

Sex Trafficking and the 2006 World Cup in Germany: Concerns, Actions and Implications for Future International Sporting Events

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I. INTRODUCTION

¶1 Each year millions of people around the world are transported through force or coercion into lives of forced labor and sexual servitude.¹ The great majority of these victims are women who are exploited in commercial sex industries.² Prior to and during the FIFA 2006 World Cup in Germany, predictions that 40,000 women and children would be brought to serve the needs of the millions of World Cup fans were widely reported in the international media.³ Though these estimates proved to be largely unfounded, the situation raised several issues regarding potential linkages between large international events and increased human trafficking. In this comment I explore the anti-trafficking efforts employed in Germany, the influence and effectiveness of the international community's preventative preparation, and the implications for future international sporting events. The situation during and following the World Cup in Germany demonstrated the importance of further study regarding linkages between international events and human trafficking. These events create circumstances that can be exploited by human traffickers, but they also create a global platform for raising awareness and increasing universal trafficking prevention efforts. Using lessons learned in Germany, the international community should view these events as opportunities – not for traffickers – but for placing the issue of human trafficking into the global spotlight.

II. SEX TRAFFICKING AT THE 2006 WORLD CUP IN GERMANY

¶2 In the months preceding the FIFA 2006 World Cup in Germany, predictions arose that human trafficking would increase during the event. Estimates that 40,000 women and children would be brought to Germany to serve the needs of the millions of World Cup fans were reported throughout the world.⁴ Though this estimate was almost immediately disclaimed by German officials and trafficking experts as unrealistic, it nevertheless became the number most frequently used in the media.⁵ Once the fears were raised, the international community called on Germany to increase its trafficking

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¹ U.S. STATE DEPT., 2007 TRAFFICKING IN PERSONS REPORT 10 (2007) [hereinafter *TiP Report*].

² *Id.*

³ Karen Chon & Derek Ellerman, Op-Ed., *Soccer with a Side of Slavery*, WASH. POST, June 10, 2006, at A19 [hereinafter Chon & Ellerman].

⁴ *Id.*

⁵ JANA HENNIG, ET AL., INTERNATIONAL ORGANIZATION FOR MIGRATION, TRAFFICKING IN HUMAN BEINGS AND THE 2006 WORLD CUP IN GERMANY (2007).

prevention efforts. In the United States, Congressman Christopher Smith sponsored a resolution encouraging the German government to implement the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, while the State Department recommended the German government increase police enforcement during games.⁶ The European Parliament called on all members to launch a Europe-wide prevention and education program to combat human trafficking and to ratify the Council of Europe Convention on Action Against Trafficking in Human Beings.⁷ Several non-governmental organizations (hereinafter “NGOs”), including Amnesty International, requested that the German government prepare for the expected rise in trafficking by providing extra support to NGOs running hotlines, shelters and public campaigns.⁸

¶3 In response to the concerns raised, the German government announced the measures it would be taking during the World Cup to address potential trafficking, including increased police presence in host cities, a prevention plan developed under a national security concept, emergency hotlines and other NGO support.⁹ In the end, no marked increase in human trafficking occurred in Germany during the World Cup.¹⁰

¶4 This comment will address the possible reasons for this result and what implications the 2006 World Cup raised for future international sporting events. Although human trafficking involves forms of forced labor outside of prostitution, this discussion will be limited to women trafficked for the purpose of sexual servitude.

III. HUMAN TRAFFICKING DEFINED

¶5 Human trafficking is a topic of growing international concern. It has become the third most profitable international criminal activity after drug and arms trafficking.¹¹ This profitability greatly increases when trafficking is combined with sexual servitude.¹² The United Nations estimates human trafficking to be a \$5 billion to \$7 billion a year industry.¹³ Throughout the world an estimated 2,000,000 women and children are held in sexual servitude.¹⁴ Though trafficking can involve any type of forced labor, sexual servitude is by far the most common.¹⁵ The current state of international trafficking has

⁶ H.R. 860, 109th Cong. (2006); Helene Cooper, *U.S. Warns Germany about Sex Trafficking*, N.Y. TIMES, June 6, 2006, at A7.

⁷ Press Release, European Parliament, MEPs Call for Action to Combat Forced Prostitution (March 15, 2006) available at http://www.europarl.europa.eu/news/expert/infopress_page/014-6111-074-03-11-902-20060309IPR06017-15-03-2006-2006-true/default_en.htm.

⁸ *Germany's World Cup Brothels: Hearing on H.R. 860 Before the H. Comm. Int'l Relations, Subcomm. On Africa, Global Human Rights and Int'l Operations*, 106th Cong. (2006) [hereinafter *Statement of Maureen Greenwood-Basken*] (statement of Maureen Greenwood-Basken, Advocacy Director, Amnesty International USA).

⁹ Press Release, German Embassy, Washington D.C., Fighting Human Trafficking: Measures Taken by Germany in Relation to the Soccer World Cup (June 14, 2006).

¹⁰ HENNIG, *supra* note 5, at 2.

¹¹ M. Cherif Bassiouni, *A Global Perspective on Trafficking*, in *IN MODERN BONDAGE: SEX TRAFFICKING IN THE AMERICAS* 92 (Int'l Human Rights Law Inst. DePaul U. C. of Law ed., 2002).

¹² *Id.*

¹³ JANICE RAYMOND, *COALITION AGAINST TRAFFICKING IN WOMEN, GUIDE TO THE NEW UN TRAFFICKING PROTOCOL 1* (2001) [hereinafter RAYMOND, *GUIDE TO THE NEW UN TRAFFICKING PROTOCOL*].

¹⁴ *INVESTIGATING INTERNATIONAL TRAFFICKING IN WOMEN AND CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION*, 2 (Int'l Human Rights Law Inst. DePaul U. C. of Law ed., 2001).

¹⁵ *TiP Report*, *supra* note 1, at 2.

led the Vatican to publicly state that trafficking in persons is now worse than the historical trade in African slaves.¹⁶

¶16 Human trafficking is difficult to define for several reasons. One of the main problems is that trafficking takes many different forms and not all instances of trafficking involve the same elements. Additionally, there are disagreements in the international community as to certain elements of the definition. For example, it is generally believed that trafficking includes a border crossing, though domestic trafficking exists within many countries. Also, there is controversy surrounding the issue of victim consent. Most definitions require some kind of coercion but there is little agreement as to when a situation should be considered coerced or consensual. In general, trafficking involves the forced movement of persons from one country to another (but can also be within a country) and includes recruitment, transportation, harboring or facilitation of border crossing in international cases.¹⁷ For the action to be “forced” there does not have to be a physical act of abduction, so long as there are threats, coercion, fraud or deception.¹⁸ In some situations traffickers target multiple victims or friends. For example, in one case involving two Eastern European women who were trafficked to Germany with a promise of work as waitresses, the traffickers would threaten the life of one woman in order to get the other woman to serve clients, and vice versa.¹⁹

¶17 The issue of consent becomes more controversial for trafficked adults who know they will be sex workers in the destination country.²⁰ While children are incapable of consenting to be trafficked or to being sex workers, adults pose a more difficult issue.²¹ There are some who hold that women who knowingly allow themselves to be smuggled across a border for the purpose of engaging in sex work should not be considered trafficking victims.²² On the other side of the debate is the position that poverty and societal issues create situations where women have few other alternatives, if any, and so consent is impossible when there are no other viable options.²³

¶18 Though the definitions vary and are controversial, most trafficking definitions include three elements: (1) the act of the perpetrator, (2) how the act is committed, and (3) the purpose of exploitation.²⁴ The main international definition is found in United Nations Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children (“UN Protocol”), which defines trafficking as:

[T]he recruitment, transportation, transfer, harboring 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

¹⁶ *Trafficking now 'worse than African slavery,'* CNN.COM, Nov. 14, 2006, available at http://www.iht.com/articles/ap/2006/11/14/europe/EU_GEN_Vatican_Human_Trafficking.php [hereinafter *Trafficking now*].

