

**Human Trafficking**  
**Law 7930-16**  
**Spring 2019**  
**Monday 3:15 PM- 5:10 PM**  
**Room 241**

**Terry Coonan, Associate Professor & Executive Director**  
**Sandy D'Alemberte Center for the Advancement of Human Rights (CAHR)**  
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**Course Description**

This 3 credit course is a survey of the legal issues raised by the phenomenon of human trafficking in the 21<sup>st</sup> century. It will include the study of relevant international law (particularly the Palermo Protocol), and domestic law (particularly the Trafficking Victims Protection Act of 2000, with subsequent reauthorization acts). The course will consider both the law in theory and as practiced.

**Required Materials**

The background text for the class is *Disposable People* by **Kevin Bales** (2012 paperback edition). All other course readings will be posted on the class Canvas or are available on the CAHR website (<http://www.cahr.fsu.edu>).

**Course Objectives**

The seminar will consist of an examination of “fundamental questions” regarding human trafficking that currently confront the international, U.S., and Florida legal communities. The class will draw significantly upon anti-trafficking work conducted by FSU’s Sandy D’Alemberte Center for the Advancement of Human Rights, including direct victim advocacy, judicial and law enforcement training and support, legislative drafting, and policy findings. Objectives for the course include the following:

- Understanding how human trafficking is defined under international law and the approach of the Palermo Protocol to combating trafficking
- Understanding how human trafficking is defined under federal law by the Trafficking Victims Protection Act and its subsequent reauthorizations
- Analyzing how case law since 2000 has continued to shape U.S. prosecutions for human trafficking
- Understanding how human trafficking is defined under Florida law and the ongoing challenges that Florida faces in combating human trafficking
- Assessing the policy gaps and legal issues that continue to challenge the anti-trafficking movement.

## Class Format

The course is seminar-based, and as such presumes active weekly participation on the part of all students. Weekly readings will be available electronically on the class Canvas site. Reflection questions will be posted for students each week regarding the readings for that week. A hard copy set of responses to those questions will be due at the beginning of each class. The response to each question should be approximately ½ page, Times New Roman 12 point font and with multiple line spacing.

Please note that due to travel and litigation obligations of Professor Coonan, the syllabus remains open to revision. Your understanding is appreciated. On weeks in which travel obligations require the cancellation of class, students should utilize the time for group project work and research for your final paper.

## Class Attendance

Because the class meets only once a week, attendance is mandatory and class participation is calculated as part of each student's final grade. One class absence is allowed over the course of the semester, but each additional absence will result in the student's final grade being lowered by two complete letter grades (i.e., an A will become a B, a B+ will become a C+, a C+ becomes a D+, etc.). Students with perfect attendance records enjoy an enhanced class participation grade. **Please note that even if a student misses a class they must still complete and timely submit the reflection questions for that week's readings.**

Excused absences include documented illness, deaths in the family and other documented crises, a call to active military duty or jury duty, religious holy days, and official University activities. These absences will be accommodated in a way that does not arbitrarily penalize students who have a valid excuse. Consideration will also be given to students whose dependent children experience serious illness.

## Grading Criteria

Students in this course will be graded for class participation, weekly course assignments, the group teaching assignment, and the final course writing assignment. A student's final grade for the course will be weighted as follows:

Class Participation:	20%
Weekly Assignments:	20%
Group Teaching Assignment	20%
Final Writing Assignment	40%

### Grading for the Weekly Assignments:

- 5 Very good responses, that reflect a close reading of the assigned materials and critical reflection upon the ideas presented.
- 3 Adequate responses, that indicate you have read the materials and answered the assigned questions.
- 1 It appears that you skimmed the readings like a bad second semester 3L student, answering the questions only minimally.
- 0 Assignment is submitted late or not at all

### Group Teaching Assignment

Students will be assigned to work in groups of three or four to research the course questions and to lead the class discussions on a particular day. In addition to leading discussions on the readings assigned for that day, each student group will also be responsible for the following work product:

- Creating four questions to be answered by the class as the work assignment for the assigned day (questions must be submitted to Prof. Coonan **the Friday preceding class**, and will be disseminated by him to the class)
- Creating a 3-4 page “lit review” of journal articles or studies relevant to the class topic, including a 1 paragraph abstract of each article/study that recounts the author’s arguments and conclusion (**to be distributed electronically to fellow class members and Professor Coonan by noon on the day of the assigned class**)
- Creating a 1-2 page list of newspaper articles or media links regarding that topic, with a summary of each article (**to be distributed electronically to fellow class members and the professor by noon on the day of the assigned class**)
- Creating a power point presentation for your materials

**Each group should arrange to meet with Professor Coonan the Friday before they are assigned to lead the class discussions to review materials for the upcoming class. Their questions on the readings will be posted that day on the class Canvas.**

**Please note that all members of each student group will receive the same grade for their class presentation and background materials. This is very much a group project—you sink or swim as a team!**

## Final Writing Assignment

In lieu of a final exam, students will instead submit a paper as part of the final course assessment. Papers must be printed on 8.5" x 11" white paper. A title page is required, containing the title of your paper, your name, and the date. Text is to be double spaced, using **Times New Roman formatting with 12 point font**. Pages must be numbered, though page one is never numbered. Grammar, punctuation, and spelling are graded, as is bluebook form. Citation is to be done with correct Bluebook format and with footnotes rather than endnotes

The Final Writing Assignment will consist of a 25-30 page research paper covering some aspect of human trafficking (proposed by the student and approved by the instructor). Note that research papers must be **prescriptive** (i.e., featuring a critique, evaluation, or set of legal or policy recommendations) rather than being merely descriptive of an issue.

The writing component of the course is designed to satisfy the **Upper Level Writing Requirement of the Law School**. The Upper Level Writing Requirement is defined in the Student handbook as "a research paper of substantial length, which involves at least one critique of a rough draft." For purposes of this course, the final research paper must be a minimum of 25 pages, with substantial footnotes. The rough draft of the paper is due in class on **Monday March 25 for students seeking to fulfill the Upper Level Writing Requirement**. A hard copy and electronic copy of the final writing assignment for all students is due **Friday May 3 at 5:00 PM**. It must be submitted electronically on the **Class Canvas Turnitin link, with a hardcopy delivered to the FSU Center for the Advancement of Human Rights, 426 W. Jefferson Street**.

## Office Hours

Office hours are by appointment at the FSU Sandy D'Alemberte Center for the Advancement of Human Rights. I am generally available after 9:30 AM to meet with students.

## Academic Honor Policy

Cheating, plagiarism, or any dishonesty in your work is not tolerated at this university. Please refer to your student handbook for more information about FSU's academic honor system, and come see me if any part of the code is unclear.

## The College of Law's Student Conduct Code (Section 17)

[http://www.law.fsu.edu/docs/default-reource/academic\\_rules/academic\\_rules\\_policies.pdf?sfvrsn=14](http://www.law.fsu.edu/docs/default-reource/academic_rules/academic_rules_policies.pdf?sfvrsn=14) governs the academic conduct of students at the Florida State University College of Law. Students are bound by the College of Law's Code in all of their academic work. The Code outlines the College of Law's expectations for the integrity of students' academic work, the procedures for

resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members throughout the process.

In addition, the Florida State University Academic Honor Policy outlines the University's expectations for the integrity of students' academic work, the procedures for resolving alleged violations of those expectations, and the rights and responsibilities of students and faculty members throughout the process. Students are responsible for reading the Academic Honor Policy and for living up to their pledge to ". . . be honest and truthful and . . . [to] strive for personal and institutional integrity at Florida State University." (Florida State University Academic Honor Policy, found at <http://fda.fsu.edu/Academics/Academic-Honor-Policy>).

