04-08 "To Create an Interagency Task Force on Human Trafficking," 2004. SBI53 "An Act Concerning Trafficking in Person," 2006

Florida

SB 1962 "An Acting Relating to Human Trafficking," 2004. SB250 "An Act Relating to Human Trafficking," 2006

Georgia

SB529 "Trafficking in Persons Criminal Provisions," 2006

Hawaii

HB2051 "Relating to Protection for Victims of Human Trafficking," 2006

Idaho

HO536 "An Act Relating to Human Trafficking," 2006

Illinois

HB1469 "An Act Concerning Criminal Law," 2005

Indiana

HB1155 "An Act to Amend the Indiana Code Concerning Criminal Law and Procedure," 2006

Iowa

SF2219 "An Act Relating to Human Trafficking and Related Offenses Including the Provisions of Law Enforcement Training and Victim Assistance Programs, and Providing Penalties," 2006

Kansas

HB2004 "An Act Concerning Crimes, Punishment, and Criminal Procedure; Creating the Crimes of Trafficking and Aggravated Trafficking and Prescribing the Penalties Therefore," 2005

Louisiana

HB56 "An Act to Enact R.S. 14:46.2, Relative to Offenses Against the Person; To Create the Crime

of Human Trafficking; To Provide for Criminal Penalties; To Provide for Definitions; and to Provide for Related Matters," 2005

Maine

LD1296 "An Act to Provide for Victims of Trafficking," 2006

Michigan

HB5747 "Human Trafficking," 2006

Minnesota

HF4162 "A Bill Relating to Appropriations," 2006

Mississippi

HB381 "Anti-Human Trafficking," 2006

Missouri

HB1487 "An Act to Repeal Sections 556.037, 565.110, and 567.030, RSMo, and to Enact in Lieu Thereof Twelve New Sections Relating to Crimes Against Persons, with Penalty Provisions and an Emergency Clause for Certain Sections," 2004

Nebraska

LB1086 "An Act Relating to Crimes and Offenses," 2006

Nevada

SB456 "An Act Relating to Involuntary Servitude," 2005

New Jersey

A2730 "An Act Concerning Human Trafficking," 2005

North Carolina

HB1896 "An Act to Protect North Carolina's Children/Sex Offender Law Changes," 2006

Pennsylvania

HB1112 "Relating to the Offense of Trafficking in Persons," 2006

South Carolina

H3060 "A Bill to Amend the Code of South Carolina by Adding Article 10," 2006

Texas

HB2096 "An Act Relating to Criminal Consequences of Conduct That Involves Certain Trafficking or Transporting of Persons," 2003

Virginia

SB291 "Human Trafficking-Extortion-Penalties," 2006

Washington

SB6386 "An Act Relating to Fiscal Matters," 2006

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Notes

1. According to reports issued by the United States Department of Justice, upwards of 800,000 people may be trafficked across international borders each year, the majority of whom are women and girls trafficked for commercial sexual exploitation (United States Department of Justice 2006). Other reports estimate the number of trafficking victims to be even higher, at 2.5 million, with at least one-third trafficked for economic purposes other than sexual exploitation (International Labour Office 2005).

2. This legislation includes a two-tier definition of trafficking: (1) 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; or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

The Politics of Modern Slavery in America: Advocacy Groups and Human Trafficking Reform

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INTRODUCTION

From the 1990s to the present, a diverse set of advocacy groups has played a prominent role in placing the issue of human trafficking on the public agenda, in advancing and shaping the U.S. Trafficking Victims Protection Act of 2000 (TVPA) and subsequent congressional action in 2003 and 2005, and in pressing for state-level legislation to combat the problem. These groups include local, national, and international women's, human rights, religious, immigration and refugee, and labor organizations.¹ They have been active in nearly every stage of the policymaking process, from problem recognition and agenda-setting to policy formulation and implementation.² Strikingly, advocacy groups working for human trafficking reform span the all-too-familiar ideological divides of American political life, and many—such as evangelical and feminist organizations—represent “odd bedfellows” who rarely, if ever, lobby for the same legislation in other spheres of U.S. public policy.

Despite these important and intriguing developments, political scientists and other scholars have devoted scant attention to studying the U.S. politics of human trafficking in general and

the role of interest groups struggling to end this modern-day form of slavery in particular. A notable exception are the salutary findings of Barbara Stoltz on the efforts of “nonprofessional criminal justice” groups in educating government officials in the agenda-setting stage of the TVPA.³ This paper seeks to lay some initial conceptual and empirical groundwork for the study of advocacy groups and human trafficking in national and state-level politics.

My chief aim in the pages that follow is to explore the character, interactions, and relative influence of advocacy groups in human trafficking reform efforts. This paper begins by situating the organized interests engaged in human trafficking policymaking within the broader American interest group system, and by highlighting the pivotal role of these organizations in helping secure a place for trafficking reform on a very crowded public agenda. The second section of the paper explores the unlikely coalition of advocacy groups that have mobilized and lobbied on this issue. At the heart of this section is a discussion of human trafficking as a cross-cutting issue and of four core tensions that divide advocacy groups on this issue and that help us to categorize their distinctive positions and goals. The next section examines interest groups, American federalism, and policy innovation. The purpose

here is to focus on the perceived necessity and outcomes of efforts to enact state-level human trafficking legislation. This section enables us to consider several specific state reform campaigns—including New York, New Jersey, Pennsylvania, and Washington—that capture disparate models of group conflict and stalemate, reform without a significant advocacy group presence, and effective group lobbying and coordination with policymakers. Finally, this paper discusses the social construction and political power of target populations in human trafficking policy design, offering some theoretical insights about the durable political appeal of punishing traffickers, the potential vulnerability of public resources for victim protection and services, and the political challenges of mobilizing government to adequately address a broadly defined human trafficking problem.

I. LOBBYING FOR HUMAN TRAFFICKING LEGISLATION IN A CROWDED POLITY: THE ROLE OF ADVOCACY GROUPS IN HELPING SET THE AGENDA

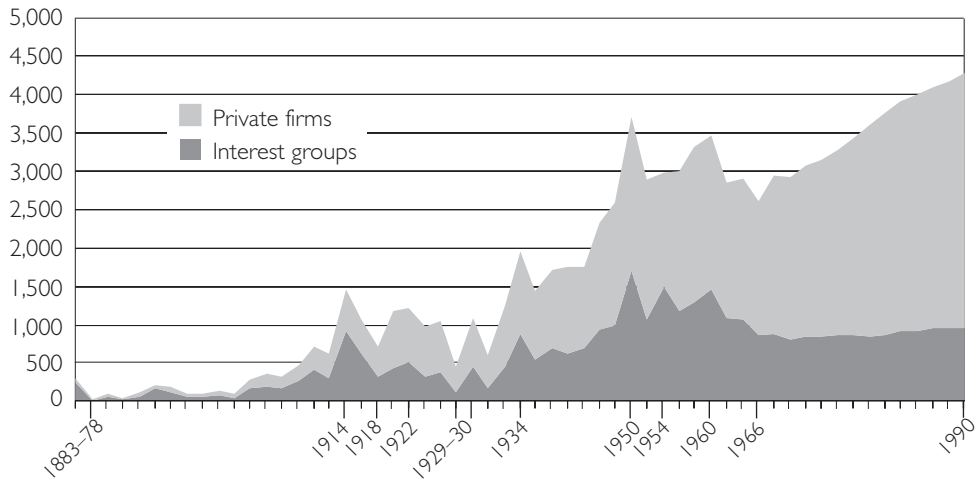
Alexis de Tocqueville, one of the most nuanced observers of American politics and society, described the rise of interest groups during the Jacksonian period as an encouraging development for the young republic. His upbeat conclusions hinged on the ethical, public-spirited, and other-regarding orientations of many of the citizen groups he encountered.⁴ Since these early years, the U.S. interest group system has grown dramatically over time, both in terms of the aggregate size and the rich variety of organized interests actively engaged in American political and policymaking processes. Figure 1 offers a

snapshot of this growth, reminding us that advocacy groups championing human trafficking legislation have operated within a dense population of lobbying organizations.⁵

As the scope and size of the interest group system has expanded and evolved in the 175 years since Tocqueville toured U.S. soil, more than a few scholars have rejected his sanguine view of their contributions to democratic representation and good government. In their studies of interest groups, political scientists long have debated each other about bias and diversity in the population of lobbying organizations active in politics. Classic scholarship assumed that an exceptional variety of organized interests were represented in the policymaking process, producing a virtuous pluralism of countervailing interests.⁶ As Pendleton Herring noted in a fashion that was echoed by later generations of pluralists, “Not only are almost all sorts of interests and classes represented but also all sides of most questions as well.”⁷ Other scholars disagreed sharply with this conclusion, arguing that the interest group system was biased in favor of business. E. E. Schattschneider famously observed that “the flaw in the pluralist heaven is that the heavenly chorus sings with a strong upper-class accent.”⁸

This debate has traditionally led political scientists to traditionally concentrate on economic interest groups, which are the most numerous. Indeed, several recent studies confirm the long-term predominance of trade associations, corporations, peak business groups, and professional associations among politically active interest groups in the United States. Yet, many of these same studies underscore the consid-

FIGURE I
 Growth of the American group system, 1833–1990
 (number of organized interests engaged in legislative lobbying)



The Abiding Interests Project: Data collected by Daniel Tichenor and Richard Harris from archival collections and the CIS Congressional Hearings Index.

erable influence of various public interest or citizen groups in a number of key policy areas, including success in getting their goals onto the official policy agenda and enacted into legislation.⁹ This study relied on several sources to begin to measure and catalogue the array of advocacy groups that have mobilized and lobbied on human trafficking reform during the past decade. These sources include records of public hearings, anonymous elite interviews, newspaper and magazine articles, government reports and documents, and group websites. One of the significant features of the organized interests that have participated in trafficking-related reform efforts since the 1990s is that few if any can be characterized as trade associations, corporations, or other concentrated economic interests focused on advancing the material interests of particular constituencies. As noted above, the interest groups that

have been most engaged and prominent in human trafficking policy are women's, human rights, religious, immigration and refugee, social welfare, and other organizations dedicated to social and international justice, with a much smaller number of professional criminal justice and labor groups.¹⁰

Not surprisingly, one can discern an expansion in both the number and location of interest groups and service providers responding to the human trafficking problem in the years following enactment of the TVPA in 2000 and its reauthorization in 2003 and 2005. As Stoltz chronicles, about a dozen national and international advocacy groups spearheaded or responded to the trafficking reform issue during the 1990s.¹¹ Consider two modest indicators of group response to the trafficking issue in later years: (1) the registration list

for the U.S. Department of Justice's National Conference on Human Trafficking in 2004 (published in Senate subcommittee meetings); and (2) a list of recipients of federal funds in FY 2005 for "anti-trafficking in persons projects" (compiled by the Office to Monitor and Combat Trafficking in Persons, OMCTP). These are clearly not comprehensive indicators of group activism or response to the issue, since only a subset of all relevant groups attended the 2004 conference and numerous organizations active in lobbying do not accept federal funds (such as the Polaris Project). Despite these limitations, both sources are illustrative of growth in the number and location of group engagement. The U.S. Department of Justice's National Conference on Human Trafficking in 2004, for instance, drew 91 advocacy groups and nongovernmental service providers (several of these organizations sent multiple personnel). Thirty-nine of these registrants were national groups (43 percent), while 51 were regional, state, or local groups (57 percent).¹² The OMCTP record of the distribution of federal funds in FY 2005 for anti-trafficking in persons projects indicates 43 nongovernmental organizations as recipients.¹³ Religious, social welfare, women's, human rights, immigration and refugee, and children's groups predominate on both of these lists.

