

2017

# Understanding the Role of Federal Procurement Policy in Federal Social Policy

Howard Wilson Pierce  
*Walden University*

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# Walden University

College of Social and Behavioral Sciences

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Howard Pierce

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Walden University  
2017  
Abstract

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Understanding the Role of Federal Procurement Policy in Federal Social Policy

by

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MS, U.S. Army War College, 2008

MPA, Virginia Tech 1996

BA, University of Virginia 1989

Dissertation Submitted in Partial Fulfillment

of the Requirements for the Degree of

Doctor of Philosophy

Public Policy and Administration

Walden University

August 2017

## Abstract

Human sex trafficking is a significant issue in the modern world. The International Labor Organization has estimated that 4.5 million people are the victims of forced commercial sexual exploitation worldwide. The United States' laws on human sex trafficking can be found in 22 U.S.C. §7104 Prevention of Trafficking, and promulgate the strategy of prevention of trafficking, protection of trafficking victims, and punishment of traffickers. Under the terms of 22 U.S.C. §7104, federal contractors can be penalized if any of their employees or subcontractor employees engage in a commercial sex act. The reliance on the private sector to curb sex trafficking through federal contracts is a nuance, and there is a gap in the literature regarding the Congressional rationale for creating a federal contract policy that places federal contractors in the position of being liable for the off-duty activities of their employees. This research question focused on understanding this shift in usage of federal contract policy to influence individual behavior expressed in this Act. A content analysis of documents was performed which relied on official U.S. government documentation, including transcripts of Congressional hearings. The findings indicate that the legislation was a tactical response to a pair of scandals involving U.S. personnel overseas, combined with a belief in money as a motivating force, international political factors, and moral certainty among elected officials that the Federal Government had to "do something." Positive social change was addressed in the process of this study by providing greater insight into the legislative thought process regarding federal procurement related statutes, and by providing future reformers with additional information regarding effective legislative strategies.

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## Dedication

Dedicated to my wife Linda, without whose constant support and encouragement this would not have been possible.

## Acknowledgments

This paper represents the culmination of a decades-long dream of earning my PhD. I would like to acknowledge all of the friends, family, co-workers, supervisors, teachers, and instructors that have provided help and encouragement along the way. There are far too many to name, but please know that you all share a special place in my heart. I have truly been blessed.

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## Chapter 1: Introduction to the Study

### **Introduction**

The Federal Government influences the behavior of corporations in a number of ways, including through tools such as regulatory policy and tax policy. For instance, regulations limiting greenhouse gas emissions and tax policies providing tax relief for alternative energy use may spur corporate behavior toward more environmentally friendly manufacturing techniques. The Federal Government also uses contracting policy to change corporate behavior. Through the use of mandatory clauses in its contracts with the private sector, the Federal Government encourages corporations to hire American citizens, minimize greenhouse gasses, eliminate water pollutants, maximize recycling, support minority and women-owned small businesses, support veteran-owned small businesses, support equal opportunity in hiring and promotions, and utilize arbitration in labor dispute resolutions, among other things (Gitterman, 2013). The Federal Government has used contract policy to change corporate behavior for almost a century, such as through the Buy Indian Act of 1910 (2015), and this usage has been extensively studied (Gitterman, 2012, 2013; Kidalov & Snider 2011; Lessack 2013; Smith & Fernandez, 2010). More recently, the Federal Government has begun to use federal contract policy in an attempt to change individual behavior through mandatory contract provisions contained in the Trafficking Victims Protection Act of 2003 (Congressional Record, 2003). This study focused on the shift in usage of federal contract policy to influence individual behavior expressed in this Act.

The Trafficking Victims Protection Reauthorization Act of 2003, as codified in 22 U.S.C. §7104 - Prevention of Trafficking, directs the President to terminate any contract with a contractor, without any penalty to the government, if the contractor's employees or its subcontractors' employees engage in a commercial sex act, defined as "any sex act on account of which anything of value is given to or received by any person" (Victims of Trafficking Violence Protection Act of 2000; see definitions section) during the period of performance of the contract. The period of performance includes any time between the start date of the contract and the end date of the contract (U.S. Code of Federal Regulations, 2 CFR 200.77 – Period of Performance). As a result, the contractor may be held liable for their employees' and subcontractor employees' engagement in commercial sex acts during both on-duty and off-duty hours (R. Johnson, 2013).

The requirements in 22 U.S.C. §7104 are captured and expanded in Federal Acquisition Regulation clause 52.222-50, Combating Trafficking in Persons, which is a mandatory clause for inclusion in all federal contracts. Under the terms of 52.222-50, a contractor whose employees or subcontractor employees engage in a commercial sex act will be subject to one or more of the following penalties: removing the offending employee from performance on the contract; requiring the contractor to terminate the subcontract involving the offending subcontractor; suspension of contract payments pending remedial action; loss of award fee; government refusal to exercise a contract option; termination of the contract; or suspension and debarment from future federal contracts.

The policy contained in 22 U.S.C. §7104 can be seen as an extension of the Federal Government's use of contract policy to influence social change. The language in 22 U.S.C. §7104 goes beyond historical norms, however, by using corporate liability to influence individual behavior. The historical use of federal contract policy, and its use for social change, is explored further in Chapter 2. The remainder of this chapter will expand on the complexities surrounding 22 U.S.C. §7104 and introduce the overall literature review and study.

