

# IT HAPPENS IN THE DARK: EXAMINING CURRENT OBSTACLES TO IDENTIFYING AND REHABILITATING CHILD SEX-TRAFFICKING VICTIMS IN INDIA AND THE UNITED STATES

EMILY K. HARLAN\*

*The governments of India and the United States have been struggling for years to eradicate child sex trafficking within their borders. Nevertheless, many Indian and American child sex-trafficking victims have yet to be identified as victims or provided with rehabilitation services. Both countries need to make additional legal and policy reforms to ensure their legal systems correctly identify child sex-trafficking victims and provide them with meaningful opportunities for rehabilitation. This Note identifies police corruption in India and the disparate treatment of foreign and domestic victims in the United States as the major obstacles to correctly identifying child sex-trafficking victims, and argues that each country can learn from the other's successes to improve identification efforts in both countries. In addition, the governments of India and the United States should provide for the rehabilitation of child sex-trafficking victims by incorporating specialized safe homes for the victims within the existing juvenile legal systems of both countries.*

INTRODUCTION .....	1114
SCOPE AND INTENT .....	1117
I. THE HIDDEN CHILDREN .....	1118
A. Defining “Child Sex-Trafficking Victim”.....	1119
B. Child Sex-Trafficking Victims in India .....	1124
C. Police Corruption as an Obstacle to Identifying	

---

\* Emily Harlan graduated from the University of Colorado Law School in May 2011 with a J.D. and a Juvenile and Family Law Certificate. She grew up in Yucaipa, California, and spent her undergraduate years at the University of California, San Diego. Emily graduated *cum laude* from UCSD with a B.A. in Economics and a B.S. in Psychology. She has studied abroad in Spain, Costa Rica, and India. Emily is now a licensed attorney in California and recently completed a legal fellowship in juvenile dependency law.

	<i>Child Victims in India</i> .....	1127
D.	<i>Child Sex-Trafficking Victims in the United States</i> .....	1129
E.	<i>Disparate Treatment of Foreign and Domestic Victims as an Obstacle to Identifying Child Victims in the United States</i> .....	1132
II.	THE FORGOTTEN CHILDREN .....	1138
A.	<i>The Structure of the Juvenile Legal System in India</i> .....	1138
B.	<i>Obstacles to Rehabilitating Child Sex-Trafficking Victims in the Juvenile Legal System of India</i> .....	1139
C.	<i>The Structure of the Juvenile Legal System in the United States</i> .....	1140
D.	<i>Obstacles to Rehabilitating Child Sex-Trafficking Victims in the Juvenile Legal System of the United States</i> .....	1141
III.	MOVING FORWARD: EQUALITY AND SPECIALIZED SERVICES FOR ALL CHILD SEX-TRAFFICKING VICTIMS .	1143
	CONCLUSION .....	1147

***Lost in Dark Depression***  
*Lost in dark depression,  
 Not knowing where to run.  
 I opened the windows to my soul  
 To see what I could learn.  
 I swept up depression,  
 Scrubbed the sadness and the hurt,  
 I put it all in trash bags  
 And set them by the curb.  
 I found, stashed in a corner  
 Tucked high upon a shelf,  
 A treasure chest of knowledge  
 That I could love myself.  
 And wherever my future takes me  
 I know that I will win,  
 Because I opened the  
 windows to my soul,  
 And let the light shine in.<sup>1</sup>  
 - Calesha, age 19  
 Sex Trafficking Survivor*

---

1. *Empowering Survivors*, GIRLS EDUC. & MENTORING SERV., <http://www.gems-girls.org/what-we-do/survivor-voices> (last visited Mar. 12, 2012).

## INTRODUCTION

On a sunny March afternoon in India, fifteen American law students sat in children's desks in a small classroom, eager to learn from two experts on child sex trafficking in India. Stanly K. V. (Stanly) and Parashurama M. L. (Parashu) are the founders of Odanadi, a safe house for child sex-trafficking victims and a home base for community outreach and rescue operations. With the patience and wisdom that comes with over twenty years of experience, Stanly and Parashu generously donated a day from their busy schedules to answer our many questions. How is it, we wondered, that the sex-trafficking industry can flourish in a country like India where traditional religious values place such a negative stigma on sexuality? Simple, Stanly replied: "It happens in the dark."<sup>2</sup> There is a powerful metaphorical message beyond the literal meaning of Stanly's words. In both India and the United States, child victims of sex trafficking are too often lost in the darkness of legal systems that do not recognize them. If they are discovered, the darkness of their suffering requires specialized rehabilitation efforts to give these children a meaningful chance for a brighter future.

Child sex trafficking is a problem that spans national and cultural boundaries.<sup>3</sup> Trafficked children can be found not only in the dark corners of Indian brothels,<sup>4</sup> but also in the dark alleys of major American cities.<sup>5</sup> Both countries currently face major obstacles to identifying and rehabilitating child sex-trafficking victims. In India, police corruption is the main obstacle.<sup>6</sup> When corrupt officers discover child sex-trafficking victims in an Indian brothel, they solicit bribes from the brothel owners rather than rescuing the victims. In the United States, the major obstacle to identifying child victims is the legal system's disparate treatment of foreign and domestic

---

2. Interview with Stanly K.V. & Parashu M.L., Founders, Odanadi, in Mysore, India (Mar. 21, 2011).

3. SILVA SCARPA, *TRAFFICKING IN HUMAN BEINGS: MODERN SLAVERY* 22–26 (2008).

4. HUMAN RIGHTS WATCH/ASIA, *RAPE FOR PROFIT: TRAFFICKING OF NEPALI GIRLS AND WOMEN TO INDIA'S BROTHELS* 1 (1995), available at <http://www.hrw.org/sites/default/files/reports/india957.pdf>.

5. See *Selling the Girl Next Door* (CNN television broadcast Jan. 23, 2011), transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/1101/23/cp.01.html>.

6. Interview with Stanly & Parashu, *supra* note 2.

victims. Instead of being treated equally as victims of the same abhorrent crime, foreign child victims are branded as illegal immigrants facing deportation, while domestic child victims are dismissed or punished as prostitutes. Thus, both types of victims are receiving inequitable treatment, albeit for different reasons.

In addition to failing to identify child victims of sex trafficking, India and the United States also fail to provide these children with meaningful opportunities for rehabilitation. The juvenile legal systems in both countries are currently not structured to accommodate the particular needs of child sex-trafficking victims. Both countries have a juvenile legal system for children who commit crimes and a juvenile legal system for children who are abused or neglected by their parents or guardians. Neither of these systems is currently structured to accommodate the rehabilitation of children who are severely and repeatedly sexually abused for the profit of their traffickers.

To better serve child sex-trafficking victims in the future, the Indian justice system must take active measures to combat internal corruption so that the police, or a specialized police unit, can be relied upon to enforce existing anti-trafficking laws. Meanwhile, the United States should amend its laws to benefit all children instead of differentiating between foreign and domestic victims. Foreign and domestic child victims of sex trafficking suffer the same evils and deserve rehabilitative services regardless of their place of birth.

Both countries can improve access to appropriate rehabilitation for child sex-trafficking victims by reforming their juvenile legal systems to recognize child sex-trafficking victims as a unique and distinct population of children in need of protection. Children who have been trafficked for sex should not be placed in the juvenile delinquency system,<sup>7</sup> and their unique needs are not likely to be met within the current structure of the juvenile dependency system in either country.<sup>8</sup>

---

7. See *infra* Parts II.B, II.D. The delinquency system is designed for children who commit crimes to receive age-appropriate punishment and rehabilitation. A child perpetrator's sentence could include incarceration in a juvenile detention facility. In the United States, delinquent children may also be monitored for a period of time by a juvenile probation department. Note that the delinquency system in India is called "Juveniles in Conflict with the Law." See *infra* Parts II.B, II.D.

8. See *infra* Parts II.B, II.D. The dependency system is designed for children who are abused and/or neglected by their parents or guardians. In the United

Instead, child sex-trafficking victims need access to specialized safe homes with services to help them overcome months or years of sexual and physical abuse, isolation, and loss of identity. Because these children have suffered the worst kinds of harm, India and the United States must take action, legally and socially, to shed light on the unmet needs of child sex-trafficking victims.

Part I of this Note begins by describing the typical characteristics and vulnerabilities of child sex-trafficking victims in India and the United States. Part I also examines the major obstacles to identifying and rescuing child victims of sex trafficking in India and the United States. Part II focuses on current structural barriers to providing effective rehabilitative services to child sex-trafficking victims within the Indian and American juvenile legal systems. Part III presents my argument for how to improve the existing legal systems of both countries to better identify and rehabilitate child sex-trafficking victims. India and the United States are two very different countries, but each has an important lesson to teach the other on the issue of child sex trafficking.

#### SCOPE AND INTENT

This Note is intended to compare and analyze child sex trafficking in India and the United States with particular emphasis on the laws, juvenile legal systems, and rehabilitation options of both countries. This Note is not intended to be a comprehensive survey of all state laws and policies applicable to sex-trafficking victims. Instead, it focuses on the federal or national laws of both countries and on the typical structure of the juvenile legal system at the state or local level.

