

Modern-Day Slavery

A sordid underworld that most people do not believe exists is thriving in the United States. Human trafficking, an umbrella term describing various forms of exploitation of persons, is commonly thought to be contained to distant countries like Thailand, India or ex-Soviet nations. However, the reality is that human traffickers operate within the United States and exploit both foreign nationals and U.S. citizens in the commercial sex industry and in labor industries. Women and children are especially targeted by manipulative and violent traffickers seeking to profit from vulnerable persons in the sex industry.

Unsuspecting foreign nationals are lured into the United States under the promise of a better future only to find themselves isolated in dirty and demeaning conditions under threats of violence. Traffickers reduce victims to the value of their labor and then take most to all of the proceeds. Whether a victim is exploited in the agricultural industry, held in someone's home as a domestic servant, or forced to perform commercial sex acts, it cannot be denied that the inhumane conditions compelled upon these persons amount to nothing less than modern slavery.

In 2007, I watched women being sold by powerful cartels to American men willing to drive across the US-Mexico border for a rowdy night out in a red light district in Reynosa. A friend of mine ran a ministry for people seeking to escape from the horrors of this life, and one night she took me and two friends inside the tall concrete walls of "Boys Town" to see this haven for vice fueled by U.S. dollars. Mexican police, corrupt and paid off by Mexican cartels, stood vigilant at the gate and ensured that the constant stream of men from the U.S. were orderly as they filed into the lively flesh market as the pulsating sound of '80s music blared from a nearby strip club. Tiny rooms lined the inner walls of the red-light district and scantily clad women stood alert at the doors enticing the men seeking sex for sale. If the women tried to leave this compound, return home or seek help, they were violently beaten by the pimps who remained quietly watchful in the bars near the human commodities for which they were the vendors.

Once my eyes were opened to this crime, I began to see it everywhere. I was unashamedly offered girls from Jamaica, Honduras and Venezuela by a Mexican trafficker during a vacation to Cancun. Later, when trekking in Kathmandu, Nepal, I listened to the stories of girls sex-trafficked from their village in the Western part of Nepal when they were as young as 14 and 16, the same ages that girls in the United States are going to middle school dances and learning to drive. The girls were lined up against a wall for selection by international sex tourists looking for something more than a counterfeit North Face backpack or hand-woven sari. For the girls in Mexico and Nepal, life was reduced to survival sex; traffickers controlled their every move and isolated them from building social structures that could result in escape or protection.

Outraged and despairing, on the plane ride back from Nepal I decided to go to law school.

During my tenure as a law student, I served as director of Anti-Trafficking Operations for Operation Broken Silence, a Memphis-based human rights nonprofit that began as a response to the genocide in Darfur, Sudan, and expanded in 2010 to include local efforts against human trafficking. During the past three years I worked with a brilliant and dedicated team in the anti-trafficking department to create a community-based response against human trafficking in Memphis and strengthen the anti-trafficking legal framework across Tennessee.

At first, the challenges were extreme. They still are, but we are beginning to overcome one of the most difficult initial hurdles: convincing people that this crime is not only happening in the United States but that traffickers are also victimizing children in our own backyards. Many are surprised to realize that according to the

Department of Justice, 83 percent of sex trafficking victims are U.S. citizens.[1] Abolitionists once needed to convince the world that slavery was immoral; now they must convince the world that it exists.

In 2010, the Tennessee General Assembly commissioned a study on exactly this question: does human trafficking exist in Tennessee and if so, to what extent is it affecting our children? The findings were alarming.[2] The Tennessee Bureau of Investigation and Vanderbilt University created a methodology that involved querying law enforcement, court representatives, group home representatives, DCS employees and guardian ad litem representatives. The respondents revealed that 78 out of 95 counties in Tennessee reported at least one case of sex trafficking in the previous 24 months, and it is suspected that nearly all counties had trafficking activity, but law enforcement and social services are not adequately trained to identify and report it. Additionally, Shelby, Davidson, Coffee and Knox counties are some of the worst offenders, reporting more than 100 cases of minor sex trafficking and more than 100 cases of adult sex trafficking during the two-year study window. By comparison, the report indicates there is more human trafficking activity in Tennessee than gang activity.

One Trafficker Behind Bars

One example of this activity is Terrance “T-Rex” Yarbrough. Yarbrough is arguably the most violent, menacing, and notorious trafficker to step foot in a Tennessee courtroom. “The brutal and depraved acts that this individual inflicted upon these women are almost impossible to fathom,” said Edward L. Stanton III, U.S. Attorney for the Western District of Tennessee.[3] Victims testified to being beaten by Yarbrough with padlocks, crowbars and dog chains, and being burned with irons and scalding hot water in order to force the women into prostitution.

