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THE DOMESTIC AND INTERNATIONAL IMPACT OF THE U.S. VICTIMS OF TRAFFICKING PROTECTION ACT OF 2000: DOES LAW DETER CRIME?[†]

Susan W. Tiefenbrun^{††}

I. Introduction

A. The TVPA

Sex trafficking is a contemporary form of slavery that violates women's fundamental human rights.¹ Every year between one and four million persons,² predominantly women and girls but also men and boys, are trafficked for the purpose of commercial sexual exploitation. Trafficking has become one of the fastest growing and most lucrative industries earning as much as seven to ten billion dollars annually for traffickers and international crime syndicates.³ A sex trafficker or brothel owner can earn from three to ten thousand dollars for each

[†] This article is an updated version of a paper I delivered at the Loyola University Chicago International Law Review Symposium on International Migration held on February 25, 2005. A much longer study on sex slavery in the United States was published in the William & Mary Journal of Women and the Law. See Susan W. Tiefenbrun, *Sex Slavery in the United States and the Law Enacted to Stop it Here and Abroad*, 11 WM. & MARY J. WOMEN & L. 317 (Spring 2005).

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¹ Recognizing that men, women and children are trafficked each year, this article focuses on trafficking in women only. In particular, the article asks whether the Victims of Trafficking and Violence Protection Act of 2000, *see infra* footnote 6, has had a domestic and international impact on the reduction of sex slavery, otherwise referred to as sex trafficking. See Anne Gallagher, *Contemporary Forms of Female Slavery*, 2 WOMEN AND INTERNATIONAL HUMAN RIGHTS LAW 487, 495 (Kelly D. Askin & Dorean M. Koenig eds., 2000).

² Statistics on the number of persons trafficked globally vary widely because of the secretive nature of the crime and the shame felt by many victims who are understandably reluctant to report the crime. The U.S. Government estimate in 2002, based on 1997 data, found that 700,000 persons were trafficked across national borders worldwide each year. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 2 (2002), available at <http://www.state.gov/documents/organization/10815.pdf> [hereinafter 2002 TIP REPORT]. "Other global estimates of the number of victims trafficked annually range from approximately one to four million According to a 1997 estimate, some 50,000 women and children are trafficked annually for sexual exploitation into the United States." *Id.* In 2001, the U.S. Government reported that "at least 700,000 persons, especially women and children, are trafficked each year across international borders." DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 1 (2001), available at <http://www.state.gov/documents/organization/4107.pdf> [hereinafter 2001 TIP REPORT]. However, in 2003, the U.S. Government reported that "approximately 800,000-900,000 people annually are trafficked worldwide and between 18,000 and 20,000 of those victims are trafficked into the United States." DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT 7 (2003), available at <http://www.state.gov/documents/organization/21555.pdf> [hereinafter 2003 TIP REPORT]; See also DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT (2004), available at <http://www.state.gov/documents/organization/34158.pdf> [hereinafter 2004 TIP REPORT]; DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT (2005), available at <http://www.state.gov/documents/organization/47255.pdf> [hereinafter 2005 TIP REPORT].

³ 2003 TIP REPORT, *supra* note 2, at 9.

Domestic and International Impact of the TVPA

woman lured into forced prostitution or sex slavery.⁴ The trafficking of women is the third most profitable crime next to the traffic of weapons and the traffic of drugs.⁵ However, since women can be re-used and resold more easily than needles, the traffic in women may soon rise to the level of the second most lucrative international crime.

For many years, the United States has recognized the insufficiency of its criminal and immigration laws to protect victims of sex trafficking, to prevent trafficking, and to prosecute traffickers effectively. President William Clinton signed the Trafficking Victims Protection Act ("the TVPA")⁶ on October 28, 2000 in order to provide an international solution to an international problem. The TVPA established a coordinated, transnational effort to protect trafficked persons, to criminalize the conduct of traffickers, and to penalize sex trafficking as if it were a crime as serious as rape, punishable with a sentence of twenty years to life imprisonment.⁷ The TVPA has been hailed as the "most significant human rights legislation of [the U.S.] Congress."⁸

In order to achieve its goals, the TVPA uses both the carrot and the stick method.⁹ On the one hand, the TVPA provides desirable financial assistance, protection, benefits, services, and education to victims both here and abroad as well as the right to permanent residency in the United States and a work permit, if the victim of severe forms of trafficking cooperates in the prosecution of her traffickers.¹⁰ On the other hand, the TVPA also establishes a real threat of prosecution and severe punishment for perpetrators of this horrific crime.

The intent of this far-reaching law is to treat trafficked women as victims and not as criminals, to eradicate trafficking in the United States and abroad, to influence other nations to enact or amend sex trafficking legislation, to correct weak enforcement policies, and to harmonize trafficking legislation internationally.¹¹ The TVPA allocates funds for these purposes, establishes international and domestic programs, offers real economic and social incentives to victims who are

⁴ *Id.*

⁵ *Country Reports on Human Rights Practices for 1999: Hearing Before the Subcomm. In International Relations and Human Rights of the House Comm. on International Relations*, 106th Cong. 8 (2000) (statement of Hon. Harold Koh, Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State) [hereinafter Koh House Statement].

⁶ Victims of Trafficking and Violence Protection Act (Smith-Gejdenson Act) of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended in scattered sections of U.S.C.) [hereinafter TVPA].

⁷ Trafficking With Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor, 18 U.S.C. § 1590 (2000).

⁸ Jim Lobe, *Congress Passes Sweeping Labor Anti-Trafficking Law*, INTER PRESS SERVICE, Oct. 13, 2000 (quoting Senator Sam Brownback, an original sponsor of the bill). President Clinton said this was "the most significant step we've ever taken to secure the health and safety of women at home and around the world." Deb Riechman, *Clinton Signs Law to Combat Violence*, DAYTON DAILY NEWS (Ohio), Oct. 29, 2000, at 3A.

⁹ *Implementation of the Trafficking Victims Protection Act: Hearing Before the Committee on International Relations*, 107th Cong. 43 (2001), at 99 [hereinafter *Implementation Hearing*].

¹⁰ TVPA, *supra* note 6.

¹¹ Susan Tiefenbrun, *The Saga of Susannah A U.S. Remedy for Sex Trafficking in Women: The Victims of Trafficking and Violence Protection Act of 2000*, 2002 UTAH L. REV. 107, 115 [hereinafter *Saga of Susannah*].

Domestic and International Impact of the TVPA

willing to assist in the prosecution of traffickers, and creates economic disincentives to the perpetrators in the form of increased penalties for those convicted of sex trafficking.¹² While these goals and measures are laudable, if they are not enforced or if they prove to be unenforceable, the TVPA will have little, if any, impact domestically and internationally on the deterrence of sex trafficking.

B. The Purpose Of This Study

As the Honorable Henry J. Hyde, Chairman of the Committee on International Relations of the U.S. House of Representatives said at the TVPA Implementation Hearing held one year after its enactment, "A law without vigorous and effective implementation is worse than no law at all, because it lulls us into the false sense that we have done something to solve the problem."¹³ This study will examine the extent to which the TVPA has impacted the crime of sex trafficking on the domestic and international levels, whether the law has been strictly enforced both here and abroad, and whether the law has made any progress since October 2000, to deter this international crime. It is both legally and politically important to determine whether the TVPA has been able to accomplish productive international cooperation between the United States and the countries abroad that are engaging in trafficking. A more difficult goal is to determine whether this cooperation has led to the identification and capture of the leaders of interlocking rings of businessmen, modern mafias, and corrupt government officials who support this lucrative crime. Positive domestic and international impact of the TVPA could be interpreted to mean that a U.S. law and its multilateral efforts have influenced other nations by legislative example.¹⁴

C. The Method Of Measuring Impact

To determine the extent of the domestic and international impact of the TVPA on the reduction of sex trafficking, this study will consider the weight of various factors and trends stated in official government sources emanating from the Department of State, the Department of Justice, the Department of Labor, the Immigration and Naturalization Service ("INS"), and the United States Agency for International Development ("USAID"). These sources include the Annual Trafficking in Persons Reports of 2001, 2002, 2003, 2004, and 2005. ("TIP Reports"),¹⁵ Congressional Hearings on Implementation of the TVPA

¹² Susan Tiefenbrun, *Sex Sells But Drugs Don't Talk: Trafficking of Women Sex Workers and an Economic Solution*, 24 T. JEFFERSON L. REV. 161 (Spring 2002) [hereinafter *Sex Sells*].

¹³ *Implementation Hearing*, *supra* note 9, at 1.

¹⁴ *The Sex Trade: Trafficking of Women and Children in Europe and the United States: Hearing Before the House Comm. on Security and Cooperation in Europe*, 106th Cong. 21, 24 (1999) (Statement of Laura J. Lederer, Director, The Protection Project, Kennedy School of Government, Harvard University).

¹⁵ 2001 TIP REPORT, *supra* note 2; 2002 TIP REPORT, *supra* note 2; 2003 TIP REPORT, *supra* note 2; 2004 TIP REPORT, *supra* note 2; 2005 TIP REPORT, *supra* note 2.

Domestic and International Impact of the TVPA

(“Implementation Hearing”),¹⁶ an Overview of the Congressional Hearings on Implementation of the TVPA (“Implementation Overview”),¹⁷ interviews with U.S. Attorneys and other government officials of the Department of Justice doing work in the area of sex trafficking, available statistics¹⁸ on the number of women trafficked into the United States and worldwide, available statistics on the number of domestic and international arrests, prosecutions and convictions of traffickers, the number and status of effective outreach programs, projects, financial assistance, as well as benefits and services provided by the United States to victims here and abroad. We will also analyze newly-enacted sex trafficking laws of foreign countries that have been influenced by the TVPA.

