

A FIRM FOUNDATION

A DEFENSE OF THE UN TRAFFICKING PROTOCOL

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ABSTRACT: In 2000, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons was passed by the UN General Assembly with 117 nations signing on within the first two years. Since its formulation, however, the Protocol has come under severe scrutiny from critics who claim it does not sufficiently eradicate human trafficking at the international level. Yet what its critics fail to realize is that the Protocol was designed to increase international solidarity around anti-trafficking legislation rather than to act as a comprehensive anti-trafficking law in itself. To that end, the UN Protocol is sufficient and has helped significantly to focus much of the international discussion over human trafficking issues since.

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“... [E]ffective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights”¹

Trafficking in Persons Protocol, 2000

I. INTRODUCTION AND BACKGROUND

The most recent U.S. State Department statistics² declare that upwards of 800,000 people are trafficked internationally each year in addition to an estimated two to four million people trafficked within national borders.³ At any given point in time, an estimated 12.3 million children and adults are the victims of “forced labor, bonded labor, and forced prostitution around the world.”⁴ Furthermore, all nations are, at least to some extent, affected by trafficking—whether they are countries of origin, transit, destination, or involved in some combination of the three.⁵ Even the United

1 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Nov. 15, 2000, U.N. Doc. A/55/383 (2000), [hereinafter Trafficking Protocol].

2 Many of these figures would be considered, in other areas of research, to be outdated. One of the most problematic aspects of trafficking in persons, however, is that good data collection and statistics are extremely difficult to uphold year after year. The U.S. State Department often reuses its statistics in its Trafficking in Persons (TIP) Report every year and so I have, where possible, cited the most recent statistics from the most recent TIP Report. U.S. State Dept., *Trafficking in Persons Report* (2011).

3 U.S. State Dept., *Trafficking in Persons Report* 23 (2004).

4 U.S. State Dept., *Trafficking in Persons Report* 7 (2010).

5 K.C. Ryf, *The First Modern Anti-Slavery Law: The Trafficking Victim Protection Act 2000*, 34 Case W. Res. J. Int'l L. 45, 47 (2002); UN Office on Drugs and Crime, *Trafficking in Persons: Global Patterns*, (April 2006).

States, widely considered to be the leader in anti-trafficking legislation and initiatives, is severely affected. On average, two people are trafficked into the U.S. every hour⁶ and 1,500 to 2,000 persons are smuggled into the States over the Canadian border every year.⁷

Monetarily, the global profits of human trafficking total an estimated \$32 billion,⁸ though some scholars have placed the figure as high as \$51 billion.⁹ Sex slavery is especially lucrative. According to trafficking researcher Siddharth Kara, “[O]nly 4.2 percent of the world’s slaves are trafficked sex slaves, but they generate 39.1 percent of slaveholders’ profits.”¹⁰ In 2007, the average slave earned \$3,175 in net profits at a profit margin of roughly 60%.¹¹ As an illicit trade, trafficking in persons is second in total revenues behind only the international drug trade.¹²

In the past, many attempts were made to resolve this internationally recognized transgression of human rights. Early 20th century efforts were largely unsuccessful, as they were primarily concerned with “enslavement of white women into prostitution and much less concerned with the continuing enslavement and trafficking of other ethnic groups.”¹³ Any sort of multi-national

6 Author’s calculation based upon data in U.S. State Dept., *Trafficking in Persons Report* 23 (2004).

7 U.S. State Dept., *Trafficking in Persons Report* 86 (2006).

8 International Labor Organization, *A Global Alliance Against Forced Labor* 55 (2005).

9 SIDDHARTH KARA, *SEX TRAFFICKING: INSIDE THE BUSINESS OF MODERN SLAVERY* 21 (2009).

10 *Id.* at 19.

11 *Id.* at 222.

12 *Id.*

13 Kevin Bales & Becky Cornell, *The Next Step in the Fight Against Human Trafficking: Outlawing the*

anti-trafficking standard could not be attained until after the formation of the United Nations in 1945. The resulting UN resolutions, however, were focused on the singular issue of trafficking for sexual purposes, largely ignoring all other forms of trafficking.¹⁴ No sense of international solidarity was created, as nations were not required, or requested, to pursue a universal standard for the prosecution and prevention of human trafficking.