Additionally, this Note provides general suggestions for restructuring the current juvenile legal systems of both countries to improve identification of child sex-trafficking victims and to accommodate specialized rehabilitation facilities for these children. In the United States, the actual

---

States, local health and human services agencies are typically in charge of identifying and bringing these families to court. The agencies are also responsible for providing services to the families to facilitate the safe return of the children to their parents or guardians. If safe return is not an option, other placement options for dependent children include foster care, group homes, guardianship, and adoption. The dependency system in India is called "Children in Need of Care and Protection." See *infra* Parts II.B, II.D.

implementation of these general suggestions will require additional state-by-state analysis because American juvenile legal systems are structured through state legislation. Nevertheless, the juvenile legal systems of both countries share sufficiently similar structural trends to support this Note's argument for improvement.

Finally, this Note argues that specialized rehabilitation facilities are a desirable placement option for child victims of sex trafficking and should be incorporated into the juvenile legal systems of both countries. This argument is based in large part on my experiences at Odanadi, a specialized rehabilitation facility in India, and on my research of specialized sex-trafficking programs and homes in the United States, such as Girls Educational and Mentoring Services (GEMS) in New York. The argument for the creation and funding of more of these specialized rehabilitation homes will be strengthened if and when scientific research is conducted to establish their effectiveness. In the meantime, the anecdotal evidence is highly positive.

## I. THE HIDDEN CHILDREN

Child sex trafficking is a serious problem in India and the United States, and yet it is difficult to obtain consistent, reliable estimates of the number of child sex-trafficking victims in these countries and across the world.<sup>9</sup> As the United Nations Educational, Scientific, and Cultural Organization (UNESCO) explains:

When it comes to statistics, trafficking of girls and women is one of several highly emotive issues which seem to overwhelm critical faculties. Numbers take on a life of their own, gaining acceptance through repetition, often with little inquiry into their derivations. Journalists, bowing to the pressures of editors, demand numbers, any number. Organizations feel compelled to supply them, lending false precisions and spurious authority to many reports.<sup>10</sup>

To address this problem, UNESCO is conducting the Trafficking Statistics Project—a literature review and meta-

---

9. *Trafficking Statistics Project*, UNESCO BANGKOK, <http://www.unescobkk.org/index.php?id=1022> (last visited Mar. 12, 2012).

10. *Id.*

analysis of existing statements on trafficking.<sup>11</sup> The project will compile the numbers cited by various sources, examine the methodology by which these numbers were calculated, and evaluate their validity.<sup>12</sup> The goal of the project is to “separate trafficking myths from trafficking realities.”<sup>13</sup> In the meantime, the statistics cited in this Note are intended only to provide a general sense of the scope of the problem. The limitations of these statistics demonstrate one way in which the child victims of sex trafficking remain hidden children.

A. *Defining “Child Sex-Trafficking Victim”*<sup>14</sup>

In addition to problems with data collection, child sex-trafficking research is also plagued by definitional problems.<sup>15</sup> What is “sex trafficking,” and who is a “child victim?” Law enforcement agencies in India and the United States cannot be expected to correctly identify child sex-trafficking victims without clear, consistent answers to these questions reflected in the laws and law enforcement policies. Unfortunately, definitional ambiguity persists in the laws of both countries.

The Indian Constitution grants citizens a fundamental right against exploitation.<sup>16</sup> Part III, Article 23(1) declares that “[t]raffic in human beings and *begar* [from the Hindi word for forced labor] and other similar forms of forced labour are prohibited and any contravention of this provision shall be an

---

11. *Id.*

12. *Id.*

13. *Id.*

14. Some feminists and activists take offense to the term “victim” and prefer “survivor,” as survivor retains a sense of agency for sex-trafficked women. Because this Note is focused on the sex trafficking of children, I use “victim.” Children are afforded a protected status in the United States precisely because their powers of agency, self-determination, and self-sufficiency are not yet fully developed. As our rape laws reflect, a child cannot consent to sex in the same manner as an adult, and use of the term “victim” helps underscore this principle. Nevertheless, I recognize that “survivor” may be more appropriate in practice for those involved in the rehabilitation process. For more information on the rehabilitation process, see Rachel Lloyd, *From Victim to Survivor, From Survivor to Leader*, GIRLS EDUC. & MENTORING SERV., available at <http://www.gems-girls.org/from-victim-to-survivor-from-survivor-to-leader> (last visited Apr. 30, 2012).

15. See Janie Chuang, *Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy*, 158 U. PA. L. REV. 1655, 1656 (2010).

16. INDIA CONST. art. III, § 23, available at <http://www.cgsird.gov.in/constitution.on.pdf> and <http://lawmin.nic.in/coi/coiason29july08.pdf>.

offence punishable in accordance with law.”<sup>17</sup> Interestingly, “traffic in human beings” is not defined in the Indian Constitution. For purposes of Odanadi’s work, Stanly has adopted the following definition of human trafficking:

All acts involved in the recruitment, transportation, forced movement, and/or selling and buying of women and children within and/or across borders by fraudulent means, deception, coercion, direct and/or indirect threats, abuse of authority, for the purpose of placing a woman and/or child against her will or without her consent in exploitative and abusive situations such as forced prostitution, marriage, bonded labour, begging, organ trade, etc.<sup>18</sup>

A troubling aspect of this definition is that it implies that a child who consents to be a prostitute is not a victim of trafficking. Section 366A of the Indian Penal Code states, however, that any person who:

by any means whatsoever, induces any minor girl under the age of 18 years to go from one place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.<sup>19</sup>

Section 366A implies that the minor’s consent is irrelevant because her “seduction” is still cause for criminal punishment, the opposite of Stanly’s definition. In practice, Stanly and Parashu overlook this definitional conflict.<sup>20</sup> They conduct rescue operations under the assumption that children cannot consent to living and working in a brothel.<sup>21</sup> Furthermore, they do not distinguish between children who are being sexually abused in the brothels and those who are present in the

---

17. *Id.* § 23, cl. 1.

18. ODANADI, HUMAN TRAFFICKING (2011). Stanly says that this definition was developed by the member states of the South Asian Association for Regional Cooperation (SAARC), but this definition is more expansive than that of SAARC. See S. ASIAN ASS’N FOR REG’L COOPERATION, SAARC CONVENTION ON PREVENTING AND COMBATING TRAFFICKING IN WOMEN AND CHILDREN FOR PROSTITUTION (2002), available at [http://www.humantrafficking.org/uploads/publications/SAARC\\_Convention\\_on\\_Trafficking\\_\\_Prostitution.pdf](http://www.humantrafficking.org/uploads/publications/SAARC_Convention_on_Trafficking__Prostitution.pdf).

19. PEN. CODE § 366A.

20. Interview with Stanly & Parashu, *supra* note 2.

21. *Id.*

brothels because they are the children of prostitutes.<sup>22</sup> All are vulnerable to witnessing and suffering sexual exploitation.<sup>23</sup>

Additional definitional ambiguities exist in India with respect to the gender of a child sex-trafficking victim. A “child” is defined under modern law in India as a person under eighteen years of age.<sup>24</sup> Nevertheless, Section 366A of the Indian Penal Code explicitly discriminates by gender, imposing punishment for the sexual exploitation of minor girls only.<sup>25</sup> Stanly’s definition of trafficking could also be interpreted to apply only to female children since it speaks of “her will.”<sup>26</sup> Once again, Stanly and Parashu pay no heed to this definitional ambiguity in practice.<sup>27</sup> During their rescue operations, Stanly and Parashu rescue all children present in the brothel, regardless of their gender.<sup>28</sup> Furthermore, Odanadi operates two separate safe homes on its property, one for boys and one for girls.<sup>29</sup> By glossing over the issue of who is legally a child sex-trafficking victim in India, Stanly and Parashu have been able to provide a safe home over the years for 450 abused children of both sexes.<sup>30</sup> Their gender-blind approach is the appropriate strategy for a non-governmental organization (NGO) engaged in counter-trafficking efforts in a country where actions sometimes speak louder than the laws.<sup>31</sup> Stanly and Parashu are acknowledging the realities of sexual exploitation in India by broadening the definition of child sex-trafficking victim in this manner.

The United States also struggles to provide clear, comprehensive legal definitions for identifying child sex-

---

22. *Id.*

23. *Id.*

24. Juvenile Justice Care and Protection of Children Act of 2000, ch. 1, § 2(k) (“‘juvenile’ or ‘child’ means a person who has not completed eighteenth year of age”); *see also* U.N. Convention on the Rights of the Child, Part I, art. 1, ratified by the government of India on Dec. 11, 1992 (“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”).

25. *See* PEN. CODE § 366A.

