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# HUMAN TRAFFICKING AND THE EVERYDAY: A CASE STUDY OF NICARAGUA'S RESPONSE TO THE INTERNATIONAL MOVEMENT AGAINST TRAFFICKING IN PERSONS

Ann Gurucharri<sup>†</sup>

## I. Introduction

The 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children ("Protocol"), defined the term "trafficking in persons."<sup>1</sup> In doing so the United Nations established slavery as a significant issue for the 21st century. The Protocol emphasized that trafficking affects persons of all genders and ages while recognizing that women and children remain the most vulnerable to abuse.<sup>2</sup> To be effective, the definition had to cover a broad range of forms of modern day slavery in a clear, succinct legal definition. Consequently, the definition aimed at defining a minimum standard in order for each country to define the forms and factors surrounding trafficking in its own context.<sup>3</sup>

The Protocol's authors, aware that there is nothing black and white about trafficking in persons, left much to be determined. First, recognizing that combating trafficking depends on the participation of civil society, the UN crime control mandate set a precedent for cross-sector involvement in its development.<sup>4</sup> This model encouraged nations to similarly collaborate; groups of nations were left to consider how best to coordinate local institutions.<sup>5</sup> Second, the Protocol intentionally did not clearly define the categories of coercion, consent, and exploitation, which were left to be evaluated locally and defined on a case-by-case basis.<sup>6</sup>

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<sup>1</sup> "Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." Report of the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime on the Work of its First to Eleventh Sessions, 55th Sess., Agenda Item 105, at 32, U.N. Doc. A/55/383 (2000). [hereinafter Protocol], available at [http://www.unodc.org/pdf/crime/a\\_res\\_55/res5525e.pdf](http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf).

<sup>2</sup> *Id.* at 31.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 35-37.

<sup>5</sup> *Id.* at 35.

<sup>6</sup> See generally, Protocol, *supra* note 1.

Finally, the Protocol is inherently a transnational tool: nations were to determine the relationship between international and domestic trafficking.

As Nicaragua joins the recent international movement to end forms of modern day slavery, it first identifies trafficking in its own context. Such efforts have included: (1) defining victim identity, (2) determining who is best fit to lead anti-trafficking efforts, and (3) targeting public awareness campaigns.

This paper is a reflection of my experience as a U.S. Fulbright Research Fellow studying Nicaragua's initial institutional and public responses to the anti-trafficking movement.<sup>7</sup> In Part II, I will illustrate the complexity of understanding trafficking in its full social context using the testimony of the victims I encountered during my course of study.<sup>8</sup> In part, my goal is to put a face to trafficking. In Part III, I will discuss trafficking in Nicaragua as well as relevant local and international efforts to curb the illicit movement.<sup>9</sup> My experience leads me to conclude that it is as easy to sensationalize trafficking, as it is to simplify and dismiss the experience of a victim and his or her community. In conclusion, I suggest that a victim-centered perspective is the most responsible and effective way to approach and stand against 21st century slavery.<sup>10</sup>

## II. Sonia's Story<sup>11</sup>

I begin with a survivor's testimony. I first met the woman who I will now refer to as Sonia at a community development meeting held on the outskirts of Managua. At the meeting, I introduced the idea of human trafficking to a group of fifteen participants. Sonia was among five participants to bring forward personal testimonies. Sonia was sixteen when she first prostituted in Managua. At the time, her mother was working in Costa Rica as a domestic worker and Sonia had a six month-old son. The teen believed sex work was her only option. Sonia described her initial decision to prostitute as her "first mistake." In her first year of sex work, Sonia was beaten frequently. Eventually, she learned to self medicate with marijuana and alcohol to cope with the effects of the abusive treatment. During this time Sonia began to hear rumors of higher pay and better conditions in Guatemala. Two years later, Sonia had three children; she again believed she had only one option, and chose to follow the promise.

At age eighteen, escorted by an experienced sex worker who had been promoting a better life, Sonia crossed the Guasale River, which separated Costa Rica and Guatemala. As soon as the women entered Guatemala, Sonia's escort left, saying she was going to look for a job as a cook. Sonia's guide told her and the other girls who had joined them along the way to catch the next ride to the city. It was not long until a Nicaraguan man assisted those who were left. For \$50 per person, he offered to help the women find work in the city but refused to take

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<sup>7</sup> Fulbright Student Grantee, Nicaragua, 2003 – 2004 Academic Year.

