

A DOMESTIC AND INTERNATIONAL COMPARISON OF THE SEX-TRAFFICKING PROBLEM IN BRAZIL AND HAITI

*Mary Hill**

INTRODUCTION

A man goes out on the beach and sees that it is covered with starfish that have washed up in the tide. A little boy is walking along, picking them up and throwing them back into the water. "What are you doing, son?" the man asks. "You see how many starfish there are? You'll never make a difference." The boy paused thoughtfully, and picked up another starfish and threw it into the ocean. "It sure made a difference to that one," he said.¹

Trafficking of persons is a disgustingly lucrative practice where enormous profits are made by pimps and others involved.² The prob-

* Mary L. Hill, J.D., Regent University School of Law; B.A., Grove City College. This article arose out of my desire to join in the fight against sex trafficking. I wanted to make it evident that the sex trafficking problem is existent in every country and continent. Traditionally, when sex trafficking is discussed it is usually in reference to Eastern European or Southwestern Asian countries, but this article explores the depth of the sex trafficking in Haiti and Brazil. I choose these two countries to draw a comparison between two unique countries in the Western Hemisphere, the first with one of the poorest economies and the second with one of the most thriving economies in the Western Hemisphere. I am grateful for the guidance and support of Professor Kathleen McKee and the continued encouragement and support of my parents.

¹ NICHOLAS D. KRISTOF & SHERYL WUDUNN, *HALF THE SKY: TURNING OPPRESSION INTO OPPORTUNITY FOR WOMEN WORLDWIDE* 45 (2009).

² *Human Trafficking A Crime That Shames Us All – Brazil National Conference: Challenges to the Implementation of the National Plan of Action Against Trafficking in Persons*, U.N. Office on Drugs and Crime, 1 (Oct. 2007), available at http://www.ungift.org/doc/knowledgehub/resource-centre/GIFT_Regional_Conference_Brazil_2007.pdf (citing specifically the 2005 report of the International Organization on Migration (IOM)) [hereinafter U.N. Office on Drug and Crime].

lem of sex-trafficking is often highlighted in such countries as India, Thailand, and Cambodia, but it is also rampant in the Americas. Brazil and Haiti are on opposite ends of the economic spectrum, but share the common problem of sex-trafficking and the trafficking of children in particular.³ In just several months, one woman can generate €20,000 or about \$25,600 in Brazil.⁴ The United Nations Office on Drugs and Crime (UNODC) cited sex-trafficking as having become a \$16 billion per year industry in Latin America.⁵ The third most lucrative crime in the world, sex-trafficking trails only the illegal drug and arms trade.⁶ This paper compares Brazil and Haiti and their progress in the fight against sex-trafficking. First, background information is discussed. Second, national and international laws are compared. Finally, attempted reform efforts are analyzed. The efforts of the U.S. State Department to mandate a change through implementation of the Trafficking in Persons Reports (TIP) will be discussed in detail, as will possible remedies and various approaches to the problem.

I. BACKGROUND COUNTRY COMPARISON BETWEEN HAITI AND BRAZIL

In addition to being the poorest country in the Western Hemisphere, Haiti has been plagued by political violence for most of its history.⁷ Although Haiti was able to inaugurate a democratically elected President and Parliament in May of 2006, a massive 7.0 magnitude earthquake struck Haiti in 2010, causing tremendous and seemingly irreparable damage.⁸ It was the worst earthquake in over 200 years, and an estimated two million people lived in the damaged area.⁹ In contrast, Brazil is South America's leading economic power and the largest, most populous country in South America.¹⁰ Although distribu-

³ *Brazil*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html> (last updated Jan. 7, 2013) [hereinafter *Brazil*].

⁴ Mario de Queiroz, *PORTUGAL-BRAZIL: Human Trafficking and Marriage – Another Link*, INTER PRESS SERV. (Oct. 11, 2006), <http://www.ipsnews.net/news.asp?idnews=35071>.

⁵ U.N. Office on Drug and Crime, *supra* note 2.

⁶ Jen Ross, *Brazil Tries to Stem Tide of Sex Slavery*, WOMEN'S ENEWS (June 19, 2005), <http://womensenews.org/story/prostitution-and-trafficking/050619/brazil-tries-stem-tide-sex-slavery#.UPYAOidkzyM>.

⁷ *Haiti*, CIA WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html> (last updated Jan. 7, 2013) [hereinafter *Haiti*].

⁸ *Id.*

⁹ *Id.*

¹⁰ *Brazil*, *supra* note 3.

tion of income is highly inequitable, the extreme poverty of Haiti contrasts sharply with the prosperity displayed in Brazil.¹¹

Brazil and Haiti stand in contrast to one another in size as well as in the number of border countries. Haiti is located on an island slightly smaller in size than Maryland;¹² Brazil is slightly smaller than the United States and borders a total of ten countries.¹³ Excluding Chile and Ecuador, Brazil borders every country in South America; Haiti borders only the Dominican Republic.¹⁴ In addition, as shown by the disastrous earthquake of 2010, Haiti is prone to natural hazards due to its location in the hurricane belt.¹⁵ Brazil suffers only from droughts and occasional floods.¹⁶ Additional differences are evidenced by the number of major cities in each country. The capital city of Port-au-Prince, with a population of 2.1 million, is the only major city in Haiti, much of which was destroyed by the earthquake.¹⁷ In contrast, the smallest population among Brazil's five major cities is about 3.8 million.¹⁸

Although Haiti has a free market economy, some of its most serious disadvantages include corruption, poverty, and poor access to education for much of the population.¹⁹ The unemployment rate in Haiti is about forty percent, while it is a little less than seven percent in Brazil.²⁰ Haiti's economy suffered additional setbacks due to the earthquake destroying its capital city. In contrast, Brazil has an economy that "outweighs that of all other South American countries."²¹ Furthermore, Brazil is expanding its presence in world markets and was one of the first markets to recover from the global financial crisis of 2008.²² In addition, the per capita income of Brazil is \$12,000 compared to \$1,300 in Haiti. Both countries are noted by the CIA report as having problems with drug trafficking, but nothing is mentioned about human trafficking.²³

¹¹ *Haiti, supra note 7; see also Brazil, supra note 3.*

¹² *Haiti, supra note 7.*

¹³ *Brazil, supra note 3.*

¹⁴ *Haiti, supra note 7; see also Brazil, supra note 3.*

¹⁵ *Haiti, supra note 7.*

¹⁶ *Brazil, supra note 3.*

¹⁷ *Brazil, supra note 3; Haiti, supra note 7.*

¹⁸ *Brazil, supra note 3.*

¹⁹ *Haiti, supra note 7.*

²⁰ *Brazil, supra note 3; Haiti, supra note 7.*

²¹ *Id.*

²² *Brazil, supra note 3.*

²³ *Brazil, supra note 3; Haiti, supra note 7.*

The extreme differences between the wealthy Brazilian economy and the abject Haitian economy might lead to the belief that sex-trafficking is less prevalent in Brazil. However, investigation shows that the rampant corruption in Brazil, its wealth, location as a border country providing easy access to other countries, numerous large cities, and tourist destinations simultaneously coordinate to add to the sex-trafficking problem. Although Haiti's lack of infrastructure and state of destitution enhances the problem of sex-trafficking, both countries, although completely opposite in the many aspects, have a dire need for reform in order to fight against sex-trafficking.

II. RELEVANT CONSTITUTIONAL PROVISIONS

The constitutions of both Brazil and Haiti explicitly mention and implicitly affirm the protection of children and women from inhuman treatment while advocating and affirming equal treatment among the people. However, there is no mention of protection against sex-trafficking or even a general protection against trafficking in persons. Those considered destitute are among the most vulnerable members of society and are in need of the most protection. It is the destitute that are most susceptible to sex-trafficking because they are the least cared for, the least thought of, and the least acknowledged. In short, they do not matter.

A. Brazil

The Constitution of Brazil enumerates protections against discrimination and promotes equal rights between men and women; both steps are fundamental to the advancement of women.²⁴ Also important is the protection the constitution gives to motherhood and childhood, as well as assistance to the destitute.²⁵ Although illicit trafficking in narcotics is strictly prohibited several times in Brazil's Constitution, there is no mention of any type of illicit trafficking of humans.²⁶ A provision of the constitution says that "no one shall be submitted to torture or to inhuman or degrading treatment."²⁷ Sex-trafficking certainly falls into this category, yet this provision is most likely in reference to a protective measure taken against governmental powers. However, it is important to note that the constitution makes interna-

²⁴ CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] arts. 3, 5 (Braz.).

²⁵ *Id.* art. 6.

²⁶ *Id.* arts. 5, XLIII; 144, II.