In 1998 the UN General Assembly confronted international human trafficking standards in the form of the Convention Against Transnational Organized Crime; it remains the recognized international standard on transnational organized crime. Three supplementary protocols were organized and opened for signature in Palermo, Italy in December 2000. The Palermo Protocols dealt with *Smuggling of Migrants*,¹⁵ *Trafficking in Persons—Especially Women and Children*,¹⁶ and *Trafficking in Firearms*.¹⁷ The UN Protocol for Trafficking in Persons was the first agreed-upon international step to reduce the amount of transnational human trafficking; it was signed by 117 different nations within the first two years.

Trade in Slave-Made Goods, 1 INTERCULTURAL HUMAN RIGHTS LAW REVIEW 211, 214 (2006).

¹⁴ Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 96 U.N.T.S. 271 (1949).

¹⁵ Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, Nov. 15, 2000, U.N. Doc. A/55/383 (2000).

¹⁶ Trafficking Protocol, *supra* note 1.

¹⁷ Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention Against Transnational Organized Crime, May 31, 2001, U.N. Doc. A/RES/55/255 (2001).

In the decade since it first appeared, the UN Trafficking Protocol has suffered attacks from numerous critics who claim it fails to fulfill its purpose. These critics have proposed changes to the Trafficking Protocol to make it a more universal and comprehensive standard for nations to uphold. This paper aims to examine whether these proposed changes would, in fact, establish a better and more enforceable international standard on human trafficking. The first section will deal with the most common critiques of the Protocol, measuring them for both practicality and logic. The second section will defend the Protocol's capability to sufficiently create an international anti-trafficking standard and encourage multilateral international cooperation to eliminate human trafficking within its signatory states.

II. CRITIQUES OF THE TRAFFICKING PROTOCOL

A. *The Definition of "Trafficking in Persons"*

Two main critiques center on the Trafficking Protocol's definition of "Trafficking in Persons": the consent of the victim, and the generalized objective of trafficking. After an extended period of discussion over "correct" wording during the Protocol's formation, the UN committee finally settled on the following definition:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs...¹⁸

The *consent* of the victim continues to be a contested issue. Because the traditional discussion of trafficking focuses primarily on trafficking for sexual purposes, it was unclear at the time of the Protocol’s ratification whether non-coerced adult prostitution could be considered human trafficking by the Protocol’s definition. The original critics of the finalized definition, a coalition led by Argentina and the Philippines, held that it would be morally wrong to make a distinction between forced and voluntary prostitution. To do so, they argued, would be to legitimize voluntary prostitution. The coalition suggested adding the phrase “irrespective of the consent of the person” to the definition to ensure that traffickers would not be able to use the victim’s coerced “consent” as a defense.¹⁹

18 Trafficking Protocol, *supra* note 1, at art. 3(a).

19 Anne Gallagher, *Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis*, 23 HUMAN RIGHTS QUARTERLY

The original opponents to this view, a group led by the ambassadors for the United States, contended that to include voluntary prostitution in the definition would severely blur the lines between human trafficking and migrant smuggling. According to current definitions, one of the important distinctions between trafficking and smuggling is that trafficking is involuntary while smuggling is voluntary. Smuggling can often lead to trafficking, but the two definitions should not be confused. The U.S. also claimed that consent would not be an issue because other parts of the definition clearly state that trafficking includes “consent-nullifying behavior” of some kind (deception, coercion, force, *etc.*).²⁰ A compromise was ultimately reached through the addition of a note stating that consent is moot wherever any of the forcible behavior mentioned in the definition is used, essentially upholding the arguments of the latter party.²¹ Despite the fact that the phrase “irrespective of the consent of the person” was ultimately rejected in the finalized definition, proponents of its addition still maintain that the definition ought to be changed in order to meet their standards.

In addition to the issue of consent, the purpose(s) of trafficking was also a significant area of disagreement. The same parties who advocated that “prostitution regardless of consent” should be included in the definition also claimed that prostitution should be stated as a separate and distinct goal of trafficking. This group sought to continue the prostitution-focused mindset of trafficking

975, 984 (2001).

20 *Id.* at 985.