<sup>8</sup> See *infra* Part II (discussing the personal journey of one individual who experienced human trafficking).

<sup>9</sup> See *infra* Part III (discussing Nicaragua and its place in human trafficking).

<sup>10</sup> See *infra* Conclusion (author's proposals and recommendations).

<sup>11</sup> (Notes on file with the author).

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any money at the time. Sonia told me that she trusted his offer because the man was Nicaraguan.

The man gave the women clothes, shoes, and food. However, he did not explain that they would also be charged for such provisions, thus increasing their fees far beyond the initial quote of \$50. The man took the women to a nightclub in Guatemala City, where Sonia would spend a year futilely trying to pay off the debt she had incurred in a few short days.

The work conditions at the nightclub were far worse than Sonia had expected. Over forty women lived in the three-story house: Salvadorians, Hondurans, Nicaraguans, Guatemalans, some as young as fifteen. Sonia told me she was under surveillance twenty-four hours a day. The first floor was the nightclub. The second floor was comprised of small rooms with metal doors used for sexual services. On the third floor, the women bathed in open air while the owners watched. When migration officials appeared at the club, the minors and undocumented workers would pass through a secret metal tunnel to a private home next door. Sonia explained that the only workers allowed to leave were those who had documents and the veteran workers who had earned the confidence and trust of the owners.

Like many trafficking victims, the debt alone did not keep Sonia from leaving her situation. Many of the women working with Sonia talked about leaving but only some chose to leave. Sonia told me that she chose to stay because she believed that if she left for another brothel, she would be treated worse. In her own words, she "could be hit." The owner and other workers were constantly telling Sonia that other nightclubs were like prisons. She was told that in other clubs women could only rest seated, or a woman would be "locked in" if she misbehaved, punished for two or three days. The owners also claimed that in some nightclubs food was passed under the door like in prison. Further, she was told that the women at other places didn't have permission to do anything, not even to defecate.

In an effort to prevent disease from slowing business, the owners of the club frequently took the women to a local health club, trusting they controlled their workers enough to assure silence during confidential exams. Here, Sonia formed a relationship with the clinic's nurse. When Sonia explained her situation, the nurse told Sonia that it was her choice whether to stay or return to Nicaragua and gave Sonia a bus schedule. At this point, Sonia had already earned the confidence of her traffickers and was allowed to leave the club for one day a week. After a year at the Club, Sonia saw a way out and caught the bus back to Nicaragua.

Sonia's story illustrates the dynamics of interpersonal violence. While Sonia is clearly a victim of deception and exploitation, she described her experience as a chain of her own mistakes and choices. She held herself responsible for falling into her experience. Sonia's story demonstrates how widespread social inequalities are translated into private violence. In turn, this private violence becomes so powerful that enslavement is normalized.

### III. Nicaragua's Response to the U.N. Protocol

Human trafficking is rooted in abusive relationships. A trafficker's success depends on his or her skill at manipulating a person's vulnerability. From the co-worker who convinced Sonia to leave for Guatemala to the Nicaraguan man who transferred Sonia's debt to the club's owners, Sonia's deception was remarkably personal. In this sense, trafficking is circumscribed by the human issues of power and control. At times Sonia was led to believe she had no other alternative; at other points the alternative seemed worse than the present situation. As Sonia describes it, all it took to escape was some empathy and a bus schedule.

In considering trafficking as an issue of interpersonal abuse, there is much to learn from research on domestic violence. While the tactics of abuse are uniquely defined within every abusive relationship, all forms of abuse are essentially tactics of control. An abusive individual may use intimidation, emotional abuse, isolation, denial, family, privilege, or economic abuse to gain control and power. Such methods of control may be created and enforced by social inequalities. For instance, isolation is an incredibly powerful tactic. When an individual is so isolated that she only receives information from one or a few people, she will begin to believe that information. From the outset, Sonia only received information from self-interested and economically motivated parties, such as the owners of the club. Thus, Sonia believed her only option was to stay at the club. Meeting the nurse broke Sonia's isolation, beginning her liberation. Therefore, the strongest bonds of trafficking may be the most intangible ones.

