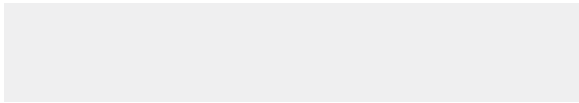
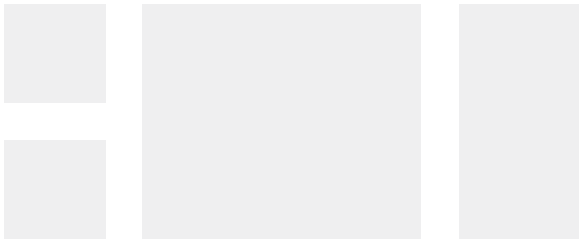




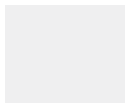
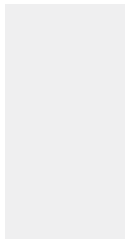
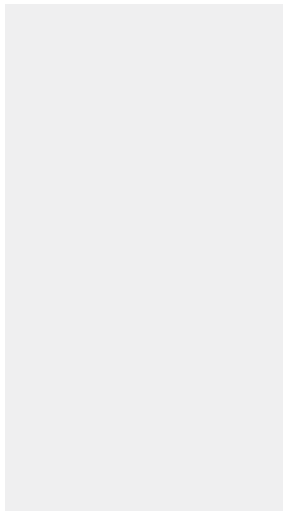
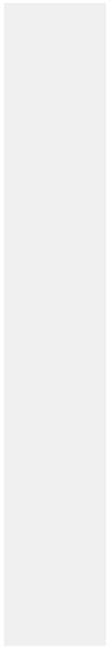
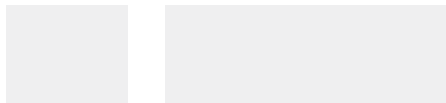
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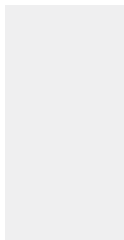
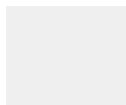
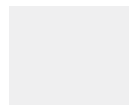
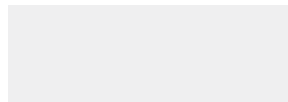
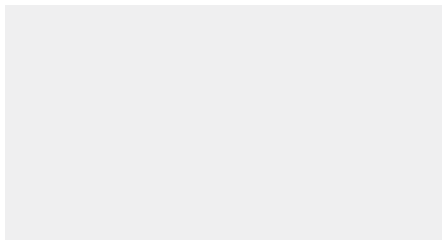
**Two Sides of the Same Coin:  
Climate Change and Human Trafficking**



**Camryn Jung**



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# TWO SIDES OF THE SAME COIN: CLIMATE CHANGE AND HUMAN TRAFFICKING

*Camryn Jung\**

**Abstract:**

In the last two decades, the world has been attempting to fight climate change and human trafficking. Both issues impact the entire world, but they also impact each other. As the climate crisis only worsens, more people are forced to leave their homes and, in the process, become more vulnerable to traffickers. This paper will focus on the fact that the industries in which people are labor trafficked in are some of the most damaging industries for the environment. For example, fast fashion, illegal logging, and agriculture are three of the top trafficking industries and three of the largest contributors to climate change. After describing and connecting these issues, specifically in China, Brazil, and the United States, this paper proposes an international agreement to fight climate change and human trafficking as one, connected issue. The proposed agreement will allow each state to set certain goals regarding their climate impact and human trafficking convictions but will also impose sanctions if the states fail to comply. The optimal way to impose sanctions would be through a carbon pricing scheme. Carbon pricing quantifies the costs related to the adverse effects of emissions; the scheme would then shift the burden of such cost back to the emitting state. Carbon pricing can trace the emissions from specific industries to determine which emissions are a result of trafficking. In order to properly protect against climate change and human trafficking, the goal community needs to formally recognize the connection and attack the two as one.

**Key words:** climate change, human trafficking, international agreements, China, Brazil, United States

## A. INTRODUCTION

While few issues significantly impact the entire global community, human trafficking and the climate crisis are two of them. Despite an influx of international agreements and domestic laws trying to mitigate both individually, the situations are only getting worse; there have been more instances of human trafficking and the climate has only become more unpredictable. At first glance, each issue appears to be negatively impacting the world independently, however, this is not the case.

Climate change and human trafficking have a direct relationship, meaning that an increase in one leads to an increase in the other. As the climate crisis has worsened, forced migration has increased globally. The amount of flooding, hurricanes, fires, and famine are all increasing due to climate change, forcing people out of their homes and turning them into climate refugees seeking safety in a new state. When massive numbers of people are fleeing a particular area, it is easy for a trafficker to lure a victim to a new area and force them into sex work or other forced labor practices. Often, victims are forced to work in industries that lead to the emission of greenhouse gasses. Labor trafficking victims are typically forced to work in textile factories, illegal

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logging, fishing, or the agriculture industry, which are all extremely damaging to the environment. This connection has gone mostly unrecognized for decades. If states were to formally recognize this and coordinate a collective response to combat each issue, both climate change and human trafficking could be mitigated.

Currently, the majority of states are party to the Paris Agreement, which is the most recent international agreement designed to fight the climate crisis. The Paris Agreement is a treaty that was adopted in 2015 under the United Nations Framework Convention on Climate Change (“UNFCCC”). The UNFCCC, adopted and signed in 1992, called for signatories to reduce their greenhouse gas emissions with the goal of “preventing dangerous anthropogenic interference with Earth’s climate system.”<sup>2</sup> The UNFCCC is only a framework convention requiring each individual participating country to commit to stabilizing its greenhouse gas emissions. Since the UNFCCC did not delineate how states were to achieve this goal, the Kyoto Protocol was created under the UNFCCC to provide such direction. Through the Kyoto Protocol, states attempted to bind each other to lower greenhouse gas emissions. Despite the Protocol’s intentions, it was quickly realized that the Protocol was not strong enough to effectively prevent the climate crisis. With powerful states such as the United States (“U.S.”) never ratifying and Canada denouncing the Protocol, it was clear that this was not the proper route to protect the environment. As the Member States came to the realization that the few guidelines and limited support of the Kyoto Protocol meant it was not going to effectively protect the environment, they determined that a new agreement with clearly delineated standards for each country needed to be created; this led to the creation of the Paris Agreement. Despite the international agreements set to combat climate change, some major state actors are concerned that cutting back on practices which tend to be harmful to the environment will destroy their own economy, causing states to ignore the international standards. The first section of this paper will further detail the current international and domestic regulations designed to prevent climate change, focusing on China, Brazil, and the U.S.

The next section will provide a brief history of human trafficking and analyze the current international standards for combatting human trafficking, the means by which a trafficker traps a victim, and trafficking practices within China, Brazil, and the U.S. individually. While there is evidence of human trafficking dating back to the beginning of the human race, the practice was only formally recognized by the international community twenty years ago. In November 2000, the United Nations Convention against Transnational Organized Crime was held and generated the Palermo Protocols which created the first internationally accepted definition for human trafficking. The Palermo Protocol defines human trafficking by identifying three central elements: a trafficker’s **action** of taking an individual through the **means** of force, fraud, or coercion for the **purpose** of exploitation. Typically, a trafficker forces a victim into sex work or other labor practices such as domestic work, factory work, the illegal logging industry, and the agriculture industry. Traffickers use multiple tactics to manipulate specific victims to leave their home. Some of the most common tactics are promises of employment or the prospect of finding love. After luring the victim to a new area, away from their family and friends, a trafficker will take the victim’s travel documents and inform the victim that they owe the trafficker a large sum of money in order to be free. The trafficker will then force the victim to work for wages which will then be transferred to the trafficker as payment for moving them to this new area. Human trafficking occurs to some degree in every state, but states are not working together to combat this epidemic. Despite the existence of international laws against trafficking, each state has its own way of dealing with the practice and in punishing those who are caught in the act.

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<sup>2</sup> United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 March 1994) Treaty S. Doc No. 102-38, 1771 U.N.T.S. 107.

The third section will detail how human trafficking continues to exacerbate the climate crisis. It has been established that climate change has led to an increase in human trafficking, both the United Nations and INTERPOL have acknowledged this connection.<sup>3</sup> It is less widely recognized that the areas in which trafficking victims are forced to work are the leading industries in aggravating climate change. By failing to reduce instances of human trafficking, states are not only harming these individuals, but they are also harming the planet as a whole.

The climate crisis and human trafficking are two issues that impact the entire world and directly influence each other. In order to properly fight against both of these growing evils, the direct relationship between climate change and human trafficking needs to be formally recognized. The fourth section will propose a new international agreement that will address the two issues as one. This could be accomplished either through the United Nations or a multilateral treaty which would hold traffickers accountable for offenses against the individual and global community as a whole. States would be able to set their own reasonably attainable goals, as they currently do with the Paris Agreement, with yearly updates as to whether or not the state is truly working in the direction of this goal.

The proposed agreement would also hold states accountable for failure to comply with the goals and standards set out in the treaty through economic sanctions. The current agreements do not impose any sanctions on states who fail to protect their citizens. States are typically more cognizant of the adverse economic effects that may ensue as a result of compliance with environmental standards or in combatting human trafficking. The primary reason for this economic prioritization stems from a lack of substantial motivation to do otherwise. The new agreement would need to impose economic sanctions on states for failing to comply with the agreement's goals and also contain incentives for states who meet their set yearly goals regarding greenhouse gas emissions and human trafficking convictions. By creating an agreement that recognizes the direct relationship between the climate crisis and human trafficking and holds states accountable for their actions, the international community will have a better chance of combating these issues.

## B. HISTORY OF THE GLOBAL CLIMATE CRISIS

While the earth's climate naturally fluctuates, the current warming trend is most likely a result of human activity over the last few decades. One of the most compelling pieces of evidence for the rapid climate change is the global temperature rise. In the last ten years, earth has experienced its eight hottest years on record,<sup>4</sup> causing the oceans to absorb heat and warm as well.<sup>5</sup> Additionally, the ice sheets have been shrinking, with traditionally colder states losing billions of tons of ice each year. For instance, Canada's last fully intact ice shelf just collapsed resulting in losing more than a 40% loss of its surface area in only two days.<sup>6</sup> The melting

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<sup>3</sup> Christian Nellemann, Ritu Verma, Lawrence Hislop, *Women at the Frontline of Climate Change: Gender Risks and Hopes: A Rapid Response Assessment* (UNEP 2011) 7; UN, 'Conflict, climate change among factors that increase 'desperation that enables human trafficking to flourish', says UN chief' (*UN News – Human Rights* 30 July 2019) <<https://news.un.org/en/story/2019/07/1043391>> accessed 18<sup>th</sup> March 2021.

<sup>4</sup> 'Top 10 Warmest Years on Record' (*Climate Central*, 15 Jan. 2020) <[www.climatecentral.org/gallery/graphics/top-10-warmest-years-on-record](http://www.climatecentral.org/gallery/graphics/top-10-warmest-years-on-record)> accessed 18<sup>th</sup> March 2021.

<sup>5</sup> 'Climate Change: How Do We Know?' (*NASA: Global Climate Change*) <<https://climate.nasa.gov/evidence/>> accessed 18<sup>th</sup> March 2021.

<sup>6</sup> Moria Warburton, 'Canada's last fully intact Arctic ice shelf collapses', (*REUTERS*, 6 Aug. 2020) <[www.reuters.com/article/us-climate-change-canada/canadas-last-fully-intact-arctic-ice-shelf-collapses-idUSKCN2523JH](http://www.reuters.com/article/us-climate-change-canada/canadas-last-fully-intact-arctic-ice-shelf-collapses-idUSKCN2523JH)> accessed 18<sup>th</sup> March 2021.

icecaps have led to an increase in sea level, causing coasts to disappear and destroying countless homes.<sup>7</sup> Glaciers around the world are retreating and snow cover has decreased significantly over the last five decades.<sup>8</sup> The climate crisis has also caused an increase in natural hazards such as wildfires across the globe<sup>9</sup> and hurricanes in vulnerable cities.<sup>10</sup> Given the pervasive nature of the issue, the optimal solution for fighting climate change will involve a collective effort from the global community.

In an attempt to mitigate climate change, the United Nations created the UNFCCC, an international environmental protection treaty adopted in 1992 and entered into force in 1994. The UNFCCC ultimately sought to achieve the “stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system.”<sup>11</sup> The Framework creates non-binding limits on greenhouse gas emission for individual countries and outlines how international treaties or protocols can be negotiated to specify further action towards climate protection, however, it fails to create any enforcement mechanisms.

After the United Nations realized that the UNFCCC needed stronger execution instruments to ensure states comply, the Kyoto Protocol was created. The Kyoto Protocol, a binding agreement under international law, set greenhouse emissions targets for developed countries.<sup>12</sup> The Protocol was based on the principle of common but differentiated responsibilities of each state, acknowledging that individual states had different capabilities in combatting climate change. Under the Protocol, each state had its own obligations to reduce current emissions based on the amount of greenhouse gases they were currently responsible for. The U.S. never ratified the Kyoto Protocol and Canada denounced it in 2012, thus rendering the Protocol devoid of two major international players, leaving the rest of the international community seeking a way to adjust their practices. States soon came to realize that the Kyoto Protocol would not be enough to combat climate change.

The Paris Agreement, an agreement under the UNFCCC created in 2015 and later signed in 2016, was created to replace the Kyoto Protocol. The Agreement works towards long-term global climate goals. The Agreement’s central aim is to strengthen the international response to climate change by working together to keep the global temperature rise this century below 2 degrees Celsius above pre-industrial levels.<sup>13</sup> The Paris Agreement allows each signatory to determine, plan, and report on their contribution to mitigate climate change. The U.S. did sign the Paris Agreement under President Obama, but President Trump announced the U.S.’s withdrawal from the Agreement in June 2017. Since this announcement, the Trump Administration created domestic climate change policies which are in contrast with the Paris Agreement.<sup>14</sup>

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<sup>7</sup> Barbara Neumann, Athanasios T. Vafeidis, Juliana Zimmermann, Robert J. Nicholls, ‘Future Coastal Population Growth and Exposure to Sea-Level Rise and Coastal Flooding – A Global Assessment’ (2015) 10(6) *PLoS ONE* <<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0118571>> accessed 18<sup>th</sup> March 2021.

<sup>8</sup> NASA (n.5).

<sup>9</sup> ‘Wildfires and Climate Change’ (Center for Climate and Energy Solutions) <[www.c2es.org/content/wildfires-and-climate-change/](http://www.c2es.org/content/wildfires-and-climate-change/)> accessed 18<sup>th</sup> March 2021.

<sup>10</sup> Reza Marsooli, Ning Lin, Kerry Emanuel, Kairui Feng, ‘Climate change exacerbates hurricane flood hazards along US Atlantic and Gulf Coasts in spatially varying patterns’ (2019) 10:3785 *Nature Communications*.

<sup>11</sup> United Nations (n.2).

<sup>12</sup> Kyoto Protocol to the United Nations Framework Convention on Climate Change (adopted 10 Dec. 1997, entered into force 16 Feb. 2005) Treaty S. 2303 U.N.T.S. 162.

<sup>13</sup> Paris Agreement to the United Nations Framework Convention on Climate Change (adopted 12 Dec. 2015, entered into force 4 Nov. 2016) T.I.A.S. No. 16-1104.

<sup>14</sup> Bill Hare, ‘Effect of the US withdrawal from the Paris Agreement’ (*Climate Action Tracker*, 1 Nov. 2019) <<https://climateactiontracker.org/press/effect-of-the-us-withdrawal-from-the-paris-agreement/>> accessed 18<sup>th</sup> March 2021.