D. Organization Of This Article

This Article is organized in three parts. Part I provides a brief introduction into the purpose and provisions of the TVPA¹⁹ and a description of the investigative method used to measure its domestic and international impact on the deterrence of the crime of sex trafficking. Part II looks more closely into the domestic impact of the TVPA that has resulted in the enactment of new criminal trafficking regulations and statutes in the United States, the amendment of existing U.S. criminal laws covering trafficking, the slow, but steady increase in the number of investigations, prosecutions and convictions of traffickers in the United States, and the extent to which benefits and services to victims authorized by the TVPA have been implemented in the United States. Part III investigates the international impact of the TVPA, including the degree to which the TVPA has enabled effective cooperation between the United States and other countries. This part also considers whether the TVPA has caused the enactment and enforcement of new foreign anti-trafficking laws, and whether these efforts have resulted in an increase in investigations, prosecutions, and convictions abroad, and an overall reduction in the international crime of sex trafficking.

II. The Domestic Impact of the TVPA

There is no doubt that the TVPA has resulted in some changes made by the U.S. government in its effort to eliminate sex trafficking. Even though statistics in trafficking are unreliable, it is relatively simple to measure the domestic impact of the TVPA on the victims receiving benefits in the United States since the TVPA actually mandates the publication of an annual impact report:

¹⁶ OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, UNITED STATES DEPARTMENT OF STATE OVERVIEW OF THE ADMINISTRATION'S IMPLEMENTATION OF THE TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (May 2002), at <http://www.state.gov/g/tip/rls/rpt/10531.htm> (last visited June 29, 2005) [hereinafter *Implementation Overview*].

¹⁷ *Implementation Hearing*, *supra* note 9.

¹⁸ In order to measure the domestic and international impact of the TVPA, this study will take into consideration the unreliable nature of available statistics on the number of trafficked persons both in the United States and abroad.

¹⁹ A detailed analysis of the TVPA was undertaken by this author in *Saga of Susannah*, *see supra* note 11.

Domestic and International Impact of the TVPA

Not later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year

...²⁰

A. U.S. Slow Start to Implement the TVPA

Generally, the domestic measures implemented by the U.S. government in response to enactment of the TVPA have been slow and steady, yet more than just symbolic. Moreover, these domestic measures indicate a positive trend toward the reduction of trafficking in the United States. Since the passage of the TVPA in 2000, a new administration and a new office of the Secretary of State were established under Colin Powell's leadership. In the first year of the current administration, implementation of the TVPA was indeed very slow.²¹ Many feared that the good work started under the Clinton administration with the passage of the TVPA in October 2000 would not be continued or completed under the Bush administration "unless the new office had its own funds to develop anti-trafficking programs."²² For example, in 2001, non-government organizations ("NGOs"), like the Coalition Against Slave Trafficking in California, needed more funds to continue their important work to prevent trafficking and to protect the 50,000 women trafficked into the United States each year, especially in California. In 2001, more federal funds were needed to provide trafficking victims with the enhanced benefits and services promised to them by the TVPA.²³ Given the abysmal lack of enforcement of slavery and trafficking legislation in the past,²⁴ many skeptics rationally feared that the TVPA would not effectively stem the rising tide of sex trafficking in the United States and would end up being just another anti-slavery law without teeth.

The slow start for the implementation of the TVPA was inevitable due in part to a change in the administration and to the typical bureaucratic delays in passing enabling regulations. In 2001, the U.S. Department of Justice still had not issued

²⁰ TVPA, *supra* note 6, at § 107(b)(1)(D); 22 U.S.C. § 7105.

²¹ *Implementation Hearing*, *supra* note 9, at 8.

²² *Id.* at 5.

²³ *Id.*

²⁴ See *Sex Sells*, *supra* note 12, at 187-89 (Appendix I: International Conventions to Eradicate Sex Trafficking and Appendix II: Declarations, Treaties, U.N. Resolutions and Reports Condemning Slavery, Violence Against Women, and Other Elements of Trafficking). There are fourteen international conventions prohibiting trafficking and related crimes. *Id.* These conventions date back to 1904 and include the most recent U.N. Convention Against Transnational Organized Crime: Protocol to Prevent Smuggling of Migrants by Land, Sea and Air, passed one month after the TVPA on November 15, 2000. *Id.* There are six Declarations, Treaties and U.N. Resolutions and Reports condemning slavery, and these were passed as early as 1948. *Id.* There have been many laws prohibiting slavery and trafficking, but there has been very little effective enforcement of these laws.

Domestic and International Impact of the TVPA

final regulations concerning the T-visas that grant permanent residency to victims of severe forms of trafficking. Regulations to implement the newly-defined crime of trafficking and to increase the punishment for trafficking and related crimes such as involuntary servitude, forced labor and peonage in existing criminal statutes were not enacted until late in 2001.²⁵ This delay in the passage of implementing regulations may explain the reason why only one case was successfully prosecuted under the TVPA in 2001.²⁶

The TVPA mandates the U.S. State Department to establish an Office to Monitor and Combat Trafficking in Persons, but this office did not open until October 2001, one year after the passage of the TVPA.²⁷ The President's Interagency Task Force to Monitor and Combat Trafficking in Persons ("Interagency Task Force") held its first meeting on February 13, 2002, in order to coordinate the federal government's implementation of the TVPA.²⁸ The Interagency Task Force established the Senior Policy Advisory Group, which met for the first time on March 5, 2002, in order to coordinate the policy and implementation of the TVPA.²⁹

B. U.S. Policy Changes Since the TVPA

Despite objections raised about the lackluster implementation of the TVPA by the current administration, one must recognize that some progress has been made by the United States in stemming the tide of this modern-day form of slavery. The current administration has undergone a complete policy change in its approach to trafficked women whom they now view as victims and not criminals.³⁰ The current administration now considers trafficking a serious crime. Policy changes of this magnitude naturally take time to implement. This new attitude towards trafficking constitutes a more humanitarian treatment of sex-trafficked victims and is reflected in the creation of several anti-trafficking implementation offices within U.S. federal government agencies. For example, on October 15, 2001, the U.S. government established the Office to Monitor and Combat Trafficking,³¹ which compiles the annual TIP Report.³² The TIP Report provides assessment and implementation of anti-trafficking programs, as well as outreach

²⁵ *Implementation Hearing*, *supra* note 9, §§7, 27, at 7-8. "A year after enactment of this legislation, the State Department office . . . has only recently begun to get up and running." *Id.*

²⁶ *Implementation Hearing*, *supra* note 9, at 27 and 53.

²⁷ *Implementation Overview*, *supra* note 16, at 1.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Elisabeth Bumiller, *The Struggle for Iraq: Diplomacy; Bush Officials See Long Road to Resolution*, N.Y. TIMES, Sept. 25, 2003, at A1 (mentioning Bush's speech to the United Nations).

³¹ Paula J. Dobriansky, Remarks to Conference to Stop Child Trafficking: Modern-Day Slavery, Helsinki, Finland, June 3, 2003, at http://www.usis.it/file2003_06/alia/A3060506.htm [hereinafter Dobriansky Conference Remarks]. This new trafficking office rightfully appointed as its Deputy Director Dr. Laura Lederer, who has made a long-time commitment to combating trafficking. *See also Implementation Hearing*, *supra* note 9, at 53.

³² 2001 TIP REPORT, *see supra* note 2; 2002 TIP Report *see supra* note 2; 2003 TIP Report *see supra* note 2.

to partner agencies, Congress, and the non-governmental community in order to protect victims of sex trafficking.³³

The Bush administration has expressed a serious commitment to the reduction of sex trafficking. In his televised speech to the United Nations on September 25, 2003, President Bush asked each nation to join the United States in its multi-lateral effort to eliminate this modern-day form of slavery.³⁴ Moreover, President Bush made reference to a new law he had just signed, The Protect Act,³⁵ which makes it a crime for a U.S. citizen (or an alien admitted for permanent residence in the United States) to travel abroad for the purpose of engaging in illicit sexual conduct and commercially sexually abusing minors.³⁶ The Protect Act has extraterritorial reach and makes it possible to investigate, prosecute and convict in the United States any person who engages in sex trafficking of a minor abroad (even if sex trafficking or child sex tourism is legal in that country) or in the United States. If convicted under the Protect Act, that person may be fined or imprisoned for up to thirty years, or both, an increase from the previous maximum of fifteen years.³⁷

The new more humanitarian policy of the U.S. government toward trafficked victims is also reflected in the recent amendment recommended by the Department of Justice to the peonage and slavery statutes under the U.S. Code.³⁸ New criminal offenses were added to include trafficking (Section 1590), forced labor (Section 1589) and unlawful possession of documents (Section 1592).³⁹ The TVPA makes trafficking with respect to peonage, slavery, involuntary servitude, or forced labor a crime.⁴⁰ The amended criminal statutes provide a definition for the specific crime of sex trafficking as well as increased penalties for trafficking and the related crimes of involuntary servitude, forced labor, and peonage.⁴¹

In addition to creating regulations that amend existing criminal statutes, the Department of Justice has made significant efforts at prosecution, outreach, coordination among agencies, and protection and assistance to victims of trafficking.⁴² Attorney General John Ashcroft announced in March 2001, and President Bush issued a Presidential Directive to the effect, that combating trafficking is one of the highest priorities of the Department of Justice.⁴³ Ashcroft announced that additional funds would be allocated in order to prosecute cases criminally, to

³³ Dobriansky Statement in *Implementation Hearing*, *supra* note 9, at 11.