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ NORBERT CYPRUS, INTERNATIONAL LABOR OFFICE, *TRAFFICKING FOR LABOR AND SEXUAL EXPLOITATION IN GERMANY* 17-18 (2005).

²⁰ RAYMOND, *GUIDE TO THE NEW UN TRAFFICKING PROTOCOL*, *supra* note 13, at 6.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ Martti Lehti & Kauko Aromaa, *Trafficking for Sexual Exploitation*, 34 *CRIME & JUST.* 133, 181 (2006) [hereinafter *Lehti & Aromaa*].

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.²⁵

One of the main criticisms of this definition is that it focuses too much on pre-exploitation activities and not enough on what occurs once the victim has been trafficked.²⁶ For example, the argument has been made that the phrase “for the purpose of exploitation” does not cover the actual exploitation that occurs once the victim has been trafficked.²⁷ But the definition is the most controversial part of the UN Protocol for another reason.²⁸ As previously mentioned, there are different schools of thought regarding consent and prostitution. During the development of the UN Protocol, countries and organizations that supported the abolition of prostitution lobbied for a definition that did not require victims to prove they had been forced into the situation.²⁹ Countries that have, or support, legalized or decriminalized prostitution, in addition to NGOs that support allowing women to choose prostitution as a profession, fought to have the definition limited to forced or coerced trafficking, and to eliminate any mention of sexual exploitation.³⁰ In the end, the anti-prostitution camp prevailed – resulting in the present definition. However, their victory is questionable as the UN Protocol does not cover situations of consensual prostitution.³¹ Also, supporters of decriminalization point out that consent is only irrelevant in situations of force or coercion, which by definition imply a lack of consent.³²

¶9

Another major issue concerning the definition is distinguishing human trafficking from human smuggling. This task is made even more difficult by the fact that at any point during the smuggling process the person being smuggled may become a trafficking victim.³³ In general, the main difference is that trafficking is done with the purpose of exploitation.³⁴ Smuggling tends to involve a criminal transaction between two willing parties, most commonly providing illegal transportation in exchange for payment.³⁵ Alternatively, trafficking involves a situation where the trafficker exploits the victim for profit.³⁶ Though smuggling is often an element of trafficking, actual movement from one locale to another is not required for a trafficking situation to exist.³⁷ This is analogous to kidnapping laws that only require movement of the victim be restricted – and not that

²⁵ United Nations Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, G.A. Res. 55/25, Annex II, U.N. Doc. A/55/383 (Nov. 15, 2000) [hereinafter *UN Protocol*].

²⁶ Lehti & Aromaa, *supra* note 24, at 182.

²⁷ *Id.*

²⁸ RAYMOND, GUIDE TO THE NEW UN TRAFFICKING PROTOCOL, *supra* note 13, at 3.

²⁹ *Id.*

³⁰ *Id.* at 4.

³¹ Alison Cole, *Reconceptualizing Female Trafficking: The Inhuman Trade in Women*, 12 CARDOZO J.L. & GENDER 789, 795 (2006).

³² *Id.*

³³ HUMAN SMUGGLING AND TRAFFICKING CENTER, U.S. STATE DEPT., FACT SHEET: DISTINCTIONS BETWEEN HUMAN SMUGGLING AND HUMAN TRAFFICKING 1 (2006).

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

victim actually have to be moved.³⁸ Still, the two activities are difficult to distinguish, especially when smuggling is accompanied by a situation of debt bondage – where the smuggled person enters into a contract with the smuggler to work off the smuggling debt.³⁹ Though this scenario appears to be indistinguishable from trafficking, it is only considered trafficking if the agreement was induced or enforced through the use of fraud, force or coercion.⁴⁰ It is the presence of coercive elements that usually turns a smuggling situation into trafficking.⁴¹

¶10 Beyond the definition, there are several other factors unique to human trafficking that create challenges in prevention and law enforcement. One of the most pressing of these issues is the fact that victims of trafficking are often treated as criminals, as they often end up as illegal immigrants in the destination country or working in an illegal trade such as prostitution.⁴² When discovered by local law enforcement they are often seen as immigration law violators or prostitutes instead of victims.⁴³ That problem directly contributes to the next major issue, which is a lack of reliable data. Victims of trafficking are often distrustful of law enforcement and are reluctant to provide information or report crimes against them for fear of deportation.⁴⁴ Victims also fear retaliation from their traffickers, who are often from the same country of origin and have access to the victim's family.⁴⁵ For example, a group of women from Nigeria and Ghana were promised legal work in Germany and agreed to pay their traffickers for transportation to Europe, but once they arrived in Germany they were forced to work in brothels to pay off their debts.⁴⁶ In order to ensure the women's compliance, the traffickers had them take a "voodoo oath" before leaving their countries of origin, agreeing that any violation of the agreement would result in punishment of their family members.⁴⁷

¶11 Obtaining information from, or regarding, the actual traffickers is even more difficult as access to them is nearly impossible. What data is available is hard to use because it tends to be too broad.⁴⁸ For example, data on illegal border crossings does not differentiate between smuggling and trafficking and is rarely gender specific.⁴⁹

¶12 Another issue is that, even in countries where prostitution is illegal, it is low on the list of enforcement priorities.⁵⁰ Adding to this fact are policy disincentives.⁵¹ Regardless

³⁸ See *State v. Luurtsema*, 811 A.2d 223, 237 (Conn. 2002).

³⁹ HUMAN SMUGGLING AND TRAFFICKING CENTER, *supra* note 33, at 2.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Jane Freedman, *Selling Sex: Trafficking, Prostitution and Sex Work amongst Migrant Women in Europe*, in GENDER AND INSECURITY: MIGRANT WOMEN IN EUROPE 119, 119 (Jane Freedman ed., 2003).

⁴³ *Id.*

⁴⁴ *Id.* at 121.

⁴⁵ INVESTIGATING INTERNATIONAL TRAFFICKING IN WOMEN AND CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION, *supra* note 14, at 2.

⁴⁶ CYPRUS, *supra* note 19, at 17.

⁴⁷ *Id.*

⁴⁸ FRANK LAZCO ET AL., INT'L ORG. FOR MIGRATION, TRAFFICKING IN WOMEN FROM CENTRAL AND EASTERN EUROPE: A REVIEW OF STATISTICAL DATA, A CHAPTER IN MIGRATION CHALLENGES IN CENTRAL AND EASTERN EUROPE (2002).

⁴⁹ *Id.*

⁵⁰ INVESTIGATING INTERNATIONAL TRAFFICKING IN WOMEN AND CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION, *supra* note 14.

⁵¹ *Id.*

of the law the country has adopted, trafficking victims are a burden – they may require criminal proceedings, deportation proceedings or social services.⁵²

IV. TRAFFICKING AND PROSTITUTION

¶13 As noted above there is a difference between people who are trafficked and people who engage another to smuggle them across a border. In terms of prostitution this difference usually takes the form of a distinction between trafficked women forced into prostitution and those who migrate and willingly enter into the profession.⁵³ There are two main schools of thought regarding this distinction. The first is that anti-trafficking laws should not impact the rights of women who choose sex work as a profession.⁵⁴ The second position is that there should be no distinction and that prostitution cannot be legitimized because it is rooted in the exploitation of women who are pressured by poverty and other factors into the work.⁵⁵ This comment is not focused on this difference of thought. For purposes of clarity, prostitution that results from trafficking will be considered forced prostitution within this discussion.

¶14 Outside of these two groups there are also those who simply confuse the two issues, treating sex trafficking and prostitution interchangeably.⁵⁶ This confusion is likely based in the fact that trafficking for the purpose of sexual exploitation is the most common and widespread form of human trafficking.⁵⁷ There are also cases that fall into a gray area. These are cases where the trafficked women have agreed to work in the sex industry under the assumption they will work in decent conditions and earn reasonable wages.⁵⁸ The reality often is that these women are kept in bondage, subjected to physical and sexual violence, and their traffickers take most, if not all, of their income.⁵⁹

V. HUMAN TRAFFICKING IN THE INTERNATIONAL COMMUNITY

¶15 Internationally, trafficking has been addressed by governments and multi-national organizations that have employed several different methodologies. The focuses of these methodologies range from victim protection and rehabilitation to cracking down on traffickers and increasing prosecution efforts.