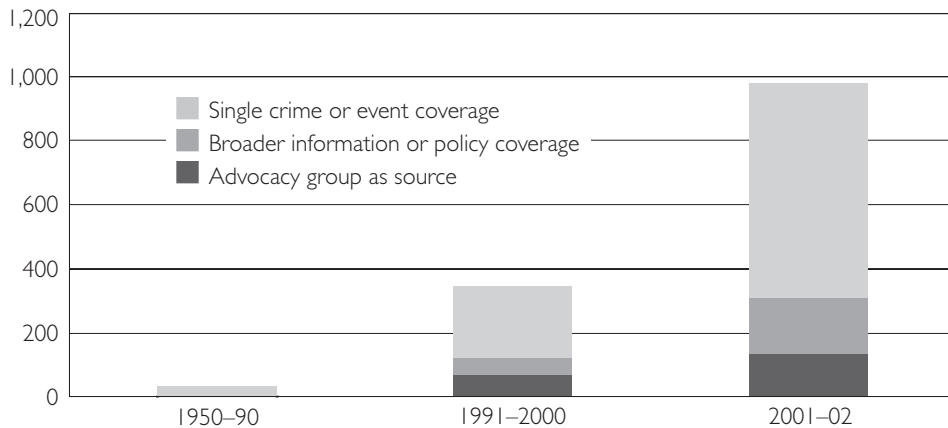
To date, one of the most recognized impacts of advocacy groups lobbying on human trafficking reform has been to help raise awareness of the problem among government officials and the general public. The contribution of advocacy groups to early problem recognition was noted by the elected

officials interviewed anonymously for this study, without prompting by the interviewer.¹⁴ Stoltz's early research finds powerful evidence of this educative and agenda-setting role being performed by relevant interest groups as they briefed and lobbied several lawmakers, Clinton administration officials, and the President's Interagency Council on Women (PICW) in the 1990s.¹⁵ Tellingly, key congressional champions of human trafficking legislation publicly credited various religious, human rights, women's, and social welfare groups for enlightening them on the problem and assisting them in drafting reform blueprints. These include Representative Chris Smith (R-NJ), chair of the Commission on Security and Cooperation in Europe and of the Subcommittee on International Operations and Human Rights of the House Committee on International Relations, and Senator Sam Brownback (R-KS) and the late Senator Paul Wellstone (D-MN) of the Subcommittee on Near Eastern and South Asian Affairs, Senate Foreign Relations Committee.¹⁶

To further test this proposition of advocacy-group contributions to problem recognition, I analyzed newspaper coverage of the human trafficking issue from 1950 to 2002 using electronic databases. The results, summarized in Figure 2, reveal sharp increases in press coverage of the issue in the past decade. Especially germane for our purposes here is the finding that among newspaper stories that went beyond coverage of a single trafficking crime or event and reported on either human trafficking studies, investigations, conferences, legislative activities, or administration proposals, advocacy groups were an active voice in

FIGURE 2

Newspaper coverage of human trafficking, 1950–2002: advocacy groups and problem recognition



Source: Compiled by the author using electronic newspaper databases including Access World News and Proquest’s historical newspapers: New York Times

framing the problem in 47 percent of the stories.¹⁷ These findings reinforce the conclusion that advocacy groups have played a key role in raising awareness of the issue and in helping place human trafficking legislation on a very crowded public agenda.¹⁸

Consistent with Stoltz’s earlier research, the results of my interviews with elites suggest that many of these advocacy groups have not explicitly coordinated or collaborated with others in a formal coalition, but have worked in tandem for similar legislative outcomes.¹⁹ Moreover, as we will discuss in the next section, there are some tensions in the strategies and goals of these groups. Regardless of these real and imagined fault lines, the activism of this diverse set of advocacy groups on the human trafficking problem closely resembles the other-regarding orientations and good works that de Tocqueville considered so beneficial about associational life in America.

II. HUMAN TRAFFICKING ON THE LEFT AND RIGHT: ODD BEDFELLOWS AND THE POLITICS OF PROBLEM DEFINITION

As a cause devoted to eradicating modern slavery, it is perhaps quite fitting that human trafficking reform today, like abolitionism of our 19th-century past, is an issue that cuts across the usual ideological and partisan fault lines of American politics. Beyond some basic linkages, however, the historical analogy quickly becomes strained. Whereas the 19th-century abolition movement convulsed the nation and remade partisan alignments, contemporary human trafficking reform is more of a valence issue that draws champions and supporters from across the political spectrum. Consequently, the past decade has witnessed some truly incongruous political bedfellows actively promoting human trafficking legislation: Charles Colson and Gloria Steinem, Representative Chris Smith and Senator Paul Wellstone, conservative religious and service groups like

the Salvation Army and the National Association of Evangelicals, feminist organizations such as NOW, and human rights groups like Human Rights Watch and Equality Now. Interviewees for this study emphasized that coordination and explicit alliances between liberal and conservative advocacy groups supporting trafficking-related legislation has been rare at best. When interactions have occurred across ideological lines among advocacy groups, they have been characterized as typically fleeting and uneasy. "When we have sat down at the same meeting or briefing," one lobbyist explained, "the thinking generally is, 'we are here together for this specific item at this precise moment, but that's the extent of the relationship.'" ²⁰ Not surprisingly, lawmakers have proven much more amenable to working closely with their colleagues across the aisle on trafficking legislation (the partnership of Senators Brownback and Wellstone is an early and apt example).

Although human trafficking reform has yielded odd bedfellow politics, it has not been a cross-cutting issue that places rival left-right coalitions on fundamentally different sides of a policy question. Contrast, for example, the ideologically diverse array of organized interests and activists that has congealed in support of human trafficking legislation with the profound intra-party conflicts and unlikely alliances found in U.S. immigration reform politics. During the early 20th century, the cause of immigration restriction was advanced by an odd coalition of conservative cultural protectionists (e.g., Senator Henry Cabot Lodge and the Immigration Restriction League) and organized labor (e.g., Samuel Gompers and the AFL). They

were fiercely opposed by a coalition of liberal social reformers and ethnic groups (e.g., Jane Addams and the American Jewish Committee) and business interests (e.g., President William Howard Taft and the National Association of Manufacturers). ²¹ Today the illegal immigration debate evidences similar coalitions that cut across and divide traditional partisan and ideological allies. On this policy dilemma, President George W. Bush, the American Farm Bureau Federation, and the U.S. Chambers of Commerce find more common ground with the likes of Senator Edward Kennedy (D-MA) and the National Council of La Raza than they do with Representative Tom Tancredo (R-CO) and the Federation of American Immigration Reform. Human trafficking reform does not engender similar pro and con positions or coalitions; it is a valence issue precisely because one would be hard-pressed to identify politically significant opponents to legislation designed to address the problem of human trafficking. Instead, the potential or real fault lines among advocacy groups active in human trafficking policy derive from differences and tensions over problem definition.

Whether policymakers are addressing human embryonic stem cell research or terrorism, education or global warming, the way problems are defined is fundamental to understanding the nature of governmental responses (or non-responses) to them. The defining process has crucial implications in terms of the political appeal and traction of an issue, and in terms of the design of policy innovations. "Once crystallized, some definitions will remain long-term fixtures of the policymaking landscape," observe David Rochefort and

TABLE I
 Advocacy group divides in human trafficking reform

Legalization of prostitution	Abolition
Emphasis on criminalization, prosecutions and resources for law enforcement	Emphasis on victim rescue and services
A focus on sex trafficking	Labor trafficking writ large
A focus on the trafficking of foreign nationals (14,500–17,500, estimated)	Trafficking as a problem of illicit trading and exploitation of both foreign nationals and American citizens (hundreds of thousands)

Roger Cobb, “other definitions may undergo constant revision or be replaced altogether by competing formulations.”²² Lobbyists, politicians, and experts interviewed for this study identified several core tensions among advocacy groups active in human trafficking. In particular, group differences have centered on the breadth and depth of the trafficking problem and the choice of policy solutions.

As Table I captures, interviewees for this study placed advocacy groups active in human trafficking policy along four divides. The first tension is one that emerged early in human trafficking reform efforts and focuses on the relationship between trafficking and prostitution. As one interviewee put it, “Are all forms of prostitution trafficking? Should trafficking be equated with a war on prostitution?” While certain groups favor some forms of legalization of prostitution, better regulation of a legalized sex industry, and qualification of trafficking as involving “force, fraud, coercion, or deception,” many liberal and conservative groups take an abolitionist position and argue that all prostitution involves coercion and exploitation. Several group representatives observed that religious organizations were essentially united in viewing

prostitution as an issue of human rights abuse, while the “rights/feminist community is pretty split.” There was consensus among interviewees that the abolitionist position has carried the day in policy design to date, and that legalization groups have been marginalized in both policy formulation and implementation.

A second elemental tension divides advocacy groups over whether official policy responses should place a greater emphasis on criminal justice and prosecution of traffickers or on assisting the victims of trafficking. The TVPA of 2000 and reauthorizations in 2003 and 2005 are touted by its major sponsors to address the so-called “three p’s”: prosecution, prevention, and protection. But a number of groups assert that existing statutes prioritize the criminalization of trafficking and the expansion of resources for law enforcement, while devoting too few resources for victim rescue and services. To illustrate this bias, one group representative contended that the TVPA is fundamentally a “criminal justice law” because it requires foreign national victims to cooperate with investigators in exchange for protection—“a huge stumbling block for victims and why so few come forward.” Other

group representatives argued that a tough law enforcement approach in federal and state statutes was necessary as both a means of cracking down on unscrupulous traffickers and a form of deterrence.

