

The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:

**Document Title: Fostering Imagination in Fighting Trafficking:
Comparing Strategies and Policies to Fight Sex
Trafficking in the U.S. and Sweden**

Author: John Picarelli ; Anna Jonsson

Document No.: 223060

Date Received: June 2008

Award Number: 1704-356

This report has not been published by the U.S. Department of Justice. To provide better customer service, NCJRS has made this Federally-funded grant final report available electronically in addition to traditional paper copies.

<p>Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.</p>

**Fostering Imagination in Fighting Trafficking:
Comparing Strategies and Policies to
Fight Sex Trafficking in
the U.S. and Sweden**

7 May 2008

John T Picarelli
Consultant

Washington DC
USA

Anna Jonsson
Institute for Security and
Development Policy
Stockholm
Sweden

Executive Summary

Sweden and the United States have each taken leading roles in the global fight against trafficking in persons (TIP). The U.S. and Sweden are outspoken on the issue of fighting trafficking and have made anti-trafficking a central tenet of their domestic and foreign policies. Both countries have made significant outlays to shelter, protect and naturalize victims of trafficking. Yet the perception of each country is that they each represent a distinct and different model for fighting trafficking in persons. The American approach emphasizes strengthening legal codes and law enforcement tools while enhancing services available to victims, and has led to a victims-centered approach that many countries emulate. The Swedish model criminalizes demand for trafficking and handling the “supply” through more administrative means, and has led to an equality-centered approach that has drawn numerous positive reviews worldwide.

So at first glance it appears that the U.S. and Sweden have significantly different anti-trafficking approaches. The Swedish approach to trafficking is a function of Sweden’s domestic promotion of equality in multiple aspects of society. Sweden views trafficking through the lens of equality, thus sex trafficking is seen as a form of violence against women and dealt with accordingly. In the U.S., trafficking policy is more a function of law enforcement and prosecution, and thus the American approach sees trafficking as a form of organized crime to be dealt with accordingly. A more studied comparison, however, yields a significant number of similarities between the two countries. Both countries believe sex trafficking is a major international issue that requires a mixture of law enforcement, social welfare and foreign policies to solve. Both countries also share a commitment to victims of human trafficking as victims of human rights abuses.

This report compares the responses in the U.S. and Sweden to identify synergies and divergences that might impact policymaking and practice in both countries. The report opens with a brief discussion of how sex trafficking operates in each country to be followed by an overview of each country's historical experience with prostitution and human trafficking. It then proceeds to detail their anti-trafficking efforts. The comparison goes beyond law enforcement efforts to consider how foreign policy, development aid and even security play a role in the fight against trafficking. The section concludes with a discussion of the difficulties each country continues to face when implementing anti-trafficking policies and programs.

The report also identifies the major elements of each country's fight against primarily trafficking for sexual purposes and argues that neither country has a turnkey model that "solves" trafficking. Rather, each country has adopted an anti-trafficking strategy and the policies to implement it that reflect their value system, attitude towards prostitution, governmental capacities, historical experiences, legal codes and geopolitical outlooks. By comparing the origins, elements and implementation of each country's anti-trafficking policies, we arrive at two broad conclusions. First, the similarities between each country's anti-trafficking strategy and policies suggest "best practices" that other countries can emulate. Second, the differences between the U.S. and Sweden are the result of larger social, political, historical and geographical contexts, including attitudes towards prostitution and gender equality. Such contexts might potentially limit the transferability of U.S. and Swedish policies to other countries.

Table of Contents

Introduction.....	1
Sweden and the U.S.: Anti-Trafficking Policies and Prior Research.....	3
Methods.....	7
The Cases of Sweden and the U.S.....	12
Sex Trafficking in Sweden and the U.S.....	12
History of Prostitution, Sex Trafficking and Policy.....	16
Contemporary Sex Trafficking Policies.....	22
Criminal Law and Human Trafficking.....	26
Law Enforcement Methods.....	33
Protection of Victims.....	38
Trafficking, Foreign Policy and Development.....	40
Trafficking and Security Policy.....	44
Remaining Challenges.....	47
Similarities, Differences and Observations.....	50
Strategic Comparisons.....	50
Policy Comparisons.....	52
Conclusion and Recommendations.....	55

Introduction

Sweden and the United States have each taken leading roles in the global fight against trafficking in persons (TIP). The U.S. and Sweden are outspoken on the issue of fighting trafficking and have made anti-trafficking a central tenet of their domestic and foreign policies. Both countries have made significant outlays to shelter, protect and naturalize victims of trafficking. The countries implemented ground-breaking legal codes addressing trafficking in the late 1990s, and have provided law enforcement with considerable resources to locate and prosecute traffickers. And both countries have led the way to change attitudes towards trafficking. Sweden and the U.S. are the only countries with Ambassadors whose portfolios focus solely on the trafficking issue.

The perception of each country is that they each represent a model for fighting trafficking in persons. The American emphasis on strengthening legal codes and law enforcement tools while enhancing services available to victims has led to a victims-centered approach that many countries are seeking to emulate. The Swedish model of criminalizing demand for trafficking and handling the “supply” through more administrative means has drawn positive reviews worldwide. Combined with active international leadership and significant investments of financial, technical and diplomatic resources, the American and Swedish approaches are swiftly becoming the leading models for countries seeking to improve their anti-trafficking strategies and capabilities.

At first glance, it appears that the U.S. and Sweden have significantly different anti-trafficking approaches. The Swedish approach to trafficking is a function of Sweden’s domestic promotion of equality in multiple aspects of society. Sweden views trafficking through the lens of equality, thus sex trafficking is seen as a form of violence against women and dealt with

accordingly. In the U.S., trafficking policy is more a function of law enforcement and prosecution, and thus the American approach sees trafficking as a form of organized crime to be dealt with accordingly. A more studied comparison, however, yields a significant number of similarities between the two countries. Both countries believe sex trafficking is a major international issue that requires a mixture of law enforcement, social welfare and foreign policies to solve. Both countries also share a commitment to victims of human trafficking as victims of human rights abuses. In sum, both countries share certain assumptions about trafficking, but have chosen different paths to implement this vision.

This article identifies the major elements of each country's fight against primarily trafficking for sexual purposes and argues that neither country has a turnkey model that "solves" trafficking. Rather, each country has adopted an anti-trafficking strategy and the policies to implement it that reflect their value system, attitude towards prostitution, governmental capacities, historical experiences, legal codes and geopolitical outlooks. By comparing the origins, elements and implementation of each country's anti-trafficking policies, we arrive at two broad conclusions. First, the similarities between each country's anti-trafficking strategy and policies suggest "best practices" that other countries can emulate. Second, the differences between the U.S. and Sweden are the result of larger social, political, historical and geographical contexts, including attitudes towards prostitution and gender equality. Such contexts might potentially limit the transferability of U.S. and Swedish policies to other countries. No country could adopt either approach without considerable adjustment of governmental structures, legal codes, social norms and other structural considerations. Any failure to consider these contexts is likely to yield less significant results for countries seeking to "improve" their anti-trafficking efforts.

By comparing the origins and ideology behind the Swedish and American anti-trafficking approaches, this paper aims to highlight the context within which these policies have been developed. The report's conclusions demonstrate how other countries can achieve the same end goals by taking into consideration their unique history, social, and political foundations. The report does not provide an evaluation of the impact of the American and Swedish policy on the fight against human trafficking, but rather serves as an analysis of the policy itself and the potential barriers to transferability.

Sweden and the U.S.: Anti-Trafficking Policies and Prior Research

Trafficking in persons is an issue that has risen in prominence over the last decade, and a number of countries have undertaken concerted efforts to minimize and eradicate the trade in human beings. Since its passage in 2000, some 116 countries have become party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.¹ The European Union funded 85 projects for its member-states and other countries through its 6.5 million Euro STOP program, while the STOP II follow-on program injected another 4 million Euros into anti-trafficking programs.² In these and similar statistics, progress is measured in terms both the number of states participating and the level of participation. While states serve as the primary actors enacting programs and policies to bring trafficking in persons to an end, civil society actors like NGOs and churches play an important role in awareness raising and advocacy. The result is a heterogeneous set of responses that reflect not only the diversity of causes and effects of sex trafficking but also the variation in legal codes, law enforcement capacities and government resources.

¹ Available: <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>

² European Commission Justice and Home Affairs Committee, *The Misery Behind the Fantasy: From Poverty to Sex Slavery*, Accessed: 9 September 2007. Available: http://ec.europa.eu/justice_home/news/8mars_en.htm#b1

Within this variation, a small number of states have been identified as leaders in the fight against sex trafficking. The U.S. and Sweden are often viewed as leaders in the fight against sex trafficking. The U.S. has made the global fight against trafficking a central part of its foreign policy. The U.S. State Department's Office to Monitor and Combat Trafficking in Persons, an organization that supports one of only two anti-trafficking ambassadors in the world, annually assesses the anti-trafficking efforts of over 150 countries around the globe and uses a combination of foreign aid and moral suasion to bolster global efforts against trafficking based on the results of the report. The U.S. government has spent over a half a billion dollars on international anti-trafficking programs since 2001, including \$80 million to projects in 90 countries in fiscal year 2007. The U.S. has also declared fighting trafficking a key national security issue. In 2002, President Bush signed National Security Presidential Directive 22, which dedicated a government-wide effort to bring an end to human trafficking in the U.S. and abroad. When combined with repeated statements against trafficking by Presidents Clinton and Bush, it is clear that the U.S. holds fighting trafficking as a high priority in its international dealings.

While the U.S. has fostered a leadership position against trafficking through its resources and dedication against the issue, Sweden's leadership is more the result of an innovative approach to trafficking in persons and a generally strong standing on humanitarian issues which has accumulated a respectable amount of moral capital. Sweden's approach to sex trafficking as a form of violence against women has led experts worldwide to advocate its adoption elsewhere. In testimony before the U.S. Congress in 2006, Katherine Chon of the Polaris Project, an American anti-trafficking NGO, stated that Sweden's approach was a success and contrasted that with the failed legalization policies of Germany. A comparative study of different approaches to

prostitution and sex trafficking at the local level conducted for the Scottish Parliament found Sweden's approach the most comprehensive and effective, and has led to calls for its adoption in Scotland.³ And the British Home Minister, Vernon Coaker, announced plans to visit Sweden in early 2008 to examine its prostitution laws and their feasibility for Great Britain. Combined with its active leadership in the EU and other international bodies, its support for anti-trafficking programs worldwide and its recent installation of an anti-trafficking ambassador (making it only the second such country), Sweden is often recognized as a global leader against trafficking.

While both countries are viewed as leaders in the fight against trafficking, they have significantly different approaches to the problem. The U.S. has adopted a criminalization approach to sex trafficking, dedicating significant resources to enforce laws criminalizing both the supply and demand for sex trafficking. America's long history of fighting organized crime is a prime driver of its anti-trafficking policy. Using legal codes and law enforcement capacity developed in its fight against vice rackets, the approach tries to increase the risk for those entering the sex trafficking market to a point where it is no longer rational to do so. The U.S. response to sex trafficking, which took shape in the 1990s, focuses on trafficking as a form of transnational organized crime and the need to meet it with an appropriate law enforcement response. Hence, the Federal and some 22 State governments have passed laws criminalizing the activities of traffickers and their accomplices. Strategically, the U.S. organizes its anti-trafficking programs using a rubric known as the "three Ps"—prevention, prosecution and protection. Federal, state and local governments have created programs to protect trafficking victims, created new migration programs for trafficking victims to remain in the U.S. and funded significant international aid programs to bolster global anti-trafficking programs. Lawmakers

³ Bindel, Julie and Liz Kelly, *A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden* (Child and Woman Abuse Studies Union: London), 2003.

intended for these programs to support or complement law enforcement efforts, retaining criminalization as the major anti-trafficking thrust.

