

JUSTICE AT THE DOOR:  
ENDING DOMESTIC SERVITUDE

*Intercultural Human Rights Law Review Annual Symposium*

January 27, 2012

**DOMESTIC SERVITUDE:  
A CONTEMPORARY FORM OF SLAVERY**

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Good morning, ladies and gentlemen, and welcome to St. Thomas Law School, an institution that for nine years in a row has become one of the most valuable centers of anti-human trafficking efforts, teaching and research in the great State of Florida. A warm welcome to our guest speakers and thank you for honoring our invitation.

I would like to start by thanking my staff of the Human Trafficking Academy, Coordinators Ana Vallejo and Maggie Block, as well as our Graduate Fellows for the extraordinary effort and the fine work they have put into the preparation of this symposium. They are all graduates of St. Thomas Law, J.D.'s and LL.M.'s in Intercultural Human Rights, and they do this school proud.

I also want to thank my students, members of the E-Board of the *Intercultural Human Rights Law Review* for their wonderful work: you have displayed true leadership.

I thank Senator Marco Rubio, who wrote us a letter noting, *inter alia*, that "although I am unable to attend this anti-trafficking symposium in person, please know my thoughts are with you and with everyone who has been affected by human trafficking." Senator Rubio further noted: "I join you in spreading the word about the

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prevalence of modern day slavery in our communities...I am encouraged by the work St. Thomas University's Human Trafficking Academy has done on this subject and look forward to hearing about your future endeavors to prevent this terrible crime." We thank our Senator for his dedication to putting an end to this horrendous crime.

And above all, our gratitude goes to the Department of Justice, not only for the amazing work they have done in combating trafficking in persons for the past decade, but also for funding our Human Trafficking Academy, part of which this symposium is. Thanks to this grant, St. Thomas University School of Law's Graduate Program in Intercultural Human Rights has developed and guides *The Human Trafficking Initiative*, a project funded by the Department of Justice, Bureau of Justice Assistance. The project aims at conducting research, outreach and education in the field. In particular, it offers specialized training and technical assistance to law enforcement, lawyers, healthcare providers, teachers, students, researchers, religious institutions and the community at large on issues related to the crime of trafficking in persons. The project will culminate in the Human Trafficking Academy in July of 2012, and we hope to see some of you back with us this summer.<sup>1</sup>

Well, they say that a picture speaks a thousand words. Let us put this proverb to test, and see how a short video clip portrays twenty-seven million lives.

[A one minute long audio-video by Youth for Human Rights International, entitled "No Slavery" was played for the audience.<sup>2</sup> The video shows a group of young students being walked through a

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<sup>1</sup> Conducted from July 16 to 27, 2012, the Human Trafficking Academy aimed at providing effective tools to increase awareness about human trafficking, identify and protect human trafficking victims and develop strategies to prevent and effectively combat this crime. The first week focused on training first responders (law enforcement, federal agents, firefighters; criminal justice and legal professionals), the second on educating service providers (healthcare, religious, educational and other professionals), advocates, volunteers, and students. The Academy followed a great number of events, trainings, round-tables, conferences, and symposia that St. Thomas offered and convened since 2004 in a collaborative, interdisciplinary mode. For details, see <http://www.stu.edu/Portals/Law/htraf1.pdf>.

<sup>2</sup> *No Slavery* (Youth for Human Rights International), available at <http://www.youthforhumanrights.org>.

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slavery exhibit in a museum. The guide shows the students historical records of pictures and depictions of chained slaves and explains that the “slaves were kidnapped from their homes, chained together for weeks, they cram them onto these ships in very appalling conditions.” A young girl listens carefully to the guide and in her eyes the film flashes back to a couple of modern news clips that show footage and narrate how thousands of victims of trafficking are transported and exploited. As the guide continues, “as you can see right here, they were treated like animals. They worked all day long for no pay,” the young girl’s mind tricks her back into flashes of a news clip reporting and showing videos of a sweatshop being raided by law enforcement. The guide continues, “some of the slave masters were very cruel, they whipped them and beat them as you can see in some of these pictures.” The film flashes back to a news clip that appears to portray brutalities perpetrated on human trafficking victims by the traffickers. As the tour is coming to an end, the guide asks: “so, before moving on, are there any questions?” The little girl who looks distressed by the presentation and the flash-backs raises her hand and asks: “Umm . . . does this still happen today?” This is not the kind of question the guide was expecting. When she hears that question she is puzzled and found at a loss of an answer. The question evoked all the flashbacks at the same time and the student’s innocent inquiry makes her realize that what she described about the slavery of the past bears a striking resemblance to what is taking place today.]