### **Background**

There are three general bodies of literature related to the current study topic: corporate social responsibility (CSR) theory literature, human sex trafficking literature, and federal contract literature. CSR literature focuses on the duty of corporations to not only conduct their operations in accordance with accepted societal norms, but also to actively engage in improving society as a whole (Bernhagen, Mitchel, & Thissen-Smits, 2013; Garriga & Mele, 2004; Matten & Moon, 2008; Sheehy, 2014; Wenzhong, 2013). Human sex trafficking literature focuses on the growing phenomenon of human sex trafficking and the difficulty that governments have had in confronting the situation (Amahazion, 2014; Kotiswaran, 2014; Matter, 2013; Merilainen & Vos, 2015; Simm, 2013;). The human sex trafficking literature discusses the traditional focus of government efforts to confront traffickers and victims, with some calls for increased attention on the customers of human sex trafficking who ultimately drive the trade (Farrell, Owens, & McDevitt, 2014; Hall, 2014; Nichols & Heil, 2015; Rose, 2013; Vardaman & Raino, 2013). Federal contracting literature related to corporate activities

and human sex trafficking tends to focus on specific activities that corporations can take to protect themselves from the penalties associated with employee procurement of a commercial sex act under the terms of 22 U.S.C. §7104 (Croucher, 2014; Reider-Gordon & Funk, 2013).

Contracting in general, and federal contracting in particular, tends to have a very practical focus. The emphasis in the discipline is on understanding a requirement and developing cost-effective methods for implementing the requirement. There appears to be little interest in understanding why the requirement was levied or the nature of the requirement. As relevant to this study, there is literature in the field that addresses the existence of the federal contractor liability for their employee and subcontractor employee activities regarding commercial sex and methods for complying with the requirement (Bang, 2013; Dryhurst, 2013; Grimmer, 2013; E. Johnson, 2013; R. Johnson, 2013). However, there is no focus on why the requirement was levied by Congress.

CSR theory literature and federal contract policy literature both focus on the corporation and generally do not discuss individual actions or activities. Human sex trafficking literature focuses on individual actions but has little discussion of corporations. 22 U.S.C. §7104 forces a merger of these activities by making corporations responsible, through their federal contracts, for the individual actions of their employees.

Historically corporations have been held liable for their actions, as well the actions of their employees that are committed in their conduct of corporate operations. For the first time, corporations are now liable for the actions taken by their individual



employees that are outside the realm of the corporate business. A study was necessary in order to understand this shifting of responsibility.

### **Problem Statement**

The problem this study addressed was that corporations with contracts with the Federal Government are held liable for the personal actions of their employees and subcontractor employees who procure commercial sex acts, regardless of whether or not the activity occurred during nonworking hours and was legal in the jurisdiction in which it occurred (Grimmer, 2013). This presents an ethical and legal problem for two reasons. First, the corporation is held liable for events that are not under its control: the off-duty sexual activities of its employees and subcontractor employees. Second, the corporation is penalized for its employees and subcontractor employees engaging in commercial sex acts that may in fact be legal in the jurisdiction in which they occur. This study explored the legislative history and sense of Congress that led to the federal policy that holds federal contractors liable for the procurement of a commercial sex act by their employees or subcontractor employees. While there have been articles in the literature which provide guidance on compliance with the policy (Grimmer, 2013; R. Johnson, 2013), there has been no scholarly discussion to date of the Congressional intent and events that led to the language and the new focus on individual employee actions.

### **Purpose of the Study**

The purpose of this study was to explore the rationale for holding corporations liable for the personal actions of their employees and subcontractor employees, specifically the liability of federal contractors for their employees' and subcontractor

employees' procurement of a commercial sex act. A pragmatic paradigm was used in conducting this study because pragmatism allows the researcher to use any tool necessary in order to explore the phenomenon in question (Creswell, 2013; Patton, 2002).

### **Research Question**

In this study, I sought to answer the following question:

RQ: According to publically available documents, why did the U.S. Congress decide to make federal contractors liable for the off-duty actions of their employees?

### **Theoretical Framework for the Study**

This study used CSR (Dodd, 1932; Bowen, 1954/2013; Davis, 1967, 1973) within the advocacy coalition framework (ACF; Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). CSR covers the duty of businesses to consider social welfare regarding issues such as pollution, equality of pay, and support to local charities, in addition to their focus on shareholders and profitability, as an essential part of business operations (Dodd, 1932; Snider, Halpern, Redon, & Kidalov, 2013; Wenzhong, 2013). CSR theory (Bernhagen et al., 2013; Garriga & Mele, 2004; Matten & Moon, 2008; Sheehy, 2014; Wenzhong, 2013) rests on the premise that a corporation owes its existence to society, and therefore it has a responsibility not only to operate in a socially responsible manner, but also to actively promote social values. CSR has both a voluntary and a coerced aspect: explicit CSR and implicit CSR (Blindheim, 2015; Matten & Moon, 2008; Snider et al., 2013). Explicit CSR involves voluntary corporate actions to exercise their corporate responsibility, while implicit CSR refers to corporate actions that are mandated

by government or social norms (Blindheim, 2015; Matten & Moon, 2008; Snider et al., 2013). Because this study focused on the requirements imposed on corporations by 22 U.S.C §7104, it relied on implicit CSR. A more detailed discussion of the background and theoretical propositions of CSR appears in Chapter 2.

The ACF is utilized by researchers to understand public policy development and looks at the nature of the policy, the beliefs of policy subgroups, inter- and intragroup learning, and the overall political environment in order to understand the development of specific policies (Diaz-Kope, Lombard, & Miller-Stevens, 2013; Elgin & Weible, 2013; Sabatier & Jenkins-Smith, 1999). Key elements of the framework include policy advocacy coalitions, technical information and learning within coalitions, and the possibility of external shocks, which can cause coalition power shifts (Albright, 2011; Fischer, 2014; Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil, 2012). The document analysis was necessary to understand the role that these drivers had on the Congressional language, by understanding the documented debate contained in the Congressional Record and the questions and responses to the proposed regulations contained in the Federal Register.