Sweden has approached sex trafficking from a different starting point. Sweden's social welfare model led it to focus attention on eliminating inequality in society in order to address larger social problems like crime. When Sweden began to identify foreign prostitutes and sex trafficking in the early 1990s, it viewed trafficking as a form of violence against women. The resulting abolitionist approach criminalizes the purchase of sex and targets law enforcement resources on pimping, procuring and purchasing sex, in that order. The approach differs markedly from the U.S. in that it decriminalized (not legalized) the sale of sex. The Swedish government makes a concerted effort to bolster social norms de-legitimizing the purchase of sex and to promote social programs like counseling and job skills training that designed to assist prostitutes. It should thus be noted at the outset that the Swedish government has explicitly focused on the relationship between prostitution and human trafficking for sexual purposes. Sweden saw it as logical and rational to focus on the exposed situation of prostitutes and human trafficking victims initially.

Given the seemingly complementary experiences of the U.S. and Sweden as well as their leadership roles in the international effort against trafficking, it is noteworthy that no comparative studies have assessed the approaches to derive lessons and best practices. Some studies exist that consider each country as part of a larger set of cases. Beyond the fact that such large studies sacrifice depth for breadth in their analysis, they often also only focus on a particular aspect of the trafficking issue. As such, they do not address the central question of what lessons other countries can realistically learn from each country's experience with sex trafficking. For example, Sweden was one of the cases in a major 2003 study of trafficking into

seven countries, but the cases were limited solely to the demand for trafficked persons.⁴ Another recent study examined the U.S. and Sweden as cases among a set of some eight countries, but again limited its focus to the protection of victims in these states.⁵ But even these large studies rarely consider both countries. A comprehensive survey of the trafficking literature conducted for the International Organization of Migration returned only three sources that mention Sweden in the title as a focus.⁶

Given the importance that Sweden and the U.S. hold to the fight against sex trafficking, a natural question to ask was how each country's fight against sex trafficking served as a model for other countries. Rather than focus simply on each country in isolation as a model for sex trafficking policy and practice, we chose to focus to compare the similarities and differences of each country's policies and programs. What results is a more grounded assessment of what facets are unique to each country and which policies or programs might have more generalizable applications. The approach also allowed for a more focused study to derive lessons valuable for the legislative, legal and law enforcement communities.

Methods

We chose to use a comparative case study approach to this study for a number of reasons. Sweden and the U.S. are prime candidates for a comparative study of trafficking in persons. The combination of similar goals despite divergent means establishes a solid basis for a comparative study of both countries. The recognition of each country's approach as a potential model for other countries renders a comparative analysis of these countries all the more needed. But the

⁴ Anderson, Bridget and Julia O'Connell Davidson, *Trafficking: A Demand Led Problem?* (Save the Children Sweden: Stockholm), 2004.

⁵ The Future Group, *Falling Short of the Mark: An International Study on the Treatment of Human Trafficking Victims* (The Future Group: Alberta), 2006.

most important factor driving this study is the lack of serious comparative study of American and Swedish anti-trafficking efforts. While comparative studies of trafficking exist in general, not one has sought to compare Sweden and the U.S. solely and in a systematic way. Such a study would therefore fill a gaping hole in our knowledge of anti- trafficking measures and allow for an identification and evaluation of the lessons states can learn from these leaders in the fight against sex trafficking.

The comparative approach also allowed us to analyze the policy responses to sex trafficking without losing the broader contexts within which these policies and programs are embedded. Most comparative studies of sex trafficking limited their analysis to one of three facets of sex trafficking: its root causes, the structures of its demand, or anti-trafficking policies.⁷ Using a comparative approach with a more rigorous structure, we were able to identify how the economic, political and social contexts impact the anti-trafficking policies and programs of the U.S. and Sweden. The temporal context was another important consideration in the construction of our study. Many studies of sex trafficking and responses to it have employed limited time frames, often less than a year, and thus are not able to observe changes in trafficking over time. Our case studies melded historical and contemporary events into the analytical narrative and helped frame the analysis government policies and programs.

In a more general sense, a comparative case study approach helped us avoid the problems other prominent social science methods present when studying sex trafficking. One such problem arose from the lack of reliable data prevented the use of a quantitative approach to our study. While efforts are being made to improve this situation, the measures of the incidence and pervasiveness of sex trafficking in the U.S., Sweden and other countries are unreliable

⁶ Farquet, Romaine et al., "Human Trafficking: Bibliography by Region," *International Migration* 43:1-2 (Jan 2005).

“guesstimates.”⁸ Using a quantitative approach to policy analysis is therefore difficult at best. The lack of reliable data on the dependent variable (i.e. the incidence of trafficking) meant that we were unable to correlate measures of independent variables representing different policy initiatives. The comparative approach, influenced as it is by the rigor of quantitative social science research, thus represented the next best tool for our study.

Structuring the case studies was fairly straightforward. Case selection was limited to the U.S. and Sweden. The unit of analysis proved slightly more challenging. Given the interest of learning about the effectiveness of policies against sex trafficking, we chose to focus on two units of analysis with each case—strategy and implementation both within the sphere of domestic and foreign policies. While the examination of sex trafficking cases might have seemed a more logical choice for the unit of analysis, they are not from our point of view. Cases would be more appropriate for an analysis of the operation of sex trafficking in the U.S. and Sweden. But the incidence of trafficking is a context for our study, not the focus. Our focus was on the foundations and expected effects of anti-trafficking policies and programs of each state. Thus our discussions naturally gravitated towards the construction, implementation and outcomes of anti-sex trafficking policies. Given the importance that both countries place on using domestic and foreign policy to fight trafficking, each type of policy served as a unit of comparative analysis.

Each case study is based on the same rigorous structure to allow for systematic comparisons and analysis. Each starts with a brief discussion of the modern incidence of sex trafficking. The narrative descriptions of the incidence of sex trafficking begin with the historical roots of the phenomenon and then moves into a discussion of its scope in order to

⁷ Laczko, Frank. “Data and Research on Human Trafficking,” *International Migration* (43: 1/2, 2005), page 9.

⁸ Laczko, pp. 11-12.

identify its degree of “robustness.” While each case utilizes what statistical information exists, it goes beyond this to focus on other measures like the geographical scope, the predominant forms and the involvement of the citizenry in sex trafficking. The descriptions of sex trafficking in each country serve to paint the contextual picture into which anti-trafficking policies venture.

The remainder of each case focuses on anti-trafficking policies. Each starts with an overview of the main domestic and foreign policies the state uses to fight trafficking. Areas of focus in the domestic sphere will include legal codes, prosecutorial training and support, law enforcement training and structures, the collection of information and intelligence on trafficking, victims’ assistance programs and interagency coordination. In the foreign arena, focus lies on the use of aid, diplomacy and other foreign policy tools to promote the fight against trafficking. Of special significance in this discussion are the key influences on anti-trafficking policies, such as the perceptions of root causes of trafficking and the form of law enforcement and judicial structures. Likewise, this discussion will identify impediments to the fight against trafficking, such as corruption or the hesitation of judicial or law enforcement officials to enforce anti-trafficking codes.

After providing the case narratives, we drew our conclusions by using the traditional comparative approach of identifying similarities and differences between the cases. The emphasis in our comparison was twofold. One was to compare the strategies of the U.S. and Sweden, while the second was to compare the policies that implemented these strategies. For the latter, we concentrated on comparing the legal codes, law enforcement procedures, victim assistance programs, foreign policies and other elements of both countries’ anti-trafficking measures. We also sought to identify if the countries have run into similar roadblocks

implementing their anti-trafficking policies and how each country was coping them, regardless of success.

In terms of data collection, the researchers relied primarily on information that they had collected on trafficking in the two countries for over a decade. The main part of this report was written in 2006. Some updates concerning the developments in Sweden for 2007 have been made. However for practical purposes it has not been possible to include the Swedish state's investigation of the Swedish human trafficking law which was published in late April 2008. However, Dr Jonsson has been following the work of the investigator appointed by the government and most of the aspects covered by the investigation is also covered in this report. For the U.S., the researchers were able to tap a database containing government briefs, scholarly papers, nongovernmental reports and other archival documents that stretched back to 1997. The Swedish case drew on similar literatures in both English and Swedish. Both primary and secondary archival sources were used to produce the cases. The archival sources were supplemented with interviews that both authors have conducted. For the cases, the authors pooled their collections of interviews and conference notes, supplementing these records as needed during the project. Some of these collections were significant, such as Dr. Picarelli's collection of close to 20 interviews with Swedish government officials and nongovernmental experts in March of 2006. Throughout the cases that follow, archival and interview records combine to provide the most unbiased estimates of how anti-trafficking efforts operate in the U.S. and Sweden.

The Cases of Sweden and the U.S.

This section compares the efforts of the U.S. and Sweden to bring an end to sex trafficking. The section opens with a brief discussion of how sex trafficking operates in each country to be followed by an overview of each country's historical experience with prostitution and human trafficking. It then proceeds to detail their anti-trafficking efforts. The comparison goes beyond law enforcement efforts to consider how foreign policy, development aid and even security play a role in the fight against trafficking. The section concludes with a discussion of the difficulties each country continues to face when implementing anti-trafficking policies and programs.

Sex Trafficking in Sweden and the U.S.

Sweden is foremost a destination country but to an increasing extent a transit country for trafficking of human beings to Norway, but also other European countries. Swedish police estimates do not provide any numbers as to how many smuggling or trafficking victims are detected in Sweden per year.⁹ Before the enlargement of the European Union in 2004 the Swedish National Investigation Department (NCID) at the Swedish National Police Board estimated that between 400 and 600 individuals were trafficked to Sweden per year. Most trafficking victims come from Estonia, Lithuania, Romania, Poland, Hungary and Russia. Trafficking victims from Estonia are often very young and they belong to the Russian speaking minority. Trafficking victims from Central and Eastern Europe often have common experiences of poor socioeconomic situations and abuse in their home countries in combination of them being the sole bread winner in the family.

⁹ A more recent development is that Sweden is being targeted by smugglers. Recent cases of human smuggling finding their way to Swedish courts are related to smuggling of children from China to Sweden and the smuggling of

Human trafficking, especially in Stockholm, often involves other crimes like drug trafficking and is closely associated with organized criminal networks.¹⁰ Yet human trafficking is not limited either to urban areas or large criminal groups. The networks involved in human trafficking in Sweden do vary considerably. Some of them do have strong connections to organized criminal networks from overseas, such as ethnic Russian crime groups located in Estonia. Others are more of a family character, often involving a married couple who makes a living on the prostitution of foreign girls. Regardless of type, all traffickers in Sweden have strong connections with, and knowledge of the living conditions in, the country from which the trafficking victims originate. In 2006, individuals found responsible for human trafficking originated from Estonia, Russia, Former Yugoslavia, Syria, Romania, Sweden, and Macedonia. Law enforcement also observed an increase in the number of women acting as pimps or traffickers. Most of them were at one time trafficking victims themselves.¹¹

The Swedish government has focused its resources mainly on trafficking for sexual purposes, although trafficking for other purposes is gaining increasing attention. Some information now suggests that trafficking for labor exploitation is on the rise in Sweden. Unconfirmed information suggests labor trafficking exists in sectors like domestic service, construction, and farming.¹² In Stockholm it is estimated that 100 women from Latin America have been trafficked into the domestic service sector. There is also confirmed police reports that individuals from Romania, Bulgaria and Poland were trafficked to Sweden for begging and

supposedly Iraqi citizens to Sweden. In 2005 the Swedish Migration Board estimated that 100 unaccompanied children arriving in Sweden disappear every year.

¹⁰ Jonsson, Anna *Lagföring av människohandel i Sverige. En rättsfallsstudie*, Working Papers 95, Department of East European Studies, Uppsala University, 2005: 38. See also, *Människohandel*, RättsPM 2005: 19, Utvecklingscentrum Stockholm: Åklagarmyndigheten.