³⁴ Bumiller, *supra* note 30.

³⁵ Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (Protect) Act of 2003, Pub. L. 108-21, 117 Stat. 650 (codified as amended in scattered sections of the U.S.C.) (2003) [hereinafter *The Protect Act*].

³⁶ *Id.* at § 105(b).

³⁷ *Id.*

³⁸ See TVPA, *supra* note 6, at § 112.

³⁹ See 18 U.S.C. § 1590, *supra* note 7; 18 U.S.C. § 1589; 18 U.S.C. § 1592.

⁴⁰ See TVPA, *supra* note 6, at § 112.

⁴¹ See *supra* note 39.

⁴² *Implementation Hearing*, *supra* note 9, at 26.

⁴³ *Id.*

Domestic and International Impact of the TVPA

do meaningful outreach targeting vulnerable victims of trafficking, and to coordinate between various government agencies in order to eradicate trafficking and ameliorate the suffering that it causes.⁴⁴ The Attorney General then issued guidance to all ninety-six U.S. Attorney Offices to improve prosecution efforts in the Department of Justice.⁴⁵ This guidance increased the sentence for trafficking (previously ranging from a small immigration violation up to a maximum of ten years imprisonment) to twenty years imprisonment, and for some, life imprisonment.⁴⁶ The INS sent similar guidance to its district offices. In addition, the Department of Justice created new attorney positions in the Criminal Section of the Civil Rights Division for the specialization of investigations and prosecutions of human trafficking cases.⁴⁷

C. Increase in U.S. Investigations, Prosecutions and Convictions

Before 2000, very few traffickers were prosecuted because of the difficulty to obtain proof, the expense and time of trial, the piecemeal nature of the U.S. criminal laws on trafficking and the reportedly overwhelming amount of paperwork required for the prosecution of traffickers who invariably received a very light sentence.⁴⁸ As a result of the enactment of new and amended criminal trafficking provisions in 2001, there has been an increase in the number of prosecutions of traffickers in the United States.⁴⁹ According to a U.S. Attorney interviewed in San Diego, the passage of the TVPA and the newly amended criminal statutes implementing the TVPA, make it significantly easier for prosecutors to try a sex trafficking case.⁵⁰

After the passage of the TVPA, and from January 2001 through January 2003, the Department of Justice charged, convicted, or secured sentences against ninety-two traffickers in twenty-one cases.⁵¹ Sixty-five of those charged, convicted, or sentenced were for sex trafficking offenses in fourteen separate cases.⁵²

In 2001, and despite the time consuming and labor-intensive nature of trafficking cases requiring the full-time dedication of many attorneys and investigators, the Department of Justice prosecuted thirty-three defendants, nineteen of the thirty-three for sexual exploitation, four times as many as in the year before.⁵³

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 174.

⁴⁷ *Id.* at 26.

⁴⁸ *Saga of Susannah*, *supra* note 11, at 160.

⁴⁹ See *infra* text accompanying notes 48 to 70. See also Dobriansky Conference Remarks, *supra* note 31.

⁵⁰ Interview with Chris Tenorio, U.S. Attorney in San Diego, Cal. (June 19, 2003) [hereinafter Chris Tenorio Interview].

⁵¹ Attorney General John Ashcroft, Remarks at the International Conference "Pathbreaking Strategies in the Global Fight Against Sex Trafficking," (Feb. 25, 2003), at <http://www.state.gov/g/tip/rls/rm/17987.htm> [hereinafter Ashcroft Remarks].

⁵² *Id.*

⁵³ *Implementation Overview*, *supra* note 16, at 3.

The Department of Justice also opened investigations into sixty-four allegations of trafficking in 2001.⁵⁴ By October 2001, eighty-nine investigations were pending, representing a 19% increase from the previous year,⁵⁵ and three times as many since February 2000, when a Trafficking in Persons and Worker Exploitation Task Force hotline was established by the Department of Justice.⁵⁶ Of the eighty-nine trafficking prosecutions pending in October 2001, many resulted in indictments under the TVPA.

As of May 2002, the Department of Justice had 111 open trafficking investigations, representing a 50% increase over the number of trafficking investigations that the agency had a year before.⁵⁷ By December 18, the Department of Justice reported having 125 open trafficking investigations, a number twice that of the previous year.⁵⁸ Thus, in the years 2001 and 2002, the Department of Justice more than doubled the number of its prosecutions and convictions for trafficking.⁵⁹

Some of the cases prosecuted in 2001 were: *United States v. Kil Soo Lee*⁶⁰ (Two hundred-fifty Vietnamese and Chinese workers, mostly women, were held in involuntary servitude for two years in the U.S. Territory of American Samoa. Defendants were charged with involuntary servitude); *United States v. Gasanova*⁶¹ (Women from Uzbekistan were recruited into El Paso, Texas to work in strip clubs and bars in order to pay back a \$300,000 debt and smuggling fee); *United States v. Kennard*⁶² (Russian girls were trafficked to Anchorage, Alaska, to dance nude); *United States v. Lee*⁶³ (Defendants rounded up homeless and drug-addicted African-American men in Fort Pierce, Florida, forcing them with threats and use of crack-cocaine and violence to pick oranges); and *Jane Doe I v. Reddy*⁶⁴ (A Berkeley, California multi-millionaire beat and held captive two girls from India offering them sham marriages as a lure).

⁵⁴ *Id.*

⁵⁵ *Implementation Hearing*, *supra* note 9, at 26.

⁵⁶ *Id.* at 64.

⁵⁷ *Implementation Overview*, *supra* note 16, at 3.

⁵⁸ Ashcroft Remarks, *supra* note 51.

⁵⁹ Dobriansky Conference Remarks, *supra* note 31.

⁶⁰ *United States v. Kil Soo Lee*, 159 F. Supp. 2d 1241 (D. Haw. 2001).

⁶¹ *United States v. Gasanova*, 332 F.3d 297 (5th Cir. 2003).

⁶² *United States v. Kennard*, No. 01-30346, 2002 WL 1994523 (9th Cir. 2002); Appellee's Brief, *Kennard*, (No. 01-30346). See *Four Charged With Forcing Russian Dancers to Strip*, CHI. TRIB., Feb. 25, 2001, at C7. Virchenko and Kennard were both defendants in this case. Both pled guilty and were sentenced. Kennard appealed, but his appeal was denied. Kennard was convicted on six counts of visa fraud and two counts of transportation of minors for illegal purposes. Virchenko pled guilty to immigration fraud, illegal transport of minors across borders, and violations of the Mann Act. Both were originally indicted on twenty-three counts, including kidnapping, forced labor, and witness intimidation, but the charges were dropped. Virchenko was sentenced to thirty months in prison.

⁶³ *United States v. Lee*, No. 01-15708-FF, 2002 U.S. App. LEXIS 19848 (11th Cir. 2002). Michael Allen Lee was sentenced to four years in prison and three years of supervised release for one count of involuntary servitude. See Thomas C. Tobin, *For Slavery, Man to Serve Four Years*, ST. PETERSBURG TIMES (Fla.), Aug. 16, 2001, at 1A.

⁶⁴ *Jane Doe I v. Reddy*, No. C 02-05570 WHA, 2003 WL 23893010 (N.D. Cal. 2003). Reddy pled guilty to charges of trafficking girls from India for sex and cheap labor. He is now serving eight years in

Domestic and International Impact of the TVPA

Several of the recently tried criminal cases involving trafficking did not apply the TVPA because the TVPA was passed in 2000 and its criminal law provisions do not apply retroactively.⁶⁵ Thus, only three of the Department of State's recent indictments (*United States v. Kil Soo Lee*;⁶⁶ *United States v. Kennard*;⁶⁷ and *United States v. Sarder*⁶⁸) include charges under the new criminal statutes.⁶⁹ But many of the 125 open trafficking investigations in 2002 included allegations that could lead to indictments under the TVPA in the future.⁷⁰

In the past four years, 2001-2004, the Department of Justice initiated more than three times the number of trafficking investigations (340 versus 106), filed almost as many cases (60 versus 16), charged more than twice as many defendants (162 versus 69), and doubled the number of defendants convicted (118 versus 59), than in the prior four year period.⁷¹

Thus, as a result of establishing the new and amended criminal statutes and regulations pursuant to the mandates of the TVPA, there has been an increase in the number of sex trafficking prosecutions in the United States since 2000.

D. U.S. Increases Benefits and Services to Victims

In compliance with the requirements of the TVPA, the Department of State and the Department of Justice have also initiated the training of law enforcement personnel, foreign service officers, consular officers, ambassadors, INS adjudicators of T-visas, U.S. attorney victim witness coordinators, officials from the INS, the Department of Labor, and the Federal Bureau of Investigation, prosecutors, and NGOs in the United States to help them identify sex-trafficked victims and to recognize their particular needs.⁷²

Since the passage of the TVPA, the U.S. government has attempted to provide more effective witness protection to victims in the United States.⁷³ The U.S. government has also issued T-visas and certification letters providing enhanced immigration and other benefits to victims who agree to assist in the prosecution of alleged sex traffickers.⁷⁴ These measures have resulted in a slow, but steady, increase in domestic arrests, prosecutions and convictions of traffickers in the

federal prison and was ordered to pay \$2 million in restitution to three sexual-abuse victims and to the parents of the girl who died. See *Man Sentenced for Smuggling Girls*, S.F. CHRON., Nov. 19, 2002, at A21.

