Restoring Human Dignity

Women Lawyers Push Back Against Human Trafficking

By Cynthia L. Cooper

She gives her name as "Katya" when sitting before the Judiciary Committee of the U.S. House of Representatives in late October 2007, explaining that she can't use her real name. "I fear that my captors will recognize me and place my life and that of my family in danger," she tells the committee.

Katya describes that she had been a university student in the Ukraine in 2003 when she heard about a summer program in the United States that would allow her to learn English. She applied and was accepted. Upon flying from Kiev to Washington, D.C., two Ukrainian men greeted her at the airport and put her on a bus to Detroit instead of her original destination in Virginia.

The same men met her in Detroit. That's when the situation changed dramatically. "They took me to a hotel and took all of my identity documents. They told me that I owed them $12,000 for travel to the United States and $10,000 for the identification document. I quickly learned how I would have to pay it off. They told me I was going to have to work at a strip club," she recalls.

Housed in an apartment without a telephone, Katya says she was threatened with a gun. She was forced to work 12 hours a day, after which her money was confiscated. Another woman in the same situation eventually confided to a customer. "My enslavement finally ended when I escaped with the help of someone who believed us. We were scared but went with him to ICE [Immigration and Customs Enforcement] because they were supposed to help escapees," Katya tells the legislators. "Businesses in the United States should not be able to make money off of slaves," Katya says.

Lives Torn Asunder

Every lawyer who works on the issue of human trafficking has a powerful memory of someone like Katya, whose life has been torn asunder by what is seen as a growing, if hidden, worldwide criminal enterprise. Katya is one of as many as 17,500 people who are trafficked to the United States each year, according to the U.S. Department of State; some nonprofits put the figure as high as 100,000. In 2006, the U.S.

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government appropriated $152 million for international and domestic anti-trafficking efforts.

For Suzanne Tomatore, director of the Immigrant Women and Children Project of the City Bar Justice Center in New York City, the enduring image is of a client in her twenties who had been trafficked from Africa at age six. Forced to work as a domestic servant, the client had never been to school, could not read or write, and had remained unseen until a neighbor called authorities.

"Human trafficking touches on so many different areas—gender issues, economic issues, education issues," says Tomatore, who began working with immigrants after graduating from law school in 2000. "It's a new way of thinking of an age-old problem—slavery in general. This is a modern way of enslaving someone. You assume that this happened in the past or in some other country."

A Worldwide Crisis

Human trafficking, in fact, is a worldwide crisis, equated with drug and gun trafficking—except the goods are people.

Although sex trafficking gets the most media ink and is an enormous problem, a substantial amount of human trafficking involves people who are forced into unpaid or underpaid labor, whether in a home, in a sweatshop, or on a farm.

Under the U.S. Trafficking Victims Protection Act (TVPA) of 2000, "trafficking in persons" is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for: (1) labor or services through the use of force, fraud, or coercion; (2) commercial sex acts through the use of force, fraud, or coercion; or (3) if the person is under 18 years of age, commercial sex acts regardless of coercion. Of course, underlying the law is the Thirteenth Amendment to the U.S. Constitution, outlawing slavery and involuntary servitude.

Because of the clandestine nature of trafficking, accurate statistics are hard to come by. The U.S. State Department estimates that 600,000 to 800,000 people worldwide are trafficked each year across international borders. Officials at the first major United Nations conference on the topic in Vienna, Austria, in February 2008 estimated that 2.5 million people are trafficked from 127 countries. If the statistics are accurate, there are more people enslaved now than at any other time in human history. The most susceptible are people in poor nations with limited opportunities, and about 80 percent of the victims are women and girls.

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Women Lawyers Respond

Lawyers work on a trio of topics—prevention, prosecution, and protection. In all sectors, women lawyers are taking the major roles, developing a newfound consciousness in the same way that domestic violence reshaped the legal landscape 20 years ago.

In practical terms, women lawyers are prosecuting traffickers who are apprehended in stings and arrests. Others, like Tomatore, represent trafficking survivors, who, even if they escape or are rescued, have myriad legal, psychological, and day-to-day concerns.

Women lawyers are pursuing civil damages against abusers, creating educational materials, and training law enforcement personnel in the United States and other nations. Local, statewide, and international networks are drawing together prosecutors, law enforcement, victim advocates, social services, and non-profit organizations in coordinated multi-agency approaches.

Consider Anjali Chaturvedi. When she arrived in San Francisco in 2005 as the chief of the Organized Crime Strike Force for the office of the U.S. attorney for the Northern District of California, she was already a seasoned federal prosecutor with ten years' experience. With a federal grant to begin a multi-agency task force, she quickly immersed herself in the concerns of human trafficking.