¹¹ *Människohandel för sexuella ändamål, Lägesrapport 9, 1 jan – 31 dec 2006*, Stockholm: NCID 2007:6. 7-8.

¹² Interview with a prosecutor, March 7, 2006.

organized petty theft / shoplifting .¹³ These victims are often children younger than 15 years old and tour Europe. The police suspect that these children have been sold by their parents to the traffickers. Should the child be taken into custody in for example Sweden, the traffickers will show up claiming that they are the parents or the legal guardians. The Swedish police have expressed a need of DNA-samples in these circumstances in order to identify the birth parents. An additional problem is the fact that these children often are under 15, which means that they are to be handed over to the social authorities. Often when this happens the police lose track of the case, which also means that it is difficult to detect national and regional patterns. The NCID concludes that it does not have enough information regarding child trafficking. Attempts have been made to investigate the size and nature of it, yet there remains a lack of research on the topic.¹⁴

Most trafficking in persons in Sweden involves the Internet in some capacity. In the past, many ads for prostitutes were located on a website hosted in the Netherlands. However, there was a fee to put an ad on this site and nowadays free sites are more popular. Women and girls are identified and ordered from the Internet. Buyers call a booking central which is located somewhere abroad. The victim is then sent to the country of preference of the buyer. Directions to the buyer and the victim are given through text messages or via Internet. Half of the money is often deposited in advance and the other half paid upon the encounter. The higher echelons of the criminal networks engaged in this kind of trade almost never show up in Sweden themselves. The money is being handed over to middlemen in open and public locations. Taken together this makes it very difficult for the police to identify the traffickers and to secure evidence. In addition, should the girls be taken in for questioning by the police they are instructed to tell

¹³ Ibid. Interview with a social worker, March 8, 2006.

¹⁴ Ibid.

buyers and the police that they are in the country voluntarily and that they have made all the arrangements themselves.¹⁵

The U.S. is primarily a destination for international sex trafficking and is also plagued by a fairly active domestic sex trafficking market as well. The past decade has revealed that sex trafficking is a robust trade into the U.S., with victims from most every continent. In 1996, Alex Mishulovich and a handful of other traffickers employed psychological threats and violence to force five Latvian women into sexual exploitation as nude dancers in the Chicago area. In 1997 members of the Cadena-Sosa family led a sex trafficking ring that brought women and girls from Mexico to Florida and forced them into brothels run from portable homes. In 2001, the U.S. government convicted Lakireddy Bali Reddy, an Indian national, for among other crimes trafficking two Indian girls into the state of California for sexual exploitation. And in 2006, the U.S. government executed 18 search and 31 arrest warrants to break up a regional sex trafficking network that forced South Korean women into brothels located throughout the northeast U.S. Just this limited selection of cases from the last decade shows the heterogeneity of trafficking to the U.S.

Estimates of trafficking provide another indicator of the robust nature of sex trafficking into the U.S. The current official estimate of all trafficking victims into the U.S. stands at roughly 14,500 to 17,500 per annum, with sex trafficking accounting for an estimated 60% of that total. While estimates of trafficking remain an incomplete science, it remains important to note that estimates of trafficking into the U.S. are denominated in thousands per annum, numbers far larger than those of other countries. But one can also look beyond the numbers to obtain a sense of the scope of trafficking. Almost every state in the U.S. has experienced at least one trafficking case in the past decade, and major cities continue as the traditional ports of entry for

¹⁵ Ibid., p. 9.

trafficking victims. By December 2003, Federal authorities had brought forward cases of trafficking in 45 states and all U.S. territories.¹⁶ Nor is trafficking limited to one type of urbanized area as cases of sex trafficking have occurred in urban, suburban and rural areas of the U.S.. Finally, cases of trafficking span most every ethnic group and social class. In sum, trafficking is a widespread and robust criminal enterprise in the U.S..

History of Prostitution, Sex Trafficking and Policy

During the 1800s Sweden, like many other European countries, regulated prostitution through the use of public health codes. Yet demand for purchasing sex during this time was limited to elites, as prostitution was not widely accepted in Swedish society. After a 1918 government investigation criticized the government regulatory model, prostitution was deregulated and decriminalized, but a stigma for both buyers and sellers of sex remained. The combination of low demand and regulated tolerance of prostitution led to low levels of sexual slavery through and after World War II.

The evolution of Sweden's relationship to sexuality, prostitution and sexual slavery also reflects the importance of government attitudes and interests. In Scandinavia and northern Europe, including Sweden, the Reformation left a severe attitude towards sexuality in general and extra-marital sex specifically.¹⁷ The strength of the Lutheran church in rural Sweden maintained this norm through the 19th century, though Stockholm remained more liberal in its sexuality.¹⁸ Against this background, and faced with an increase in venereal disease, Sweden's Royal Health Committee sent physicians and police officers to Paris to learn about the French

¹⁶ Venkatraman, Bharathi, "A guide to Detecting, Investigating, and Punishing Modern-Day Slavery," *The Police Chief* 70:12 (2003), pp. 34-43.

¹⁷ Roper, Lyndal, *Holy household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press), 1989.

regulatory approach to prostitution. The French system focused on registration of women suspected of being prostitutes and forcing them to submit to regular public health inspections while also opening brothels under the regulation of the state. Sweden adopted a mildly regulatory approach in 1812 by authorizing physicians to inspect women, and when it appeared that this policy did not halt the spread of venereal disease it enlisted the help of police to aid the physicians. Throughout the remainder of the 19th century and into the 20th, Sweden continued to tinker with its regulatory approach to prostitution. Indeed, Sweden was one of the last countries to reject the regulationist approach to prostitution, abolishing the laws in 1918.

During this regulatory period, it is difficult to identify specific instances of sex trafficking but it is easier to recognize significant amounts of exploitation of women in prostitution. Since Sweden had never legalized brothels, illegal brothel keepers were able to exploit those prostitutes who worked indoors. Numerous inns, taverns and coffee houses functioned as clandestine brothels during this time throughout Sweden, and the use of practices approximating debt bondage were common. The following passage was from an 1843 pamphlet on the status of prostitutes working from coffee-houses:

The so-called waitresses at the coffee-houses have no pay at all, on the contrary they are themselves to pay the owner 4 Rd Bco [Riksdaler Banco] every week, or yearly 208 Rd Bco; when to this is added expenses for clothing, shoes, make-up, alum etc. necessary accessories for such [a woman], substantial income is indeed required for the honour of being a public harlot.¹⁹

Building owners also charged significantly higher rent to prostitutes to allow the latter use of the building as a brothel.

Sweden's policy towards prostitution changed dramatically as the government abandoned the regulation of prostitution in 1918. After 1918, two parallel forces drove government policy

¹⁸ Svanstrom, Yvonne, *Policing Public Women: The Regulation of Prostitution in Stockholm 1812-1880* (Stockholm: Atlas Akademi), 2000.

into the 1970s. First was the loosening of sexual mores, starting in the 1930s and gaining momentum after the war, as the influence of the Lutheran church declined. One expert noted that the government introduced mandatory sexual education in the 1950s for the first time, a clear sign of the government's liberalizing view of sexuality.²⁰ More important, however, was the Swedish adoption of the welfare state and a view that government policy should improve the lives of "those at the margins."²¹ The government increasingly approached social issues like prostitution through the lens of equality. As a result, in the 1960s the Swedish government sought to eliminate the last of the legal codes used to regulate prostitution, that of loitering and vagrancy.

The result of this confluence of events was a brief period of sexual slavery. The growth of the welfare state and the loosening of sexual mores beginning in the 1930s led the Swedish government to decriminalize pimping and allow public displays of pornography and erotica by the 1960s. Simultaneously, American pimps arrived in Sweden from Copenhagen and began to organize the newly opened Swedish sex market. The pimps were predominantly American men that had settled in Copenhagen to avoid military service in the Vietnam War, or were otherwise affiliated with U.S. bases in Europe, and had built a system of prostitution that one expert called "ghetto pimping."²² Working closely with Swedish sex club owners, the pimps recruited women from Yugoslavia, Hungary and Turkey and subjected them to sexual slavery. The Swedish government cracked down on this sex trade in 1974, arresting scores of pimps and closing the sex clubs and brothels associated with them. By 1978, the pimps were a thing of the past.

¹⁹ Ibid., p. 288.

²⁰ Interview with an academic expert, March 9, 2006

²¹ Ibid.

²² Ibid.

It was during this brief period of sex trafficking that the Swedish government arrived at an important crossroads. A report titled *Svarta Affärer* (Black Business) brought forward concerns about the responsibility of Sweden's welfare state in handling prostitution and how it gave rise to sexual slavery. For a government that had felt the welfare state would eliminate the reasons for women to enter prostitution, the revelations in the *Svarta* report were revelatory. Swedish women were not entering prostitution due to poverty or need. Rather, the report cited a desire to earn money as a factor but placed more emphasis on the mental and family problems found in most all the women interviewed for the study. The report also cited a “slave trade” that brought women into Sweden for sexual exploitation.

The importance of the *Svarta* report was to insert prostitution into the policy debate concerning the welfare state and to create a new approach to prostitution and sex trafficking. Rather than go the way of the Netherlands and legalize prostitution, Sweden chose to take a different path. Sweden's emphasis on gender equality drove policy on prostitution. In 1977, a government study supported using equality promotion to address prostitution and remove the imbalance in power between male customers and prostitutes. The emphasis on equality also led to the establishment of a Ministry of Gender Equality, which took up the issue of prostitution and, by the 1990s, had enacted new legislation that criminalized the purchase of sex and pimping while offering generous benefits to women who wished to leave prostitution.

Sexual slavery first arose as a tangible social issue for the U.S. in the late 1800s. Most often, sex trafficking during this era is examined through the lens of the white slave moral panic.²³ In the latter part of the 19th century, “white slavery” became a part of the national conscience. Newspapers, books and magazines began a campaign to expose the white slavery

²³ Lagler, Amy, *"For God's Sake Do Something": White-slavery Narratives and Moral Panic in Turn-of-the-Century American Cities*, Dissertation, Michigan State University, 2000.

“menace,” which quickly became a term synonymous with foreign prostitutes, pimps and procurers.²⁴ Many identified cases of white slavery were closely associated with Jews, Italians and other major immigrant groups classes—an unfortunate association that was not lost on community leaders of the day.²⁵

Yet these studies often gloss over the fact that U.S. Immigration Service investigators found credible evidence of sexual slavery in the U.S. Women were recruited, transported and placed into slave-like conditions for the purpose of sexual exploitation. New York City provides one example. In the late 1880s, criminal groups from the burgeoning migrant communities of the day worked alongside the Tammany Hall political machine and used these patronage links to cover a number of criminal activities. Prostitution was foremost among these criminal enterprises, centered on brothels that the crime groups controlled in migrant neighborhoods. The groups began procuring women for brothels from overseas, bring them to New York and then force them to work in the corruption-protected brothels that they controlled in the city. The “Vice Trust” of 1912 was reported to have hundreds of women ensconced in forty-three brothels between West 16th and 40th streets in Manhattan. The women were forced into debt bondage, paying madams five dollars per day in rent, three dollars for board and only receiving a snack during each eight hour shift. The trust used payouts to police and local government officials of four hundred thousand dollars a year to protect their interests.²⁶

Women were also recruited and trafficked from countries like Japan, France, Italy, Austria-Hungary, Poland and Russia into the U.S.. A 1909 USIS memo detailed a number of brothels he located in Fort Worth, TX, including a case where two Japanese women were

²⁴ Ibid.

²⁵ Bristow, Edward, *Prostitution and Prejudice: The Jewish Fight Against White Slavery 1870-1939* (New York: Schocken Books), 1982; Vincent, Isabel, *Bodies and Souls: The Tragic Plight of Three Jewish Women Forced into Prostitution in the Americas* (New York: William Morrow), 2005.

trafficked via New Orleans and a French trafficker used fake citizenship papers from Los Angeles.²⁷ In another case, a Japanese woman was brought to Portland, Oregon in October 1906 and held in sexual slavery through a debt bondage scheme. Other U.S. immigration investigations from the time took place in Chicago, Atlanta, San Francisco and Philadelphia.