⁶⁵ *Implementation Overview*, *supra* note 16, at 3.

⁶⁶ See *Kil Soo Lee*, 159 F. Supp. 2d. 1241.

⁶⁷ *Kennard*, 2002 WL 1994523.

⁶⁸ *United States v. Sarder*, cited in *Implementation Overview*, *supra* note 16, at 3.

⁶⁹ See *supra* text accompanying notes 38 to 41 (discussing the amended criminal statutes pursuant to the TVPA); see also *Implementation Overview*, *supra* note 16, at 3.

⁷⁰ *Implementation Overview*, *supra* note 16, at 3.

⁷¹ See 2005 TIP REPORT, *supra* note 2, at 243.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

Domestic and International Impact of the TVPA

United States since 2000.⁷⁵ One can conservatively say that in the three years since its enactment, the TVPA has resulted in better enforcement of existing criminal statutes and new anti-trafficking laws in the United States as well as more enhanced benefits and services to victims than have been given in the past.

In a multi-agency effort, the Office of Refugee Re-Settlement (“ORR”) and the Department of Health and Human Services (“HHS”) have worked diligently to provide benefits and services to victims of trafficking.⁷⁶ In addition, HHS together with ORR, has actively conducted outreach programs to increase public awareness about the dangers of trafficking in persons.⁷⁷ Since the passage of the TVPA, the HHS also has developed policies and procedures for certifying individuals who are victims of severe trafficking.⁷⁸ Certification is the first step toward eligibility for permanent residence in the United States.⁷⁹ From April 2004 and March 2005, HHS identified 228 victims, more than double the 108 victims identified the year before.⁸⁰ ORR worked with HHS to produce certification letters and coordinate victims’ access to employment authorization documents, allowing them to work legally in the United States and move toward self-sufficiency.⁸¹ By February 2003, HHS had certified over 370 victims.⁸² In 2003, victims who applied for certification letters came from many different countries.⁸³ Certification and eligibility letters were sent to benefit-issuing offices in nineteen states plus the District of Columbia.⁸⁴ In 2004, HHS issued 163 letters on behalf of victims of which 144 were certification letters to adults and 19 were eligibility letters to minors.⁸⁵ In 2005, it was reported that the HHS has issued 611 letters since 2001.⁸⁶ HHS correctly emphasizes the importance of aiding victims of severe trafficking in such a manner as to foster their self-sufficiency rather than their dependency.⁸⁷ In 2001, ORR reached out to more than 800 people and awarded more than \$1.25 million in discretionary grant money to eight organizations in the United States⁸⁸ to assist certified/eligible victims of

⁷⁵ *Id.*

⁷⁶ *Implementation Hearing, supra* note 9, at 37.

⁷⁷ *Id.*

⁷⁸ *Implementation Overview, supra* note 16, at 3.

⁷⁹ *Id.*

⁸⁰ 2005 TIP REPORT, *supra* note 2, at 241.

⁸¹ *Id.*

⁸² Trafficking in Persons National Security Presidential Directive, signed Feb. 24, 2003, *available at* <http://www.whitehouse.gov/news/releases/2003/02/20030225.html>, (last visited July 25, 2005). President Bush signed this directive in order to advance the United States government’s fight against trafficking in persons, which he called a “modern-day form of slavery.” This policy directive follows from the President’s actions taken on February 13, 2002, when he signed Executive Order 13257 to establish a cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons [hereinafter Presidential Directive].

⁸³ *Implementation Hearing, supra* note 9, at 38.

⁸⁴ *Id.*

⁸⁵ 2005 TIP REPORT, *supra* note 2, at 241.

⁸⁶ *Id.*

⁸⁷ *Implementation Hearing, supra* note 9, at 38.

⁸⁸ *Id.* at 89.

trafficking and to enhance their transition from victimization to independence and self-sufficiency. Many of these victims successfully participated in a refugee program called the Voluntary Agency Matching Grant Program, which helps refugees and trafficking victims attain self-sufficiency through employment, English language training, and cultural orientation.⁸⁹

Victims of trafficking have applied for other benefits and services besides the T-visa provided under the TVPA. For example, in 2001, 34% percent of the trafficked victims applied for food stamps; 21% for Refugee Cash Assistance; and 35% for Refugee Medical Assistance. Less than 1% applied for Temporary Assistance for Needy Families (“TANF”) and Supplementary Security Income (“SSI”).⁹⁰ In January 2003, the Office for Victims of Crime (“OVC”) in the U.S. Department of Justice awarded 12 grants totaling more than \$9.5 million to NGOs for the purpose of providing trafficking victims with specialized services.⁹¹ In 2004, OVC awarded ten additional grants totaling more than \$5.5 million for services to victims of trafficking.⁹²

E. Summary of the Domestic Impact of TVPA

Despite a delay in its implementation, the TVPA has had some impact in the United States on the achievement of its three main goals: the prevention of trafficking, the protection of victims, and the prosecution of perpetrators. The TVPA is the direct cause of the enactment of amended criminal statutes and regulations as well as new criminal statutes to streamline the investigation, prosecution, and sentencing of sex traffickers. As a result, the TVPA has resulted in a small but steady increase in the number of investigations, prosecutions and convictions of traffickers.

In 2001, the Department of Justice prosecuted thirty-three trafficking defendants,⁹³ four times as many as in the prior year. In May 2002, the Department of Justice had 125 open trafficking investigations, a 50 % increase over 2001.⁹⁴ By January 2003, ninety-two traffickers in twenty-one cases were charged, sentenced or convicted.⁹⁵ However, only one of the cases tried in 2001 and three of the cases tried in 2002 were under the TVPA, and those convicted received only

⁸⁹ *Id.*

⁹⁰ *Id.* at 38.

⁹¹ 2005 TIP REPORT, *supra* note 2, at 242.

⁹² *Id.*

⁹³ Dobriansky Conference Remarks, *supra* note 31, at 5. Note the discrepancy in statistics about the number of investigations, prosecutions, and convictions in the United States. For example, Dobriansky reports that thirty-six prosecutions and convictions of traffickers occurred between 2001 and 2002. Elsewhere in a government report, thirty-four prosecutions and convictions of traffickers were reported as having occurred between 2001 and 2002. Most reports state that thirty-three trafficking cases were tried between 2001 and 2002.

⁹⁴ *Implementation Hearing*, *supra* note 9, at 30; Dobriansky Conference Remarks, *supra* note 31, at 3.

⁹⁵ United States Mission to the European Union, *U.S. Justice Department Announces New Aid for Victims of Human Trafficking*, Feb. 23, 2005, available at <http://www.useu.be/Categories/Justice%20and%20Home%20Affairs/Feb2503HumanTraffickingVictims.html> [hereinafter U.S. Mission to E.U.].

up to ten to twelve years in prison.⁹⁶ Moreover, given the number of trafficked persons in the United States each year (50,000),⁹⁷ the prosecution of 92 defendants by 2003 seems woefully low to achieve the goal of deterrence of the crime of sex trafficking. By 2004, the number of defendants convicted for trafficking rose to 118.⁹⁸ None of the traffickers convicted were big leaders of the Mafia or organized crime syndicates, but those convicted may eventually lead to the capture of the leaders of the international crime networks. In 2004, the Department of Justice initiated prosecutions against 59 traffickers, the highest number ever charged in a single year, with 32 of these defendants charged under the TVPA for sexual exploitation.⁹⁹

In its aim of victim protection, the TVPA has encouraged the training of government personnel, federal prosecutors, law enforcement personnel, and immigration officials to identify sex-trafficked women and to increase their awareness of issues specifically affecting these victims. The U.S. government has provided victims of severe forms of trafficking enhanced benefits and services, including work permits and the possibility of permanent residence in the U.S. The TVPA has also resulted in the implementation of many significant domestic outreach programs in cooperation with NGOs and law enforcement groups to assist victims of sex trafficking in their transition to self-sufficiency in the United States.

Since 2000, the INS has granted more than 300 "continued presence" requests, which are required for the receipt of a T-visa that permits permanent residence in the United States.¹⁰⁰ Further, the TVPA has resulted in the issuance of more than 392 certification letters since 2000. The INS has also provided other immigration benefits and reportedly processed 150 T-visas in 2003, a marked increase from 2002, when it issued only 23 T-visas.¹⁰¹ In 2004, the Department of Homeland Security received 520 applications for T-visas, approved 136, denied 292, and continues to consider 92.¹⁰² Although the number of T-visas processed has increased each year since 2000, 5000 of these visas are available and offer the possibility of permanent residency. The surprisingly low number of visas applied for (502) and actually issued indicates the fear of reprisals that sex-trafficking victims face if they agree to assist in the prosecution of traffickers. The low number of T-visas also may indicate that the trafficking victims do not trust the U.S. witness protection programs.¹⁰³ These statistics indicate that there is reason

⁹⁶ Dobriansky Conference Remarks, *supra* note 31, at 5.

⁹⁷ *Id.* at 1.

⁹⁸ See 2005 TIP REPORT, *supra* note 2, at 243.

⁹⁹ *Id.*

¹⁰⁰ U.S. Mission to E.U., *supra* note 95. See *Implementation Hearing*, *supra* note 9, at 33 (discussion of "continued presence" requirement for immigration benefits). See also TVPA, *supra* note 6, at §107(b)(1)(E)(1).