26. ODANADI, *supra* note 18.

27. Interview with Stanly & Parashu, *supra* note 2.

28. *Id.*

29. *Id.*

30. *Id.*

31. India has many laws and constitutional provisions espousing democratic ideals like equality, but underenforcement remains a huge problem. For an overview of underenforcement of the laws in India as explained by the persistence of the caste system, see Smita Narula, *Equal by Law, Unequal by Caste: The ‘Untouchable’ Condition in Critical Race Perspective*, 26 WIS. INT’L L.J. 255 (2008), available at [http://idsn.org/uploads/media/Unequal\\_by\\_law\\_12.pdf](http://idsn.org/uploads/media/Unequal_by_law_12.pdf).

trafficking victims. The United States' principal federal law on sex trafficking, the Victims of Trafficking and Violence Protection Act (TVPA), does not include a basic definition of human trafficking.<sup>32</sup> The Congressional Research Service's Trafficking in Persons (TIP) report of 2010 declares that the United States and the United Nations "generally characterize human trafficking in similar terms."<sup>33</sup> The United Nations defines human trafficking as follows:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation . . . .<sup>34</sup>

The United Nations has defined child trafficking in even broader terms, stating that "[t]he recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in [the general definition quoted above]."<sup>35</sup> For purposes of the United Nations protocol, a "child" is any person under eighteen years of age.<sup>36</sup> Joost Kooijmans and Hans van de Glind, two experts in the field of child slavery, explain that the strength of the United Nations definition of child trafficking lies in its simplicity:

[Under the U.N. definition], children are considered to be victims of trafficking even where this took place without them being deceived or coerced. Not only does this take into

---

32. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464.

33. ALISON SISKIN & LIANA SUN WYLER, CONG. RESEARCH SERV., RL34317, TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS 1 (2010), available at <http://fpc.state.gov/documents/organization/147256.pdf>.

34. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, art. 3(a), Dec. 25, 2003, 2237 U.N.T.S. 319 [hereinafter U.N. Trafficking Protocol], available at <http://treaties.un.org/doc/publication/UNTS/Volume%202237/v2237.pdf>.

35. *Id.* at art. 3(c).

36. *Id.* at art. 3(d).

account their special vulnerability, but it also makes it easier for law enforcement agencies and prosecutors to provide evidence to ensure that child traffickers are duly punished.<sup>37</sup>

If the United States officially adopted the United Nations definition, law enforcement could clearly identify all children exploited as prostitutes as victims of child sex trafficking.

Instead, the U.S. Congress chose to include more restrictive definitions in the TVPA, distinguishing between “sex trafficking” and “severe forms of trafficking in persons.”<sup>38</sup> In the TVPA, the term “sex trafficking” means the “recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act,”<sup>39</sup> while the term “severe forms of trafficking in persons” refers to “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.”<sup>40</sup> The distinction is a matter of consent: A person who engages in sex trafficking has impliedly consented to performing commercial sex acts, while a victim of severe trafficking has been forced or coerced into performing commercial sex acts. Although the end result is the same as under the United Nations definition—sexually exploited children under eighteen automatically qualify as victims of severe sex trafficking irrespective of force or consent<sup>41</sup>—the definitional dichotomy between sex trafficking and “severe” sex trafficking encourages law enforcement to ask the wrong initial question: Did this person consent? Instead, law enforcement’s initial investigation should focus on the age of the victim because when the victim is a minor the issue of consent is irrelevant. The U.S. Congress should revise its definitions of sex trafficking to clarify that law enforcement need not interrogate child victims about whether they consented to sell their bodies for sex.

India and the United States have both failed to adopt clear, comprehensive legal definitions of human trafficking, sex trafficking, and child sex trafficking. This Note adopts the

---

37. Joost Kooijmans & Hans van de Glind, *Child Slavery Today*, in *CHILD SLAVERY NOW* 21, 27 (Gary Craig ed., 2010).

38. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 103(8)–(9), 114 Stat. 1464, 1470.

39. *Id.* § 103(9).

40. *Id.* § 103(8).

41. *Id.* § 103(8)(A).

United Nations framework that the trafficking of children requires only two elements: (1) the existence of a trafficker or pimp<sup>42</sup> and (2) that trafficker or pimp's exploitation of a child.<sup>43</sup> The United Nations framework is a proper definitional scheme not only for its simplicity but also because it encourages law enforcement to ask the appropriate initial question: "Is this person a child?" as opposed to, "Did this person consent?"

Armed with a healthy skepticism of the current statistics and an understanding of the need for a clear, inclusive definition of child sex trafficking, it is now appropriate to explore the characteristics of the hidden children waiting to be identified in India and the United States.

### *B. Child Sex-Trafficking Victims in India*

With an estimated twenty million slaves, India has more human trafficking victims than any other country in the world.<sup>44</sup> Of these human trafficking victims, between 70,000 and 1,000,000 are women and children who have been trafficked into sex work.<sup>45</sup> This estimate is broad because the stigma attached to prostitution in India and the secretive nature of trafficking operations makes it "doubly difficult to arrive at authentic numbers."<sup>46</sup> Nearly 15% of these victims began sex work when they were less than fifteen years old, and an additional 25% were first trafficked between the ages of fifteen and eighteen.<sup>47</sup> In Mumbai, an area notorious for its

---

42. The word "pimp" has become accepted and even celebrated in the United States despite the reality that many pimps are in fact traffickers of underaged girls. For a good discussion of the glorification of pimps in American culture, see KEVIN BALES & RON SOODALTER, *THE SLAVE NEXT DOOR: HUMAN TRAFFICKING AND SLAVERY IN AMERICA TODAY* 87–90 (2009).

43. U.N. Trafficking Protocol, *supra* note 34, at art. 3(c).

44. To put this number in perspective, the country with the second-highest number of slaves is Pakistan with three million. SHELDON X. ZHANG, *SMUGGLING AND TRAFFICKING IN HUMAN BEINGS: ALL ROADS LEAD TO AMERICA* 108 (2007).

45. NATIONAL HUMAN RIGHTS COMMISSION, *A REPORT ON TRAFFICKING IN WOMEN AND CHILDREN IN INDIA 2002–2003*, at 21 (2004), <http://nhrc.nic.in/Documents/ReportonTrafficking.pdf>. Although these estimates are outdated, more recent estimates are not available. See *e.g.*, OFFICE ON DRUGS AND CRIME, UNITED NATIONS, *GLOBAL REPORT ON TRAFFICKING IN PERSONS* (2009), [http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf).

46. NATIONAL HUMAN RIGHTS COMMISSION, *A REPORT ON TRAFFICKING IN WOMEN AND CHILDREN IN INDIA 2002–2003*, at 21 (2004), <http://nhrc.nic.in/Documents/ReportonTrafficking.pdf>.

47. *Id.*

red-light districts,<sup>48</sup> a descriptive study of the case histories of 160 sex trafficking victims revealed that a majority (51.9%) had been trafficked as minors.<sup>49</sup>

Poverty is a shared characteristic of many victims of sex trafficking in India.<sup>50</sup> The caste system<sup>51</sup> is still alive and well in India,<sup>52</sup> and girls from poorer castes are particularly vulnerable to sex trafficking.<sup>53</sup> The following story, from an article in *The Telegraph UK*, is illustrative:

Tonight, [near Bharatpur in Rajasthan] one girl in particular is attracting attention as she sits on a stool by a fire so that she can be seen by passing vehicles. Her heavily made-up, striking face and beautiful pink sari make her look as if she were on her way to a party. But the truth is different. Suli, 14, is a virgin and a bidding war is being held for the right to be the first to sleep with her.

The collection of shelters where she lives houses 59 families, all members of the Bedia tribe, which has a long tradition of caste-based prostitution. Girls born here become prostitutes in a rite of passage into “adulthood” as routine as marriage is to the rest of Indian society.

The “first time” is a valued commodity for which the middle-

48. *Interview with Raney Aronson: Red Light Reporting?*, FRONTLINE WORLD (June 2004), <http://www.pbs.org/frontlineworld/stories/india304/aronson.html>.

49. J.G. Silverman et al., *Experiences of Sex Trafficking Victims in Mumbai, India*, 97 INT'L J. GYNECOLOGY & OBSTETRICS 221, 221 (2007), available at <http://cat.inist.fr/?aModele=afficheN&cpsidt=18791463>.

50. Rani Hong, *The Human Face of Poverty in Rural India*, HUFFINGTON POST, June 16, 2010, [http://www.huffingtonpost.com/rani-hong/human-trafficking-the-hum\\_b\\_613735.html](http://www.huffingtonpost.com/rani-hong/human-trafficking-the-hum_b_613735.html).

51. The caste system is a form of social stratification in India with deep historical roots in Indian Hindu culture. There are five castes: Brahman, Kshatriyas, Vaishyas, Shudras, and the “untouchables” or Dalit. Each caste is associated with different occupations, levels of wealth, and prestige in society. “Many lower-caste people live in conditions of great poverty and social disadvantage.” INDIA: A COUNTRY STUDY: CASTE & CLASS (James Heitzman & Robert L. Worden, eds., 1995), available at <http://countrystudies.us/india/89.htm>. The lowest caste is the “untouchables” or Dalit people. *Id.* In past decades, “untouchables” were not permitted to enter temples or schools, and the lowest-ranking were required to jingle a bell to warn high-status Indians of their “polluting approach.” *Id.*

52. See Smita Narula, *Equal by Law, Unequal by Caste: The ‘Untouchable’ Condition in Critical Race Perspective*, 26 WIS. INT'L L.J. 255 (2008), [http://id.sn.org/uploads/media/Unequal\\_by\\_law\\_12.pdf](http://id.sn.org/uploads/media/Unequal_by_law_12.pdf).

53. Sue Ryan, *For Sale: 13-Year-Old Virgin*, THE TELEGRAPH (Apr. 13, 2008), <http://www.telegraph.co.uk/news/worldnews/1584988/For-sale-13-year-old-virgin.html>.

class businessmen who pass this way are prepared to pay a premium.