In the early 20th century, a new community of traders in human beings arrived in the U.S. and began to operate in the major cities. Traders in women for sexual exploitation formed underground communities with beliefs very similar to their brethren trading in debt bondsmen or sustaining the sharecropper regime in the south. One investigation in New York City in 1909 detailed a number of saloons, betting parlors and taverns that served as meeting places for pimps, procurers and members of crime groups:

[T]he club on 6th Ave. ... is called the "Faverdale Club" and is located at 425 Sixth Ave., and is next to Mouquin's restaurant. August Frings above referred to is one of its moving spirits [slang for trader in human beings], and others are Armand, Jean l'Italian, etc. It is aa headquarters for the old procurers and new ones from France go there on arrival.... The men who compose this Club used, a year and a half ago, to frequent various public saloons and "Cafes Chantants," but since the efforts of the Government to secure their arrest and conviction have been successful in so many cases. They have confined themselves principally to the Club and to private meeting places where they are safe from observation.²⁸

Records from this time detail similar meeting houses in other major American cities, and go so far as to detail circuits along which prostitutes and sexual slaves were sent from brothel to brothel.

After World War II, prostitution policy mainly resided at the State level of government. All but two states chose to criminalize the sale of sex (prostitution) as well as the organization of prostitution (pimping). The majority view of prostitution was that it was a public nuisance and

²⁶ Bristow 1982.

²⁷ Kraut, Alan, *Records of the Immigration and Naturalization Service: Part 5, Prostitution and "White Slavery,"* 1902-1933 (Bethesda: University Publications of America), 1996. Microfiche 52484/8, p. 11.

²⁸ Kraut 1996, p. 19, 52484/3

undermined the social order. Yet sex trafficking continued to dog the U.S. after the Second World War. The Korean and Vietnamese wars established the links necessary to facilitate Asian sex trafficking to the U.S.. For example, a longstanding method for trafficking Korean women into the U.S. was by posing as the spouse of a U.S. serviceman.²⁹ In the 1970s, American authorities began to uncover Thai women who arrived in the U.S. and entered prostitution in order to fulfill the term of their debt contracts. The debt bondage scheme quickly earned a sobriquet, the “269 plan,” as the contracts stipulated the women service two hundred sixty nine clients in order to obtain their release.³⁰

Contemporary Sex Trafficking Policies

The Swedish policy on human trafficking constitutes an important part of the overall gender equality policy. The Swedish welfare state that arose from the 1920s quickly adopted the view that government policy should improve the lives of “those at the margins”. The government approached social issues through this equality lens, and thus prostitution policy began to focus on promoting gender-driven solutions. First came the elimination of legal codes used to regulate prostitution. Next Sweden commissioned a study that supported using equality promotion to address prostitution and remove the imbalance in power between male customers and prostitutes. Last, after the establishment of a Ministry of Gender Equality, the Swedish government enacted new legislation that criminalized the purchase of sex and the organization of sex markets (i.e. pimping) while offering generous benefits to women who wished to leave prostitution.

Sweden considers sex trafficking an inevitable consequence of prostitution, which in turn is seen a form of violence against women that results from an imbalance of power between men

²⁹ Interview with a law enforcement official, May 18, 2001

and women. Therefore, one of the initial legislative anti-trafficking measures taken was to criminalize the purchasing of sexual services. The law entered into force in 1999 after a heated political debate. In Sweden, the buying of sexual services is punishable by a fine or up to six months imprisonment.³¹ The NCID, in their latest report on prostitution and sex trafficking, recommended that Sweden increase its penalties for buying sexual services to a maximum punishment of one year in prison. The argument was that this would more accurately reflect the severity of the crime. Swedish prosecutors have expressed the same wish for an extended punishment based on the argument that a crime which renders a possible punishment of one year imprisonment does allow for the police to use investigation methods otherwise not possible, for example to take a suspect into custody while searching his or her home for evidence.³² The buying of sexual services from a person who is not yet 18 years old is a separate crime which renders a maximum punishment of two years imprisonment.³³ In the end of 2007 still no one had been sentenced to prison for buying sexual services.

The very aim of this law, as is the case with the criminalization of procurement, is to protect the public interest. However, both acts are closely related to sexual crimes like rape and sexual abuse of minors whose purpose is to protect the individual and his or her sexual self determination.³⁴ Nevertheless, the selling of sexual services is not criminalized, which is rational taking into consideration that the person selling sex, often women, is considered a victim. There is a strong political consensus in Sweden concerning the understanding of prostitution and its root causes, as well as its connection with transnational human trafficking. Reports from the Swedish police and the Swedish prosecutor's office stress repeatedly that the criminalization of

³⁰ Ibid.

³¹ Swedish penal code Chapter 6, Section 11.

³² Åklagare vill ha skärpt sexköpslag, *Dagens nyheter*, 20 december 2007.

³³ Swedish penal code Chapter 6, Section 9.

the buying of sexual services has made Sweden a less attractive destination country for traffickers. This conclusion was supported by Latvian criminal investigators in interviews as well. Currently, the Swedish government is promoting its anti-trafficking solution to neighboring states with the aim to decrease, and in the long run abolish, the demand for sexual services. The response thus far has been receptive.

Nevertheless, a recent report by the National Board on Health and Welfare shows that street prostitution does still occur in Sweden. Soon after the Swedish government enacted the law criminalizing the buying of sexual services, street prostitution had almost disappeared. By the end of 2007, prostitution has returned to the same level as before the law was adopted in 1999. Mostly it involves drug addicts and migrants—the most exposed and vulnerable groups in society. In addition, the report shows that the threshold that individuals will have to surpass in order to get involved in prostitution has decreased due to the increasing use of mobile phones and the Internet. Police sources state the enlargement of the European Union as another important explanation, as an increasing number of women from Eastern Europe are being found in prostitution. Migrants who are involved in prostitution tend to stay longer than Swedish prostitutes. The same report also refers to interviews with both prostitutes, sex buyers, and law enforcement personnel in which the argument is put forward that the law criminalizing sex buying enhance the role and power of the pimps in parallel with sex buyers being more reluctant to report suspicions of human trafficking to the police afraid of being charged with a crime themselves.³⁵

An interdepartmental working group has drafted a proposal for a National Action Plan that is currently under negotiation within the government. The action plan will be composed of

³⁴ Preparatory Works, Prop. 2004/05:45, En ny sexuallagstiftning.

³⁵ *Kännedom om prostitution 2007*, Socialstyrelsen, artikelnr. 2007-131-48.

two parts: one for combating prostitution and trafficking in human beings for sexual purposes, with particular focus on women and children, and one for combating trafficking in human beings for the purposes of forced labor, removal of organs and other forms of exploitation. The implementation and follow-up of the National Action Plan for combating prostitution and trafficking in human beings for sexual purposes is coordinated by the Division for Gender Equality. The preparation of a National Action Plan for combating trafficking in human beings for the purposes of forced labor, removal of organs and other forms of exploitation will be coordinated by the Division for Labor Market Policy at the Ministry of Industry, Employment and Communications.

Like Sweden, the U.S. has a well-stated and implemented anti-trafficking policy. Known rhetorically as the “three Ps,” the U.S. anti-trafficking response seeks to balance the prevention of trafficking with the prosecution of traffickers and the protection of victims. Prevention programs focus on exposing the hazards of trafficking as well as reducing the numbers vulnerable to recruitment into trafficking syndicates. The prosecution plank supports law enforcement efforts, prosecution support, judicial training and legal code reform. And last, protection seeks to establish shelters, provide clinical and legal services and ensure victims can re-enter society either in the U.S. or at home.

The U.S. has arrayed its domestic and foreign programs around this strategy, and has promoted this strategy around the globe. Implementing this strategy has proven a complex undertaking. At the Federal level, the U.S. effort delegates major roles to six cabinet-level agencies (State, Labor, Health and Human Services, Homeland Security, Justice and Defense). At the State and Local levels, law enforcement and prosecutors work with victims service providers. And interagency task forces bring together Federal, State and Local agencies in

regions across the country. The result is a distributed, overlapping and constantly evolving response to the issue of sex trafficking.

Criminal Law and Human Trafficking

Human trafficking is recognized as a special crime according to the Swedish penal code. Human trafficking is found under the Chapter on crimes against freedom and peace; hence it is considered a crime against the individual. In 2002, the criminal law added the charge of *transnational* human trafficking sexual exploitation. In 2004, the Swedish penal code was amended, as a result of Sweden ratifying the UN Protocol. The trafficking crime now includes trafficking for other purposes than sexual exploitation, for example forced labor and involuntary organ donation. In addition, trafficking within the Swedish borders, i.e. internal trafficking is criminalized.³⁶

According to the Swedish Penal Code, criminal liability for human trafficking extends to anyone who through the use of unlawful coercion or deception, by exploiting a person's vulnerability or by any other similar improper means recruits, transports, harbors, receives or takes other similar actions towards a person and thereby gains control over that person, in order for that person to be:

- subjected to sexual offences such as rape, sexual abuse, casual sexual relations or other forms of sexual exploitation,
- subjected to active service or forced labor or other similar forced conditions,
- exploited for the removal of organs, or
- in other ways exploited in ways that causes distress for the exploited person.³⁷

³⁶ Swedish penal code Chapter 4, Section 1 a.

³⁷ The Swedish Penal Code, Chapter 4, Section 1 a.

If found guilty of human trafficking the person in question can be sentenced to a minimum of two years imprisonment and a maximum ten years. The fact that the use of improper means for recruiting is required for criminal liability to be imposed for human trafficking has put a heavy burden on the law enforcement agencies. It has been difficult to prove the use of improper means concerning girls older than 18.³⁸ As a consequence, most of the human trafficking cases involving adults have led prosecutors to use the lesser count of procuring rather than trafficking in persons.³⁹

An additional burden on prosecutors is their need to prove that a potential victim's vulnerability has been explored. These difficulties arise in situations when the socioeconomic situation of the victim is the main reason for his or her vulnerability. As such, prosecutors are increasingly turning to expert witnesses who can testify to the social, economic, political and legal circumstances of the country from which the victim originated. Expert witnesses who can explain the psychological mechanisms that determine how a trafficking victim acts in order to qualify what from a shallow point of view can be seen as voluntary behavior is also used by the prosecutors.⁴⁰ Both of these are examples of the impressive learning curve amongst law enforcement personnel and prosecutors when it comes to trafficking cases. The measures adopted in order to adopt law enforcement methods to the legislative framework and the difficult reality in which sex trafficking takes place points to a high level of adjustability within the Swedish law enforcement in combination with a sincere understanding of the root causes and driving forces of the trade in human beings.

According to Swedish law, procuring is a charge used for anyone who promotes or encourages or improperly exploits for commercial purposes casual sexual relations entered into

³⁸ Interview with a prosecutor, March 10, 2006.