¹⁰¹ U.S. Mission to E.U., *supra* note 95.

¹⁰² 2005 TIP REPORT, *supra* note 2, at 243.

¹⁰³ However, the TVPA and T-Visas claim to ensure that involved officials will provide victims and the victims' family safety, including "protection from intimidation and threats of reprisals from traffickers. . ." See TVPA, *supra* note 6, at §107(c)(3).

to question the effectiveness of offering permanent residence status as an incentive to assist in the prosecution of the perpetrators of trafficking.

III. International Impact of TVPA

Rising unemployment, increased poverty, and a weakened social structure in war-torn countries have caused women and children in developing and transitioning nations to become vulnerable to trafficking.¹⁰⁴ Young, impoverished women, who are often refugees on the move, are sometimes sold to traffickers by their own parents or husband for money.¹⁰⁵ The United States realizes that it cannot combat a crime as serious and transnational in nature as trafficking simply by unilateral action.¹⁰⁶ Therefore, the traffic of women for sexual exploitation has become a significant U.S. foreign policy issue.¹⁰⁷

In 2002, the U.S. government spent nearly \$55 million on anti-trafficking programs in more than fifty countries¹⁰⁸ and urged many more countries to join it in this effort to stop the sale of human beings.¹⁰⁹ In 2004, the United States spent \$96 million in anti-trafficking assistance to foreign governments and NGOs.¹¹⁰ The TIP office supported more than 50 anti-trafficking programs abroad in fiscal year 2004.¹¹¹ President Bush has taken a leadership role against trafficking in persons by issuing the first National Security Presidential Directive on Trafficking.¹¹² This Presidential Directive states that the fight against trafficking is a high priority for the U.S. government and it acknowledges the existence of political will at the highest levels to attack trafficking.¹¹³ The Presidential Directive calls for more countries to join the United States in this effort to eradicate trafficking.¹¹⁴

President Bush also signed into law the Protect Act in April 2003.¹¹⁵ The law furthers the efforts of the U.S. government to strengthen law enforcement's ability to investigate, prosecute, and punish violent crimes including child sex tourism.¹¹⁶ President Bush also reinforced the TVPA by passing The Trafficking

¹⁰⁴ *Saga of Susannah*, *supra* note 11, at 116-17.

¹⁰⁵ See CATHARINE MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* 168 (Harvard University Press, 1991); see also Sarah Shannon, *Prostitution and the Mafia: The Involvement of Organized Crime in the Global Sex Trade*, in *ILLEGAL IMMIGRATION AND COMMERCIAL SEX: THE NEW SLAVE TRADE* 119, 122 (Phil Williams ed., 1999).

¹⁰⁶ TVPA, *supra* note 6, at § 102(24).

¹⁰⁷ See *id.*, §§ 105 and 107.

¹⁰⁸ Dobriansky Conference Remarks, *supra* note 31, at 5.

¹⁰⁹ *Id.*

¹¹⁰ See 2005 TIP Report, *supra* note 2, at 2 (Condoleezza Rice's Statement to the Reader).

¹¹¹ See 2005 TIP Report, *supra* note 2, at 240.

¹¹² Dobriansky Conference Remarks, *supra* note 31, at 5. See also Presidential Directive, *supra* note 82.

¹¹³ Dobriansky Conference Remarks, *supra* note 31, at 6.

¹¹⁴ *Id.* at 7. See also Presidential Directive, *supra* note 82.

¹¹⁵ See Protect Act, *supra* note 35.

¹¹⁶ 2005 TIP REPORT, *supra* note 2, at 239.

Domestic and International Impact of the TVPA

Victims Protection Reauthorization Act (“TVPRA”).¹¹⁷ Together the Protect Act and the TVPRA increase penalties to 30 years in prison for engaging in child sex tourism.¹¹⁸ In 2004, there were 20 indictments and over a dozen convictions of child sex tourists.¹¹⁹

A. TIP Reports Influence Foreign Nations

The Department of State’s annual TIP Reports have become an invaluable tool in bilateral dialogues on trafficking.¹²⁰ The TIP Reports are not designed to be a condemnation of countries, but rather a catalyst for foreign governments to combat trafficking in persons around the world in order to eliminate the degrading practice of sex slavery.¹²¹ The TIP Reports and official statements by the Department of State provide statistically significant data that evidences the international impact that the TVPA has had on many countries engaging in trafficking.

In June 2001, the Department of State published the first annual TIP Report presenting data assessing the efforts of governments of eighty-two countries found to have a significant number of cases of “severe forms of trafficking.”¹²² After the release of the first annual TIP Report in 2001, a number of governments immediately took steps to prevent trafficking, prosecute traffickers,¹²³ and protect victims.¹²⁴ Countries finding themselves on Tier 2 or Tier 3 were prompted to engage for the first time with the U.S. government in programs to reduce trafficking.¹²⁵ Countries on Tier 2 naturally seek to strengthen their anti-trafficking image in order to avoid the risk of falling into Tier 3,¹²⁶ which would make them eligible for economic sanctions as of October 2003. A special Tier 2 Watchlist was created that identifies those Tier 2 countries that have significant numbers of women who are victims of severe forms of trafficking.¹²⁷ Many of the worst offenders on Tier 3 have asked for U.S. government assistance to help them move from the ignominy and economic threat of Tier 3 status.¹²⁸ However, in 2001 some countries on Tier 3 absolutely refused to cooperate with the U.S.

¹¹⁷ Trafficking Victims Protection Reauthorization Act, Pub. L. 108-193, (codified as amended in scatter sections of the U.S.C.) (2003) [hereinafter TVPRA].

¹¹⁸ 2005 TIP REPORT, *supra* note 2, at 23.

¹¹⁹ *Id.*

¹²⁰ *How Are We Doing? Hearing Before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations*, 107th Cong. 2 (2002) [hereinafter *Foreign Relations Hearing*]. See *infra* text accompanying notes 185 to 189 for an explanation of the standards of Tiers 1, 2, and 3. See also *infra* text accompanying notes 199 and 200.

¹²¹ 2002 TIP REPORT, *supra* note 2, at 7.

¹²² 2001 TIP REPORT, *supra* note 2, at 2.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Foreign Relations Hearing*, *supra* note 120.

¹²⁶ *Implementation Hearing*, *supra* note 9, at 59.

¹²⁷ See *infra* text accompanying footnote 141-143 and 192-197 for a detailed discussion of the Tier 2 watchlist and its significance.

¹²⁸ *Id.* at 16.

Domestic and International Impact of the TVPA

Department of State.¹²⁹ These countries include Russia, Indonesia, Congo, Bosnia-Herzegovnia, and Belarus.¹³⁰ Obviously, the soft approach adopted in 2001 and again in 2002 did not result in the degree of international impact intended by the U.S. trafficking legislation, and, in October 2003, the United States instituted punitive economic sanctions as authorized by the TVPA in order to increase its international impact.¹³¹

B. Weakness of Early TIP Reports

Members of the International Justice Mission have raised serious objections to the early TIP reports.¹³² They claim that the 2001 and 2002 TIP Reports failed to measure in a concrete manner precisely how many people were actually investigated, prosecuted, and convicted for sex trafficking and forced prostitution in specific foreign countries.¹³³ The 2003, 2004, and 2005 TIP Reports remedied this objection by providing these statistics, wherever available.

Additionally, some claimed that the early TIP Reports of 2001 and 2002 failed to state the degree to which government employees and police in foreign countries are complicit in the sex trafficking industry.¹³⁴ For example, in some Tier 2 countries a significant percentage of brothel owners and agents are actually government employees, usually policemen.¹³⁵ This may explain why the vast number of victims in Tier 2 countries in 2001, 2002, and 2003 is disproportionate to the low number of prosecutions of traffickers and brothel owners in these countries.¹³⁶ In some of the Tier 2 countries the police are actually involved in buying and selling women as well as running the brothels.¹³⁷ The 2001 and 2002 TIP Reports did not show the extent of official government involvement and, instead, gave a passing grade of Tier 2 to some of the worst offending countries.¹³⁸ This objection was remedied in the 2003 TIP Report that refers frequently to police complicity and corruption in specific countries.¹³⁹

Many complain that the TIP reports list countries as Tier 2, even if they do not meet minimum requirements, simply because they are making significant efforts to do so.¹⁴⁰ Giving a Tier 2 rank to a country that has not met minimum stan-

¹²⁹ *Id.* at 17.

¹³⁰ *Id.*

¹³¹ *Id.*

¹³² See 2003 TIP REPORT, *supra* note 2, at 14. See also *Implementation Hearing*, *supra* note 9, at 60 (prepared statement of the CEO of International Justice Mission).

¹³³ See *Implementation Hearing*, *supra* note 9, at 58 and 70.

¹³⁴ See 2003 TIP REPORT, *supra* note 2, at 14.

¹³⁵ *Implementation Hearing*, *supra* note 9, at 18 and 62-63.

¹³⁶ *Id.* at 62-63.

¹³⁷ *Id.* at 18.

¹³⁸ *Id.* at 58, 60. The TIP Report is supposed to measure "significant efforts" made by Tier 2 countries by (A) the extent of victimization, (B) the extent of official complicity; and (C) whether reasonable steps are taken to eliminate the above, in accordance with TVPA, *supra* note 6, at §§108 and 110.

¹³⁹ See 2003 TIP REPORT, *supra* note 2, at 12.