After President Biden was inaugurated, he immediately signed an executive order having the U.S. rejoin the Paris Agreement and overturning some of Trump's policies attacking the environment.<sup>15</sup> As some countries, such as the U.S., have a larger carbon footprint than others, it is more important that those countries reduce their greenhouse gas emissions. For instance, the energy emissions from China and the U.S. make up about 35% of all global emissions.<sup>16</sup> The U.S. leaving the Paris Agreement not only changed U.S. domestic policies but negatively impacted the world as a whole. The executive order issued by President Biden could change the course of the world.

The agriculture industry is one of the largest contributors to climate change.<sup>17</sup> Climate change and the agriculture industry have a direct relationship, in that one developing will cause the other to increase as a result. Greenhouse gases are released into the atmosphere when raising livestock, animal feed, food crops, and biofuel crops.<sup>18</sup> Raising livestock also contributes to water pollution through manure runoff seeping into nearby water and methane being released from livestock such as cows.<sup>19</sup> As the agriculture industry grows, more greenhouse gases are released into the atmosphere resulting in climate changes which then impacts how crops grow and livestock is raised.<sup>20</sup> Farmers must then adjust to the changing temperatures by utilizing more chemicals to compensate for the adverse effects on crop growth, in turn releasing more greenhouse gases, and thus resulting in an endless cycle. While the agriculture industry is typically thought of as farming crops and cattle, it can also extend to the fishing industry. Fishing, specifically deep-sea fishing, involves removing millions of tons of fish from the oceans while also disrupting the bottom of the seabed. This disruption causes significant amounts of sediment to be lifted and that sediment is damaging to the coral species that are vital to a healthy ocean ecosystem.<sup>21</sup> China, the U.S., and Brazil are three of the world's top five agriculture producing states, only adding to their already large carbon footprints.<sup>22</sup>

The fashion industry is the second-largest global contributor to climate change, as the industry produces 10% of all global carbon emissions, plastic pollution, and excessive water use.<sup>23</sup> About 85% of all clothes are disposed of each year, resulting in plastic from the polyester fibers ending up in the oceans and other non-biodegradable items in landfills.<sup>24</sup> Specifically, the emerging fast fashion industry is rapidly destroying the environment. Fast fashion describes "an approach to the design, creation, and marketing of clothing fashions

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<sup>15</sup> President Joe Biden 'Executive Order on Tackling the Climate Crisis at Home and Abroad' (*The White House Briefing Room*, 27 Jan. 2021) <[www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/27/executive-order-on-tackling-the-climate-crisis-at-home-and-abroad/)> accessed 18<sup>th</sup> March 2021.

<sup>16</sup> Johannes Fredrich, Mengpin Ge, Andrew Pickens, 'This Interactive Chart Shows Changes in the World's Top 10 Emitters' (*World Resources Institute*, 10 Dec. 2020) <[www.wri.org/blog/2017/04/interactive-chart-explains-worlds-top-10-emitters-and-how-theyve-changed](https://www.wri.org/blog/2017/04/interactive-chart-explains-worlds-top-10-emitters-and-how-theyve-changed)> accessed 18<sup>th</sup> March 2021.

<sup>17</sup> Sangeeta Lenka, N.K. Lenka, Veerasamy Sejian, M. Mohanty, 'Contribution of Agriculture Sector to Climate Change' (2015) *Climate Change Impact on Livestock: Adaption and Mitigation* 37.

<sup>18</sup> Courtney Lindwall, 'Industrial Agricultural Pollution 101' (*NRDC*, 31 July 2019) <[www.nrdc.org/stories/industrial-agricultural-pollution-101](https://www.nrdc.org/stories/industrial-agricultural-pollution-101)> accessed 18<sup>th</sup> March 2021.

<sup>19</sup> *ibid.*

<sup>20</sup> U.S. Global Change Research Program, 'National Climate Assessment: Agriculture' (*GlobalChange*, 2014) <<https://nca2014.globalchange.gov/highlights/report-findings/agriculture>> accessed 18<sup>th</sup> March 2021.

<sup>21</sup> Amber Pariona, 'What is the Environmental Impact of the Fishing Industry?' (*WorldAtlas*, 25 April 2017) <[www.worldatlas.com/articles/what-is-the-environmental-impact-of-the-fishing-industry.html](https://www.worldatlas.com/articles/what-is-the-environmental-impact-of-the-fishing-industry.html)> accessed 18<sup>th</sup> March 2021.

<sup>22</sup> Sean Ross, '4 Countries That Produce the Most Food' (*Investopedia*, 19 July 2020) <[www.investopedia.com/articles/investing/100615/4-countries-produce-most-food.asp](https://www.investopedia.com/articles/investing/100615/4-countries-produce-most-food.asp)> accessed 18<sup>th</sup> March 2021.

<sup>23</sup> Morgan McFall-Johnsen, 'The fashion industry emits more carbon than international flights and maritime shipping combined. Here are the biggest ways it impacts the planet' (*Business Insider*, 21 Oct. 2019) <[www.businessinsider.com/fast-fashion-environmental-impact-pollution-emissions-waste-water-2019-10](https://www.businessinsider.com/fast-fashion-environmental-impact-pollution-emissions-waste-water-2019-10)> accessed 18<sup>th</sup> March 2021.

<sup>24</sup> *ibid.*



that emphasizes making fashion trends quickly and cheaply available to consumers.”<sup>25</sup> Due to its propensity to forego using sustainable materials in favor of cheap, environmentally unfriendly ones, the fast fashion industry is quickly creating a large carbon footprint. With companies, such as Shein, promoting hundreds of new items every day, compared to previous decades when fashion companies released approximately two collections each year, the world is being overloaded with discarded clothing.<sup>26</sup> China and the U.S. make up two of the top ten textile producing states, with China as the number one and the U.S. outsourcing a lot of its textile production to China.<sup>27</sup> Fashion pollution includes the production and disposal of clothing, therefore being a textile producer only increases the amount of pollution coming from one state.

## 1. Climate Change in China

Over the last three decades, China’s economy has grown at an unprecedented rate.<sup>28</sup> The mass production of goods, specifically textiles, in factories across China has been a major contributor to its economic growth.<sup>29</sup> Studies have found that China’s greenhouse gas emissions have increased almost threefold in the same time period.<sup>30</sup> The factories produce so much air pollution that 1.3 million people in China die each year because of exposure to poor air quality.<sup>31</sup> In addition to factory pollution, China is a large contributor to agriculture pollution. China is currently ranked first in the world for the production of cotton, vegetables, fruit, meat, and poultry.<sup>32</sup> Meat production contributes to environmental harm, arguably, more than any other food production. Nearly 30% of the world’s “ice-free land” is used to farm livestock which produces a substantial amount of methane gas.<sup>33</sup> Throughout its history, farming has been deeply instilled in Chinese culture, which has led to the establishment of small farms across the country. A study found that the agricultural chemicals used inefficiently on these small farms, more so than on larger farms, are leading to an increase in pollution in the water and air.<sup>34</sup>

When signing and ratifying the Paris Agreement, China committed to peak its carbon emissions by 2030 and further dictated this in its national policies which were submitted to the UNFCCC in June 2015.<sup>35</sup> This means that China’s greenhouse gas emissions are projected to rise for at least the next nine years. After ratifying the Paris Agreement and creating a national policy pledging reduction, China did increase efforts to reduce

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<sup>25</sup> ‘Fast Fashion’, (Merriam-Webster Dictionary first known use 1977).

<sup>26</sup> McFall-Johnsen (n.23).

<sup>27</sup> ‘Top 10 Exporting Countries of Textile and Apparel Industry’ (Fibre2Fashion, Dec. 2019) <[www.fibre2fashion.com/industry-article/8471/top-10-exporting-countries-of-textile-and-apparel-industry](http://www.fibre2fashion.com/industry-article/8471/top-10-exporting-countries-of-textile-and-apparel-industry)> accessed 18<sup>th</sup> March 2021.

<sup>28</sup> Jingyun Fang, Guirui Yu, Lingli Liu, Shuijin Hu, F. Stuart Chapin III, ‘Climate change, human impacts, and carbon sequestration in China’ (2018) 115 *PNAS* 4015.

<sup>29</sup> Dominick V. Spracklen, ‘China’s contribution to climate change’ (2016) 531 *Nature* 310.

<sup>30</sup> *ibid.*

<sup>31</sup> J. Lelieveld, J.S. Evans, M. Fnais, D. Giannadaki, A. Pozzer, ‘The contribution of outdoor air pollution sources to premature mortality on a global scale’ (2015) 525 *Nature* 367.

<sup>32</sup> ‘China at a glance’ (Food and Agriculture Organization of the United Nations) <[www.fao.org/china/fao-in-china/china-at-a-glance/en/](http://www.fao.org/china/fao-in-china/china-at-a-glance/en/)> accessed 18<sup>th</sup> March 2021.

<sup>33</sup> Aaron E. Carroll, ‘The Real Problem With Beef’ (*The New York Times*, 1 Oct. 2019) <[www.nytimes.com/2019/10/01/upshot/beef-health-climate-impact.html](http://www.nytimes.com/2019/10/01/upshot/beef-health-climate-impact.html)> accessed 18<sup>th</sup> March 2021.

<sup>34</sup> University of Melbourne, ‘Overuse of agricultural chemicals on China’s small farms harms health and environment’ (*ScienceDaily*, 18 June 2018) <[www.sciencedaily.com/releases/2018/06/180618222511.htm](http://www.sciencedaily.com/releases/2018/06/180618222511.htm)> accessed 18<sup>th</sup> March 2021.

<sup>35</sup> Kelly Sims Gallagher, Fang Zhang, Robbie Orvis, Jeffrey Rissman, Qiang Liu, ‘Assessing the Policy gaps for achieving China’s climate targets in the Paris Agreement’ (2019) 10:1256 *Nature Communications* 1.



their coal consumption.<sup>36</sup> The Encouraged Catalogue for Foreign Investment is a foreign direct investment screening mechanism that delineates the level of scrutiny that will be placed on investments from abroad in specific industrial sectors. The Catalogue has three categories: encouraged; restricted; and obsolete. Among the “obsolete” industries are ones that waste an excessive number of resources, release pollution into the environment, and practices unsafe production, demonstrating China’s attempt to move toward a more environmentally conscious approach.<sup>37</sup> An example of which is contained in China’s 2019 Foreign Investment Law of the People’s Republic of China which states that “[i]nvestment in rare earths, radioactive minerals, tungsten exploration, mining, and mineral processing is prohibited.”<sup>38</sup> Additionally, China has recently added new types of investment to the “encouraged” category such as the “construction and management of ecological environment protection projects” and “river and lake water environment management.”<sup>39</sup> Categorizing these investments as such provides insight into China’s profound willingness to facilitate investment into projects that would improve the environment while simultaneously preventing further investment into projects which would harm it. Despite this development, China is still the hub of fast fashion production and one of the largest agriculture industries in the world.

## 2. Climate Change in Brazil

While Brazil once led the global fight against climate change, under current President Bolsonaro the climate crisis has not been a priority.<sup>40</sup> Since Bolsonaro took office, he has worked to roll back Brazil’s previously strict environmental protection policies due to his belief that the environmental protection policies were working against the state’s economic development.<sup>41</sup> He has sought to take away land rights from Indigenous people and ceased efforts to combat illegal logging, ranching, and mining with the belief that a focus on climate change is distracting from Brazil’s economic success.<sup>42</sup> President Bolsonaro has not implemented any new policies seeking to diminish emissions, however, he did pledge to increase agricultural activity in the Amazon and flatten the land to allow for more development in that region.<sup>43</sup> There has been a spike in deforestation of the Amazon since Bolsonaro became President.<sup>44</sup> Deforestation of the Amazon not only disrupts the oxygen and carbon dioxide levels in the region, but it also removes forest cover which causes a “dramatic

<sup>36</sup> Ye Qi, Jiaqi Lu, ‘China’s coal consumption has peaked’ (*Bookings*, 22 Jan. 2018) <[www.brookings.edu/2018/01/22/chinas-coal-consumption-has-peaked/](http://www.brookings.edu/2018/01/22/chinas-coal-consumption-has-peaked/)> accessed 18<sup>th</sup> March 2021.

<sup>37</sup> Zoey Zhang, ‘How to Use China’s Negative Lists and Foreign Investment Encouraged Catalogue’ (*China Briefing*, 10 Dec. 2019) <[www.china-briefing.com/news/china-fdi-policy-negative-lists-encouraged-catalogues/](http://www.china-briefing.com/news/china-fdi-policy-negative-lists-encouraged-catalogues/)> accessed 18<sup>th</sup> March 2021.

<sup>38</sup> Allison Lapehn, ‘China’s 2019 Negative List Translated’ (*1421 Consulting*, 22 July 2019) <[www.1421.consulting/2019/07/chinas-2019-negative-lists/](http://www.1421.consulting/2019/07/chinas-2019-negative-lists/)> accessed 18<sup>th</sup> March 2021.

<sup>39</sup> Zoey Ye Zhang, ‘China’s 2019 Negative List and Encouraged Catalogue for Foreign Investment’ (*China Briefing*, 10 July 2019) <[www.china-briefing.com/news/china-fdi-policy-negative-lists-encouraged-catalogues/](http://www.china-briefing.com/news/china-fdi-policy-negative-lists-encouraged-catalogues/)> accessed 18<sup>th</sup> March 2021.

<sup>40</sup> Lisa Viscidi, Nate Graham, ‘Brazil Was a Global Leader on Climate Change. Now It’s a Threat’ (*Foreign Policy*, 4 Jan. 2019) <<https://foreignpolicy.com/2019/01/04/brazil-was-a-global-leader-on-climate-change-now-its-a-threat/>> accessed 18<sup>th</sup> March 2021.

<sup>41</sup> *ibid.*

<sup>42</sup> Mariana Simões, ‘Brazil’s Bolsonaro on the Environment, in His Own Words’ (*The New York Times*, Published 27 Aug. 2019, Updated 28. Aug. 2019) <[www.nytimes.com/2019/08/27/world/americas/bolsonaro-brazil-environment.html](http://www.nytimes.com/2019/08/27/world/americas/bolsonaro-brazil-environment.html)> accessed 18<sup>th</sup> March 2021.

<sup>43</sup> Alejandra Borunda, ‘See how much of the Amazon is burning, how it compares to other years’ (*National Geographic*, 29 Aug. 2019) <[www.nationalgeographic.com/environment/2019/08/amazon-fires-cause-deforestation-graphic-map/](http://www.nationalgeographic.com/environment/2019/08/amazon-fires-cause-deforestation-graphic-map/)> accessed 18<sup>th</sup> March 2021.