What a disenchanting answer we have to give to the little girl! How can our civilization justify this response?! The awkward look in the eyes of the cicerone at the historic museum speaks twenty-seven million times one word: “slave!” The modern kind of slave—who is no longer characterized as such by law nor is he registered as an investment of the trafficker, but bound in physical and psychological chains nevertheless—bought and sold as a de facto item of property.

Now imagine a 14-year old Haitian orphan constantly beaten and rented out to neighbors for six years in a row by a school teacher

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in Miami;<sup>3</sup> a 14-year old Nigerian girl sexually abused, caned, beaten with a belt, struck with fists by a medical doctor in Maryland;<sup>4</sup> a 19-year old Philippine young girl that for nineteen years started her work day at 6 a.m. and ended it at 10 p.m. tending to every need of a family of physicians in Wisconsin;<sup>5</sup> a 13-year old Ethiopian girl tied and chained and poured boiling water on her head and body by the daughter-in-law of Ghadafi in Tripoli, Libya;<sup>6</sup> a 15-year old Togolese toiling for four years in Paris, France.<sup>7</sup> Imagine thousands

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<sup>3</sup> United States v. Paulin, 329 Fed. Appx. 232 (11th Cir. 2009). The case involves wife and husband Maude Paulin and Saintfort Paulin who were found guilty for trafficking a 14-year old child from Haiti to work in their home. Their victim was forced to work fifteen hours a day, seven days a week as a domestic servant, and her incentive scheme was corporal punishment and a threat of repatriation to Haiti. Maude Paulin was sentenced to seven years and three months in prison and three years of supervised release and Saintfort Paulin was sentenced to eighteen months of probation, six months of home confinement, and a \$500 fine. Defendants were also ordered to jointly pay \$162,765 to the defendant as compensation for her work. *Id.*

<sup>4</sup> United States v. Udeozor, 515 F.3d 260, 264 (4th Cir. 2008). This case involves a medical doctor who was sentenced to seven years and three months in prison, three years of supervised release, and \$110,249.60 in compensation for holding a girl since she was fourteen in domestic servitude and sexually and physically abusing her in the same period of time. *Id.*

<sup>5</sup> United States v. Calimlim, 538 F.3d 706 (7th Cir. 2008). The *Calimlim* case involves a husband and wife medical doctors, Jefferson Calimlim and Elnora Calimlim, who were each sentenced to six years in prison for holding a domestic servant against her will for nineteen years, beginning when she was nineteen years of age. *Id.*

<sup>6</sup> Dan Rivers, *Luxury, Horror Lurk in Gadhafi Family Compound*, CABLE NEWS NETWORK (Aug 29, 2011), [http://articles.cnn.com/2011-08-28/world/libya.gadhafi.nanny\\_1\\_moammar-gadhafi-hannibal-gadhafi-gadhafi-regime?\\_s=PM:WORLD](http://articles.cnn.com/2011-08-28/world/libya.gadhafi.nanny_1_moammar-gadhafi-hannibal-gadhafi-gadhafi-regime?_s=PM:WORLD) (last visited Nov. 1, 2012). The issue involves an Ethiopian domestic servant, Shweyga Mullah, in the household of one of Ghadafi's sons, Hannibal. The domestic servant's hands were tied behind her by Hannibal's wife and boiling water was poured on her on more than one occasion, as 'punishment' for not beating Hannibal's crying daughter. Shweyga Mullah was prevented from going to the hospital for medical treatment and was abandoned in the house when the civil war began. *Id.*

<sup>7</sup> *Siliadin v. France*, 2005-VII Eur. Ct. H.R. (2005). This case of the European Court of Human Rights involves a Togolese national who was brought to France at fifteen and used as a domestic servant and resold to other families to serve the same purpose. The case was brought before the European Court of Human Rights when the French government refused to appeal to a higher court after the alleged

and millions of them worldwide. All of them repeatedly subjected to extreme psychological and emotional abuse.