²⁷ *Id.* art. 5, III.

tional treaties and conventions on human rights equivalent to constitutional amendments as long as they were voted in properly.²⁸ Therefore, international conventions that are voted into existence in Brazil have the force of constitutional law.

Brazil's Constitution also has provisions that specifically apply to the protection and well-being of children. In addition to a general right to education for the people of Brazil,²⁹ the Constitution further states that

it is the duty of the family, the society and the Government to assure children, adolescents, and youths, with absolute priority, the rights to life, health, nourishment, education, leisure, professional training, culture, dignity, respect, liberty and family and community harmony, in addition to safeguarding them against all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.³⁰

In addition, the government is to provide protection for orphaned or abandoned children through guardianship.³¹ The constitution has a provision that specifically targets the sexual exploitation of children, explaining that "the law shall severely punish abuse of, violence towards, and sexual exploitation of children and adolescents."³²

It is evident from these constitutional provisions that, in theory, Brazil places importance on the protection of children. Although these provisions are important, there is still no mention of protection against the sex-trafficking of children. Arguably, the closest constitutional provision, cited above, protects against the sexual exploitation of children. But the sexual exploitation of children is rampant in the coastal areas of Brazil where the market for sex-tourism has no end in sight.³³ The law is just words on paper unless it is implemented by law enforcement.

²⁸ *Id.* art.5, LXXVIII, para. 3 ("International treaties and conventions on human rights approved by both houses of the National Congress, in two different voting sessions, by three-fifths votes of their respective members, shall be equivalent to Constitutional Amendments.").

²⁹ *Id.* art. 205.

³⁰ *Id.* art. 227.

³¹ *Id.* art. 227, VI.

³² *Id.* art. 277, VII, para. 4.

³³ U.S. DEP'T STATE, *TRAFFICKING IN PERSONS REPORT—BRAZIL 37* (2011), available at <http://www.state.gov/g/tip/rls/tiprpt/2011/164231.htm>.

B. Haiti

The 1987 Constitution of Haiti and the Universal Declaration of Human Rights compose the fundamental legal framework for Haiti.³⁴ The preamble of the Haitian Constitution explains how it seeks to establish a strong state, “capable of protecting the country’s values, traditions, sovereignty, independence and national vision.”³⁵ The nation of Haiti has been in political turmoil since it declared its freedom and must take tremendous strides before it can live up to its aspirations as laid out in the preamble and constitution.³⁶ It is a travesty when the “pursuit of happiness”³⁷ becomes a search for lost family members and a safe place to sleep at night, as it has become in Haiti following the 2010 earthquake.

The Constitution of Haiti gives fundamental rights to its citizens such as life, health, education, food, insurance of protection, housing, individual liberty, and the family—which it refers to as the foundation of society.³⁸ The Constitution of Haiti says that it must “endeavor to aid and assist mothers, children, and the aged,”³⁹ and furthermore, that “the law ensures protection for all children. Any child is entitled to love, affection, understanding, in addition to moral and physical care [from] its father and mother.”⁴⁰ Although the Haitian Constitution guarantees free education to children, it is not provided for in practice. Rather, the children who do attend school must pay for it while many parents cannot afford to send their children to school. This inability to access education leads to a higher risk that the child will be subject to and engage in exploitive labor.⁴¹ Furthermore, the Haitian Constitution specifies the need for a family code to be created and enforced to ensure protection.⁴²

Listed above are the provisions of the Constitution of Haiti that provide the greatest protection of children. There is no mention of protecting children against sexual exploitation as there is in the Brazil Constitution, nor is there a provision giving international treaties and

³⁴ CONSTITUTION OF HAITI (1987) art. 19.

³⁵ *Id.* pmbi.

³⁶ *Haiti*, *supra* note 7.

³⁷ CONSTITUTION OF HAITI (1987), *supra* note 34, pmbi.

³⁸ *Id.* arts. 19, 22, 23, 24, 259.

³⁹ *Id.* art. 260.

⁴⁰ *Id.* art. 261.

⁴¹ U.S. DEP’T LABOR, 2010 FINDINGS ON THE WORST FORMS OF CHILD LABOR 356 (2010), available at <http://www.dol.gov/ilab/programs/ocft/PDF/2010TDA.pdf>.

⁴² CONSTITUTION OF HAITI (1987), *supra* note 34, art. 262.

conventions on human rights the weight of constitutional law. Similar to Brazil, there is no mention within the Haitian Constitution of any protection against trafficking. Although the Universal Declaration of Human Rights states that slavery shall be prohibited in all its forms and further that no one shall be held in slavery or servitude, this provision is left open-ended with no indication that it would be related to sex-trafficking.⁴³

In order for the law to have a real effect on the nation of Haiti, the police must abide by and enforce it. Although the police take an oath to uphold the Haitian Constitution, which ensures that the police promote law and order, corruption remains a serious problem.⁴⁴ Police dedication to the ideals of the Constitution of Haiti is less than adequate.

III. MEASURES TAKEN TO SOLVE THE SEX-TRAFFICKING PROBLEM

The focus must be placed not on changing laws, but on changing reality.⁴⁵ It is often the case in poor countries, that the law is irrelevant, especially in cities outside the capital city.⁴⁶ The United States enacted the Trafficking Victims Protection Act (TVPA) in 2000.⁴⁷ The United States adopted the TVPA requiring its State Department to put out an annual Trafficking in Persons Report.⁴⁸ This Act started the process of ranking countries as Tier 1, Tier 2, and Tier 3, according to their anti-trafficking efforts and sanctioning the lowest tiered countries. Information on trafficking had to be gathered at United States embassies abroad, and American diplomats placed pressure on foreign ministries who in turn began to question national police agencies.⁴⁹ This process led to the practice of countries compiling fact sheets, staging crackdowns, passing laws, and thereby increasing the cost of bribing police while decreasing the profit margin for pimps.⁵⁰

⁴³ Universal Declaration of Human Rights, G.A. Res. 217(III) A, U.N. Doc. A/RES/217(III), art. 4 (Dec. 10, 1948).

⁴⁴ CONSTITUTION OF HAITI (1987), *supra* note 34, arts. 263–2, 269–1.

⁴⁵ See KRISTOF & WUDUNN, *supra* note 1, at 32.

⁴⁶ *Id.*

⁴⁷ U.S. DEP'T STATE, INTRODUCTION: 10 YEARS OF FIGHTING MODERN SLAVERY (2010), available at <http://www.state.gov/g/tip/rls/tiprpt/2010/142746.htm>.

⁴⁸ KRISTOF & WUDUNN, *supra* note 1, at 32.

⁴⁹ *Id.*

⁵⁰ *Id.* at 32–33.

A. Haiti

1. The Problem

Children are trafficked within Haiti's borders for the purpose of prostitution or labor.⁵¹ A practice that has continued for centuries is sending children, mainly girls between six and fourteen years old, to work as domestic servants; these children are sent by their parents when they cannot afford to take care of them.⁵² These children work as servants in exchange for room and board and are known as "restaveks."⁵³ There is no minimum age restriction for domestic service work, though there is a minimum age restriction of fifteen years for work in commercial, agricultural, and industrial departments.⁵⁴ Furthermore, there are no penalties for employing children in domestic labor.⁵⁵ Many of the children are subject to violence and lack the resources to return to their family and are at risk of ending up as prostitutes.⁵⁶ The movement of these restaveks mainly involves movement from the countryside into the cities. In 2003, the government estimated that between 90,000 and 120,000 children were restaveks. Haitian children are trafficked into the Dominican Republic while women from the Dominican Republic are trafficked into Haiti for prostitution.⁵⁷ Several hundred Haitian children are held in debt bondage in Port-au-Prince.⁵⁸ Observers, primarily Non-Governmental Organizations (NGOs), estimate that 2,500 to 3,000 Haitian children are trafficked annually into the Dominican Republic.⁵⁹ The U.S. State Department declared in 2005 that Haiti is a "source, transit, and destina-

⁵¹ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT-HAITI 48 (July 2001) [hereinafter TIP HAITI 2001], available at <http://www.state.gov/g/tip/rls/tiprpt/2001/3928.htm>.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ U.S. DEP'T LABOR, *supra* note 41.

⁵⁵ *Id.*

⁵⁶ TIP HAITI 2001, *supra* note 51.

⁵⁷ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT-HAITI 75 (June 2003) [hereinafter TIP HAITI 2003], available at <http://www.state.gov/g/tip/rls/tiprpt/2003/21276.htm>.