A. *The UN Protocol*

¶16 One of the most prominent methodologies is in the UN Protocol, the purpose of which is to prevent and combat human trafficking, with a particular focus on women and children. The UN Protocol focuses on protecting and assisting the victims of trafficking, and promoting cooperation among United Nations members in order to meet those

⁵² *Id.*

⁵³ MONICA O'CONNOR AND GRAINNE HEALY, COALITION AGAINST TRAFFICKING IN WOMEN, THE LINK BETWEEN PROSTITUTION AND SEX TRAFFICKING: A BRIEFING HANDBOOK (2006).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ HENNIG, *supra* note 5, at 16.

⁵⁷ RAYMOND, GUIDE TO THE NEW UN TRAFFICKING PROTOCOL, *supra* note 13.

⁵⁸ HUMAN SMUGGLING AND TRAFFICKING CENTER, *supra* note 33, at 2.

⁵⁹ *Id.*

objectives.⁶⁰ It has been signed by 117 countries, and went into force at the end of 2003 upon ratification by forty countries.⁶¹ The UN protocol has been criticized for being too limited, as it only covers transnational trafficking involving a criminal organization, thus excluding domestic trafficking and traffickers who are not part of organized crime.⁶² Also, most trafficking legislation lacks substantive protection or assistance for trafficking victims. Though the UN Protocol does address victims' rights, that portion of the protocol is not mandatory.⁶³ For example, in reference to allowing victims to remain in the country they were trafficked to, under the UN Protocol member states "*shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.*"⁶⁴

B. Trafficking Policy in Europe

¶17 In Europe, trafficking has increased because of the economic and social problems in Eastern Europe.⁶⁵ These problems have created an ideal situation for traffickers who have a large supply of women living in poverty and who are eager to leave their countries in search of employment. Moreover, travel for these women to destination countries in Western Europe is fairly easy and inexpensive.⁶⁶

¶18 While traffickers have it easy in some respects, law enforcement faces many challenges. One of the main issues is that Europe's many countries have created a patchwork response to the problem. The variety of penalties, enforcement and prevention efforts within the European Union hinder effective trafficking prevention and penalization.⁶⁷ Varying definitions of trafficking, and varying interests and policy objectives, have created a situation where the primary issue is illegal immigration and the rights of the trafficked women comes second.⁶⁸ In many countries, trafficking victims are held in police custody, have no opportunity to seek unpaid wages and are quickly sent back to their countries of origin if they are unwilling to participate in criminal proceedings.⁶⁹ In addition to raising human rights concerns, this has become a cyclical problem. Once victims return home they are faced with the same dire economic and social conditions that led them to be trafficked in the first place, which creates the problem of re-trafficking.⁷⁰ For example, there are estimates that thirty to fifty percent of

⁶⁰ *UN Protocol*, *supra* note 25, at 2.

⁶¹ UN Office on Drugs and Crime, Signatories to the UN Convention against Transnational Crime and its Protocols, available at http://www.unodc.org/unodc/en/crime_cicp_signatures_trafficking.html [hereinafter UN Office on Drugs and Crime].

⁶² Anke Sembacher, *The Council of Europe Convention on Action Against Trafficking in Human Beings*, 14 TUL. J. INT'L & COMP. L. 435, 440 (2006).

⁶³ Nilanjana Ray, *Looking at Trafficking Through a New Lens*, 12 CARDOZO J.L. & GENDER 909, 918 (2006).

⁶⁴ *UN Protocol*, *supra* note 25, at 4.

⁶⁵ Lehti & Aromaa, *supra* note 24, at 140.

⁶⁶ *Id.*

⁶⁷ Lindo R. Victoria, *The Trafficking of Persons into the European Union for Sexual Exploitation: Why it Persists and Suggests to Compel Implementation and Enforcement of Legal Remedies in Non-complying Member States*, 29 B.C. INT'L & COMP. L. REV. 135, 145 (2006).

⁶⁸ FREEDMAN, *supra* note 42, at 125.

⁶⁹ Ray, *supra* note 63, at 919.

⁷⁰ *Id.* at 920.

trafficking survivors who are repatriated into countries in Eastern Europe are eventually re-trafficked.⁷¹

¶19 Also, uniformity of policy in Europe is hindered by a lack of action by some member states.⁷² For example, the Council of Europe Convention on Action Against Trafficking in Human Beings has only been ratified by nine countries, mostly those in Eastern Europe that rank high on the list of countries of origin for trafficking victims in Europe.⁷³ Another issue that exists is that the response of some countries actually contributes to the cycle of trafficking.⁷⁴ The tightening of immigration laws tends to increase the chance trafficked persons will be returned to their countries of origin and into the same conditions that motivated their migration in the first place.⁷⁵

¶20 European Union legislation requires that member states take measures to ensure that trafficking is punished.⁷⁶ While this legislation and the UN Protocol are focused more on prosecution, the European Parliament is in the process of developing a more victim-centered anti-trafficking plan. The initial version of this plan is based on a human rights approach, focusing on victims' rights and promoting international cooperation.⁷⁷ In recommending a "human rights" approach, the plan advises that members should ensure that victims are protected at all stages.⁷⁸ While promoting regional initiatives, the plan encourages strengthening of international cooperation in regard to investigations, exchange of information, law enforcement, victim identification and reintegration.⁷⁹ The plan also calls for human trafficking to receive the same level of investigation and attention as other organized crime activities.⁸⁰

C. *The United States Approach to Human Trafficking*

¶21 As a single country, the United States does not face the same issues that necessitate legal uniformity in the EU, though trafficking laws do vary at the state level. The main trafficking law in the United States is the Trafficking Victims Protection Act ("TVPA"), which is aimed at deterring trafficking, punishing traffickers and protecting and rehabilitating the victims.⁸¹ The law must be reauthorized every two years to remain in effect, which occurred most recently in 2005, and a bill to reauthorize the statute was introduced in Congress in January 2007.⁸² Under the TVPA, victims of trafficking are

⁷¹ FREEDMAN, *supra* note 42, at 126.

⁷² Sembacher, *supra* note 62, at 453.

⁷³ *Id.*, Council of Europe Convention on Action Against Trafficking in Human Beings, *available at* <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=197&CM=8&DF=10/5/2007&CL=ENG>.

⁷⁴ FREEDMAN, *supra* note 42, at 119.

⁷⁵ *Id.*

⁷⁶ Lehti & Aromaa, *supra* note 24, at 175.

⁷⁷ Press release, European Parliament, Taking action against trafficking in human beings, (Sept. 11, 2006), *available at* http://www.europarl.europa.eu/news/expert/briefing_page/12350-313-11-45-20061106BRI12349-09-11-2006-2006/default_p001c029_en.htm.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Victims of Trafficking and Violence Protection Act of 2000, Public Law No. 106-386, 114 Stat. 1464, 1518.