³⁹ Jonsson, A. *Lagföring av människohandel i Sverige. En rättsfallsstudie*

by someone else in exchange for payment. Procuring carries a maximum of four years in prison, and more aggravated cases carry a two to eight year sentence due to an amendment to the Swedish penal code in April 2005. Maximum time in jail used to be four years for aggravated cases of procuring.⁴¹ This amendment was motivated by the fact that the section of procurement could be applicable to crimes, which are similar to trafficking but that do not fall under the human trafficking section of the penal code, for example for the reasons stated above. Procuring is considered to be of an aggravated kind should it be well organized, extended over time, and particularly ruthless.⁴²

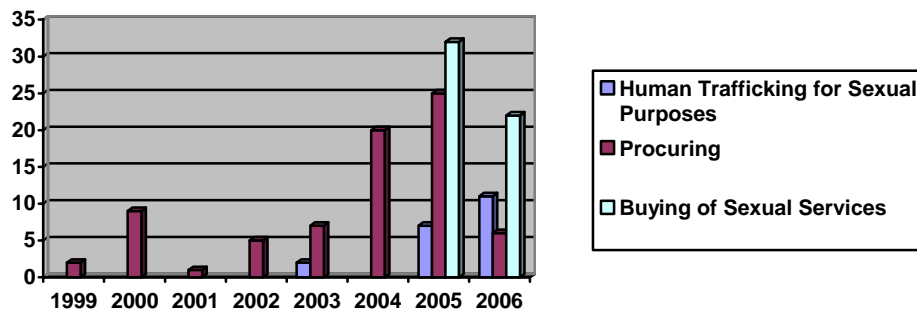


Figure 1: Convictions (Source: NCID)

Since the late 1990s, Sweden has witnessed an increase in both complaints and convictions for prostitution and sex trafficking offences. Figure 1 shows that charges for the buying of sexual services were rare after the 1999 law, but have recently increased due to increased enforcement. Human trafficking convictions remain low but are again increasing due to an increased commitment to provide the resources to see these complex cases through to the end. Complaints have mirrored this trend, as seen in Figure 2.

⁴⁰ *Människohandel för sexuella ändamål, Lägesrapport 9, 1 jan – 31 dec 2006*, Stockholm: NCID 2007:6: 9.

⁴¹ The Swedish Penal Code, Chapter 6, Section 12.

⁴² Preparatory Document, prop. 2004/05:45, En ny sexuallagstiftning.

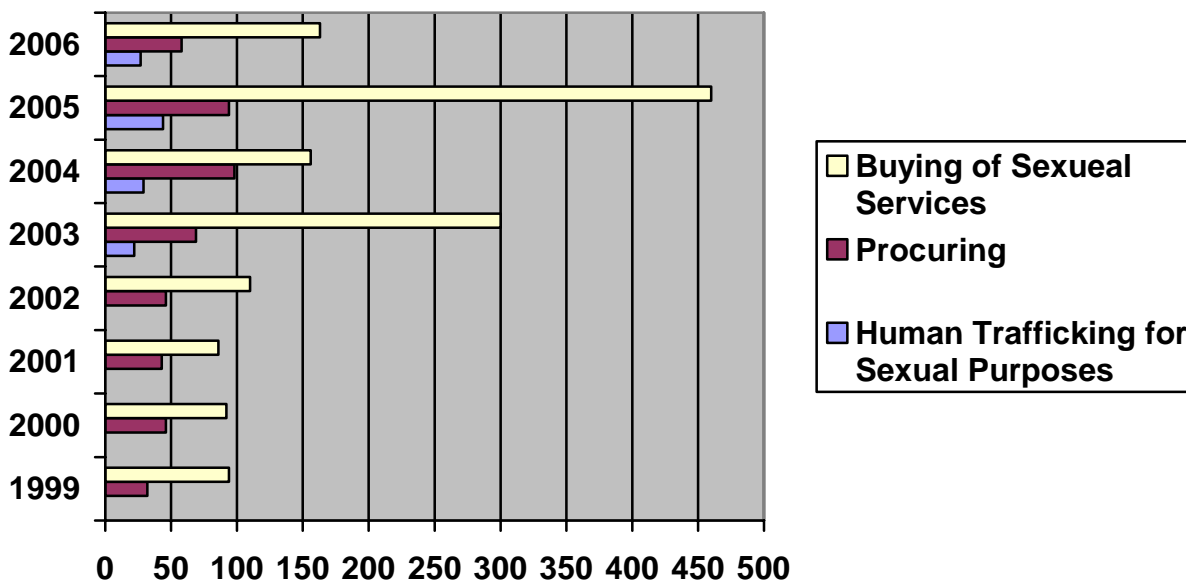


Figure 2: Complaints (Source: Swedish National Council for Crime Prevention)

The laws used against sex trafficking in the U.S. reflect the complexity of the issue. For example, the contemporary legal code reflects the historical origins of the sex trade. One of the more frequently employed laws in Federal prosecutions dates to 1910. In the early 20th century, anxiety amongst native-born Americans over the influx of migrants led to the aforementioned moral panic. The panic arose from a narrative born of unfounded rumors of newcomers fomenting a new form of slavery by luring American (i.e. “white”) women away from their homes and forced them into prostitution.⁴³ In 1910, Congress responded to the panic by passing the White-Slave Trade Act, since known as the Mann Act for its author and strongest proponent, U.S. Representative James Robert Mann of Illinois. The act prohibits the transportation of a woman across state lines for “immoral purposes.” The Act remains in force today, and is frequently used by Federal prosecutors in trafficking cases.

⁴³ Donovan, Brian, *White Slave Crusades: Race, Gender, and Anti-Vice Activism, 1887-1917* (Urbana: University of Illinois Press), 2006.

The complexity of the issue of sex trafficking has led to a wide range of criminal codes that prosecutors have employed in trafficking cases. The sections of the criminal code that Federal prosecutors have employed in the prosecution of trafficking cases include:

- 8 USC § 1324(a) Alien Smuggling (and associated offenses)
- 18 USC § 2 Aiding and Abetting
- 18 USC § 241 Conspiracy Against Rights
- 18 USC § 371 Conspiracy
- 18 USC § 894 Extortionate Collection of Extensions of Credit
- 18 USC § 1201 Kidnapping
- 18 USC § 1546(a) Document Fraud
- 18 USC § 1581 Peonage
- 18 USC § 1584 Involuntary Servitude
- 18 USC § 1592 Seizure of Documents
- 18 USC § 1951 Interference with commerce by threats or violence (Hobbs Act)
- 18 USC § 1961 Racketeer Influenced and Corrupt Organizations (RICO)
- 18 USC § 2421 Transportation for illegal sexual activity (Mann Act)
- 29 USC § 1851 Migrant and Seasonal Agricultural Worker Protection Act
- 29 USC § 201 Fair Labor Standards Act

One study of selected trafficking cases in the U.S. found that involuntary servitude, alien smuggling and conspiracy were the most frequently employed charges.⁴⁴ Another study of all Federal prosecutions between 2001 and 2005 found that involuntary servitude was the most prominent lead charge with 28% of all the 555 cases investigated.⁴⁵

In an attempt to both update and streamline these charges, the Federal government passed the Trafficking Victims Protection Act of 2000.⁴⁶ The TVPA, as it is known, served several purposes but none more important than updating the legal codes of the U.S. pertaining to trafficking in persons. First, the TVPA provided a clear definition of contemporary trafficking, stating that sex trafficking was “the recruitment, harboring, transportation, provision, or

⁴⁴ Bales, Kevin and Stephen Lize, *Trafficking in Persons in the United States* (Croft Institute for International Studies: Oxford MS), 2005, p. 110. Available: <http://www.ncjrs.gov/pdffiles1/nij/grants/211980.pdf>.

⁴⁵ Motivans, Mark and Tracey Kyckelhahn, "Federal Prosecution of Human Trafficking, 2001–2005," Data Brief. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, October 2006.

⁴⁶ U.S. Public Law 106-386.

obtaining of a person for the purpose of a commercial sex act” and that sex trafficking “induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age” was a severe form of trafficking. The TVPA used this definition to update a number of criminal codes in terms of their clarity and length of sentences. For example, those found guilty of severe trafficking are eligible for life imprisonment, while others found guilty of trafficking are eligible for 40 year sentences. The TVPA also used the definition to create new criminal codes like 18 USC § 1589 (Forced Labor), § 1590 (Trafficking), § 1591 (Sex Trafficking of Children) and § 1592 (Trafficking-related Seizure of Documents). The TVPA also introduced the use of asset forfeiture as a major tool in fighting sex trafficking. For the specific offenses the TVPA created as well as many of the prior criminal codes that prosecutors employed, the TVPA authorized prosecutors to seize the tangible and monetary assets of traffickers.

In 2003 and 2005, the U.S. government enacted new bills that re-authorized the original TVPA and updated certain elements therein. The 2003 Trafficking Victims Protection Reauthorization Act (2003 TVPRA) further streamlined the Federal criminal code, adding trafficking as a predicate offence for the Federal money laundering and racketeering statutes (e.g. RICO). More importantly, the TVPRA opened another legal avenue for efforts to bring sex traffickers to justice. Starting in 2003, trafficking victims can bring civil lawsuits in U.S. District Court against their traffickers. Victims can sue for both actual and punitive damages, and thus expand on the mandatory restitution they are due under the TVPA. The combination of asset forfeiture and civil restitution has become a powerful one-two punch for the prosecution of traffickers in the U.S..

The 2005 TVPRA expanded the jurisdiction of U.S. legal codes overseas, allowing prosecutors to file charges against U.S. citizens committing trafficking overseas, and brought an added emphasis to the issue of domestic sex trafficking. The 2005 TVPRA was unique in that it for the first time made a direct connection between prostitution and other forms of the sex industry and the demand for sex trafficking. In seeking to reduce the demand for sex trafficking, the TVPRA of 2005 sought to increase efforts at the State and Local levels of government to arrest and prosecute purchasers of commercial sex acts. Domestic trafficking serves as a major focus of the 2007 TVPRA, currently working its way through the legislative process.

The introduction of domestic trafficking highlights a final layer of complexity concerning the legal codes applicable to sex trafficking in the U.S.. While the investigation and prosecution of sex trafficking remains primarily a Federal responsibility, State and Local law enforcement and judicial agencies have begun to adopt legal codes allowing them to prosecute sex trafficking cases. To date, 32 of the 50 U.S. states have enacted legislation criminalizing sex trafficking and allowing for State prosecution thereof. Other states are in the process of developing and enacting this legislation, and still others have dedicated criminal justice personnel to work within joint task forces with Federal authorities.

The penalties for trafficking in the U.S. are strong. Those convicted of involuntary servitude (18 USC 1854) face a minimum of 20 years imprisonment and are eligible for life imprisonment in cases involving kidnapping, sexual abuse of a minor or death. Cases that involve the death of a victim are also eligible for consideration for the death penalty. Other sections of the legal code that the TVPA updated set 20 years imprisonment as a mandatory minimum sentence. Other charges like visa fraud or seizure of documents (18 USC 1592) carry shorter sentences but prosecutors can charge defendants with multiple counts, thus extending the

potential imprisonment. One study of 37 criminal cases involving TVPA-related statutes found that sentences ranged from 9 months to 51 years and that the average sentence was 18.25 years imprisonment.⁴⁷ Fines are another important component in the penalty phase, with potential fines often in the hundreds of thousands of dollars for trafficking cases.

One final tool in the penalty phase is asset forfeiture. A large number of U.S. criminal statutes invoked in trafficking cases carry with them authorization to seize the assets of those found guilty. Such assets go well beyond the profits that traffickers obtain from their victims. For example, those found to be using property to harbor or facilitate trafficking can have that property seized. To this end, ICE has established the Asset Identification and Removal Group to identify the monetary and tangible assets of traffickers eligible for seizure. The Treasury Department often aids in the recovery of assets in these cases as well.

Law Enforcement Methods

The Swedish police are composed of the National Police Board (NPB) and twenty-one local police authorities. The NCID, which is a part of the NPB, provides investigation and criminal intelligence support in cases involving crimes with nationwide or international ramifications. The local police authorities are responsible for police work at the local level, such as responses to emergency calls, crime investigations and crime prevention. Due to the earmarked money for human trafficking prevention between 2004 and 2006 the NCID has built an expertise on trafficking crimes which also benefits the local police authorities.