<sup>44</sup> Mauricio Angelo, ‘Brazil slashes budget to fight climate change as deforestation spikes’ (*REUTERS*, 2 June 2020) <[www.reuters.com/article/us-brazil-deforestation-climate-change-a/brazil-slashes-budget-to-fight-climate-change-as-deforestation-spikes-idUSKBN2392LC](http://www.reuters.com/article/us-brazil-deforestation-climate-change-a/brazil-slashes-budget-to-fight-climate-change-as-deforestation-spikes-idUSKBN2392LC)> accessed 18<sup>th</sup> March 2021.

change” in rainfall patterns and distribution altering the regional climate.<sup>45</sup> The 2019 dry season in the Amazon was the worst in recorded history, with a record breaking number of forest fires occurring across the Amazon that were linked to the increase of deforestation.<sup>46</sup>

The illegal logging industry is prevalent throughout Brazil. A study conducted in the 1990s found that over 80% of all logging done in the Amazon was illegal under Brazilian laws designed to protect the Amazon.<sup>47</sup> The logging industry has become economically motivated. An example of this economic motivation would be that Asian companies have been investing millions of U.S. dollars into Brazilian timber since the 1990s leading people to realize that they can make a living exporting timber from the Amazon.<sup>48</sup> Additionally, most of the illegal logging companies are international companies who do not replant the trees they remove, which leads to an increase in carbon dioxide and a decrease in oxygen levels.<sup>49</sup>

The change in climate across Brazil has also threatened agricultural production, which has contributed to urban migration within the state.<sup>50</sup> Brazil is extremely dependent on its agriculture industry, with over 5 million farms throughout the state.<sup>51</sup> Brazil originally focused on farming sugarcane but quickly became one of the world’s largest exporters of coffee beans, soybeans, and beef, which is possibly the least environmentally friendly food to produce.<sup>52</sup> The destruction of the Amazon has been linked to the growing agriculture industry in Brazil; one of the reasons deforestation occurs is so that the land can be used for farming.<sup>53</sup> The agriculture industry already profoundly contributes greatly to the climate crisis globally, but in Brazil, it has an even deeper impact in that it simultaneously contributes to the destruction of the largest rainforest on the planet just to continue unsustainable farming practices.

### 3. Climate Change in the United States

Although the U.S. started burning fossil fuels earlier and at a faster rate than the rest of the world, the U.S. did not formally begin addressing global climate change until the 1950s.<sup>54</sup> Since the U.S. has always been a major contributor to global greenhouse gas emissions, it was vital that the state ratify and later comply with the Paris Agreement, especially after they declined to ratify the Kyoto Protocol. When President Trump officially began the process of withdrawing from the Agreement, environmentalist around the world feared

<sup>45</sup> Juan Pratginestos ‘Climate Change in the Amazon’ (WWF) <[https://wwf.panda.org/knowledge\\_hub/where\\_we\\_work/amazon/amazon\\_threats/climate\\_change\\_amazon/](https://wwf.panda.org/knowledge_hub/where_we_work/amazon/amazon_threats/climate_change_amazon/)> accessed 18<sup>th</sup> March 2021.

<sup>46</sup> Borunda (n.43).

<sup>47</sup> G. Viana, ‘Report of the External Commission of the Chamber of Deputies Destined to Investigate the Acquisition of Wood, Lumber Mills and Extensive Portions of Land in the Amazon by Asian Loggers’ (1998).

<sup>48</sup> Mark Edwards, ‘Razing the land to feed massive timber hunger’ (WWF) <[https://wwf.panda.org/knowledge\\_hub/where\\_we\\_work/amazon/amazon\\_threats/other\\_threats/logging\\_amazon/](https://wwf.panda.org/knowledge_hub/where_we_work/amazon/amazon_threats/other_threats/logging_amazon/)> accessed 18<sup>th</sup> March 2021.

<sup>49</sup> *ibid.*

<sup>50</sup> United States Agency International Development (USAID) ‘Climate Risk Profile: BRAZIL’ (2018).

<sup>51</sup> *ibid.* at 3.

<sup>52</sup> ‘Brazil’s Main Agricultural Products and Exports’ (4:brazil) <[www.4property.uk.com/brazil/main-agricultural-products-and-exports/](http://www.4property.uk.com/brazil/main-agricultural-products-and-exports/)> accessed 18<sup>th</sup> March 2021.

<sup>53</sup> Emanuel Adilson Souza Serrão, Alfredo Kingo Oyama Homma, *Sustainable Agriculture and the Environment in the Humid Tropics* (National Academies Press 1993) 265.

<sup>54</sup> Kevin Lorida, ‘Trump just pulled out of the Paris Agreement – but the US has contributed more to climate change than any other country’ (*Business Insider*, 1 Jun. 2017) <[www.businessinsider.com/us-effect-on-climate-change-co2-emissions-warming-2017-6](http://www.businessinsider.com/us-effect-on-climate-change-co2-emissions-warming-2017-6)> accessed 18<sup>th</sup> March 2021.

what this would mean for climate change.<sup>55</sup> It was predicted that with the U.S. withdrawal from the Agreement and continued roll back of its environmental policies, the quantity of U.S. greenhouse gas emissions would be at least 3% higher by 2030.<sup>56</sup> However, President Biden was elected in November 2021 and one of his first actions as President was issuing an executive order re-entering the Paris Agreement and prioritizing U.S. involvement in the fight against climate change.

A major problem in the U.S. is that climate change has become a political issue, meaning that environmental policies are heavily susceptible to fluctuations in the political composition of the state and federal government, and these changes can take place as often as every two to four years. The previous Trump Administration has implemented policies that support energy development, such as gas and oil drilling, on federal lands. During his presidency, Trump issued two executive orders aimed at speeding up the construction of pipelines and other projects to facilitate oil transportation across the country.<sup>57</sup> The U.S. officially withdrew from the Paris Agreement on November 4, 2020, just days before the presidential election.<sup>58</sup> Since then, Joe Biden was officially elected and inaugurated on January 20, 2021. One of President Biden's first actions was signing an Executive Order to rejoin the Paris Agreement.<sup>59</sup> The U.S. has one of the largest carbon footprints in the world and as such, its desire to fight climate change is vital to the issue.

The U.S. is responsible for a large percentage of global pollution. The U.S. emits an excessive amount of greenhouse gases through transportation, electricity, and agriculture.<sup>60</sup> The industrial sector, which produces goods and raw materials for industries such as fashion, is one of the largest emitters in the U.S., emitting about 22% of all U.S. greenhouse gases.<sup>61</sup> While the U.S. imports most textile goods from China, there has been a recent push, due to technology and the Trump Administration, to move production back within U.S. borders.<sup>62</sup> Clothing production requires trillions of liters of water each year and releases more greenhouse gases annually than all international flights and maritime shipping combined.<sup>63</sup> The increase in fashion production within the U.S. and rollback on environmental protection policies will only further damage the environment.

As climate change becomes a growing risk, and the U.S. government continues to strip environmental protections, some citizens have elected to take action. A group of minors filed a lawsuit against the U.S. government asserting that the government is violating the plaintiffs' rights by encouraging activities relating to greenhouse gas emissions in such a way that violates their right to life and liberty.<sup>64</sup> This is not the first environmental law case in the U.S., but it did make headlines when a U.S. District Court Judge ruled that

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<sup>55</sup> Lisa Friedman, 'Trump Serves Notice to Quit Paris Climate Agreement' (*The New York Times*, 4 Nov. 2019) <[www.nytimes.com/2019/11/04/climate/trump-paris-agreement-climate.html](http://www.nytimes.com/2019/11/04/climate/trump-paris-agreement-climate.html)> accessed 18<sup>th</sup> March 2021.

<sup>56</sup> Hare (n.14).

<sup>57</sup> Clifford Krauss, 'Trump Signs Orders to Speed Up Oil and Gas Pipeline Construction' (*The New York Times*, 10 April 2019) <[www.nytimes.com/2019/04/10/business/energy-environment/trump-oil-gas-pipelines.html](http://www.nytimes.com/2019/04/10/business/energy-environment/trump-oil-gas-pipelines.html)> accessed 18<sup>th</sup> March 2021.

<sup>58</sup> Matt McGrath 'Climate change: US formally withdraws from Paris agreement' (*BBC News*, 4 Nov. 2020) <[www.bbc.com/news/science-environment-54797743](http://www.bbc.com/news/science-environment-54797743)> accessed 18<sup>th</sup> March 2021.

<sup>59</sup> President Biden (n.15).

<sup>60</sup> EPA 'Sources of Greenhouse Gas Emissions' (EPA, last updated 4 Dec. 2020) <[www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#industry](http://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions#industry)> accessed 18<sup>th</sup> March 2021.

<sup>61</sup> *ibid.*

<sup>62</sup> Peter O'Dowd, Allison Hagan, 'What It Takes To Make Clothes In The USA' (*wbur*, 17 Jan. 2020) <[www.wbur.org/hereandnow/2020/01/17/clothes-made-in-the-united-states](http://www.wbur.org/hereandnow/2020/01/17/clothes-made-in-the-united-states)> accessed 18<sup>th</sup> March 2021.

<sup>63</sup> Andrew Morlet, 'A New Textiles Economy: Redesigning Fashion's Future' (Ellen MacArthur Foundation, 2017) 20.

<sup>64</sup> *Juliana v. United States*, 339 F.Supp.3d 1062 (D. Or. 2018).

access to a clean environment is a fundamental right.<sup>65</sup> When a right is deemed fundamental in the U.S., it is afforded a special level of protection in that any law which restricts that right must serve both a “compelling governmental interest” and be “narrowly tailored” to the interest at issue.<sup>66</sup> Therefore, in order for the U.S. government to continue to ignore international standards and disrupt the environment, they must present a compelling interest for doing so. Otherwise, the U.S. needs to attempt to protect the environment as a right to its citizens.

### C. HISTORY OF HUMAN TRAFFICKING

Since the beginning of time, humans have traded goods with each other, one of these “goods” has always been and still is other humans.<sup>67</sup> The trading of other humans is now commonly referred to as “human trafficking.” Not all movement of humans is trafficking; human trafficking is different from human smuggling. Trafficking involves force, fraud, or coercion, whereas smuggling indicates the passage of a willing participant into a state or region where the person is not a resident.<sup>68</sup> People of all races, ages, genders, and sexual orientations can be affected by some form of human trafficking. While it is commonly believed that in order for a situation to be considered “human trafficking” the victim must be brought across state lines, this belief is false. Trafficking happens both internationally and domestically in every state.

The two most common forms of human trafficking are labor trafficking and sex trafficking, however there are other types of trafficking such as trafficking for organ removal. Adult women make up nearly half of all trafficking victims, followed by girls under eighteen, adult men, and lastly boys under eighteen.<sup>69</sup> Currently, over 80% of the women and over 70% of the girls who are trafficked are done so for purposes of sexual exploitation.<sup>70</sup> Whereas, over 80% of the men and 50% of the boys who are trafficked are forced into labor.<sup>71</sup> The majority of traffickers who are investigated, arrested, prosecuted, and convicted globally are males, and this has been the case since trafficking data started being recorded.<sup>72</sup> Only about one-third of those prosecuted for human trafficking are female, commonly referred to as “madams.” When females are traffickers, they are particularly active in the recruitment phase of trafficking.<sup>73</sup> Additionally, the majority of traffickers convicted are citizens of the country where they were convicted.<sup>74</sup>

Reporting on human trafficking is low and inconsistent across the globe.<sup>75</sup> Many states do not follow the international protocols in place to protect victims, this can lead to fear of victims coming forward, specifically when it comes to those who are trafficked for sexual exploitation. It is not uncommon with any sex crime for reporting rates to be lower than that of other crimes. With regard to sex trafficking, the victims are often forced into commercial sex work which is illegal in many states. Victims fear that they will be arrested for prostitution rather than helped by law enforcement for being trafficking victim. The reported numbers come

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<sup>65</sup> *ibid.*

<sup>66</sup> *Skinner v. State of Okl. ex. rel. Williamson*, 316 U.S. 535, 541 (1942).

<sup>67</sup> Mary C. Burke, *Human Trafficking: Interdisciplinary Perspectives* (Routledge, 2<sup>nd</sup> ed, 2018) 122.

<sup>68</sup> *ibid* 124.

<sup>69</sup> U.N. Office on Drugs and Crime (UNODC), ‘Global Report on Trafficking in Persons’ (2018) 10.

<sup>70</sup> *ibid* 28.

<sup>71</sup> *ibid.*

<sup>72</sup> *ibid* 35.

<sup>73</sup> *ibid.*

<sup>74</sup> *ibid.*

<sup>75</sup> *ibid* 25.

mostly from Europe and the Americas; however, it is possible that if Asia and Africa reported at the same rate that Europe does, the statistics would be different.<sup>76</sup>

While human trafficking is not new, the global community only began to recognize it in the 1900s during the “White Slave Trade.” The International Agreement for the Suppression of the White Slave Trade is a series of international treaties declaring human trafficking a crime, the first agreement was drafted in 1904 in Paris. It is the first international document to define trafficking as “the compulsive procuring of women or girls abroad for immoral purposes.” In 1910, another treaty was drafted to expand the definition of trafficking to include domestic movement. It is important to note that humans were being trafficked for centuries prior to this agreement. The Transatlantic Slave Trade is infamously known for the transfer of Africans to the Americas as early as the 16<sup>th</sup> century. These humans were viewed as “cargo” and then sold and forced to work on cocoa, coffee, tobacco, sugar, and cotton plantations, and as domestic servants.<sup>77</sup> It took the forceful movement of white females for the international community to view this as a crime.

The International Agreement for the Suppression of the White Slave Trade was not widely ratified. It was not until 2000 that the international community truly began to view human trafficking as a serious problem. The United Nations Convention against Transnational Organized Crime was held in November 2000 in Palermo, Italy. It was at this Convention that the Palermo Protocols were developed.<sup>78</sup> The Palermo Protocol is comprised of three documents: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea, and Air; and the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition.<sup>79</sup> The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children specifically defines trafficking as:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of 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.<sup>80</sup>

The Palermo Protocol defines human trafficking by three core elements: a trafficker’s **action** of taking one through the **means** of force, fraud, or coercion for the **purpose** of exploitation.

## 1. Phases of Trafficking

Typically, there are three phases in the trafficking process: (a) the scouting or recruitment phase; (b) the manipulation phase; and (c) trapping.<sup>81</sup>

<sup>76</sup> *ibid.*

<sup>77</sup> Daniel P. Mannix, *Black Cargoes: A History of The Atlantic Slave Trade* (New York, Viking Press 1962).

<sup>78</sup> UNGA A/RES/55/25 (adopted 15 Nov. 2000, entered into 29 Sep. 2003)

<sup>79</sup> *ibid.*

<sup>80</sup> *ibid.*

<sup>81</sup> SHSJCC, ‘Three Phases of Human Trafficking’ <[http://shsjcc.org/uploads/3/4/5/9/34599715/2\\_three\\_phases\\_of\\_human\\_trafficking.pdf](http://shsjcc.org/uploads/3/4/5/9/34599715/2_three_phases_of_human_trafficking.pdf)> accessed 18<sup>th</sup> March 2021.

### a. Trafficking Schemes for Recruitment

There are different ways to recruit victims, but the recruitment phase typically involves a trafficker seeking out a target, sometimes a specific target based on their knowledge of that person. Currently, the easiest way for a trafficker to gather knowledge about a particular person is through social media.<sup>82</sup> People of all ages use Facebook, Twitter, Instagram, and dating apps like Tinder and Bumble to connect with other individuals across the globe. These websites encourage users to share their location, interest, education, and place of employment, providing traffickers with all the information they need to find the perfect victims.<sup>83</sup> Traffickers will use the information available to them to lure their victims.

