
Volume 60
Issue 3 *Issue 3: Innovations in the Fight Against
Human Trafficking* & Issue 4: *Select Legal
Scholarship from the New York Law School Law
Review*

Article 4

January 2016

Innovations in the Fight Against Human Trafficking: Advocates' Perspectives and Proposals

FLORRIE BURKE

Founder of the Freedom Network, the New York Anti-Trafficking Network, and the Safe Horizon Anti-Trafficking Program

Follow this and additional works at: https://digitalcommons.nyls.edu/nyls_law_review



Part of the [Human Rights Law Commons](#)

Recommended Citation

FLORRIE BURKE, *Innovations in the Fight Against Human Trafficking: Advocates' Perspectives and Proposals*, 60 N.Y.L. SCH. L. REV. (2015-2016).

This Article is brought to you for free and open access by DigitalCommons@NYLS. It has been accepted for inclusion in NYLS Law Review by an authorized editor of DigitalCommons@NYLS.

FLORRIE BURKE

Innovations in the Fight Against Human Trafficking: Advocates' Perspectives and Proposals

60 N.Y.L. SCH. L. REV. 615 (2015–2016)

ABOUT THE AUTHOR: Florrie Burke, M.Ed., MA, is a consultant on human trafficking and modern day slavery to governmental and non-governmental agencies. She is a founder of the Freedom Network, the New York Anti-Trafficking Network, and the Safe Horizon Anti-Trafficking Program. She provides extensive training, speaking, and consultation on human trafficking issues, trauma, and torture, both in the United States and internationally. She also serves as an expert witness and consultant on cases of human trafficking. Ms. Burke has received major awards and recognition from the U.S. Department of Justice (DOJ), Office for Victims of Crime; the Civil Rights Division of DOJ; the U.S. Department of Labor; and the Freedom Network USA, and was awarded the inaugural Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons in May 2013.

ADVOCATES' PERSPECTIVES AND PROPOSALS

In today's globalized society, the problems of human trafficking are embedded in our daily lives in new and challenging ways. I was especially gratified to read the following in the program for the *Innovations in the Fight Against Human Trafficking* symposium:

Front line workers are the first to recognize the nature of social problems created by human trafficking and the first to understand the shortcomings of capacity and resources in the policies intended to remedy trafficking. The attorneys, NGO leaders, and front line agency staff members are often the most creative innovators of solutions to problems poorly understood at higher levels of government and politics.¹

I would add academics, researchers, journalists, and activists to this list. Working in concert, we can, we will, and we do propel new ideas outward.

The media can be a powerful tool for educating the public, but it can also create impressions that do not tell the whole story. When selecting images that are important to me as a reminder of what we do not see in the media, I choose those that are harrowing, but not sensational; those that are immediate, but not salacious; those that are universal, but not exploitative. These images remind us of the many individuals engaged in forced labor in a multitude of different sectors. I am quite sure that I am not the only person whose email inbox is often flooded with stories and images that show scantily clad women, chains, and signs of horrendous abuse. One of the negative effects of the preponderance of these images is a judge and jury's inability to recognize the different types of trafficking and the complexities of each situation.

I want to counteract those images with a more nuanced view of human trafficking. Trafficked persons are first and foremost *human beings* with inherent dignity and a capacity to live, laugh, and love, and we should not focus so much on their suffering that we ignore the essence of who they are. Survivors of trafficking are strong—just think of what they have endured—but they may need our support while they heal from their traumatic experiences and continue to build their futures.

In the current climate of anti-trafficking work, and the thriving “rescue industry,” recognizing agency is almost an innovative concept. The prevailing rhetoric is that trafficked persons are helpless, have no voice, and need rescue and rehabilitation.² Becky Owens-Bullard wrote an article entitled “Take Off the Cape” for the Colorado Coalition Against Sexual Assault.³ Owens-Bullard wrote that “using the word