The normal rate is 100 rupees (£1.30 or US \$2.24) but a virgin is sold to the highest bidder for anything over 20,000 rupees (US \$448.53). If she is very pretty, the community would hope to get up to 40,000 rupees [\$897.06]. For this, the man can have access to the girl for as long as he likes—several hours, days, or even weeks. When he tires of her, there is a celebration. Because it is considered unlucky for a girl to keep the money from her first time, it is spent instead on an extravagant party.<sup>54</sup>

The Bedia tribe's cultural acceptance and the passing drivers' and middle-class johns' complacency toward the exploitation of girls like Suli are shocking. It is not entirely surprising, however, given that 25% of India's population lives below the nation's poverty line, as compared with 12% in the United States.<sup>55</sup> Indeed, abject poverty is highly visible in India, but instead of sharing widespread feelings of concern for their poor countrymen, more affluent Indians have historically referred to these poor people as the "untouchables,"<sup>56</sup> treating them as less than human.<sup>57</sup> Even after the Indian Constitution of 1950 banned official use of the term "untouchables," these people (now known as Dalits) continue to suffer significant discrimination and violence.<sup>58</sup>

Although children from poor castes are particularly susceptible to sex trafficking as a means to financial gain for their families, children from all backgrounds are sexually exploited in India. When we asked Stanly to describe the typical sex trafficking victim in India, he told us that, in his sixty-two brothel rescue operations, he has encountered women and children from all castes and religions.<sup>59</sup> He hesitated for a moment, absorbed in thought, and then joked that brothels are "the one place you can find secularism in India."<sup>60</sup>

---

54. *Id.*

55. CENTRAL INTELLIGENCE AGENCY, THE WORLD FACTBOOK, POPULATION BELOW POVERTY LINE, <https://www.cia.gov/library/publications/the-world-factbook/fields/2046.html#in> (last visited Mar. 13, 2012).

56. *See supra* note 51 and accompanying text.

57. Hillary Mayell, *India's "Untouchables" Face Violence, Discrimination*, NAT'L GEOGRAPHIC NEWS (June 2, 2003), [http://news.nationalgeographic.com/news/2003/06/0602\\_030602\\_untouchables.html](http://news.nationalgeographic.com/news/2003/06/0602_030602_untouchables.html).

58. *Id.*

59. Interview with Stanly & Parashu, *supra* note 2.

60. *Id.*

Sex trafficking in India spans national boundaries in addition to those of caste and religion. The majority of sex trafficking victims in India are domestic citizens, but there are also a substantial number of girls and women trafficked into India from Nepal.<sup>61</sup> It is estimated that each year 5,000 to 10,000 Nepali women and girls are coerced into sex trafficking in India.<sup>62</sup> Estimates of the total number of Nepalese in the Indian sex industry range from 40,000 to 200,000.<sup>63</sup> Many of these Nepali women and children are from remote villages and poor border communities and are lured by recruiters, relatives, or neighbors who promise jobs or marriage.<sup>64</sup> They are sold to brokers for as little as 200 rupees (\$4) who then sell them to brothel owners in India for 15,000 to 40,000 rupees (\$336 to \$897).<sup>65</sup> The demand for Nepali women and girls is due in part to a cultural construction of beauty; in India, fair skin is considered beautiful and exotic.<sup>66</sup> One has only to open the personal ads in an Indian newspaper to observe the cultural obsession with fair skin: “Brahmin Kannada Boy . . . Seeks Fair Complexioned Girl,” “extremely fair slim MTEch,” “Nair Girl . . . looks younger, slim, fair.”<sup>67</sup>

*C. Police Corruption as an Obstacle to Identifying Child Victims in India*

Police corruption is the main obstacle to identifying child sex-trafficking victims in India.<sup>68</sup> Stanly and Parashu have experienced the effects of police corruption first-hand; they have each spent time in jail over the years for attempting to rescue children from brothels that were bribing the local police force.<sup>69</sup> Stanly and Parashu now conduct their rescue

---

61. HUMAN RIGHTS WATCH/ASIA, RAPE FOR PROFIT: TRAFFICKING OF NEPALI GIRLS AND WOMEN TO INDIA'S BROTHELS 1 (1995).

62. GUNJAN KINNU, NAT'L HUM. RTS. COMM'N, FROM BONDAGE TO FREEDOM: AN ANALYSIS OF INTERNATIONAL LEGAL REGIME ON HUMAN TRAFFICKING 5 (2006), available at <http://nhrc.nic.in/publications/analhumantrafficking.pdf>.

63. *Id.*

64. HUMAN RIGHTS WATCH/ASIA, *supra* note 4, at 1–2 (1995).

65. *Id.*

66. SUSAN DEWEY, HOLLOW BODIES: INSTITUTIONAL RESPONSES TO SEX TRAFFICKING IN ARMENIA, BOSNIA AND INDIA 22–23 (2008).

67. *Classifieds—Matrimony*, DECCAN HERALD (Mysore, India), Mar. 20, 2011 (on file with author).

68. Interview with Stanly & Parashu, *supra* note 2; see also CHILD SLAVERY NOW 167–68, 170–71 (Gary Craig ed., 2010).

69. Interview with Stanly & Parashu, *supra* note 2.

operations with the help of officers they know are not corrupt.<sup>70</sup> After two decades of hard work by its founders, Odanadi has developed a positive reputation among honest law enforcement officers.<sup>71</sup> Consequently, low-level police officers with corrupt supervisors will sometimes use Odanadi's domestic violence hotline to tip off Stanly and Parashu to trafficking operations that the officers feel powerless to stop themselves.<sup>72</sup>

Prostitutes also suffer at the hands of corrupt officers. Savita, a sex worker in Bombay, was waiting for a train home when three police officers dragged her off the platform, kicked and slapped her for distributing condoms to other sex workers.<sup>73</sup> Sonia Faleiro, the author who interviewed Savita, notes that this type of incident is not uncommon; twice a week, Savita is physically assaulted by the police. Sometimes these assaults are sexual: "[w]hat most women would consider rape is, for her, 'free sex'—the price she pays to avoid arrest or further harassment."<sup>74</sup>

Child sex-trafficking victims are particularly vulnerable to police corruption in India. Instead of identifying child sex-trafficking victims as a population greatly in need of help, corrupt police officers use the children as tools to extort larger bribes.<sup>75</sup> For example, police officers who visit brothels as clients will sometimes ask for underage girls and then threaten to arrest the girls later unless the brothel owner pays a larger bribe.<sup>76</sup> Similarly, corrupt border police officers demand bribes from the traffickers of Nepali girls.<sup>77</sup> When this police corruption combines with the Indian and Nepalese governments' apathy toward sex trafficking, there is "virtual impunity for traffickers."<sup>78</sup>

---

70. *Id.*

71. *Id.*

72. *Id.*

73. Sonia Faleiro, *Maarne Ka, Bhagane Ka (Beat Them, Kick Them Out)*, in AIDS SUTRA: UNTOLD STORIES FROM INDIA (2008), available at <http://www.npr.org/templates/story/story.php?storyId=96315765>.

74. *Id.*

75. HUMAN RIGHTS WATCH/ASIA, RAPE FOR PROFIT: TRAFFICKING OF NEPALI GIRLS AND WOMEN TO INDIA'S BROTHELS 2 (1995).

76. *Id.*

77. *Id.*

78. *Id.* at 4.

*D. Child Sex-Trafficking Victims in the United States*

In the United States, statistics on sex trafficking have been gathered separately for foreign and domestic victims, perhaps as a result of the two groups' current separation under federal law. In 2004, the United States government estimated that between 14,500 and 17,500 foreign victims are trafficked into the United States each year.<sup>79</sup> About half of these foreign victims are forced into prostitution and the sex industry.<sup>80</sup> These are the most recent government statistics on the number of foreign sex-trafficking victims within U.S. borders,<sup>81</sup> and they do not include an estimate of the number of foreign victims who are children.

With respect to domestic victims in the United States, misidentification of domestic children as prostitutes rather than as trafficking victims complicates data collection efforts. The 2010 TIP report to Congress declared that the lack of a clear definition of "what it means to be a U.S. citizen trafficked within the United States" leads to inconsistent estimates, but the report goes on to acknowledge that there could be as many as 300,000 domestic child victims of sex trafficking in the United States.<sup>82</sup>

Runaways are at a particularly high risk of being sex-trafficked in the United States. Approximately 450,000 children run away from home in the United States each year.<sup>83</sup> It is estimated that one in three of these children will be lured into prostitution within her first 48 hours on the street.<sup>84</sup> A Las Vegas study determined that 59% of children arrested for prostitution in Las Vegas from 1994 to 2005 had been victims of sexual abuse within their families, and 74% had run away

---

79. LIANA SUN WYLER & ALISON SISKIN, CONG. RESEARCH SERV., RL 34317, *TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS 22* (2010), available at <http://fpc.state.gov/documents/organization/147256.pdf>.

80. FRANCIS T. MIKO, CONG. RESEARCH SERV., RL 30545, *TRAFFICKING IN PERSONS: THE U.S. AND INTERNATIONAL RESPONSE 7–8* (2006), available at <http://www.ilw.com/immigrationdaily/news/2007,0912-crs.pdf>.