With the increase in internet dating and social media, seduction or promises of romance to young girls have become more popular.<sup>84</sup> The men who recruit victims this way are commonly referred to as “lover-boys.”<sup>85</sup> Recruitment through the internet often begins with commenting on the potential victim’s pictures or sending a direct message, starting a relationship between the two, which leads to the girl trusting the lover-boy.<sup>86</sup> Dating apps have made it even easier for lover-boys to find potential victims since they know the people using the apps are looking for some type of love connection.<sup>87</sup> Apps such as Tinder, Bumble, or Hinge require users to share their geographic locations with other users, helping traffickers find vulnerable people in a particular area.<sup>88</sup> Traffickers typically use this method to trap young girls. After developing an online relationship with the girl, the lover-boy will ask her to meet in person and promise her love and give her expensive gifts seducing the girl to follow the lover-boy to a new country to “start a life together.”<sup>89</sup> The point of these dating apps is for people to speak online and then meet in person, the widespread use of the apps now has only helped traffickers find victims. The lover-boy then sends the girl to a new country first to “meet a friend” and that friend will be a slave trader who forces her into sex work.<sup>90</sup>

One of the most common schemes is deceit, or the false offer of a job, travel, or other income generating opportunities.<sup>91</sup> Sometimes victims are enticed with false marriage offers and the promise of a better life elsewhere.<sup>92</sup> Many women believe they are accepting a nannying job in a “safer” country, such as the U.S., but when they get transported to the destination country the trafficker will take their travel documents and imprison them.<sup>93</sup> The internet allows traffickers to post these fake jobs with ease, including fake pictures and details if necessary, and allows traffickers to reach a higher number of potential victims.<sup>94</sup> The victim is then forced to do as the trafficker says and is not able to leave the new country.

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<sup>82</sup> Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (Columbia University Press, 2017) 7.

<sup>83</sup> *ibid.*

<sup>84</sup> *ibid* 9.

<sup>85</sup> *ibid.*

<sup>86</sup> Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking, Social Media* (Polaris, July 2018) 19.

<sup>87</sup> *ibid.*

<sup>88</sup> *ibid.*

<sup>89</sup> Kara (n.82).

<sup>90</sup> *ibid.*

<sup>91</sup> *ibid* 7.

<sup>92</sup> *ibid.*

<sup>93</sup> *ibid.*

<sup>94</sup> UNODC (n.69) 38.

Occasionally, families are forced to sell one of their children, typically a female child.<sup>95</sup> This can happen due to poverty, desperation, and displacement.<sup>96</sup> It has also happened in countries with strict patriarchal values instilled in parents who believe it is best to have a male child. This tends to be a difficult decision for families, but traffickers are able to find families in the most desperate situations and will offer the young child a job stating they can send money back to the family.<sup>97</sup>

Abduction occurs when someone physically takes a victim completely against their will and then forces them into sex work.<sup>98</sup> Abduction is often the scheme portrayed in the media and movies, however, it is far less common than the media would lead one to believe.<sup>99</sup> Typically, a victim that is abducted will try to escape whenever possible, but, it is extremely difficult to get away from their trafficker, especially if they are isolated and forced to work on a fishing ship in the middle of the ocean.<sup>100</sup>

Finally, recruitment by former slaves also occurs.<sup>101</sup> Victims of trafficking are forced to employ numerous adaptive mechanisms to survive which can lead to the victim having “Stockholm syndrome,” which is a relationship that develops from a hostage situation and the extreme fear elicited in the hostage gives rise to an emotional development that appears to be love for and attachment to the hostage-taker<sup>102</sup> causing the victim to become allies with the slave owner.<sup>103</sup> The victim will do whatever the slave owner asks even if it is something they would never consider doing prior to their taking, occasionally they are asked to recruit other victims.<sup>104</sup> Once an individual has been recruited, they are transported to the destination country where their travel documents are confiscated, they are imprisoned by their traffickers and forced to repay their “debt,” consisting of transportation expenses, food, clothing, and shelter.<sup>105</sup>

## **b. Manipulation**

Traffickers are trained in identifying and exploiting one’s vulnerabilities.<sup>106</sup> These skills allow a trafficker to manipulate each individual into trusting them that leads to the victim letting his or her guard down around the trafficker. Depending on the tactic used to recruit the victim, the trafficker will adjust their manipulation skills.

In the case of a lover-boy, the trafficker will often convince the victim that he is mad at her, instilling in her a desire to please him and do as he asks.<sup>107</sup> He may promise her that he can give her a better life if she runs away with him or in some cases a trafficker will capitalize on a victim’s drug addiction.<sup>108</sup> The traffickers will offer the victim an “oasis of relief” causing the victim to trust the trafficker more than anyone else in their

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<sup>95</sup> Kara (n.82) 8.

<sup>96</sup> *ibid.*

<sup>97</sup> *ibid.*

<sup>98</sup> *ibid.*

<sup>99</sup> *ibid.*

<sup>100</sup> *ibid.*

<sup>101</sup> *ibid.*

<sup>102</sup> Celia Jameson, ‘The “Short Step” from Love to Hypnosis: A Reconsideration of the Stockholm Syndrome’ (2010) 14 J. Cultural Research 337, 338.

<sup>103</sup> Kara (n.82) 9.

<sup>104</sup> *ibid.*

<sup>105</sup> Burke (n.67) 127.

<sup>106</sup> *ibid.*

<sup>107</sup> *ibid.*

<sup>108</sup> SHSJCC (n.81).



life.<sup>109</sup> This trust allows the trafficker to convince the victim to isolate their family and friends until the only person left in the victim's life is their trafficker.<sup>110</sup>

### c. Trapping

This is when the trafficker is able to trap the victim. Traffickers can and do trap victims physically, emotionally, and economically. Traffickers have been known to deprive victims of sleep or food, blackmail them, and steal their travel documents in cases of international trafficking. Traffickers have also been known to threaten their victims with arrest after they are forced into drug or sex work, instilling a paralyzing fear in the victim that they have nowhere else to go.<sup>111</sup> In some cases traffickers have forced victims to do drugs and drink alcohol, sometimes leading to addiction.<sup>112</sup>

## 2. Trafficking is a Profitable Business

Trafficking is an extremely profitable "business"; traffickers make a profit of about 150 billion U.S. Dollars each year. Sex trafficking is typically the most profitable, earning traffickers around 99 billion U.S. Dollars a year, compared to the estimated 51 billion U.S. Dollars that labor trafficking produces.<sup>113</sup> Human trafficking operates as one of the most "successful businesses" in the world with a profit margin higher than almost any other business, illicit or otherwise. The "business" of trafficking itself can be expensive. Traffickers will often launder their earnings and spend a decent sum of money on planes or buses to transport their victims, book hotel rooms, and purchasing false travel documents.<sup>114</sup> This sometimes leads to the traffickers charging more for commercial sex, so they can still operate at a profit.

## D. HUMAN TRAFFICKING AS MODERN SLAVERY

### 1. Sex Trafficking

Sex trafficking is a type of modern slavery which occurs when someone uses force, fraud, or coercion to make another individual get involved in commercial sex acts, such as sex work or pornography.<sup>115</sup> Victims are transported both internationally and domestically in the same state; it is not uncommon for traffickers to find victims who are desperately attempting to escape a dangerous situation in their homeland and trap them into sex work. Recently, there has been a growing number of victims that are found in refugee camps, specifically, climate refugees, who are anxious to find any type of safety and therefore more susceptible to a trafficker seeking victims for both sex and labor trafficking. Sex slavery is one of the most profitable industries

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<sup>109</sup> *ibid.*

<sup>110</sup> *ibid.*

<sup>111</sup> *ibid.*

<sup>112</sup> *ibid.*

<sup>113</sup> Human Rights First Staff, 'Human Trafficking by the Numbers' (*Human Rights First*, 7 Jan. 2017) <[www.humanrightsfirst.org/resource/human-trafficking-numbers](http://www.humanrightsfirst.org/resource/human-trafficking-numbers)> accessed 18<sup>th</sup> March 2021.

<sup>114</sup> Carmen Niethammer, 'Cracking The \$150 Billion Business of Human Trafficking' (*Forbes*, 2 Feb. 2020) <[www.forbes.com/sites/carmenniethammer/2020/02/02/cracking-the-150-billion-business-of-human-trafficking/#6d6e65e04142](http://www.forbes.com/sites/carmenniethammer/2020/02/02/cracking-the-150-billion-business-of-human-trafficking/#6d6e65e04142)> accessed 18<sup>th</sup> March 2021.

<sup>115</sup> CDC Staff, 'Sex Trafficking' (CDC, last reviewed 30 Jan. 2020) <[www.cdc.gov/violenceprevention/sexualviolence/trafficking.html](http://www.cdc.gov/violenceprevention/sexualviolence/trafficking.html)> accessed 18<sup>th</sup> March 2021.

in the world, both illicit and otherwise, with traffickers stealing money from victims and making money when selling those victims to others.<sup>116</sup>

Within recent years, sex trafficking has gained media attention. Celebrities have been criminally involved in sex trafficking schemes,<sup>117</sup> actively fighting against trafficking,<sup>118</sup> and starring in movies centered around it<sup>119</sup> helping the issue gain attention around the world. This trend has led to an overall global awareness of trafficking among both governments and citizens, which in turn has led to an increase in trafficking convictions and the detection of victims over the last eight years. However, the media has also created a warped sense of sex trafficking, causes people to believe it occurs more often by abduction than by mental manipulation. Although the number of global convictions has increased, the number of actual convictions is still extremely low compared to the number of arrests, showing that the issue has not been resolved.

## 2. Labor Trafficking

Labor trafficking is a common form of modern-day slavery that occurs when an individual performs labor or services through the use of force, fraud, or coercion of another.<sup>120</sup> The International Labour Organization Forced Labour Convention of 1930 defined forced labor as “all work or service which is exacted from any person under the threat of a penalty for which the person has not offered himself or herself voluntarily.”<sup>121</sup> The three main elements of labor trafficking are: work or service; threat of any penalty; and involuntariness.

Victims are forced into different areas of employment by the threat of detention, destitution, deportation, violence, and sometimes even death.<sup>122</sup> There are exceptions to the forced labor laws: compulsory military service, normal civil obligations, certain types of prison labor, work in emergency situations such as fire, flood, war, or famine, and minimal compulsory community services are all legal and not considered forced labor even if the worker is working against their will.<sup>123</sup> The definition seeks to encompass traditional practices of forced labor including any remaining slave-like practices and debt bondage.

It is important to note that forced labor is different from sub-standard working conditions. People around the world work in conditions that do not meet domestic or international standards for safe work, but that does not mean they are victims of forced labor. When looking to identify victims of labor trafficking, states are directed to look for restrictions on a worker’s freedom of movement, the withholding of wages or identification documents, physical or sexual violence by the employer, and threats, intimidation, or fraudulent debt from which workers cannot escape.<sup>124</sup>

<sup>116</sup> Kara (n.82) 16.

<sup>117</sup> Colin Moynihan, Emily Palmer, ‘Nxivm Trial: Allison Mack Lured Woman Into Sex Cult, She Says’ (*The New York Times*, 7 June 2019) <[www.nytimes.com/2019/06/07/nyregion/nxivm-trial-keith-raniere.html](http://www.nytimes.com/2019/06/07/nyregion/nxivm-trial-keith-raniere.html)> accessed 18<sup>th</sup> March 2021.

<sup>118</sup> Ellen Wulffhorst, ‘With Amal Clooney at Her Side, a Yazidi Former Sex Slave Pleaded to the UN to Take Action’ (*Global Citizen*, 13 March 2017) <[www.globalcitizen.org/en/content/islamic-state-trafficking-rape-amal-clooney-yazidi/](http://www.globalcitizen.org/en/content/islamic-state-trafficking-rape-amal-clooney-yazidi/)> accessed 18<sup>th</sup> March 2021.

<sup>119</sup> ‘Taken’ (20<sup>th</sup> Century Fox 2008); ‘The Whistleblower’ (Samuel Goldwyn Films 2010).

<sup>120</sup> Polaris, *National Human Trafficking Hotline: Labor Trafficking* <<https://humantraffickinghotline.org/type-trafficking/labor-trafficking>> accessed 18<sup>th</sup> March 2021.

<sup>121</sup> International Labour Organization, ‘What is forced labour, modern slavery and human trafficking’ <[www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm)> accessed 18<sup>th</sup> March 2021.

<sup>122</sup> *ibid.*

<sup>123</sup> *ibid.*

<sup>124</sup> *ibid.*

In 2016, it was estimated that 40 million people were trafficked and forced into labor around the world.<sup>125</sup> As with all forms of trafficking, the data available is a few years old and it is widely assumed that the data reported is lower than the actual number of victims involved due to low reporting rates and a general difficulty collecting data.<sup>126</sup> Based on the numbers reported, Asia and the Pacific have the highest levels of slave labor with a rate of 4 out of every 1,000 people being forced to work.<sup>127</sup> Debt bondage is one of the most common forms of manipulation; it is defined as forcing a person to work in order to repay a debt and not being able to leave because of that debt.<sup>128</sup>

Victims of labor trafficking are forced to work in both the public and private sectors. The most common types of labor in the private economy are domestic work, construction, manufacturing, commercial agriculture, and fishing. Forced domestic work makes up about a quarter of forced labor and is most common in Asia. In most states, domestic workers are excluded from the protections of national labor laws, making this an easy sector for traffickers to exploit victims. The most common forms of abuse for domestic workers are unpaid wages or the withholding of wages, lack of overtime pay, extensive hours and hefty workloads, a lack of rest days, absence of health care and maternity leave, poor living conditions, and issues related to contracts including their termination.<sup>129</sup> Victims are commonly trapped in a domestic work situation due to debt bondage or visa arrangements which link the victim to a particular environment.<sup>130</sup> Construction workers make up seven percent of the global work force and 18 percent of forced labor victims.<sup>131</sup> Employment conditions for construction workers, in general, are notoriously demanding and dangerous, it is often more difficult to find people voluntarily risking themselves for the construction industry, making it easier for traffickers to target this field.

The manufacturing industry contains about 15 percent of forced labor victims and is concentrated in lower-income countries.<sup>132</sup> This is one of the more well-known types of labor trafficking, drawing media attention because of major fashion companies such as Nike, Zara, and SheIn. With the current COVID-19 pandemic, there has been a rapidly increasing need for medical masks and other PPE supplies. This has led to an increased number of companies outsourcing their work to factories in countries like China, which relies on migrant workers for cheap labor, due to China's loose labor laws and less expensive practices.<sup>133</sup> Documented abuses in the production industry include excessive hours and production targets, high recruitment fees which are then placed on the victim, traffickers taking victim's passports, and in some cases illegal imprisonment and beatings of workers.<sup>134</sup> In addition to these workplace abuses, these factories are known to also be harmful to the environment due to the greenhouse gases emitted during production.

About twelve percent of labor trafficking victims are forced into commercial agriculture and fishing work.<sup>135</sup> This type of work is often seasonal, and it is difficult for employers to find willing participants to go out to sea for extended periods of time. The fishing industry is already dangerous, specifically deep-sea fishing, and

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<sup>125</sup> International Labour Office, *Global estimates of modern slavery: forced labour and forced marriage* (2017) 21.

<sup>126</sup> *ibid.*

<sup>127</sup> *ibid.* 26.

<sup>128</sup> *ibid.* 36.

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.* 33.

<sup>131</sup> *ibid.* 34.

<sup>132</sup> *ibid.*

<sup>133</sup> Keith Bradsher, 'China Dominates Medical Supplies, in This Outbreak and the Next' (*The New York Times*, 5 July 2020) <[www.nytimes.com/2020/07/05/business/china-medical-supplies.html](http://www.nytimes.com/2020/07/05/business/china-medical-supplies.html)> accessed 18<sup>th</sup> March 2021.

<sup>134</sup> International Labour Office (n.125).

<sup>135</sup> *ibid.*

involves long hours in a challenging environment. Migrant workers are at an increased risk in this industry due to the fact that natives of a country often find the salaries offered are too low for the work required.<sup>136</sup> This is the perfect area for traffickers to lure victims into because they know that migrant workers are more willing to work in this field and the workers will then be secluded from the rest of the world simply due to the nature of the job.<sup>137</sup> In some cases, the entire business operation is illegal, the type of fishing done is sometimes illegal as well as the conditions of work.<sup>138</sup> If workers use undocumented migrants as employees, they can cut costs and better escape the attention of law enforcement by being secluded in the middle of the ocean for extended periods of time.