-
1. *Innovations in the Fight Against Human Trafficking: Perspectives and Proposals*, N.Y.L. SCH. L. REV., <http://www.nylslawreview.com/humantrafficking/> (last visited Apr. 20, 2016).
 2. For an example of this rhetoric, see the website for the Department of Homeland Security, U.S. Immigration and Customs Enforcement, which states “Trafficking victims are often hidden in plain sight, voiceless and scared.” *Human Trafficking*, IMMIGR. & CUSTOMS ENFORCEMENT, <https://www.ice.gov/human-trafficking> (last visited Apr. 20, 2016). A similar sentiment was echoed at a workshop on human trafficking and climate change held at the Vatican on July 21, 2015. Mayor Yelgi Verley Knight of Squirres, Costa Rica expressed disappointment with the lack of female speakers, stating “We as women mayors have to speak for those who have no voice.” Carol Glatz, *World's Mayors Head to Vatican, Vow to Tackle Climate Change, Poverty*, CATH. NEWS SERV. (July 21, 2015, 1:36 PM), <http://www.catholicnews.com/services/englishnews/2015/mayors-head-to-vatican-vow-to-tackle-climate-change-poverty.cfm>.
 3. Becky Owens-Bullard, *Take Off the Cape: Why Using the Word “Rescue” is Harmful to Anti-Trafficking Efforts*, COLO. COALITION AGAINST SEXUAL ASSAULT (July 24, 2014), <http://www.casa.org/take-off-the-cape/>.

'rescue' simplifies this incredibly complex crime and promotes misconceptions about who traffickers are and how they control and manipulate their victims.⁴ These misconceptions occur because people expect trafficking victims to have been literally chained up by their traffickers; the public does not understand that when victims show no signs of physical abuse or were able to leave and return to a trafficking situation multiple times, they are still victims.⁵ Owens-Bullard noted that "[t]his [misperception] is not only detrimental to law enforcement and service providers' ability to identify victims, it is also harmful to our capacity to prosecute traffickers."⁶

It saddens and disturbs me that we are still seeing survivors retelling the horrors of their experiences. This happens daily in front of Congress, at conferences, at fundraising events, and in the media. For years, many of us have struggled with the fact that such retellings can traumatize a victim once again, that it is often unnecessary, that it turns audiences into voyeurs, and even worse, that it encourages competition among survivors and programs. Programs think they need these stories in order to attract funding and notoriety, and survivors tell these stories because they have been asked to. Someone in a position of influence once told me that recounting these stories is the only way to get big donors on board and capture the public's interest. An attorney who reached out to me told me that a case was "not as bad" as one she had read about in a previous deposition transcript of mine. Who are we to judge how bad a case is or how compromised a victim has been? The attorney's reaction is a common one, but every one of us has a chance to affect innovative survivor communication strategies.

The great writer Audre Lorde said, "It is not our differences that divide us. It is our inability to recognize, accept, and celebrate those differences."⁷ We must stop the kind of thinking that privileges us and makes the trafficked person "the other." I challenge every one of us to put a stop to asking survivors to recount their experiences. Let them move on. There is enough available information recounting the details of trafficking cases. We need to focus on prevention and on life after trafficking. We must concentrate on providing protections and services that help build a future, and not lock people into a painful past. Formerly trafficked persons have much to offer in both critique and contributions to the field. Many survivors are now engaged as partners in the efforts to stem the tide of exploitation and to develop best practices. They are so much more than their trafficking stories.

This issue of the *New York Law School Law Review* is dedicated to discussing innovations in the fight against human trafficking. Innovation refers to the use of a better, more novel idea or method. Some of the more recent developments in the field involve using sweeping technological advances to combat human trafficking.

4. *Id.*

5. *See id.*

6. *Id.*

7. *Our Dead Behind Us Quotes*, GOODREADS, <http://www.goodreads.com/work/quotes/376865-our-dead-behind-us-poems> (last visited Apr. 20, 2016).

ADVOCATES' PERSPECTIVES AND PROPOSALS

Under the guise of innovation, some of these endeavors seek to prevent and put an end to human trafficking. But do they?

Mobile and wireless technologies have been adopted more quickly than any other communication technology in history. Several anti-trafficking initiatives are harnessing mobile phones to provide victims with safety and to educate consumers about human trafficking via mobile phone applications.⁸ While this is certainly a step in the right direction, issues relating to data security, building trusted systems, and the potential for these technologies to harm victims should be taken into consideration during the development of these applications.

Much is written about information sharing between organizations, and many big tech companies have jumped on this idea.⁹ Technology is successfully used to share information on research, best practices, event notices, pending legislation, new reports, survivor services, funding opportunities, and general updates in the field. The Internet is often used to publicize public education campaigns and training initiatives. A longstanding challenge in the field is how to collect and report reliable data. Large tech companies and private sector companies are working on using technology in this effort.