But what did these young girls do to the Paulins, the Udeozors, the Calimlins, the Gadhafis, to the unnamed ones we have not heard of, that causes such a monstrous reaction? Here's what they did and do: they care for their children, they clean their houses, they wash and iron their clothes, they cook their meals, they wash their cars, they serve in their businesses and investment properties—they work—they never rest—they barely sleep—and they never get paid—and they cannot leave.

They are part of the twenty-seven million slaves—invisible to the world's eyes today.

Back in 1969, Philip Curtin estimated that about ten million slaves were transported into the Americas over 400 years.<sup>8</sup> The moral outrage about the institution of slavery had instigated movements that sought to end this scourge on humanity. There has been a lot of progress since those days: institutionalized slavery was abolished everywhere, international conventions were made, and anti-slavery laws were enacted and enforced.<sup>9</sup> However, despite

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violators were acquitted by a French criminal court even though civil claims continued. Substantively, the case dealt with whether the state has positive obligations under article 4 of the European Convention on Human Rights. The court held that the French government was in breach of such a positive obligation as its criminal laws did not adequately protect the right against slavery and servitude and that the law ought to be amended in compliance with European human rights standards prohibiting slavery, forced labor and servitude. *Id.*

<sup>8</sup> Paul E. Lovejoy, *The Volume of the Atlantic Slave Trade: A Synthesis*, 23 J. AFR. HIST. 473 (1982).

<sup>9</sup> See Elizabeth M. Bruch, *Models Wanted: The Search for an Effective Response to Human Trafficking*, 40 STAN. J. INT'L L. 1, 6-15 (2004). See also Anne T. Gallagher, INT'L L. HUM. TRAFFICKING 54-138 (2010) (describing the evolution of contemporary international law on human trafficking.) For a set of law and policy recommendations representing the ideals that contemporary domestic and international laws ought to achieve in their human trafficking regimes, see *The Miami Declaration of Principles on Human Trafficking* -- February 10, 2005, 1 INTERCULTURAL HUM. RTS. L. REV. 11 (2006) (drafted by domestic and international experts at St. Thomas University School of Law, Miami). For more about how the Miami Declaration of Principles on Human Trafficking came into being, see Roza Pati, *The Miami Declaration of Principles on Human Trafficking: Its Genesis and Purpose*, 1 INTERCULTURAL HUM. RTS. L. REV. 5 (2006).

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momentous moral, legal and practical achievements, slavery remains to be a reality for over twenty-seven million individuals in the world, as estimated by Kevin Bales.<sup>10</sup>

Surely, we are better off now than during the days in which the law was but a tool for enforcing slavery, but from the point of view of fact and common decency there is still plenty of reason for outrage. Today, human beings may not be traded with the protection and sanction of the law, but they are still being traded. They may not be lawfully inherited, but they are still being passed on to heirs. They are used, the fruit of their labor is consumed, and they are abused, just like a commodity *usus fructus abusus*.<sup>11</sup> And that, ladies and gentlemen, tells us that we still have a long and hard battle ahead of us.

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<sup>10</sup> KEVIN BALES, DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY 8 (2000). See *Millions Forced in Slavery*, BBC WORLD (2002), <http://news.bbc.co.uk/2/hi/2010401.stm>. See also HOWARD DODSON, SLAVERY IN THE TWENTY-FIRST CENTURY (2008), available at [http://www.smfdn.com/assets/pubs/un\\_chronicle.pdf](http://www.smfdn.com/assets/pubs/un_chronicle.pdf). See generally E BENJAMIN SKINNER, A CRIME SO MONSTROUS: FACE-TO-FACE WITH MODERN-DAY SLAVERY 292 (2008).

