

Human Trafficking Senate Judiciary Committee

Introduction

The United States faces a significant problem in human trafficking, one of the fastest growing criminal industries in the world. Currently, the United States is a destination country for trafficking with estimates of 14,500-17,500 people being trafficked into the country each year according to federal reports. However, the actual human trafficking problem is much larger as this number does not include those who are trafficked within the United States. U.S. federal law defines human trafficking as “the recruitment, harboring, transportation, provision, or obtain of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” In 2014, the National Human Trafficking Resource Center (NHTRC) hotline received reports of over 5,000 potential trafficking cases, 31.4% of which involved minors. In California alone, one of the largest human trafficking sites in the U.S., 1,277 victims were identified between July 2010 and June 2012.

While there are many different forms of human trafficking, the two most prevalent types of trafficking are forced labor and sex trafficking. Forced labor is the most predominant form of human trafficking worldwide. Victims of labor trafficking may be forced into many different types of labor such as domestic service, agricultural work, cleaning services, manufacturing, or construction. Within the United States, sex trafficking is a particularly large problem. According to U.S. federal law, sex trafficking is any forced or coerced commercial sexual activity or any forced sexual activity by a minor. Of the 3,598 reports of sex trafficking cases the NHTRC received in 2014, 1,322 involved minors, making sex trafficking the cause of over 80% of human trafficking cases involving minors. The easy access and anonymity of the internet has made human trafficking easier than ever before.

Past Legislation

In response to the growing human trafficking problem, the United States has passed several acts to combat trafficking and aid the victims. The first of these acts, the Mann Act of 1910, simply makes it illegal to transport any person, between states or across national borders, for the purpose of engaging in prostitution. The Trafficking Victims Protection Act (TVPA) of 2000 forms the cornerstone of human trafficking legislation. The TVPA established human trafficking as a federal offense with harsh punishments; it also established methods of prosecuting traffickers and of preventing trafficking. In addition, the TVPA created several ways to aid victims of trafficking such as giving them restitution or the T visa, which allows victims and their families to temporarily remain in the United States and later apply to become residents. The TVPA also founded the Office to Monitor and Combat Trafficking in Persons which publishes a Trafficking in Persons (TIP) report annually.

The Trafficking Victims Protection Act has since been reauthorized four times, first in 2003, once in 2005, in 2008, and again in 2013. The Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003 added provisions to protect victims such as protecting them from deportation and creating a federal cause of action that allowed them to sue their traffickers. The TVPRA of 2005 included a program for sheltering victims who are minors and expanded methods to combat

international trafficking. The TVPA of 2008 established new prevention strategies and new systems for the collection and publication of data. It also expanded the protections of the T visa and increased sanctions against traffickers. Finally, the TVPRA of 2013 created and improved existing programs to prevent American citizens from buying products made by victims and to prevent child marriage. Another act also passed in 2013 was the National Defense Authorization Act. While the majority of the National Defense Authorization Act relates to the Department of Defense, sections of the act created methods to investigate potential trafficking by a government contractor and enables government agencies to terminate any activity where a contractor is participating in human trafficking.

Recent Developments

Recently, the Justice for Victims of Trafficking Act was passed through the Senate, although it was temporarily delayed due to an abortion controversy. The provision that caused the delay would have prevented restitution funds from being used for abortions, a provision similar to the Hyde amendment which prevents federal funds from being used to pay for abortions unless the pregnancy is due to rape or incest. Democrats opposed the provision, calling it an expansion of the Hyde amendment as the restriction would be applied to “fees and fines, not just taxpayer funds” and saying that it could “lead to a dramatic expansion of abortion restrictions in future years.” Democrats filibustered the bill for months before a compromise finally allowed the bill to pass, 99-0. The final bill cannot provide federal funding for abortion but does not include any new restrictions on abortion funding, resulting in a win for both parties. The provisions of the final bill created a \$5,000 fine for people convicted of trafficking or sexual abuse which are to be put into a Domestic Trafficking Victim’s Fund to aid victims; made victims eligible for federal benefits much more quickly; and require the Department of Justice to better train officers and prosecutors investigating trafficking as well as create an annual report of how states are following sex trafficking laws.