⁵⁸ *Id.*

⁵⁹ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT-HAITI 250 (June 2004) [hereinafter TIP REPORT 2004], available at <http://www.state.gov/documents/organization/34158.pdf>; Independent Expert on the Situation of Human Rights in Haiti, *Rep. of the Independent Expert on the Situation of Human Rights in Haiti*, ¶ 32, U.N. Doc. A/HRC/17/42 (Apr. 4, 2011) (by Michel Forst) [hereinafter Michel Forst].

tion country for men, women, and children trafficked for the purpose of sexual exploitation and forced labor.”⁶⁰ A sharp increase in trafficking of Haitian children to the Dominican Republic for sex was noted by NGOs in 2008.⁶¹ It was discovered in 2009 that UN Peacekeepers were having sex with some of the trafficked victims.⁶²

The *restaveks* “employed” during childhood are often dismissed when they become difficult to control or when they become teenagers. They make up a large population of street children and are susceptible to sex-trafficking.⁶³ As of the 2011 TIP Report, many of the *restaveks* are living in internally displaced persons camps.⁶⁴ These children are among the most vulnerable of Haiti’s population and face the worst types of abuse including child prostitution, trafficking in minors, rape, and child abductions.⁶⁵

The earthquake of 2010 dramatically increased the vulnerability faced by children; approximately 720,000 children between six and twelve and 500,000 under the age of five were affected by the earthquake, while 300,000 children were displaced to other parts of the country.⁶⁶ Part of the problem is that children frequently cross the border illegally in the company of an adult who is paid to pretend to be the child’s guardian while in transit to the Dominican Republic.⁶⁷ There are four designated border crossings where it is likely for this practice to occur.⁶⁸ Reports showed that children carrying produce to a border city in the Dominican Republic were exposed to such risks as trafficking for the purpose of sexual exploitation and organ trafficking upon reaching the border.⁶⁹ Many times, no investigations are opened

⁶⁰ U.S. DEP’T STATE, *TRAFFICKING IN PERSONS REPORT–HAITI* 118 (June 2005) [hereinafter *TIP HAITI 2005*], available at <http://www.state.gov/g/tip/tiprpt/2005/46614.htm>.

⁶¹ U.S. DEP’T STATE, *TRAFFICKING IN PERSONS REPORT–HAITI* 306 (June 2009) [hereinafter *TIP HAITI 2009*], available at <http://www.state.gov/g/tip/rls/tiprpt/2009/123140.htm>.

⁶² *Id.*

⁶³ U.S. DEP’T STATE, *TRAFFICKING IN PERSONS REPORT–HAITI* 394 (June 2011) [hereinafter *TIP HAITI 2011*].

⁶⁴ *Id.*

⁶⁵ INTER-AMERICAN COMM’N ON HUM. RTS., *ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS 2010* ¶ 52 (Mar. 7, 2011) [hereinafter *ANNUAL REPORT*], available at <http://www.cidh.oas.org/pdf%20files/IACHR-ANNUAL-REPORTS-2010.pdf>.

⁶⁶ *Id.* ¶ 54.

⁶⁷ *TIP HAITI 2011*, *supra* note 63.

⁶⁸ *Id.*

⁶⁹ *ANNUAL REPORT*, *supra* note 65, ¶¶ 52, 56.

although cases of rape are reported.⁷⁰ Unlike Brazil, Haiti is not a popular destination for international child sex tourism.⁷¹

i. Security Issue and Increased Prostitution in the Internally Displaced Persons (IDP) Camps

The disastrous 7.0 magnitude earthquake in 2010 brought an increase in prostitution and a severe security crisis. Girls and women finding shelter in IDP camps and shelters became increasingly vulnerable to the self-appointed “security guardians” who exploited them in return for “protection.”⁷² The large majority of the women interviewed at the camp reported having been raped by two or more individuals; these rapes would almost always take place at night by armed assailants.⁷³ The security problem is no doubt aggravated by the conditions that the women and girls are subject to; they generally sleep outside unprotected and with no friends or family.⁷⁴ In addition, they bathe outside in full view of men while the police merely patrol the perimeters of the camp during the daylight hours rather than patrolling the inside of the camp.⁷⁵ One reported case includes a woman who was beaten and raped for three days by several men after being abducted and taken to a house.⁷⁶ In another instance, a woman’s small children had to watch as she was stabbed and raped by a group of men.⁷⁷ These victims often do not come forward due to a low probability that the assailants will be detained, fear of reprisal, and stigmatization likely to follow.

ii. Police Corruption

Corruption within the national police in Haiti poses additional obstacles to fighting against exploitation and trafficking; the police will request bribes before issuing arrest warrants in some cases.⁷⁸ A large part of the problem with combating sexual violence is the inability to

⁷⁰ *Id.* ¶ 56.

⁷¹ TIP HAITI 2011, *supra* note 63.

⁷² U.S. DEP’T STATE, TRAFFICKING IN PERSONS REPORT–HAITI 357 (June 2010) [hereinafter TIP HAITI 2010], available at <http://www.state.gov/g/tip/rls/tiprpt/142763.htm>.

⁷³ ANNUAL REPORT, *supra* note 65, ¶ 28.

⁷⁴ *Id.* ¶ 29.

⁷⁵ *Id.*

⁷⁶ *Id.* ¶ 30.

⁷⁷ *Id.*

⁷⁸ *Id.* ¶ 31.

measure the violence against women and the trends over time.⁷⁹ A problem can only be properly combated if its complexities are properly understood. It takes time to measure the effectiveness of an approach taken for the purpose of combating sex-trafficking and exploitation. Due to a lack of reporting, it is hard to say how widespread the problem of sexual violence against women actually is.⁸⁰ While national NGOs try to document the occurrence of sexual violence based on complaints registered and confirmed, other organizations do not try to document sexual violence based on complaints—the result is the spread of unconfirmed figures and unverified reports leading to a confusion of the actual situation.⁸¹

2. The Developmental History of Anti-trafficking Legislation Over the Past Ten Years in Haiti

The domestic commitment and progress that Brazil and Haiti have made against the sex-trafficking problem can be traced over the last ten years. The first Trafficking in Persons Report was released in 2001.⁸² At that time, Haiti had no law prohibiting trafficking in persons; however, a media campaign was launched resulting in the placement of victims with NGOs.⁸³ There were still no laws prohibiting trafficking in 2002. In addition, there was no prosecution of traffickers and it was the NGOs, not the government, that were maintaining facilities to help restaveks.⁸⁴ In 2003, the government was able to pass a law prohibiting trafficking of children⁸⁵ and held conferences to plan the implementation of the law; however, the government was still not prosecuting traffickers.⁸⁶ The border was not being monitored properly which resulted in the trafficking of Haitian children into the Dominican Republic.⁸⁷ The government of Haiti collapsed in 2004, resulting in widespread violence and looting; there was no effective government in place to enforce anti-trafficking provisions.⁸⁸ There

⁷⁹ *Id.*

⁸⁰ Michel Forst, *supra* note 59, ¶ 25.

⁸¹ *Id.* ¶ 26.

⁸² TIP HAITI 2001, *supra* note 51.

⁸³ *Id.*

⁸⁴ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—HAITI 56 (June 2002) [hereinafter TIP HAITI 2002], available at <http://www.state.gov/g/tip/rls/2002/10680.htm>.

⁸⁵ TIP HAITI 2003, *supra* note 57.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ TIP HAITI 2004, *supra* note 59.

was no functioning judicial system in 2005 due to the political crisis of the previous year.⁸⁹ Traffickers were not prosecuted while anti-trafficking legislation was still pending.⁹⁰ Official corruption throughout the country was further impeding anti-trafficking efforts.⁹¹ Most assistance was provided by the NGOs because the government had no resources to protect the victims.⁹² Throughout 2006 and 2007, there was no effective government or police force in place to fight against trafficking; Haiti was fighting to maintain control against crime and violence in the capital.⁹³ Although the government was still weak in 2008 and ill equipped to fight against trafficking, it drafted an anti-trafficking bill which was submitted to its parliament.⁹⁴ In 2008, there was a sharp increase noted by NGOs in the number of Haitian children trafficked to the Dominican Republic for sex.⁹⁵ The group primarily consisted of *restaveks*, which the police would not pursue because there is no statutory penalty against trafficking them.⁹⁶ There is no Haitian law prohibiting trafficking in persons.⁹⁷

In 2010, all progress to stop trafficking was impeded by the 7.0 magnitude earthquake that hit in January killing over 230,000 people, displacing 1.3 million people—including half a million children, and destroying Port-au-Prince. There was an increase in prostitution due to the earthquake, with many *restaveks* living in shelters and IDP camps.⁹⁸ Legislation criminalizing all forms of human trafficking was pending in parliament.⁹⁹ During the earthquake, twelve out of the thirteen ministries of government collapsed, making the ability of the government to function in the areas of law enforcement, social services, and border control extremely limited.¹⁰⁰ In 2011, the National Police Brigade for Protection of Minors (BPM) had a staff of only

⁸⁹ TIP HAITI 2005, *supra* note 60.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT-HAITI 268 (June 2006) [hereinafter TIP HAITI 2006], available at <http://www.state.gov/g/tip/rls/tiprpt/2006/65991.htm>.