<sup>11</sup> See generally Roza Pati, *States' Positive Obligations with Respect to Human Trafficking: The European Court of Human Rights Breaks New Ground in Rantsev v. Cyprus & Russia*, 29 B.U. INT'L L.J. 79 (2011). Recent developments in international law create good grounds for classifying human trafficking as enslavement: (a) slavery is interpreted by the International Criminal Tribunal for the former Yugoslavia, in *Kunarac*, as encompassing "any or all" features attached to the right of ownership, including situations of absolute control of one person over another induced through force, fear or coercion – the paradigm of human trafficking (Prosecutor v. Dragoljub Kunarac et al., Case No. IT-96-23-T & IT-96-23/1-T, Trial Court Judgment, at 192, para. 539 (ICTY, Feb. 22, 2001)); (b) the ICC Statute, Art. 7 (1/c) defines "enslavement" as a crime against humanity; (c) regionally, the ECtHR, in its *Rantsev* decision on Art. 4 (right to be free from slavery), endorses this enlarged definition and formulated novel and specific state duties *vis-à-vis* human trafficking. Pati, *supra*. See also Paul Finkelman, *The American Suppression of the African Slave Trade: Lessons on Legal Change, Social Policy, and Legislation*, 42 AKRON L. REV. 431, 432-33 (2009); IRA BERLIN, MANY THOUSANDS GONE: THE FIRST TWO CENTURIES OF SLAVERY IN NORTH AMERICA 95 (1998); PETER KOLCHIN, AMERICAN SLAVERY, 1619-1877 (1995). See generally Karen E. Bravo, *Exploring the Analogy between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade*, 25 B.U. INT'L L.J. 207 (2007); KEVIN BALES & RON SOODALTER, THE SLAVE NEXT DOOR: HUMAN TRAFFICKING AND SLAVERY IN AMERICA TODAY (2009).

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Of the twenty-seven million slaves in the world today, domestic servants account for a large number. In the U.S., domestic servitude is estimated to constitute 27% of forced labor.<sup>12</sup> Many of the victims are what we call ‘the most vulnerable,’ mostly consisting of women and children.<sup>13</sup> Victims of domestic servitude are sold by their parents, kidnapped or deceived into slavery to fulfill a demand for cheap, exploitable, expandable and disposable domestic help. Once transported to the place of exploitation, either internationally or domestically, they work under appalling conditions and many suffer unspeakable abuse.<sup>14</sup>

If they can’t escape and if we do not rescue them, they simply disappear behind the walls of some of the most luxurious edifices of some of the richest denizens of our communities. Many a time they are “recycled”: resold into prostitution or other forms of exploitation. Their life becomes an un-interrupted chronicle of exploitation, abuse and neglect.

In most domestic servitude situations, the victims work and live in the same place, and are often in circumstances in which they do not have co-workers. Such circumstances ease the imposition of harsh working and living conditions: extremely long hours, deprivation of sleep or rest, lack of food, no access to medical treatment. In sum, as indicated in the individual cases listed above, so often they are physically, emotionally and sexually abused. Their work environment is almost always not accessible to state or labor union monitoring, making domestic servitude more difficult to

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<sup>12</sup> See Kevin Bales et al., *Hidden Slaves: Forced Labor in the United States* (Free the Slaves/ H.R. Ctr., Univ. of Cal., Berkeley), Sept. 2004, at 14, available at <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1007&context=forcedlabor>.

<sup>13</sup> See generally Suzanna L. Tiapula & Melissa Millican, *Identifying the Victims of Human Trafficking*, 42 PROSECUTOR 34 (2008). See also Katrina Lynne Baker, *Don't Forget the Family: A Proposal for Expanding Immediate Protection to Families of Human Trafficking Survivors*, 30 FORDHAM INT'L L.J. 836 (2007).

<sup>14</sup> Kristi L. Graunke, “Just Like One of the Family”: *Domestic Violence Paradigms and Combating On-The-Job Violence against Household Workers in the United States*, 9 MICH. J. GENDER & L. 131 (2002). See generally Barbara Ehrenreich & Arlie Russell Hochschild, *Global Woman: Nannies, Maids, and Sex Workers in the New Economy* (2002).

detect. Not only are victims devoid of all labor protections and rights such as organization or bargaining, but they are confined to the place of work through direct or indirect means of coercion.