### **AMERICANS WITH DISABILITIES ACT**

Students with disabilities needing academic accommodations should: (1) register with and provide documentation to the Student Disability Resource Center; and (2) bring a letter to Nancy Benavides, Associate Dean for Student Affairs, indicating the need for accommodations and what type. This should be done during the first week of class. This syllabus and other class materials are available in alternative format upon request. For more information about services available to FSU students with disabilities, contact Dean Benavides.

### **OUT-OF-CLASS WORK EXPECTATIONS**

Law students are expected to spend no less than 2 hours and 20 minutes a week of course-related work outside the classroom for each credit hour awarded for a course. For a 3-credit course such as this one, students should expect to spend no less than 7 hours of course-related work weekly outside the classroom.

### **Course Outline**

**Note: Classes designated with \*\*\* denote days in which student groups will prepare background material, questions on the day's readings, and will lead the class discussion**

**January 7:** Introduction to the Course (no readings)

**January 14:** What distinguishes "new slavery" from "old slavery?" Should we even use the term "slavery" to characterize human trafficking? And is the UN Protocol on Human Trafficking fundamentally flawed or an effective response to "new slavery"/human trafficking?

*Disposable People*—Preface, Chapters 1 and 7

UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons

“The New UN Trafficking Protocol,” Janice Raymond, *25 Women’s Studies International Forum* 491 (2002)

“The Human Rights Quagmire of Human Trafficking,” James C. Hathaway, *49 Virginia Journal of International Law* 1 (2008)

“Two Cheers for the Trafficking Protocol” Anne Gallagher, *4 Antitrafficking Review* (2015)

Readings and Reflection Questions consider how we should characterize the phenomenon of human trafficking and examine the legal framework devised by the Palermo Protocol for confronting modern trafficking

**January 21: Martin Luther King Day (no class)**

**Assignment: Readings and Questions on Criminal Prosecutions Under the TVPA (available on the class Canvas).**

Canvas materials cover the background and new criminal statutes of the TVPA, further examining how case law has evolved from these statutes. Reflection Questions follow each section of the readings.

**Please note:** The Reflection Questions constitute a double assignment.

**Reflection Questions due electronically to Professor Coonan by 5:00 P.M., on Wednesday January 23, 2019**

**January 28: Is the U.S. Trafficking in Persons Report a useful policy tool, or an exercise in national arrogance?**

*2018 TIP Report Materials*, (pay particular attention to legal definitions, U.S. policy priorities, and the tier placement rankings system employed by the U.S. State Department)

*2018 Country Reports on the United States, Russia*

“The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking,” Janie Chuang, *27 Michigan Journal of International Law* 437 (2006)

“Improving the Effectiveness of the International Law of Human Trafficking: A Vision for the Future of the US Trafficking in Persons Reports,” Ann Gallagher, *Human Rights Review* (2010)

“The Efficacy of the Trafficking in Persons Report: A Review of the Evidence,” Alese Wooditch, 22(4) *Criminal Justice Policy Review* 471 (2011)

Classroom discussion will address anti-trafficking as a U.S. foreign policy objective, and the relative bias and effectiveness of the U.S. tier ranking approach to combating trafficking globally

**Students sign up for group teaching assignments for the course.**

**February 4: Is U.S. anti-trafficking policy really victim-centered?**

“Human Trafficking in the United States: Expanding Victim Protection Beyond Prosecution Witnesses,” Hussein Sadruddin, Natalia Walter, and Jose Hidalgo, 16 *Stanford Law and Policy Review* 379 (2005)

“Missing the Mark: Why the Trafficking Victim Protection Act Fails to Protect Sex Trafficking Victims in the United States,” April Rieger, 30 *Harvard Journal of Law & Gender* 231 (2007)

“Good Intentions Are Not Enough: Four Recommendations for Implementing the Trafficking Victims Protection Act,” Dina Haynes, 6 *University of St. Thomas Law Journal* 77 (2008)

“T Visas: Prosecution Tool or Humanitarian Response?” Jocelyn Pollock and Valerie Hollier, 20 *Women & Criminal Justice* 127 (2010)

Classroom discussion will focus on the victim-centered approach employed by U.S. law in combating trafficking, varied legal assessments of this approach, and proposals for legal changes that might better meet victim needs.