⁹⁴ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT-HAITI 270 (June 2008) [hereinafter TIP HAITI 2008], available at <http://www.state.gov/documents/organization/105501.pdf>.

⁹⁵ TIP HAITI 2009, *supra* note 61.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ TIP HAITI 2010, *supra* note 72.

⁹⁹ *Id.*

¹⁰⁰ TIP HAITI 2011, *supra* note 63.

thirty-five officers for the entire country.¹⁰¹ No advances have been made since 2011 for the prosecution of trafficking, but the draft bill on trafficking has been presented to parliament for consideration in the next session.¹⁰² NGOs have been screening potential child trafficking victims and leading prevention efforts; a problem area lies with the four border crossings. Although the border crossing in Haiti presents a problem, international child sex tourism is not popular as it is in Brazil.¹⁰³

B. Brazil

1. The Problem

The U.S. State Department recognizes Brazil as a source country for victims both of international and domestic trafficking. In 2001, it was noted that the majority of Brazilian trafficking involved the trafficking of women and girls to Europe for the purpose of sexual exploitation.¹⁰⁴ According to the United Nations Office on Drugs and Crime, Brazil is the largest supplier of female sex-slaves in Latin America.¹⁰⁵ The increasing popularity of sex-tourism in Brazil resulted in a lowered age and increased amount of trafficked and exploited children.¹⁰⁶ Most women who agree to go out of the country seeking work end up in a prostitution ring.¹⁰⁷ They usually consist of poor women who are persuaded to follow recruiters based on false promises of work and riches abroad, but instead find themselves forced into the sex-trade.¹⁰⁸ These women are sometimes imprisoned in a house abroad for years having no idea what street they are even living on.¹⁰⁹ Those particularly vulnerable to trafficking are women, children, and adolescents with limited literacy, living in rural areas.¹¹⁰

In addition, a large number of Brazilian women and girls are trafficked for sexual exploitation to the Caribbean, Japan, South America,

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ U.S. DEP'T STATE, *TRAFFICKING IN PERSONS REPORT—BRAZIL*32 (July 2001) [hereinafter *TIP BRAZIL 2001*], available at <http://www.state.gov/g/tip/rls/tiprpt/2001/3928.htm>.

¹⁰⁵ Ross, *supra* note 6.

¹⁰⁶ U.N. Office on Drugs and Crime, *supra* note 2, at 9.

¹⁰⁷ *Id.* at 10.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 5, 8.

and the United States.¹¹¹ Mainly due to ancient ties, the main source of victims of human trafficking to Portugal is Brazil.¹¹² In 2004, around 75,000 Brazilian women were trafficked into prostitution in Europe, while internal trafficking targets Brazilian children.¹¹³ Unlike Haiti, trafficking from urban to rural areas is a problem due to forced labor. The Brazilian Federal Police estimate 250,000 children are exploited for prostitution, while the NGOs estimate around 500,000.¹¹⁴ Contrasting dramatically with Haiti, Brazil is a popular destination for international child sex tourism.¹¹⁵ Child sex tourism is a serious problem within the country, especially in the resort areas and coastal cities of Brazil's northeast.¹¹⁶ When police conducted an investigation into the sexual exploitation of Brazilian children, they discovered that sex tourism was prevalent in almost 400 of 1,514 tourist destinations.¹¹⁷ It was prevalent in almost one-third of the tourist destinations in northeast Brazil.¹¹⁸

In response to the problem, the Brazilian government issued a "code of conduct" for the tourism industry to combat sex tourism and sexual exploitation.¹¹⁹ Businesses needed to display warnings about the punishments for the sexual exploitation of children.¹²⁰ However, the manner in which these children are exploited extends beyond the tourist destinations and domestic servitude to include Amazonian mining brothels and highways.¹²¹ Within every Brazilian state and federal district, sex-trafficking of Brazilian women occurs; child sex predators arrive from Europe and the United States to partake in their pedophil-

¹¹¹ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 75 (June 2008) [hereinafter TIP BRAZIL 2008], available at <http://www.state.gov/g/tip/rls/tiprpt/2009/123135.htm>.

¹¹² Queiroz, *supra* note 4.

¹¹³ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 228 (June 2004) [hereinafter TIP BRAZIL 2004], available at <http://www.state.gov/documents/organization/34158.pdf>.

¹¹⁴ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 67 (June 2007) [hereinafter TIP BRAZIL 2007], available at <http://www.state.gov/documents/organization/82902.pdf>.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 69.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 64.

¹²⁰ *Id.* at 69.

¹²¹ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 85 (June 2009) [hereinafter TIP BRAZIL 2009], available at <http://www.state.gov/g/tip/rls/tiprpt/2009/123135.htm>.

iac fantasies.¹²² The foreign organized criminal ties that Russia and Spain have in the sex-trafficking of Brazilian women are an additional indicator of the expansive nature of the crime as it is found in Brazil.¹²³

i. Difficulties in Controlling the Border

Difficulties in combating and preventing domestic and international human trafficking in Brazil is enhanced by the porous territorial borders shared with nine often neighboring countries along with the sixty-seven airports and large landmass belonging to the country.¹²⁴ Haiti's small size, in addition to the geographical aspect of sharing an island with only the Dominican Republic, results in a different kind of sex-trafficking problem than the epic trans-national trafficking to which Brazil has become a party.

ii. Police Corruption

Corruption within law enforcement is a sizable factor in the continuation of the sickening crime of sex-trafficking. Credible NGOs report that the police turn a blind eye to child prostitution and even threaten victims who come forward.¹²⁵ Even a federal judge was charged with trafficking Brazilian women to Portugal for sexual exploitation.¹²⁶ Police who are convicted often walk free while other trafficking convictions are turned into mere sentences of community service.¹²⁷ Furthermore, many sex-trafficking cases are improperly dismissed by the police because the victim had at one point been a prostitute before being forced into coercive conditions or had initially consented to engage in prostitution. As of the 2011 TIP report, there have been no reported child sex tourism prosecution cases or reported efforts to reduce the demand for commercial sexual activities among adults.¹²⁸

¹²² *Id.*

¹²³ U.S. DEP'T STATE, *TRAFFICKING IN PERSONS REPORT—BRAZIL 89* (June 2010) [hereinafter *TIP BRAZIL 2010*], available at <http://www.state.gov/g/tip/rls/tiprpt/142759.htm>.

¹²⁴ U.N. Office on Drugs and Crime, *supra* note 2, at 7.

¹²⁵ *TIP BRAZIL 2010*, *supra* note 123, at 91.

¹²⁶ *Id.*

¹²⁷ U.S. DEP'T STATE, *TRAFFICKING IN PERSONS REPORT—BRAZIL 96* (June 2011) [hereinafter *TIP BRAZIL 2011*], available at <http://www.state.gov/g/tip/rls/tiprpt/2011/164231.htm>.

¹²⁸ *Id.* at 99.

According to the World Report 2012, Brazil police corruption inhibits enforcement of the Código Penal (penal code).¹²⁹ Among the world's most violent and corrupt, Brazil's police force has only increased in violence in recent years.¹³⁰ The police systematically use torture to obtain confessions from suspects,¹³¹ carry out summary executions, and the police are rarely indicted for such abuses.¹³² Charges against police are usually dismissed for reasons of "lack of evidence."¹³³ Corruption pervades all aspects of police enforcement, including accepting bribes from pimps to stay away from brothels, and partaking in the services and management of brothels.

2. The Developmental History of Anti-Trafficking Laws in Brazil Over the Last Ten Years

In the introduction of the Trafficking in Persons Reports issued by the U.S. State Department in 2001 and 2002, Brazil had a penal code that prohibited some, but not all forms of trafficking in persons. Although the government prosecuted trafficking, there were limited resources available to aid the victims.¹³⁴ In 2003, President Lula of Brazil issued an order for a government wide initiative to combat sexual exploitation of minors.¹³⁵ International public awareness campaigns were launched to combat sex tourism which included distribution of pamphlets informing travelers of laws against the sexual exploitation of minors.¹³⁶ The government started the Sentinel Program, where over 400 centers assist children and adolescent victims of sexual abuse.¹³⁷ This program was specifically created to combat commercial sexual exploitation of children and adolescents by establishing refer-

¹²⁹ See *World Report 2012: Brazil*, HUM. RTS. WATCH 1 (Jan. 2012), http://www.hrw.org/sites/default/files/related_material/brazil_2012.pdf.

¹³⁰ See *Brazil: Curb Police Violence in Rio São Paulo, Extrajudicial Killings Undermine Public Security*, HUM. RTS. WATCH (Dec. 8, 2009), <http://www.hrw.org/news/2009/12/08/brazil-curb-police-violence-rio-s-o-paolo>.