81. WYLER & SISKIN, *supra* note 79.

82. *Id.* at 22 n.54.

83. *Domestic Minor Sex Trafficking: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Sec. of the H. Comm. on the Judiciary*, 111th Cong. 2 (2010), available at [http://judiciary.house.gov/hearings/printers/111th/111-146\\_58250.PDF](http://judiciary.house.gov/hearings/printers/111th/111-146_58250.PDF).

84. *Id.*

from home prior to their arrest.<sup>85</sup> Domestic victims come from all racial, religious, and socioeconomic groups.<sup>86</sup>

It is important to recognize, however, that not all domestic victims are runaways. Many American girls are lured into trafficking by older boys or men who claim to be their boyfriends but who quickly become their pimps:

Jane, not her real name, was just 14 when her life was taken over in Seattle by a 36-year-old man who said he loved her and promised to give her a better life. It was an easy sell: She was the product of a troubled home, where she was sexually molested by her father's roommate. The abuse began when she was 4 years old. She was also molested at the day care center where she was taken every day. "My mom was a junkie," Jane, now 17, said in an interview. "I lived with my dad. He was up and down with his moods. He had a marijuana addiction. . . . I can't remember much of my childhood. I block it out."<sup>87</sup>

Some pimps are bold enough to snatch girls off the streets, leaving "heartbroken parents to search websites . . . that advertise sex for sale and walk the 'tracks' to try to find their daughters."<sup>88</sup>

The rise of the Internet has also contributed to the rise of domestic sex trafficking. Johns can choose and "order" a girl from the privacy of their own homes.<sup>89</sup> Rod Rosenstein, U.S. Attorney for the District of Maryland, says that combating child sex trafficking is a top priority for his office, but it has become increasingly difficult to convict traffickers in recent years.<sup>90</sup> The traffickers' use of the Internet keeps the victims hidden; "the girls and young women are no longer on the street or at truck stops where law enforcement can see them."<sup>91</sup>

The U.S. sex-trafficking trade, particularly internet sex trafficking, does not discriminate between foreign- and

---

85. *Id.*

86. *Id.*

87. Chuck Neubauer, *Sex Trafficking in the U.S. Called 'Epidemic'*, THE WASHINGTON TIMES (Apr. 23, 2011), <http://www.washingtontimes.com/news/2011/apr/23/sex-trafficking-us-called-epidemic/?page=all#pagebreak>.

88. Malika Saada Saar, *U.S. Should Stop Criminalizing Sex Trafficking Victims*, CNN (Feb. 25, 2011), [http://articles.cnn.com/2011-02-05/opinion/saar.ending.girl.slavery\\_1\\_bad-girls-trafficking-victims-prostitution?\\_s=PM:OPINION](http://articles.cnn.com/2011-02-05/opinion/saar.ending.girl.slavery_1_bad-girls-trafficking-victims-prostitution?_s=PM:OPINION).

89. *Selling the Girl Next Door* (CNN television broadcast Jan. 23, 2011), <http://transcripts.cnn.com/TRANSCRIPTS/1101/23/cp.01.html>.

90. Neubauer, *supra* note 87.

91. *Id.*

domestic-born girls. Instead, it is the looming presence of the U.S. immigration system that distinguishes between foreign and domestic child sex-trafficking victims. Although special visas known as T-visas and U-visas can be provided to foreign victims of trafficking under American law,<sup>92</sup> the immigration process has not been particularly kind to child victims of sex trafficking. Instead, foreign child sex-trafficking victims are frequently held in Immigration and Customs Enforcement (ICE) detention facilities for months or even years.<sup>93</sup> For example, Diana O. was seventeen when she was trafficked from Honduras to Mexico to the United States by the Zetas drug cartel.<sup>94</sup> She was raped repeatedly by her traffickers' customers and forced to carry drugs.<sup>95</sup> After Diana turned eighteen, U.S. Border Patrol discovered her abandoned in a trailer in Texas.<sup>96</sup> She told the authorities that she was still a minor because she was afraid of being detained in an adult facility.<sup>97</sup> Diana spent one month in juvenile detention before her birth certificate was verified, and she was moved to an adult facility that lacked appropriate mental health services.<sup>98</sup> Diana's attorney reported that the ICE facility was particularly traumatizing for Diana compared to other detainees who were not victims of sex trafficking.<sup>99</sup> Approximately six months after her original detention, Diana was granted a U-visa.<sup>100</sup> Diana's experience

---

92. Under the TVPA, victims of severe trafficking can apply for a non-immigrant status T-visa (for victims who agree to cooperate with law enforcement to prosecute traffickers, a requirement that is waived for child victims) or a non-immigrant status U-visa (for victims who suffered substantial physical or mental abuse as a result of having been a victim of a specified criminal activity). See 8 U.S.C.A. §1101 (2011); see also *Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status*, U.S. CITIZENSHIP AND IMMIGR. SERVS., <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=a53dc7f5ab548210VgnVCM100000082ca60aRCRD&vgnnextchannel=02ed3e4d77d73210VgnVCM100000082ca60aRCRD> (last visited Mar. 15, 2012).

93. Letter from Human Rights Watch to Mark Taylor, Senior Coordinator, Office to Monitor and Combat Trafficking in Persons, U.S. Dept. of State (Apr. 19, 2010), <http://www.hrw.org/en/news/2010/04/19/us-victims-trafficking-held-ice-detention>.

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.* Illegal aliens who have suffered substantial physical or mental abuse as a result of having been a victim of a specified criminal activity are eligible for a nonimmigrant status U-visa under the TVPA. See 8 U.S.C.A. §1101 (2011); see also *Victims of Criminal Activity: U Nonimmigrant Status*, U.S. CITIZENSHIP AND

as a sex-trafficking victim in the U.S. immigration system demonstrates why foreign child victims are so effectively discouraged from identifying themselves to law enforcement. Pimps and captors threaten their foreign child sex-trafficking victims with indefinite detention or deportation by federal immigration authorities to deter the children from fleeing or reporting the traffickers to the authorities.

*E. Disparate Treatment of Foreign and Domestic Victims as an Obstacle to Identifying Child Victims in the United States*

Ironically, while federal immigration authorities have largely ignored the plight of foreign child sex-trafficking victims in ICE detention, federal legislators have emphasized the plight of foreign child sex-trafficking victims in federal trafficking laws, largely ignoring domestic victims. Indeed, Congress's purposes and findings for the flagship federal trafficking law, the TVPA, focus primarily on the international sex-trafficking problem and not on sex trafficking within the United States. The following five findings are particularly illustrative:

(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.<sup>101</sup>

Most of these findings could apply equally to domestic victims. Domestic victims are repeatedly punished more harshly than their traffickers (Finding 17); they lack adequate services and facilities to help them reintegrate into American society (Finding 18); and they should not be punished for unlawful acts committed as a direct result of being trafficked (Finding 19). Congress should have considered domestic victims in its findings for the TVPA, or it should have drafted a companion act for domestic victims to emphasize that the United States recognizes that sex trafficking is not just an international evil.

The TVPA's failure to adequately acknowledge domestic sex-trafficking victims is also reflected in funding disparities under the TVPA. Although the TVPA provides for grants to states, Indian tribes, units of local government, and nonprofit victims' services NGOs,<sup>102</sup> "[n]ot one cent of that money has been put towards domestic victims," says Malika Saada Saar of the Rebecca Project, a Washington-based human rights organization.<sup>103</sup> Bradley Myles, CEO of the Polaris Project—an anti-trafficking organization that runs the National Human Trafficking Resource Center Hotline—has also witnessed the disparity in practice and suggests that the United States needs “to reach a new paradigm where grants, policies, organizations, and task forces can address both U.S. citizen and noncitizen

---

101. 22 U.S.C. § 7101 (2011).

102. 22 U.S.C. § 7105(f)(3)(A) (2011).

103. Steve Turnham and Amber Lyon, *Judge Finds Hurdles to Helping Young Victims of Sex Trafficking*, CNN (Jan. 23, 2011), [http://articles.cnn.com/2011-01-23/justice/siu.selling.girl.next.door.judge\\_1\\_trafficking-victims-protection-act-und erage-girls-american-girls?\\_s=PM:CRIME](http://articles.cnn.com/2011-01-23/justice/siu.selling.girl.next.door.judge_1_trafficking-victims-protection-act-und erage-girls-american-girls?_s=PM:CRIME).

victims without divisiveness and with the freedom to serve and protect all victims.”<sup>104</sup>

The United States’ annual TIP reports also maintain a foreign versus domestic approach to sex trafficking.<sup>105</sup> These reports place countries into a tier system, and placement depends on the U.S. government’s assessment of a particular country’s anti-trafficking efforts.<sup>106</sup> The United States categorizes itself as Tier 1 among the countries that fully comply with the minimum standards for the elimination of trafficking.<sup>107</sup> Nevertheless, the 2010 TIP Report acknowledges the problem of disparate treatment of foreign and domestic child sex-trafficking victims in the United States:

The U.S. government saw improvement in the protection of trafficked foreign children due to new procedures to grant benefits and services more promptly upon identification. However, government services for trafficked U.S. citizen children were not well coordinated; they were dispersed through existing child protection and juvenile justice structures.<sup>108</sup>

Interestingly, there is no mention in the 2011 TIP report of the treatment of foreign versus domestic child victims, suggesting that the U.S. government no longer perceives this as a problem.<sup>109</sup> However, the 2011 TIP report encourages the United States to “offer comprehensive services to identified, eligible victims regardless of type of immigration relief sought,

---

104. KEVIN BALES & RON SOODALTER, *THE SLAVE NEXT DOOR: HUMAN TRAFFICKING AND SLAVERY IN AMERICA TODAY* 103 (2009).

105. *See supra* Part I.A.