Using the personal nature of trafficking as a fulcrum for change, there are three challenges facing those responding to the international movement against human trafficking in Nicaragua: (1) the diversity of victims; (2) defining consent; and (3) linking international trafficking to domestic trafficking.

In 2000, the United States Agency for International Development ("USAID") funded a regional study of trafficking of women and children for purposes of sexual exploitation. The study was conducted by the Organization of American States and the Inter-American Commission of Women in collaboration with the International Human Rights Law Institute of DePaul University College of Law.<sup>12</sup> Two years later, the USAID Mission in Nicaragua funded Johns Hopkins University ("JHU") both to conduct both a national diagnostic study of trafficking and to implement a subsequent public awareness campaign.<sup>13</sup> Ultimately, the Johns Hopkins study provided background information for the Nicaraguan Government in creating the National Coalition Against Trafficking in Persons in February of 2004 ("National Coalition").<sup>14</sup> As recommended by JHU, the Coalition

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<sup>12</sup> See USAID, *TRAFFICKING IN PERSONS: USAID'S RESPONSE*, 10 (Sept. 2001), available at [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/wid/pubs/Trafficking2001.pdf](http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/Trafficking2001.pdf); see also USAID, *TRAFFICKING IN PERSONS: USAID'S RESPONSE*, 13 (Sept. 2002), available at [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/wid/pubs/trafficking\\_pub\\_final.pdf](http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/trafficking_pub_final.pdf).

<sup>13</sup> See USAID, *TRAFFICKING IN PERSONS: USAID'S RESPONSE*, 15 (March 2004), available at [http://www.usaid.gov/our\\_work/cross-cutting\\_programs/wid/pubs/trafficking\\_in\\_person\\_usaids\\_response\\_march2004.pdf](http://www.usaid.gov/our_work/cross-cutting_programs/wid/pubs/trafficking_in_person_usaids_response_march2004.pdf).

<sup>14</sup> THE JOHNS HOPKINS UNIVERSITY SCHOOL OF ADVANCED INTERNATIONAL STUDIES, PROTECTION PROJECT, *HUMAN RIGHTS REPORT ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN: A*

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was designed to train and coordinate members of civil society to identify trafficking in Nicaragua and to initiate subsequent institutional responses.

### A. Diversity of Victims

One of the first challenges facing Nicaragua is its difficulty in remaining open to the diversity of potential victims. From the start, Nicaraguan anti-trafficking efforts have been focused on women and children and commercial sexual exploitation. In part, this focus comes from the legacy of *la trata de blancas* (the white slave trade), a name that evolved after international attention shifted from African slavery to the trade of Asian, and later, Eastern European women into sex work.<sup>15</sup> From September 2003 to June 2004, I noticed that Nicaragua's national newspapers began to replace *la trata de blancas* (the white slave trade) with the more modern *trata de personas* (the trafficking of persons). In Nicaragua, rumors circulate in all classes, showing the cultural imbeddedness of the "white slave trade." Notably the National Coalition's most active participants are those already working with sexually exploited women and children. As a result Nicaragua's anti-trafficking network is building on a previously existing network of agencies whose focus remains on a specific population of victims. Relying on this network for data regarding the extent of trafficking in Nicaragua, the Coalition is finding what it expected: presenting cases are those of women and children trafficked into sex work. The media further enforces this perception as journalists use the term trafficking in persons only to refer to cases that were once known as the white slave trade.

This is not to say that the Coalition's efforts to end sex trafficking of women and children are misplaced. Indeed, the prevalence of sex trafficking in Nicaragua warrants great concern. The Protection Project states that there are between 1,000 to 1,200 female sex workers in Managua alone.<sup>16</sup> According to the Women's Commission and Asociacion Tesis, a sex worker advocacy program, almost fifty percent of these sex workers are under the age of 18.<sup>17</sup> The Nicaraguan Family Ministry's study of three hundred street children found that more than eighty percent of those interviewed said they had been prostitutes, mostly to support their drug addictions.<sup>18</sup> Prostitution is legal for individuals of fourteen years or older; however it is illegal to facilitate prostitution by deception.<sup>19</sup> Internationally speaking, women and children are most frequently traf-

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COUNTRY BY COUNTRY REPORT ON A CONTEMPORARY FORM OF SLAVERY, <http://www.protectionproject.org/main2.htm> (last visited Oct. 13, 2005) [hereinafter THE JOHNS HOPKINS UNIVERSITY PROTECTION PROJECT].