¹³¹ *Freedom in the World 2012: Brazil*, FREEDOM HOUSE (2012), <http://www.freedomhouse.org/report/freedom-world/2012/brazil>.

¹³² *Id.*

¹³³ *Lethal Force: Police Violence and Public Security in Rio de Janeiro and São Paulo*, HUM. RTS. WATCH 4 (Dec. 2009), <http://www.hrw.org/node/87020>.

¹³⁴ TIP BRAZIL 2001, *supra* note 104; U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 32 (June 2002), <http://www.state.gov/j/tip/rls/tiprpt/2002/>.

¹³⁵ U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 36 (June 2003), <http://www.state.gov/j/tip/rls/tiprpt/2003/index.htm>.

¹³⁶ *Id.*

¹³⁷ *Id.*

ence centers to provide victims with legal, social, and psychological services.¹³⁸ Although President Lula declared the fight against sex-trafficking as a national priority, the government provided incomplete data on persons prosecuted for domestic sex-trafficking and as of 2004, there were only a few convictions for transnational trafficking.¹³⁹ However, the government of Brazil did establish anti-trafficking offices.¹⁴⁰ In 2008, the Government produced a national plan of action covering all forms of trafficking;¹⁴¹ Brazil coordinated with foreign governments to punish and remove foreign visitors who were charged with sex tourism offenses.¹⁴²

In addition to the national plan that was set into action, Brazil has an existing penal law that addressed the sex-trafficking problem. Sections 231 and 231-A of the Brazilian penal code prohibits some forms of sex-trafficking. It specifically

prohibits the promotion or facilitating movement to, from, or within the country for the purposes of prostitution or other forms of sexual exploitation, with violence, threats, or fraud as aggravating elements, as opposed to necessary elements of the offense. These articles prescribe penalties of three to eight years' imprisonment; sentences may be increased up to 12 years' imprisonment when violence, threats, or fraud are used, or if the victim is a child.¹⁴³

While this statute only prohibits forced prostitution that involves movement, section 228 addresses the offense of forced prostitution without an element of movement. This section "prohibits inducing, attracting, and facilitating the prostitution or sexual exploitation of another person, or impeding or making leaving prostitution or sexual exploitation difficult for another person"¹⁴⁴ The penalties for breaking this provision are two to eight years imprisonment.¹⁴⁵ In addition, Articles 206 and 207 of Brazil's penal code prohibit the traf-

¹³⁸ *Brazil*, U.S. DEP'T LABOR: BUREAU OF INT'L LABOR AFF., <http://www.dol.gov/ilab/media/reports/iclp/tda2004/brazil.htm#.UPGyoCdi74B> (last visited Jan. 12, 2013).

¹³⁹ TIP BRAZIL 2004, *supra* note 113, at 227; U.S. DEP'T STATE, TRAFFICKING IN PERSONS REPORT—BRAZIL 71 (June 2005) [hereinafter TIP BRAZIL 2005], *available at* <http://www.state.gov/j/tip/rls/tiprpt/2005/>.

¹⁴⁰ TIP BRAZIL 2005, *supra* note 139.

¹⁴¹ TIP BRAZIL 2008, *supra* note 111, at 77.

¹⁴² *Id.*

¹⁴³ TIP BRAZIL 2011, *supra* note 127, at 97.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.*

ficking related offense of fraudulent recruitment or enticement of workers internally or internationally.¹⁴⁶ The penalty for this offense is one to three years imprisonment. Furthermore, in 2010 the National Immigration Council issued a decree granting permanent visa status to foreigners considered victims of trafficking.¹⁴⁷ Also, the practice of utilizing child pornography is prohibited by the Statute of the Child and Adolescent.¹⁴⁸ Articles 240 and 241 of this statute were amended in 2008 by law number 11,829 to improve the fight against child pornography.¹⁴⁹ Article 240 of the Child and Adolescent Statute places a penalty of four to eight years imprisonment for conviction of producing, or in any way facilitating, the production of child pornography. Article 241 of the same statute places a prison sentence of up to eight years for the sale of child pornography.¹⁵⁰ This statute helps to protect against the sexual exploitation of children through child pornography; it is the pedophilic practice of child pornography that leads to a demand in sexual exploitation through child prostitution and child trafficking. Persistent and forceful combat against internet involvement in child pornography will likely result in a reduction in the child sex-trade.

The Brazilian legislation is not in full conformity with the Trafficking Protocol that was ratified by the Brazilian government in 2004. Although, section 231 and 231-A of the Brazilian penal code criminalizes facilitating the movement of forced prostitution and section 228 criminalizes forced prostitution when there is no element of movement, there is not sufficient support for victim rehabilitation and reintegration into society.¹⁵¹

3. Comparison of Approaches to Prostitution in Brazil and Haiti

A key difference between Haiti and Brazil is their approach to prostitution. Prostitution is illegal in Haiti but it is legal in Brazil.¹⁵² It

¹⁴⁶ TIP BRAZIL 2010, *supra* note 123, at 92.

¹⁴⁷ TIP BRAZIL 2011, *supra* note 127, at 99.

¹⁴⁸ U.S. DEP'T LABOR, *supra* note 41, at 104.

¹⁴⁹ *Children's Rights: Brazil*, LIBRARY CONG., <http://www.loc.gov/law/help/child-rights/brazil.php> (last updated July 25, 2012).

¹⁵⁰ *Id.*

¹⁵¹ Gulnara Shahinian, U.N. Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences, Mission to Brazil*, ¶¶ 88, 91, U.N. Doc. A/HRC/15/20/Add.4 (Aug. 30, 2010).

¹⁵² Ross, *supra* note 6.

is without doubt that the legalization of prostitution in Brazil leads to an increase in the illegal activities of international trafficking for prostitution, facilitation of prostitution, and forced prostitution. Brazil's Labor and Employment Ministry Primer specifies the "Professional of Sex" among its classification of occupations and furthermore, provides a description and characteristics of the job in addition to pointers on how to get a successful encounter.¹⁵³ The government casts a favorable light on all of the components of working as a sex-professional and even provides a list of institutions where some "sex professionals" have studied.¹⁵⁴ Many of Brazil's neighboring countries recognize the age of fourteen as the legal age of consent to work.¹⁵⁵ Sixteen is the minimum age for work set in Brazil.¹⁵⁶ A large percentage of children engage in commercial sex to boost the household income while remaining with their families and thereby become victims while still living at home, yet orphaned and street children are particularly vulnerable to trafficking within the sex industry.¹⁵⁷ These child victims are often forced into prostitution by their families to increase their families' income.¹⁵⁸ The nature of many of the child victims working out of the home contributes to the small number of reported cases of this slave labor.¹⁵⁹

IV. RELEVANT INTERNATIONAL TREATIES ADOPTED BY BRAZIL AND HAITI

"Brazil is a party to a number of international instruments that expressly prohibit contemporary forms of slavery" as well as relevant international human rights instruments.¹⁶⁰ The following treaties all prohibit contemporary forms of slavery: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;¹⁶¹ the International Labour Organization (ILO) convention concerning the Prohibition and Immediate Action for the Elimination of

¹⁵³ See generally *English Translation of Brazil's Labor and Employment Ministry Primer on Sex Professional*, PROCON.ORG 1, <http://prostitution.procon.org/sourcefiles/BrazilLaborAndEmploymentMinistryPrimerOnSexProfessional.pdf> (last visited Jan. 12, 2013).

¹⁵⁴ *Id.* at 5.

¹⁵⁵ U.N. Office on Drugs and Crime, *supra* note 2, at 1.

¹⁵⁶ U.S. DEP'T LABOR, *supra* note 41, at 104.

¹⁵⁷ U.N. Office on Drugs and Crime, *supra* note 2.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.* at 2.

¹⁶⁰ Shahinian, *supra* note 151, ¶ 8.

¹⁶¹ *Id.*

the Worst Forms of Child Labour (Convention No. 182); the ILO Convention concerning the Abolition of Forced Labour (Convention No. 105);¹⁶² the Slavery Convention and Protocol amending the Slavery Convention;¹⁶³ the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;¹⁶⁴ and the ILO Convention concerning Forced or Compulsory Labour (Convention No. 105).¹⁶⁵ Brazil is a party to the following human rights instruments: the Convention on the Rights of the Child;¹⁶⁶ the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;¹⁶⁷ the Convention on the Elimination of All Forms of Discrimination against Women;¹⁶⁸ the International Covenant on Civil and Political Rights;¹⁶⁹ the International Convention on the Elimination of all Forms of Racial Discrimination;¹⁷⁰ and the International Convention on Economic, Social and Cultural Rights.¹⁷¹

Although Brazil is a party to many international treaties, several international treaties are particularly relevant to the fight against the problem of human trafficking. Both Brazil and Haiti have ratified the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime—with no reservations, declarations, or understandings.¹⁷² Brazil ratified it in 2004. Haiti's recent ratification of the treaty in 2011 places it in the beginning stages of implementing the treaty.¹⁷³ Although a step in the right direction, the UN Protocol against Trafficking in Persons is aspirational due to the principles of sovereignty and non-intervention.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* ¶ 9.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Status of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, U.N. TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18&lang=en (last visited Jan. 13, 2013).