### **Nature of the Study**

A content analysis of documents was used in order to explore U.S. legislation regarding the prevention of trafficking in persons. 22 U.S.C. §7104 Prevention of Trafficking, along with its implementing regulations, allows the government to terminate any contract in which a contractor or any subcontractor or an employee of the contractor or any subcontractor performs one of the following acts:

1. Engages in trafficking in persons (22 U.S.C. §7104 (g)(i));
2. Procures a commercial sex act during the period of performance of the contract (22 US.C. §7104 (g)(ii)), or;
3. Uses forced labor in the performance of the contract (22 U.S.C. §7104 (g) (iii)).

This study focused on the second prohibition, that of the employees of the contractor or subcontractor procuring a commercial sex act. I chose to focus on this specific aspect of the policy because it demonstrates the United States' zero tolerance for exploitation (Department of Defense, 2014), is clearly identified in the legislation, and because it is prohibited regardless of whether the action is legal in the country or jurisdiction in which it occurs, or whether it was performed when the employee was on-duty or off-duty (Department of Defense Instruction 2200.01, 2010; Johnson, 2013).

I undertook a document analysis of official government records, including the *Congressional Record* and proceedings of the Federal Acquisition Regulatory Council during the period 1999 through 2012. This period marks the timeframe between the discussion and eventual passage of the Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003, as well as later discussion related to passage of the language. The Trafficking Victims Protection Act of 2000 did not include language related to federal contractors, while the Trafficking Victims Protection Reauthorization Act of 2003 did include the language making contractors liable in the event that their employees or subcontractor employees engaged in a commercial sex act.

The primary data source was documentation found in the Congressional Register related to the Trafficking Victims Protection Act of 2000 and the reauthorization act of 2003. I reviewed the online archives of the Congressional Register and other publically accessible Congressional databases for all references to the Act. The *Congressional Record* details the public record surrounding the legislation. I also reviewed the Federal Register for public comments and agency responses related to Federal Acquisition Regulation clause 52.222-50, Combating Trafficking in Persons.

I used a document analysis approach in conducting this research. Document analysis is a qualitative research strategy that relies on a contextual review of written documents (Bowen, 2009; McCulloch, 2004; Patton, 2002). Document analysis is useful when there is a significant amount of written material about the research subject, as in the case of official government records and proceedings of Congressional committees. Document analysis provides historical context to events, as documents remain consistent over time, and this therefore allows for easier replication of studies (Bowen, 2009; McCulloch, 2004). Since document analysis relies on documentation that was created prior to initiation of the study, they cannot be influenced by the researcher (Bowen, 2009). Document analysis was appropriate when the goal was to understand the rationale for the language contained in 22 U.S.C. §7104, Prevention of Trafficking.

### **Definitions**

*Commercial sex act*: “Any sex act on account of which anything of value is given to or received by any person” (Victims of Trafficking Violence Protection Act of 2000).

*Congressional hearing:* “A meeting or session of a Senate, House, joint, or special committee of Congress, usually open to the public, to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department or the implementation of a Federal law (U.S. Government Publishing Office, 2017).

*Contract:* “A mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing . . . Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301 *et seq.*” (Federal Acquisition Regulations, 48 C.F.R. [2016]).

*Human sex trafficking:* “The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act” (Victims of Trafficking Violence Protection Act of 2000).

*Prostitution and commercialized vice:* “The unlawful promotion of or participation in sexual activities for profit, including attempts. To solicit customers or transport persons for prostitution purposes; to own, manage, or operate a dwelling or other establishment for the purpose of providing a place where prostitution is performed; or to otherwise assist or promote prostitution” (U.S. Department of Justice, 2015).

*Severe forms of trafficking in persons:* “Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation,

provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, debt bondage, or slavery” (Victims of Trafficking Violence Protection Act of 2000).

### **Assumptions**

This study dealt with contract policy at the federal level with heavy Congressional involvement. While the policy itself may appear technocratic, all policy developed at this level will involve an analysis by members of Congress regarding the political costs and benefits of support or opposition, as well as the political expediency of taking action at a specific point in time.

As assumption in a qualitative study is a belief that is assumed to be true but cannot be proven (Simon & Goes, 2015). Assumptions are often necessary to allow a study to proceed (Simon & Goes, 2015). For the purposes of this study, I assumed that the rationale for the policy decisions were identifiable through an analysis of official documentation, as opposed to being the result of secret political deliberations or last-minute amendments by a single individual. This was a reasonable assumption because language was made publically accessible prior to passage, and it was reasonable to assume that large federal contractors would have seen the language and prompted a public discussion of the prohibition.

### **Scope and Delimitations**

The scope of a study consists of the boundaries that the researcher sets for the study in deciding what will be included in the study and what will be excluded (Simon & Goes, 2015). Human sex trafficking is a volatile and emotional issue, and there is a

tendency for any study in the area to veer into unpredicted and unplanned areas. The scope of this study was confined to identifying the rationale of legislative decision makers in holding corporations with federal contracts liable when their employees or subcontractor employees procure a commercial sex act. This study did not address the wider issues of human trafficking or human sex trafficking, such as human rights, gender politics, the criminal justice system, or national security concerns, nor did it address the morality of the commercial sex business except insofar as these issues drove the decisions of legislative decision makers. To that end, this study focused on the legislative branch rather than any of the numerous advocacy groups dealing with human sex trafficking and prostitution.

