

Perspective

Lawyers Taking a Stand Against Human Trafficking

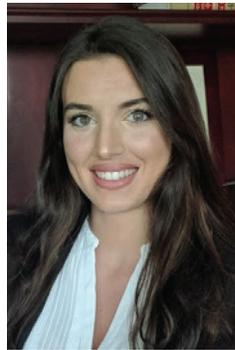
BY MARIE NAPOLI AND MICHELLE M. GREENE

Slavery and human trafficking are actions many would like to think took place a long time ago. Yet, despite the Constitution's Thirteenth Amendment abolishing slavery, millions of men, women, and children are still held against their will and forced into trafficking around the world. What is just as alarming as these grave human rights violations, is the rate at which we have seen them grow. Every year up to 800,000 people are trafficked across international borders, of which 80% are females. Trafficking also occurs in every type of community, oftentimes as an insidious scourge on the community. A focus on legislation in combating the crime of trafficking and lessening its effects is thus vital, particular for women, not only

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in the United States, but around the world.

Lawyers are in a strategic position to use their skillset to help the survivors, lead critical research and seek reparation. Raising awareness on this issue and increasing training for attorneys will enable trafficked women and minors to be treated as victims, and thereby receive protections, rather than as offenders. Although sex trafficking cases are difficult, the litigation is growing as attorneys are continuing to advance claims in state and federal courts across the country.

Federal and State Regulations Battling This Issue

In the last two decades there has been a momentous change from the anti-trafficking movement. Largely due to increased knowledge and the advance of federal and state legislation, we have seen an exemplar shift in the way our country discusses, views, and treats those who have been victimized by human trafficking. Federal and state laws are enacted to hold traffickers responsible and, perhaps more crucially, to provide victims the support they need. At the federal level, Congress established the first-ever comprehensive national effort relating to trafficking victims and their protection in the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA provides for enhanced penalties for human trafficking crimes and special

service programs to provide assistance to victims. It has since been reauthorized in 2003, 2005, 2008, and 2013 as an amendment to the Violence Against Women Act (VAWA). The law also provides victims a civil cause of action against defendants who benefit from the trafficking. This includes not only the traffickers themselves but any person or businesses that knowingly profits from the illegal business. Additionally, the 2019 Fight Online Sex Trafficking Act (FOSTA) and Stop Enabling Sex Traffickers Act (SESTA) restricts online advertisement from advertising for commercial sex, making the act of trafficking more difficult.

A problem, however, is that victim assistance under the TVPA is limited and can be difficult to obtain. The federal government cannot adequately take on every human trafficking case and as such, relies heavily on individual states for assistance. According to the Human Trafficking Legal Center's study, the number of federal civil suits over sex and labor trafficking has increased dramatically over the past 15 years, growing from six cases filed in 2004 to 37 in 2017.

TVPA was a landmark advance in addressing what is now viewed not just as a national problem, but a state and local issue as



well. One of New York's most important developments in the

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area of human trafficking was the passing of the Trafficking Victims Protection and Justice Act (TVPJA) in 2015. The TVPJA increased the penalty for sex trafficking offenses as well as added new penalties for buyers of trafficking victims. In addition, just last year the New York legislature expanded the statute of limitations for child victims of sex abuse. This "look-back window" is part of the Child Victims Act,

which extended the statute of limitations for both criminal and civil lawsuits when it was signed into New York State law by Gov. Andrew Cuomo.

Supplementing the TVPA, we are seeing more and more states like New York adopt legislation to prevent victims from being convicted of prostitution offenses. Currently, all 50 states in the United States have passed trafficking laws with varying degrees of protection. State safe harbor laws, for instance, can render children immune to prosecution for certain types of crimes. Unfortunately, however, there is no uniformity across states in regard to anti-trafficking laws.

Luckily, this problem has begun to see new allies—dedicated lawyers, law enforcement officers, government officials, nonprofits

and survivors who are united in this fight.

How Lawyers Can Make a Difference

Attorneys can take on human trafficking from many angles and use civil, criminal law and employment regulations to bring traffickers to justice. To assist survivors and protect their rights, lawyers have required traffickers to compensate their victims and fought charges leveled against women forced into prostitution. As financial compensation, trafficking victims are eligible for criminal restitution awards and civil damages. That is why civil advocates have helped victims of human trafficking to obtain restitution awards during the criminal case. Victims can receive restitution for their losses and the value of their work performed for forced labor—even if the work is deemed illegal—in multiple federal courts. Overall, the need for lawyers to support survivors of human trafficking is vital, as is raising awareness among the legal community.

We must enact policies and continue to create laws that undermine the motives for those responsible. As states' laws have created civil causes of action for survivors of sex trafficking, we have seen a rise in litigation. Even though human trafficking

is a multi-billion-dollar industry, many people never see its consequences, and namely, the victims among us. That is because trafficking networks often rely on legitimate businesses in order to run their illegal operations. One such business is the hotel industry, where victims can be housed while in transit, or where traffickers can run their business out of hotel rooms. Since hotels are a known location for exploitation of victims, hotels are a model location for presenting information about services for victims. Under the civil cause of action, we are seeing pending lawsuits against these national brand hotel and motel chains for benefitting from the trafficking within their establishments. These lawsuits show creative approaches to impede trafficking while simultaneously collaborating with legal professionals to bolster anti-trafficking pursuits.

The psychological trauma victims have endured can greatly set trafficking cases apart from other types of torts. That is why this is not a practice attorneys should enter lightly. Eliminating misconceptions about human trafficking is critical to understanding its true nature. Lawyers and many others might interact with trafficked people every day without knowing it. Because trafficked people do not

always understand their rights or refuse to self-identify, the better we understand what they may look like, the more we can recognize and defend these victims.

Conclusion

Human trafficking occurs everywhere, even in our own cities and neighborhoods. The recent arrest of Jeffrey Epstein in the United States on charges of trafficking and sexual exploitation of girls is just one example of an exigent problem that holds a disturbing number of victims. Victims often stay quiet because they are afraid of the repercussions by their trafficker or they fear being arrested. However, trafficking victims may be eligible for financial and legal assistance from the state and federal governments.

It is imperative that the above-mentioned issues are kept in consideration during legislation like TVPA reauthorizations, and civil lawsuits. We must continue to develop policies to effectively prosecute traffickers and provide services to victims. This includes laws that provide judicial protections for survivors, establish funding for anti-trafficking efforts and educate the public on trafficking issues.