According to the FBI press release, “Yarbrough repeatedly enticed vulnerable women as young as 15 years old into prostitution with false promises of love, family and prosperity. Any time a victim refused to engage in prostitution, he resorted to threats, intimidation, and violence.” During trial, jurors saw first-hand the “T-Rex” tattoos Yarbrough branded on his victims as a means of designating them as his property before forcing them to serve commercial sex buyers for literally days on end. Yarbrough was convicted on Dec. 5, 2012 on 10 counts of sex trafficking and one count of conspiracy to commit food stamp fraud. He is still awaiting sentencing at the time of this writing. Based on the extreme violence and brutality Yarbrough committed against his multiple victims, the federal sentencing guidelines are not in his favor.

While Yarbrough was prosecuted under the federal anti-trafficking law, states also retain subject matter jurisdiction over trafficking prosecutions. Tennessee is one of a handful of states aggressively seeking progressive reform in its anti-trafficking law. Over the last three years, Tennessee passed 19 laws and amendments seeking to address a targeted facet of human trafficking, including criminal provisions for traffickers, buyers and facilitators, protective provisions for child victims, and criminal justice tools for investigation and prosecution.[4] A complete anti-trafficking legal paradigm touches on many chapters in the Tennessee code, not just criminal law. Anti-trafficking law is a quickly expanding field of law with opportunity for attorneys in a variety of fields to become involved and make a tangible impact on this gruesome trade. The following is a snapshot of anti-trafficking law in Tennessee, including past enactments and the vision for what lies ahead.

Tennessee Laws

Basic criminal provisions addressing sex trafficking[5] and labor trafficking[6] were passed in 2007. Both laws have only been used a handful of times, partly because training and identification of human trafficking is insufficient and partly because federal law enforcement agencies in Tennessee are aggressively prosecuting human trafficking, particularly cases involving minors or especially egregious cases. However, additional law enforcement training conducted by the Tennessee Bureau of Investigation, combined with public awareness

campaigns organized by anti-trafficking nonprofits and women's groups, is leading to increased identification of human trafficking and new cases opened by state law enforcement.

Based on current trends of trafficking activity in Tennessee, it is reasonable to anticipate federal dockets becoming so saturated that it will be necessary for state prosecutors to actively open cases. In anticipation of increased prosecution of traffickers in state courts, one policy goal underpinning new state anti-trafficking law is ensuring that provisions criminalizing traffickers and buyers are congruent to federal penalties so that they are not finding leniency under state law.

Legislation targeting gang members involved in human trafficking passed this legislative session. To respond to increased gang involvement in human trafficking, House Bill 416 adds trafficking for commercial sex acts to the definition of "criminal gang offenses".[7] Expanding this definition allows a gang member to be punished one classification higher than the classification of the offense committed. This is particularly necessary because gangs in Tennessee are entering the market as distributors of trafficked persons and using proceeds from sexual exploitation to advance tangential criminal activity.

Currently, human trafficking is a high-profit, low-risk enterprise for gangs. They realize that an ounce of cocaine is not going to argue it is sugar when police execute a search, but a trafficking victim will often perceive herself as a girlfriend and defend the trafficker's behavior when interrogated by a patrol officer. Additionally, cocaine can only be sold once, while a trafficking victim can be sold and resold every night. House Bill 416, now passed into law, attempts to address this market shift with a sufficient deterrent.

Criminal provisions are not the only tools legislators are adding to the anti-trafficking toolbox. Communication among agencies and information from the public to the relevant agencies continue to be areas where improvement is critical. At a recent stakeholder meeting in Nashville for anti-trafficking agencies, a survivor explained that human traffickers are excellent communicators and they know that law enforcement, Department of Children's Services, nonprofits, and other key agencies are not communicating well — and the traffickers are right. To improve communication, the General Assembly passed a law in 2011 that created a statewide human trafficking hotline which connects victims and concerned members of the public to law enforcement and social services.[8] A victim can call 1-855-55-TNHTH 24 hours a day and local police and survivor advocates will be notified for rescue and arrest.

A second promising communication tool is House Bill 919, which establishes a human trafficking task force composed of state and federal law enforcement, DCS, DHS, survivors, nonprofits, legislators, mental health professionals, academics specializing in human trafficking and other agencies. The task force is required to meet bi-annually to establish and evaluate effective anti-trafficking measures, review services for which survivors are entitled, and establish policies to improve coordination among the agencies to prevent human trafficking.[9]

A variety of victim protection provisions are also available for a survivor of human trafficking in Tennessee. Survivors may access civil remedies in an action against a trafficker in a statutorily created remedy specifically for a victim of a "human trafficking offense,"[10] and a prevailing plaintiff, or the plaintiff's estate, is entitled to attorney's fees, crime victim compensation, costs of medical and psychological treatment, temporary housing, child care, return of property, and even repatriation to the victim's home country, among others.