¹⁷³ *Id.*

Article 3 of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children contains parts (a), (b), (c), and (d). Part (a) contains three sub-parts. Subpart I of (a) states that “‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons”¹⁷⁴ This subpart becomes ambiguous when defining what specifically is meant by “recruitment, transportation, transfer, harbouring, or receipt of persons.” The words can be broadly applied or strictly applied, depending upon the court interpreting the definition. Nation-states would need to clearly define all key terms in the protocol. The recruitment of a victim can involve a series of promises and not always be executed by large organizations, thereby creating difficulty in classifying a given situation as recruitment. Such an instance would be if a Brazilian girl was being told she would be going to another country to wait tables. The question would become whether she had some idea that the job described implied she would be selling sex, and whether she had an idea that the job would include more than simply waiting on tables—or whether the representation was completely false, and she honestly thought she was only going to be working in a restaurant.

Furthermore, in some parts of Haiti and Brazil, there is not a lot of opportunity and the thought of getting out of the village to work in a foreign country, regardless of the job, seems appealing. The “rainbow syndrome” causes some girls to want to be recruited because they believe that it must be better elsewhere. Other ambiguities might arise regarding what is meant by the terms “harbouring” and “transporting.” Traffickers might use a regular hotel in the process of moving the girls, but when the hotel is confronted about the harboring, they could say they did not know the pimps were using their hotel as part of the transportation. Generally, a key term in these laws is “knowingly.” In addition, some of the transportation can appear legal on its face due to the proper paperwork and visas that the pimps have acquired. Many times the girls have to pay for their own transportation; they might have to pay the organization a fee in order to travel to a different country or region. In the case of illegal immigration, some pay to be smuggled in order to get into the country. A narrower definition of the terms in the Protocol might be appropriate in that it would be more easily

¹⁷⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 3, Nov. 15, 2000, 2237 U.N.T.S. 319 [hereinafter Protocol to Prevent].

applicable and practically used. If the terms recruitment, transportation, transfer, and harbouring are more definitive and specific, it would likely lead to a better understanding of who is classified as a trafficker and thereby result in more convictions and fewer pimps on the street.

Article 3(a) of the Protocol continues the definition "of trafficking in persons," saying that it is conducted

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 payment or benefits to achieve the consent of a person having control over another person.¹⁷⁵

The difficulty with this definition is that it applies to any and every one. The broad list with its string of "or's" produces a large list of suspects. Difficulties arise in what constitutes fraud, deception, or coercion. As stated above, a girl might know that she is agreeing to be more than a waitress in a restaurant when she agrees to leave the country for work.

Article 3(a) continues by stating, "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."¹⁷⁶ This part of the definition includes people who are exploited in many different ways. It includes protection of people who are exploited for the removal of their organs as well as people who are exploited for sexual or labor services. The wording is not ambiguous as far as who is given protection. The difficulty lies in defining the term "exploitation," and proving that someone was being exploited rather than choosing to act in a particular manner.

Part (b) of the Protocol states, "The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used."¹⁷⁷ This means that consent of the victim can never be used as a defense for those accused of trafficking. The question might arise as to what point would the consent of the victim not be allowable as a defense? Many times the victims do not consent at first, but are eventually broken down and appear to consent to work as prostitutes; Meena Hasina explains this process in the first chapter of *Half the Sky*. She also recounted how even to resist a man

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

when he came for sex or not to smile while being raped would result in severe beatings at the brothel.¹⁷⁸ Although a girl might appear to consent after years of prostitution, it does not mean that they are in reality consenting. Consent at any time, whether the first encounter, or years down the road should not constitute a defense.

Part (c) of the Protocol states, "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article."¹⁷⁹ This differentiates between a child and an adult. If the person being trafficked is a child, the act is by definition illegal. The child cannot choose to be a part of any form of exploitation. The means of obtaining a child is left completely open-ended because any means of employing a child for the purpose of exploitation is a criminal offense.¹⁸⁰

The protection of children must be enforced in order to stop their exploitation and trafficking; an additional component essential to the change in trafficking is providing equal rights for women. The following treaties provide a basic framework for the dedication to improve the situation for women and children. However, none of these treaties will become effective without proper implementation enforced through coordinated police efforts at the national level of both countries.

The two international treaties ratified by both Brazil and Haiti that have this specific goal in mind are the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child (CRC).¹⁸¹ The CRC was the first legally binding instrument enacted to spell out the basic human rights that children have. There are four principles that are at the core of the convention: the right to life, devotion to the best interest of the child, respect for the views of the child, and survival and development of the child.¹⁸² Two optional protocols of the CRC that further provide for the protection of children

¹⁷⁸ KRISTOF & WUDUNN, *supra* note 1, at 4.

¹⁷⁹ Protocol to Prevent, *supra* note 174, art. 3, para. c.

¹⁸⁰ *Id.*

¹⁸¹ *Status of the Convention on the Elimination of All Forms of Discrimination against Women*, U.N. TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#8 (last visited Jan. 16, 2013); *Status of the Convention on the Rights of the Child*, U.N. TREATY COLLECTION, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en (last visited Jan 16, 2013).

¹⁸² *Convention on the Rights of the Child*, UNICEF, <http://www.unicef.org/crc/> (last updated May 25, 2012).

are the Optional Protocol on Armed Conflict¹⁸³ and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography;¹⁸⁴ Brazil is a party to both of these Optional Protocols, while Haiti is not a party to either of them.¹⁸⁵ In addition, the Elimination of all Forms of Discrimination against Women was created to eliminate such discrimination that acts to “violate the principles of equality of rights and respect for human dignity.”¹⁸⁶ The treaty defines the discrimination against women as

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.¹⁸⁷

Haiti and Brazil are also both a party to the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.¹⁸⁸ This treaty prohibits the use of children for sale and trafficking, debt bondage, and forced participation in armed conflict.¹⁸⁹ Any type of child prostitution, child pornography, work that is hazardous to the health and safety of the child, and using children for criminal activities is also illegal under this treaty.¹⁹⁰ In addition to the international treaties adopted in Haiti and Brazil to combat the trafficking problem, the Inter-American Commission on Human Rights also enforces mandatory treaties to fight against the trafficking problem.

The Inter-American Commission on Human Rights (IACHR) enforces treaties that the Member States of the Organization of American States (OAS) must follow.¹⁹¹ The OAS was created by the States of

¹⁸³ U.S. DEP’T LABOR, *supra* note 41, at 104.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 104, 356.

¹⁸⁶ Convention on the Elimination of All Forms of Discrimination against Women pmbl., *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13, *available at* <http://treaties.un.org/doc/publication/UNTS/Volume%201249/v1249.pdf>.

¹⁸⁷ *Id.* art. 1.

¹⁸⁸ U.S. DEP’T LABOR, *supra* note 41, at 104, 356.

¹⁸⁹ Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour art. 3(a), *done* June 17, 1999, 2133 U.N.T.S. 161, *available at* <http://www2.ohchr.org/english/law/pdf/childlabour.pdf>.

¹⁹⁰ *Id.* art. 3(b)–(d).