The final two tensions among advocacy groups reflect differences over the scope of the human trafficking problem and over which aspects of the problem groups have specialized. Whereas many organized interests (and the media) have focused more on the problem of sex trafficking, others have framed trafficking as a problem of forced labor, slavery, or servitude in any industry or work context. Several group representatives suggested that sex trafficking was the high-profile problem that catapulted the issue onto the national agenda by eliciting the moral outrage of advocacy groups, policymakers, and ordinary citizens, but that a number of groups are beginning to expand their efforts to include all forms of labor trafficking. Similarly, some advocacy groups concentrate on prosecution and victim relief concerning the estimated 14,500 to 17,500 foreign nationals illicitly trafficked into the United States, while others highlight the problem as one with both foreign national and citizen victims numbering in the hundreds of thousands. Some interviewees explained that the federal government's implementation of human trafficking reform has primed this distinction between nongovernmental organizations focusing on foreign national victims and those pointing to a much larger problem of transnational and domestic origins of the modern enslavement of adults and children. Although the TVPA of 2000 offered expansive language stipulating that citizens and foreign nationals alike are victims of

human trafficking, federal funding has targeted services to the transnational, foreign-born dimension of the problem. "I would like to think that everyone working on the trafficking issue has a heart for all human beings who are being forced to do something against their will," one interest group leader said. "But trafficking is regularly defined primarily as a foreign national issue and the federal funding structure reinforces this."

It is important to note that although there was considerable agreement across interviews that these tensions represent differences among groups, there was disagreement about where specific organized interests ought to be placed. Indeed, there was a tendency for many group representatives interviewed to offer interpretations of where other groups stood in the defining and design processes, while those groups identified offered a different position during interviews or in website language and hearing testimony. Accordingly, Table 1 does not name specific groups as examples of particular positions. Nevertheless, all four of the tensions we have discussed—legalization of prostitution versus abolition, an emphasis on criminal justice versus victim relief, sex versus labor, and foreign national versus citizen—represent promising typologies for categorizing advocacy groups engaged in human trafficking policy.

III. FEDERALISM, HUMAN TRAFFICKING, AND STATE-LEVEL POLITICS

"Because the Constitution is so vague in allocating responsibilities among different levels of government," Thomas Anton writes

in his magisterial work on American federalism and public policy, “all efforts to define the distribution of authority among governments have been unsuccessful.”²³ For many reform-minded advocacy groups, federalism’s division of governmental authority affords multiple “opportunity points” for pursuing policy innovation in a U.S. polity noted for its barriers to nonincremental change. This is especially true of groups stymied at the national level, from women suffragists to contemporary advocates of less restricted stem cell research. In other cases, like the abortion struggle, fundamental conflicts are replicated at every level of government. Human trafficking groups, by contrast, have been quite successful in winning major national legislation and federal administrative initiative on the issue in a relatively short period of time. The imperatives driving the pursuit of state-level trafficking legislation are largely about the distribution of resources: prosecutions of traffickers and victim identification depend heavily on the mobilization of state and local law enforcement. That is, like education or welfare policy, considerable authority and budget dollars are decentralized in the American system. As a result, one of the significant challenges for human trafficking reform groups is coordinating policy at the national, state, and local levels, and educating law enforcement professionals at the grass-roots. One of the most frequent examples of a major disconnect between federal and state policies raised by advocates interviewed for this study is that a minor linked to prostitution is treated as a victim under federal law and as a delinquent under state prostitution laws like those of New York.

Federal bureaucracies like the Department of Justice and nongovernmental organizations like the Polaris Project have encouraged state-level action on human trafficking by working to educate local and state law enforcement officials about the problem, by providing specific information on trafficking challenges in particular states and locales, and by offering model laws (and in the case of the Polaris Project, helping to craft legislation) for state legislators to use as templates for reform. To date, half of the states have passed criminal statutes against trafficking, others have enacted legislation establishing task forces or research commissions to investigate the problem in their states, and a handful have enacted second anti-trafficking laws. These state-level efforts are very fluid. Before 2006, 12 states enacted legislation making trafficking a state felony offense; during the past year, 13 additional states have followed suit by passing criminalization statutes (see Table 2). There is considerable variation in these state trafficking laws, however, as Amy Farrell’s paper underscores. Of the 29 states that have enacted trafficking-related legislation, the vast majority appear to have adopted a relatively modest slice of the broad menu of criminal, prevention, and victim service provisions advanced by the Polaris Project’s “Comprehensive Model State Law” (see Table 3).

Interviewees for this study reported that generally the number of advocacy groups engaged in state-level lobbying for human trafficking reform is considerably smaller than those active in national policymaking. Moreover, many suggested that successful passage of state anti-trafficking legislation

TABLE 2
State anti-trafficking laws, 2006

States that have passed criminalization statutes	Alaska, Arkansas, Arizona, California, Colorado, Connecticut, Florida, Georgia, Iowa, Idaho, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Missouri, New Hampshire, Nevada, Pennsylvania, South Carolina, Texas, Washington
States that have enacted legislation creating trafficking task forces or research commissions	California, Colorado, Connecticut, Hawaii, Idaho, Maine, Minnesota, Washington
States that have passed a second anti-trafficking law	California, Florida, New Jersey, Washington

Sources: National Institute of State Policy on Trafficking of Women and Girls, Center for Women Policy Studies, Fact Sheet, August 2006; Polaris Project data, November 2006, and newspaper reports.

typically was spurred by one or two key champions, often a determined state legislator, prosecutor, or advocacy group. The exposure of local or state trafficking crimes by the media or law enforcement officials also was deemed an important factor in many cases. But it also bears noting that my analysis of newspaper coverage of the human trafficking issue demonstrates often limited reporting on state and local developments, as opposed to far more extensive coverage of the international and national context (for example, only a handful of articles on the trafficking problem in New Jersey and Pennsylvania appeared between 2000 and 2002, compared to hundreds of newspaper stories on the national and international problem—see Figure 2). Limited media attention combined with the absence of reliable statistical data on the problem at the state level, let alone the national level, can leave many state policymakers in the dark about the problem. As the leading sponsor of the Pennsylvania anti-trafficking law, Representative Katie True (R), recalls, most of her colleagues questioned whether there was in fact a serious

anti-trafficking problem in the state when she sought cosponsors. “I said yes, but it’s very underground,” she explains.²⁴

Several specific state-reform campaigns provide us with disparate models of the role advocacy groups have played (or not played) in the legislative process. The trafficking reform effort in New York, for instance, offers a portrait of conflict and stalemate among advocacy groups and lawmakers that ultimately spelled the demise of legislation. Propelled by prominent endorsements from then State Attorney General Eliot Spitzer, a strong coalition of advocacy groups, and powerful majority sponsors with broad bipartisan support, political leaders predicted easy passage of anti-trafficking legislation during the summer.²⁵ Yet New York lawmakers could not reconcile an Assembly bill sponsored by Bronx Democrat Jeffrey Dinowitz with the Senate bill sponsored by Queens Republican Frank Padavan; insiders report that struggles among rival advocacy groups and lawmakers over the strength of criminal provisions and the character of victims service provisions were

TABLE 3
Provisions of the Polaris Project's comprehensive model state law

<i>Prosecution/criminal provisions</i>	<i>Prevention of trafficking</i>	<i>Protection of victims</i>
Trafficking in persons Sexual servitude of a minor Involuntary servitude Accomplice liability Victim immunity Non-defenses to trafficking Criminal liability of business entities Restitution Forfeiture Civil liability Statute of limitations Applicability of labor standards State RICO statutes	State task force Data collection and dissemination Training requirements Public awareness Grants Role of nongovernmental organizations	Protection for the safety of victims Witness protection Access to state victims' compensation fund Protection for the privacy of victims Information for victims Opportunity for presentation of victims' views and concerns Support for victims Appropriate implementation for child victims Human trafficking caseworker victim privilege Protection of domestic violence and trafficking shelters

Source: Based on the Polaris Project's comprehensive model state law.

insurmountable.²⁶ In Pennsylvania and New Jersey, the initiation, drafting, and enactment of anti-trafficking legislation was spurred by local and county prosecutors, the state district attorneys association, members of the U.S. Congress, and especially key legislative champions like Pennsylvania Representative Katie True (R), New Jersey Assemblywoman Linda Stender (D), and New Jersey Senators Nia Gill (D) and Leonard Lance (R). In both states, the exposure and prosecution of local human trafficking crimes gave momentum to the reform effort; the Pennsylvania effort, for instance, gathered momentum after August raids on two York County brothels.²⁷ The engagement of lobby groups and other nongovernmental organizations in the process did not seem to be a pivotal element of the reform process in these states.²⁸

Finally, the case of Washington State captures advocacy groups working effectively in collaboration with community leaders, academic experts, and state legislators to establish a task force on human trafficking and later to enact significant anti-trafficking legislation.²⁹ As Representative Velma Veloria (D) recounts, the state coalition and subsequent task force enabled "all interested parties" to "share information, garner support, and provide guidance to address trafficking."³⁰ These four state campaigns for trafficking reform capture disparate models of group conflict and stalemate, reform without a significant advocacy group presence, and effective group lobbying and coordination with policymakers and experts. When it functions well, policymaking in the states can exemplify Louis Brandeis's ideal of successful "laboratories of experiment." At its worst, American federalism can produce a confusing patch-quilt of poorly designed, uncoordinated

TABLE 4

Political power and social construction of target populations as conceived by policymakers

	Positive Social Construction	Negative Social Construction
<i>Stronger political power resources</i>	<p>ADVANTAGED</p> <p>The middle class</p> <p>Senior citizens</p> <p>Business</p> <p>Policy benefits yield major political payoffs; burdens are very risky</p>	<p>CONTENDERS</p> <p>Tobacco companies/CEO's</p> <p>Gun owners</p> <p>"Big unions"</p> <p>Visible policy benefits are risky; burdens yield mixed effects</p>
<i>Weaker political power resources</i>	<p>DEPENDENTS</p> <p>Children</p> <p>Mothers</p> <p><i>Trafficking victims</i></p> <p>Policy benefits yield mixed political effects (especially when costly); visible burdens are risky</p>	<p>DEVIANTS</p> <p>Gangs/drug kingpins</p> <p>Undocumented aliens</p> <p><i>Traffickers</i></p> <p>Punishments yield major political payoffs; policy benefits are very risky</p>

Source: Derived by the author from Anne Larason Schneider and Helen Ingram, *Policy Design for Democracy* (Lawrence, KS: University Press of Kansas, 1997), pp.109–114.

and ineffective policies. Anti-trafficking advocacy in the states presents both opportunity and risk.

CONCLUSION: TARGET POPULATIONS, POLICY DESIGN, AND LONG-TERM POLITICAL PROSPECTS

The human rights, religious, service, and women's groups that have pursued human trafficking reform since the 1990s have been instrumental in educating policymakers and others about the problem and placing it on the public agenda. They also have been unusually successful in winning major new legislation at the national and state levels within very short time horizons. Their ethically driven mobilization on behalf of the most vulnerable of populations, in contrast to the self-interested lobbying on behalf of the well-heeled and powerful that is so often the norm, reinvigo-

rates de Tocqueville's conception of American nongovernmental associations as crucial vehicles of liberal democracy and the public good. Given the relative youth of the contemporary anti-trafficking movement, however, what can we say about the long-term political prospects of its policy creations?