### **Limitations**

Limitations consist of all of the factors, including design and methodology, which prevent wide application of the study results to other research (Simon & Goes, 2015). There were a number of limitations associated with this study. Since the study focused on a single federal policy issue, the findings from the study have limited direct transferability to other policy issues. A document analysis approach was used in conducting this research. Document analysis has several potential limitations, including lack of access to documents, lack of understanding of the rationale for why specific documents were created, and determining the accuracy of documents (Patton, 2002). In addition, documents may not contain sufficient detail to answer the research question (Bowen, 2009). These weaknesses can be overcome with proper documentation of the study, including a description of the provenance of the documents themselves (Bowen,



2009; McCulloch, 2004). This study relied on documentary evidence from a number of official sources over a 12-year period. Reliance on multiple data sources increases construct validity through triangulation (Yin, 2013).

Delimitations of a study are limitations of a study that occur based on decisions by the researcher (Simon & Goes, 2015). Delimitations of this study arose because of the potential biases of the researcher. I am a contracting officer in a federal executive agency with 26 years of experience in implementing federal contract policy. As such, I have a deeply ingrained appreciation of the need to implement the public will in contract policy, combined with a certain suspicion of the ability of legislators to understand the complex tangle of federal procurement regulations and the impact that new legislation has on the system. In order to counter any potential biases that my career experience in implementing contract policy might introduce, the focus of the study was delimited to the rationale of legislative decision makers in developing the language in 22 U.S.C. §7104, rather than implementation issues or the effectiveness of the policy. Bounding the study in this way effectively eliminated my career experience as a variable and removed any career-based biases that I might have. As discussed in Chapter 1, the study was also delimited to exclude commercial sex acts and trafficking involving children, as well as prevention of trafficking and the protection of victims.

Finally, I limited my conclusions to those that are supported by the study, and avoided over-generalization of my findings.

### **Significance**

The significance of this study lies in the fact that holding federal contractors liable for the off-duty activities of their employees represents a significant shift in both federal procurement policy and CSR theory, which have previously focused on the activities and responsibilities of the corporations themselves. This study adds to the literature surrounding CSR theory by changing the focus of the discussion from the corporation to the employees of the corporation and their off-duty behavior. This study also serves as a discussion point on the role of federal contracting in implementing noncontracting federal policy.

Positive social change was addressed in the process of this study through a better understanding of the Congressional attitudes regarding the role of federal procurement policy and its ability to serve as a social change agent. To the extent that Congress as an institution believed that federal contract policy could serve to change not only corporate behavior but also individual behavior, it could be anticipated that new federal procurement statutes will be passed to enforce a wide variety of social policies although the effectiveness of these policies is outside the scope of this study.

### **Summary**

This chapter has provided a brief introduction to the study, focusing on the requirements and penalties for federal contractors contained in 22 U.S.C. §7104, as well as the research on both human sex trafficking and federal contract policy. While there is significant research involving human trafficking in general, as well as the more narrowly focused human sex trafficking, and significant literature linked to federal contracting,

there is little scholarly information related to both human sex trafficking and federal contract policy simultaneously. The information that does exist dealing with both topics tends to focus on compliance issues rather than exploring the rationale behind the decision to hold federal contractors liable for the commercial sex activities of their employees and subcontractor employees. This study was designed to fill that gap in the literature by exploring the Congressional rationale for the language in 22 U.S.C. §7104.

Chapter 2 will provide an in-depth review of the literature to date, focusing on the areas of human sex trafficking and federal contracting and will also discuss in greater detail CSR and the ACF.

## Chapter 2: Literature Review

### **Introduction**

The problem that this study addressed is that corporations that hold federal contracts are held liable if their employees or subcontractor employees procure a commercial sex act, regardless of whether or not the action was legal in the jurisdiction in which it occurred or whether the act occurred while off-duty. The purpose of this study was to explore the gap in the literature regarding the Congressional rationale for creating a federal contract policy that places federal contractors in the position of being liable for the off-duty activities of their employees. Under the terms of 22 U.S.C. §7104, federal contractors can have their contracts terminated if any of their employees or subcontractor employees engage in a commercial sex act. Additionally, federal contractors can be precluded from receiving future contracts if their employees or subcontractor employees engage in a commercial sex act (Federal Acquisition Regulation, 2014). The reliance on the private sector to curb sex trafficking through federal contracts is a nuance not addressed in the U.N. Guidelines (2015) for countries coping with human trafficking issues. Human sex trafficking is a significant problem in the modern world (Grimmer, 2013; Hall, 2014). The International Labor Organization (2012) estimated that 4.5 million people are the victims of forced commercial sexual exploitation. To date, 51 countries have established laws prohibiting human trafficking in its various forms, including human sex trafficking (United Nations Action for Cooperation against Trafficking in Persons, 2011). The United States' laws on human sex trafficking can be

found in 22 U.S.C. §7104 Prevention of Trafficking, and promulgate the common international strategy of “preventing trafficking, protecting victims, and punishing traffickers” (Amahazion, 2014. p.177). One nuance of the United States’ strategy for the prevention of sex trafficking is its reliance on federal contractors to enforce the prohibition on engaging in a commercial sex act by their employees and the employees of their subcontractors (DODI 2200.01; Grimmer, 2013; 22 U.S.C. §7104).

The idea that corporations have a responsibility to uphold societal norms has been well documented (Christensen, Mackey, & Whitten, 2014; de Colle, Henriques, & Sarasvathy, 2014; Snider et al., 2013). Examples of specific societal goals enforced through federal contracts include contract requirements related to equal employment opportunity, support for minority-owned and women-owned businesses, support for American businesses, and support for immigration policy (Black, 1985; Denes, 1997; Gitterman, 2013). However, these contract goals are related to corporate actions rather than individual employee actions.