21 Trafficking Protocol, *supra* note 1, at art. 3(b)

that was so prevalent in the previous century. Critics argued that including all forms of prostitution as a distinct objective of trafficking would broaden the scope of the definition to the extent that it would detract from the more important aspects that ought to be prosecuted. Another compromise added the phrase “the exploitation of the prostitution of others or other forms of sexual slavery” in addition to the other mentioned goals of trafficking.²²

In both of these compromises, the proponents of a prostitution-focused mindset considered their efforts to have been defeated and the other side to have won. The finalized definition, however, does not allow for such a cut-and-dry outlook. The result of the compromises was not a negation of both definitions but rather a combination of the previous century’s perspective with a broader, more modern understanding of trafficking. The necessary compromise served to provide a more practical understanding of human trafficking that could be better used by the signatories. Ultimately, the finished product was more in line with the essential purpose of the protocol. Despite the compromise, however, parties still criticize the Protocol and call for its modification.

A. Troublesome Definition

To some degree, the debate that consumed the discussion within the Palermo Conventions highlights a significant aspect of trafficking in persons. Human trafficking is not a singular uniform entity—it is manifested in different regions in unique ways. Some areas are plagued by trafficking for sexual exploitation, others for

22 *Id.* at art. 3(a).

forced or bonded labor. These categories can be further divided by age, sex, and economic status of those exploited as well as the different ways in which they are trafficked. No absolute profile of a victim or a perpetrator exists; as a result, human trafficking is an extremely difficult crime to pin down.

Within the United States, classified as a tier 1 nation for more than a decade,²³ human trafficking is by no means an easily-categorized issue. Of the 2,515 cases opened for investigation between 2008 and 2010 by the Department of Justice, 82% (2,065 cases) were the result of sex trafficking while 14% (350 cases) were the result of labor trafficking.²⁴ The 83% of victims involved in sex trafficking cases were American citizens while 67% of victims in labor trafficking cases were undocumented aliens, many of whom had been smuggled across national borders.²⁵ Further complicating matters, roughly half of victims were under the age of seventeen²⁶; one third were white, one third were African-American, and one third were Hispanic.²⁷ The profiles of suspected traffickers were similarly muddled.²⁸

Not only are there not uniform characteristics of traffickers and victims, but the plethora of trafficking cases are comparably diverse. In some instances, capture and trafficking can be attributed to the economic and social conditions of the environments

23 *Trafficking in Persons Report*, *supra* note 2.

24 U.S. Department of Justice, *Characteristics of Suspected Human Trafficking Incidents, 2008-2010* 1 (2011). <http://bjs.ojp.usdoj.gov/content/pub/pdf/cshti0810.pdf>

25 *Id.*

26 *Id.*

27 *Id.*

28 *Id.*

in which the victims reside. Refugee camps are a prime example: because of their high population density of women and children, 72% of 9.9 million people, the camps often become targets for pimps and traffickers.²⁹ Other situations involve children sold to known traffickers or prostitution rings by their families or girls given as wives to strangers.³⁰ In cases of labor trafficking, individuals or even entire families can be trafficked as slaves due to some pre-existing generational debt.³¹ The profit-gains of labor trafficking cause the perpetrators to be discreet about their dealings, which makes their illicit activity hard to track, even harder to prosecute, and nearly impossible to study.

Ultimately, “trafficking in persons” is a nebulous phrase used to categorize a broad set of complicated illegal activities. Profiles of traffickers and victims are diverse and the forms of trafficking even more so. With this in mind, the debates in Palermo over the definition of trafficking are understandable. Inevitably, the resulting definition had to be broadly defined in order to allow for all possible iterations of trafficking.

C. *Prosecution, Protection, and Prevention*

As scholarship and research in the area of human trafficking has increased in recent decades, three subsections or measures of human trafficking regulations have become universally recognized as foundational to any functional standard: the prosecution

29 KARA, *supra* note 9, at 7.

30 *Id.* at 8-9.

31 United States Department of State, *The Facts About Human Trafficking for Forced Labor*, <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1005&context=forcedlabor>, (last visited on Mar. 30, 2012).

of trafficking perpetrators, the protection of trafficking victims, and the prevention of any future offenses—also known as the “3-P Index.” While the UN Trafficking Protocol does address all three measures, critics claim that it fails to handle them correctly and sufficiently. Thus, according to its opponents, the Protocol has not lived up to its purpose and should be reformed.