I think we can gain some useful theoretical leverage on this question by considering the work of policy scholars Anne Larason Schneider and Helen Ingram on how the social construction and relative power of target populations often influence policy designs and their political durability.³¹ Social constructions of actual or potential target populations regularly enter the calculations and policy choices of elected officials. "[T]here is much to be gained publicly by providing beneficial policy to 'deserving' or 'good' people," note Schneider and Ingram. "There is also much to be gained

by disciplining 'undeserving' people who are 'lazy' or 'immoral,' or punishing those constructed as 'criminals' or 'drug kingpins.'"³² As much as target populations vary on the basis of positive or negative constructions, they also differ in terms of their relative political power (wealth, size, voting strength, propensity to mobilize, and so forth). From these social construction and political power variables, Schneider and Ingram develop four types of target populations: the advantaged, contenders, dependents, and deviants (see Table 4).

The target populations of anti-trafficking policy designs are squarely located by elected officials, advocacy groups, and other activists in dependent and deviant categories. Trafficking victims are by definition among the most politically weak; but they also are passionately defended by reformers as exceptionally deserving of rescue, protection, and services of the government.

Indeed, one of the key struggles for reformers is to supplant state laws that define minors linked to prosecution as delinquents with anti-trafficking laws that conceive them as victims. Typically weak in political power, traffickers are framed by most policymakers and advocacy groups as repugnant criminals deserving of severe punishment.

Not surprisingly, Schneider and Ingram find that elected officials embrace opportunities to extend policy benefits to advantaged target populations. These policies also prove to be the most lasting and secure. Almost equally

appealing to elected officials and the politically durable are policies that impose tough punishments on deviants. However, one of the attractive features of such policy innovation is that it often entails modest expenditures and can be highly symbolic. Dependent target populations have less political power than advantaged groups, usually due to various structural barriers to participation and fewer resources. Public officials generally want to establish policies that make "deserving" and helpless dependents the recipients of beneficial policies, but this target population's lack of political power can make it difficult for policymakers to direct sustained resources for their benefit. These theoretical insights have obvious implications for the long-term political prospects of human trafficking policy. The capacity of anti-trafficking advocacy groups and other reformers to successfully advance criminalization laws exemplifies well the favorable political environment for creating new policies that punish deviant actors. Yet the same political environment makes it far more difficult for reformers to win policies that adequately serve human trafficking victims. Policy benefits for dependent victims are both more elusive and more politically vulnerable than criminal punishments for traffickers. One result of these political opportunities and constraints is a disquieting gap between strong criminal penalties for traffickers and limited resources for the rescue, protection, and recovery of their victims. Narrowing this gap presents a daunting but important challenge for anti-trafficking advocates.

Notes

1. The cast of advocacy groups engaged in human trafficking reform politics that are discussed in this paper are derived from anonymous interviews with interest group representatives and policymakers at the national and state levels, the records of congressional and state hearings on the subject, research of group websites, and newspaper and magazine coverage.
2. The classic analyses of the policy process and its stages are provided by James E. Anderson, *Public Policymaking* (New York: Praeger Publishing, 1972), Anderson, *Public Policymaking* (Houghton Mifflin, 2002), and John W. Kingdon, *Agendas, Alternatives, and Public Policies* (Boston, MA.: Little, Brown and Company, 1984). For an excellent critique of the policy cycle and its stages, see Deborah Stone, *Policy Paradox: The Art of Political Decision Making* (New York: W.W. Norton and Company, 2001).
3. Barbara Stoltz, "Educating Policymakers and Setting the Criminal Justice Policymaking Agenda: Interest Groups and the 'Victims of Trafficking and Violence Act of 2000,'" *Criminal Justice* Vol. 5 (4): 401–430.
4. Alexis de Tocqueville, *Democracy in America*.
5. This figure is drawn from my own archival research on the origins and development of the American interest group system with Richard Harris; see Tichenor and Harris, "Organized Interests and American Political Development," *Political Science Quarterly* (Winter 2002–03), and our forthcoming *Abiding Interests* (New York: Cambridge University Press).
6. For a careful exegesis of this extensive literature, see Frank R. Baumgartner and Beth L. Leech, *Basic Interests: The Importance of Groups in Politics and in Political Science* (Princeton, NJ: Princeton University Press, 1998), pp. 83–119.
7. Pendleton Herring, *Group Representation before Congress* (Washington, D.C.: Brookings Institution, 1929), p. 22.
8. E.E. Schattschneider, *The Semisovereign People* (Hinsdale, IL: Dryden Press, 1975), pp. 34–35.
9. Jeffrey M. Berry, *The New Liberalism: The Rising Power of Citizen Groups* (Washington, D.C.: The Brookings Institution, 1999); Tichenor and Harris, *Abiding Interests*.
10. Their ranks have in the recent past or currently include organizations such as the Coalition Against Trafficking in Women, Coalition to Abolish Slavery and Trafficking, ECPAT-USA, Equality Now, the Family Research Council, Global Survival Network, Human Rights Watch, International Human Rights Law Group, International Justice Mission, the National Association of Evangelicals, the National Organization of Women, the Polaris Project, the Religious Action Center of Reform Judaism, the Refugee Women's Alliance, Safe Horizon, the Salvation Army, the Southern Baptist Convention, and the U.S. Council of Catholic Bishops.
11. Stoltz, "Educating Policymakers and Setting the Criminal Justice Policymaking Agenda," pp. 415–419.
12. Examining Efforts to Combat Human Trafficking and Slavery, Hearing before the Subcommittee on the Constitution, Civil Rights, and Property Rights of the Committee on the Judiciary, United States Senate, 108th Congress, 2nd Session, (Washington, D.C.: U.S. Government Printing Office, 2004), pp. 65–90.
13. United States Government Funds Obligated in FY 2005 for Anti-Trafficking in Persons Projects, Compiled by the Office to Monitor and Combat Trafficking in Persons, www.state.gov/documents/organization/65484.pdf.
14. Three lawmakers, one a member of Congress and two at the state level, were interviewed anonymously on November 19 and 22, 2006.
15. Stoltz, "Educating Policymakers and Setting the Criminal Justice Policymaking Agenda."
16. See the Congressional Record, July 27, 2000, H2683–2684 and October 11, 200, S10167.
17. The less direct influence of these groups in framing the problem in various newspaper stories in which they are not quoted as a source is intriguing, but arduous to measure within the confines of this study.

18. The daunting challenges to getting an issue on the public agenda amidst a thicket of previous government commitments and a host of new problems competing for consideration is discussed in Beth Leech, Frank Baumgartner, Jeffrey Berry, Marie Hojnacki, and David Kimball, "Organized Interests and Issue Definition in Policy Debates," in Allan Cigler and Burdett Loomis, eds., *Interest Group Politics* (Washington, D.C.: *Congressional Quarterly Press*, 2002), 6th edition, pp.275–292; Lawrence Brown, *New Policies, New Politics: Government's Response to Government Growth* (Washington, D.C.: Brookings Institution, 1983); Kingdon, *Agendas, Alternatives, and Public Policies*; and Stone, *Policy Paradox*. See also Frank Baumgartner and Bryan Jones, *Agendas and Instability in American Politics* (Chicago: University of Chicago Press, 1993).

19. This is particularly the case of odd ideological bedfellows, such as feminist and religious right organizations. Sources: Twelve anonymous interviews conducted with advocacy group representatives from November 18 to November 23, 2006; Stoltz, "Educating Policymakers and Setting the Criminal Justice Policymaking Agenda," p. 424.

20. Anonymous interview with the author, November 22, 2006.

21. For more on these odd bedfellows and four distinctive ideological traditions concerning U.S. immigration reform, see Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control* (Princeton, NJ: Princeton University Press, 2002).

22. David Rochefort and Roger Cobb, "Problem Definition: An Emerging Perspective," in Rochefort and Cobb, eds., *The Politics of Problem Definition: Shaping the Policy Design* (University of Kansas Press, 1994), p.4.

23. Thomas Anton, *American Federalism and Public Policy: How the System Works* (New York: Random House, 1988), chapter 2.

24. Helen Colwell Adams, "Municipal Services, Trafficking Bills OK'd: Armstrong, True Legislation Awaits Rendell's Signature" *Sunday News*, October 29, 2006.

25. Bob Herbert, "Hidden in Brothels, Slavery by Another Name," *New York Times*, June 1, 2006, p. 25; "Bill Would Make Trafficking in Humans a Felony," *Watertown Daily Times*, May 16, 2005, p. D2.

26. Anonymous interviews with the author, November 21 and 22, and Bob Herbert, "The Pimps' Friends in Albany," *New York Times*, July 6, 2006, p. 21.

27. Press Release from the office of Representative Katie True on HBI 12, "True's Bill Fighting Human Trafficking Heads to Governor for Enactment," www.reptrue.com; Robert Nugent, "Trafficking Proves to Be Lucrative," Richard Fellinger, "Pennsylvania Fights Modern Day Slavery," *The Evening Sun*, October 29, 2001; Teresa Rivas, "Assembly Passes Bill Making Human Trafficking for Sex, Forced Labor a Crime," *Press of Atlantic City*, October 8, 2004, p. A5; John Brand, "Senate Committee Releases Human-Trafficking Bill," *Press of Atlantic City*, February 4, 2005, p. C6; Judith Lucas, "Putting the Slave Trade Out of Business: County Officials Press For Tough State Legislation," *The Star-Ledger*, September 12, 2004, p. 29; anonymous interviews.

28. Ibid.

29. Joanne Alcantara, Sutapa Basu, Emma Catague, Norma Timbang, and Velma Veloria, *Washington State Coalition: A Model for Inclusiveness to Combat Human Trafficking, Passing Groundbreaking Legislation, Asian Women and Allies for Non-Violence International and the Women's Center*, University of Washington.

30. Velma Veloria, "Journey to the House Bill 1175: Making Trafficking of Persons a Crime in the State of Washington," March 19, 2004, in *Ibid*, p. 8.

31. Anne Larason Schneider and Helen Ingram, *Policy Design for Democracy* (Lawrence: University Press of Kansas, 1997).

32. *Ibid*, p. 107.

Appendices:

Materials from the “Movement of Global Talent” Symposium

Appendix A:

Discussion Summaries

SESSION I: DEFINING TRAFFICKING: CONCEPTS FROM THE STATES

A panel discussion followed “State Law and Human Trafficking,” the presentation by **James Finckenaue**r, professor at Rutgers University’s School of Criminal Justice. His presentation described the groundwork that led to a definition of human trafficking, and the ensuing international and federal attention it received. This resulted in the 2000 U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and the U.S. Trafficking Victims Protection Act of 2000, which was reauthorized in both 2003 and 2005. Though human trafficking entails the elements of force, fraud, or coercion, leading to forced labor and/or exploitation, its definition is not simple, Finckenaue explained. For example, trafficking need not involve the actual relocation of a victim, nor does it entail crossing international borders, which makes it different from smuggling. Nor is it the same thing as sex trafficking, though sexual exploitation can be involved.