One of the most common forms of forced work in the public sector is state sponsored labor camps. While the camps are often hidden from the rest of the world, there is evidence of such camps in China and North Korea. The victims are brought into these camps and forced into doing physical labor on the land until they “graduate,” at which time they are forced into working in the private sector.<sup>139</sup> These “labor camps” have been formally denounced by many states, but they are still in operation today.

### 3. Human Trafficking in China

China is a hotspot for all forms of human trafficking. Victims are brought to, from, and around China for purposes of sexual and labor exploitation. China is also used as a transit point for victims, it is not uncommon for traffickers to bring victims to China just to transport them to somewhere else in Asia. Within the last year, the government decreased its efforts to prevent trafficking by expanding discriminatory practices, such as state-sponsored forced labor detention centers.<sup>140</sup>

The Chinese government has scarcely reported their trafficking statistics, for the third year in a row they did not report the number of victims identified in China.<sup>141</sup> Based on what they have reported, China has continuously convicted more female traffickers than males, despite the global trend showing that the majority of traffickers are men.<sup>142</sup> China has continuously covered up instances of trafficking within its borders, leading to the U.S. Department of State placing China in Tier 3 for the fourth year in a row.<sup>143</sup>

#### a. Labor Trafficking in China

Within recent years, China has had one of the most rapidly growing economies in history, a large contributor to China’s economy is the exportation and production of cheap goods through forced labor.<sup>144</sup> When using forced labor, companies are able to underpay, or neglect to pay, the workers which saves the company money. China is a major exporter of goods for the entire world, companies as large as Nike and Apple have main factories in China because it is known that their products can be produced there for less money than in

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<sup>136</sup> *ibid.*

<sup>137</sup> *ibid.*

<sup>138</sup> *ibid.*

<sup>139</sup> U.S. Department of State, *Trafficking in Persons Report: 20<sup>th</sup> Edition* (June 2020) 156.

<sup>140</sup> *ibid.* 155.

<sup>141</sup> *ibid.* 154.

<sup>142</sup> *ibid.* 156.

<sup>143</sup> *ibid.* 151.

<sup>144</sup> Jonathan Eckart, ‘8 things you need to know about China’s economy’ (*WORLD ECONOMIC FORUM*, 23 Jun. 2016) <[www.weforum.org/agenda/2016/06/8-facts-about-chinas-economy/](http://www.weforum.org/agenda/2016/06/8-facts-about-chinas-economy/)> accessed 18<sup>th</sup> March 2021.

the U.S.<sup>145</sup> Within recent years the global community has been attempting to expose the conditions that workers in China are forced into. For example, in 2016, a garment factory in Changshu was under investigation for child labor. It was found that the factory was not only employing underage workers, but also withholding their wages, forcing them to work overtime and beating them if they refused, as well as stealing their passports so the child could not leave.<sup>146</sup> Despite this knowledge, these factories have not been shut down and companies have not stopped outsourcing their work to China.

The fashion industry is a huge contributor to labor trafficking. Nike is one of the largest American brands and one of the largest employers of human trafficking victims. It has been public knowledge for years that Nike uses sweatshops in China to produce their shoes, but the company has recently been exposed for using labor trafficking victims.<sup>147</sup> Most of, if not all, the workers at the Qingdao Taekwang Shoes Co. are ethnic Uighurs from China's western Xinjiang region, thousands of kilometers away, brought to the factory by force.<sup>148</sup> These workers are hardly paid, with their wages often being held for over a year, and cannot return home under government orders.<sup>149</sup> Nike has stated that they do not condone any human rights violations but have yet to stop production in these factories being run by known trafficking victims.

Additionally, the growing fast fashion trend relies primarily on forced labor. Fast fashion is the creation of cheap, mass-produced clothing that models high-end fashion trends, making itself extremely appealing to young women around the world. Fast fashion is not only harmful to the environment, but it is also made in sweatshops under unsafe working conditions, often by trafficking victims. H&M, Zara, Forever21, and SheIn are some of the most popular fast fashion brands, selling fashionable dresses for as low as 6 U.S. dollars in some instances and releasing new designs daily; SheIn states that it releases about 500 new designs every day.<sup>150</sup> In order to meet these demands and quickly changing trends at a low price, these companies rely on slave labor.<sup>151</sup> This allows for the companies to outsource to factories in China that underpay and overwork the "employees" after they have been trafficked into the area. These conditions are not a secret, it is well known that these companies employ trafficking victims, but that does not stop people from purchasing clothes from them. Furthermore, these victims are being forced to partake in the second most polluting industry. Not only are their basic human rights being violated, but they are also being forced to harm the planet.

Additionally, the electronics industry has been under recent scrutiny for its labor practices in China. It was recently revealed that the workers of Foxconn, the Chinese manufacturing giant that produces parts for Apple's iPhone, are typically labor trafficking victims. Foxconn labels the work as an "internship" so they can get away with not paying the student, but then has students working on an ordinary production line with the threat of a failing grade if they refuse the internship.<sup>152</sup>

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<sup>145</sup> Anna Fifield, 'China compels Uighurs to work in shoe factor that supplies Nike' (*The Washington Post*, 29 Feb. 2020) <[www.washingtonpost.com/world/asia\\_pacific/china-compels-uighurs-to-work-in-shoe-factory-that-supplies-nike/2020/02/28/ebddf5f4-57b2-11ea-8efd-0f904bdd8057\\_story.html](http://www.washingtonpost.com/world/asia_pacific/china-compels-uighurs-to-work-in-shoe-factory-that-supplies-nike/2020/02/28/ebddf5f4-57b2-11ea-8efd-0f904bdd8057_story.html)> accessed 18<sup>th</sup> March 2021.

<sup>146</sup> Chen Xiaoli, 'Undercover Video Reveals Child Labor in Changshu' (*Shanghai Daily*, 24 Nov. 2016) <[www.shine.cn/archive/viral/omg/Undercover-Video-Reveals-Child-Labor-in-Changshu/shdaily.shtml](http://www.shine.cn/archive/viral/omg/Undercover-Video-Reveals-Child-Labor-in-Changshu/shdaily.shtml)> accessed 18<sup>th</sup> March 2021.

<sup>147</sup> Fifield (n.145).

<sup>148</sup> *ibid.*

<sup>149</sup> *ibid.*

<sup>150</sup> SheIn, 'About Us' <<https://us.shein.com/About-Us-a-117.html>> accessed 18<sup>th</sup> March 2021.

<sup>151</sup> Terry Nguyen, 'Fast fashion, explained' (*Vox*, 3 Feb. 2020) <[www.vox.com/the-goods/2020/2/3/21080364/fast-fashion-h-and-m-zara](http://www.vox.com/the-goods/2020/2/3/21080364/fast-fashion-h-and-m-zara)> accessed 18<sup>th</sup> March 2021.

<sup>152</sup> Peter Bengtsen, 'China's Forced Labor Problem' (*The Diplomat*, 21 March 2018) <<https://thediplomat.com/2018/03/chinas-forced-labor-problem/>> accessed 18<sup>th</sup> March 2021.

Previously, China used the Re-education through Labor System (“RTL”) to subject inmates for forced labor for up to four years.<sup>153</sup> In 2013, the government announced that it would stop using the RTL system, however, some reports state that they are still in use and forcing people to work as a punishment without a criminal charge or trial.<sup>154</sup> Currently, the Chinese government sponsors re-education camps in Xinjiang, officially called Vocational Education and Training Centers, which also function as forced labor camps. Those forced into the camps are mostly Muslim and are being held without a trial or charges.<sup>155</sup> There have been reports that the facilities are being used as forced labor camps as well to produce various products, especially products made from cotton grown in Xinjiang.<sup>156</sup>

## b. Sex Trafficking in China

China is an ideal location for sex trafficking. In the late 1970s, China famously imposed a one child policy; meaning that the majority of families in the country could only have one child because of the enormous population in China.<sup>157</sup> Traditional Chinese culture led to a general preference of males over females, males are expected to take care of their aging parents whereas females are expected to leave the family home upon marriage.<sup>158</sup> These values have led to female infanticide occurring throughout Chinese history and even more so during the enforcement of the one child policy, causing a “shortage” of females in China.<sup>159</sup> The gender imbalance has left many Chinese men without a wife and in some cases, families have paid traffickers to bring a bride from, specifically, Myanmar for their son to marry.<sup>160</sup>

China is also geographically ideal for individuals escaping North Korea. Many North Korean refugees seek asylum in China after illegally entering the country, this makes them more vulnerable to traffickers. The traffickers will target North Korean women and lure them into sex work and brothels.<sup>161</sup>

## 4. Human Trafficking in Brazil

Brazil is a “source, transit, and destination country” for trafficking. A “source country” is a state which provides traffickers with people; a “transit country” will help move victims from one country to another; and a “destination country” is one where victims arrive and are exploited either sexually or through labor more

<sup>153</sup> Amnesty International Staff, ‘China’s ‘Re-education Through Labour’ camps: Replacing one system of repression with another?’ (Amnesty International, 17 Dec. 2013) <[www.amnesty.org/en/latest/news/2013/12/china-s-re-education-through-labour-camps-replacing-one-system-repression-another/](http://www.amnesty.org/en/latest/news/2013/12/china-s-re-education-through-labour-camps-replacing-one-system-repression-another/)> accessed 18<sup>th</sup> March 2021.

<sup>154</sup> Global Slavery Index, ‘China’ <[www.globallslaveryindex.org/2018/findings/country-studies/china/](http://www.globallslaveryindex.org/2018/findings/country-studies/china/)> accessed 18<sup>th</sup> March 2021.

<sup>155</sup> Gerry Shih, “‘Permanent cure’: Inside the re-education camps China is using to brainwashing Muslims’ (Business Insider, 17 May 2018) <[www.businessinsider.com/what-is-life-like-in-xinjiang-reeducation-camps-china-2018-5](http://www.businessinsider.com/what-is-life-like-in-xinjiang-reeducation-camps-china-2018-5)> accessed 18<sup>th</sup> March 2021.

<sup>156</sup> Adrian Zenz, ‘Xinjiang’s New Slavery’ (Foreign Policy, 11 Dec. 2019) <<https://foreignpolicy.com/2019/12/11/cotton-china-ughur-labor-xinjiang-new-slavery/>> accessed 18<sup>th</sup> March 2021.

<sup>157</sup> History.com Editors, ‘China announces the end of its controversial one-child policy’ (HISTORY, 22 July 2019) <[www.history.com/this-day-in-history/china-ends-one-child-policy](http://www.history.com/this-day-in-history/china-ends-one-child-policy)> accessed 18<sup>th</sup> March 2021.

<sup>158</sup> Cecilia L. W. Chan, Paul S. F. Yip, Ernest H. Y. Ng, P. C. Ho, Celia H. Y. Chan, Jade S. K. Au, ‘Gender Selection in China: Its Meanings and Implications’ (2002) 19 *Journal of Assisted Reproduction and Genetics* 426, 427.

<sup>159</sup> Judith Banister, ‘Shortage of Girls in China Today’ (2004) 21 *Journal of Population Research* 19.

<sup>160</sup> Heather Barr, “‘Give Us a Baby and We’ll Let You Go’ Trafficking of Kachin “Brides” from Myanmar to China’ (Human Rights Watch, 21 March 2019) <[www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china](http://www.hrw.org/report/2019/03/21/give-us-baby-and-well-let-you-go/trafficking-kachin-brides-myanmar-china)> accessed 18<sup>th</sup> March 2021.

<sup>161</sup> U.S. Department of State (n.139) 157.



compared to other countries.<sup>162</sup> On any given day in 2016, there were 369,000 people enslaved in modern forms of slavery.<sup>163</sup> This means that in 2016, 1.8 out of every 1000 people in Brazil were enslaved; these numbers have only increased since then.

The Government of Brazil has been increasing its efforts to combat trafficking over the last few years, but it still does not fully meet the minimum international standards for the elimination of trafficking.<sup>164</sup> This has led to the U.S. Department of State placing Brazil in Tier 2 in its Trafficking in Persons Report of 2020.<sup>165</sup> Within recent years, the government has investigated and convicted more traffickers, identified more victims of *trabalho escravo*, and approved and funded a new national action plan.<sup>166</sup> However, the government has been treating forced labor as a different crime than human trafficking and has treated most cases as administrative matters rather than criminal, these actions are inconstant with the international guidelines set out in the Palermo Protocol.<sup>167</sup> Additionally, some of Brazil's domestic laws are not in line with the Palermo Protocol. Article 149a of Law 13.344 requires force, fraud, or coercion for child sex trafficking case, when the Palermo Protocol clearly states that force, fraud, or coercion are not required for an act to be considered trafficking, Brazil's law is failing to criminalize all forms of child sex trafficking.<sup>168</sup> The government has also been treating cases of forced labor as a different crime, unconnected to human trafficking; labor inspectors and labor prosecutors were only given the authority to apply civil penalties in these cases.<sup>169</sup>

#### a. Labor Trafficking in Brazil

Forced labor, commonly referred to as *trabalho escravo* or slave labor in Brazil, is the most common form of enslavement in Brazil. Due to the high number of rural areas and the farming culture in Brazil, many people are brought into the country and used as cheap labor. Most victims of labor trafficking in Brazil are forced into cattle ranching, coffee production, salt industries, forestry, or charcoal production.<sup>170</sup> The majority of those trafficked for labor purposes in Brazil are men, both Brazilian nationals and foreign individuals.<sup>171</sup> Typically, traffickers are exploiting Brazilian men, particularly Afro-Brazilian, in labor trafficking in rural areas.<sup>172</sup> The men are often forced to harvest goods such as sugar, coffee, and carnauba wax.<sup>173</sup> These growing industries have a huge demand for cheap labor. The industries need to clear land in order to produce products and then produce said products, the least expensive way for someone to achieve this goal is through labor trafficking. The need to clear land that much at a rapid rate has also led to an increase in the destruction of the Brazilian Amazon. *Trabalho escravo* is linked with the activities causing environmental devastations such as cutting down forests.<sup>174</sup> It has been estimated that if the carbon dioxide emission from the Amazon

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<sup>162</sup> U.S. Department of State, *2018 Trafficking in Persons Report: Brazil* <[www.state.gov/reports/2018-trafficking-in-persons-report/brazil/](http://www.state.gov/reports/2018-trafficking-in-persons-report/brazil/)> accessed 18<sup>th</sup> March 2021.

<sup>163</sup> Global Slavery Index, 'Brazil' <[www.globallslaveryindex.org/2018/findings/country-studies/brazil](http://www.globallslaveryindex.org/2018/findings/country-studies/brazil)> accessed 18<sup>th</sup> March 2021.

<sup>164</sup> U.S. Department of State (n.139) 116.

<sup>165</sup> *ibid.*

<sup>166</sup> *ibid.*

<sup>167</sup> *ibid.*

<sup>168</sup> *ibid.*

<sup>169</sup> *ibid.*

<sup>170</sup> U.S. Department of State (n.162).

<sup>171</sup> Global Slavery Index (n.163).

<sup>172</sup> U.S. Department of State (n.162).

<sup>173</sup> *ibid.*

<sup>174</sup> Ana Aranha, João Cesar Diaz, 'Current regulations unable to ban products from slave labor, expert says' (*Repórter Brasil*, 17 March 2013) <<https://reporterbrasil.org.br/2017/03/current-regulations-unable-to-control-trade-in-products-from-slave-labor-expert-says/>> accessed 18<sup>th</sup> March 2021.



area was a country, it would be the third largest source of carbon dioxide emission, behind only China and the U.S.<sup>175</sup> This is due to the fact that these trafficking individuals are being forced to rapidly cut down so many trees with tools that also produce greenhouse gas emission.