Police investigations of trafficking are often initiated after a suspicious activity report from the public, reconnaissance activities by the police or through reports filed by social workers out on the field. The general awareness about human trafficking is relatively high in Sweden due

⁴⁷ Bales and Lize 2005.

to frequent coverage of the issue by the media. Several of the local police authorities have created special human trafficking teams. In the Western parts of Sweden and in Stockholm this has proven to be very successful. The prosecutor is in most cases involved in the investigation at an early stage and when he or she becomes involved will take the lead of the investigation.

Often these investigations are very slow and time consuming. Investigations will involve surveillance of both persons and listening in on the suspects phones. The NCID has expressed the need for being able to use secret electronic surveillance in human trafficking cases in order to take the pressure of the victim during the court proceedings. According to one prosecutor who has handled multiple trafficking cases, it takes an average of six months for the investigation of a trafficking case and a cumulative average of five months in court to prosecute the case and hear appeals.⁴⁸

Currently, the most important evidence in a court of law is the testimony of the victim. Clearly, this puts a heavy burden on the victim. As will be more elaborated upon below Swedish law do allow for temporary residence permits to be issued to victims in order for them to be able to cooperate with law enforcement bodies. However, it takes time to convince victims that their own and their relatives' security can be guaranteed throughout and after the court proceedings. Increasingly, prosecutors are turning to wiretapped information and other forms of surveillance to bolster sex trafficking cases.⁴⁹

According to Swedish law it is possible for Swedish law enforcement personnel to form part of joint investigation teams within the European Union. At this point there has been no such formal investigation team. However, the Swedish police do have experience of forming part of informal European joint investigation teams.

⁴⁸ Interview with a prosecutor, March 10, 2006.

⁴⁹ Ibid.

On a more general level it is noteworthy that the NPB has instructed the Police Academy to provide special teaching concerning human trafficking and prostitution.

In the U.S., law enforcement efforts against sex trafficking are concentrated at the Federal level. The responsibility to investigate sex trafficking at the Federal level is split between two agencies. The Civil Rights Unit of the Federal Bureau of Investigation (FBI) brings its long history of anti-mafia investigations to the fight against sex trafficking. The FBI has undertaken a number of specific initiatives to target sex traffickers, dedicating both financial and human resources to investigations. For example, the Human Trafficking Initiative tasks field offices to assess the threat of trafficking in their region, to participate in regional task forces against trafficking, undertake victim-centered investigations and reporting all developments to the headquarters of the FBI for further intelligence generation.

The other major investigative body that undertakes sex trafficking cases is the Office of Investigations of the Bureau of Immigration and Customs Enforcement (ICE). Agents from ICE conduct their own investigations of sex trafficking, focusing not only on the criminal aspects of trafficking but also the immigration violations that traffickers commit. Like the FBI, ICE delegates authority for investigations of trafficking to the field office level with strong coordination with central headquarters units. ICE often coordinates with the U.S. Department of Justice's Civil Rights Division when conducting trafficking operations as well.

Overall, both the FBI and ICE have been increasingly active in fighting trafficking. Between Fiscal Year (FY) 2005 and 2006, cases of trafficking increased 20%.⁵⁰ In FY 2006, the FBI investigated 126 cases and made 140 arrests of traffickers and their accomplices. ICE was equally active in FY 2006, investigating 299 cases and arresting 184 suspects. Most of these

⁵⁰ All statistics in this paragraph drawn from: U.S. Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2006*, May 2007, pp 12-5.

cases were for sex trafficking. For example, of the 299 ICE trafficking cases, 214 cases or 71.5% were related to sex trafficking while the remaining 85 cases were related to labor trafficking. Overall, FBI and ICE trafficking arrests led to 171 convictions by the end of the reporting period.

Increasingly, State and Local law enforcement agencies have begun to investigate and prosecute their own trafficking cases. As from more active forms of collaboration, the Federal government continues to encourage states to adopt their own laws against trafficking and to train law enforcement officials on how to investigate trafficking cases. Given their heightened contact with citizens, local law enforcement are vital to locating trafficking cases. For example, a 2006 nationwide survey of local law enforcement personnel that found that those who had investigated trafficking cases most often learned of the cases through ongoing investigations or from tips generated through community outreach.⁵¹

Two important organizational structures support Federal, State and Local law enforcement efforts to fight sex trafficking. First are regional anti-trafficking task forces. All told, the Federal government supplies funds to support 42 regional task forces around the nation. The task forces bring together Federal, state and local law enforcement, prosecutors and non-governmental service providers. The task forces allow for the coordination of law enforcement and prosecution efforts and ensure that victims' needs are considered prior to law enforcement interdictions. The task forces also serve as an important mechanism for assessing the frequency of trafficking in these regions. The task forces have proven successful, generating a number of cases and, more importantly, providing for the needs of victims.

⁵¹ Clawson, Heather et al., *Law Enforcement Response to Human Trafficking and the Implications for Victims: Current Practices and Lessons Learned* (Caliber: Fairfax VA), 2006, pp. 28-9. Available: <http://www.ncjrs.gov/pdffiles1/nij/grants/216547.pdf>.

Another important initiative supporting the law enforcement effort in the U.S. is the Human Smuggling and Trafficking Center (HSTC). The HSTC is an intelligence clearinghouse that includes representatives from numerous Federal agencies as well as liaisons with anti-trafficking task forces across the country. The organizational composition of the center allows for a fusion of intelligence concerning both smuggling and trafficking. In 2006, for example, the center examined over 500 foreign cables and domestic intelligence reports to develop proactive and actionable intelligence on trafficking cases involving the U.S..⁵² The HSTC also serves as the point of contact for INTERPOL, EUROPOL, the UN Office of Drug and Crime Prevention and other international law enforcement organizations concerning human trafficking cases.

Investigating human trafficking cases in the U.S. involves many techniques that are standard to other forms of crime. Investigators have used standard techniques to collect evidence for trails, including common tactics like interviews and physical or electronic surveillance. Law enforcement and prosecutors also stress the need to protect victims after interdiction is made, thus the emphasis on coordinating with service providers. Local and Federal agencies have also established dedicated telephone hotlines that informants can call anonymously and leave information concerning potential cases of trafficking. This form of community outreach has proven rather successful; over one quarter of trafficking cases the Federal government opened in FY06 began with tips to the Department of Justice's Trafficking in Persons and Worker Exploitation Task Force complaint line.

⁵² U.S. Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2006*, May 2007, 15.

Protection of Victims

Due to recent changes in the Swedish Aliens Act, victims or witnesses who do not reside in Sweden can be provided with a temporary residence permit when deemed necessary in order for the criminal investigation and court procedure to be successful.⁵³ In 2006 the Swedish Migration Board awarded such residence permits in twenty-one cases.⁵⁴ In order for a victim or witness to get a temporary residence permit, he or she must cut all ties to the criminal network under investigation and fully cooperate with the law enforcement agencies. The person involved does have the right to a period of 30 days for taking a decision on whether to work with the authorities or leave the country.

Should the victim decide to stay in Sweden, the social authorities on the local level will provide shelter and health care. Currently the inter agency cooperation in Sweden on both the national and local level functions ad hoc and depends on personal contacts. In order for this cooperation to function more smoothly in the future and hence for the quality of the victim protection to improve, some degree of institutionalization of cooperation will be needed. Stockholm County is a front runner in this perspective due to the actions of the NGO Kvinnoforum. With the help of EU-funding, Kvinnoforum has put together a working group composed of representatives from NGOs, the prosecutor office, the local social authorities, and the police. Together this group has created a working manual for how to deal with human trafficking victims on an interagency level.

According to information from both the police and the Migration Board, there are great difficulties concerning the repatriation of victims. Often it is very difficult to find a counterpart to the Swedish social authorities in the country of origin. This can mean that the victim will be

⁵³ Utlänningslagen (2005:716) 5 kap. 15 §.

⁵⁴ Människohandel för sexuella ändamål, Lägesrapport 9, 1 jan – 31 dec 2006, RKP KUT Rapport 2007:6.

“dropped off” at the airport only to be sent back to the same social environment that first led the victim to the arms of traffickers.⁵⁵ There have also been cases in Sweden where the media has revealed the identity of the victim, her home country and even village. Clearly this puts both the victim and her relatives in great danger.

Turning then to the U.S., the TVPA was a central document for numerous aspects of the effort against sex trafficking in the U.S., including the protection of victims. The TVPA outlined a three-pronged effort to protect certified victims of sex trafficking. The first two planks of this effort were related to the provision of services to victims. First was the provision of funding to nongovernmental organizations to provide services and shelter to victims of sex trafficking. The TVPA established the funding of nonprofit organizations to provide services and outreach to victims of sex trafficking, including but not limited to housing, legal assistance, employment counseling and job training, English language courses, medical and mental health services. The U.S. government distributed close to \$25 million in grants to support these programs between 2001 and 2005, and the programs cover most of the U.S. To date, only a handful of shelters have been established in the U.S.

The second was to provide trafficking victims access to Federal programs and benefits. Under the TVPA, the U.S. Department of Health and Human Services (HHS) is tasked to coordinate victims services and is specifically charged to provide trafficking victims access to services equivalent to those offered to refugees in the U.S. To that end, the Office of Refugee Resettlement in HHS formed the Campaign to Rescue and Restore Hope. The central thrust of this effort is the provision of funds for comprehensive victims support services, which the U.S. Conference of Catholic Bishops now coordinates for HHS. The Rescue and Restore Campaign

⁵⁵ Interview with a law enforcement official.

also funds outreach programs targeting at risk domestic populations in over 18 cities around the country as well as domestic awareness campaigns nationwide.

The third and most critical element of the TVPA's victims' protection element was the establishment of "continued presence" and the T-Visa program. The continued presence policy allows U.S. authorities to grant undocumented trafficking victims a stay in the U.S. while cooperating with authorities on investigating and prosecuting their case. Continued presence is therefore temporary, but does allow for the victim to work during that time. In order to make the continued presence more long-term or permanent, the U.S. created the T Visa program in 2000. A special class of non-immigrant visa, the T Visa lasts for 3 years and also authorizes the holder to work in the U.S. A T visa is open to victims of sex trafficking that complies with reasonable requests for assistance from law enforcement or prosecution and who have well-founded fears of retaliation should they return to their home country. Between 2001 and 2005, some 675 T Visas were issued to victims of trafficking in the U.S.

Trafficking, Foreign Policy & Development

In Sweden human trafficking related issues are dealt with by the Ministries of Health and Social Affairs, Justice, Employment, Foreign Affairs and Integration and Gender Equality. The latter has the coordination responsibility concerning questions related to prostitution and gender equality domestically and from abroad. The main responsibilities of the Ministries of Justice and Health and Social Affairs are related to issues concerning the legal code as well as overlaps between trafficking and migration and asylum issues. Both Ministries draft and propose new legislation on the topic. The Ministry of Employment has just recently been involved in the anti-trafficking efforts of the Swedish government. Currently, this Ministry investigates the frequency of human trafficking for labor exploitation in Sweden.

The Ministry of Foreign Affairs' responsibility includes development aid, as well as foreign and security policy. The appointed ambassador for human trafficking is with the Ministry of Foreign Affairs. In addition, the NCID is the Swedish National Rapporteur on human trafficking issues in Sweden. The Swedish government has been and continues to be involved in both bilateral and multilateral anti-trafficking projects within the framework of Swedish foreign policy and international development cooperation. The former Swedish foreign minister Anna Lindh initiated in 2002 a Nordic-Baltic Action group against trafficking in human beings. Sweden has also been working hard for the realization of actions plans against trafficking in Asia and in Africa within the framework of EU's regional cooperation. In 2001 Asem's foreign ministers adopted such a plan. Sweden is active within organizations such as the OSCE, EU and UN. The former government had as its main focus in the multilateral context, on preventive measure, focus on the root causes and the essence of gender equality in the fight against human trafficking.