He discussed the benefits and disadvantages of having both state and federal legislation, and focused in particular on the difficulty of prosecuting human trafficking cases, which requires developing “climate of fear” evidence. Obtaining cooperation from the victim under

such circumstances requires that the victim receive support. Following the federal act, 24 states have enacted anti-trafficking statutes as of October 2006, including New Jersey. Finckenaue described the New Jersey law in his presentation, and legislation under consideration in New York and Pennsylvania. “The evils of human trafficking are known,” Finckenaue concluded, “But there remain a great many unknowns with respect to the practical details of trafficking: its nature, magnitude, and seriousness; its trends and projections; the persons most affected; the effectiveness of previous responses; and, most importantly, the origins and causes of the problem. Until we are much better informed on all these dimensions, effective policy responses are likely to remain elusive.”

Nina Siulc, director of research at the Center on Immigration and Justice at the Vera Institute of Justice, was the moderator. The panel included **Florrie Burke**, senior director of international programs at Safe Horizon; **Elissa Steglich**, managing attorney of the Legal Representation Project on the American Friends Service Committee; and **Charlotte Watson**, senior adviser on human trafficking for the State of New York’s Department of Criminal Justice Services.

What all trafficking survivors have in common—whether they are men, women, or minors, and whether they work in the sex trade, as laborers, or in domestic servitude—is that they live in a climate of fear, said **Florrie Burke**. Because of this, anti-trafficking legislation needs to keep victim protection at the forefront, and look at what trafficking victims need to rebuild their lives. “We don’t want to create disposable witnesses,” she said. Burke represents many survivors of trafficking in her work at Safe Horizon, and their stories inform her position. Since 2001, her program has worked with 300 victims, a quarter of whom were men.

The fight against trafficking is increasingly beleaguered, Burke said, because of the difficulty of getting trafficking victims to come forward. If prosecutors are to gain the support of victims, they must provide a climate in which the victims feel safe enough to reveal themselves. Political controversies over the definition of trafficking impede that, as does working within federal and state laws that don’t necessarily agree with each other. Burke supports a broader definition of who the subjects of human trafficking are that goes beyond victimhood. She said she could recount many stories of trafficking survivors who don’t see themselves as victims, but as people who were coerced and deceived in their efforts to successfully migrate. “We need to pay attention to what is motivating these trafficking victims to leave their countries,” she said.

Burke believes strongly that policy, legislation, research, and practice all need to be discussed together—and that state anti-trafficking efforts

need better coordination. “People are caught up in philosophical differences that prevent moving forward with better comprehensive laws,” she concluded. “It is critical that all the players—service providers, law enforcement, and academics—listen to each other and be informed by each other’s work in order to derive meaningful laws.”

Elissa Steglich, who has primarily worked with immigrants in Chicago and the Midwest, said that anti-trafficking policies must meet the challenges both of defining the crime and defining protection and who is entitled to it. “It is important to recognize that trafficking is an equal opportunity crime affecting a diverse pool that includes all nationalities and education levels,” she said. “Deriving systems that meet the very different needs of trafficking victims—for example, an American child who has been exploited and a nurse practitioner from the Philippines who was deceived into immigrating and placed into a position of slavery—presents significant resource challenges for policymakers.”

The term human trafficking did not come into international parlance until 2000, but since then the international human-rights community has been very strong in recognizing the problem, Steglich said. While this presents an opportunity to push for maximum protection for victims, friction has developed between states trying to put resources into prosecution, which is costly, and the human rights community, which wants resources to go to protection and prevention.

Most of current focus is on the crime and its prosecution. “The idea is that if you can recognize the crime, then you’ll recognize the victim,” she described. But recognizing the crime is not so easy in human trafficking cases, because it spans a variety of actions—from recruitment of victims through the harboring of victims in a slavery situation. “Trafficking is the worst title for this crime,” according to Steglich, as the crime really has nothing to do with movement. “It’s all about exploitation and the force, fraud, or coercion that creates a climate of fear.”

“The challenge is whether the crime and victim pool can be defined separately,” she said. Victim protection services need to be designed to make victims who are witnesses less vulnerable. For example, since many trafficking victims are illegal immigrants, they need benefits that provide some legal standing. “It is very hard to get some of these victims to come forward,” Steglich said. “Getting a green card and working a minimum wage job are often not enough when they also are trying to cope with being severely traumatized.”

Training and education are essential to ensure appropriate responses from both the criminal justice system and service providers, Steglich concluded. Policymakers need to be aware of the current conflicts at the federal and local levels. “It is extraordinarily challenging,” she said. “All parties need to cooperate and work together.”

Charlotte Watson discussed how these issues have played out in New York State. While New York State does not have a human

trafficking law, it nonetheless has had some success in combating trafficking, she reported. The most recent legislative session included several legislative drafts that raised the visibility of the issue, and led to discussions of what constitutes trafficking in the state, what the response to it should be and what services should be offered. Watson said that New York’s new governor, Eliot Spitzer, is very concerned about human trafficking, and she expects the response to improve.

Watson outlined several recent efforts in New York:

- The state’s Division of Criminal Justice Services has looked at what existing crimes in the state overlap with human trafficking, such as commercial sexual exploitation, and is providing grants to programs that provide services to both international and domestic trafficking victims.
- The Office of Court Administration is getting judges to dialogue around the issue of trafficking and its overlap with domestic violence.
- The Department of Labor investigates claims of unfair labor practices.
- The Office of Temporary Disability Assistance has trained providers in how to respond and provide services to victims, and is working to develop local programs. OTDA also has an internship project looking at prostitution and its role in trafficking.
- A recent statewide conference brought federal players to the state to describe the federal law and how to work with the federal authorities and the immigration bureau.
- The New York State Coalition Against Sexual Assault has a Victim Assistance Academy offering an advanced course on human trafficking.

In establishing policy, it is important to look at other areas with similar challenges, Watson said. As an example, she suggested stalking,

which also involves a climate of fear. New York used to define stalking as aggravated harassment, but it now has a comprehensive stalking statute. It took time to implement, however, Watson said. It required bringing together service providers, victims, law enforcement, and legislators to arrive at a workable definition of the crime that was separate from harassment. Watson predicts a similar path for a human trafficking law, because it is a similarly complicated crime with many dimensions.

State anti-trafficking laws must be at least as broad as the federal law, but Watson maintained that there is a need for both. "Just as with federal and local gun and other laws, one size doesn't fit all," she said. When people see something suspicious, they are going to call their local police department, not the federal authorities. And without state and local laws, local enforcement lacks guidance on how to respond, Watson said.

Watson concluded that trafficking laws need to be broad enough to cover the very different experiences of trafficking victims, and must include meaningful penalties. "This is the buying and selling of human beings," she said. "But not all solutions belong in the law." The problem must be addressed on the demand side, which involves global economies. Solutions should also come from services developed within existing, locally established structures, such as homeless shelters. "We don't have to fit everything into the law; we need to figure out how to take what we already have to meet the needs of these victims," she said.

Q&A

An audience question-and-answer period followed the discussion. Some of the highlights:

Would changing the term trafficking to slavery shift the debate in a useful way, and might it help avoid the conflation of sex trafficking with trafficking in general?

Florrie Burke said the shift might help clarify that the issue of trafficking is not just about the actual movement of people. But she was not sure if it would help with the conflation problem. "Conflation is dangerous because it leaves out too many people," she said. About 40 percent of trafficking involves sex, while over half of the 300 trafficking victims she has dealt with were involved in forced labor. "I prefer to refer to it as human trafficking/modern day slavery," she said.

Charlotte Watson advised against changing terminology, warning that it would just add another layer of discussion, but not action. She also expressed concern that it might offend those in this country who are descended from slaves. "Should we get bogged down in creating more and more labels, or look at what constitutes the experience of human trafficking?" she asked.

What is the process by which victims are identified and enter the system?

Elissa Steglich responded that there are a variety of paths. Sometimes the victim reaches out at a church, or through a friend, or a hotline. Other times, an outside observer recognizes a possible problem and reports it. In any case,

once the Department of Justice is aware of a possible trafficking case, it triggers an investigation, as well as provides the victim access to service providers. At the federal level, the procedure follows the course of any federal prosecution, from questioning to evidence to prosecution.

Nina Siulc added that none of the states with anti-trafficking legislation have yet prosecuted at the state level.

Is there an opportunity for states to fill a gap at the federal level and address the special needs of kids caught up in trafficking, which are dramatically different than those of adults?

Charlotte Watson, noting that an informal survey showed that the largest numbers of trafficking victims are children, said that regulatory bodies are only at the beginning of understanding how to deal with child victims. In New York, crimes against children are separated from other forms of trafficking, and existing laws protecting children are also applied to trafficking situations. There are some disturbing legal discrepancies, however, she said. For example, the penalties for going to a child prostitute are less than those for

statutory rape. "This is shocking," she said, "because there is no difference from the child's point of view. It demonstrates the paradigm shift that must be made."

Elissa Steglich concurred that children must receive special attention, and advised looking beyond state policies. In Illinois, for example, authorities turned to the Child Welfare Agency to see what policies could be applied to child trafficking situations.

In prosecuting trafficking, the victim needs to identify the trafficker. Are there efforts to prosecute without a victim, who may not have the protection of his or her home country?

James Finckenauer said it is difficult to move a case forward without a victim, though some states provide witness protection.

Florrie Burke agreed that prosecutors routinely say there is no case without a victim, and then rely on nongovernmental agencies to protect their witnesses. However, witness protection is not "a good fit" with foreign nationals, and is not being used routinely, she said. And without witness protection, prosecutors risk losing victims.

SESSION 2: CRAFTING LEGISLATION

A panel discussion followed "State Human Trafficking Legislation," the presentation by **Amy Farrell**, principal research scientist and associate director of the Institute on Race and Justice at Northeastern University. Human traf-

ficking is on the public policy agenda because it is both a human rights violation and a serious threat to security, Farrell said. As such, there have been significant efforts to craft legislation to prosecute traffickers and provide resources to service agencies that help victims at both the federal and state level. Farrell described

the development of the U.S. Trafficking Victims Protection Act of 2000, and how it has informed state legislation in almost 30 states since then. The state legislation generally broadens the definition of force to include psychological coercion, but legislation varies across the nation in how trafficking is defined and what remedies are proposed. “The variation in structure and purpose of these laws helps us understand how legislative bodies have responded to varied public framings of the type of problem human trafficking poses to communities throughout the United States,” she said. She specifically compared approaches in New Jersey, New York, and Pennsylvania.

Udai Tambar, assistant director of the Policy Research Institute for the Region at Princeton University, was the moderator. The discussants were **Nia Gill**, state senator in the State of New Jersey, and **Linda Rinaldi**, deputy attorney general of the State of New Jersey.

“At its very core, human trafficking is a human rights problem,” said Nia Gill. This position has informed the anti-trafficking statutes she has sponsored as a New Jersey state senator. Under New Jersey statutes, trafficking can entail corporate liability, forfeiture, and civil penalties. However, while the state seeks a punitive response to trafficking, it also seeks to expand access to services for victims. “The U.S. attorney and state prosecutors work very closely in New Jersey, and the victim of trafficking can’t be prosecuted,” she said.