¹⁴⁰ *Implementation Hearing*, *supra* note 9, at 18.

dards can give a false statement to the rest of the world that this country is engaging in something less than egregious human trafficking. In this way, the ranking system in the TIP Reports may do a disservice to the local people fighting against sex trafficking, especially if sanctions will not be applied to Tier 2 countries.¹⁴¹ To remedy this objection, the Tier 2 Watchlist was created in 2003 by the passage of the TVPRA.¹⁴²

Some object that the ranking system is merely a means to blame and punish other countries with which the United States should be seeking to dialogue.¹⁴³ A negative approach, they argue, will not result in productive communication or effective deterrence of the crime of trafficking.¹⁴⁴ Moreover, the imposition of rankings by the United States does not constitute a real “multilateral” approach, but is rather a unilateral approach in disguise. These objections are valid, but are not borne out by the results of this study which show that many, if not the majority, of countries failing to comply with minimum standards listed on Tiers 2 or 3 have made a serious attempt to implement effective anti-trafficking measures, enact anti-trafficking laws in imitation of the TVPA, and enforce their existing or newly-amended laws prohibiting trafficking.

Another objection to the TIP Reports that can, and should, be raised is that the reports lack any recognized perception of cultural differences. The TIP Reports do not speak out against a dangerous “cultural nonchalant attitude”¹⁴⁵ toward trafficking that exists in certain countries on the Tier 2 list. People in these countries consider trafficking a way of life, similar to bribery and graft which is practiced with impunity in some countries. Many argue that more efforts must be made to shut down pimps, traffickers, and madams in these countries where trafficking is tolerated.¹⁴⁶ More work must be done internationally to de-legitimize the commercial sex industry that, as a whole, promotes trafficking and creates the demand.¹⁴⁷ But even in countries where the trafficking of women is tolerated, people’s attitudes can be changed. This truism is evidenced by the reaction of many people in a country characterized by nonchalance toward trafficking when they witnessed with shock and disbelief whole busloads of fifty or more young, orphan children being carted away to a life of sexual slavery for a handsome fee by the trafficker.¹⁴⁸ Cultural attitudes vary, but cultural relativism cannot and should not excuse criminal activity that rises to the level of a universal crime like slavery.

Some object to the fact that the TIP Reports omit certain countries.¹⁴⁹ The U.S. government explains these omissions persuasively as a lack of available

¹⁴¹ *Id.* at 18, 58.

¹⁴² See TVPRA, *supra* note 117.

¹⁴³ *Implementation Hearing, supra* note 9, at 61.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 21.

¹⁴⁶ See 2001 TIP REPORT, *supra* note 2, at 30.

¹⁴⁷ *Implementation Hearing, supra* note 9, at 54.

¹⁴⁸ *Id.* at 21. The country mentioned is Russia.

¹⁴⁹ 2003 TIP REPORT, *supra* note 2, at 4.

Domestic and International Impact of the TVPA

verifiable documentation in certain countries.¹⁵⁰ The TIP Reports also do not distinguish between smuggling of migrants and trafficking per se, which is a consistently difficult problem that skews statistics generally on trafficking. Until the publication of the 2005 TIP Report, the earlier reports did not sufficiently discuss the “demand” problem and did not address the fact that certain governments actually encourage trafficking by keeping the brothels open, by turning a blind eye to illegal prostitution, and by encouraging sex tourism.¹⁵¹

Despite the weaknesses of the early TIP Reports, which have been corrected for the most part, there is no doubt that the TVPA in general, and the Department of State TIP Reports in particular, have had a positive effect on many foreign governments by providing them with financial support and advice to meet the minimum standards set forth in the TVPA.¹⁵² Countries naturally seek to prevent their classification from falling down to Tier 3 because they fear that the stigma of that classification will directly impact their level of international trade, tourism industry, and receipt of international aid. But the TIP Reports are more than simply a Department of State assessment of crime statistics. The TIP Reports have gained credibility because the State Department has chosen to omit countries from the Report where available information was incomplete or unable to be verified.¹⁵³ Thus, the State Department TIP Reports have come to be seen by other nations as a tool to aid them in combating trafficking, rather than a condemnation of individual countries.¹⁵⁴

The United States has attempted to respond to the valid objections raised about the early TIP Reports, and many of the suggestions made in 2001 for further government initiatives to implement the TVPA have largely been put into action in 2002, 2003, and 2004. For example, it was suggested that the United States train police in foreign countries to recognize and treat victims of sex-trafficking and forced prostitution, as well as to provide guidance to police about management methods and practices in order to infiltrate the secrecy and deception of sex trafficking and to maintain a level of professionalism necessary to control and ultimately eradicate corruption by police and government officials.¹⁵⁵ U.S. Attorneys and federal law enforcement officials have tried to obtain intelligence from trafficking victims in the United States in order to help stop trafficking within the source countries.¹⁵⁶ Thus, when the victim in the United States identifies the perpetrator of the crime of human trafficking and assists in the prosecution that takes place in the United States, this trial can serve as a link in a global chain of international human rights violators that leads to the international crime

¹⁵⁰ See generally, 2001-2003 TIP REPORTS, *supra* note 2.

¹⁵¹ 2005 TIP REPORT, *supra* note 2, at 8. The 2005 TIP Report focuses attention on demand, “. . . we cannot ignore the demand side of the equation.” *Id.*

¹⁵² *Implementation Hearing*, *supra* note 9, at 54. See also, 2005 TIP REPORT, *supra* note 2, at 27. (discussing President Bush’s address to the U.N. General Assembly announcing a \$50 million special initiative to stop trafficking abroad).

¹⁵³ 2003 TIP REPORT, *supra* note 2, at 4.

¹⁵⁴ *Implementation Hearing*, *supra* note 9, at 61.

¹⁵⁵ *Implementation Hearing*, *supra* note 9, at 70.

¹⁵⁶ *Id.*

Domestic and International Impact of the TVPA

rings. In order to disrupt the profitable market in human cargo, U.S. intelligence must follow the chain from the dealer in the United States to his or her transitional transportation network and back to the overseas supplier and operators who are connected to the international organized crime syndicates.¹⁵⁷

C. U.S. Trafficking Programs and Funding Abroad

The U.S. Department of State has made some important implementation efforts that have had an international impact on trafficking. In 2002, the United States spent \$55 million dollars in more than fifty countries in an effort to reduce trafficking of persons.¹⁵⁸ In 2004, the United States spent \$96 million, almost doubling its efforts.¹⁵⁹ In more than 86 countries, the United States has invested \$295 million in anti-trafficking efforts over the last four years.¹⁶⁰ The Department of State has assisted in convincing 106 countries to sign the U.N. Protocol on trafficking,¹⁶¹ which encourages the harmonization of trafficking laws globally. In 2001, the Department of State made considerable progress in setting up the Interagency Task Force authorized by the TVPA and had discussions with the Central Intelligence Agency, the National Security Agency, and the Bureau of Intelligence and Research to enhance intelligence collection in trafficking.¹⁶² In 2001, the Department of State also funded and implemented 110 global anti-trafficking projects in more than 50 countries¹⁶³ in order to focus on protection, prevention, and prosecution. In 2004, the TIP office supported more than 50 anti-trafficking programs abroad.¹⁶⁴

The United States Agency for International Development (“USAID”) has worked diligently to incorporate the key elements of the TVPA into its overseas programs. USAID has implemented trafficking programs in eighty of its overseas missions in which twenty-four countries now have anti-trafficking activities in place.¹⁶⁵ In 2001, USAID spent \$62 million on direct anti-trafficking activities in many regions of the world.¹⁶⁶ USAID is committed to playing a critical role in the implementation of the TVPA in developing and transitioning countries,¹⁶⁷ focusing its efforts on countries in Tiers 2 and 3 of the TIP Reports.¹⁶⁸

¹⁵⁷ *Id.* at 71.

¹⁵⁸ Dobriansky Conference Remarks, *supra* note 31, at 1.

¹⁵⁹ 2005 TIP REPORT, *supra* note 2, at 245.

¹⁶⁰ *Id.*

¹⁶¹ *Implementation Hearing*, *supra* note 9, at 11.

¹⁶² *Id.* at 12.

¹⁶³ 2002 TIP REPORT, *supra* note 2, at 5.

¹⁶⁴ 2005 TIP REPORT, *supra* note 2, at 245.

¹⁶⁵ *Implementation Hearing*, *supra* note 9, at 39.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 41.

¹⁶⁸ *Id.* at 42.

D. Increased Investigations, Arrests, and Prosecutions Abroad

The United States has supported programs in foreign countries that have resulted in increased arrests and convictions overseas. For example, in Albania, the United States supported Delta Force, an organized crime unit that arrested child traffickers and public officials.¹⁶⁹ The Office of Internal Control arrested police officers for complicity in Albania.¹⁷⁰ In 2003, Albania prosecuted 144 cases, resulting in convictions. Thirty-one of those prosecuted cases involved police complicity.¹⁷¹ Likewise, in Romania, the United States supported the establishment of the Southeast European Cooperative Initiative, involving fourteen nations and resulting in four successful operations to arrest and convict traffickers and enabling the safe return of hundreds of Romanian women and children.¹⁷² In 2002, 150 people were convicted under various provisions of the new anti-trafficking law in Romania.¹⁷³

Pursuant to the mandates of the TVPA, the United States has supported the establishment of concurrent multilateral and in-country law enforcement operations to break up trafficking crime rings and to rescue victims.¹⁷⁴ In 2002, Belarus tried 90 cases of trafficking, resulting in the prosecution of 35 defendants and the termination of ten organized crime groups.¹⁷⁵

Globally, there were 7,992 prosecutions in 2003 compared to a decrease in 2004 when there were only 6,885.¹⁷⁶ But in 2003, there were 2,815 convictions compared to an increase to 3,025 convictions in 2004.¹⁷⁷ Moreover, in 2003, 24 states added new trafficking legislation or amended existing legislation, compared to an increase in 2004, when 39 states added new trafficking legislation or amended existing legislation.¹⁷⁸ Note that the total reported number of prosecutions decreased in 2004 compared to the prior year, but the number of trafficking convictions and new trafficking legislation actually increased, which are significant factors in measuring impact.