⁸² Jeffrey Thomas, *U.S. Determined to Fight Trafficking, Bush Says, Signing New Law*, THE WASHINGTON FILE, *available at* <http://usinfo.state.gov>; *see also* H.R. 270: Trafficking Victims Protection Reauthorization Act of 2007, *available at* <http://www.govtrack.us/congress/bill.xpd?bill=h110-270>.

not immediately deported but are most often allowed to stay in the country under a “continued presence” status. This allows the victims to stay pending a trial outcome or through a “T” visa, which allows them to stay for up to three years and thereafter apply for legal permanent status.⁸³

¶22 In addition to looking at trafficking issues domestically, the U.S. State Department issues a report each year, evaluating the trafficking efforts and issues of other countries.⁸⁴ The Trafficking in Persons report (“TiP report”) is prepared by the State Department for Congress, and evaluates the efforts of foreign governments to eliminate severe forms of trafficking.⁸⁵ This evaluation (known as the “three P’s”) focuses on prosecution of traffickers, prevention efforts and protection of victims.⁸⁶ Protection of victims includes rescue, rehabilitation and reintegration (the “three R’s”).⁸⁷ Each country is ranked in one of three tiers.⁸⁸ Tier 1 is comprised of governments who fully comply with the minimum standards set forth in the TVPA, while the countries in Tier 3 do not comply with the minimum standards and are making no effort to do so.⁸⁹ Tier 2 is actually divided into two parts: Tier 2 and Tier 2 Special Watch List.⁹⁰ Countries in either part do not fully comply with the minimum standards, but are making significant efforts to reach compliance.⁹¹ Placement on the “Special Watch List” requires one of three additional concerns: that the number of trafficking victims in the country is significant or increasing, the country has failed to provide evidence of increasing efforts to fight trafficking, or the “significant efforts” required for Tier 2 placement are based on commitments the country has made to take additional future steps in the next year.⁹²

¶23 Countries that receive a Tier 3 ranking can potentially lose non-humanitarian, non-trade-related assistance from the United States.⁹³ Though the rankings are based on each country’s individual trafficking situation, the report has been criticized for allowing politics to influence the rankings; notably all but two of the nine countries on the worst offenders list are not allies of the United States.⁹⁴ Another criticism of the report is that the State Department should also evaluate a country’s effort toward criminalizing or enforcing laws on pimping, and soliciting and patronizing prostitution.⁹⁵ The crux of this argument is that tightening these laws will reduce demand and thereby reduce the number

⁸³ *Id.*

⁸⁴ *TiP Report*, *supra* note 1.

⁸⁵ *Id.* at 5. *See also* Human Smuggling and Trafficking Center, *supra* note 33, at 6 (explaining that “severe forms” of trafficking in persons means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining 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).

⁸⁶ *TiP Report*, *supra* note 1, at 5.

⁸⁷ *Id.*

⁸⁸ U.S. STATE DEPT., TRAFFICKING IN PERSONS INTERIM ASSESSMENT (Feb. 2006).

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ Cooper, *supra* note 6.

⁹⁵ KENNETH FRANZBLAU, DEMAND DYNAMICS: THE FORCES OF DEMAND IN GLOBAL SEX TRAFFICKING 69 (Int’l Human Rights Law Inst. of DePaul U. C. of Law et al. eds., 2004).

of women trafficked for prostitution and sex tourism.⁹⁶ This argument may have a logical basis, but it would likely raise policy concerns as several countries listed in Tier 1, including Germany, Australia, Canada, and the Netherlands, do not criminalize prostitution.

VI. A CLOSER LOOK AT GERMANY

A. *Trafficking in Western Europe and Germany*

¶24 Germany is one of five countries in Western Europe that the United Nations ranks as “very high” as a destination country for trafficking.⁹⁷ Though Germany signed the UN Protocol soon after it was adopted in 2000, it did not ratify the Protocol until June 14, 2006.⁹⁸ Most of the reported cases of trafficking in Western Europe involve sexual exploitation (roughly eighty percent).⁹⁹ During the 1990s, an estimated 300,000 women were trafficked into Western Europe.¹⁰⁰ Within the German Criminal Code, the legal provisions that deal directly with human trafficking were amended in 2005 to cover forced labor situations as well as sexual exploitation.¹⁰¹ The law was also expanded to punish accessory actions and allows courts to order future supervision of trafficking perpetrators.¹⁰² The law imposes a penalty of a fine or imprisonment for up to five years to any person “who, with the knowledge of another person’s helplessness in a foreign country, causes that person to engage in illicit sexual practices.” Moreover, in cases of force, deceit, threat of harm, or kidnapping, the punishment increases to up to ten years.¹⁰³

B. *Trafficking Statistics in Germany*

¶25 Though accurate data is difficult to find, some studies have found trafficking to be on the rise in Germany over the past decade. One study found that the number of trafficking cases reported in Germany increased from 517 cases in 1993 to 1,094 cases in 1996.¹⁰⁴ The current estimated number of persons trafficked into Germany for sexual exploitation is 1,000 per year.¹⁰⁵ The German government does collect long-term data on trafficking, but like other trafficking data, its reliability is questionable.¹⁰⁶ The data is limited to trafficking discovered through police investigation and victims who participate

⁹⁶ *Id.*

⁹⁷ U.N., Office of Drugs and Crime [UNODC], *Trafficking in Persons: Global Patterns* 92-93 (April 2006).

⁹⁸ U.N. Office of Drugs and Crime, signatories to the U.N. Protocol, *available at* http://www.unodc.org/unodc/crime_cicp_signatures_trafficking.html.

⁹⁹ *Id.*

¹⁰⁰ INVESTIGATING INTERNATIONAL TRAFFICKING IN WOMEN AND CHILDREN FOR COMMERCIAL SEXUAL EXPLOITATION, *supra* note 14.

¹⁰¹ HENNIG, *supra* note 5, at 9.

¹⁰² *Id.*

¹⁰³ Strafgesetzbuch [StGB] [Penal Code], §§180b-181 (F.R.G.).

¹⁰⁴ *The German Family Ministry in “German police swoop on suspected sex slavery ring,”* REUTERS, Mar. 19, 1998.

¹⁰⁵ HENNIG, *supra* note 5, at 2.

¹⁰⁶ LAZCO, *supra* note 48.

in prosecution.¹⁰⁷ As previously mentioned, this number tends to be low as victims often fear retribution from their traffickers.¹⁰⁸

¶26 While the actual numbers are elusive, it is clear that Germany is the primary destination for trafficking victims in Europe.¹⁰⁹ Also, the United States' TiP report labeled Germany a "transit and destination country" for trafficking, but gave Germany the highest ranking for its full compliance with anti-trafficking efforts.¹¹⁰

C. Germany's Appeal as a Destination Country

¶27 One of the possible causes for why Germany ranks so high as a destination country may be because it has some of the most severe labor migration restrictions in Europe.¹¹¹ This encourages smuggling and trafficking by creating barriers for those who desire to go to Germany to look for work. Trafficking victims in Germany are largely from Eastern Europe and Russia and are lured to Germany through promises of employment, usually as waitresses or domestic workers.¹¹² In 2001, estimates were that 27.5 percent of the women trafficked into Germany were from the Commonwealth of Independent States.¹¹³ Germany's restrictive immigration laws may also contribute to the reluctance of victims to come forward, as retribution against their traffickers is not enough incentive to risk deportation. Victims of trafficking are given four weeks to decide (reflection period) whether to testify against their traffickers.¹¹⁴ Deportation is delayed for those who choose to do so and they are granted temporary status.¹¹⁵

D. Legalized Prostitution and Trafficking in Germany

¶28 The concern surrounding trafficking and the World Cup may have been partly motivated by Germany's prostitution laws. In addition to the Netherlands, Germany has the most liberal prostitution policies in Western Europe.¹¹⁶ These policies are not just social but economic as well, as prostitution in Germany has annual revenues estimated at nearly \$19 billion.¹¹⁷ Some trafficking commentators hold the position that in countries where prostitution is legal or not criminalized, sex trafficking becomes harder to root out as it becomes hidden within legal prostitution.¹¹⁸ In fact, some commentators used the World Cup controversy as an avenue to criticize the German government's prostitution

¹⁰⁷ *Id.*

¹⁰⁸ Bassiouni, *supra* note 11.

¹⁰⁹ UNITED NATIONS OFFICE ON DRUGS AND CRIME, *TRAFFICKING IN PERSONS: GLOBAL PATTERNS* 92 (2006).

¹¹⁰ *TiP Report*, *supra* note 1, at 124-125.

¹¹¹ *Statement of Maureen Greenwood-Baskin*, *supra* note 8.

¹¹² CYPRUS, *supra* note 19.

¹¹³ Germany's World Cup Brothels: Hearing on H.R. 860 before the H. Comm. on Int'l Relations, Subcomm. on Africa, Global Human Rights and Int'l Operations, (Statement of Juliette M. Engel, MiraMed Inst. Dir. of Int'l Relations, The Angel Coalition, Moscow) (May 4, 2006) [hereinafter *Statement of Juliette M. Engel*].