A contract is a mutual agreement between two competent parties in which one party agrees to provide a legal item or service (or refrain from committing an otherwise legal act) for another party in exchange for something of value (Cornell, 2014). The Federal Government uses contracting extensively to meet its operational needs (Gitterman, 2013). In fiscal year 2014 (1 Oct 13 – 30 Sep 14), federal departments and agencies executed 15,810,225 contracts and grants worth over \$445.3 billion (Federal Procurement Data System, 2015).

The earliest federal contracts dealt with food, forage, weapons, and other supplies necessary for the Continental Army during the American Revolution and were governed to some extent by Congressional regulations designed to combat fraud (Keeney, 2007). Subsequent regulations throughout the 19th century (for example, the 1821 and 1857 General Regulations for the Army and the 1851 Tucker Act) were designed to add systemic internal procedures to federal contracting (Keeney, 2007). Until the 20th century, federal contracting regulations were inwardly-focused on government processes, and were designed primarily to ensure accountability of taxpayer dollars. During the 20th century, the focus of federal contracting regulations began to shift to include not only internal government actions, but also regulations designed to enact social change and benefit American society at large (Gitterman 2012, 2013). The Davis-Bacon Act of 1931 established a minimum wage for construction workers on federal contracts (Donahue, 1964; Gitterman, 2013). The Walsh-Healey Public Contracts Act of 1936 extended the minimum wage to all government contracts, as well as establishing a 40-hour work week and prohibiting child labor on federal contracts (Donahue, 1964; Gitterman, 2013). The Small Business Act of 1953 included provisions requiring federal executive branch departments and agencies to set aside part of their yearly contracting exclusively for performance by small businesses, as well as requiring federal agencies to establish procedures to ensure that small businesses were competitive for federal contracts (Gitterman, 2013; Kidlov & Snider, 2011). The language in 22 U.S.C. §7104 can be seen as an extension of the Congressional history of efforts to implement social change through federal contracts as mentioned above, though with a focus on individual

employee actions rather than overall company behavior. While the implementation and effectiveness of this policy has been addressed in the literature (Grimmer, 2013; Hall, 2014; R. Johnson, 2013), this change in focus from company behavior to employee actions had not been addressed prior to this study.

In this chapter I discuss the search strategy used during the literature review followed by a discussion of the theoretical foundation of CSR and the conceptual framework of the ACF used in the study. The chapter will then turn to a review of the literature related to human trafficking and to federal contracting policy.

### **Literature Search Strategy**

I discovered a significant amount of literature related individually to the topics of contracting and human sex trafficking, but very little literature that addressed both contracting and human sex trafficking simultaneously. One significant advantage of this study is to add to the literature at the intersection of these two topics.

I used several databases for the literature review including Thoreau, Political Science Complete, LegalTrac, SAGE Premier, Business Source Complete, Academic Search Complete, the Walden Dissertation database, and Google Scholar. Key search terms included, *contract*, *procurement*, *policy development*, *social justice*, *human trafficking*, *trafficking*, *Corporate Social Responsibility*, *Advocacy Coalition Framework*, *United States*, *Federal*, *legislative process*, *case study*, and *sex trafficking*. A complete listing of search terms is located in Appendix A, and includes the database used, exact combinations of terms, search refinements, and search results. Because the focus of this

study was on one specific federal contract policy, my literature review strategy started with search terms related to federal contract policy and human trafficking.

One significant source for the literature search consisted of the bibliographies from the articles I found in my database search. Using the bibliographies prepared by the authors, I was able to locate additional literature sources. These in turn provided additional criteria for Google Scholar “cited by” searches, which yielded additional related articles.

In addition to peer-reviewed articles related to the study topic, I also reviewed published works on foundational methodology related to document analysis (McCulloch, 2004), case study analysis (Yin, 2013), narrative analysis (Riessman, 2007), grounded theory (Charmaz, 2006), phenomenology (Moustakas, 1994), and ethnography (Fetterman, 2009), as well as foundational surveys of the policy development process (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007).

### **Theoretical Foundation for the Study**

CSR theory as presented by Bernhagen et al. (2013), Garriga and Mele (2004), Matten and Moon (2008), Sheeh (2014), and Wenzhong (2013) was used as the theoretical foundation for this study. The central concept of CSR is that businesses have a duty to society beyond profit maximization (Dodd, 1932). While Dodd appears to be the first author in the 20th century to advance the notion, he pointed out that the duty of corporate managers to society can be found in English common law of the Middle Ages and can be traced back to the ancient Greek philosophers. Dodd (1932) argued that



managers cannot simply act in a way to maximize profit for the owners/shareholders but must also ensure that they act to make society better. Dodd (1932) primarily discussed employee working conditions and wages but also discussed other areas of corporate responsibility, including charitable giving.

Bowen (1954/2013) was the next major contributor to the concept of CSR and argued that businesses constituted a major factor in the social fabric of the United States, and that each business had a duty to consider actions beyond both corporate profitability and care for its stakeholders and employees, though both are important elements of business. The actions of businesses should be conducted with a view toward achieving social aims of the society at large (Bowen, 1954/2013). Bowen, writing with a historical eye toward the various economic restrictions placed upon business during the New Deal, also recognized that society had social expectations of businesses, which business leaders ignored at their peril. Failure to act on social expectations could lead to unfavorable legislation or potentially even social unrest (Bowen, 1954/2013).