E. Measures Taken by Foreign Countries to Combat Trafficking

In June 2001, only eight months after the passage of the TVPA, the first 2001 TIP Report concluded that most foreign governments were taking steps to curb trafficking and to help the hundreds of thousands of men, women and children victimized by trafficking.¹⁷⁹ The 2001 TIP Report placed countries in Tier 1 if

¹⁶⁹ Dobriansky Conference Remarks, *supra* note 31, at 7.

¹⁷⁰ *Id.*

¹⁷¹ 2003 TIP REPORT, *supra* note 2, at 30.

¹⁷² *Id.*

¹⁷³ 2003 TIP REPORT, *supra* note 2, at 12.

¹⁷⁴ Dobriansky Conference Remarks, *supra* note 31, at 7.

¹⁷⁵ 2003 TIP REPORT, *supra* note 2, at 30.

¹⁷⁶ 2005 TIP REPORT, *supra* note 2, at 34.

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ 2001 TIP REPORT, *supra* note 2, at 8-9.

Domestic and International Impact of the TVPA

they fully complied with the law's minimum standards and provided a wide range of protective services to victims, or sponsored or coordinated governmental prevention campaigns to eliminate trafficking.¹⁸⁰ Compliance with minimum standards requires meeting a four-pronged test set forth in Section 108 of the TVPA.¹⁸¹ The government must prohibit and punish severe forms of trafficking in persons. The punishment must be commensurate with that for grave crimes such as forcible sexual assault or rape. The punishment must be sufficiently stringent to deter the crime and to reflect its heinous nature. Furthermore, the government must make "serious and sustained efforts" to eliminate severe forms of trafficking in persons.¹⁸²

Signs that a government is engaging in "serious and sustained efforts" include: the government is investigating and prosecuting traffickers; the government is protecting victims and encouraging them to assist in the prosecution of the trafficker; the government is engaging in outreach programs to educate potential victims of the dangers of trafficking; the government is cooperating with other governments by extraditing traffickers; the government is monitoring immigration and investigating public officials.¹⁸³

Countries in Tier 1 must have an effective anti-trafficking law and must be in compliance with minimum standards. Some Tier 1 countries, like Belgium, have trafficking laws that are similar to the TVPA.¹⁸⁴ Thus, the Belgian government consistently assists victims who agree to testify by providing them with temporary work authorization and even permanent residence in Belgium upon completion of the trial.¹⁸⁵

Tier 2 countries often do not have a specific penal code provision criminalizing the act of trafficking itself, but are making serious and sustained efforts to be in compliance with minimum standards.¹⁸⁶ In many of the Tier 2 countries, no anti-trafficking legislation exists at all.¹⁸⁷ In these countries, constitutional provisions against human bondage may exist, however, without legislation to enforce them.¹⁸⁸ If other criminal statutes prohibiting slavery or child labor exist to

¹⁸⁰ *Id.* at 7. Countries listed in Tier 1 in the 2001 TIP Report include: Austria, Belgium, Canada, Colombia, Germany, Hong Kong, Italy, The Netherlands, Spain, Switzerland, Taiwan, and the United Kingdom. *Id.* at 12. Countries listed in Tier 1 in the 2003 TIP Report include: Austria, Belgium, Benin, Colombia, Czech Republic, Denmark, France, Germany, Ghana, Hong Kong, Italy, Lithuania, Macedonia, Mauritius, Morocco, The Netherlands, Norway, Poland, Portugal, Rep. Of Korea, Spain, Sweden, Switzerland, Taiwan, United Arab Emirates, and the United Kingdom. 2003 TIP REPORT, *supra* note 2.

¹⁸¹ TVPA, *supra* note 6, at § 108.

¹⁸² See 2003 TIP REPORT, *supra* note 2, at 15.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 32.

¹⁸⁵ *Id.* at 16.

¹⁸⁶ See Foundation of Women's Forum, *Trafficking in Women for the Purpose of Sexual Exploitation: Mapping the Situation and Existing Organizations Working in Belarus, Russia, the Baltic and Nordic States* (August 1998) at *Existing Laws and Views on These*, at 14.

¹⁸⁷ 2001 TIP REPORT, *supra* note 2, at 31. Benin, Burkina Faso, Bulgaria, Cote d'Ivoire, and France are examples of such countries. *Id.*

¹⁸⁸ 2001 TIP REPORT, *supra* note 2, at 29. Angola is such a country. *Id.*

help prosecute traffickers, enforcement is found to be too weak to be effective.¹⁸⁹ In some Tier 2 countries, like Bangladesh,¹⁹⁰ anti-trafficking legislation exists with penalties as severe as for rape, but rampant corruption among police, border and immigration officials severely undermines law enforcement efforts.¹⁹¹

The 2003 reauthorization of the TVPA created a "Special Tier 2 Watch List" for countries on the TIP Report that should receive special scrutiny.¹⁹² These include countries listed as Tier 2 in the current report and where (a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; (b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking; (c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments made by the country to take additional future steps over the next year.¹⁹³ This category (including a, b, and c) is called the "Tier 2 Watch List," and there were 42 countries placed on the Tier 2 Watchlist in the 2004 TIP Report.¹⁹⁴ An interim assessment was released on January 3, 2005 and 46 countries appeared on the Special Tier 2 Watch List.¹⁹⁵ In 2005, of the 46 countries previously listed on the Tier 2 Watchlist, 31 moved up to Tier 2.¹⁹⁶ Five countries on the Tier 2 Watchlist fell to Tier 3 and 10 remained on the Tier 2 Watchlist for a second consecutive year.¹⁹⁷

Tier 3 countries are the worst offenders because they have no trafficking law and they are not making any serious or sustained efforts to achieve compliance with minimum standards.¹⁹⁸ However, several Tier 3 countries have significantly increased their efforts to combat trafficking since the issuance of the Department of State's 2001 TIP Report.¹⁹⁹ For example, South Korea moved from Tier 3 to Tier 1, after making extraordinary attempts to eliminate trafficking immediately after the publication of the 2001 TIP Report.²⁰⁰ Similarly, Romania and Israel demonstrated a stronger and clearer commitment to implement a wide range of activities to combat trafficking in 2001, and they both moved from Tier 3 to Tier 2 in 2002.²⁰¹ Albania, Gabon, Kazakhstan, Malaysia, Pakistan and

¹⁸⁹ *Id.* at 46.

¹⁹⁰ See 2001 TIP REPORT, *supra* note 2, at 35. Cambodia passed a trafficking in persons statute with a penalty stiffer than those for rape and sexual assault. China also has a trafficking law with sentences as severe as for rape. *Id.* at 37.

¹⁹¹ 2001 TIP REPORT, *supra* note 2, at 30.

¹⁹² 2005 TIP REPORT, *supra* note 2, at 26.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 26-28.

¹⁹⁷ *Id.* at 28.

¹⁹⁸ *Id.* at 7.

¹⁹⁹ 2002 TIP REPORT, *supra* note 2, at 12.

²⁰⁰ *Id.*

²⁰¹ *Id.*

Domestic and International Impact of the TVPA

Yugoslavia also moved from Tier 3 to Tier 2 in 2002²⁰² because of responses to the 2001 TIP Report in particular, and the TVPA in general.

Countries that were placed on Tier 2 in 2001 and on Tier 1 in 2002 because of their significant efforts to fully comply with minimum standards include the Czech Republic, France, Lithuania, Macedonia and Poland.²⁰³ Only a small number of countries dropped from Tier 2 in 2001 to Tier 3 in 2002 due to their disappointing efforts to comply with minimum standards.²⁰⁴

The high degree of movement of countries from one tier to another is an indication that the TVPA has had an international impact on countries that have actively taken measures to comply with the minimum standards. For example, in 2001 there were twelve countries at Tier 1, 47 countries on Tier 2 and 23 countries on Tier 3.²⁰⁵ In 2002, there were eighteen countries at Tier 1, fifty-three countries at Tier 2, and nineteen countries at Tier 3.²⁰⁶ In 2003, there were twenty-six countries at Tier 1, seventy-five countries at Tier 2, and fifteen countries at Tier 3.²⁰⁷ In 2004, there were 25 countries on Tier 1, 54 countries on Tier 2, 42 countries on the Tier 2 Watchlist, and 10 countries on Tier 3.²⁰⁸ The number of countries at Tier 1 (full compliance) has literally more than doubled since the enactment of the TVPA and the publication of the TIP Reports. Moreover, the number of Tier 3 countries has steadily decreased since 2001, with only a small increase in 2005, from 10 to 14. Thus, there has been a steady increase in the number of countries that are in full compliance with the minimum standards. This trend indicates a positive effect of the TVPA. There has also been a steady increase in the number of countries at Tier 2. This reflects movement by countries formerly at Tier 3 to Tier 2, as well as the receipt by the State Department of more documentation on certain countries which were not listed on the 2001 Report, but were listed for the first time on the 2002 report.²⁰⁹ The steady, though small, decrease in the number of Tier 3 countries, from 23 in 2001 to 19 in 2002, 15 in 2003, and to 10 in 2004, and a small increase to 14 in 2005 is due to the serious and significant measures taken by foreign countries to comply with the minimum standards set forth in the TIP Reports.²¹⁰ This trend is also an indication of the positive international impact the TVPA has had on reducing trafficking in foreign source and transit countries.