Survivors will tell you how much they need such protections. Ask Simone Celestin today and she will tell you.<sup>15</sup> Shweyga Mullah, found locked up and forgotten in a multimillion-dollar beach side villa, left behind like any other property item that her ex-captors left behind, will prove this to you.<sup>16</sup> This problem is not confined to the U.S., or France, or Libya. It is a global scourge and it is an *infamy that poisons human society*, as Pope John Paul II wrote in his letter to Archbishop Jean-Louis Tauran.<sup>17</sup>

Today's panelists are going to explore a number of aspects of this modern form of slavery.

The first panel will discuss the legal and socio-economic aspects of domestic servitude. Today, on top of the incentive created by extremely lucrative though un-quantified economic benefits, it is often the case that perpetrators of domestic servitude come from a culture that somehow rationalizes and justifies the practice. This makes it even harder to combat since it appears to be engrained in the culture.

About 700 miles from here, in Haiti, you find the institution of '*Restavek*', which makes combating domestic servitude very difficult in that country.<sup>18</sup> As an acceptable practice, it is one of those things everyone does, almost a guilty pleasure as it were. In the Middle East and Gulf states the enslavement and mistreatment of migrant domestic workers is justified or made less unacceptable by a combination of racism and sexism. The cultural perception that

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<sup>15</sup> *Paulin*, 329 Fed. Appx. at 232. See also the transcript of Ms. Celestin's interview at this conference, *infra*, at 35.

<sup>16</sup> *Rivers*, *supra* note 6.

<sup>17</sup> Letter from Pope John Paul II to Archbishop Jean-Louis Tauran, in STOP TRAFFICKING IN HUMAN BEINGS (Franco Angeli s.r.l. ed., 2003).

<sup>18</sup> Generally see Jennifer S. Abrams, "*The Kids Aren't Alright*": Using a Comprehensive Anti-Trafficking Program to Combat the *Restavek* System in Haiti, 24 TEMP. INT'L & COMP. L.J. 443 (2010). For a more brief presentation of the problem see LORI LEE, 'HAITI' IN SLAVERY IN THE MODERN WORLD: A HISTORY OF POLITICAL, SOCIAL, AND ECONOMIC OPPRESSION 297-299 (Junius P. Rodriguez ed., 2011).



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domestic servants are not workers or employees, or, worse, the perception that individuals who are keeping them as slaves are helping them out by giving them food they would otherwise not be able to get, does obscure the crime and make it harder to identify and combat.<sup>19</sup>

Domestic servitude survivor Simone Celestin and her attorney, Sabrina Salomon, will walk us through their difficult journey towards freedom and justice. It is an encouraging story of success, and a call that it be done twenty-seven million times more before we can rest assured we have made inroads in combating modern day slavery. These are experiences from the frontline presented by the very people who have survived domestic servitude or those who are waging the struggle.

Our luncheon speaker, Martha Lovejoy, joins us from the U.S. Department of State presenting to us both the international and the domestic legal framework for combatting trafficking.<sup>20</sup> She will enlighten us on the major role the U.S. government plays in

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<sup>19</sup> Mohamed Y. Mattar, *Trafficking in Persons, Especially Women and Children, in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses*, 26 *FORDHAM INT'L L.J.* 721 (2003). See generally Khaled Ali Beydoun, *The Trafficking of Ethiopian Domestic Workers into Lebanon: Navigating through a Novel Passage of the International Maid Trade*, 24 *BERKELEY J. INT'L L.* 1009 (2006). For a general discussion of how racial, ethnic, or national difference can facilitate the trafficking of domestic servants see Bridget Anderson & Julia O'Connell Davidson, *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study* (Int'l Org. for Migration), Dec. 2003, at 31, available at <http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/Anderson04.pdf>.