In 2003 the Swedish Foreign Ministry adopted an anti-trafficking strategy which basically takes its starting point in poverty reduction. The Swedish International Development Cooperation Agency (SIDA) is responsible for the implementation and evaluation of the strategy. In a development context, human trafficking is seen as a consequence of poverty, which hits women and young people the hardest. In order to fight trafficking, the root causes of poverty need to be addressed. The current right-centrist government is conducting a fundamental reform of Swedish development cooperation. As a result increasing focus has already been put on women's role in development and poverty reduction through economic empowering, democratization and protection of human rights for all. Gender inequality and feminization of poverty is seen as one of the root causes of trafficking.

In order to make Sweden's policy on human trafficking more visible internationally the Swedish government in 2006 appointed an ambassador for international cooperation against human trafficking, Mr Anders Oljelund. The ambassador's main task is to coordinate the Swedish government's anti-trafficking measures taking into consideration all the aspects of trafficking including migration policy, security policy, and the development policy. During the former government the main responsibility for anti-trafficking policies laid with the Ministry of Enterprise, Energy and Communication and it was then mainly considered a gender equality issue. The Swedish aid in these matters is often channeled via international organizations such as IOM, UNICEF, ESCAP and ECOWAS, but also through individual organizations, such as Kvinnoforum. Geographical areas of focus have been Central and Eastern Europe, Western Balkan, South East Asia and West Africa.

The fight against sex trafficking has become a central part of U.S. foreign policy as well. The 2000 TVPA formed a special office in the State Department to coordinate U.S. efforts to fight all forms of trafficking. Since 2000, the Office to Monitor and Combat Trafficking in Persons, often referred to as the TIP Office, has overseen numerous efforts to promote anti-trafficking measures worldwide. Led by an Ambassador, the office seeks to use the tools of diplomacy to implement the 3 Ps strategy. Among other initiatives, the TIP Office works with foreign governments to improve law enforcement and judicial capacities to increase prosecutions, promotes a victims-centered approach to anti-trafficking worldwide to foster protection and supports awareness campaigns to prevent trafficking from occurring. The TIP Office is able to tap its own budgetary funding, authorized in the TVPA and its follow-on bills, in order to implement these and other programs. Since Fiscal Year 2001, the U.S. government has funded \$450 million in international anti-trafficking programs.

One of the most important efforts of the TIP Office is the annual production of a report cataloguing the anti-trafficking efforts of states worldwide. In the TVPA, the U.S. Congress mandated that the TIP Office prepare a report that rated the efforts of governments to eliminate sever forms of trafficking. Originally, countries were slated into 3 tiers based on their efforts, but that was later expanded into four tiers. Using this tool, which examined 164 countries in 2007, the TIP Office has met with success in improving the anti-trafficking policies and responses of numerous countries. The report highlights best practices as well as areas where countries can improve. The report also serves as the basis for economic sanctions which the TVPA authorizes the President to administer in order to penalize those countries that are not making sufficient progress in the fight against trafficking.

The U.S. maintains an active presence in numerous multilateral organizations and initiatives designed to coordinate the fight against sex trafficking. The U.S. actively supports anti-trafficking efforts in large multilateral organizations like the UN, INTERPOL and the OSCE and regional bodies like the OAS and the EU. Moreover, the U.S. has made anti-trafficking a key component of its efforts to strengthen international law enforcement capacities against transnational organized crime. For example, the U.S. offers law enforcement training courses on anti-trafficking investigation and prosecution through its International Law Enforcement Academies in Budapest, Bangkok and Gabarone. On a more bilateral level, the U.S. has used its Mutual Legal Assistance Treaties to coordinate joint investigations into sex trafficking worldwide. The Legal Attaché program also fosters bilateral coordination of legal cooperation into anti-trafficking efforts.

Development policy is another part of the U.S. anti-trafficking effort. In the rubric of the U.S. strategy for fighting trafficking in persons, development is viewed as a central mechanism

for preventing trafficking. For example, the TVPA cited the foreign promotion of microcredit programs, business development, skills training and job counseling as important ways to prevent trafficking. U.S. policy also supports the involvement of women in the economy and the promotion of women in education as ways to reduce the gendered nature of poverty, a significant risk factor for trafficking. Development continues as a key thrust of U.S. anti-trafficking policy. In late 2007, Ambassador Mark Lagon, Director of the TIP Office, gave a speech to the World Bank examining trafficking as a development issue. He cited the TIP Office's funding of the World Bank IFC Grassroots Business Department development project as key to preventing trafficking and re-integrating trafficking victims.

The U.S. Agency for International Development is also a key agency in the U.S. efforts to fight trafficking through development programs. Mirroring many of the programs that the TIP Office conducts, USAID has supported anti-trafficking efforts in over 70 countries since 2001. In FY 2005 alone, USAID distributed \$21.3 million to foreign anti-trafficking programs. In South Asia, for example, USAID is sponsoring job training for women left jobless after the expiration of the Multi-Fiber Agreement. In Belarus, a USAID project identifies women vulnerable to sex trafficking and offers them job and entrepreneurial training to reduce their vulnerability. In Moldova, USAID is funding numerous projects to reduce the economic disparities that lead to displacement and trafficking. Other USAID programs focus on public awareness, NGO support and law enforcement capacity construction. In all, the TIP Office and USAID remain key players in the use of development aid to combat trafficking before it occurs.

Trafficking and Security Policy

In Sweden, human trafficking has not been framed primarily as a security issue. As stated above, trafficking was initially and is still very much framed as a gender equality issue. However, as the

smuggling of migrants and unaccompanied children from Iraq, China and Vietnam has increased, it is becoming more difficult to separate trafficking from smuggling and both from concerns about migration's overlap with national security. Sweden is a member of the Schengen agreement which means that the Swedish border and custom control in relation to other members of the Schengen agreement has been lifted. Recently Estonia, Latvia and Lithuania, joined the Schengen cooperation, which means that EU's external borders now lay astride Russia and Belarus. Taking into consideration the historical experience of these states and the corruption that still affects the Baltic States negatively, there has been some concern that opening up the borders might allow organized crime to work more effectively in the Baltic Sea Region.⁵⁶

One important consequences of the opening up of the borders is that the border police must readjust their working methods. Currently the Swedish border police are enhancing its capacity to enforce internal alien control. However, for the Swedish police to be successful in this endeavor will require close cooperation with their counterparts in Estonia, Latvia and Lithuania is required. Regional cooperation within the Baltic Sea Region most often takes place on a bilateral level and in the form of short term projects. At this point there is no institutionalized cooperation. Exchange of information and joint investigations takes place on an ad hoc basis and is very much depending on personal connections.

Although EU's security policy is still very much a work in progress there are common strategy papers and declarations. Organized crime, human smuggling and human trafficking have been identified by the EU as important challenges to EU's internal security. Hence regional agencies such as the Eurojust and the Europol have strengthened their capacity in relation to these areas. Human trafficking and human smuggling are transnational crimes and the main task

⁵⁶ Jonsson Anna, et al. *The Baltic States Joining Schengen: Opportunities and Challenges*, Stockholm: ISDP, 2008.

of the Eurojust and the Europol is to assist national law enforcement agencies in transnational and sometimes joint investigations.

On the other hand, the U.S. considers human trafficking a national security threat. In October of 1995, President Clinton issued Presidential Decision Directive 42, which assigned international organized crime as a national security threat. Human trafficking was one of the forms of international organized crime listed in the document. On 25 February 2002, President Bush signed National Security Presidential Directive 22 which identified trafficking in persons as a national security threat. By signing an NSPD, President Bush authorized government agencies not traditionally tapped to fight transnational issues to bring their resources to bear. For example, the NSPD tasked the intelligence community with aiding in the gathering of information on trafficking and its threat to the rule of law in the U.S. and abroad. The NSPD also set a zero-tolerance policy for involvement in trafficking activities for all U.S. military personnel, civilian contractors and other government employees stationed overseas.

One significant results of the national security thrust of anti- trafficking in the Clinton and Bush Administrations is the International Emergency Economic Powers Act (IEEPA). Enacted in 1977, the law gives the President the ability to seize the assets and freeze all transactions of entities deemed an extraordinary threat to the U.S. With PDD 42, President Clinton expanded the IEEPA into the realm of transnational crime, focused mainly on the trade of narcotics. With NSPD 22, President Bush added human traffickers as a class to the list of entities eligible for IEEPA sanctions. Combined with the TVPA's authorization of sanctions against countries found deficient of meeting minimum standards against trafficking, the IEEPA's sanctions provide another important mechanism for bringing traffickers to justice.

Remaining Challenges

Although there is a strong consensus in Sweden on the connection between prostitution, human trafficking and their root causes, some concerns remain about how to respond to these phenomena. The first set concerns the legal code, which is continuing to undergo evaluation and change. Recently representatives for the Social Democratic Party, which is now in opposition, have put forward the argument that the legal code should view all procuring of sexual services as trafficking. This argument is partly a reflection of how difficult it has been to prove the use of improper means and deception in the recruitment process, which has resulted in many trafficking crimes being judged as procuring.

In terms of law enforcement, the debate on the punishment for buying sexual services is ongoing. Law enforcement representatives have argued for higher maximum sentences, and there has not been any vocal opposition to this demand. However, the Ministry of Justice is currently evaluating the law criminalizing the buying of sexual services and it not very likely that any changes to the law will occur before that investigation can at least present some preliminary results. As stated above, criminal investigations into trafficking crimes are time and money consuming. In order to be effect these investigations need to be conducted on a regional and interagency level and this costs money. In order for the Swedish anti-trafficking policy to continue to be successful additional funding will be needed. Between 2004 and 2006, Swedish law enforcement used resources earmarked especially for investigating crimes related to human trafficking for sexual purposes. It is the overall conclusion of the Swedish police and other involved agencies and NGOs that this has greatly contributed to enhancing the efficiency and the knowledge about human trafficking and that additional resources will be needed in order to keep

up this trend. At this point there is no information available as to if such resources will be provided.

Another issue is the conservatism that can be found amongst the judges. Some Swedish judges have proved themselves to be very understanding as to the sex buyers dilemma, while at the same time having difficulties recognizing girls or women in fashionable clothes and with what has been described as a tough appearance as trafficking victims. As stated above, the understanding and knowledge about the dynamics and psychological factors behind the trade is very high amongst law enforcement personnel as a result of good training. Many are now calling for judges to be included in the education efforts that law enforcement personnel have benefitted from in order to improve the overall anti-trafficking policy in Sweden.⁵⁷

The last issue is the lack of cooperation between various state agencies. Cooperation needs to improve on a local, national and regional level in order to provide victims with adequate protection and for law enforcement efforts to be more effective.

While the U.S. has made great strides in the past decade to formulate an effective response to sex trafficking, critiques of the approach and gaps in the response remain. One particular area of scrutiny concerns the law enforcement and prosecution strategy of the U.S. Starting with the Mann Act and continuing decades later with the TVPA, the emphasis of U.S. efforts against sex trafficking has been to identify, arrest and incarcerate the traffickers. A decided supply side approach to the sex trafficking market, the approach has been strongly criticized by some trafficking experts for ignoring the demand that results from domestic prostitution. Seeing parallels between the exploitation that befalls prostitutes from pimps and brothel keepers and the exploitation faced by sex trafficking victims, this argument calls for a shift in the U.S. effort to address the demand and not just the organization of sex trafficking.

While the TVPRA of 2005 contained explicit language and resources to step up enforcement efforts against pimps as well as to steer women out of prostitution, some experts contend that its failure to allocate funding to domestic sex trafficking victims reflects the government's unwillingness to tie prostitution policy to the fight against sex trafficking.⁵⁸ While it is important to note that this connection between prostitution and sex trafficking is contested, the point to draw here is that the formation of prostitution policy in the U.S. remains separate from the formation of sex trafficking policy.