Davis (1967; 1973) built on Bowen's (1953/2013) earlier work to more fully explore the arguments for and against business assumptions of social responsibilities, and concluded that social and political forces in the United States had required changes in the way corporations could operate. Social responsibility is now a mandatory requirement for all organizations in a modern society, and corporations no longer have the leeway to operate without consideration for the social impacts of their actions (Davis, 1973).

## **Theoretical Propositions and Assumptions of Corporate Social Responsibility**

### **Theory**

CSR has been variously described as a framework for other theories (Garriga & Mele, 2004; Scherer, 2017; Sheehy, 2014) and as a theory in its own right (Bernhagen et al., 2013; Matten & Moon, 2008; Wenzhong, 2013). Before reviewing CSR as a theory, I will review CSR as a framework for other theories.

Garriga and Mele (2004) surveyed the literature then in existence and recognized four distinct theoretical groupings related to CSR, which they described as instrumental theories, political theories, ethical theories, and integrative theories.

Instrumental theories relate to corporate profitability (Garriga & Mele, 2004; Sheehy, 2014). The views expressed by these theories generally fall into three major subgroupings. The first subgrouping argues that the purpose of business is to maximize its profits and that the firm should ignore the concept of social responsibility, albeit in compliance with legal and social norms (Garriga & Mele, 2004). This view of CSR holds that the business executive is an agent of the stockholder and this agency relationship prevents him from using corporate resources for any activity that does not maximize profits for the shareholder (Friedman, 1970; Levratto & Serverin, 2015). The second subgrouping of instrumental theories identifies CSR as a strategy for competitive advantage (Garriga & Mele, 2004). Corporations that require a highly educated workforce, for example, could focus their corporate philanthropy on child education efforts, ultimately benefitting the corporation's competitiveness and profitability (Maruffi, Petri & Malindretos, 2013; Porter & Kramer, 2002). The third subgrouping of

instrumental theories views CSR as a marketing mechanism, designed to enhance customer goodwill towards the company (Koschate-Fischer, Stefan, & Hoyer, 2012; Varadarajan & Menon, 1988).

Political theories focus on the power of the corporation and its relationship with society and generally fall into three categories of literature: corporate constitutionalism, integrated social contract theory, and corporate citizenship (Garriga & Mele, 2004; Sheehy, 2014). Corporate constitutionalism revolves around the idea that businesses are powerful entities in society, both economically and politically, and that they cannot be viewed simply as profit-maximizing organizations, since this very power means that the corporations will have impacts on society (Davis, 1967; Garriga & Mele, 2004; van Aaken, Splitter & Seidl, 2013). Integrative social contract theory takes the view that businesses exist as part of a social contract with the society in which they operate and that businesses therefore have an obligation to interact with society beyond simple business arrangements and profit maximization (Byerly, 2013; Fort, 2000; Garriga & Mele, 2004). Corporate citizenship is variously defined along a continuum ranging from corporate philanthropy to assumption of government responsibilities in the event of government failure, but it tends to be underscored by a sense that businesses have a responsibility to assist and protect the local community and environment (Garriga & Mele, 2004; Sheehy, 2014). Camilleri (2017) reviewed U.S. government policies towards CSR and determined that government regulations can influence corporate attitudes and actions toward CSR. Scherer (2017) reviewed the growing importance of the political theories of CSR in the

literature and proposed an extensive research agenda to develop fully the political theory of CSR.

Ethical theories of CSR focus on the corporation seeking to do “the right thing” in order to help develop a good society (Garriga & Mele, 2004; Sheehy, 2014). Ethical theories in the literature have four major subgroupings as identified by Garriga and Mele (2004): stakeholder normative theory, universal rights, sustainable development, and the common good. Stakeholder normative theory focuses on the fiduciary relationship between corporate managers and all stakeholders, as opposed to just corporate shareholders, and recognizes that stakeholders will have legitimate interests beyond firm profitability which the corporation needs to address (Garriga & Mele, 2004; Brown, 2013). Universal rights literature is based on the concept of human rights as found in the Universal Declaration of Human Rights adopted by the United Nations in 1948, and addresses CSR in terms of meeting those criteria, especially those related to working conditions (Cierniak-Emerych & Zieba, 2014; Garriga & Mele, 2004; UN, 1948). Sustainable development literature focuses on environmental issues, with an eye toward ensuring that corporate growth today does not come at the expense of future generations (Garriga & Mele, 2004; Imran, Alam & Beaumont, 2014; Yu & Chen, 2014). Literature related to the common good approach argues that corporations are a part of society, and contribute to the common good through fair and equitable dealings with employees and customers, creating wealth for the stockholders, and treating all people as unique individuals with fundamental rights which must be respected (Abueg, Sauler & Teehankee, 2014; Garriga & Mele, 2004; Parker, 2014).

Integrative theories focus on the interactions of business with society and describe how the response to social demands lends prestige, acceptance, and legitimacy to the corporation (Garriga & Mele, 2004; Sheehy, 2014). The literature in this grouping falls into four identifiable subgroupings, identified by Garriga and Mele (2004) as issues management, the principle of public responsibility, stakeholder management, and corporate social performance. Issues management focuses on the processes that a corporation uses internally to address social demands made upon the firm (Bakos, 2014; Garriga & Mele, 2004; Mahon & Wartick, 2003). Literature related to the principle of public responsibility argues that corporations must not only be aware of and obey the actual laws on various social issues, but also act in accordance with public opinion and societal values and norms surrounding those issues (Besio & Pronzini, 2014; Garriga & Mele, 2004; Sheehy, 2014). Stakeholder management literature agrees with the focus on opinion, values, and norms, but limits the sphere of awareness from society as a whole to the stakeholders associated with the corporation (though the list of stakeholders can be lengthy, and extend throughout much of society) (Chang, Kim & Li, 2014; Garriga & Mele, 2004). Corporate social performance literature seeks to integrate all of the CSR literature into a singular theory which addresses corporate economic, legal, ethical, and philanthropic obligations to society (Carroll, 2008; Garriga & Mele, 2004; Sheehy, 2014) Wickert, Vaccaro, and Cornelissen (2017), operating within the literature of integrative theories, explored the trend of multinational corporations purchasing “socially aware” businesses as a means of improving their own corporate credibility in the area of CSR.