106. The U.S. Department of State places countries into one of three tiers based upon the country’s efforts to comply with the “minimum standard for the elimination of trafficking” in the TVPA. Tier 1 countries rank the highest, but a Tier 1 ranking does not mean the country has no human trafficking problem. A Tier 1 ranking indicates that a country’s government “has acknowledged the existence of human trafficking, made efforts to address the problem, and complies with the TVPA’s minimum standards.” To maintain a Tier 1 ranking, each year these countries must show “appreciable progress in combating trafficking.” U.S. DEPT. OF STATE, *TRAFFICKING IN PERSONS REPORT*, <http://www.state.gov/g/tip/rls/tiprpt/> (last visited Apr. 15, 2012).

107. U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT 2011: COUNTRY NARRATIVES: T-Z AND SPECIAL CASES* 372, [hereinafter *TRAFFICKING IN PERSONS REPORT 2011*] <http://www.state.gov/documents/organization/164458.pdf> (last visited Mar. 15, 2012).

108. U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT 2010: COUNTRY NARRATIVES: T-Z AND SPECIAL CASES* 338, <http://www.state.gov/documents/organization/142984.pdf> (last visited Mar. 15, 2012).

109. *See* *TRAFFICKING IN PERSONS REPORT 2011*, *supra* note 107, at 372.

if any.”<sup>110</sup> Evidently, there is still work to be done in the United States to identify and provide services to all child victims of sex trafficking within American borders.

Rachel Lloyd, Executive Director and Founder of Girls Educational & Mentoring Services (GEMS),<sup>111</sup> recently spoke of the drawbacks of the TIP report process before the U.S. Senate.<sup>112</sup> Suggesting that the United States’ focus on sex trafficking in other countries is hypocritical, Ms. Lloyd declared:

As a Nation [sic], we have graded and rated other countries on how they address trafficking within their borders and yet have effectively ignored the sale of our own children within our own borders. We have created a dichotomy of acceptable and unacceptable victims, wherein Katya from the Ukraine will be seen as a real victim and provided with services and support, but Keshia from the Bronx will be seen as a “willing participant,” someone who is out there because she “likes it” and who is criminalized and thrown in detention or jail.<sup>113</sup>

Although the drafters and amenders of the TVPA failed to consider a companion act for domestic victims, the current Congress (the 112th Congress) may be considering just such a measure. The Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2011 was referred to the Committee on the Judiciary on March 16, 2011.<sup>114</sup> If enacted in its current form, this bill will address many of the important issues surrounding domestic sex trafficking consistent with the following goals:

---

110. *Id.*

111. Girls Educational & Mentoring Service (GEMS) is one of the largest organizations in the United States—and the only organization in New York State—specifically designed to help girls and young women who have been victims of sex trafficking. *Mission & History*, GIRLS EDUC. & MENTORING SERVS., <http://www.gems-girls.org/about/mission-history> (last visited Feb. 18, 2012).

112. *In Our Own Backyard: Child Prostitution and Sex Trafficking in the United States: Hearing Before the Subcommittee on Human Rights and the Law of the Senate Committee on the Judiciary*, 111th Cong. 14–17 (2010) (statement of Rachel Lloyd, Executive Director and Founder, Girls Educational & Mentoring Services), available at <http://www.gpo.gov/fdsys/pkg/CHRG111shrg58003/pdf/CHRG-111shrg58003.pdf>.

113. *Id.* at 14–15.

114. Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2011, S. 596, 112th Cong. (2011).

the Attorney General should implement changes to the National Crime Information Center (NCIC) database to ensure that a child will be automatically designated as an endangered juvenile if the child has been reported missing three times in a year and that the database will cross-reference newly entered reports with historical records and include a visual cue on the record of a child designated as an endangered juvenile;

funds awarded under the Edward Byrne Memorial Justice Assistance Grant Program should be used to provide education, training, deterrence, and prevention programs related to sex trafficking of minors;

states should treat minor victims of sex trafficking as crime victims rather than as criminal defendants or juvenile delinquents and make such minors eligible for compensation; and

demand for commercial sex with minors must be deterred through consistent law enforcement.<sup>115</sup>

The bill would also revise the existing grant program to combat trafficking in persons to authorize the Assistant Attorney General for the Office of Justice Programs to award block grants to up to six state or local governments to combat child sex trafficking.<sup>116</sup> Permissible uses of the grant money would include providing child sex-trafficking victims with shelter, case management services, mental health counseling, legal services, and outreach and education programs.<sup>117</sup> In addition, the bill would amend the Trafficking Victims Reauthorization Act of 2008 to require the inclusion of safe-harbor provisions for children exploited through prostitution in model state anti-trafficking statutes.<sup>118</sup> Title IV of the Social Security Act (“Grants to States for Aid and Services to Needy Families with Children and for Child-Welfare Services”) would be amended to require states to adopt procedures for reporting information on missing or abducted children for entry into the NCIC database.<sup>119</sup>

---

115. CONG. RES. SERV., *S. 596: Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2011, Summary*, <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:SN00596:@@D&summ2=m&> (last visited Mar. 28, 2012).

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.*

The bill would also amend the Crime Control Act of 1990 to require the Attorney General's annual statistical summary to include the total number of missing child reports received and the total number of entries made to the NCIC database.<sup>120</sup> State law enforcement agencies would be required to update the record of a missing child with a photograph taken within the previous 180 days.<sup>121</sup> These agencies would also be required to notify the National Center for Missing and Exploited Children of each report of a child missing from a foster care family home or childcare institution.<sup>122</sup> The federal criminal code would be amended to (1) expand protection of minor victims and witnesses from harassment or intimidation, (2) impose a minimum one-year prison term for possession of certain child pornography, and (3) allow the issuance of an administrative subpoena for the investigation of unregistered sex offenders by the U.S. Marshals Service.<sup>123</sup> Consistent with the bill's goal of deterring demand, the U.S. Sentencing Commission would be directed to review and amend federal sentencing guidelines and policy statements to ensure that such guidelines provide an additional penalty for sex trafficking of children and other child abuse crimes.<sup>124</sup>

Importantly, the bill refers to "minor victims of sex trafficking," with no additional qualification of citizenship.<sup>125</sup> Although the bill addresses domestic sex trafficking, there is currently no requirement that the victims themselves be domestic.<sup>126</sup> Consequently, the Domestic Minor Sex Trafficking Deterrence and Victims Support Act could do what the TVPA has failed to do: facilitate efforts to identify and rehabilitate *all* victims of sex trafficking. Although foreign victims of sex trafficking may have additional immigration needs, this is no reason to discriminate at the outset between the two groups of victims. In support of this point, the U.S. Supreme Court has recognized that minor children who are in the United States illegally through no fault of their own must be entitled to a free K-12 education.<sup>127</sup> Only time will tell whether Congress will

---

120. *Id.*

121. *Id.*

122. *Id.*

123. *Id.*

124. *Id.*

125. See Domestic Minor Sex Trafficking Deterrence and Victims Support Act of 2011, S. 596, 112th Cong. § 4(a) (2011).

126. *Id.*

127. See Plyler v. Doe, 457 U.S. 202, 230 (1982).

rectify the shortcomings of the TVPA with a supplemental sex-trafficking act like the Domestic Minor Sex Trafficking Deterrence and Victims Support Act. Two previous bills by the same title died in committee in 2010.<sup>128</sup>

## II. THE FORGOTTEN CHILDREN

With all the time and energy spent on identifying child sex-trafficking victims and their traffickers, India and the United States have forgotten to make a place for rehabilitating child sex-trafficking victims in their existing juvenile legal systems. Although India and the United States are very different countries in many ways, their juvenile legal systems are actually quite analogous. Consequently, both countries currently face similar obstacles to effectively rehabilitating child sex-trafficking victims. Section A of this Part describes the structure of the juvenile legal system in India. Section B explores obstacles to rehabilitating child sex-trafficking victims within the existing Indian system. Section C describes the structure of the juvenile legal system in the United States, and Part D explores obstacles to rehabilitating child sex-trafficking victims within the existing American system.

### A. *The Structure of the Juvenile Legal System in India*

India's juvenile legal system is designed to serve two different populations of children: juveniles in conflict with the law and children in need of care and protection.<sup>129</sup> Juveniles in conflict with the law appear before a Juvenile Justice Board (JJB) made up of a magistrate and two social workers, one of whom must be a woman.<sup>130</sup> All members of a JJB must have training or experience in child psychology or child welfare.<sup>131</sup> As part of the child's sentence, the JJB may send a juvenile in conflict with the law to a government observation home, a special home, or back into the child's parents' home.<sup>132</sup>

---

128. *Related Legislation*, GOVTRACK.US, <http://www.govtrack.us/congress/bill.xpd?bill=s112-596&tab=related> (last visited Apr. 15, 2012).