The challenge is finding a plaintiff willing to confront their trafficker in court, a process that is both intimidating and a strain on the livelihood of some victims. To account for this, Public Chapter 242 passed this year requires a convicted trafficker furnish mandatory restitution to the victim.[11] And because some parents sell their own children for commercial sex acts, parental rights shall now be terminated for the convicted parent of the child victim and the child's siblings under House Bill 710.[12] Finally, an increasing number of victim-friendly provisions are passing into law in Tennessee, and in 2014 a statewide victim assistance plan will be introduced to the Tennessee legislature by top state agencies that are spearheading a holistic scheme designed to

provide uniform services for survivors under Public Chapter 963.[13]

Attorneys Can Help

Victor Hugo, in *Les Misérables*, prophetically opined on modern slavery. “We say that slavery has vanished from European civilization, but this is not true. Slavery still exists, but now it applies only to women and its name is prostitution.” While men and boys are also trafficked for labor and sex, the majority of human trafficking victims in the U.S. are sexually exploited women and young girls, usually lured into the trade between the ages of 12 and 14 years old.

These children are some of the most voiceless and broken people in our nation. They are forced to live hidden in isolation away from constructive social influences that might contravene the deceit and control of the trafficker, are subjected to incisive psychological manipulation and brutal violence, and even once a survivor is rescued, the road to rehabilitation is long and met with unending complexities.

There is still much work to be done in Tennessee, but abolitionists have built a strong legal foundation that is slowly permitting anti-trafficking agencies to combat the trade with proactive measures.

Attorneys are vested with a power that generates tremendous influence and access to justice for those for whom they exercise this power. I advocate that there is no nobler use of a juris doctor than to deploy its power and influence for the good of others. No other profession confers such unique influence that may be wielded in service of those who are voiceless in our society and cannot access justice themselves. The anti-trafficking field is a relatively new area of law and even the federal provisions are only 13 years old; basic anti-trafficking laws have only been enacted within the last few months in some states.

A movement is growing in the United States, a second abolition against modern slavery, and it is attorneys who have an opportunity to build the legal structure that will carry on to a new generation the work that the 13th Amendment began so long ago. Until slavery is eradicated in all its forms, this work must persist, and it is attorneys who are peerless in their ability to stand in the breach on behalf of the oppressed.

Notes

1. Duren Banks and Tracey Kyckelhahn, “Characteristics of Suspected Human Trafficking Incidents,” U.S. Department of Justice, 2008-2010. Available at <http://bjs.gov/content/pub/pdf/cshti0810.pdf>.
2. Tenn. Bureau of Investigation & Vanderbilt Center for Community Studies, “Tennessee Human Sex Trafficking and Its Impact On Children and Youth” 17 (2011).
3. Press Release, Federal Bureau of Investigation, “Notorious Sex Trafficker Terrence ‘T-Rex’ Yarbrough Faces up to Life in Prison Following Sex Trafficking Conviction in Tennessee” (Dec. 5, 2012) (available at <http://www.fbi.gov/memphis/press-releases/2012/notorious-sex-trafficker-terrence-t-rex-yarbrough-faces-up-to-life-in-prison-following-sex-trafficking-conviction-in-tennessee>).
4. Shared Hope Int’l, “Protected Innocence Challenge Tennessee Report Card” (2012), available at http://sharedhope.org/PICframe2/reportcards/PIC_RC_2012_TN.pdf.
5. *Tenn. Code Ann.* § 39-13-309 (Supp. 2012).
6. *Tenn. Code Ann.* § 39-13-308 (Supp. 2012).
7. H.B. 416, 108th General Assembly (Tenn. 2013).
8. *Tenn. Code Ann.* § 39-13-313 (Supp. 2012).
9. Pub. Ch. 242, 108th General Assembly (Tenn. 2013).

10. A “human trafficking offense” includes involuntary labor servitude, under § 39-13-307; trafficking persons for forced labor or services, under §39-13-308; trafficking a person for sexual servitude, under § 39-13-309; or promoting the prostitution of a minor, under § 39-13-512.
 11. H.B. 128, 108th General Assembly (Tenn. 2013).
 12. H.B. 170, 108th General Assembly (Tenn. 2013).
 13. Pub. Ch. 963, 107th General Assembly (Tenn 2012).
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