Carroll's (1979, 2008) model of corporate performance attempted to integrate the various literature streams into a single theoretical construct, and is the most popular of the constructs in the literature (Kim, Rhou, Uysal, & Kwon, 2017; Sheehy, 2014). Carroll's (1979) three-dimensional model plots CSR on three axes: social issues involved, social responsibility categories, and the corporation's philosophy toward social responsiveness. This study focused on the social responsibility categories identified by Carroll (1979) which consolidates the theoretical literature discussed above, and demonstrates that corporations have a duty to engage in activities which promote societal values, such as using their resources to help combat human sex trafficking.

In the three-dimensional model, as well as Carroll's (2008, p.62) later "Pyramid of Corporate Social Responsibility" which focuses solely on the responsibility categories, the various literature streams are consolidated into blocks that build upon one another. At the base of the model is the corporation's economic responsibility to its shareholders (Carroll, 1979, 2008). This is analogous to Garriga and Mele's (2004) category of instrumental theories, and focuses on the fact that if corporations are not profitable in the long run, then all other considerations, including the ability of corporations to engage in CSR (including CSR manifested in public policy), become moot as the business will fail (Carroll, 1979, 2008).

Once the corporation has ensured its profitability, it must next focus on its responsibility to abide by the legal requirements placed upon it by the government (Carroll, 1979, 2008). The legal responsibilities of the corporation are analogous to Garriga and Mele's (2004) political literature classification, and denote the corporation's

need to act within the social and political framework of the society in which it operates (Carroll, 1979, Carroll, 2008). Other authors have subsequently amplified the legalistic portion of the framework, advocating a view of CSR as having both an explicit and implicit component (Blindheim, 2015; Matten & Moon, 2008; Snider et al., 2013). Explicit CSR involves voluntary corporate actions to exercise their corporate responsibility, while implicit CSR refers to corporate actions that are mandated by government or social norms (Blindheim, 2015; Matten & Moon, 2008; Snider et al., 2013).

Once the corporation has safeguarded its economic viability and ensured that it complies with the legal rules of society, it must next look toward its ethical responsibilities (Carroll, 1979, 2008). The ethical responsibilities of the corporation embody Garriga and Mele's (2004) ethical theories of literature, and focus on the corporation's need to avoid harm to the community and to contribute actively to the common good (Carroll, 1979, 2008).

The final building block of CSR is the corporation's discretionary responsibility, called philanthropic responsibility in the pyramid (Carroll, 1979, 2008). The discretionary/philanthropic responsibility of the firm calls for the corporation to be a good corporate citizen, donate to worthy social causes, and generally work to improve the quality of life of the community (Carroll, 1979, 2008). The discretionary/philanthropic responsibility of the firm is analogous to the integrative theories identified by Garriga and Mele (2004).

### **Corporate Social Responsibility Theory Applied to Related Studies**

Halpern and Snider (2012) used Carroll's model in their analysis of U.S. firms providing goods and services to the military. Their study used a quantitative analysis of CSR surveys sent to defense-related firms compared to similar surveys sent to non-defense firms (Halpern & Snider, 2012). While there were some differences in the responses, their analysis showed no statistically significant differences in CSR attitudes between defense and non-defense firms.

Conversely, Snider et al. (2013) conducted a quantitative analysis of corporations that actively contracted with the U.S. government, and concluded that those corporations tended to have higher levels of CSR than comparison companies that did not contract with the U.S. government. The authors noted that due to the limited number of firms involved in the study, the results might not be applicable to all firms (Snider et al., 2013).

Simcoe and Toffel (2012) conducted a quantitative analysis of companies that contract with state and local governments (as opposed to the U.S. government) for construction in order to understand the environmental CSR attitudes of those companies. Their analysis showed a statistically significant increase in spillover effects between public construction and private sector construction (Simcoe & Toffel, 2012). Specifically, the study found that public contract requirements for sustainable construction of public buildings led local construction firms to adopt sustainable building practices in their commercial construction as well, including commercial construction in neighboring jurisdictions (Simcoe & Toffel, 2012).



Bernhagen et al. (2013) performed a quantitative analysis comparing political and institutional factors in the advance of CSR, and found that countries with democratic frameworks were more likely to advocate and require corporations to act in socially responsible ways. The authors also pointed out that several countries had gone so far as to mandate that corporations act in accordance with the concepts of CSR (Bernhagen et al., 2013). This is consistent with the implicit CSR condition advocated by Matten and Moon (2008), Snider et al. (2013), and Blindheim (2015).

De Colle et al. (2014) offered a critique of various international standards for CSR (e.g., ISO 14001, which deals with environmental standards; SA8000, which deals with working conditions of employees throughout the supply chain; and GRI guidelines, which deal with sustainability reporting). The authors argued that as CSR becomes more legalized and formulaic, it simultaneously and paradoxically becomes less likely that corporations will engage in voluntary CSR due to their preoccupation with the legal requirements of CSR. From the Carroll model's perspective (1979, 2008), that would mean that corporations stagnate at the economic and legal responsibility levels, and do not advance to the ethical and discretionary/philanthropic levels of CSR.