Beyond this debate concerning the targets of law enforcement efforts, more grounded concerns remain. A lack of operational information about trafficking remains a problem for law enforcement. While law enforcement, especially at a local level, is growing more knowledgeable about trafficking and ways to investigate it, a number of recent reports have called for continued and sustained anti-trafficking training. The legal codes most closely associated with trafficking have also proven burdensome for prosecutors at times. A number of the statutes have requirements that are difficult to prove in a court of law. For example, a guilty conviction for involuntary servitude (18 USC 1584) requires proof that the defendant knowingly held the victim against her will using force, fraud or coercion.

One last area of concern concerns the treatment of victims in the U.S. Victims of trafficking must undergo a sometimes lengthy and confusing certification process in order to obtain benefits from the Federal government. Some have suggested that the government should remove this certification process altogether, while others have sought to have the process streamlined. Another issue remains the "severe forms of trafficking" clause of the TVPA, which

⁵⁷ Interview with a prosecutor, March 10, 2006.

⁵⁸ Donna Hughes, "Enslaved in the U.S.A.," *National Review Online*, Accessed: 12 August 2007. Available: <http://article.nationalreview.com/?q=ZDU0OGNIMDcwM2JmYjk0N2M0OTU4NGVIMTBIMmEyMjI=>.

for some is ill defined and thus leads to confusion as to who is eligible for designation as a victim of trafficking.

Similarities, Differences and Observations

From the preceding case studies, it is clear that the Swedish and American responses to sex trafficking share a number of common elements and concerns. Yet in some ways, indeed in some critical ways, the two cases diverge from one another. In this section, we identify the most salient commonalities and divergences between the two approaches. The focus returns to the two units of analysis. First is strategy, identifying how each country has chosen to approach sex trafficking. Second is policy, where the programs and initiatives that the U.S. and Sweden have chosen are compared.

Strategic Comparisons

The U.S. and Sweden have a similar goal and a similar strategy to reach. Each country shares a goal of reducing the incidence of sex trafficking into not only their own countries but worldwide, recognizing that trafficking is supply and demand driven. In the 1990s, both countries independently but nearly simultaneously arrived at the conclusion that sex trafficking was a significant problem. Both countries responded to the challenge by developing comprehensive responses that combined new legal codes and law enforcement efforts with programs to protect victims and prevent trafficking before it began. The strategies that both countries arrived at were victim oriented and sought to deal with trafficking as an international, not simply national, issue.

So while each country has arrived at a similar goal and overall strategy, the way in which each government organized its response was significantly different. The main differences arose from the varied origins of these strategies and the historical origins of each government's policy.

In the U.S., the increased emphasis on transnational organized crime, the investigations of NGOs and law enforcement's discovery of trafficking cases led the Federal government to craft a centralized anti-trafficking policy. In Sweden, the discovery of foreign prostitutes in Stockholm and the drive to eliminate gender inequality led the government to draft new laws concerning prostitution and sex trafficking. In sum, as noted earlier, the U.S. viewed trafficking through a law enforcement lens while Sweden viewed trafficking through an equality lens.

Second, each country has chosen to handle the linkage between prostitution and sex trafficking differently. Historically, and into the present day, prostitution has been the purview of the individual states and not the Federal government. As such, any coordination between prostitution policy (ideological views of this linkage notwithstanding) and policies addressing sex trafficking would need to take place amongst at least 51 government bodies and legal codes. Contrast this with Sweden. Since the early parts of the 20th century, Sweden's central government has crafted both prostitution and sex trafficking policies. Furthermore, since the 1930s, the Swedish government has supported a domestic policy that promoted equality in Swedish society. Thus, when sex trafficking was first noticed in Sweden in the 1970s and later again in the 1990s, the government was able to frame a comprehensive response to both prostitution and trafficking in terms of equality. While the Swedish policy was contested, especially the 1999 law on prostitution, the focus on equality has yielded general public support for the strategy.

The differences between the U.S. and Swedish social and political context lead to the conclusion that it would be very difficult for the U.S. and other countries to adopt the Swedish approach to prostitution and sex trafficking. The historically-grounded social and governmental contexts within which Sweden's prostitution and sex trafficking policy is embedded are not

easily overcome for any country seeking to adopt Sweden's approach. For example, the U.S. would face a number of hurdles beyond any debates about the merits of the policy change. First, the Federal government would face the States rights hurdle as it would have to overcome decades of state control over prostitution policy. Second and more problematic is the lack of agreement over trafficking as a reflection of inequality in society.

Policy Comparisons

Despite the variations between the two countries in terms of their strategic approach, the countries share some significant similarities in terms of the specific policies they have chosen to pursue traffickers. First is an equal commitment to make anti-trafficking a significant issue for both domestic and foreign policy. Both the U.S. and Sweden have focused on trafficking as a result of both domestic conditions and foreign environments, leading both countries to develop policies that balance domestic and foreign programs. In almost every programmatic response to sex trafficking, one finds domestic and foreign elements. Law enforcement training is offered for domestic officials and foreign governments. Victims' assistance domestically is mirrored in aid packages given overseas. Even awareness campaigns are focused on domestic as well as foreign populations. And it is telling that Sweden and the U.S. are the only two countries with Ambassadors whose only responsibility is the coordination of anti-trafficking policy. The conclusion that one can draw here is that the leading countries fighting trafficking have found both internal and external factors drive trafficking and that trafficking is not just a function of supply side "root causes."

Another important observation is that the U.S. and Sweden have similar law enforcement approaches to trafficking. Both countries have benefitted from increased funds that allow for

dedicated anti-trafficking forces and long-term investigations of potential trafficking. Law enforcement in both countries rely on tips from the community, surveillance and the monitoring of online communications and prostitution ads in order to establish trafficking cases. Both employ victims-centered investigative techniques, protecting victims from the outset of investigations by working hand-in-hand with service providers to ensure their well-being. And both rely on traditional policing tools and techniques to build cases that are then handed over to prosecutors for adjudication. Given that Sweden and the U.S. use similar techniques when enforcing trafficking laws and have similar levels of commitment to providing law enforcement the resources they need to fight trafficking, our study further supports studies that suggest socioeconomic root causes are potent drivers of trafficking and supports the need for anti-trafficking programs that are not limited to law enforcement.

Last, both countries face similar challenges to their anti-trafficking policies. In both countries, it is hard to prove trafficking in a court of law given the high burden of proving force, coercion and/or fraud. In both countries, prosecutors told us such difficulties are only more pronounced given the expected difficulties in garnering useful testimony from trafficking victims. Moreover, the complexity of trafficking cases, especially transnational cases, proves difficult to explain simply to juries and judges that are not familiar with the crime. Problems remain in service provision for victims in both countries as well, ranging from a lack of coordination to the difficulties encountered in certifying victims as trafficked persons versus voluntary migrants. This suggests that these problems are not the result of specific policies or governing styles but endemic to even the most well supported and well planned trafficking programs. As continued adjustment and evolution of these programs should yield favorable

results, this is one area where Swedish and American officials might find coordination a fruitful exercise.

But not all policies were similar for both countries, and indeed it was in the specific policies and programs that we found Swedish officials hoping to learn more about the American approach. First are foremost, the penalties for trafficking serve as far more a deterrent in the U.S. than they do in Sweden. Maximum penalties for trafficking in Sweden are currently ten years in prison, and most sentences have been less than the full ten years. In the U.S., the maximum sentences are forty years, with life in prison or even the death penalty a possibility in certain situations. One prosecutor noted that traffickers rarely received sentences of more than four years, though if rape or violence was proven in court the sentence might go up to five and a half years, and noted that drug traffickers routinely received minimum ten year sentences.⁵⁹ Another expert noted the difficulties in deporting foreign traffickers after their prison terms have ended, noting that one jailed trafficker was even released early by claiming his children were suffering hardships from his imprisonment.⁶⁰ In sum, while prosecutors and law enforcement in Sweden were happy with the legal code, some noted during interviews that increased sentences could serve as an additional deterrent to traffickers.

Related to this is asset forfeiture. In the U.S., the seizure of assets are a central facet of trafficking investigations from the opening of the investigation. The legal code supports the seizure of these funds and specialized units at the Federal level are available to assist investigators and prosecutors in trafficking cases. By seizing the assets of traffickers, moreover, the U.S. is able to hurt the larger networks of which traffickers are a part. By contrast, Sweden's legal code is relatively thin in terms of asset forfeiture. The burden of proof lies on the

⁵⁹ Interview with a prosecutor, March 10, 2006.

⁶⁰ Interview with a social worker, March 8, 2006.

prosecutor to establish a certain link between assets and the criminal activity. Yet Sweden's investigators and prosecutors are increasingly interested in using asset tracing in trafficking cases. The interest lies not only in the seizure of assets but also in the use of asset tracing as an investigative tool. As such, this is another area where Swedish officials might be able to learn from American policies and programs.

Conclusion and Recommendations

From the outset, the goal of this project was not to develop a series of "lessons learned" for the US or Sweden. Such a project would have had a more limited scope of study and would have employed a different form of research method. Rather, this study sought to find what areas of synergy and diverge existed between Sweden and the U.S. in fighting sex trafficking. What we have found is that a fair amount of agreement exists between the US and Sweden in their approach, but that both arrive at those approaches from different starting points. Moreover, and this is not unexpected, the methods both countries employ to enact their policies reflect differing government and law enforcement systems.

So what recommendations can we make for practitioners and scholars at the end of this study? There is much in the Swedish and American experiences that practitioners must consider. Both countries have experiences similar roadblocks in implementing trafficking policy at home and abroad, yet their divergent approaches to the issue of trafficking suggests an enhanced level of resiliency within trafficking. Such experience also suggests that further assessments of each approach, such as the one Sweden recently completed, could have a wider audience that just one country's practitioner community. For example, prosecutors in both countries have made frequent suggestions on how to update the term "coercion" to make it more relevant to 21st Century trafficking in persons. A concrete form of ongoing bilateral or multilateral practitioner

collaboration is needed for those investigating and prosecuting trafficking cases to locate best practices and to make salient suggestions to policymakers for future revisions to anti-trafficking policies.

This report must also lend strong caution to the temptation to implement selective elements of the US and Swedish approaches either in these countries or elsewhere. Both the historical and contemporary evidence of the American and Swedish experiences with sex trafficking suggest that adoption of one approach without the appropriate ideological and institutional capacities is bound to fail. For example, a country can adopt the Swedish criminalization of sex purchasing and de-criminalization of its sale, but without significant investment in programs designed to undercut patriarchal hierarchies and promote the equality of women the program is destined for failure. Likewise, the implementation of American asset forfeiture measures without the significant institutional support systems found in the US legal system will overload prosecutors and could also lead to increased opportunities for graft and abuse. A country who seeks to adopt beneficial elements of American and Swedish counter-trafficking programs needs to understand their larger context and invest the physical, human and ideological capital required to see it succeed.

The report also indicates the need to continue to support the scholarly community's production of comparative research on trafficking in human beings worldwide. Comparative studies have looked at specific regions of the globe and specific aspects of responses to trafficking (e.g. victims' assistance programs). Yet the speed of events and the constant revision of legal codes, law enforcement programs and (unfortunately) the tactics of traffickers themselves require scholars to revisit these studies and update them. Without timely information and critical assessment of country programs, anti-trafficking practitioners will be left with

outdated or incomplete information on the requirements needed to implement successful trafficking projects.

In the end, the U.S. and Sweden are leaders in the fight against sex trafficking around the globe. Throughout the case studies, the domestic and foreign leadership of these two countries has been dissected. While both countries continue to debate the direction of their strategies and to face challenges in their implementation, both countries are focusing domestic and foreign resources to fight trafficking. Both countries are eager to share the lessons they have learned through diplomacy, training, aid and other programs, assigning an Ambassador to coordinate this outreach at home and abroad. And yet the U.S. and Swedish approaches to trafficking contain significant differences. While it is hard to evaluate which policy choices and strategic approaches are “better,” our study has shown that both the U.S. and Sweden have made choices that fit their social, political and historical situations. In sum, our study demonstrates that both countries can learn lessons from the other.