¹⁹¹ *Basic Documents Pertaining to Human Rights in the Inter-American System*, INTER-AM. COMM’N HUM.RTS. (June 30, 2010), <http://www.cidh.oas.org/Basicos/English/Basic1.%20Intro.htm>.

the Americas to promote solidarity, defend their sovereignty, independence, territory, and provide regional order of peace and justice.¹⁹² International instruments were adopted by the OAS members providing for the promotion and protection of human rights.¹⁹³ The basic human rights declarations that form the foundation of the OAS start with the American Declaration of the Rights and Duties of Man, known as the American Declaration. It declares that "the essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality."¹⁹⁴ Next, the American Convention on Human Rights of 1978 was enacted, which was a new draft of the American Declaration enhancing the effectiveness of the IACHR. The States obligation to the protection of human rights and means of that protection through the IACHR and the Inter-American Court of Human Rights was established through this founding document.¹⁹⁵ Other human rights conventions adopted by OAS members thereby becoming the basic foundation of the OAS include the following: the Inter-American Convention to Prevent and Punish Torture; the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights (Protocol of San Salvador); the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; the Inter-American Convention on Forced Disappearance of Persons; the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities; the Inter-American Democratic Charter; the Declaration of Principles on Freedom of Expression; and the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas.¹⁹⁶

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

V. REMEDIES

A. Implementation of the Big-Stick Approach to Prostitution Rather than the Legalize-and-Regulate Approach Will Work Best to Fight Against Sex-Trafficking

Haiti and Brazil should pursue implementation of the big-stick approach followed by Sweden to combating sex-trafficking. The real issue of how to stop sex-trafficking becomes a matter of how to deal with prostitution. Prostitution leads to trafficking because there is a difficult grey area between the extremes of whether a prostitute is more freely engaging in the activity or if she is held captive inside a brothel. Two opposing approaches are followed in the Netherlands and in Sweden.¹⁹⁷ The approach in the Netherlands has been to legalize and regulate prostitution so that minors are kept out, the workers can unionize, and the promotion of health for the workers is prioritized through availability of condoms in order to prevent the spread of AIDS.¹⁹⁸ Sweden takes the opposite approach by viewing the prostitute as a victim and criminalizing the purchase of sex services but not the sale of them; a man caught buying sex is fined or imprisoned but the prostitute is not punished.¹⁹⁹ Ten years after Sweden adopted the approach in 1999, studies showed that they were more successful in decreasing the amount of prostitutes; the number of prostitutes in Sweden dropped by forty-one percent.²⁰⁰ However, the legalization of prostitution in the Netherlands resulted in an increase in the number of illegal (underage) prostitutes.²⁰¹ STDs and HIV were not shown to have declined, and Amsterdam became the “center for sex tourism.”²⁰² The number of underage girls available consequently increased.²⁰³ The approach taken by Sweden is the most successful because it targets the consumers who are responsible for driving the market. The risk of incrimination drives the market down by making prostitution less appealing to buyers while simultaneously reducing the profit margin for the pimps.²⁰⁴

¹⁹⁷ KRISTOFF & WUDUNN, *supra* note 1, at 31.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ *Id.* at 32.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* at 26.

Based on the studies discussed above, it is evident that the legalize-and-regulate model does not work in countries where prostitution is coerced.²⁰⁵ The implementation of this method is frustrated in Brazil and Haiti because of ineffective regulation, poor governance, and the parallel illegal business in young girls and forced prostitution that is attracted by the existence of an already legal brothel. When drug rehabilitation and job retraining are combined with crackdowns, empirical evidence shows that the crackdowns can succeed.²⁰⁶ The strategy to stop the problem in Brazil and Haiti should focus on a push for “fundamental change in police attitudes.”²⁰⁷ Regular police inspections that check for anyone held against her will or underage girls should be implemented. Furthermore, the government would thereby be held accountable for the enforcement of laws by monitoring pimp arrests and brothel raids instead of merely passing laws about them. Rampant police corruption in both Brazil and Haiti must come to a stop by putting pressure on the police chiefs through international awareness of police corruption.²⁰⁸ The crackdowns work in part by causing a higher demand bribe from the pimps by nervous police or a closedown of the brothels not managed by other police officers.²⁰⁹

Another example of the success of the big-stick approach and the failure of the legalize-and-regulate model is the end result of the two differing approaches taken in the Indian cities of Kolkata and Mumbai. The Sonagachi Project in Kolkata was ironically cited as a success of the legalize-and-regulate method due to the empowerment it claimed to bring women through providing a union for the sex-workers.²¹⁰ But further investigation showed that it was likely aiding rather than stopping the trafficking problem. Sonagachi is a red-light district in Kolkata that has hundreds of multistory brothels that house more than six thousand prostitutes.²¹¹ The World Health Organization supported the Sonagachi project in the efforts to promote a union of sex-workers in order to stop the spread of HIV through encouraged condom usage; the union became known as the DMSC.²¹² Research initially showed that condom use increased while the number of sex workers infected with HIV decreased; the infection rate was reported to be much lower

²⁰⁵ KRISTOFF & WUDUNN, *supra* note 1, at 26.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ *Id.*

²⁰⁹ *Id.* at 27.

²¹⁰ *Id.*

²¹¹ *Id.*

²¹² KRISTOFF & WUDUNN, *supra* note 1, at 27.

than in Mumbai. Furthermore, tours were offered of Sonagachi where it was explained that selling sex was a way for unskilled female workers to make a living, and the members of the sex worker union made sure to block the entry of unwilling or underage girls.²¹³ However, when the statistics were researched, not only was it discovered that the HIV infection rate was found to be higher while the condom usage was lower, but women with experience in fighting trafficking in Kolkata explained that “DMSC has become a front for brothel owners and western support for DMSC has provided cover for traffickers.”²¹⁴ A specific example of the failure of the Sonagachi project is Geeta. At the age of eleven Geeta was taken to Sonagachi, locked in a room where she was repeatedly raped for a month and was told that if she ever ran away she would be chopped up and thrown down the sewage drain.²¹⁵ When other girls in Sonagachi could be interviewed alone, they would explain how most girls were trafficked into Sonagachi and that few if any came because of aspirations to become a sex-worker.²¹⁶ In contrast, Mumbai had historically worse brothels including “cage girls” who were held behind bars.²¹⁷ The big-stick approach was taken in this area and crackdowns drove the estimated number of prostitutes from 35,000 to 6,000.²¹⁸ Although it is possible and likely that the crackdowns forced some of the prostitution underground, it also made the practice less profitable for brothel owners—traffickers began shipping young girls to Kolkata.²¹⁹ While the big-stick approach decreased the number of prostitutes by nearly 30,000, the legalize-and-regulate approach taken in Sonagachi resulted in no change in the number of prostitutes.²²⁰

A key component to a successful rescue is that it should be coupled with restoration. Girls are often kept on methamphetamines by their brothel owners “in order to keep them compliant and dependent.”²²¹ Such a girl was Srey Momm, who was rescued from a brothel but had become addicted to meth and ran back to her brothel in order to get her fix.²²² Although she had been brought back to her village,

²¹³ *Id.* at 27–28.

²¹⁴ *Id.* at 28.

²¹⁵ *Id.* at 29.

²¹⁶ *Id.* at 30.

²¹⁷ *Id.* at 31.

²¹⁸ *Id.* at 31.

²¹⁹ KRISTOFF & WUDUNN, *supra* note 1.

²²⁰ *Id.*

²²¹ *Id.* at 39.

²²² *Id.*

she craved the meth too much to stay away. After she had her fix at the brothel she would want to leave again. “She yearned to leave the brothel behind, but she could not overcome her addiction.”²²³

While restoration must follow the rescue of girls, the most productive method is to prevent the girls from getting involved in the first place and putting brothels out of business. It is essential to never give up, “[e]ven when a social problem is so vast as to be insoluble in its entirety it’s still worth mitigating.”²²⁴ It is also the case that some girls are tempted to go back into the practice by the thought of making money, even if in reality they never see the revenue they procure.²²⁵ The Association for the Defense of Women and Youth is an NGO in Brazil that works to prevent women from being seduced into the sex trade and provides counsel for former sex-slaves.²²⁶ The founder explained that she was frustrated to see the majority of women return to be sex-slaves: nine in ten try to go back for prospects of payment.²²⁷

B. Action that Specifically Needs to be Taken by Haiti

The government in Haiti must strengthen its police force by removing undesirable elements of the police force through the vetting process. Implementation must be pursued with rigor and discretion.²²⁸ The Office of the United Nations High Commissioner for Human Rights (OHCHR) is an organization operating in Haiti that helps to support the process of vetting the police officers while not infringing on their rights.²²⁹ This process ensures that members of the police found guilty of human rights violations will be dismissed without infringing upon their rights.²³⁰ Steps must be taken to ensure that the OHCHR is respected and its process reasserted.²³¹

The MINUSTAH is a protection group created in response to the needs of vulnerable persons.²³² In order to respond to protection concerns, it developed and implemented strategic policing plan for camps

²²³ *Id.*

²²⁴ *Id.* at 45.

²²⁵ Ross, *supra* note 6.

²²⁶ *Id.*

²²⁷ *Id.*

²²⁸ Michel Forst, *supra* note 59, ¶ 60.

²²⁹ *Id.* ¶ 63.

²³⁰ *Id.*

²³¹ UNITED NATIONS STABILIZATION MISSION IN HAITI, RESTORING A STABLE AND SECURE ENVIRONMENT, <http://www.un.org/en/peacekeeping/missions/minustah> (last visited Jan. 23, 2013).

²³² *Id.*

that included the involvement of the Haitian National Police, UNPOL, and UN military.²³³ However, these efforts need to be increased, strengthened, and properly carried out through a police force that is not rife with corruption or by UN workers who partake in the services of the sex-slaves. The attitude of Director-General Andresol who declared that he “will not be intimidated” after announcing the dismissal of fifty corrupt or dishonest police officers needs to permeate the leaders of the police force.²³⁴ There must be a commitment to fight against corruption, and that commitment must be followed with action.