¹¹⁴ LAZCO, *supra* note 48, at 2.

¹¹⁵ *Id.*

¹¹⁶ Lehti & Aromaa, *supra* note 24, at 140-142.

¹¹⁷ Matthew Schofield, *In Germany, prostitution's costs weighed some who supported the legalization in 2002 are having second thoughts*, THE PHILADELPHIA INQUIRER, May 15, 2006, at A03.

¹¹⁸ Bassiouni, *supra* note 11, at 92 - 94.

policy.¹¹⁹ These positions were often fueled by the over-inflated estimate of trafficking victims and reports that the German government sanctioned the erection of temporary mega-brothels in host cities.¹²⁰ For example, U.S. Congressman Chris Smith accused the German government of encouraging trafficking by "facilitating prostitution" during the World Cup.¹²¹ He also urged President George W. Bush to categorize Germany as a Tier 3 country in the U.S. TiP report, in addition to sponsoring the resolution urging Germany to take action to prevent trafficking during the World Cup.¹²²

¶29 The German government's response has been that the recognition of prostitution as a legitimate form of employment has improved the lives of prostitutes.¹²³ Under German law, sex workers can make legally binding contracts with clients and employment contracts with management of brothels.¹²⁴ This allows sex workers to file suit for nonpayment, but it is not a two-way street as clients and employers do not have contractual recourse if a sex worker fails her part of the agreement.¹²⁵ Sex workers pay taxes and have access to health care.¹²⁶ Increased safety and access to health care are Germany's main arguments in favor of its prostitution stance.¹²⁷ But there is no protection for foreign sex workers who do not have a legal work permit.¹²⁸ Although it is unclear how many women are working illegally as prostitutes in Germany, statistics do show that the majority (fifty to seventy-five percent) of prostitutes in Germany are foreigners.¹²⁹

¶30 The benefits are also dependent on the women actually registering as prostitutes with the government. Although an estimated 400,000 prostitutes work in Germany,¹³⁰ fewer than 600 taxpayers list their profession as prostitutes.¹³¹ Also, because prostitution is now legal, it is no longer a focus for police investigations, which has allowed forced prostitution to go less noticed.¹³² These factors have some supporters of legalization rethinking their position on prostitution.¹³³ At the same time, though they may not choose to register, there are prostitutes who prefer controlling their own finances and not having to rely on a pimp.¹³⁴ Another purpose of the law was to reduce trafficking by increasing the supply of prostitutes, the reasoning being that more women would choose to be

¹¹⁹ Chon & Ellerman, *supra* note 3.

¹²⁰ *Id.*

¹²¹ Guy Dinmore, *Germany aiding prostitution during World Cup*, FT.COM FINANCIAL TIMES LTD. (May 1, 2006).

¹²² H. Res. 860, 109th Cong. (2006).

¹²³ Udo Taubitz, *What German Prostitutes Want*, DEUTSCH WELLE, April 22, 2006, available at <http://www.dw-world.de/dw/article/0,,1176335,00.html>.

¹²⁴ Law on Rights of Prostitutes, Prostitutionsgesetz [ProstG].

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ Taubitz, *supra* note 123.

¹²⁸ *Id.*

¹²⁹ COALITION AGAINST TRAFFICKING IN WOMEN, PROSTITUTION IN GERMANY, available at <http://www.catwinternational.org/factbook/Germany.php> (overview on data available on prostitution in Germany).

¹³⁰ Schofield, *supra* note 117.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

prostitutes if it was legalized and thus trafficking would become unnecessary.¹³⁵ This theory ignores situations where traffickers are not simply supplying bodies, but catering to the specific wants of clients. For example, allowing German women to legally become prostitutes does not, in general, satisfy the demand for "exotic" women.¹³⁶ Also some customers, such as sadists or pedophiles, may not be interested in seeing a legal prostitute. In the previously mentioned case involving the trafficking of two friends from Eastern Europe, those women were specifically brought to Germany to serve the needs of sadistic clients, whose predilection for violence deterred them from seeing legal prostitutes.¹³⁷ Most of Germany's trafficking awareness campaigns call on prostitution customers to report suspected trafficking cases, but in a situation such as this that result is unlikely as the clients themselves are committing illegal acts.¹³⁸

¶31 While it is clear trafficking is directly linked with forced prostitution, it is unclear to what degree Germany's legitimization of prostitution has contributed to human trafficking in the country.¹³⁹ Nevertheless, it is generally acknowledged that sex workers are especially vulnerable to forced labor, mostly because of their personalized relationships with pimps and clients and the isolated nature of the business.¹⁴⁰ Legalization can exacerbate the isolation element of this problem as it causes an increase in using apartments or hotels instead of established brothels that are monitored by law enforcement.¹⁴¹

¶32 One possible argument is that demand in any country where prostitution is not criminalized will remain high because customers do not fear legal repercussions for their actions. Using this theory, the Swedish government has significantly reduced its appeal to traffickers. Since 1999, Sweden has passed several laws regarding prostitution that appear to be an effective way to curtail trafficking.¹⁴² The underlying premise of these laws comes from feminist theory and is based on the idea that prostitution is a form of violence against women.¹⁴³ The penalties focus entirely on traffickers and buyers, with no sanctions for sex workers.¹⁴⁴ In essence, while it is not illegal to sell sex, it is illegal to buy it.¹⁴⁵ The law moves the focus from women towards men and curbing or eliminating the demand element of prostitution.¹⁴⁶ After these laws were passed, Sweden saw a drop in prostitution and trafficking.¹⁴⁷ Street prostitution has dropped by fifty percent and the number of men seeking prostitutes has been reduced by eighty percent.¹⁴⁸ Though

¹³⁵ *Id.*

¹³⁶ Cole, *supra* note 31, at 797.

¹³⁷ CYPRUS, *supra* note 19.

¹³⁸ *Id.*

¹³⁹ HENNIG, *supra* note 5.

¹⁴⁰ CYPRUS, *supra* note 19, at 16.

¹⁴¹ *Id.*

¹⁴² Gunilla Ekberg, *The Swedish Law that Prohibits the Purchase of Sexual Services*, 10 VIOLENCE AGAINST WOMEN 1187-1218 (2004).

¹⁴³ DONNA M. HUGHES, GOVERNMENTAL APPROACHES TO THE DEMAND FOR PROSTITUTION: THE EMERGENCE OF THE NEW ABOLITIONIST MOVEMENT, DEMAND DYNAMICS: THE FORCES OF DEMAND IN GLOBAL SEX TRAFFICKING (Int'l Human Rights Law Inst. of DePaul U. C. of Law eds., 2004).

¹⁴⁴ Ekberg, *supra* note 142.

¹⁴⁵ *Id.*

¹⁴⁶ HUGHES, *supra* note 143.

¹⁴⁷ *House Financial Services Committee*, 106th Cong. (2006) (statement of Dorchen Leidholdt, Co-executive Director, Center for Battered Women's Legal Services).

¹⁴⁸ Coalition Against Trafficking in Women, *CATW Testifies before U.S. House Sub-Committee on the*

prostitution does exist on some level in apartment buildings and through escort services, the recruitment of women for street prostitution is virtually nonexistent.¹⁴⁹ According to law enforcement in Sweden and Europe, traffickers no longer view Sweden as a profitable destination.¹⁵⁰ The United States TiP report does still label Sweden as a transit country for trafficking victims from Russia and the Balkans to other European countries, including Denmark and Germany.¹⁵¹ But the Swedish government is taking a proactive role in reducing trafficking from Eastern Europe and the Swedish International Development Cooperation Agency has developed a strategy focused on prevention and reducing demand to lessen trafficking from the region.¹⁵² Also, Sweden is the only other country, along with the United States, to have diplomatic offices aimed specifically at human trafficking.¹⁵³

VII. EFFORTS PRIOR TO AND DURING THE WORLD CUP

¶33 It is impossible to pinpoint the exact reason why no significant increase in trafficking occurred during the World Cup, as the most probable explanation was the combination of several coinciding factors. However, it is undisputed that the work of several national and international NGOs helped to raise awareness of trafficking and educated prostitution customers on how to identify trafficking victims. The benefit of these efforts will continue into the future and should continue to be employed.