There remains, however, the hesitancy of NGOs to share sensitive information over insecure channels. Reputable NGOs are highly sensitive to the privacy needs of survivors and to confidentiality agreements. Identifying information should not be shared. For example, secure sites, password protected listservs that restrict access to member groups only, are currently used for problem solving, legal questions about cases, relocation options, and other non-identifying case questions by Freedom Network members. The information shared benefits both clients and organizations.

Partnerships with technology have assisted in the development of hotlines to assist survivors, third parties, and law enforcement.¹⁰ There exists some controversy about the need for multiple hotlines, the ultimate goal of the hotline, and the assurance that calls will not go directly to law enforcement. The University of Southern California Annenberg Center on Communication Leadership & Policy has been helpful in providing guidance and analysis about current issues arising from the

-
8. SlaveryFootprint.org is a web site and application created in an early collaboration between a non-governmental organization (NGO), Slavery Footprint, and the U.S. Department of State. This platform uses a complex algorithm to calculate how many slaves work for a person based on eleven questions, educates consumers about sustainability and purchasing choices, and raises awareness about slave labor.
 9. For examples, see *Fighting Human Trafficking*, GOOGLE BLOG (Apr. 9, 2013), <https://googleblog.blogspot.com/2013/04/fighting-human-trafficking.html>; *The Role of Technology in Human Trafficking – Request for Proposals*, MICROSOFT RES., <http://research.microsoft.com/en-us/collaboration/focus/education/human-trafficking-rfp.aspx> (last visited Apr. 20, 2016); and Karin Knox, *How Many Years a Slave?*, PALANTIR (Jan. 24, 2014), <https://www.palantir.com/2014/01/how-many-years-a-slave/> (detailing the partnership between the Palantir Philanthropic Engineering Team and the Polaris Project, specifically Palantir's volunteering its software to help trafficking victims and callers better access resources through Polaris's National Human Trafficking Resource Center Hotline).
 10. The creation of a Global Human Trafficking Hotline Network through partnerships with Google, the Polaris Project, Liberty Asia, and La Strada International was one innovative outcome of the 2011 Google Ideas summit. See *Fighting Human Trafficking*, *supra* note 9.

advancement of technology.¹¹ Yet many challenges to the idea of information sharing have developed, such as competing visions, values, missions, and funding sources. Other obstacles include privacy concerns, victims' rights, public safety, national laws, limited resources, and communication technology gaps.

What is truly innovative for me, after many early years of intellectual drought, is finally seeing good research, blogs, books, and articles.¹² These resources are slowly replacing the dominant narrative of viewing the issue of human trafficking through the narrow lens of sensational sex slavery. The field needs to find creative and innovative ways for academics, front line staffers, and activists to share information and ideas that will result in responsible research and journalism.

Rolling Stone published an article by Jamie Hagen in August 2014 entitled "5 Things You Didn't Know about Human Trafficking."¹³

One item on the list was that "[p]oor labor standards in the restaurant industry and for domestic workers create conditions ripe for trafficking."¹⁴ Grassroots movements are changing things for these groups and bringing these issues to the attention of the public and policy-makers. This is innovation.

Another item was that "America's immigration policy exacerbates the human trafficking problem."¹⁵ We know from worldwide reports that when safe migration is restricted, traffickers offer people an alternative.¹⁶ Innovation would be to fix a terribly broken immigration system so that it provides for safe migration, protections for unaccompanied children and families, and alternatives to punitive detention centers.