<sup>20</sup> For a succinct presentation of the U.S. legal framework on human trafficking and its history see Valerie Payne, *On the Road to Victory in America's War on Human Trafficking: Land Marks, Landmines, and the Need for Centralized Strategy*, 21 *REGENT U.L. REV.* 435 (2009). See also Terry Coonan, *The Trafficking Victims Protection Act: A Work in Progress*, 1 *INTERCULTURAL HUM. RTS. L. REV.* 99 (2006). For strengths and weaknesses of the civil right of action in our domestic legal system, see a good discussion by Jennifer S. Nam, *The Case of the Mission Case: Examining the Civil Rights Action for Human Trafficking Victims*, 107 *COLUM. L. REV.* 1655 (2007), whereas, on the domestic legal framework on the state level, read Michelle Crawford Rickert, *Through the Looking Glass: Finding and Freeing Modern-Day Slaves at the State Level*, 4 *LIBERTY U. L. REV.* 211 (2010).

combating human trafficking not only in the United States, but all over the world.

The afternoon panelists from government, academia, and practice will speak about the role played by labor laws in fighting domestic servitude.<sup>21</sup> They will help us understand why the line between domestic work and domestic servitude is so easily and so often crossed.<sup>22</sup>

The last panel of the symposium will address the role of criminal law and human rights law in combatting domestic servitude.<sup>23</sup> Representatives of the Department of Homeland Security and nationally well-known attorneys will engage us in a dynamic discussion on such roles. Human rights law, globally and regionally, has in recent years made great strides in extending protections for victims of human trafficking including domestic servitude, but it has the potential to do so much more. While criminal law remains to be an important tool for combating human trafficking, it needs refinement in many parts of the world.

Just how linked the two issues are is apparent from the reactions of our alumni who go back to their home countries and report how their human rights education has given them a new perspective on the matter. Alumni of the LL.M. Program in Intercultural Human Rights from different parts of the world report to me routinely that they have now greater insight as to the defects in their countries' criminal laws. Very often they now are able to see that victims of human trafficking are re-victimized by the criminal

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<sup>21</sup> On this subject, see Virginia Mantouvalou, *Servitude and Forced Labour in the 21st Century: The Human Rights of Domestic Workers*, 35 *INDUS. L.J.* 395 (2006). Read more on the issue in Einat Albin, *The ILO Convention on Domestic Workers: From the Shadows to the Light*, 41 *INDUS. L.J.* 67 (2012).

<sup>22</sup> Similar to domestic work and domestic servitude, there is also a grey area between related concepts, see Dina Francesca Haynes, *Exploitation Nation: The Thin and Grey Legal Lines between Trafficked Persons and Abused Migrant Laborers*, 23 *N.D.J.L. ETHICS & PUB. POL'Y* 1 (2009).

<sup>23</sup> On this subject, see Roza Pati, *Beyond the Duty to Protect: Expanding Accountability and Responsibilities of the State in Combating Human Trafficking*, in *THE DIVERSITY OF INTERNATIONAL LAW: ESSAYS IN HONOR OF PROFESSOR KALLIOPI KOUFA* 319 (2009). See also Ryszard Piotrowicz, *The Legal Nature of Trafficking in Human Beings*, 4 *INTERCULTURAL HUM. RTS. L. REV.* 175 (2009).

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justice system as they are prosecuted for coming into countries without proper documentation or for crimes incidental or consequential to their trafficking. If it were not for human rights education, many colleagues in the legal field would have participated in this double victimization even with no ill intentions.

In short, I must say that gathered in this hall today, and following us as we live-stream the proceedings on line, is a microcosm of *Who is Who* in the fight against human trafficking. Both the eminent panel of speakers and the informed audience represent almost every corner of the human trafficking struggle, academicians, clergy and civil society, law enforcement, practitioners from numerous disciplines, and students who are here to learn and keep the flames burning. If there is anyone who is not represented in this room today, it is the traffickers themselves.

And, so that we don't falter nor pause when we answer the innocent question of the little girl at the museum, let us all together mobilize to put these traffickers behind bars, and to end modern-day slavery in our lifetime.

May God bless us and shine His light on our path!