"The number of people involved was high—that definitely struck me and was new to me," says Chaturvedi, now working at a major law firm in Washington, D.C. "I had done homicides and drug and gun trafficking. The trafficking of people is not that different, but the traffickers continue to make money after 'the sale' by collecting on their labor."

Chaturvedi oversaw Operation Gilded Cage, one of the nation's biggest raids, rescuing 103 trafficked Korean women from 29 brothels in San Francisco. Thirty-five individuals were charged with a variety of crimes. In another case, she oversaw agents who uncovered "10-day houses" in San Jose, California, where women were kept in "home" brothels and moved to a new location every week and a half.

The Healing Process

The trafficking laws in the United States provide protections for victims who cooperate with law enforcement and are willing to testify against their abusers. They are eligible for a special "T" visa and, once certified, can receive the same emergency help as refugees.

But victims also tend to be confused, traumatized, and afraid. "Where do they go? What do they do?" says Kavitha Sreeharsha, recalling the flurry of questions about the trafficked women in San Francisco.

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RESOURCES ON HUMAN TRAFFICKING

- U.S. Department of Justice: Fight Trafficking in Persons
  www.usdoj.gov/whatwedo/whatwedo_ctip.html
- DOJ Trafficking in Persons and Worker Exploitation Task Force Complaint Line
  1-888-428-7581
- Campaign to Rescue and Restore Victims of Human Trafficking Administration for Children and Families, Department of Health and Human Services
  www.acf.hhs.gov/trafficking/resources/index.html
- United Nations Global Initiative to Fight Human Trafficking
  www.ungift.org
- International Rescue Committee
  www.theirc.org/media/www/more_information_about_the_tvpa.html
- The Polaris Project
  www.polarisproject.org
- Coalition Against Trafficking in Women
  www.catwinternational.org

Now working on policy issues with Legal Momentum in Washington, D.C., Sreeharsha worked at the Asian Pacific Islander Legal Outreach in San Francisco when federal crackdowns occurred.

"I never had a trafficking victim who used the term 'trafficking,'" Sreeharsha says.

She explains that even though they know what is happening to them is wrong, the victims are held in secluded situations, unable to grasp or access normal safety networks. They face constant psychological threats, often against families back home, Sreeharsha points out, and they struggle in a lawless netherworld. When police step in, trafficking victims fear that they are the ones who will be imprisoned.

"Their minds have been controlled," Sreeharsha says. "They need to build trust, and that's hard and takes time."

A simple victim interview with the FBI or police can provoke trauma, requiring victim advocates to facilitate the process. "The trafficking cases take exponentially more hours than a typical case," Sreeharsha says. "There's a lot more there than filing papers."

Severe Worker Exploitation

The advocates for trafficking victims are typically civil lawyers, but the prosecutions of traffickers pull them into the criminal justice world, where unfamiliar protocol makes them hunger for mentors with criminal law expertise, says Pat Medige, senior attorney with Colorado Legal Services, which has 15 offices and 40 lawyers across the state. Medige does trainings on trafficking for hospital workers, schoolteachers, police, domestic violence advocates, and outreach workers for the homeless.

"People aren't aware of the subtlety of the trafficking situation and the severe worker exploitation," Medige says. "There are injustices and human rights abuses all around us."

One client stays in her mind. The woman lived in the mountains with a couple who forced her to labor as a night cleaning woman in a business they owned and also made her perform chores on their property. They told her she wasn't free to leave until she paid off her debts, but the debts kept accumulating because she was charged for everything she used or did—from cleaning supplies to a soda. Only when her arm was cut by a chainsaw and she required medical attention did a local community advocate hear of her situation and get help to her. "At every presentation, someone will say, 'I know this really weird situation,'" Medige says. "A light bulb goes off."

The Colorado program has handled cases involving sheepherders trafficked from Chile. Left without horses, adequate shelter, or food in rugged unfamiliar mountains, and no pay in sight, farm workers were held in a prisonlike camp and forced into backbreaking weeding on an organic farm. "The people who take a stand say they don't want the same thing to happen to someone else," Medige says. "I've heard it every single time."

Organized Crime Connections

The trafficked victims are brought to the United States from locations around the world: China, India, Mexico, Haiti, Sri Lanka, Philippines, Indonesia, and Kosovo. Invariably, the stories are the same. A recruiter approaches them in their home country with an alluring offer of a job in the United States. Parents of children are enticed by supposed opportunities of education for their children in exchange for helping out a family with babysitting.