-
11. See MARK LATONERO, U.S.C. ANNENBERG CTR. ON COMM'N LEADERSHIP & POLICY, *THE RISE OF MOBILE AND THE DIFFUSION OF TECHNOLOGY-FACILITATED TRAFFICKING* (2012).
 12. See, e.g., DENISE BRENNAN, *LIFE INTERRUPTED: TRAFFICKING INTO FORCED LABOR IN THE UNITED STATES* (2014); ANNALEE LEPP, CTR. FOR RESEARCH & EDUC. ON VIOLENCE AGAINST WOMEN & CHILDREN, *DO NO HARM: A HUMAN RIGHTS APPROACH TO ANTI-TRAFFICKING POLICIES AND INTERVENTIONS IN CANADA*, LEARNING NETWORK BRIEF (5) (2013), http://www.vawlearningnetwork.ca/sites/vawlearningnetwork.ca/files/Annalee_Lepp_Human_Trafficking%282%29.pdf; Janie A. Chuang, *Exploitation Creep and the Unmaking of Human Trafficking Law*, 108 AM. J. INTL. L. 609 (2014); Jonathan Todres, *Human Rights, Labor, and the Prevention of Human Trafficking: A Response to a Labor Paradigm for Human Trafficking*, 60 UCLA L. REV. DISCOURSE 142 (2013); Grace Chang & Kathleen Kim, *Reconceptualizing Approaches to Human Trafficking: New Directions and Perspectives from the Field(s)* (Loy. L. Sch., Legal Studies Paper No. 2007-47, 2007); Annie Fukushima & Cindy C. Liou, *Weaving Theory and Practice: Anti-Trafficking Partnerships and the Fourth 'P' in the Human Trafficking Paradigm* (Program on Human Rights, Ctr. on Democracy, Dev., and the Rule of Law, Working Paper No. 004, 2012).
 13. Jamie J. Hagen, *5 Things You Didn't Know About Human Trafficking*, ROLLING STONE (Aug. 19, 2014), <http://www.rollingstone.com/politics/news/5-things-you-didnt-know-about-human-trafficking-20140819>.
 14. *Id.*
 15. *Id.*
 16. MIKE KAYE, ANTI-SLAVERY INT'L, *THE MIGRATION-TRAFFICKING NEXUS: COMBATING TRAFFICKING THROUGH THE PROTECTION OF MIGRANTS' HUMAN RIGHTS* 3 (2003).

ADVOCATES' PERSPECTIVES AND PROPOSALS

The last item was that “[t]he debate over sex work can be a distraction.”¹⁷ In most U.S. cities, those involved in sex work in any capacity are viewed as victims, without any consideration of the economic and social realities behind their personal choices. As the Sex Workers Project at the Urban Justice Center informs us, we need to consider the fallout from labels, rescues, and ignoring the needs of sex workers,¹⁸ regardless of whether they do the work out of “choice, circumstance, or coercion.”¹⁹

Together, many of us have worked for years toward the idea of a survivor-centered approach (often encompassed by a rights-based approach), an innovative concept when we first began. Sadly, government certification programs and federal legislation, such as the Trafficking Victims Protection Act (TVPA), are not helpful in this regard, as we know that not every victim will cooperate with law enforcement or fit neatly into the parameters of the law. Some think the language of the TVPA is too narrow and others think it is too broad. We know, however, that the bifurcation of sex and labor has led to massive misunderstanding, emphasis and elevation of one type of trafficking over another and a failure to actualize relief for all survivors.

An ongoing challenge in the field is to replace the dominant narrative with a rights-based approach. Human rights belong to everyone, in every type of compelled work. Efforts to reduce exploitive sex work and trafficking should focus on providing assistance to those who need it and request it. Programs and philosophies that promote dependency, loss of autonomy, and limited opportunities for decisionmaking are only replicating the trafficking experience.

Survivor-centered care focuses on keeping the survivor at the center of a case. This can be accomplished by distributing all information from each provider directly to the survivor. A survivor-centered approach seeks to restore rights and to recognize and build on the inherent strengths and resiliency of the survivor. This approach focuses on the unique situation, needs, and rights of trafficked persons and respects their individual autonomy. It is critical that we look at all trafficked persons through this lens.

Currently, the dialogue about human trafficking is more inclusive, placing the intersections of workers, immigrants, LGBTQ communities, migrants, and others squarely in the middle of the dialogue. To move forward in understanding the global crime of human trafficking and to stem the tide, it is necessary to recognize that the human rights violations of forced labor have serious outcomes. When governments prioritize prosecution and punishment of traffickers, the rights of trafficked persons may be overlooked. Without acknowledging the rights of all workers, anti-trafficking efforts can have a negative impact. A bifurcated treatment of trafficked persons compromises safety and autonomy in the name of combating human trafficking.

17. Hagen, *supra* note 13. The other two unknown facts about human trafficking on Hagen’s list were that “[h]uman trafficking is shockingly common around the world,” and that “[w]e need better programs and support for survivors or human trafficking.” *Id.*

18. For a discussion of these considerations and the effectiveness of using police raids to fight human trafficking, see MELISSA DITMORE, SEX WORKERS PROJECT, THE USE OF RAIDS TO FIGHT TRAFFICKING IN PERSONS (2009).

19. *Id.* at 2.