The approach needed to stop the trafficking of children and women in Haiti must involve a reconstruction of fundamental preconceptions and practices that have been maintained and assumed throughout the culture for centuries.²³⁵ The practice of child servitude must be stopped; the *restaveks* “employment” often leads to sexual exploitation while the children are expected to work much harder than other children of the house of the host family.²³⁶ It has become common for recruiters to be paid a fee to place children, many starting from only the age of five, from one family into another to become the child slave of the latter.²³⁷ Furthermore, it is the poorer families that are utilizing or providing *restaveks*, therefore their ability to get an education is all but non-existent.²³⁸ The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery is an international legal instrument that classifies the conditions of the *restaveks* as slavery.²³⁹ Article 1 paragraph (d) of this instrument states that slavery is

[a]ny institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his

²³³ *OHCHR in the Field: Americas*, OFFICE OF THE U.N HIGH COMM’R (2010), available at http://www2.ohchr.org/english/ohchrreport2011/web_version/ohchr_report2011_web/allegati/22_Americas.pdf.

²³⁴ Louis Joinet, *Situation of Human Rights in Haiti*, U.N. Econ. & Soc. Council, Comm’n on Hum. Rts., ¶ 35, U.N. Doc. E/CN.4/2006/115 (Jan. 24, 2006), available at <http://www2.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm> (follow “E” next to “E/CN.4/2006/115”).

²³⁵ Gulnara Shahinian, U.N. Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequence, Mission to Haiti*, ¶ 16, U.N. Doc. A/HRC/12/21/Add.1 (Sept. 4, 2009), available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A.HRC.12.21.Add.1.pdf>.

²³⁶ *Id.* ¶¶ 16, 35–38.

²³⁷ *Id.* ¶ 24.

²³⁸ *Id.* ¶¶ 20, 28–29.

²³⁹ *Id.* ¶ 22.

natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.²⁴⁰

According to this definition, the practice of obtaining *restaveks* is one of modern day slavery; two of the five necessary elements are met. First, the child is given to a different family that is not the biological family and second, the child is transferred for his exploitation or for his labor.²⁴¹ Four important elements of what constitutes child slavery exist: (1) abuse of position of trust, (2) for money, (3) involving a child, (4) with intent to exploit labor. In addition, article 3 (d) of the ILO Convention 182 states that “the term the worst form of child labour comprises: . . . (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”²⁴² This definition fits the conditions of a *restavek*.²⁴³ Also, article 32 of the Convention on the Rights of the Child specifies that children must be protected from economic exploitation and performing any work that is harmful to the child’s health, safety, or morals.²⁴⁴ It occurs too often that the children who become *restaveks* are overly worked and exploited for the economic gain of their host family. Reports also indicated that Haitian children were trafficked to the Dominican Republic for exploitation in domestic servitude; families in the Dominican Republic were paying recruiters to bring *restaveks* across the border.²⁴⁵ Though *restaveks* are often promised education in exchange for their service, i.e. through fraud or deception, the reality is they have little access to education.²⁴⁶ Therefore, since these internationally accepted instruments classify the conditions *restaveks* are subject to as slave conditions which are outlawed, the *restavek* practice must also be outlawed. This crackdown will result in a parallel decrease in the child-sex trade.

Sexual violence and the prevalence of sex-trafficking involving women needs to be combated, in part, by changing the view that womens’ issues should only be addressed through womens’ organizations. The protection of women is a joint responsibility and the fundamental thinking that it is allowable to ‘punish’ a woman inside the

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.* ¶ 26.

²⁴⁶ *Id.* ¶ 28.

home through sexual or physical violence must be changed through criminal sanctions if such action occurs.²⁴⁷ It is the faulty thinking that women are not equal to men which leads to their poor treatment, increased vulnerability, and dispensation to be trafficked.²⁴⁸ If they are protected and treated as the equals as guaranteed by the Constitution of Haiti, then the trafficking of women will decrease. The Haitian government has enforced harsher sanctions on the crime of rape. It became a specific crime punishable on its own accord when previously it had merely been classified as a sexual or indecent assault.²⁴⁹ The Haitian penal code must continue to implement and enforce laws that prohibit all violence against women, albeit physical, economic, psychological, or sexual.

Haiti should implement a legal remedy by adding a provision against sex-trafficking under Article Four of the Universal Declaration of Human Rights specifically stating that sex-trafficking is a type of slavery and furthermore declaring that human trafficking should be prohibited in all its forms.²⁵⁰ In addition, the four points of border crossing between Haiti and the Dominican Republic need to be heavily monitored by government forces, international attention, as well as the monitoring by NGOs. The IDP camps need to ensure medical and psychological services for sexual violence victims as well as provide proper police training and adequate security.²⁵¹

C. Action that Specifically Needs to be Taken by Brazil

Brazil needs to follow the Swedish model by criminalizing prostitution. The numerous examples given above and lack of improvement over the years demonstrate that the legalize-and-regulate model is not diminishing the sex-trafficking or child-sex tourism problem. Furthermore, the increase in sex tourism is not really a phenomenon; the legalization of prostitution causes a parallel increase in the illegal sex trade. It is natural that where prostitution is legal, people will go to that location to utilize it. That group also brings pedophiles and sexual deviants who likely believe it will be easier to find child prostitutes in an area where prostitution is already legal. The line is not clear in what is classified as sex work and commercial sexual exploitation; the lack

²⁴⁷ Joinet, *supra* note 234, ¶ 17.

²⁴⁸ *Id.*

²⁴⁹ *Id.* ¶ 18.

²⁵⁰ Universal Declaration of Human Rights, *supra* note 43.

²⁵¹ ANNUAL REPORT, *supra* note 65, ¶ 171.

of a clear definition impedes national efforts to counter the trafficking problem.²⁵² If Brazil is to keep prostitution legal, it must clearly define what constitutes prostitution and what constitutes sexual exploitation. The truth of the matter boils down to the values underlying society in Brazil. Is the priority to be placed on expelling sex-trafficking from Brazil, or does the country promote the “forward-thinking liberation” that stands behind the concept of recognizing sex workers as a legitimate profession? The government needs to see behind the façade of this “liberating” movement to the truth that only exploitation, accompanied by moral and social decay result from legalized prostitution. The facts clearly speak for themselves that efforts to legalize-and-regulate prostitution result in a parallel increase in illegal sex-trafficking. There needs to be an increase in the border protection with further efforts to identify victims of sex-trafficking.

D. Efforts that Both Haiti and Brazil Need to Take

Both Haiti and Brazil need more international attention placed on the problem of sex-trafficking in order to raise awareness resulting in pressure for change. Important diplomats need to be brought and shown the magnitude of the problem so they are impassioned to do something about it. Efforts will be refocused on a different crime if enough international attention is drawn to sex-trafficking.²⁵³ For example, Cambodia was given negative attention by the U.S. State Department as well as media reports of the rampant sex slavery in the country.²⁵⁴ Small Cambodian villages that used to be notorious for sex slavery are not as popular due to the police crackdown that was initiated due to national embarrassment of the highlighted problem.²⁵⁵ The International Justice Mission also opened up an office branch in the region, in large part due to the international attention, and enhanced the crackdown initiative.²⁵⁶

Another aspect of the problem that needs to specifically be addressed is the identification of trafficking victims. NGOs have spearheaded efforts to identify victims; Brazil and Haiti have both created programs to train police in how to identify victims. These efforts need to be increased and continued. It is argued that the victims of traffick-

²⁵² U.N. Office on Drugs and Crime, *supra* note 2, at 29.

²⁵³ See KRISTOFF & WUDUNN, *supra* note 1, at 32.

²⁵⁴ *Id.* at 33.

²⁵⁵ *Id.*

²⁵⁶ *Id.*

ing need be given more autonomy in their shelters.²⁵⁷ It is also possible that too much autonomy will result in the girls going back to their brothels. What results is a precarious balance where trust needs to be established while protection is also provided. Once the girls are released from the shelters, it is important to follow up with them to see how they are doing. Such attempts can mitigate their return to the trade.

CONCLUSION

The problem of sex-trafficking is rampant in many parts of the world, and needs a combination of many factors in order to be properly fought against. Media attention, NGO cooperation, governmental compliance, and a police force that is free from corruption are just a few of the factors that need to align in order to fight against the problem. However, improvements have been made through the attention brought by the Trafficking in Persons Reports that are released by the U.S. State Department. Brazil and Haiti, though at opposing extremes of the economic spectrum, both have a problem with sex-trafficking that must be addressed and continually combatted.

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U.N. Office on Drugs and Crime, *supra* note 2, at 21.