First, the *prosecution* of trafficking crimes is a crucial component to a comprehensive law against human trafficking. In Article 5 of the Trafficking Protocol, measures are instated to ensure that states create or adopt laws criminalizing trafficking in persons: “Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.”³² Three supportive measures are subsequently laid out that explicitly condemn traffickers, accomplices, and anyone “organizing or directing other persons to commit an offense.”³³ Yet despite its apparent specific treatment of *who* ought to be prosecuted, the Protocol fails to provide any sort of practical framework of *how* they ought to be prosecuted. In this sense, a broad sweep of legislation is possible that may fulfill the letter of the article but not its spirit.

Critics condemn the Protocol for its overly general treatment of the prosecution of trafficking cases, because it does not provide any sort of concrete minimum legal standard for States to uphold. This generality is, however, in line with the purpose of the Pro-

32 Trafficking Protocol, *supra* note 1, at art. 5(1).

33 *Id.* at art. 5(2c).

TOCOL. The very nature of allowing individual countries to create their own trafficking laws allows for standards that, while different from country to country, uphold the same general principle. In this way, prosecution can be locally carried out across the world to best deal with issues that may be specific to a particular area. In reality, human trafficking does not look the same in every country; thus, it ought to be prosecuted differently in different regions.

Second, the *protection* of victims is an integral part of any human trafficking legislation. Chapter II of the Protocol specifically deals with the issue of protection by laying out a few measures that ought to appear in countries' standards. Among these are the right of the victim to privacy and confidentiality, information on court proceedings, assistance as needed to testify against the traffickers, housing, counseling and information on their legal rights, medical assistance of any sort, and opportunities for education and employment.³⁴ Critics have identified that this section lays out a general framework for individual state legislation, but it "contains very little in the way of hard obligation" for those states involved.³⁵ A country is only required to provide assistance to victims "in appropriate cases and to the extent possible under its domestic law."³⁶ Again, as in the case of its prosecution measures, the Trafficking Protocol was criticized for the general nature of its protection framework. Anne Gallagher, an internationally recognized trafficking expert, has stated outright, "The weakness of the protocol's protection provisions [...] is likely to undermine its

34 *Id.* at art 6.

35 Gallagher, *supra* note 19, at 990.

36 Trafficking Protocol, *supra* note 1, at art. 6(1).

effectiveness as a law enforcement instrument.”³⁷

Evidence has shown that even when concrete measures for their protection are available, most victims of trafficking crimes do not utilize any sort of afforded help.³⁸ A prime example of this is the opportunity the United States has afforded victims to sue their traffickers in a U.S. district court under 18 U.S.C. § 1595 passed in the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA).³⁹ Despite the opportunity victims have to legally sue their traffickers in court for damages, only eighteen cases have been recorded of victims having done so and never has any victim of sex trafficking used the measures.⁴⁰ This underutilization of the current protection laws makes both the protection of the victims and the prosecution of the traffickers more difficult. In light of this, critics claim that victims would be more likely to make use of protection laws if such laws were more explicitly mentioned and guaranteed by international law. Once again, the vague nature of the Protocol’s measures is attacked. That victims do not use the laws, however, is not the fault of overly-generalized standards. The United States has what are considered by many to be the most concrete and comprehensive anti-trafficking-laws in the world.⁴¹

37 Gallagher, *supra* note 19, at 991.

38 Jennifer S. Nam, *The Case of the Missing Case: Examining the Civil Right of Action for Human Trafficking Victims*, 107 COLUM. L. REV. 1655, 1678 (2007).

39 18 U.S.C. § 1595(a) (Supp. IV 2004) (stating that “[a]n individual who is a victim of a violation of section 1589, 1590, or 1591 of this chapter may bring a civil action against the perpetrator in an appropriate district court of the United States and may recover damages and reasonable attorney’s fees.”).

40 Nam, *supra* note 38, at 1656-57.

41 The United States has consistently been ranked among the best nations for anti-trafficking legislation since the release of the UN Protocol in 2000.

While the U.S. may need to examine its laws for possible failures, it is not the UN's obligation to reform international law to invoke more usage of the U.S.'s policies. To do so would contradict the Protocol's purpose more than what the critics claim the Protocol's vagueness does.