When Brazilian women and children are trafficked for labor purposes, they are mostly forced into domestic servitude or the textile industry.<sup>176</sup> It is estimated that there are seven million domestic workers in Brazil, more than any other state in the world, and this type of service is rooted in slavery.<sup>177</sup> The work these women and children are forced into was not even formally recognized as work by the Brazilian government until 2013.<sup>178</sup> Prior to this Constitutional Amendment, domestic workers were excluded from certain protections under national labor legislation, further restricting the victims who are forced into these situations.<sup>179</sup> There have also been reports of Brazilian trafficking victims, of all ages and genders, being forced to get involved in criminal activity, such as drug trafficking, within Brazil and its neighboring countries.<sup>180</sup>

Fast fashion in Brazil is a growing industry. In 1995, Brazil became one of the first nations to admit to the International Labor Organization that slave labor did in fact occur within its borders.<sup>181</sup> In 2003, the Ministry of Labour and Employment created the “Slave Labour Dirty List” or *lista suja*, to publicly identify companies found to be profiting off of slave labor.<sup>182</sup> The most recent Dirty List was released in 2018, the MTE published an updated version which included 78 new employers and identified individuals and businesses responsible for *trabalho escravo*.<sup>183</sup> One year during Sao Paulo’s Fashion Week, the Ministry of Labour and Social Welfare in Brazil (“MTE”) organized an event simulating a sweatshop in order to educate the public on the *trabalho escravo* often found in the garment industry.<sup>184</sup>

Brazil has hosted some of the largest international sporting events in the last ten years, for example, the 2014 FIFA World Cup and 2016 Summer Olympics. Major international sporting events frequently contribute to an increase in both sex and labor trafficking in the country where the games are held.<sup>185</sup> Events as large as the Olympics and the World Cup create a demand for new infrastructure that often results in the trafficking of low-skilled, underpaid workers.<sup>186</sup> While the data regarding these specific sporting events is limited due to the difficulty in uncovering this type of activity and a judicial system that has a history of misaddressing human trafficking.<sup>187</sup> Furthermore, the building of these large, temporary structures has been known to be

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<sup>175</sup> *ibid.*

<sup>176</sup> U.S. Department of State (n.162).

<sup>177</sup> Carla Marchandean Conde, ‘Le travail domestique au Brésil’ (*Université de Montréal*, written in French, with an English Abstract, 2015); International Labour Organization, ‘Convention No. 189 on domestic workers ratified by Brazil’ (1 Feb. 2018) <[www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_616549/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_616549/lang--en/index.htm)> accessed 18<sup>th</sup> March 2021.

<sup>178</sup> *ibid.*

<sup>179</sup> International Labour Organization (n.177).

<sup>180</sup> U.S. Department of State (n.162).

<sup>181</sup> The Brazilian Report, ‘Monitoring Slave Labor in Brazil’s Fast-Fashion Industry’ (*Wilson Center*, 15 April 2020) <[www.wilsoncenter.org/blog-post/monitoring-slave-labor-brazils-fast-fashion-industry](http://www.wilsoncenter.org/blog-post/monitoring-slave-labor-brazils-fast-fashion-industry)> accessed 18<sup>th</sup> March 2021.

<sup>182</sup> Mădălina Rogoz, ‘Responses to Demand in the Context of Trafficking in Human Beings: Regulatory measures from twelve national contexts’ (2016) *DemandAT Working Paper No.6*, 21.

<sup>183</sup> U.S. Department of State (n.162).

<sup>184</sup> *ibid.*

<sup>185</sup> Michelle Lillie, ‘Human Trafficking Surrounding the Olympics’ (Human Trafficking Search 2016) <<https://humantraffickingsearch.org/201685human-trafficking-surrounding-the-olympics/>> accessed 18<sup>th</sup> March 2021.

<sup>186</sup> Zack Bowersox, ‘International Sporting Events and Human Trafficking: Effects of Mega-Events on a State’s Capacity to Address Human Trafficking’ (2016) 2 *Journal of Human Trafficking* 201.

<sup>187</sup> *ibid* 202.

harmful to the environment.<sup>188</sup> The events require large plots of land, increase traffic, water consumption, and waste production in the host city.<sup>189</sup>

Traffickers do not just exploit Brazilians in forced labor domestically; Brazilians are often brought to other countries, mostly to Bolivia, Paraguay, Haiti, and China, and forced to work.<sup>190</sup> The victims are forced into numerous industries, but the most common are construction, textile, and small businesses.<sup>191</sup> These trafficking victims are frequently demanded to work under debt-based coercion, forcing the victims to work for a small wage until they can pay their traffickers.<sup>192</sup>

## b. Sex Trafficking in Brazil

There is little reporting on sexual exploitation in Brazil, but it is happening. The LGBTQ community is at a particularly high risk compared to non-LGBTQ individuals, as is true across the globe.<sup>193</sup> However, members of the LGBTQ community have a significantly higher chance of being victims of sex trafficking in Brazil due to the local and national government overlooking these individuals.<sup>194</sup> President Bolsonaro has publicly made comments against the LGBTQ community, stating that the Supreme Court was “completely wrong” when it ruled that homophobia was a crime as serious as racism.<sup>195</sup>

Child sex tourism is huge in coastal and tourist cities, particularly Fortaleza and Rio de Janeiro, especially when hosting the 2016 Summer Olympics.<sup>196</sup> The coastal city of Fortaleza has a long-standing reputation of being the capital of sexual exploitation of children; in the 1990s it was routine to see children accompanying foreign adult sex tourists in the hotels and beach areas of Fortaleza.<sup>197</sup> Most of the child sex tourists come to Brazil from Europe and the United States.<sup>198</sup> The Brazilian government has worked to change this standard over the last few decades and while it is nearly impossible to see a child victim walking with a sex tourist today, the industry has simply moved underground.<sup>199</sup> In fact, NGOs designed to fight against child sex tourism have expressed that the number of victims has more than doubled over the last few years.<sup>200</sup>

The city of Manaus, Brazil is a point of arrival for boats coming through the Amazon River and has one of the highest rates of sexual violence in the world. Children are sexually abused in Manaus by everyone from

<sup>188</sup> Sylvia Trendafilova, Jeffrey Graham, James Bemiller, ‘Sustainability and the Olympics: The case of the 2016 Rio Summer Games’ (14 Jan. 2018) *Journal of Sustainability Education*.

<sup>189</sup> *ibid.*

<sup>190</sup> U.S. Department of State (n.162).

<sup>191</sup> *ibid.*

<sup>192</sup> *ibid.*

<sup>193</sup> Global Slavery Index (n.163).

<sup>194</sup> Omar Martinez, ‘Sex Trafficking of LGBT Individuals: A Call for Service Provision, Research, and Action’ (2013) 42(4) *Int. Law News*; Human Rights Watch, ‘Brazil: Events of 2019’ (27 Aug. 2019) <[www.hrw.org/world-report/2020/country-chapters/brazil#](http://www.hrw.org/world-report/2020/country-chapters/brazil#)> accessed 18<sup>th</sup> March 2021.

<sup>195</sup> AFP, ‘Brazilian president says decision to criminalise homophobia ‘completely wrong’’ (*EuroNews*, 15 June 2019) <[www.euronews.com/2019/06/15/brazilian-president-says-decision-to-criminalise-homophobia-completely-wrong](http://www.euronews.com/2019/06/15/brazilian-president-says-decision-to-criminalise-homophobia-completely-wrong)> accessed 18<sup>th</sup> March 2021.

<sup>196</sup> ECPAT Brazil, ‘Global Study on Sexual Exploitation of Children in Travel and Tourism: Brazil’ (2015).

<sup>197</sup> *ibid.* 16.

<sup>198</sup> U.S. Department of State (n.162).

<sup>199</sup> G1, ‘ONGs denunciam aumento da exploração sexual no Ceará’ (*Globo*, 2014, translated with Google Translate) <<http://g1.globo.com/ceara/noticia/2014/06/ong-s-denunciam-aumento-da-exploracao-sexual-no-ceara.html>> accessed 18<sup>th</sup> March 2021.

<sup>200</sup> Prefeitura de Fortaleza, ‘A cidade’ (2015, translated with Google Translate) <[www.fortaleza.ce.gov.br/cidade](http://www.fortaleza.ce.gov.br/cidade)> accessed 18<sup>th</sup> March 2021.

government officials to people traveling to the city on ships for business.<sup>201</sup> According to the National Parliamentary Inquiry of the Federal Senate of Brazil, it is common for children to also be sexually abused on the ships while being brought into Brazil.<sup>202</sup> Brazil is the perfect hunting ground for traffickers seeking children. Many parts of the state are underdeveloped, there is corruption, lack of education, extreme gender discrimination, and urban-rural migration, all of these factors and more make Brazil an ideal location to prey on vulnerable children.<sup>203</sup>

The majority of women trafficked in Brazil are trafficked for sexual exploitation. Brazilian women who are sex trafficked abroad are exploited mostly in Western Europe and China.<sup>204</sup> From 2010 to 2012, the sex trafficking victims identified in the EU were found to be trafficked mostly from Brazil, second only to Nigeria.<sup>205</sup> In 2014, Portugal reported a tremendously high number of female victims who were recruited and trafficked from Brazil for sexual exploitation.<sup>206</sup> The report expressed that these women were each being forced to work to pay off exorbitant migration fees and travel costs which the traffickers placed on the victim.<sup>207</sup> Particularly, Venezuelans, both living in Brazil and in Venezuela, are at a high risk of trafficking within Brazilian state lines. Traffickers have been known to post advertisements online and via social media platforms depicting fraudulent job opportunities seeking Venezuelans.<sup>208</sup> They will use these fake job postings to get Venezuelan girls to move to Brazil and then the trafficker will trap the girl into sex work.

The 2014 FIFA World Cup and 2016 Summer Olympics also increased the number of sex trafficking victims in Brazil. The massive number of people traveling from all over the world to one city naturally increases the need for goods in that area; humans are one of these goods.<sup>209</sup> These major sporting events naturally create a cover for traffickers; they can easily convince unknowing individuals that they are accepting a job to work for the event and then force them into sexual servitude.<sup>210</sup> The World Cup and the Olympics each only occur every four years, the world quickly becomes entranced with the excitement of these sporting events and do not think about the dangers surrounding them.

## 5. Human Trafficking in the United States

The Trafficking Victims Protection Act of 2000 (“TVPA 2000”) was the first comprehensive federal law to not only combat human trafficking, but also help victims in the U.S. The TVPA 2000 defines human trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person” for one of the following purposes: (1) a commercial sex act through the use of fraud, force, or coercion; (2) any commercial sex act with a person under the age of 18; or (3) labor or service through the use of fraud, force, or coercion for the purposes of subjection to involuntary servitude.<sup>211</sup> The Trafficking Victims Protection Reauthorization Act of

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<sup>201</sup> Jochem Rotteveel, ‘Sexual exploitation of children in Brazil: putting a spot on the problem’ (2014) *Terre des Hommes Netherlands* 13.

<sup>202</sup> *ibid* 15.

<sup>203</sup> Susanna Weibull, ‘Child Prostitution and Sex Tourism: Brazil – Sweden’ (2003) *University of Lund* 5.

<sup>204</sup> U.S. Department of State (n.162).

<sup>205</sup> Global Slavery Index (n.163).

<sup>206</sup> *ibid*.

<sup>207</sup> *ibid*.

<sup>208</sup> U.S. Department of State (n.162).

<sup>209</sup> Victoria Hayes, ‘Human Trafficking for Sexual Exploitation at World Sporting Events’ (2010) 85 *Chicago-Kent Law Review* 1105, 1106.

<sup>210</sup> *ibid*.

<sup>211</sup> Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 103 (2000).

2005 (“TVPRA 2005”) requires biennial reporting on human trafficking within the U.S. based on the available date from the state and local authorities.<sup>212</sup>

It was estimated that on any given day in 2016 there were 403,000 people living under conditions of modern slavery in the U.S.<sup>213</sup> The United States continues to meet the international standards to prevent trafficking, placing itself in Tier 1 for the 2020 Trafficking in Persons Report, but decreased victim protection efforts and focused almost entirely on sex trafficking. There have been reports of trafficking in all 50 states, the District of Columbia, and U.S. territories of both domestic and foreign nationals, but the U.S. is still commonly overlooked as a trafficking hotspot.<sup>214</sup>

While people of all ages and genders in the U.S. are at risk of trafficking, children in non-traditional situations and foreign individuals seeking asylum are at a particularly high risk. Children who are runaways or homeless, in foster care, and the juvenile justice system are easily influenced by traffickers for both sex and labor purposes.<sup>215</sup> Traffickers compel victims in the U.S. for commercial sex and labor purposes, for both legal and illicit work. Some of the most common industries for labor trafficking victims are hospitality, domestic work, traveling salespersons, agriculture, janitorial services, landscaping, construction, factories, restaurants, salon and massage parlors, and fairs and carnivals.<sup>216</sup> The immigration issues in the U.S. make foreign individuals especially vulnerable to traffickers. Immigration is viewed as a political issue within the U.S., with parts of the government firmly believing that foreign nationals should not be allowed to move to the U.S., forcing individuals to come to the U.S. illegally. By illegally entering the U.S., individuals cannot find legal work as easily, making themselves perfect targets for traffickers advertising fake job opportunities.

#### **a. Labor Trafficking in the U.S.**

The U.S. has both federal and state labor protection laws, as well as anti-trafficking laws, leading many Americans to believe that labor trafficking is not a problem within their borders. While the U.S. does import many of its goods, those goods are often built by victims of forced labor. Everything from laptops to fish to timber has been connected to slave labor outside of the U.S. and then sold for consumption within the state. However, slave labor is not just an issue outside of the U.S.

The agriculture industry is arguably the worst offender of labor trafficking in the U.S. of both U.S. citizens, undocumented immigrants, and immigrants with temporary work visas.<sup>217</sup> The U.S. has an extensive history of relying on slave labor for agriculture work and nothing has changed since the passing of the Emancipation Proclamation “freed” the slaves.<sup>218</sup> Since the agriculture industry is dependent upon seasonal work, a large amount of work has to be done within a short period of time in order to harvest all of the crops needed. Each job requires countless workers, allowing traffickers to bring in multiple victims seeking work in the U.S. at once. The victims will have few, if any, ties to the community and little knowledge of the complicated U.S. immigration system. All of these factors provide traffickers with the opportunity to threaten victims with deportation if they do not comply.

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<sup>212</sup> The Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 (2005).

<sup>213</sup> Global Slavery Index, ‘United States’ <[www.globalslaveryindex.org/2018/findings/country-studies/united-states/](http://www.globalslaveryindex.org/2018/findings/country-studies/united-states/)> accessed 18<sup>th</sup> March 2021.

<sup>214</sup> U.S. Department of State (n.139) 523.

<sup>215</sup> *ibid.*

<sup>216</sup> *ibid.*

<sup>217</sup> Polaris, ‘Labor Trafficking in the U.S.: A Closer Look at Temporary Work Visas’ (Polaris, 2015).

<sup>218</sup> Alex Wong, ‘Emancipation Proclamation’ (HISTORY, 6 Jan. 2020) <[www.history.com/topics/american-civil-war/emancipation-proclamation](http://www.history.com/topics/american-civil-war/emancipation-proclamation)> accessed 18<sup>th</sup> March 2021.