²⁰² *Id.* at 2.

²⁰³ *Id.* at 12-13.

²⁰⁴ Compare 2001 TIP Report, *supra* note 2, at 12 with 2002 TIP Report, *supra* note 2, at 17.

²⁰⁵ 2002 TIP REPORT, *supra* note 2, at 17.

²⁰⁶ 2003 TIP REPORT, *supra* note 2, at 21.

²⁰⁷ 2001 TIP REPORT, *supra* note 2, at 12.

²⁰⁸ See 2005 TIP REPORT, *supra* note 2, at 42. In 2005, the following 14 countries were on Tier 3: Bolivia, Burma, Cambodia, Cuba, Ecuador, Jamaica, Kuwait, North Korea, Qatar, Saudi Arabia, Sudan, Togo, United Arab Emirates, and Venezuela.

²⁰⁹ 2002 TIP REPORT, *supra* note 2, at 17.

²¹⁰ *Id.*

Many developing and transitioning countries cannot afford to implement more sophisticated measures to deter trafficking.²¹¹ However, many of these nations are taking low cost measures²¹² to reduce trafficking and to achieve compliance with the minimum standards set forth in the TVPA. For example, many African nations now issue “red cards” at major sporting events, like soccer games, in order to discourage child labor.²¹³ Benin educates the transporters of sex trafficking victims about the dangers of this activity.²¹⁴ Women in Bangladesh have gone on mass marches protesting against sex slavery.²¹⁵ Sierra Leone has instituted radio broadcasts, called the Voice of the Children, to stop child labor and sex slavery.²¹⁶ Nepal puts former victims of sex trafficking to work as border monitors in order to identify potential victims of trafficking.²¹⁷ South Korea humiliates brothel owners by closing the brothels and exposing the name of the rich owner.²¹⁸ These anti-trafficking efforts undertaken by foreign countries in 2001-2002 to comply with the TVPA minimum standards are a clear indication of the positive international impact of the TVPA towards accomplishing the goal of the elimination of trafficking.

F. New Trafficking Legislation in Foreign Countries Post TVPA

Examining the recent trafficking legislation of specific countries also provides evidence of the legislative international impact of the TVPA. The U.S. Department of State issued a Model Law to Combat Trafficking in Persons, which it released on March 12, 2003.²¹⁹ This law was modeled after certain recently-enacted foreign anti-trafficking laws, (e.g. the Kosovo trafficking law, the Romanian trafficking law), the U.N. Protocol, and the TVPA. The Model Law states in § 306 that:

the authority . . . shall provide victims of trafficking and accompanying dependent children with appropriate visas or other required authorization to permit them to remain in the country for the duration of the criminal prosecution against the traffickers, provided that the victim is willing to comply with reasonable requests, if any, to assist in the investigation or prosecution of the traffickers. Further, victims of trafficking shall be eligible for permanent residence. . . provided they have complied with reasonable requests; and, a victim’s spouse and children . . .²²⁰

²¹¹ 2003 TIP REPORT, *supra* note 2, at 18-20.

²¹² *Id.*

²¹³ *Id.* at 18.

²¹⁴ *Id.*

²¹⁵ *Id.* at 19.

²¹⁶ *Id.*

²¹⁷ *Id.* at 20.

²¹⁸ *Id.*

²¹⁹ Available at http://www.humantrafficking.com/humantrafficking/toolkits_ht3/DOS_Model_Law.htm. (last visited Oct. 11, 2005.)

²²⁰ *Id.*

Anti-trafficking laws in most parts of the world, including countries of the Middle East, Latin America, Africa and Asia, still consider deportation of trafficked victims to be traditional immigration law practice; however, some countries have recently followed the United States model by granting T-visa type benefits to trafficking victims and a stay of deportation. For example, Belgium, Italy, and the Netherlands allow victims a three-month temporary stay, with costs paid, in order to provide victims with enough time to decide whether they wish to testify against their traffickers.²²¹ Greece now permits victims willing to testify against traffickers to remain in the country, but it is within the prosecutor's discretion to provide this protection.²²² Likewise, Israel now provides housing with room, board, and pocket money to victims willing to testify against their traffickers.²²³ These are some of the examples that indicate the positive impact of the TVPA on the enactment of anti-trafficking legislation in foreign countries.

IV. Conclusion

In just four short years, the TVPA has had a slow but steady domestic and international impact on sex trafficking activities. Domestically, there is no doubt that the TVPA has helped to reform the bad United States policy of punishing the sex-trafficked victim rather than the perpetrator. The passage of the TVPA has succeeded in making a sea change in policy by establishing harsher penalties for traffickers, by training law enforcement and immigration personnel to recognize victims, by providing benefits, services and resources to victims and, in some cases, by issuing a class of visa (the T-visa) that allow victims to remain permanently and to work in the United States.²²⁴ Only 150 T-visas were processed in 2003, and 520 applied for in 2004, even though 5,000 are available. This low number of T-Visa applications may indicate that victims of trafficking are fearful of reprisals in the United States and for their families abroad, and they may be suspicious of the effectiveness of witness protection programs. The TVPA has also resulted in a small, but important, increase in arrest and convictions of traffickers both in the United States and in some countries abroad, where the financial assistance and advice of the United States have been used effectively to amend existing trafficking laws or create new laws in imitation of the TVPA. From 2000 to 2003 only 92 defendants were prosecuted for trafficking in the United States, and only 4 cases applied the TVPA, whereas there are 50,000 victims reportedly trafficked into the United States every year. The ratio of convictions to victims is woefully low, but the small increase in investigations and convictions shows movement in the right direction. In fact, from 2001-2004, the Department of Justice doubled the number of trafficking defendants convicted from 59 to 118. In 2004, the Department of Justice initiated 59 prosecutions against traffickers, the highest number ever in a single year.

²²¹ La Strada Foundation, Migration Dimension, available at <http://free.ngo.pl/lastrada/page4.html> (last visited Jul. 28, 2005).

²²² 2003 TIP Report, *supra* note 2, at 72.

²²³ *Id.* at 84.

²²⁴ *Saga of Susannah*, *supra* note 11, at 167.

Domestic and International Impact of the TVPA

Internationally, the TVPA has resulted in the increase of U.S. economic and social assistance to other countries in order to support the creation, enactment and enforcement of anti-trafficking legislation abroad, to strengthen existing foreign anti-trafficking legislation, to educate potential victims in foreign countries in recognizing the dangers of trafficking, and to establish victim assistance programs abroad.²²⁵ Globally there has been an increase in trafficking convictions from 2003 to 2005 as well as an increase in the number of states enacting new trafficking legislation like the TVPA. The TVPA mandates annual reporting by an Interagency Task Force chaired by the Secretary of State of the United States.²²⁶ The annual report indicates the status of other nations' efforts to curb human trafficking and includes an investigation of the incidence of trafficking in foreign countries, as well as a published ranking of foreign countries into three different tiers, depending upon the degree of trafficking in their country and the progress these countries are making toward combating trafficking.²²⁷ Tier 1 countries must be in full compliance with four minimum standards enumerated in the TVPA for the elimination of severe forms of trafficking. Tier 1 countries must also have a trafficking law. Tier 2 countries are those that do not fully comply with minimum standards, but are making significant and sustained efforts towards compliance. Tier 2 Watchlist countries are those that show no evidence of increasing efforts to combat severe forms of trafficking, and there are significant numbers of severe trafficking victims in that country. Tier 3 countries do not comply with minimum standards and are not making significant efforts to eradicate the crime of trafficking. Tier 3 countries are subject to sanctions as of October 2003.²²⁸ In 2005, the United States decided to impose sanctions on Cuba, Myanmar and North Korea out of the list of 14 states on Tier 3.²²⁹

Through the small increase of arrests and convictions of traffickers in the United States and the establishment and implementation of regulations, new criminal statutes, published annual reports, and international assistance, the TVPA has not only made progress in the domestic fight against trafficking, but it has also positively impacted attempts made by other nations to deter this transnational crime. Trafficking is nothing less than a living legacy of slavery that exists in our own country as well as in countries abroad, and it will take nothing less than an international effort to eliminate the traces of this heinous crime. The fight has just begun, and the United States is playing an important role in eradicating sex trafficking by legislative example, interagency cooperation, and multi-lateral efforts. The fight to end sex trafficking must continue; more traffickers must be brought to justice; and more work must be undertaken to target the demand and the international crime organizations that support this modern-day form of slavery.

²²⁵ *Id.* at 169-70.

²²⁶ TVPA, *supra* note 6, at 22 U.S.C. § 2151(f)(1).

²²⁷ *Id.* See also *Saga of Susannah*, *supra* note 11, at 171.

²²⁸ *Id.*

²²⁹ See also Deb Riechmann *Human Trade Nets 3 Nations U.S. Penalty*, ORLANDO SENTINEL, Sept. 11, 2003, at A9: "The United States will impose sanctions on Cuba, Myanmar and North Korea for failing to take steps to stop human trafficking" available at 2003 WL 63278621.