Third, and often considered most important, within any policy attacking human trafficking is *prevention*. As is identified by the Protocol, this can be further separated into two distinct functions: "States Parties shall establish comprehensive policies, programmes and other measures: (a) To prevent and combat trafficking in persons; and (b) To protect victims of trafficking in persons, especially women and children, from revictimization."⁴²

To establish the first, preventing trafficking violations from ever occurring in the first place, multiple measures must be affected in order to ensure that the crime is cut off at the root. The United States, through the standards laid out in the Trafficking Victims Protection Act of 2000 (TVPA),⁴³ has attempted to work out reform from the ground up by providing for "the establishment of international initiatives directed at improving the economic conditions of vulnerable groups."⁴⁴ Models like this help to establish international precedent for productive avenues to combat the spread of trafficking using a holistic approach. States

Seo-Young Cho, Axel Dreher & Eric Neumayer, *The Spread of Anti-trafficking Policies - Evidence from a New Index*, Cege Discussion Paper Series No. 119, Georg-August-University of Goettingen, Germany (also IZA Discussion Paper No. 5559 and CESifo Working Paper No. 3376, 2011).

42 Trafficking Protocol, *supra* note 1, at art. 9(1).

43 Trafficking Victims Protection Act, P.L. 106-386, 106th Cong. (2000).

44 Note, *Remedying the Injustices of Human Trafficking through Tort Law*, 119 HARV. L. REV. 2574, 2580 (2006).

must take precautions that their stringent laws do not merely push the illicit activity further underground. As an illustration, in 1999, Sweden criminalized the clients of sex workers; since then, trafficking in Sweden has increased and become more violent as traffickers have had to work harder to stay hidden from the law while attempting to turn a profit.⁴⁵

The second aspect of prevention, that of protecting trafficking victims from revictimization, is also integral to a nation's laws. The re trafficking of victims is an extreme problem in many areas as victims often have no other place to turn for a job than back to their traffickers and prostitution. Estimates have placed the re trafficking rate in some areas to be higher than 40%—making the total annihilation of human trafficking crimes very difficult.⁴⁶ To date, the Trafficking Protocol contains no explicit provisions addressing the problem of re trafficking. Many NGOs and humanitarian organizations, such as the International Justice Mission and the Red Cross, supplement the Protocol by seeking to both prosecute traffickers to the full extent of domestic law as well as provide assistance to victims once they are rescued and protect them from being re trafficked.

In the area of prevention, critics have again condemned the UN Trafficking Protocol for being too general in its language. Its initiatives, they claim, “are phrased in the UN’s best, programmatic, non-obligatory style.... There is no reference to the acknowl-

45 Ann D. Jordan, *Human Rights or Wrongs? The Struggle for a Rights-Based Response to Trafficking in Human Beings*, 10 *GENDER & DEV.* 28, 31 (2002).

46 Rebecca Surtees, *Second Annual Report on Trafficking in Victims in South-Eastern Europe* 88 (2005).

edged root causes of trafficking."⁴⁷ These critics, however, fail to consider that trafficking often has different causes in different global regions. To make an international standard acknowledging only one cause of trafficking would be to turn a blind eye to the numerous distinct factors that influence trafficking globally. Not mentioning specific root causes gives states freedom of initiative to research and combat trafficking in a more local and focused context.

III. REBUTTING THE CRITICS

In Article 2, the UN Trafficking Protocol explicitly names its purpose:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.⁴⁸

If one critically analyzes these objectives, it becomes apparent that the core purpose of the Protocol is outlined in clause (c)—“to promote cooperation among nations.” There is no reason

47 Gallagher, *supra* note 19, at 995.

48 Trafficking Protocol, *supra* note 1, at art. 2(a)-(c).

to expect a universal control mechanism to exist; the UN has no inherent powers that are not given to UN actions by the cooperative efforts of UN member states. To truly combat trafficking, the UN must first instigate cooperation amongst its members. In essence, the first two objectives stated are what the Protocol proposes to do; the last is how it proposes to do it.

The Protocol's critics hold it to a capricious and fairly illogical standard. They critique it based upon how well it addresses every conceivable permutation of human trafficking around the world, a standard it does not claim to meet. As has already been identified, human trafficking will appear and function differently in different regions—one cannot use a broad brush to paint reform over multiple distinct areas of the world. The Protocol's purpose is not to single-handedly eliminate trafficking, it is to lay a foundation for further legislation and initiative on the part of the signatory nations.

What the Protocol has accomplished is exactly what it claims—cooperation among member nations. Before the Protocol emerged in 2000, there was no sense of international solidarity around the issue of human trafficking—crimes were dealt with mainly on an ad-hoc basis from country to country, if at all. After the construction of the Convention Against Transnational Organized Crime and its three supporting protocols, countries finally had an international standard behind which to rally.