**February 11: Has U.S. anti-trafficking law and policy been fixated on “the iconic victim?” “\*\*\***

“Perfect Victims and Real Survivors: The Iconic Victim in Domestic Human Trafficking Law,” Jayashri Srikantiah, 87 *Boston University Law Review* 157 (2007)

“(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act,” Dina Haynes, 21 *Georgetown Immigration Law Journal* 337 (2006-2007)

“The Invisible Man: The Conscious Neglect of Men and Boys in the War on Human Trafficking,” Samuel Vincent Jones, 2010 *Utah Law Review* 1143 (2010)

“Blinded by Red Lights: Why Trafficking Discourse Should Shift Away from Sex and the ‘Perfect Victim’ Paradigm,” Robert Uly, 26 *Berkeley Journal of Gender, Law, and Justice* 204 (2011)

Classroom discussion will examine the predilection evinced by the media, U.S. law, and U.S. law enforcement for helpless and grateful victims rescued by authorities.

**February 18: Has U.S. law adequately addressed the plight of labor trafficking victims? \*\*\***

“Human Trafficking in the Heartland: Greed, Visa Fraud, and the Saga of 53 Indian Nationals “Enslaved” by a Tulsa Company,” Michael Scaperlanda, 2 *Loyola University Chicago International Law Review* 219 (2004-2005)

“The Eyes That Blind Us: The Overlooked Phenomenon of Trafficking Into the Agricultural Sector,” Shelley Cavalieri, 31 *Northern Illinois University Law Review* 501 (2011)

*U.S. v. Kaufman*, 546 F.3d 1242 (10<sup>th</sup> Cir. 2008)

*U.S. v. Sabhnani*, 599 F.3d 215 (2<sup>nd</sup> Cir. 2010)

*Headley v. Church of Scientology*, 687 F.3d 1173 (9<sup>th</sup> Cir. 2012)

Classroom discussion will focus on forced labor cases in the United States, exploring why these are less often prosecuted in court and what particular complexities such cases present

**February 25: Special Research Session (No Reading Assignment)**

**March 4: What should be the response at the state level for combating human trafficking? \*\*\***

*Florida Strategic Plan on Human Trafficking*, 2010, FSU Center for the Advancement of Human Rights (sections on Current Trends and Florida Cases)

Florida Statewide Council on Human Trafficking Annual Report 2017

Florida Statute 787.06 Human Trafficking

OPPAGA Reports for 2016, 2017, 2018

DCF Annual Report on Human Trafficking 2017-2018

Classroom discussion will examine the strengths and limitations of state anti-trafficking statutes in general and Florida's anti-trafficking response in particular

**March 4: How should minors engaged in commercial sex be treated legally? \*\*\***

"Child Prostitute or Victim of Trafficking?" Wendi Adelson, 6 *University of St. Thomas Law Journal* 96 (2008)

"A Child Rights Framework for Addressing Trafficking of Children," Jonathan Todres, 22 *Michigan State International Law Review* 557 (2014)

"In Our Own Backyards: The Need for a Coordinated Judicial Response to Human Trafficking," Hon. Toko Serita, 36 *New York University Review of Law & Social Change* 635 (2013)

"Bridge Over Troubled Water: Safe Harbor Laws for Sexually Exploited Minors," Cheryl Nelson Butler, 93 *North Carolina Law Review* 1281 (2015)

Florida Safe Harbor Act of 2012 and 2016

Conflicting Cases: Cyntoia Brown v. Keosha Jones (materials on Canvas)

Classroom discussion will address issues raised by the recognition of prostituted minors as trafficking victims, and policy implications of this trend. Florida's Safe Harbor Act will also be examined.