The garment industry within the U.S. is also a major offender. While U.S. garment companies outsource much of their work, plenty of it still gets done within the state, also completed by slave labor. In fact, many fast fashion companies have sweatshops in major U.S. cities like New York and Los Angeles.<sup>219</sup> Recent reports found that the fashion industry supplies modern slavery with more money than any other industry, second only to tech.<sup>220</sup> The competitive nature of the fast fashion industry has resulted in an increase in sweatshops around the U.S. and therefore an increase in workers, who are often trafficked into the factory.<sup>221</sup> Often, the most expensive part of fashion is the labor, using trafficking victims allows companies to significantly cut down on that cost.

### **b. Sex Trafficking in the U.S.**

The majority of trafficking cases that are prosecuted in the U.S. are for sexual exploitation. Victims of sex trafficking are forced into sex work on the streets and in massage parlors. The majority of victims working in the massage parlors and as sex workers have been trafficked from China or South Korea with threats of arrest or deportation if they try to leave. Since sex work is illegal in almost all areas of the U.S., many victims of trafficking end up arrested with limited resources to assist in their defense.<sup>222</sup> One study found that there are more than 9,000 illicit massage businesses in the U.S., with the majority of the women working there being trafficking victims, earning about \$2.5 billion a year solely from illegal work.<sup>223</sup>

People in the U.S. tend to believe that trafficking is an issue that does not occur in their country or to U.S. citizens, however, a study found that 83% of confirmed sex trafficking victims are U.S. citizens.<sup>224</sup> The growing anonymity of the internet, in combination with the false belief that trafficking does not occur in the U.S., has allowed traffickers to recruit victims through websites such as Backpage and Craigslist, prior to them being shut down.<sup>225</sup>

The Super Bowl is arguably the largest “holiday” in the U.S. and has recently been facing scrutiny for being a hot spot for sex trafficking.<sup>226</sup> The Super Bowl draws thousands of people to one city each year and, similar to the increased demand for labor and sex for hire during the Olympics, the influx of spectators leads to an increase in demand for trafficked victims. The host cities have been hypersensitive to the issue in recent years, increasing efforts to identify and protect trafficking victims.<sup>227</sup>

<sup>219</sup> The Dunken Law Firm, ‘Human Trafficking in the Fast Fashion Industry’ (19 Jan. 2020) <[www.thedunkenlawfirm.com/human-trafficking-in-the-fast-fashion-industry/](http://www.thedunkenlawfirm.com/human-trafficking-in-the-fast-fashion-industry/)> accessed 18<sup>th</sup> March 2021.

<sup>220</sup> Whitney Bauck, ‘The Fashion Industry is One of the Biggest Supporters of Modern Slavery Across the Globe’ (*Fashionista*, 21 Nov. 2018) <<https://fashionista.com/2018/07/fashion-industry-modern-slavery-report-2018>> accessed 18<sup>th</sup> March 2021.

<sup>221</sup> The Dunken Law Firm (n.219).

<sup>222</sup> ‘Human Trafficking Victims Accused of Prostitution’ (*Hg.Org*) <[www.hg.org/legal-articles/human-trafficking-victims-accused-of-prostitution-39120](http://www.hg.org/legal-articles/human-trafficking-victims-accused-of-prostitution-39120)> accessed 18<sup>th</sup> March 2021.

<sup>223</sup> Polaris, ‘Human Trafficking in Illicit Massage Businesses’ (*Polaris*, 2018) 8.

<sup>224</sup> Duren Banks, Tracey Kyckelhahn, ‘Characteristics of Suspected Human Trafficking Incidents, 2008-2010’ (*U.S. Dept. of Justice*, 2011).

<sup>225</sup> Polaris (n.86).

<sup>226</sup> Terri Luttrell, ‘Human Trafficking and Major Sporting Events: The Dark Side of the Super Bowl’ (*ACAMS Today*, 28 March 2019) <[www.acamstoday.org/human-trafficking-and-major-sporting-events-the-dark-side-of-the-super-bowl/](http://www.acamstoday.org/human-trafficking-and-major-sporting-events-the-dark-side-of-the-super-bowl/)> accessed 18<sup>th</sup> March 2021.

<sup>227</sup> The Morning Edition, ‘Sex Trafficking and The Super Bowl’ (*NPR*, 2 Feb. 2018) available to listen or read at <[www.npr.org/2018/02/02/582613447/sex-trafficking-and-the-super-bowl](http://www.npr.org/2018/02/02/582613447/sex-trafficking-and-the-super-bowl)> accessed 18<sup>th</sup> March 2021.

## E. HOW HUMAN TRAFFICKING AND CLIMATE CHANGE ARE CONNECTED

It is well known that climate change has caused an increase in forced migration,<sup>228</sup> with studies estimating that 20 million people are forcibly displaced each year as a result of climate change.<sup>229</sup> While people are being forced to frantically leave their homes, it is easy for governments to lose track of people, especially those who are attempting to escape to a safer state. The chaos of dealing with a disaster in conjunction with the mass movement of people creates the perfect environment for a trafficker to find a victim without being detected. It is also generally accepted that climate change disproportionately affects poor and vulnerable people, especially women.<sup>230</sup> Many states have refugee camps in places where women frequently face sexual assault.<sup>231</sup> The International Organization of Migration conducts interviews throughout the year of refugees who have crossed into Europe; in 2017, 79% of women interviewed responded “yes” to at least one indicator of human trafficking.<sup>232</sup>

Major organizations, such as the United Nations Environment Program and INTERPOL, have warned that forced displacement leads to an increase in human trafficking.<sup>233</sup> Studies have shown a direct connection between the increase in disasters, such as hurricanes, earthquakes, and tsunamis, and human trafficking.<sup>234</sup> These devastating events leave people more vulnerable, making it easier for traffickers to prey on them by promising a “better life” in a new country. A study published in 2010 predicted that by 2050 there could be as many as 250 million “climate refugees” if the world does not try to change its approach to climate change.<sup>235</sup> These climate refugees are often more desperate for work, housing, and general security, making them the perfect victim for a trafficker.<sup>236</sup> While climate change has been linked to an increase in trafficking, there is heavy evidence that human trafficking is a major contributor to the climate crisis as well, specifically through the fashion industry, agriculture, and deforestation.

For instance, the fashion industry is the second-largest contributor to global climate change and heavily relies on slave labor. The fashion industry consists of four levels: (1) production of raw materials; (2) production of goods by designers and manufacturers; (3) retail sales; and (4) advertising and promotion.<sup>237</sup> It is a global industry with different stages of production happening across the world, but most companies have factories

<sup>228</sup> Kate Burrows, Patrick L. Kinney, ‘Exploring the Climate Change, Migration and Conflict Nexus’ (2016) 13(4) *International Journal of Environmental Research and Public Health* 443.

<sup>229</sup> Oxfam Media Briefing, ‘Forced from home: climate-fueled displacement’ (*Oxfam*, 2 Dec. 2019) <<https://oxfamlibrary.openrepository.com/bitstream/handle/10546/620914/mb-climate-displacement-cop25-021219-en.pdf>> accessed 18<sup>th</sup> March 2021.

<sup>230</sup> Nanrata Chindarkar, ‘Gender and climate change-induced migration: proposing a framework for analysis’ (2012) 7(2) *Environmental Research Letters* 1.

<sup>231</sup> Jacey Fortin, ‘Wrenching Choice in South Sudan: Starve or Risk Rape’ (*The New York Times*, 4 Aug. 2016) <[www.nytimes.com/2016/08/05/world/africa/south-sudan-juba-kiir-machar.html](http://www.nytimes.com/2016/08/05/world/africa/south-sudan-juba-kiir-machar.html)> accessed 18<sup>th</sup> March 2021.

<sup>232</sup> Michael B. Gerrard, ‘Climate Change and Human Trafficking After the Paris Agreement’ (2018) 72:345 *University of Miami Law Review* 345, 357.

<sup>233</sup> Nellemann (n.3); UN (n.2).

<sup>234</sup> Andrea Truger, ‘In the Eye of the Storm: The connection between extreme weather events and human trafficking in the case of typhoon Haiyan in the Philippines’ (2015) *Lund University Libraries*.

<sup>235</sup> Frank Biermann, Ingrid Boas, ‘Preparing for a Warmer World: Towards a Global Governance System to Protect Climate Refugees’ (2010) 10(1) *Global Environmental Politics* 66.

<sup>236</sup> Wudan Yan, ‘The Surprising Link Between Climate Change and Human Trafficking’ (*The Revelator*, 7 May 2018) <<https://therevelator.org/climate-change-human-trafficking/>> accessed 18<sup>th</sup> March 2021.

<sup>237</sup> John S. Major, ‘Fashion industry’ (*Encyclopedia Britannica*, last updated 23 Oct. 2020) <[www.britannica.com/art/fashion-industry](http://www.britannica.com/art/fashion-industry)> accessed 18<sup>th</sup> March 2021.



in China and the U.S.<sup>238</sup> Many of the U.S. factories produce raw materials and subsequently ship those materials to China to be made into clothing which will then be sent back to the U.S. for sale.<sup>239</sup> It is well documented that the fashion industry heavily relies on human trafficking labor in their production factories and that fashion is the second-largest contributor to climate change, but it is less studied as to how that human trafficking causes to climate change.

In 2020 the world is rapidly changing. With all the information in the world at your fingertips, society is always searching for the next best thing and this outlook has allowed for the fast fashion industry to thrive. With a daily stream of new low-priced designs being modeled after the high end, desired looks, it is becoming increasingly easy for consumers to constantly purchase new outfits. While it seems harmless to the buyer to simply purchase a new shirt, this simple action has extremely damaging consequences when taken into account collectively. The high demand for these items creates a need for more sweatshops and more workers to operate those sweatshops. The majority of the sweatshop workers are victims of labor trafficking who are overworked and underpaid, if paid at all.<sup>240</sup> It is well known that companies in the U.S. will outsource work to China because China has fewer labor laws and pays the workers significantly less than they should be paid.<sup>241</sup> People, typically women and children, are recruited with promises of a good job and then forced to work against their will for little to no pay.

With people who are being trafficked into the fashion industry producing more clothing than ever before, they are also contributing to unprecedented levels of pollution. In general, the fashion industry has a larger carbon footprint than all international flights and maritime shipping vessels combined.<sup>242</sup> The industry accounts for about 10% of all human greenhouse gas emissions and is the second-largest consumer of the world's water supply.<sup>243</sup> Furthermore, the inherent nature of fast fashion trends leads to about 85% of all textiles to be thrown away each year, causing plastic to end up in the ocean and landfills to pile up.<sup>244</sup> Human trafficking and climate change are directly connected. Increasing clothing production has led to a higher demand for cheap labor and more clothes being produced and later disposed of, harming the environment.

The agriculture industry is another sector in which human trafficking increases climate change. One of the main reasons people are trafficked is to be forced into agriculture work, especially in the U.S. In the U.S., there is a designated visa for temporary agriculture workers, H-2A visa, which legally binds a person to agricultural work.<sup>245</sup> The H-2A visa makes an individual dependent on agricultural work by extension, more susceptible to traffickers. The individuals are faster to accept fake jobs out of desperation to stay in the U.S. Reports have found that traffickers will send these individuals to works in isolated parts of the country to be

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<sup>238</sup> Fibre2Fashion (n.27).

<sup>239</sup> *ibid.*

<sup>240</sup> The Dunken Law Firm (n.219).

<sup>241</sup> Katherine Peralta, 'Outsourcing to China Cost U.S. 3.2 Million Jobs Since 2001' (*U.S. News & World Report*, 11 Dec. 2014) <[www.usnews.com/news/blogs/data-mine/2014/12/11/outsourcing-to-china-cost-us-32-million-jobs-since-2001](http://www.usnews.com/news/blogs/data-mine/2014/12/11/outsourcing-to-china-cost-us-32-million-jobs-since-2001)> accessed 18<sup>th</sup> March 2021.

<sup>242</sup> Morlet (n.63).

<sup>243</sup> Morgan McFall-Johnsen, 'These facts show how unsustainable the fashion industry is' (*World Economic Forum*, 31 Jan. 2020) <[www.weforum.org/agenda/2020/01/fashion-industry-carbon-unsustainable-environment-pollution/](http://www.weforum.org/agenda/2020/01/fashion-industry-carbon-unsustainable-environment-pollution/)> accessed 18<sup>th</sup> March 2021.

<sup>244</sup> *ibid.*

<sup>245</sup> U.S. Citizenship and Immigration Services, 'H-2A Temporary Agricultural Workers' <[www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers](http://www.uscis.gov/working-in-the-united-states/temporary-workers/h-2a-temporary-agricultural-workers)> accessed 18<sup>th</sup> March 2021.



exploited in tobacco, dairy, and fruit production.<sup>246</sup> Undocumented individuals in the U.S. are even more likely to be trafficked into farm work. They are often coming from Mexico seeking a better life and will accept any job offer presented to them.<sup>247</sup> This is not isolated to the U.S. as every state with a farming industry has labor trafficking victims working on their farms. The traffickers will leave the individual in an isolated area with little to no support, no travel documents, and will typically withhold any pay so that the victim is forced to stay on the farm.<sup>248</sup>

Victims are forced to work in environmentally harming areas such as deforestation, dead zones, and soil degradation. Victims are forced to farm crops, tobacco, raw materials, take care of livestock, and are sent on fishing trips for months on end. The agriculture business is a major emitter of greenhouse gasses, consumer of fossil fuels, and a significant user of land. Agriculture contributes to greenhouse gas emission through three main activities: (1) livestock; (2) crop cultivation and fertilizer use; and (3) deforestation. Livestock farming alone occupies about 30% of all Earth's land<sup>249</sup> and leads to manure seeping into soils and water, affecting the water and soil quality.<sup>250</sup> Raising livestock also causes an alteration in the soil due to manure usage, requiring workers to use more chemicals to attempt to rebalance the land in order to grow crops and as a result, these chemicals often release greenhouse gasses into the atmosphere.<sup>251</sup>

Since World War II, fertilizer containing nitrogen and phosphorus has been used because it allows farms to produce more crops in a shorter period of time; China, specifically, heavily relies on fertilizer in order to feed its rapidly growing population.<sup>252</sup> On the surface it seems these chemicals are helpful to the human population but the reality is that the usage of such chemicals have increased nitrogen levels by about 600% causing eutrophication, or toxic algae, to bloom across China and the U.S.<sup>253</sup> Eutrophication creates "dead zones" within bodies of water, where no organism can survive, disrupting Earth's ecosystem. When individuals are forced into agricultural work, they are working grueling hours to create more crops using fertilizer and are harming the environment as a result.

Deforestation occurs to clear forest land for other uses, such as farming. The most impactful instance of deforestation has been that of the Amazon with over 20% of the Amazon has been destroyed.<sup>254</sup> While the primary purpose of this destruction has historically been crop production and cattle-ranching, deforestation over the last few decades has been driven by money.<sup>255</sup> Companies, particularly in China, have been sending money to Brazil's timber industry so Brazil may cut down trees and send timber back to Asia.<sup>256</sup> The destruction of the Amazon is arguably the most damaging thing humans have done to the planet. The Amazon

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<sup>246</sup> Robert Holly, 'Report: Hundreds of farmworkers exploited, abused in U.S.' (*Investigate Midwest*, 30 March 2017) <<https://investigatemitwest.org/2017/03/30/report-hundreds-of-farmworkers-exploited-abused-in-u-s/>> accessed 18<sup>th</sup> March 2021.

<sup>247</sup> Simón Pedro Izcara Palacios, Yasutaka Yamamoto, 'Trafficking in US Agriculture' (2017) *Antipode* 1306, 1309.