¶34 German authorities began preparing for a possible increase in trafficking during the World Cup in the summer of 2005.¹⁵⁴ While the estimate of 40,000 trafficking victims was not accepted as a credible figure by trafficking experts, the threat of any increase in trafficking had the German government and several NGOs taking preventative measures.¹⁵⁵ It was also hard to refute the initial over-inflated speculation because of the lack of credible, empirical evidence focused on human trafficking, sexual exploitation and major events.¹⁵⁶ Despite the lack of evidence, many early commentaries explicitly linked these elements.¹⁵⁷ For example, the European Parliament regarding the issue stated: “[E]xperience has shown that any major event at which large numbers of people congregate results in a temporary and spectacular increase in the demand for sexual services.”¹⁵⁸

¶35 Also, there was some actual evidence that indicated a potential trafficking increase. For example, the Angel Coalition Trafficking Victims Assistance Center in Russia received over 500 phone calls concerning various offers to go to Germany during the

Economics of Sexual Slavery, Coalition Report 2005, at 2; HUGHES, *supra* note 143.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ TiP Report, *supra* note 1.

¹⁵² *Id.*

¹⁵³ Matthew Daly, *Ambassador Miller Resigns for University Job*, SEATTLE TIMES/THE ASSOCIATED PRESS, October 26, 2006, at B2.

¹⁵⁴ HENNIG *supra* note 5, at 2.

¹⁵⁵ *Id.* at 19.

¹⁵⁶ *Id.* at 4.

¹⁵⁷ *Id.* at 7.

¹⁵⁸ Press Release, European Parliament, MEPs call for action to combat forced prostitution, March 7, 2006, available at http://www.europarl.europa.eu/news/public/story_page/014-5869-067-03-10-902-20060307STO05868-2006-08-03-2006/default_en.htm.

World Cup to work as waitresses, hostesses, models, cooks and cleaning personnel.¹⁵⁹ However, after the sporting event ended, no marked increase in trafficking had been observed.¹⁶⁰ Munich was the only city to register an increase in prostitutes (300 to the city's 500 prostitutes), and no assertions were made that any of those 300 were trafficked into the country.¹⁶¹

A. Major Campaigns to Raise Trafficking Awareness

¶36 Preceding and during the World Cup there were four major information campaigns that also included victim support. The four campaigns were: (1) "Final Whistle – Stop Forced Prostitution"; (2) "Red Card for Sexual Exploitation and Forced Prostitution"; (3) "Stop Forced Prostitution"; and (4) "Action Against Forced Prostitution."

¶37 The information campaigns raised awareness by distributing leaflets and other informational materials, and by garnering support to increase prevention and prosecution efforts. The German Women's Council – "abpiff – Stoppt Zwangsprostitution" ("Final Whistle – Stop Forced Prostitution") used the World Cup to raise awareness of the potential dark side of large events and to demand better prevention and prosecution methods.¹⁶² It collected more than 77,000 signatures, both nationally and internationally, supporting the campaign demands.¹⁶³ The NGO Solwodi's campaign, "Rote Karte für sexuelle Ausbeutung und Zwangsprostitution" ("Red Card for sexual exploitation and forced prostitution"), distributed 100,000 leaflets, 10,000 posters and 40,000 stickers in Germany.¹⁶⁴ Solwodi's campaign also partnered with another organization in contacting NGOs in countries of origin to assist them with disseminating anti-trafficking information.¹⁶⁵ Also, Frauenrecht ist Menschenrecht (FiM) implemented the campaign "Stoppt Zwangsprostitution" ("Stop Forced Prostitution") aimed to raise awareness among customers of prostitutes on the issue of forced prostitution.¹⁶⁶ The campaign also had a strong presence on the internet, as the site was linked to many sex websites.¹⁶⁷ The protestant church in Germany, through the welfare organization Diakonie, also instituted a major information campaign called: "Handeln gegen Zwangsprostitution" ("Action Against Forced Prostitution").¹⁶⁸ In addition to disseminating information to the general public, the campaign called on prostitution customers to contact law enforcement or counseling centers if they encountered a suspected case of forced prostitution.¹⁶⁹

¶38 Although the initial trafficking fears were overinflated, it is probable these campaigns assisted in raising awareness of the issues surrounding trafficking in Germany and Western Europe. With the World Cup focusing the world's attention on the country,

¹⁵⁹ Statement of Juliette M. Engel, *supra* note 113.

¹⁶⁰ HENNIG, *supra* note 5.

¹⁶¹ *Fear Surge in World Cup Prostitution Proves Unfounded*, DEUTSCH WELLE, July 6, 2006, available at <http://www.dw-world.de/dw/article/0,2144,2079721,00.html>.

¹⁶² HENNIG, *supra* note 5, at 14.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* at 14-15.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.* at 15.

¹⁶⁹ *Id.*

these organizations successfully utilized the extra attention in order to promote their campaigns.

B. Other Trafficking Awareness and Prevention Efforts during the World Cup

¶39 In addition to the above campaigns, the International Organization for Migration teamed up with the MTV Europe Foundation and the Swedish International Development Cooperation Agency to launch a public service announcement prior to the World Cup to inform soccer fans that women may be trafficked into Germany during the event.¹⁷⁰ Several other NGOs also instituted smaller, regional campaigns throughout Germany.¹⁷¹ Three national hotlines were established, two for victims or other similarly situated persons, and a third that allowed prostitution customers to report suspicious situations.¹⁷²

¶40 Long before the international community began to voice opinions on the issue, human trafficking was already being considered in Germany.¹⁷³ A year before the World Cup began, German law enforcement incorporated anti-trafficking measures into the “National Security Concept FIFA-WM 2006,” which mainly focused on coordinating efforts between national and international law enforcement agencies, and between law enforcement and NGOs.¹⁷⁴ Within this effort, German states also undertook various anti-trafficking measures.¹⁷⁵ In some areas police instigated large-scale raids on brothels looking for trafficked victims, while other states focused more on gathering intelligence from red light districts.¹⁷⁶ Information was disseminated to hotels, and internet and newspaper advertisements were monitored.¹⁷⁷

VIII. TRAFFICKING FEARS GO UNREALIZED

¶41 While the direct effectiveness of the awareness and prevention efforts during the World Cup is unclear, what is known is that no significant increase in trafficking was reported in Germany during the event. The question remains whether the increased attention and efforts of the government and NGOs prevented the increase or if no increase would have occurred even without the efforts. Further study of large international events is needed before conclusions can be drawn on this question.

¶42 The German Federal Criminal Police Office (“BKA”) reported that it received no indication that human trafficking increased during the World Cup.¹⁷⁸ During the World Cup the BKA received thirty-three reports of possible human trafficking for the purpose of sexual exploitation.¹⁷⁹ Of these reports, five were believed to be connected to the World Cup.¹⁸⁰ International attention did not change German actions but did fortify

¹⁷⁰ *Id.*

¹⁷¹ *Id.*

¹⁷² *Id.*

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.* at 16.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ HENNIG, *supra* note 5, at 24.

¹⁷⁹ *Id.* at 21.

¹⁸⁰ *Id.*

efforts and increase attention on an international level.¹⁸¹ In fact, some of the campaigns launched by NGOs were initially planned without the World Cup, but the media attention focused on the event made it an opportune time for the campaigns to gain exposure.¹⁸²

¶43 Though there is little evidence that there was a significant increase in trafficking during the World Cup, the nature of the problem is such that it is impossible to know for sure.¹⁸³ As information is dependent on *known* cases of trafficking, it is possible that women were trafficked and were simply not discovered.¹⁸⁴ What is clear is that the predictions of 40,000 trafficking victims were unfounded.