The next issue to tackle is who controls access to services, Gill said. She pointed out that powerful religious groups are involved in

many social services, and this can affect which services are provided, especially when trafficking involves prostitution and contraceptives. This is unacceptable to Gill. “Women have a right to their reproductive decisions,” she said. “But some victim services groups refuse to give women the tools they need to make good decisions.”

Gill also said that confronting human trafficking requires taking a hard look at our own lives, and some of the cheap comforts we enjoy—such as \$10 roses—that may be derived from forced labor. “Unless we are willing to challenge the economic benefits we derive from human trafficking, it will continue. This is a profit business, and has to be addressed as such,” Gill concluded. “We must make choices about what we spend our money on.”

Linda Rinaldi, who obtained a federal grant to establish and implement the New Jersey Statewide Human Trafficking Task Force, said that mounting a case against a trafficker requires a victim. However, most trafficking victims in New Jersey are immigrants who either were smuggled here or came voluntarily, and so have no documentation. “What the law enforcement official perceives is an undocumented person engaged in some illegal activity,” she described. And, conversely, because of the climate of fear, the victims are afraid of law enforcement. “This cycle keeps victims hidden,” Rinaldi said.

To combat this cycle, the primary mission of the task force is to train law enforcement to understand the mindset of trafficking victims and why they do not self-identify—to get

them to look beneath the surface to see that victims may not be as willingly engaged in some activity as they appear to be. And because victims do not trust law enforcement, Rinaldi said that law enforcement must be trained to work with direct service providers. "I tell law enforcement officers that they will never respond to a 'call' on human trafficking," Rinaldi said. "The call will be about domestic violence, sexual assault, or something odd and not directly related."

She noted that, so far, there have been no prosecutions under the New Jersey statute because law enforcement personnel—including prosecutors—are still being trained. "Prosecutors are trained in rules of evidence," Rinaldi explained. "They don't indict without feeling comfortable that they are going to get a conviction. But human trafficking is a complex issue to prove, and law enforcement needs support to understand it and get to prosecution." Rinaldi concluded, "Of course we want to rescue victims. But we also want to indict traffickers, or the problem will persist."

Q&A

An audience question-and-answer period followed the discussion. Some of the highlights:

What has been the impact of training on law enforcement?

"While the numbers might not show an impact of this training yet, it is just a matter of time before they do," said Linda Rinaldi. She said that after training, law enforcement personnel comment that they had seen the problem in the past, but had not recognized it.

Rinaldi also noted that New Jersey has had its first human trafficking indictment—and hopefully will have its first conviction.

Amy Farrell said that training is an important issue for law enforcement across the country, but the success of the training is limited because law enforcement agencies work within their own institutional structures. It's important to know where the responsibility for trafficking within those institutions occurs, which varies across states. She suggested turning to models from stalking and domestic violence, as well as the possibility of specialized units.

In New Jersey, Rinaldi said, the prosecutor of each of the state's 21 counties is the chief law enforcer. And every prosecutor has designated a human trafficking liaison.

Nia Gill said, "We can look at this in a narrow, statutory way. But if we overlook the issue of what is behind trafficking, we won't be able to stop the problem." She maintained that statutory provisions "are a tiny snapshot at the end of the process," and that broader issues must be addressed. "For legislators, the devil is in the details, and legislation must be crafted to get at these broader issues, including international commerce," she said. "Just focusing on statutes leads to a loss of discretionary power."

What are the authorities and resources available to deal with the demand side—the clients of global traffickers? Can they be caught via clients that use sexual services, for example? Or, with labor exploitation, by going after companies sourcing this type of labor?

Linda Rinaldi said that there have been attempts to arrest the johns leaving prostitutes, but that there might be some privacy issues. This is an approach that definitely has merit, she said. Amy Farrell said that the reauthorization of TVAP in 2005 included specific components focused on demand, but only in the commercial sex trade. She said there are efforts to federalize efforts at the state level to go after johns.

Is there a bottleneck at the local level in terms of language barriers?

Linda Rinaldi said this is a potential problem, but New Jersey has a wide list of non-native speakers to draw on. "We have agreements with direct service providers speaking all sorts of languages."

SESSION 3: PLAYING POLITICS: ADVOCACY GROUPS AND THE POLICY PROCESS

A panel discussion followed "The Politics of Modern Slavery in America: Advocacy Groups and Human Trafficking Reform," the presentation by **Daniel Tichenor**, professor of politics at Rutgers University. Tichenor said that advocacy groups have played a major role in bringing human trafficking to the public's attention, and in nearly every state have been active in policymaking. He explained that these advocacy groups are "odd bedfellows," coming from ideological perspectives as diverse as evangelical and feminist. Tichenor laid out an agenda for studying the role of these disparate groups in informing anti-trafficking policy, and offered his analysis on their effects, particularly in New Jersey, New York, Pennsylvania, and Washington State. He concluded that anti-trafficking advocates have been very successful in helping criminalize trafficking, but less so in securing resources for the victims of trafficking.

Jameson Doig, professor emeritus of politics and public affairs at the Woodrow Wilson School of Public and International Affairs at Princeton University, was the moderator. The panel included **Annie Sovcik**, program coordinator, Trafficked Children Initiative, Lutheran Immigration and Refugee Services; **Rod Corey**, counsel to the House of Representatives of the Commonwealth of Pennsylvania; **Ramona Hernández**, director of the Dominican Studies Institute and professor of sociology at the City University of New York; and **Wenchi Yu Perkins**, director of the human rights program at Vital Voices Global Partnership.

Annie Sovcik said that Tichenor's paper raised questions as to how advocacy groups define problems and move them into policy. She sees this issue in action in her work with unaccompanied-immigrant trafficked youth. She said she has been surprised at how contentious issues around these victims are, even though they are the most vulnerable and needy. "The legislation is vague," she said, "and there are huge problems with its implementation."

On a state level, Sovcik said it is unclear who is responsible for providing services to an immigrant child without a custodian. It poses a multi-faceted problem that is unlike victimization from a parent, for which the state can rely on the child welfare system. “Who speaks for the child?” she asked. Choosing how to deal with these victims is challenging, and there are only very limited programs to serve them. According to Sovcik, that is why so few child victims of trafficking have been identified.

Rod Corey outlined how Pennsylvania recently passed anti-trafficking legislation. In politics, Corey said, the most important asset for an issue is a credible champion. In Pennsylvania, human trafficking had this in state representative Katie True, a conservative Republican from Lancaster County. Even though legislators did not see trafficking as a looming problem, they trusted True, who in the past had worked on child abuse prevention. Her party affiliation was important, too, Corey said, because she could broker a coalition across the political spectrum.

Corey and True worked together to craft legislation based on the federal model that also met the particular needs of the state and its law enforcement. At the same time, members of the Assembly were educated about the issue of human trafficking and how it affected Pennsylvania. “You need to create something that works to get a buy-in,” Corey said. Advocacy groups, from Catholic organizations to Farm Work Legal Aid, reached out to members as the bill was working its way through the Pennsylvania House. The bill passed quickly in the House. It remained in the Senate for a

while, where members also needed education about the issue. But a human trafficking bust at the New York–Pennsylvania border demonstrated the problem in “real-world terms,” and helped push the bill through, Corey said.

For states working through the process, Corey concluded, it is invaluable to have a key legislative entrepreneur who can reach across the aisle. It is also important not to let a good bill die because a perfect one can’t be achieved. “Legislation is the art of the possible,” he said. “You can always come back and take another bite of the apple as time passes.”

Ramona Hernández noted that there has been a rise in both the number and diversity of advocacy groups involved in human trafficking, which has created an interesting and broad coalition. She suggested that this is because the issue cuts across ideologies. However, this also has the potential to pose problems because these groups fail to organize in one voice. Looking at how advocacy groups organize, she wondered whether human trafficking advocacy follows the normal pattern seen in groups that organize against social justice, or a different one. If social movements need a broad base to succeed, then this distinction is important for determining the possibility of organizing diverse groups.

Wenchi Yu Perkins said it is interesting to look at the role of nongovernmental organizations (NGOs) in policymaking. When the global anti-trafficking movement started in the mid-1990s, it first got attention as a cross-border issue. This meant that senior federal people, such as the President’s Interagency Council

on Women, made policy. Members of such groups met with NGOs at the grassroots level, who said they were harboring illegal immigrants that they knew were victims. “The movement started in a top-down direction,” she said.

The bipartisan politics surrounding human trafficking is one of its most interesting aspects, she said, as there is a spectrum of groups ranging from the far right to the far left that care about it. The fact that anti-trafficking legislation passed demonstrates how fighting between Democrats and Republicans is not as vicious and divided as people think, Perkins noted.

Because of this spectrum, Perkins said human trafficking appeals to advocacy groups that fall into a range of categories that are more complicated than merely right and left. They include groups interested in women’s rights, prostitution, human rights, and economic justice. “The common ground is larger than one would expect,” she said, with most advocacy groups agreeing that sex and labor traffic are equally important; that victim services need to be the priority; and that law enforcement needs training. However, there are differences in how these aspects of the problem are prioritized, and setting these priorities is an issue when going to the legislature.

Perkins also pointed out two other tensions: Political divisions between state assemblies and state senates if different parties control them make it harder to craft a law. And there are tensions between the federal and state governments over the allocation of resources. Local law enforcement feels like it doesn’t

have ownership of the issue because it can’t compete with the broad funding enjoyed by the Department of Justice, the FBI, and the Department of Homeland Security.

Q&A

An audience question-and-answer period followed the discussion. Some of the highlights:

If you are going to pass an effective law, is it better to have one key legislative entrepreneur, as in Pennsylvania, or to bring together all the relevant coalitions?

Daniel Tichenor said it is not an either/or situation. Broad coalitions are incredibly helpful in getting legislative action, but tensions came out in implementation and what gets funded. For example, there is disagreement over how to deal with foreign nationals.

Wenchi Yu Perkins said that a common ground is necessary at the federal level, and that requires a list of priorities. “That’s the difficult part,” she said.

Shouldn’t we be leery about passing imperfect legislation that doesn’t listen to every group? We need to hear the voices of those who are affected.

Annie Sovcik agreed that efforts to prosecute the criminals might increase the vulnerability of victims if legislation does not include adequate victims services. In such cases, it would be better to wait for more holistic legislation, she said. James Doig concurred that it’s essential to know what the effects of laws are going to be on those it serves.

Are the diverse groups standing behind human trafficking legislation doing so because it is politically expedient?

Daniel Tichenor said that his talk described the political costs of supporting anti-trafficking legislation, such as the cost of victim services, and contended that it is not necessarily politically expedient to support it. "In constructing a broad coalition, things gets compromised," he said.