<sup>248</sup> Holly (n.246).

<sup>249</sup> Henning Steinfeld, 'Livestock's long shadow: environmental issues and options' (2006) *FAO* 4.

<sup>250</sup> Emanuela Tullo, Alberto Finzi, Marcella Guarino, 'Environmental impact of livestock farming and Precision Livestock Farming as a mitigation strategy' (2018) 650 *Science of The Total Environment* 2752, 2753.

<sup>251</sup> *ibid.*

<sup>252</sup> National Geographic Society, 'Environmental Impacts of Agricultural Modifications' (*National Geographic*, 11 May 2020) <[www.nationalgeographic.org/article/environmental-impacts-agricultural-modifications/12th-grade/](http://www.nationalgeographic.org/article/environmental-impacts-agricultural-modifications/12th-grade/)> accessed 18<sup>th</sup> March 2021.

<sup>253</sup> *ibid.*

<sup>254</sup> Margret Mead, 'About the Rainforest' (*Rain-Tree*) <<https://rain-tree.com/facts.htm>> accessed 18<sup>th</sup> March 2021.

<sup>255</sup> Rhett A. Butler, 'Amazon Destruction' (*Mongabay* last updated 4 Dec. 2020) <[https://rainforests.mongabay.com/amazon/amazon\\_destruction.html](https://rainforests.mongabay.com/amazon/amazon_destruction.html)> accessed 18<sup>th</sup> March 2021.

<sup>256</sup> Pratginestos (n.45).

is home to 10% of all known species on Earth, 75% of which are unique to the Amazon.<sup>257</sup> Additionally, the Amazon produces about 6% of the world's oxygen, and readily absorbs carbon dioxide.<sup>258</sup> However, deforestation in the Amazon has led to the loss of so many trees that the amount of carbon dioxide now being released, instead of being absorbed by those trees, is the third largest source of carbon dioxide emission, behind only China and the U.S.<sup>259</sup> Additionally, the deforestation process itself emits more carbon dioxide than the Amazon is now able to absorb.<sup>260</sup>

By destroying the Amazon, humans are disrupting the ecosystem, the atmosphere, and by extension, contributing to climate change. On top of the environmental harm, the individuals who are cutting down the rainforest are mostly labor trafficking victims. The main source of trafficking in Brazil is labor trafficking and a large portion of labor trafficking victims are forced into the illegal logging and agricultural industries. After being trafficked, they are obligated to obliterate the rainforest and then farm on the remaining land. These victims are being forced into work that directly harms the global environment.

Additionally, there is a connection between human trafficking, the environment, and sports. While the world tends to view sports as a positive event that brings people together, major sporting events have been violating human rights for decades. Major global sporting events, such as the Olympics and World Cup, require enormous structures and plots of land for a short period of time. States bid to be able to host these events and then are forced to clear land in order to build massive, temporary structures in a short period of time, swiftly harming the environment.<sup>261</sup> The production of these arenas is often done by labor trafficking victims, as developers are seeking the cheapest, fastest way to produce the desired product.<sup>262</sup> These major sporting events, including the Super Bowl in the U.S., create an influx of tourism in a host city, which in turn, creates an influx in the desire of sex for hire.<sup>263</sup> Therefore, traffickers will target these events and traffic an increased number of victims to the host city during that time. While people like to view major sporting events as a time to come together, they actually cause an increase in human rights violations by increasing human trafficking and damaging the environment in the host city.

The fishing industry is another example of human trafficking victims being forced to damage the environment. The deep-sea fishing industry, specifically, involves extensive trips out to sea that isolate an individual from the rest of the world; this industry is an excellent area for traffickers to exploit victims who are desperately looking for some form of work. Traffickers know that they can force individuals onto the boat without much detection since there are no third parties to suspect that someone is there unwillingly and it is impossible for victims to escape when they are out to sea.<sup>264</sup> Furthermore, the victims are being forced to disrupt marine life in a way that destroys the ecosystem. The boats themselves are releasing harmful gases

<sup>257</sup> Marizilda Cruppe, 'Amazon Deforestation' (WWF) <[https://wwf.panda.org/our\\_work/our\\_focus/forests\\_practice/deforestation\\_fronts2/deforestation\\_in\\_the\\_amazon/](https://wwf.panda.org/our_work/our_focus/forests_practice/deforestation_fronts2/deforestation_in_the_amazon/)> accessed 18<sup>th</sup> March 2021.

<sup>258</sup> Katarina Zimmer, 'Why the Amazon doesn't really produce 20% of the world's oxygen' (*National Geographic*, 28 Aug. 2019) <[www.nationalgeographic.com/environment/2019/08/why-amazon-doesnt-produce-20-percent-worlds-oxygen/](http://www.nationalgeographic.com/environment/2019/08/why-amazon-doesnt-produce-20-percent-worlds-oxygen/)> accessed 18<sup>th</sup> March 2021.

<sup>259</sup> *ibid.*

<sup>260</sup> Gabriel Gatehouse, 'Deforested parts of Amazon 'emitting more CO2 than they absorb'' (*BBC News*, 11 Feb. 2020) <[www.bbc.com/news/science-environment-51464694](http://www.bbc.com/news/science-environment-51464694)> accessed 18<sup>th</sup> March 2021.

<sup>261</sup> Trendafilova (n.188).

<sup>262</sup> Bowersox (n.186).

<sup>263</sup> The Morning Edition (n.227).

<sup>264</sup> Sarah Lazarus, 'Slavery at sea: human trafficking in the fishing industry exposed' (*Post Magazine*, 13 Jun. 2015) <[www.scmp.com/magazines/post-magazine/article/1819562/slavery-sea-human-trafficking-fishing-industry-exposed](http://www.scmp.com/magazines/post-magazine/article/1819562/slavery-sea-human-trafficking-fishing-industry-exposed)> accessed 18<sup>th</sup> March 2021.

into the atmosphere and oils into the oceans, while removing more than 25 million tons of marine life from the oceans.<sup>265</sup> One of the most damaging practices is bottom trawling, this involves fishermen dragging a large net attached to the boat along the bottom of the ocean floor to capture anything in its path.<sup>266</sup> This process not only depletes marine life at a rapid rate, but it also disrupts the seabed, stirring up significant amounts of sediment and damaging coral life.<sup>267</sup> The fishing industry tends to be overlooked when discussing both human trafficking violations and industries that are extremely harmful to the environment, however, it is a major player in both.

Traffickers are violating human rights in more than one way: they are enslaving humans and using them to destroy the environment. When states fail to combat trafficking or comply with the international standards regarding trafficking, they are doing even more harm than previously realized. The Universal Declaration of Human Rights denounces slavery numerous times; for example, Article 4 states “no one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.”<sup>268</sup> Article 5 declares “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>269</sup> While the right to a clean environment has not officially been ruled as a human right, many have been fighting for it to be recognized as one.<sup>270</sup> Human trafficking not only damages the individual being trafficked, but the world as a whole.

## **F. THE CLIMATE CRISIS AND HUMAN TRAFFICKING NEED TO BE FOUGHT AS ONE, CONNECTED ISSUE**

Thus far, the international community has created agreements attempting to mitigate climate change and agreements attempting to prevent human trafficking, and most states have domestic laws addressing the environment and human trafficking. However, there are no agreements that address the two as one connected issue. While the current agreements have been somewhat successful, it would be more effective for states to work together in recognizing that the two issues influence each other. In order to properly fight both climate change and human trafficking, the United Nations should draft an agreement formally recognizing that the two issues are directly related. The proposed agreement would allow for each state to set individual yearly goals regarding their climate impact and human trafficking convictions. States will be better able to tackle these evils by creating a multilateral treaty between willing participants under the United Nations framework that works to combat both climate change and human trafficking. Climate change and human trafficking are intertwined and as such, it would be more effective for states to attempt to combat them as one.

Additionally, the new agreement would hold states accountable when they fail to comply with the terms of the agreement and are not making any efforts to meet their set goal that year. The current agreements do not contain any penalties for states who fail to comply, a deterrence element would increase the probability of compliance among signatories. Human trafficking is a profitable business and potential regulations aiming

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<sup>265</sup> Alastair Bland, ‘Race to the Bottom: Impact of Deep-Sea Fishing Severely Underestimated’ (*NewsDeeply*, 16 April 2018) <[www.newsdeeply.com/oceans/articles/2018/04/16/race-to-the-bottom-impact-of-deep-sea-fishing-severely-underestimated](http://www.newsdeeply.com/oceans/articles/2018/04/16/race-to-the-bottom-impact-of-deep-sea-fishing-severely-underestimated)> accessed 18<sup>th</sup> March 2021.

<sup>266</sup> Pariona (n.21).

<sup>267</sup> *ibid.*

<sup>268</sup> UNGA Res. 217 A, Universal Declaration of Human Rights, Art. 4 (10 Dec. 1948).

<sup>269</sup> *ibid.* Art. 5.

<sup>270</sup> *Juliana* (n.64).

to combat climate change would cost states more money. If a state can save money by rescinding their current agreements without any repercussions, there is little motivation for them to comply. In fact, Brazilian President Bolsonaro has stated that Brazil is no longer fighting against climate change because the practice works against Brazil's economy.<sup>271</sup>

Sanctions would be the strongest and most practical mechanism through which states may attempt to deter other states from engaging in behavior which might have adverse effects on the global community. As per the Ministry of Foreign Affairs of Government of the Netherlands, "[t]he international community can use sanctions to change the behaviour of a country or regime, in cases where the country or regime is violating human rights, waging war or endangering international peace and security."<sup>272</sup> While leaders have asserted that they would render unfavorable trading conditions to states that are not adequately adhering to carbon emission thresholds,<sup>273</sup> and some states have attempted to assert enforcement power over human trafficking,<sup>274</sup> there is a lack of existing comprehensive legal framework which would render sanctions for both issues simultaneously. The new legal framework would impose economic sanctions on states disobeying the terms of the agreement. However, targeted sanctions may run the risk of aggravating state actors who feel that they have been unfairly discriminated upon. The optimal way to balance this potential for aggravation would be to initiate quasi-sanctions in the form of a carbon pricing scheme. Carbon pricing quantifies the costs related to the adverse effects of emissions, such as natural hazards which damage property, or costs for those who experience health impairments that are derivative of pollution.<sup>275</sup> This pricing scheme would then shift the burden of cost back to the origin by levying a premium on the emitter's exports that is directly reflective of the specific amount of excess greenhouse gas emissions that were created as a byproduct of the goods or services that the entity is trading.

This pricing mechanism could also be applied to states who are not complying with human trafficking regulations. Since influxes in human trafficking results in an exacerbation of greenhouse gas emissions, one way in which the pricing mechanism could be applied would be to trace the actual effect of specific human trafficking activities within a state and determine the carbon emissions which are a direct result of that trafficking. A compound carbon-human trafficking premium could then be applied on goods or services which are derivative of simultaneously violating climate protection policies and trafficking regulations. A yearly evaluation will determine if states have met their set goals, are positively working towards them, or ignoring the terms and apply the sanctions accordingly.

In conjunction with these deterrence mechanisms, the new agreement would also have incentives for states to comply. Ideally, the idea of promoting human rights should be incentive enough, but that has not been the case thus far. Similar to the Paris Agreement, the new agreement should contain emission goals for states depending on that state's current emission needs, but the new agreement will contain incentives for states to meet these goals. The U.S. Department of State already analyzes how states are responding to trafficking and makes suggestions as to how states can be better; the incentive would be awarded by looking at this

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<sup>271</sup> Viscidi (n.40).

<sup>272</sup> Government of the Netherlands, 'International peace and security: Sanctions' <[www.government.nl/topics/international-peace-and-security/compliance-with-international-sanctions](http://www.government.nl/topics/international-peace-and-security/compliance-with-international-sanctions)> accessed 18<sup>th</sup> March 2021.

<sup>273</sup> Alexandra E. Cirone, Johannes Urpelainen, 'Trade sanctions in international environmental policy: Deterring or encouraging free riding?' (2013) *Conflict Management and Peace Science*.

<sup>274</sup> U.S. Office to Monitor and Combat Trafficking in Persons, 'International and Domestic Law' <[www.state.gov/international-and-domestic-law/](http://www.state.gov/international-and-domestic-law/)> accessed 18<sup>th</sup> March 2021.

<sup>275</sup> Kaia Rose, Eric Mann, 'What is Carbon Pricing?' (*The World Bank*) <<https://carbonpricingdashboard.worldbank.org/what-carbon-pricing>> accessed 18<sup>th</sup> March 2021.

report and a state's greenhouse gas emissions for that year. The agreement could offer a tax or trade incentive to states who are both fighting against human trafficking and meeting their set emission goals. Such incentives could be built into bilateral investment treaties, trade agreements, or international tax agreements which stipulate the specific goals and favorable conditions to that agreement that would ensue should that party meet such goals. An example of which would be the provision of a grant of national treatment for a trading partner who has successfully reduced trafficking and carbon emissions to an agreed upon level. States will likely find that meaningful efforts in tackling human trafficking and climate change concurrently will exponentially increase their success on each front. The new agreement proposed by this paper would provide an overarching framework for recommended goals and recommended incentives that could be built into existing and future agreements.

By creating an agreement through the United Nations General Assembly, states will be properly represented and able to decide if they should ratify this agreement. Human trafficking and climate change are so substantially intertwined that fighting them alone is not enough. An agreement that formally connects the two issues will remind states that the two are directly related and that the failure to fight one, constitutes a failure to fight both. If the agreement places incentives for states to comply and sanctions for when they fail to meet their set standards, states will be more likely to combat both the climate crisis and human trafficking.

## G. CONCLUSION

Human trafficking and climate change have a direct relationship, an increase in one causes an increase in the other. While human trafficking has always occurred, it has received more attention in recent years. Celebrities have been vocal about combating trafficking, have been arrested in conjunction with trafficking cults, and starring in movies focused on trafficking, all of which have led to a wider global awareness of the issue. However, the majority of people have focused on the actual trafficking, rather than the impact of the work victims are forced into. By forcing victims to destroy the rainforests, work in textile factories, and the agriculture industry, traffickers are forcing climate change on the rest of the world. It is clear that human trafficking has negatively impacted the environment.

Human trafficking victims across the world are being forced into illegal work that is destroying the environment. Specifically in the U.S., China, and Brazil, victims are trapped in businesses that are known to have the most negative impacts on the environment. The fashion industry is the second leading polluter in the world; between the factory emissions, water needed to create a single garment, and disposal of clothing, the fashion industry destroys the environment from numerous angles. The agriculture industry, while necessary for human survival, is extremely harmful to the environment. Many of the farms around the world are not using environmentally friendly practices and in fact, the chemicals that they are using are known to be extremely damaging for the environment. The process of raising animals, specifically cattle, for meat production is also detrimental to the environment. The majority of the workers on these farms around the world are trafficking victims being forced to destroy the environment. Deforestation is arguably the most damaging area that victims are forced to work in. Almost everyone involved in the illegal logging industry in the Amazon is a trafficking victim. The obliteration of the Amazon takes down trees, which absorb carbon dioxide and produce oxygen, with tools that release greenhouse gases into the atmosphere. When the land is cleared, it is then commonly used for agriculture production. Traffickers have been forcing individuals to work in fields that are known to damage the environment for decades. Historically, when looking at human trafficking, people focus on the individual harm done to the person trafficked and when looking at harmful

environmental practices, people focus on the fact that the environment is being harmed and not who is being forced to do the harm.

When states fail to combat human trafficking, they are harming the environment. In order to properly protect against these growing issues, the global community needs to formally recognize the connection between the two and attack them as one.