<sup>15</sup> See generally Michele O.P. Dunbar, Comment, *The Past, Present, and Future of International Trafficking in Women for Prostitution*, 8 BUFF. WOMEN'S L.J. 103 (2000).

<sup>16</sup> The Protection Project, available at <http://www.protectionproject.org/main1.htm>.

<sup>17</sup> Women's Commission, available at <http://www.protectionproject.org/main1.htm>.

<sup>18</sup> Human Rights Report Nicaragua available at <http://www.protectionproject.org/main1.htm>.

<sup>19</sup> Ley de Código penal de la República de Nicaragua [The Penal Code of the Republic of Nicaragua], art. 201, 1995 (Nicar.).

ficked to Guatemala and Costa Rica, where sex tourism is on the rise.<sup>20</sup> Casa Alianza, a regional NGO, prepared a study of 668 children in Guatemalan brothels and found that 61 children were from Nicaragua; the home country of 228 children in the study remained unknown.<sup>21</sup>

My own conversations with sex workers and trafficking survivors confirm these reports. One woman told me she was first prostituted by her adult mother on her *quincini*era (15th birthday). She went on to explain that most Nicaraguan sex workers started because their mothers forced them. Many people told me exactly where to find twelve, thirteen, fourteen-year-old girls in prostitution. Likewise, it is widely known that children willing to prostitute to feed their addiction to glue could be found on a known street just off Managua's main market.<sup>22</sup> One woman I interviewed told me that she knew a woman who sold 9 to 13 year old girls to a man at the airport. Further, my informant told me this same woman had been selling young girls for fifteen years, when my informant first started working as a prostitute. Despite reporting the situation to authorities, her business continues fifteen years later. In another interview, one woman reported that a truck would come by every Wednesday to pick up children whose parents were willing to send them to work in Guatemala.<sup>23</sup> The women believed that most of these children would be sexually exploited.<sup>24</sup> Inadequate laws, inconsistent prosecution and a societal tolerance promote Nicaragua's commercial sexual exploitation.

For a country stretched thin economically, targeting victims in the sex trade may seem the more practical, effective and, thus, humane beginning. The process of defining who will be labeled a victim will dictate the services, policies, and laws that develop to fight trafficking in persons.

The Protocol's minimal definitional standards of a victim may open the floodgates to scores of individuals seeking relief, thus overwhelming governments, like Nicaragua, that operate with limited financial resources. However, the anti-trafficking effort will not reach its beneficial potential if leaders do not allow victim testimony to hint at a much larger phenomenon, which may include many more cases of labor trafficking as well as cases of adoption and organ trafficking.

## B. Defining Consent

The second challenge of defining trafficking in the Nicaraguan context is the difficulty of defining consent, coercion and exploitation. In a country where fifty percent of the population lives in poverty,<sup>25</sup> consent seems irrelevant, coercion is

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<sup>20</sup> See generally U.S. DEPARTMENT OF STATE TRAFFICKING IN PERSONS REPORTS, 2001 - 2005, available at <http://www.state.gov/g/tip/rls/tiprpt>.

<sup>21</sup> Casa Alianza Investigation Finds Hundreds of Girls Trafficked in Guatemala, Mar. 31, 2004, (article on file with author). For more information, contact [media@casa-alianza.org](mailto:media@casa-alianza.org).

<sup>22</sup> (Notes on file with the author).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> See generally, CIA Factbook, Nicaragua, available at <http://www.cia.gov/cia/publications/factbook/geos/nu.html#Econ> (last updated Feb. 10, 2005).