¶44 There are several possible reasons that could have caused, or contributed to, the lack of trafficking increase. The two main reasons are increased prevention efforts and the nature of the event. Germany's increased anti-trafficking efforts and education campaign, as well as increased police presence looking for forced sex workers may have dissuaded customers from visiting prostitutes.¹⁸⁵ There is also speculation that World Cup fans did not have the time, money or inclination to visit prostitutes.¹⁸⁶ Fans were not overwhelmingly male as had been assumed, as many attendees were couples, families and mixed groups.¹⁸⁷ The communal nature of the games may have affected the overall willingness of fans to visit sex workers, which is generally thought of as an individual activity.¹⁸⁸ Also, many low-budget travelers attended who did not have extra money to spend at brothels.¹⁸⁹ Another possible explanation is that the hot weather Germany experienced during the event may have made the idea of sexual activity less appealing.¹⁹⁰ These theories are rooted in the idea that demand for prostitutes was low, but other reports have stated that demand did increase during the World Cup and the demand had Germany's prostitutes working overtime.¹⁹¹ It is also possible that supply and not demand was the cause, as traffickers may not have been motivated to invest in a short, one-time event.¹⁹²

¶45 Though the international media attention did have some positive effect, some organizations fear it was actually harmful because it often treated trafficking and prostitution as the same thing, and it may have undermined the cause to raise trafficking awareness as the 40,000 person estimate was completely unfounded.¹⁹³ Some NGOs reported to the International Organization for Migration that they feared the overblown figure would affect future credibility and concern for the issue.¹⁹⁴

¹⁸¹ *Id.* at 2.

¹⁸² *Id.* at 19.

¹⁸³ Pete Grathoff & J. Brady McCollough, *World Cup Spotlight Exposes Sex Trafficking*, THE KANSAS CITY STAR, July 8, 2006, at A1.

¹⁸⁴ HENNIG, *supra* note 5, at 24.

¹⁸⁵ *Id.*, Mark Landler, *World Cup Brings Little Pleasure to German Brothels*, N.Y. TIMES, July 3, 2006 at A3.

¹⁸⁶ DEUTSCH WELLE, *supra* note 161.

¹⁸⁷ HENNIG, *supra* note 5, at 20.

¹⁸⁸ Landler, *supra* note 178.

¹⁸⁹ HENNIG, *supra* note 5, at 20.

¹⁹⁰ *Id.*

¹⁹¹ Derek Scally, *Prostitutes doing double shifts to cope with World Cup demand*, THE IRISH TIMES, June 15, 2006, at 11.

¹⁹² HENNIG, *supra* note 5, at 20.

¹⁹³ *Id.* at 21.

¹⁹⁴ HENNIG, *supra* note 5, at 26.

¶46 Despite the potentially negative effects of the international attention, law enforcement felt their response was adequate. Nevertheless, there could have been better coordination between law enforcement and NGOs, and among the separate NGOs.¹⁹⁵ Some NGOs felt the multiple campaigns complemented each other, while others thought better coordination would have been more effective.¹⁹⁶ Also, there was criticism among NGOs that too much focus was placed on raising awareness and big campaigns, causing a lack of funding for street work, such as counseling and victims' assistance.¹⁹⁷ Most of the NGOs had hoped for more support from politicians, German authorities and sports representatives.¹⁹⁸

¶47 As there was so little information available concerning trafficking and large international events prior to the 2006 World Cup, it was difficult to make projections as to how trafficking would impact the event. Using the information gathered in Germany, the international community should now turn its focus to future sporting events of the same magnitude.

IX. USING GERMANY AS A GUIDE FOR THE FUTURE

¶48 The lessons learned from Germany's experience should be studied and applied at similar future events such as the 2008 Olympics in Beijing and the 2010 World Cup in South Africa. These two events may even raise more concern as neither China nor South Africa fully comply with the TVPA's minimum standards to combat trafficking.¹⁹⁹ Before recommendations can be made regarding these two countries, a summary of the current trafficking situation is needed.

A. *Human Trafficking in the People's Republic of China*

¶49 The TiP report has placed the People's Republic of China on the Tier 2 Watch List for the last three years.²⁰⁰ China's Tier 2 ranking is based on its significant efforts to fully comply with the minimum standards to eliminate trafficking, though it has not yet accomplished that goal.²⁰¹ Its placement on the Watch List is due to the fact that, though efforts are being made, China has failed to share evidence of those efforts with the United States.²⁰² Though it has languished for several years, the government has been working with UNICEF to develop a national plan to combat trafficking that is expected to be finalized in the near future.²⁰³

¶50 The United Nations ranks China, in addition to Thailand, as "very high" on the list of countries of origin for trafficking victims. China is also ranked "high" as a destination country.²⁰⁴ The TiP report lists China as a source, transit, and destination country for both

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

¹⁹⁷ *Id.*

¹⁹⁸ *Id.*

¹⁹⁹ *TiP Report, supra* note 1, at 91, 226.

²⁰⁰ *Id.* at 91.

²⁰¹ *Id.*

²⁰² *Id.*

²⁰³ *Id.* at 92.

²⁰⁴ UN Office of Drugs and Crime, *supra* note 94, at 89.

sexual exploitation and forced labor.²⁰⁵ The majority of trafficking in China is internal, with an estimated 10,000-20,000 victims trafficked internally each year.²⁰⁶ This number may begin to change as there is some speculation that the prolonged imbalance in the male-female birth ratio may now be contributing to the trafficking of Chinese and foreign girls and women for potential brides.²⁰⁷ China's restrictive reproductive policies have created a situation of "daughter discrimination" where couples engage in sex selective abortion and female infanticide.²⁰⁸ These practices have created a disproportionate number of male births.²⁰⁹ This phenomenon may also amplify the current victims' rights issues in China, as it may increase the number of foreign women trafficked into the country.²¹⁰ While there are reasonable protections for internal victims of trafficking, foreign victims often face criminal charges for prostitution or immigration violations.²¹¹

¶51 Another major issue is the lack of reliable data concerning trafficking in China, which is mostly attributed to the lack of NGOs in the region and the closed nature of the Chinese government.²¹² According to statistics released by the Public Security Ministry of the Chinese Government between 2001 and 2003, the police resolved 20,360 cases of trafficking in women and children, arrested 22,018 traffickers, and freed 42,215 kidnapped women and children.²¹³ China had also been working with UNICEF on raising public awareness of trafficking risks, especially regarding bride trafficking.²¹⁴ However, these efforts are being hindered by corruption, weak enforcement measures and police complicity.²¹⁵

¶52 Another challenge is the lack of knowledge regarding the smuggling and trafficking networks known as snakeheads.²¹⁶ Reports differ as to whether snakehead networks are well-organized crime syndicates (or one syndicate) or simply loosely connected individuals.²¹⁷ What is known is that these networks tend to be enmeshed in communities in places of origin, making it difficult for police to locate and identify them.²¹⁸

B. *The Status of Human Trafficking in South Africa*

¶53 Like China, South Africa is on the Tier 2 Watch List because it does not fully comply with minimum anti-trafficking efforts. Also, South Africa has failed to show increased efforts to address trafficking over the last year.²¹⁹ South Africa is a source,

²⁰⁵ *TiP Report*, *supra* note 1, at 90.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ Lesley Wexler, *Allowing Girls to Hold Up Half the Sky: Combining Norm Promotion and Economic Incentives to Combat Daughter Discrimination in China*, 7 *CHI. J. INT'L L.* 79, 80-81 (2006).

²⁰⁹ *Id.*

²¹⁰ *Id.* at 91.

²¹¹ *Id.*

²¹² June JH Lee, *Human Trafficking in East Asia: Current Trends, Data Collection, and Knowledge Gaps*, in *INTERNATIONAL ORGANIZATION FOR MIGRATION, DATA AND RESEARCH ON HUMAN TRAFFICKING: A GLOBAL SURVEY* 168 (2005).

²¹³ *Id.* at 173.

²¹⁴ *Id.* at 177.

²¹⁵ *Id.*

²¹⁶ *Id.* at 183.