**March 11: Have U.S. law and policymakers failed to address the role of demand in sex trafficking? \*\*\***

"Prostitution, Trafficking, and Cultural Amnesia: What We Must *Not* Know in Order to Keep the Business of Sexual Exploitation Running Smoothly," Melissa Farley, 18 *Yale Journal of Law and Feminism* 101 (2006)

"Addressing Demand: Why and How Policymakers Should Utilize Law and Law Enforcement to Target Customers of Commercial Sexual Exploitation," Laura Lederer, 23 *Regent University Law Review* 297 (2011)

*U.S. v. Jungers*, 702 F.3d 1066 (8<sup>th</sup> Cir. 2013)

“Prosecuting Demand as a Crime of Human Trafficking: The Eighth Circuit Decision in *United States v. Jungers*,” Samantha Healy Vardaman and Christine Raino, 43 *University of Memphis Law Review* 917 (2013)

Classroom discussion will examine the demand side of sex trafficking and whether or not this dimension of human trafficking has been adequately addressed in U.S. law and policy

**March 18: No Class – Spring Break**

**March 25: Is the abolitionist approach to combating trafficking misguided? \*\*\***

“The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade,” Ronald Weitzer, 35 *Politics & Society* 447 (2007)

“Anatomy of a Sex Trafficking Case,” Terry Coonan, 5 *Intercultural Human Rights Law Review* 313 (2010)

“No End in Sight: Why the ‘End Demand’ Movement is the Wrong Focus for Efforts to Eliminate Human Trafficking,” Stephanie Berger, 35 *Harvard Journal of Law and Gender* 523 (2012)

*DOJ Position on the William Wilberforce 2007 Reauthorization Act*

Classroom discussion will address critiques of the abolitionist position and the “End Demand” movement as a policy response to sex trafficking.

**Rough drafts due for students completing the Upper Level Writing Requirement**

**April 1: How can corporations best be engaged to combat human trafficking? \*\*\***

“Turning a Blind Eye: U.S. Corporate Involvement in Modern Day Slavery,” Sarah Pierce, Note, 14 *Journal of Gender, Race, and Justice* 577 (2011)

“The Private Sector’s Pivotal Role in Combating Human Trafficking,” Jonathan Todres, 3 *California Law Review* 80 (2012)

Florida SB 1044 (2018) – Attempt to Introduce Civil Damages for trafficking victims in Florida

The California Transparency in Supply Chains Act

[www.slaveryfootprint.org](http://www.slaveryfootprint.org)

Classroom discussion will focus on the role of corporations in labor trafficking and on various strategies for engaging corporations in anti-trafficking efforts. The recently implemented “California Transparency in Supply Chains Act of 2010” will also be examined for its corporate implications, along with the failed attempt by SB 1044 to introduce corporate liability in Florida

**April 8: What are new paradigms and concerns regarding human trafficking?  
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“Moving Upstream: The Merits of a Public Health Law Approach to Human Trafficking,” Jonathan Todres, 89 *North Carolina Law Review* 447 (2011)

“A Labor Paradigm for Human Trafficking,” Hila Shamir, 60 *UCLA Law Review* 76 (2012)

“Exploitation Creep and the Unmaking of Human Trafficking Law,” Janie A. Chuang, 108 *The American Journal of International Law* 609 (2014)

“The Celebritization of Human Trafficking,” 653 *The Annals of the American Academy* 25 (2014)

Classroom discussion will address evolving paradigms in U.S. law and new concerns regarding anti-trafficking policies

**April 15: (MLK Makeup Day): No class – work on final papers!**

**May 4: All final papers due by 5:00 PM.** Please deliver a hardcopy of your research paper to the FSU Sandy D’Alemberte Center for the Advancement of Human Rights (426 W. Jefferson Street) and an electronic copy to the Turnitin site on the class Canvas.