Rod Corey said that it required a real effort to get legislators in Pennsylvania interested in the issue, so the passage was more than a matter of political expediency. "The legislation was languishing in the Senate until the brothels in Pennsylvania were raided," he said.

Wenchi Yu Perkins said that, as with terrorism, it is difficult to argue against human trafficking itself, but that problems arise in the approach to the issue. For example, the issue of prostitution in human trafficking is problematic, because government funding comes into play, and legislators do not want to support legalization of prostitution.

How should the problem of human trafficking fit into the general debate over immigration reform?

Daniel Tichenor said, "Immigration reform is a hornet's nest, because there are such strong interests on each side." The issue of trafficking is much more one of balancing interests, and he does not think it will be a central element in the immigration reform debate.

Wenchi Yu Perkins agreed that trafficking wouldn't be at the core of the immigration debate, but thought that many of those in the debate want to use trafficking as a means to get across their point. "Human trafficking and smuggling are often confused. Some of those against immigration conflate the two issues," she said. "We have to be very careful about how it is used."

CLOSING REMARKS

"Sometimes it is awkward to bring together academics, researchers, community service providers, and law enforcement," said **Nina Siulc**, director of research for the Center on Immigration and Justice at the Vera Institute of Justice, in her closing remarks. "However, this conference shows we have to talk across these divides, because the people impacted by human trafficking are often falling through the cracks due to separate agendas."

She remarked that she was pleased that the conference was less about definitions of what comprises human trafficking and who are its victims. "There is a lot of momentum around this issue as one of global justice with real-world implications," she said. Many of the speakers focused on how to better understand human trafficking as personal service providers, Siulc said. This aligns with the mission of Vera Institute of Justice, where the focus is on standardizing ways of talking about who are the victims of trafficking. She ended with a caution about how legislation is used, and the danger of unintended consequences. "Our challenge is to think about how to prosecute under the state laws we have," she said.

Appendix B:

Conference Agenda

MARSHALING EVERY RESOURCE:
State and Local Responses to Human Trafficking

DECEMBER 1, 2006

*Sponsored by the Policy Research Institute for the Region at Princeton University
and the Vera Institute of Justice*

Welcoming Remarks

Anthony Shorris, Director, Policy Research Institute for the Region, Princeton University

Defining Trafficking

Presenter

James Finckenauer, Professor, School of Criminal Justice, Rutgers University

Moderator

Nina Siulc, Director of Research, Center on Immigration and Justice, Vera Institute of Justice

Discussants

Florrie Burke, Senior Director, International Programs, Safe Horizon

Elissa Steglich, Managing Attorney, Legal Representation Project, American Friends Service
Committee

Charlotte Watson, Senior Adviser on Human Trafficking, Department of Criminal Justice
Services, State of New York

Crafting Legislation

Presenter

Amy Farrell, Principal Research Scientist and Associate Director, Institute on Race and Justice,
Northeastern University

Moderator

Udai Tambar, Assistant Director, Policy Research Institute for the Region, Princeton University

Discussants

Linda Rinaldi, Deputy Attorney General, State of New Jersey

Nia Gill, Senator, State of New Jersey

Playing Politics

Presentation

Daniel Tichenor, Associate Professor of Political Science, Rutgers University

Moderator

Jameson Doig, Professor Emeritus of Politics and Public Affairs, Princeton University

Discussants

Annie Sovcik, Program Coordinator, Trafficked Children Initiative, Lutheran Immigration and Refugee Services

Rod Corey, Counsel, House of Representatives, Commonwealth of Pennsylvania

Ramona Hernández, Director, Dominican Studies Institute; Professor of Sociology, City University of New York

Wenchi Yu Perkins, Director, Human Rights Program, Vital Voices Global Partnership

Closing Remarks

Appendix C:

Participant Biographies

Florrie Burke

Senior Director, International Programs, Safe Horizon

Florrie Burke, M.Ed., M.A., L.M.F.T. is the senior director of international programs at Safe Horizon in New York City where she oversees the anti-trafficking program. Burke is a founding member of the Freedom Network USA, a national network of service providers, attorneys and advocates who work with trafficked and enslaved persons and provide regional trainings throughout the country. Burke has provided training to the FBI, the Department of Justice prosecutors and immigration agents at the National Advocacy Center, human trafficking task forces, adjudicators at the Vermont Service Center, and many provider and advocacy groups throughout the country. Burke has been working with trafficked persons since 1997, when she designed and implemented specialized social services to 60 deaf Mexicans who were held in slavery in a peddling ring in New York City. She has provided trainings, consultation, technical assistance, and presentations nationally and internationally on the subjects of trauma, torture, and trafficking and has served as an expert witness in cases of human trafficking. Burke is on the training faculties of the Institute for Intergovernmental Research, the

Family Violence Prevention Fund, the Freedom Network Training Institute, and Doctors of the World. She designed and implemented a model for Community Trauma Response following the attacks on September 11. Burke was formerly the executive director of the Lexington Center for Mental Health Services in New York City and the clinical director at the Center on Deafness at the University of California–San Francisco.

Rodney A. Corey

Counsel, Pennsylvania House of Representatives

Rodney A. Corey serves as counsel to both the Pennsylvania House of Representatives Majority Legal Staff and the Pennsylvania House of Representatives Judiciary Committee. As an attorney for the Pennsylvania House of Representatives since 1993, he has drafted legislative proposals dealing with a variety of subjects. He has been involved with projects in conjunction with almost all of the legislative committees of the Pennsylvania House of Representatives, but has dealt predominantly with subjects covered by the House Judiciary Committee, the House Game and Fisheries Committee, the House Urban Affairs Committee, the House Intergovernmental Affairs Committee, the House Agriculture and Rural

Affairs Committee, the House Children and Youth Committee, and the House Aging and Older Adult Services Committee. During 1997–98, Corey served as counsel to the Pennsylvania House of Representatives Select Subcommittee on H.R. 127 (investigating child abuse deaths in Pennsylvania). Additional responsibilities for the Pennsylvania House of Representatives have included ethics and financial interest questions, contract and lease review, and litigation assistance.

Several months ago, Corey was privileged with the responsibility of coordinating the efforts of the Majority Caucus of the Pennsylvania House of Representatives during the Committee of the Whole on Crime and Violence, an innovative parliamentary process to develop effective bipartisan solutions to the problem of crime in Pennsylvania.

Corey received his undergraduate degree (B.A., with honors in political science) from Grove City College in 1990. He was awarded his J.D. degree in 1993 from the Dickinson School of Law (now the Dickinson School of Law of Pennsylvania State University). He is admitted to practice in the Commonwealth of Pennsylvania.

His written works include *Teach a Man to Fish: A Look at the Experiences of One Low Income Individual under Privatized Social Security Reform*, 1997, Geoffrey S. Kercksmar, coauthor; “Report of the Pennsylvania House of Representatives Select Subcommittee on H.R. 127” (investigating child abuse deaths in Pennsylvania), 1998, Kirsten Crawford, coauthor; and “Uniform

Planned Community Act FAQ (Frequently Asked Questions),” 1998, updated 2005.

Dessi Dimitrova Associate, Dalberg Global Development Advisors

Dessi Dimitrova is an associate with Dalberg Global Development Advisors in Washington, D.C. Her work focuses on strategic planning, performance management, and resource planning. Prior to that, Dessi was junior professional at the World Bank Group and a business analyst for McKinsey & Company. Dimitrova has also worked as a consultant to the U.S. Department of State, the Inter-America Development Bank, and the United National Development Programme (UNDP) on project management.

Dimitrova holds a joint master’s degree in public policy and urban planning from the Woodrow Wilson School of Public and International Affairs at Princeton University, a certificate in business from the Tuck School of Business at Dartmouth College, and a B.A. in government and legal studies from Bowdoin College.

Jameson W. Doig Senior Scholar; Professor of Politics and Public Affairs Emeritus, Princeton University

Jameson W. Doig is senior scholar and professor of politics and public affairs emeritus at Princeton University. His research and teach-

ing have included police and criminal justice, management and ethics, and the politics of economic development. He is director of the Guggenheim internship program, which places students in organizations in New York City concerned with family violence, immigration, and other social issues.

Amy Farrell

Principal Research Scientist and Associate Director, Institute on Race and Justice; Principal Research Scientist, Center for Criminal Justice Policy Research, Northeastern University

Amy Farrell is the principal research scientist and associate director at the Institute on Race and Justice and the principal research scientist for the Center for Criminal Justice Policy Research. Farrell's research focuses on disparate treatment of individuals within the criminal justice system. She coauthored a resource guide on racial profiling data collection for the United States Department of Justice with Jack McDevitt and Deborah Ramirez, and has recently completed a two-year study of racial disparities traffic stop data for the state of Rhode Island. Over the past three years she has been actively involved in the analysis of traffic stop data. She has conducted analysis of traffic stop and/or citation data for the Seattle police department, 40 police agencies in Rhode Island, and 350 agencies in Massachusetts.

In addition to her work on police practices, Farrell has conducted research to help clarify

the influence of defendant characteristics on downward departure decisions in federal sentencing. She has recently completed a study, funded by the National Institute of Justice, that examined the interactive roles of race and gender on departure decisions. Farrell earned her doctorate from Northeastern University's Law, Policy, and Society Program and her master's in sociology from the University of Delaware.

James Finckenauer

Professor, School of Criminal Justice, Rutgers University

James Finckenauer is a professor in the School of Criminal Justice at Rutgers University in Newark. From 1998 through 2002 he was also the director of the International Center at the National Institute of Justice in Washington, D.C.

Finckenauer has published widely on organized crime and human trafficking. Some recent works include *Russian Mafia in America: Immigration, Culture, and Crime* (with E. Waring), *Scared Straight—The Panacea Phenomenon Revisited* (with P. Gavin, et al.), *The Prediction and Control of Organized Crime: The Experience of Post-Soviet Ukraine*, and "Evaluability Assessment in Juvenile Justice: A Case Example," in *Youth Violence and Juvenile Justice: An Interdisciplinary Journal* (with S. Margaryan and M. L. Sullivan.)

Finckenauer has also received awards and research grants from numerous organizations. He was an S.I. Newhouse Scholar, and has received funding on several occasions from

the National Institute for Justice and the U.S. Department of Justice.

Next year, Finckenauer will be on leave from Rutgers on an National Institute of Justice grant to study human trafficking in cities across Asia, as well as New York City and Los Angeles.

Nia H. Gill

Senator, New Jersey State Senate

Nia H. Gill is one of the legislature's most forceful advocates for women and children. Voterzview.com has described Gill as "without question, one of the smartest and most decent officeholders in the state."

Gill sponsored the first law in the nation to criminalize the practice of racial profiling. She sponsored the law making human trafficking a crime, one of the toughest in the nation. She sponsored the law that expands health insurance coverage for young adults from the age of 18 to 30, capturing more than 100,000 uninsured individuals in New Jersey. She sponsored the law that now requires a voter-verified paper record for electronic voting machines. She has also secured significant funding for community-based organizations that provide services to women and children infected and affected by HIV/AIDS.