129. National Law School, Juvenile Law Lecture, Bangalore, India (Mar. 24, 2011).

130. The Juvenile Justice (Care and Protection of Children) Act, No. 56 of 2000, THE GAZETTE OF INDIA, Ch. 3, available at <http://wcd.nic.in/childprot/jjact2000.pdf>.

131. *Id.*

132. *Id.* at 5–6.

Children in need of care and protection appear before a Child Welfare Committee (CWC) made up of a chairperson and four members, which must include an expert on matters concerning children and at least one woman.<sup>133</sup> The CWC can place a child in need of protection in a state-run children's home, a state-sanctioned shelter home, or back into the child's parents' home.<sup>134</sup>

*B. Obstacles to Rehabilitating Child Sex-Trafficking Victims in the Juvenile Legal System of India*

In India, the government-run homes in the juvenile legal system are not suitable places for rehabilitating child sex-trafficking victims.<sup>135</sup> These homes are like jails, with twenty-foot-high exterior walls and barbed wire.<sup>136</sup> The staff is not trained in appropriate levels of sensitivity, and the children often try to escape.<sup>137</sup> Recently, a mentally ill child died after jumping from the second story of a government home.<sup>138</sup> Unfortunately, there is currently a lack of other shelter and special home options like Odanadi to take in child sex-trafficking victims from the government homes.<sup>139</sup> This situation is likely to persist unless the Indian government commits either to better funding of shelters and special homes or to reforming the existing government homes. Odanadi receives minimal government funding and has become successful through its own outreach efforts over many years to private and international donors.<sup>140</sup>

Going back to a parent's home is also not an option for many child victims of sex trafficking in India. Like the girls from the Bedia tribe mentioned above, parents often have sold their children as prostitutes in the first place. Furthermore, even if the family was not involved in trafficking, a family in a small village often cannot take its daughter back for cultural reasons. As Stanly explains, a boy in India can return home after an extended absence and he will be welcomed with "open

---

133. *Id.* at 8.

134. *Id.* at 9–10.

135. Interview with Stanly & Parashu, *supra* note 2.

136. *Id.*

137. National Law School, Human Trafficking Lecture, Bangalore, India, (Mar. 24, 2011).

138. *Id.*

139. Interview with Stanly & Parashu, *supra* note 2.

140. *Id.*

arms and gladness.”<sup>141</sup> By contrast, a girl who is missing for only three days will be subject to “third-degree questioning” by the village leaders upon her return, questioning that is likely to expose her to public shame.<sup>142</sup> For this reason, the parents of female victims often ask Odanadi to keep their daughters, or Odanadi helps them develop plausible stories to satisfy the officious village elders so their daughters may return home with their local reputations intact.<sup>143</sup>

*C. The Structure of the Juvenile Legal System in the United States*

The juvenile legal system in the United States is structurally similar to the juvenile legal system in India. The United States’ juvenile legal system also has two distinct tracks: juvenile delinquency and juvenile dependency.<sup>144</sup> Juvenile delinquency is analogous to juveniles in conflict with the law in India. This track is reserved for children who have committed an act, which if committed by an adult would constitute a crime, or who have committed a status offense, such as a curfew violation, underage drinking, or truancy from school.<sup>145</sup> Juvenile dependency, on the other hand, targets children who are victims of abuse and neglect, much like the process for children in need of protection in India. A child who has been adjudicated delinquent will receive a sentence from a judge, including possible confinement in a juvenile detention facility. On the other hand, a child who has been declared a dependent may be removed from his or her home and placed in foster care, in a group home, or with a relative or family friend. If the court decides that the child’s health and safety are not in danger, the court may also allow a dependent child to remain at home with his or her parents or guardians. Whether the dependent child stays at home or is removed, the case will

---

141. *Id.*

142. *Id.*

143. *Id.*

144. Juvenile legal terminology varies according to the laws of a particular state. For example, a “dependent child” in one state may be referred to as an “abused and neglected child” in another state. There are, however, sufficient trends across all states’ juvenile legal systems to support the general overview information in this section without a comprehensive review of the specific provisions of all fifty states.

145. See COLO. REV. STAT. §§ 19-2-104, 22-33-108 (2011); see also CAL. WELF. & INST. CODE § 601-603 (2011).

continue to be monitored by the court until the parties and the court are satisfied that the child is in a place where he or she is no longer suffering abuse or neglect.

*D. Obstacles to Rehabilitating Child Sex-Trafficking Victims in the Juvenile Legal System of the United States*

Like the juvenile legal system of India, the juvenile legal system of the United States currently lacks appropriate placement and rehabilitation options for child victims of sex trafficking. The U.S. government is aware of the problem: The 2010 TIP report states that the “prostitution of children has traditionally been handled by some state governments as a vice crime or a juvenile justice issue and the anti-trafficking approach of the TVPA has been slow to fully permeate the state child protection and juvenile justice systems.”<sup>146</sup> State governments are also lagging in providing rehabilitative services to trafficked children.<sup>147</sup> Only nine states and the District of Columbia offer state-funded public benefits to trafficking victims.<sup>148</sup> This may explain the absence of specialized shelters for child sex-trafficking victims in a majority of the states.<sup>149</sup> The GEMS website lists other sex-trafficking service providers by state, and only twenty-two states and the District of Columbia have at least one service provider for child sex-trafficking victims.<sup>150</sup> “Lack of appropriate shelters often force law enforcement to send victims to juvenile detention facilities, where there is no access to appropriate services, or releasing [sic] them, knowing that they will end up back in the hands of their pimps.”<sup>151</sup> Indeed, the danger of pimps looking to reclaim their girls is very real:

Janine F., a legal permanent resident, ran away from an abusive family situation in New York when she was 17. An

---

146. TRAFFICKING IN PERSONS REPORT 2011, *supra* note 107, at 376.

147. *Id.*

148. *Id.*

149. GIRLS EDUC. & MENTORING SERV, <http://www.gems-girls.org/what-we-do/service-providers-by-state> (last visited Apr. 30, 2012).

150. *Id.*

151. *Domestic Minor Sex Trafficking: Hearing on H.R. 5575 Before the Subcomm. on Crime, Terrorism, and Homeland Sec. of the H. Comm. on the Judiciary*, 111th Cong. 7 (2010) (statement of Carolyn B. Maloney, Rep. of Cal.), available at [http://judiciary.house.gov/hearings/printers/111th/111-146\\_58250.PDF](http://judiciary.house.gov/hearings/printers/111th/111-146_58250.PDF).

acquaintance invited her to California and paid for her bus ticket. On arriving in California, she was forced into prostitution. After six months she was arrested and held in the custody of child protective services for a week before being sent back to New York on a bus. However, not wanting to return home, Janine F. got off the bus when it stopped in Phoenix. She was at the bus station when the same person who had trafficked her to California pulled up in a car. He said, "You should have known better than to try to get away from me." In Phoenix, he again forced her into prostitution.<sup>152</sup>

Judge William Voy of the Clark County Juvenile Court in Las Vegas, Nevada, also knows the danger that pimps pose to their victims.<sup>153</sup> Judge Voy has been working for five years to bring a specialized residential facility to Clark County for the child victims of sex trafficking.<sup>154</sup> He has secured private funding for the building and the land, but Clark County has not yet agreed to pay the additional \$750,000 necessary to staff the facility with uniformed officers.<sup>155</sup> Meanwhile, Judge Voy keeps an old case on his desk to remind him of the dangers these child victims face when they are released back onto the streets.<sup>156</sup> The girl in that case was released on February 7, 2009. On February 10, she was found murdered with her throat cut.<sup>157</sup> The danger is real, but appropriate facilities for these children are not yet a reality. It is a sad commentary on the state of the American child welfare system when a judge works for five years to make a place for child sex-trafficking victims but the government is unable or unwilling to provide funding for the security staff necessary to keep these children safe. The welfare and progress of child sex-trafficking victims can be monitored in *existing* courtrooms by *existing* juvenile court judges, but we cannot expect these children to heal while we treat them like criminals or release them back onto the streets.

---

152. Letter from Alison Parker & Meghan Rhoad, Human Rights Watch, to Mark Taylor, Senior Coordinator, Office to Monitor and Combat Trafficking in Persons, U.S. Dep't. of State (April 19, 2010), <http://www.hrw.org/en/news/2010/04/19/us-victims-trafficking-held-ice-detention>.

153. Steve Turnham & Amber Lyon, *Judge Finds Hurdles to Helping Young Victims of Sex Trafficking*, CNN (Jan. 23, 2011), [http://articles.cnn.com/2011-01-23/justice/siu.selling.girl.next.door.judge\\_1\\_trafficking-victims-protection-act-und erage-girls-american-girls?\\_s=PM:CRIME](http://articles.cnn.com/2011-01-23/justice/siu.selling.girl.next.door.judge_1_trafficking-victims-protection-act-und erage-girls-american-girls?_s=PM:CRIME).