With all the legislation that has been passed in recent years to combat human trafficking, a new solution is being suggested to eliminate sex trafficking: legalizing prostitution. In the United States, currently, prostitution is legal only in a few counties in Nevada in the form of licensed brothels. However, internationally, countries have already legalized prostitution, such as Germany and New Zealand; in Germany, in the decade after the legalization of prostitution, sex trafficking decreased by 10%. By creating a legitimate supply of people who want to engage in prostitution to meet the demand present, it would help decrease the number of victims forced into prostitution. Legalizing prostitution has many other potential benefits such as encouraging forced labor victims to step out and seek aid, giving prostitutes labor rights, and ensuring cleaner working conditions. In addition, legalizing prostitution could help local economies by serving as a large source of new tax revenue. Opponents of legalization argue that prostitution is simply immoral at its core. They say that the act demeans prostitute who is treated as an object.

Democratic Point of View

The legalization of prostitution has yet to be debated widely on the national debate stage. However, a poll conducted by YouGov, an international internet-based market research firm found that 42% of Democrats believed that prostitution should be legalized. In Nevada, where prostitution has made it before the state legislature, 56% of Democrats believe that prostitution should be

legalized. When Senator Harry Reid brought prostitution before the Nevada state legislature in 2011, he argued that it was time to outlaw prostitution. He claimed that it is “an impediment to economic development because it discourages businesses from moving here.” Then Senate Majority Leader Steven Horsford stated that he personally did not approve of prostitution but that he believed that the issue should be handled by local governments.

Republican Point of View

While the legalization of prostitution has yet to find national attention, a poll conducted by an internet-based research firm found that only 26% of Republicans believed that prostitution should be legalized. However, in Nevada, a state where prostitution has been brought before the state legislature, 51% of Republicans believe that prostitution should be legal, a percentage much higher than its national counterpart. When the issue of prostitution was brought before the Nevada legislature, Republican Governor Brian Sandoval stated that, “It’s up to the counties to decide if they want it or not.” A sentiment echoed by his fellow Republican and then-Lieutenant Governor Brian Krolicki and then-Senate Minority Leader Mike McGinness.

Conclusion

While much legislation has been passed to combat trafficking, by prosecuting traffickers and aiding victims of trafficking, human trafficking continues to be a serious issue in the United States. Numerous solutions have been implemented, revised, and expanded upon to combat forced labor and sex trafficking, but it may be time to seek entirely new methods. The legalization of prostitution has yet to be debated at a national level. While it serves as one potential way to combat sex trafficking, it would also have far reaching consequences on American society. Simply legalizing prostitution would not provide any methods of aiding the victims of forced prostitution who come forward. In addition to trying to stop current trafficking, we must also work to prevent future trafficking; without working to prevent future trafficking, there can be no end to trafficking.

Questions to Consider

1. What can be done to decrease the number of people who are trafficked into the country each year?
2. Should we attempt to combat trafficking where it is coming into the country or where victims end up?
3. What can be done to discourage traffickers? Should the penalties for trafficking be made more severe?
4. Many victims of human trafficking are afraid to actually step out and seek help. What can be done to encourage victims to speak up?
5. What else can be done to aid survivors of human trafficking?
6. What should be the focus of anti-human trafficking legislation, aid for victims, penalties for traffickers, or prevention?
7. How can we work to make sure that people are not forced into a situation where forced labor or prostitution seems like a viable option to support themselves or their family?
8. Should prostitution be legalized throughout the entire United States?
9. What are the benefits of legalizing prostitution? What are the negatives?
10. If prostitution were legalized, what types of regulations would be necessary for it to be a safe and healthy industry?

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