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not often detectable, and exploitation is normalized. Victims often consent to the initial stage of trafficking because they are misled or deceived by traffickers. The Protocol notes that initial consent does not mean an individual is consenting to the full trafficking process.<sup>26</sup> Further, if any of the improper means set out in the definition (i.e. coercion, fraud, deception) have been used, any alleged consent to the subsequent exploitation is irrelevant.<sup>27</sup> Persons under eighteen years of age cannot consent to exploitation.<sup>28</sup>

Considering Sonia's case, it is difficult to see at what point her consent became invalid. The clearest evidence of coercion is her debt bondage, yet her debt was not necessarily what made Sonia stay. A critic may argue that because Sonia was physically able to leave her situation without much of a threat to her personal safety she was not being coerced to stay. This explanation misses the complexity of controlling abuse. Nations involved in human trafficking must avoid putting the responsibility on the victim for staying in an abusive situation. Rather, countries must stand against exploitation by considering a traffickers deception irrespective of the victims response.

### C. Linking Domestic & International Trafficking

The third challenge facing Nicaragua's attempt to combat human trafficking is the complexity of linking domestic trafficking and international trafficking. As I interviewed member agencies of the National Coalition, I repeatedly heard individuals define trafficking in persons as inherently transnational.<sup>29</sup> In terms of international trafficking, Nicaragua is what the U.S. Department of State calls a source and transit country.<sup>30</sup> Nicaragua would have to present 100 cases of individual trafficked into Nicaragua to be considered a destination country.<sup>31</sup>

There is very little data on trafficking in Nicaragua. There are no reliable systems for collecting data on sexual predators, disappeared children, and certainly not trafficked persons.<sup>32</sup> Currently, the press offers the most reliable means of reporting trafficking cases. Media is a crucial means of public awareness. Rather than relying on law enforcement, families place photos and descriptions of disappeared persons in the papers. Those whom I interviewed often brought up the nation's most publicized cases. However, the same news media that replaced the "white slave trade" with "the trafficking of persons" also publishes ads recruiting individuals into exploitative situations. The media reflects the national situation: Nicaragua lacks a broad understanding of trafficking as well as recognition that trafficking happens very close to home.

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<sup>26</sup> See Protocol, *supra* note 1, at 32.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> (Notes on file with the author).

<sup>30</sup> U.S. DEPARTMENT OF STATE, TRAFFICKING IN PERSONS REPORT, June 14, 2004, available at <http://www.state.gov/g/tip/rls/tiprpt/2004/33198.htm>.

<sup>31</sup> *Id.*

<sup>32</sup> Proposed material included poster and brochures featuring a fish and hook, warning readers to "be alert" and "safe yourself." (Materials on file with the author).



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As Nicaragua recognizes its role in the international trade of persons, outreach efforts will likely be focused on alerting victims to the potential of getting caught in a situation of trafficking. Warning potential victims was the primary goal of the Johns Hopkins public awareness materials.<sup>33</sup> However, the existence of domestic cases of trafficking means there are well over one hundred cases of victims already at their destination. Linking international trafficking with domestic trafficking requires viewing Nicaragua as a source and transit as well as a destination country. Consequently, services, laws, and policies must also reach those currently being trafficked within Nicaragua. However, it will be easier to find support for efforts focused on Nicaragua's role in international trafficking. As a result, it may be difficult for Nicaragua's anti-trafficking efforts to give priority to the very egregious domestic situation.

### IV. Conclusion

As Nicaraguans respond to the international anti-trafficking movement, they must recognize that trafficking is more than a crime, more than a product of market forces, and more than a public health threat. The first step in bringing solutions to Nicaragua is for the problem to be understood by Nicaraguan society. It is at this early stage that Nicaragua must remain open to the full diversity of victims, maintaining a focus on the trafficker's abuse rather than the victim's mistakes, and considering trafficking within Nicaraguan borders.

A call for a victim's testimony underlies these initial challenges. Moving beyond media reports, anti-trafficking advocates must seek out individual victims to describe the reality of trafficking. Sonia is one of many willing to bring an end to human trafficking. The starting point for creating complex solutions is to understand that trafficking in persons is as complex as it is human.

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<sup>33</sup> THE JOHNS HOPKINS UNIVERSITY PROTECTION PROJECT, *supra* note 14.