Gill is the sponsor of the Blood-borne Disease Harm Reduction Act, which would allow municipalities to establish needle exchange programs as part of the effort to prevent the spread of the HIV/AIDS epidemic. New Jersey is one of two states that do not permit access

to sterile syringes to combat the spread of AIDS. Gill has also sponsored legislation for a special session of the legislature devoted to property tax reform; legislation to allow families to receive up to \$3,000 in tax credits for the care of an elderly relative; legislation to make more seniors and disabled residents eligible for low-cost prescription drugs; and legislation for fair funding for all school districts.

In reaction to the crisis in Dafur, Gill sponsored the law making New Jersey one of the first two states in the nation to prohibit the investment of state pension funds in companies that conduct business in Sudan.

Gill is presently the sponsor of legislation that would prevent the taking of private homes and other residential units through the use of eminent domain to accomplish economic development objectives. She has introduced legislation that calls for a major restructuring of the health insurance marketplace in New Jersey in order to stabilize the costs of, and enrollment in, individual and small group health benefits plans. She is also the sponsor of legislation that would provide counseling and prenatal care information to pregnant women who test positive for HIV.

Gill served four terms in the Assembly and was elected to the Senate in 2001. She serves as the chair of the Senate Commerce Committee, and she is the first woman and African American to serve on the Judiciary Committee.

Gill is a graduate of Upsala College and Rutgers University School of Law. She is a member of the New Jersey state and federal

bars, and is admitted to practice before the United States Supreme Court. She is a member of the Million Dollar Advocates Forum, where membership is limited to trial lawyers who have demonstrated exceptional skill and excellence in advocacy by achieving a trial verdict award in the amount of one million dollars or more. She is currently a partner in the Montclair law firm of Gill and Cohen, P.C.

Gill is the recipient of numerous awards. She was honored in Selma, Alabama as one of "100 Women in the 20th Century" who contributed to the struggle for civil rights, the *New Jersey Monthly* magazine "Profiles in Courage," the New Jersey Business and Industry Association "Women of the Year," and the Outstanding Contributions to Women and Families Award. In 2005 the International Affairs Division of the United Nations presented Gill with its "Distinguished International Award" when she addressed the United Nations Program Initiative "Gender Equality: Empowerment of Women—Health, Education, Leadership, and Economic Development." Recognized as a national leader on women's issues, Gill is a 2006 graduate of the Center for Women Policy Studies' Foreign Policy Institute for State Legislators.

Ramona Hernández

Director, Dominican Studies
Institute; Professor of Sociology,
City University of New York

A native of the Dominican Republic, Ramona Hernández attended Lehman College until 1979, obtaining a B.A. with honors in Latin

American history, with a minor in Puerto Rican studies. She then pursued graduate work at New York University, earning a M.A. in 1982 in the Department of Latin American and Caribbean Studies. She received a M.Phil. in 1995, and a Ph.D. in 1997, both in the Department of Sociology at the graduate school of the City University of New York.

Currently, Hernández is at the City College of the City University of New York, where she holds the positions of director of the CUNY Dominican Studies Institute and professor of sociology. Her research and publication interests include the mobility of workers from Latin America and the Caribbean, the socio-economic conditions of Dominicans in the diaspora, particularly in the United States, and the restructuring of the world economy and its effects on the working and poor people.

Hernández was appointed by Mayor Michael Bloomberg as one of the 12 members of the New York City Panel for Educational Policy. She served on the panel from 2003 to 2004. Hernández is the book review editor of the *Labor History* journal. She is also a member of the editorial board of the *Latino Studies Journal and Encyclopedia Latina: History, Culture, Society* edited by Ilan Stavans. Vice-chair of the Dominican Studies Association, Hernández has lectured at numerous universities, including Yale University, New York University, Universidad Autónoma de Santo Domingo, Cornell University, Columbia University, University of San German in Puerto Rico, Rutgers University, University of Puerto Rico, Universidad del Sagrado Corazón, Puerto Rico, University of Massachusetts at Boston and at Amherst,

Millersville University, Clark University, Kean University, University of Miami, Trinity College, Colby College, Michigan State University, and most campuses of the City University of New York.

Hernández is the author of *The Mobility of Workers under Advanced Capitalism: Dominican Migration to the United States* (Columbia University Press, 2002), which received the title of Outstanding Academic Title from *Choice* in 2003; she is also the coauthor of *Dominican Americans* (Greenwood Press, 1998); coeditor of *Desde la orilla: hacia una nacionalidad sin desalojos* (Editorial La Trinitaria, 2004), *Building Strategic Partnerships for Development: Dominican Republic–New York* (Editorial Corripio, 2004), *Dominican New Yorkers: A Socio-Economic Profile* (CUNY Dominican Studies Institute, 1998); and the author of several book chapters and journal articles including an essay in *Latinos in New York: Communities in Transition* (Notre Dame University Press, 1996), “Beyond Homeland Politics: Dominicans in Massachusetts” in *Latino Political Representation: Struggles, Strategies, and Prospects*, edited by Carol Hardy-Fanta and Jeffrey Gerson (2001), “Dominicans and Their Negritude” in *Blacks in the Caribbean: The Struggle for Freedom*, edited by Alan West (Greenwood Press, 2002), and “On the Age against the Poor: Migration and Deportation of Dominicans” in the *Journal of Social Work Practice with Immigrants and Refugees* (2004), and “Migrations and Dreams: Dominicans in the Garment Industry” in *A Coat of Many Colors: Immigration, Globalization, and Reform in New York City’s Garment Industry*, edited by Daniel Soyer (Fordham University Press, 2005).

Wenchi Yu Perkins

Director, Human Rights Program,
Vital Voices Global Partnership

Wenchi Yu Perkins is the director of the human rights program at Vital Voices Global Partnership. She is responsible for developing and managing Vital Voices’ anti-trafficking and other human rights initiatives. She has testified before the U.S. Congress and spoken at the United Nations on international women’s issues. Prior to joining Vital Voices, Perkins served victims of trafficking and conducted training for law enforcement and NGOs in the Midwest. Perkins has also been involved in labor rights and corporate social responsibility work in East Asia through research and policy advocacy. She was a foreign policy assistant at the Taiwanese Parliament and worked for Taiwan’s consulate in Chicago. Perkins has published articles in the *Asian Wall Street Journal* and the *United Nations Chronicle*. She has an M.A. in international relations from the University of Chicago and a B.A. in political science from National Taiwan University.

Linda A. Rinaldi

Deputy Attorney General,
Division of Criminal Justice,
State of New Jersey

Linda A. Rinaldi is a deputy attorney general in the Division of Criminal Justice (DCJ). Rinaldi joined DCJ in 1987, after a clerkship in the New Jersey Superior Court, Appellate Division. She practiced criminal appellate prosecution for 15 years in the Appellate Bureau, where she handled complex murder and sexual assault

cases. She has argued cases before the Appellate Division, the New Jersey Supreme Court, and the Third Circuit Court of Appeals.

Rinaldi joined the Prosecutors Supervision and Coordination Bureau in 2002. In late 2004, she successfully applied for a federal grant to establish and implement the New Jersey Statewide Human Trafficking Task Force. The main focus of the task force is to train law enforcement officers on recognizing victims of human trafficking, understanding the mind set of those victims and why they do not self-identify, and the importance of working with direct service providers in these types of cases. In addition, Rinaldi oversees the Statewide Sexual Assault Response Team/Sexual Assault Nurse Examiner (SART/SANE) Program.

Rinaldi is a member of the Governor's Council Against Sexual Violence. She lectures on New Jersey sexual assault law at the University of Pennsylvania, Monmouth University, and the College of New Jersey. She also lectures on New Jersey SART policies and procedures at Rutgers University.

Anthony Shorris
Director, Policy Research
Institute for the Region; Lecturer,
Public and International Affairs,
Woodrow Wilson School,
Princeton University

Before joining the Woodrow Wilson School faculty, Anthony Shorris served as deputy chancellor for operations and policy at the New York City Board of Education, the

nation's largest school system. Shorris has more than 25 years of experience in public and nonprofit management. He was appointed New York City's commissioner of finance and its deputy budget director by the mayor, and two governors appointed him the first deputy executive director of the Port Authority of New York and New Jersey, the nation's oldest and largest public authority.

In the nonprofit sector, Shorris has served as executive vice president and chief operating officer of a billion-dollar healthcare organization operating in New York and Pennsylvania, as well as been chair of the boards of organizations focused on areas as diverse as leadership development, prisoner re-entry, and the delivery of local social services. He has consulted on management and policy issues for national and international foundations and nonprofit organizations on topics including education, public finance, health care, tax policy, economic development, housing, and infrastructure. Shorris holds a B.A. from Harvard College and an M.P.A. from the Woodrow Wilson School at Princeton University.

Nina Siulc
Director of Research, Center
on Immigration and Justice,
Vera Institute of Justice

After working as a supervision officer and research assistant at the Appearance Assistance Program, Nina Siulc rejoined the Vera Institute in 2005 and now directs research in its Center on Immigration and Justice. Her current projects include a national evaluation of the Legal Orientation Program, research on

unaccompanied children, and design of a new data collection instrument to assess the extent of human trafficking in New York City.

Siulc's doctoral dissertation, "Unwelcome Citizens," is the culmination of more than 10 years of research exploring the transnational impact of U.S. deportation policies. As a Fulbright Scholar and fellow of the Social Science Research Council, she spent several years studying how Dominicans deported from the United States following criminal convictions reintegrate into Dominican society. As part of this work she produced an award-winning documentary film about a Dominican man incarcerated at Rikers Island as he awaited deportation. She is working on a second documentary, *Lost on the Map*, about the erroneous deportation of a man claiming to be a U.S. citizen. Siulc previously researched faith-based activism among Latinos and the healthcare needs and experiences of Mexican immigrants in New York City.

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Elissa Steglich is the managing attorney at the American Friends Service Committee's Immigrant Rights Program in Newark. In addition to supervising legal staff, she provides direct representation to asylum seekers, immigrant children, and immigrant victims of violence and human trafficking. Steglich was the managing attorney at the Midwest Immigrant and Human Rights Center in Chicago from 2002–06, and trafficking project officer at DePaul College

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He is the author of *Dividing Lines: The Politics of Immigration Control in America* (Princeton University Press), which won the American Political Science Association’s 2003 Gladys M. Kammerer Award for the best book in American national policy. He also received the Jack Walker Prize and the Mary Parker Follett Award for work on interest groups and social movements in American political development. He also is a recipient of the Emerging Scholar Award of APSA’s Political Organizations and Parties Section. He is currently finishing two books: *Abiding Interests: Participation, Representation, and the Development of the Washington Lobbying Community* (Cambridge University Press) and *An Uneasy Nation of Immigrants* (University of Michigan Press). His next research project is focused on presidential power, civil liberties, and democracy in America during times of crisis.

Charlotte Watson

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