154. *Id.*

155. *Id.*

156. *Id.*

157. *Id.*

Returning domestic victims home to their parents is also not an option in many cases. As discussed in Part I.D, many domestic victims are runaways or sufferers of intrafamilial sexual abuse. The first priority of states acting *in loco parentis* should be to provide abused children with a safe place to live. Child sex-trafficking victims have suffered some of the worst forms of abuse, and their plight must not be ignored simply because their rehabilitative needs are not easily met by existing facilities.

### III. MOVING FORWARD: EQUALITY AND SPECIALIZED SERVICES FOR ALL CHILD SEX-TRAFFICKING VICTIMS

Sometimes it takes a trip across the world to truly understand why the strategies for combating an international problem should be developed internationally. I do not intend to argue that the United States must develop all its child sex-trafficking laws with direct input from the international community—this would be an unrealistic position given the United States' demonstrated reluctance to commit to collective international legal efforts.<sup>158</sup> Instead, I advocate for more informal international cooperation. Child sex trafficking is an international problem, and it is vital that each nation look to the successes of other countries as empirical evidence for improving its own laws. The United States can learn a great deal from India on the issue of child sex trafficking, just as India can learn a great deal from the United States.

The United States should follow India's example of identifying and rehabilitating child victims of sex trafficking without regard to their citizenship. An ICE detention facility is not an appropriate placement for a traumatized child sex-trafficking victim, particularly if the government would like the child to assist law enforcement in prosecuting his or her traffickers. Indeed, why have U-visas and T-visas if not to facilitate the prosecution of traffickers and rectify the harm suffered by these children within our borders?

---

158. *E.g.*, the United States and Somalia are the only countries that have not ratified the UN Convention on the Rights of the Child, [http://www.unicef.org/crc/index\\_30229.html](http://www.unicef.org/crc/index_30229.html). Consider, also, the United States' dealings with respect to the Kyoto protocol. See Tony Karon, *When it Comes to Kyoto, the U.S. is the "Rogue Nation,"* TIME (July 24, 2001), <http://www.time.com/time/world/article/0,8599,168701,00.html>.

Janine F., the seventeen-year-old mentioned above who was recaptured by her pimp, ended up in removal proceedings after two convictions for prostitution.<sup>159</sup> Although her prostitution convictions were a direct result of being repeatedly sex trafficked as a minor, she found herself in ICE detention as an adult.<sup>160</sup> Janine was held in an immigration facility in Arizona for over a year, and a letter from her attorney for humanitarian parole went unanswered.<sup>161</sup> Finally, at the age of twenty-two, Janine was released from ICE detention and awarded cancellation of removal under the Violence Against Women Act.<sup>162</sup>

Imagine if Janine had been properly identified as a child sex-trafficking victim and then sent to a specialized rehabilitation facility instead of back into the clutches of her trafficker. Instead of spending five years of her young life as a prostitute and detainee, she could have spent time recovering from her ordeal and preparing for a new and better life. Placing foreign child sex-trafficking victims like Janine in specialized rehabilitation facilities during the pendency of their immigration status would do justice to the congressional findings of the TVPA.

India has recognized that child sex trafficking does not discriminate between foreign and domestic girls, and neither should the government or service providers. In the United States, however, convoluted sex-trafficking laws based on even more convoluted immigration laws frustrate law enforcement efforts to quickly and properly identify child sex-trafficking victims. Under current laws, foreign child victims too often end up in ICE detention where it can take years to sort out their status, while domestic child victims are too often ignored or arrested as prostitutes. All of these children deserve to be rescued from a life of sexual exploitation. Current definitions of sex trafficking in the TVPA and related laws should be amended to ensure that law enforcement agencies investigate the age of the victim first, before the issue of consent or the victim's immigration status. Moreover, child victims of domestic sex trafficking suffer severe abuse and exploitation

---

159. Letter from Alison Parker & Meghan Rhoad, to Mark Taylor, *supra* note 152; *see supra* Part II.D.

160. *Id.*

161. *Id.*

162. *Id.*

irrespective of their citizenship. Future laws must address this reality.

India can also improve internal efforts to combat sex trafficking with examples from abroad. India should look to the United States for government-level strategies to combat police corruption. One such strategy is the implementation of special sex-trafficking police units. Specialized units in Brooklyn,<sup>163</sup> Maryland,<sup>164</sup> and Dallas<sup>165</sup> have been successful in arresting traffickers and identifying and rescuing victims. In Dallas, the Child Exploitation/High-Risk Victims Trafficking Unit (Dallas Unit) works to change the community perception of sexually-trafficked children:

If a 45-year-old-man had sex with a 14-year-old-girl and no money changed hands . . . he was likely to get jail time for statutory rape . . . . If the same man left \$80 on the table after having sex with her, she would probably be locked up for prostitution and he would probably go home with a fine as a john.<sup>166</sup>

To increase recognition that this girl is a victim in both scenarios, the Dallas Unit developed a database to track high-risk children, including repeat runaways and repeat victims of sexual abuse and sexual exploitation.<sup>167</sup> The Dallas Unit then established a protocol requiring county police agencies to refer all high-risk victims, known as HRVs, and juveniles suspected of involvement in prostitution to the Dallas Unit.<sup>168</sup> The Dallas Unit provides training to county law enforcement on the identification of HRVs and distributes a card to frontline officers and investigators with the Dallas Unit's contact information.<sup>169</sup> The Dallas Unit detectives are available twenty-four hours per day, seven days per week.<sup>170</sup> In addition,

---

163. William Sherman, *District Attorney Targets Brooklyn's Growing Sex Trade with New Elite Unit*, NEW YORK DAILY NEWS (June 3, 2010), [http://articles.nydailynews.com/2010-06-03/local/29438538\\_1\\_attorney-targets-pimps-prostitution](http://articles.nydailynews.com/2010-06-03/local/29438538_1_attorney-targets-pimps-prostitution).

164. *Maryland Man Sentenced on Federal Sex Trafficking, Drug and Firearm Charges*, U.S. DEP'T OF JUSTICE (July 19, 2010), <http://www.justice.gov/opa/pr/2010/July/10-crt-830.html>.

165. RAMI S. BADAWY, NAT'L DIST. ATTORNEYS ASS'N, *SHIFTING THE PARADIGM FROM PROSECUTION TO PROTECTION OF CHILD VICTIMS OF PROSTITUTION* 1-3 (2010), [http://www.ndaa.org/pdf/Update\\_V22N8.pdf](http://www.ndaa.org/pdf/Update_V22N8.pdf).

166. *Id.* at 1.

167. *Id.* at 1-2.

168. *Id.* at 2.

169. *Id.*

170. *Id.*

the detectives almost always conduct the interviews of the children using an interviewing model designed for adolescents who do not trust law enforcement and have been instructed by their pimp or trafficker to lie.<sup>171</sup>

In addition to increasing the effectiveness of antitrafficking efforts, the small and insular nature of specialized units makes it easier for the government to monitor and investigate complaints of corruption. The Indian government could also reduce the relative appeal of bribes by making a concerted effort to increase the wages of police officers. “While many policemen take hafta [(bribes)] because they can, some will say they have no option. A constable earns Rs 3500 (about \$86) a month, excluding benefits.”<sup>172</sup>

In addition to improving the identification of child sex-trafficking victims in India and the United States, there are lessons to be learned for improving the rehabilitation of sex-trafficked children in both countries. Odanadi’s success in India stands for the argument that there should be more specialized safe homes in the United States and India.

My fellow law students and I had the pleasure of meeting the children at Odanadi after their day at school. They were happy, friendly, and playful, as children should be. One of the older girls, Aaina,<sup>173</sup> came to greet us immediately, but it soon became clear to us that she was different from the other children. Another resident remarked casually, “Oh, she does not speak.” Aaina shook all of our hands at least three times that day with a wide smile on her face. Later, we were informed in conversation with the Odanadi staff that she is one of the most severely abused children of all those currently living at Odanadi. They estimated that she had spent ten years of her life being abused in a brothel before arriving at their safe home.

It was not clear to me during our short visit whether Aaina’s developmental disabilities are congenital or the result of years of suffering and loss of childhood, but one thing was clear: She is now surrounded by people who understand and accept her just as she is. It is also clear to me that it is time to

---

171. *Id.*

172. Sonia Faleiro, *Maarne Ka, Bhagane Ka (Beat Them, Kick Them Out)*, in AIDS SUTRA: UNTOLD STORIES FROM INDIA (2008).

173. Not her real name. The name “Aaina” means “mirror,” and to me, this child’s silence and her smile reflected simultaneously the depths of her suffering and the resiliency of her spirit.

improve the legal systems of India and the United States to make it easier to help girls like Aaina. Once we finally discover the hidden and forgotten children, we owe it to them to give them a safe and caring home, perhaps for the first time in their lives.

#### CONCLUSION

It is easy to get lost in the literature of the multitude of problems and possible approaches to combating child sex trafficking in the United States, India, and the rest of the world. In the end, though, it all boils down to the victims. The victims are the reason people care so much about trafficking—the thought of children being sexually exploited by adults for financial gain shocks the conscience. Instead of getting caught up in the drama of the issue, however, the United States and India must focus on improving efforts to identify and rehabilitate as many victims as possible. To do this, both countries need clear legal definitions, dedicated and honest police officers, equality for domestic and foreign child victims under the laws, and specialized safe homes. When the governments of India and the United States take action toward these ends, they will brighten the futures of some very strong and resilient children.