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ *Id.*

transit, and destination country for men, women, and children trafficked for forced labor and sexual exploitation.²²⁰ In sub-Saharan Africa, trafficking women from outside the region for the South African sex industry is one of the top types of trafficking.²²¹ Trafficking victims are trafficked internally, or come from other African countries as well as Thailand, China, and Eastern Europe.²²² Most of the women trafficked from abroad are forced into debt-bonded sexual exploitation.²²³ Many of these women are recruited by groups from their countries of origin who promise jobs in restaurants or unrealistically profitable sex work.²²⁴ Once they are flown to Africa and smuggled into South Africa they are forced to work 15-hour days to pay off their trafficking debt, which usually totals more than \$10,000.²²⁵ Another source of trafficking victims is the refugee populations in South Africa, which bring women from their home countries into the country.²²⁶ In addition to recruiting and transporting these women, the refugee traffickers usually sexually assault the women as an initiation before selling them to a brothel.²²⁷

¶54 Another serious problem faced in South Africa is the demand for sexual exploitation of young girls. This demand is based on the perception that only engaging in sexual intercourse with young girls, who are virgins or less sexually experienced, will reduce the risk of contracting HIV/AIDS.²²⁸ There have also been cases where men infected with HIV/AIDS sought sexual intercourse with virgins or young girls based on the belief that it would cure them of the disease.²²⁹

¶55 Despite the many challenges, South Africa is working on raising awareness of the dangers of trafficking.²³⁰ In November 2006, the county hosted its first Human Trafficking Awareness Week, aimed at increasing awareness of the growing problem and encouraging the public to report suspected trafficking cases through a national hotline.²³¹

X. NEEDED ACTIONS FOR FUTURE INTERNATIONAL SPORTING EVENTS

¶56 The fact that the fears surrounding trafficking and the World Cup in Germany were not realized should not justify a lack of action in China or South Africa prior to their hosting of international sporting events. Much of Germany's success in preventing trafficking from occurring during the event is likely attributable, at least in part, to the preventative measures taken by law enforcement and NGOs in the region and the fact that the planning for these measures began well before there was an international outcry

²²⁰ *TiP Report*, *supra* note 1, at 226.

²²¹ Aderanti Adepoju, *Review of Research and Data on Human Trafficking in sub-Saharan Africa*, in INTERNATIONAL ORGANIZATION FOR MIGRATION, DATA AND RESEARCH ON HUMAN TRAFFICKING: A GLOBAL SURVEY 76 (2005).

²²² *TiP Report*, *supra* note 1, at 226.

²²³ *Id.*

²²⁴ *Southern Africa: South Africa a regional centre for human trafficking*, Integrated Regional Information Networks, UN Office for the Coordination of Humanitarian Affairs (2004), *available at* www.irinnews.org/report.asp?ReportID=41837.

²²⁵ *Id.*

²²⁶ Adepoju, *supra* note 221, at 79.

²²⁷ *Id.*

²²⁸ *Id.* at 84.

²²⁹ *Id.*

²³⁰ Press Release, International Organization for Migration, Stars Back Nationwide Human Trafficking Awareness Week, *available at* <http://www.iom.int/jahia/Jahia/pbnAF/cache/offonce?entryId=11503>.

²³¹ *Id.*

demanding such action. Both China and South Africa need to increase the level of cooperation between government law enforcement and NGOs, and make significant strides in adopting national and international trafficking regulations.

¶57 There are several issues China should address before the 2008 Olympics in Beijing. First, China is not a signatory to the UN Protocol.²³² A significant step toward progress would be for China to sign and ratify the UN Protocol. The government should assist and encourage NGOs to develop a presence within the country. The likelihood of this is questionable, considering China's wariness to outside influence, but the government's work with UNICEF is promising and should be expanded. Also, China should amend its human trafficking policy – beginning with its definition of trafficking.

¶58 Under China's current definition, fraudulent adoption is considered a human trafficking violation, but debt bondage and involuntary servitude are not.²³³ China should adopt a definition more in line with the UN Protocol. Also, China should increase protections for foreign victims of trafficking and not hold them criminally liable for acts that are a direct result of their being trafficked, most commonly prostitution and immigration violations.

¶59 Additionally, before any specific recommendations can be made, there must be adequate information regarding trafficking in China. Prior to the Olympic Games, the Chinese government needs to take a thorough assessment of the trafficking problems in the country and develop an action plan to prevent trafficking during the games. Effective implementation of that plan will require cooperation with NGOs, especially those which are experienced in raising trafficking awareness.

¶60 South Africa should take similar actions prior to the 2010 World Cup. Though South Africa ratified the UN Protocol in 2004, it has yet to pass comprehensive anti-trafficking legislation that includes national procedures for victim protection, as recommended by the TiP report.²³⁴ The government must also compile national statistics on trafficking, including prosecution and victims' assistance. South Africa should also work with NGOs, specifically the International Organization for Migration's Southern African Counter-Trafficking Assistance Programme, to develop an anti-trafficking and awareness plan prior to the World Cup. There is evidence that South Africa and the IOM have started working together. In 2007, South Africa's soccer team, the Kaizer Chiefs, wore T-shirts bearing a counter-trafficking message and the IOM's national trafficking hotline phone number during a nationally televised pre-game warm up.²³⁵

¶61 These steps must be fostered, supported and, if necessary, compelled by the international community. The power of the UN Protocol and the TiP Report is limited to the enforcement of available sanctions. If countries are allowed to ignore or only implement superficial laws, then these provisions will fail to be effective. The UN and the United States should employ available sanctions if China and South Africa fail to make substantive anti-trafficking progress. Early action and education will help to prevent trafficking from occurring in China and South Africa, and it is the responsibility of the international community to see that this occurs. If China and South Africa have

²³² UN Office of Drugs and Crime, *supra* note 61.

²³³ *TiP Report*, *supra* note 1, at 91.

²³⁴ UN Office of Drugs and Crime, *supra* note 61; *TiP Report*, *supra* note 1, at 226.

²³⁵ *TiP Report*, *supra* note 1, at 38.

not made improvements to trafficking regulations in 2007 they should be placed in the third tier of the United States TiP Report in 2008.

¶62 Furthermore, the UN Protocol needs to be universally implemented. Universal adoption of the UN Protocol will enable international uniformity of trafficking regulations. Although different countries will need to tailor specific regulations to country-specific circumstances, effective prevention of trafficking will not be possible until anti-trafficking laws are widespread and enforced.

¶63 In addition to precautionary measures, steps should be taken to study the potential trafficking situation and what actually occurs during the sporting events. The inaccurate predictions that occurred in Germany may have been prevented if accurate data regarding trafficking and sporting events were available. Comprehensive studies on trafficking were not performed during the 1998 FIFA World Cup in France, the 2004 United European Football Association Championships in Portugal or during the 2004 Olympic Games in Greece.²³⁶ The international community should ensure these studies are conducted through NGO support or other means in order to prevent future inaccurate predictions either overestimating or underestimating potential trafficking. Domestic and international efforts likely contributed to the lack of trafficking in Germany during the World Cup. Without further study it would be irresponsible to dismiss a possible connection between trafficking and international sporting events.

XI. CONCLUSION

¶64 It is unclear exactly why there was no increase in trafficking during the World Cup in Germany, but the cause may be attributable to several factors. What is clear is that the international community's late response and sensationalism of inaccurate facts did not have a significant impact on the situation. Many commentators waited until a few months before the games, or after the games had already begun, to demand that Germany take action. In contrast, the international community, including the United Nations, United States and international NGOs, should assist and encourage both China and South Africa to take these measures well before the events take place. To increase effectiveness and utilization of resources, these efforts should be well coordinated between governments and NGOs. The international media should also take care to accurately report trafficking risks and provide coverage even if there is not an over-inflated number involved. Trafficking is a growing international concern that will only be effectively addressed through intergovernmental cooperation and international support. Events like the World Cup and the Olympic Games bring the global community together for competition and sportsmanship, but also risk providing a venue for the exploitation of the world's most vulnerable persons. Instead of increasing risks, the sense of camaraderie and universal goodwill fostered by such events should be used as a vehicle to combat sex trafficking, both at the events themselves and around the world.

²³⁶ HENNIG, *supra* note 5, at 11-12.