Identified even by its critics, "The convention is essentially an instrument of international cooperation."⁴⁹ UN member states

49 Gallagher, *supra* note 19, at 978.

quickly recognized the cooperative value of the Trafficking Protocol, 117 signing on within only two years.⁵⁰ To date, 140 nations have become signatories. The United States led much of the post-Palermo anti-trafficking campaign; in October of 2000 Congress passed the Victims of Trafficking and Violence Protection Act (TVPA) and has reauthorized it many times since.⁵¹ In addition to the TVPA, the U.S. Department of State publishes its annual Trafficking in Persons (TIP) Report that documents every country and rates them on how well each nation's government upholds the legal standards outlined in U.S. and international law. Supporting the United States, the United Kingdom has also passed multiple iterations of anti-trafficking legislation.⁵² The European Union in April of 2011 passed Directive 2011/36/EU, "on preventing and combating trafficking in human beings and protecting its victims."⁵³ More recently, India with the help of the United Nations Office on Drugs and Crime announced its new initiative "Strengthening the law enforcement response in India against Trafficking in Persons through Training and Capacity Building" and hopes to train a large number of "Anti-Human Trafficking Units" in the next two years.⁵⁴ Even Mongolia, a state that has

50 Signatories to the UN Trafficking Protocol, (2011), <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>, (last visited on Mar. 30, 2012).

51 U.S Department of State, *Trafficking in Persons Report*, <http://www.state.gov/j/tip/laws/>, (last visited Mar. 30, 2012).

52 Namely: the Sexual Offences Act (2003), the Asylum and Immigration Act (2004), and the Coroner's and Justice Act (2009).

53 European Union, *DIRECTIVE 2011/36/EU*, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>, (last visited Mar. 30, 2012).

54 Ministry of Home Affairs, http://mha.nic.in/uniquepage.asp?ID_PK=467,

been traditionally classified by the TIP Report as a tier 2 state and one beset with trafficking issues, passed new anti-trafficking legislation in January, 2012.⁵⁵ Countries are cooperating around the framework outlined in the UN Protocol to produce more stringent and comprehensive anti-trafficking law.

In addition to individual states, many inter-governmental organizations have bonded together to combat transnational trafficking in persons. The most prominent of these organizations, the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT), was created in March, 2007. UN.GIFT was formed through a cooperative movement between six other distinct organizations: the International Labour Organization (ILO), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the United Nations Office on Drugs and Crime (UNODC), the International Organization for Migration, and the Organization for Security and Cooperation in Europe (OSCE). All of these organizations release their own reports detailing both the nature and severity of human trafficking around the world and their recommendation on how to best eliminate human trafficking as an international problem. To the end of producing international agreement and cooperation, the Protocol is sufficient.

(last visited on Mar. 30, 2012).

⁵⁵ Asia Foundation, <http://asiafoundation.org/in-asia/2012/02/15/mongolia-marks-passage-of-landmark-anti-trafficking-and-corruption-legislation/>, (last visited on Mar. 30, 2012).

IV. CONCLUSION

In December of 2000, the UN opened for signing the first international standard on human trafficking that defined the crime broadly enough to allow for a substantial base of legislation to be created against it. Previous efforts had focused too singularly on prostitution and sexual trafficking, ignoring the larger scope of human trafficking in areas such as forced labor. The UN Trafficking Protocol constructed a framework within which countries could pass their own legislation, creating a sense of international solidarity while at the same time allowing trafficking to be dealt with at a more localized, and therefore productive, level.

The Protocol is critiqued for being too general and vague in its measures. In doing so, however, critics hold the Protocol to a purpose it never claimed to promote. The document was not designed to be a comprehensive international law against human trafficking anticipating every possible manifestation of trafficking at every level. Rather, the Protocol was created to be a standard upon which countries could base their own legislation to properly deal with regionalized issues. In that light, the Protocol does fulfill its purpose. Countries have been supplementing the Protocol in the years since its ratification with more specific and comprehensive anti-trafficking laws. The Protocol has served as the foundation upon which the past decade of anti-trafficking legislation has been built. If further legal attention is required, it ought to be done on the national level. Internationally, however, a firm foundation has already been laid.