The recruiters are one end of an organized crime network: "Human trafficking is increasingly committed by organized, sophisticated criminal groups and is the fastest-growing source of profits for organized criminal enterprises worldwide," according to a U.S. government fact sheet.

Organizations such as Human Rights Watch report that when the victims leave their home countries, they arrive to find a barbed tangle of deceit. Workers are placed in isolated

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environments and forced to labor, ostensibly to pay off "debts." But in this Dickensian cauldron, there is no way out. Their "wages" are subpar, withheld, or confiscated while they are charged for spiraling costs. In some cases, wealthy foreigners come to the United States with "servants," failing to satisfy U.S. wage requirements.

Gillian Dutton guides law students in working on trafficking issues as the director of a clinic of refugee and immigrant advocacy at the University of Washington School of Law, a collaboration with the Northwest Justice Project in Seattle. "It's galvanizing for students," Dutton says. "They feel this shouldn't be happening now. Trafficking victims seem so incredibly vulnerable."

In one clinic case, students helped a trafficking survivor who was denied a monthly stipend of $349 by state welfare authorities even though federal law made her eligible for the benefits. Other students are preparing information about interpreter access and confidentiality issues for an area task force.

Private and Pro Bono Advocates

Private lawyers and advocates often pursue civil remedies for trafficking victims. Della Bahan, a California lawyer, has successfully sued for several victims referred by the Coalition to Abolish Slavery and Trafficking in Los Angeles. Using a combination of employment law and tort claims, she has secured verdicts of several hundred thousand dollars in some cases.

"The people are very damaged and needy when they get released. These are tough cases in many ways," says Bahan, now living in Berkeley. In one case, testimony in a civil action for involuntary servitude by a trafficked Thai woman resulted in the later prosecution of a Sony executive.

Pro bono lawyers can be especially helpful, says Sheila Neville, senior attorney at the Legal Aid Foundation of Los Angeles. Neville conducted trainings across the country on identifying trafficking victims. "These are people who are living in fear and don't know how to get out of it," she says.

Red flags should go up if immigrants are living where they work, are not allowed out, had identification but no longer have it, or were recruited in their home country to work in the United States. Another suspect situation is an immigrant child who is not with her family. One victim, Neville explains, was rescued after she spoke to a teenage neighbor. "They often don't know who to trust," she says.

> Common ground in anti-trafficking policy attracts people from across the political spectrum.

Strategies for Solutions

These issues are not unique to the United States, and some women lawyers are working across borders to combat trafficking. Chaturvedi is scheduled to provide training for prosecutors in Kosovo as part of an American Bar Association (ABA) Kosovo Task Force.

A national strategy for dealing with trafficking in Ecuador was the focus of a two-year, $875,000 program that Macarena Tamayo-Calabrese guided as director of the Latin American and Caribbean Law Initiative, within the Rule of Law Initiative of the ABA. The project focused on the internal trafficking of women and girls as young as 13 years of age to bordellos, where they are forced to have sex with as many as 50 men a night. The project helped put new laws in place, rained prosecutors, and created safe houses for victims.

"These kids are being lured. They're told: 'You'll dance; you'll be a model.' There are so many lies that they are told; it's a bucket with no bottom," says Tamayo-Calabrese, now in private practice in Chicago. "Your politics don't matter. There are some things that are not right, no matter how you look at it, and women lawyers have a special role because so many women are victims."

Anti-trafficking policy does have a patch of common ground that attracts people from across the political spectrum. To be sure, there are disagreements. One debated "hot" topic is whether "coercion" should be eliminated from the federal crime of trafficking for the purposes of commercial sex, a step that would place a great deal more prostitution under the purview of the U.S. Justice Department.

But in a wide area of consensus, policymakers join hands. Democratic State Senator Sheila James Kuehl, a lawyer who cofounded the California Women's Law Center, introduced a bill to help trafficking victims get emergency assistance. It passed and was signed into law by Republican Governor Arnold Schwarzenegger.

And on Capitol Hill, lawyer Louisa Terrell, deputy chief of staff for Sen. Joseph Biden (D–Del.), is working closely with the staff of Sen. Sam Brownback (R–Kan.) to craft a reauthorization of the anti-trafficking law.

"It's grappling with globalization. Ending human trafficking is part of our country's antislavery position," Terrell says. "It's a shock to the conscience. I feel connected to an understanding of international human rights and the idea that every person's dignity, autonomy, and independence are recognized. It's very important."

Cynthia L. Cooper, an independent journalist in New York City, is a former lawyer who writes frequently about justice topics.

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