Kinderman (2013) looked at the role of politics in defining CSR in the European Union over the 20-year period from 1993 to 2013. His analysis demonstrated that political forces can strongly influence the direction and application of CSR.

Beckers and Kawakami (2017) studied the feasibility of using domestic government statutes to enforce the CSR codes of multinational corporations. Their research concluded that, while it was understandable for governments to wish to require

corporations to abide by their own social responsibility rules, it is impractical to do so on a variety of grounds. Interestingly, Beckers (2017) argues later in the same journal issue that domestic enforcement of CSR codes is desirable and potentially effective.

### **Rationale for Using Corporate Social Responsibility Theory in this Study**

Collectively, these studies demonstrate that government policy related to corporate activities can be viewed through the CSR lens. While the studies noted above do not focus on human sex trafficking, many focus on government contracting as a vehicle for implementing public policy. CSR theory rests on the notion that a corporation has a role in society beyond simply maximizing profits. The corporation has a duty to comply with legal, social, and ethical norms of behavior, and to operate in a manner that improves the public good. Simultaneously, implicit CSR focuses on the requirements imposed by the government on corporations to adopt socially responsible behavior. Because this study focused on the requirements imposed on corporations by 22 U.S.C §7104, it relied on implicit CSR theory.

### **Relationship of Corporate Social Responsibility Theory to this Study**

CSR theory directly relates to the present study. As discussed in previous sections, 22 U.S.C. §7104 places requirements on government contractors to enforce the prohibition on engaging in a commercial sex act by their employees and the employees of their subcontractors, with substantial penalties for failure to do so (22 U.S.C. §7104, DODI 2200.01, FAR, 2014; Grimmer, 2013).

The research question in this study relates to, and builds upon, existing CSR theory. The study relates to existing theory in the discussion of the application of

legislation to enforce social norms and government policy, which has already been the subject of much research. This study builds upon existing theory by using document analysis to explore legislation that is used to require certain corporations (those with federal contracts) to monitor and control the actions of individuals. The use of implicit CSR to address the actions of individuals, rather than corporations, is a unique expansion of CSR theory.

### **Conceptual Framework**

I used the ACF as the conceptual framework for the study. The ACF was developed by Sabatier in the early 1980s, as a framework for understanding policy development (Diaz-Kope, Lombard, & Miller-Stevens, 2013; Elgin & Weible, 2013; Nohrstedt, 2011; Sabatier & Jenkins-Smith, 1999). Initially developed to understand policy development in the United States with early applications in the energy and environmental policy sphere, ACF has evolved into an explanatory theory used to describe policy development in a number of countries across a range of policy topics (Diaz-Kope, Lombard, & Miller-Stevens, 2013; Elgin & Weible, 2013; Nohrstedt, 2011; Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007).

### **Examining the Advocacy Coalition Framework**

The ACF is based on the idea that individuals will use policy coalitions of like-minded individuals and groups in order to translate their personal beliefs into government policy (Sabatier & Weible, 2007). The ACF describes three basic levels of an individual's belief system. The first level consists of deep core beliefs, which are central to a person's understanding of the world around them. The second level consists of

policy core beliefs, which are built on core beliefs, and address overall policies. Finally there are secondary beliefs, which are applications of deep core and policy core beliefs to a specific policy instance (Albright, 2011; Diaz-Kope, Lombard, & Miller-Stevens, 2013; Sabatier & Jenkins-Smith, 1999).

The ACF has fourteen basic hypotheses, grouped into four major thematic areas: advocacy coalitions, policy change, learning across coalitions, and coordination (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). Within the advocacy coalition hypotheses, ACF posits that coalitions consist of groups of policy advocates, policy opponents, and administrative agencies aligned with either camp, and that these groupings tend to be stable for at least a decade (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). The hierarchical nature of coalition members' belief systems results in a willingness to sacrifice secondary beliefs rather than core beliefs (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). Finally, administrative agencies within coalitions tend to advocate moderate solutions to policy issues, whereas interest groups tend to advocate more extreme positions (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). The policy change hypotheses posit that changes to government programs are unlikely to happen as long as government leadership remains unchanged, unless there is a major internal or external event that shocks the coalition participants into a significant change of attitude (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). The learning hypotheses set forth that learning can occur across coalitions when the issues are based on informed disagreement on secondary beliefs, as opposed to core beliefs, and are subject to quantitative data from controlled experiments rather than

qualitative discussions of social or political beliefs (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). Learning is facilitated across coalitions if there is a prestigious professional forum that exists to control discussions (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). The use of ACF is appropriate for a study related to government policy on human sex trafficking, because belief systems form the basis for policy coalitions (Sabatier & Jenkins-Smith, 1999), which tend to be the primary actors in policy formulation.

### **Application of Advocacy Coalition Framework to Other Studies**

The ACF was designed to provide a means in understanding policy development, and has been used in over one hundred studies to date, across a number of policy areas in the United States and abroad (Petridou, 2014; Sabatier & Weible, 2007). Albright (2011) used ACF to analyze policy changes in Hungarian flood management policy across a 200 year spectrum, and validated that extreme external events (in the case of Hungary, extreme flood events and government changes associated with incorporation into the European Union) can cause significant changes to the policy subsystem.

Leipprand, Flachsland & Pahle (2017) used the ACF to study coalitions of scientists in the German energy policy debate, and determined that studies in the topic area clearly “take sides” in the policy debate. Pierce (2011) examined policy coalitions active in the discussions of U.S. policy towards the creation of the state of Israel (1922-1944), and confirmed that policy coalitions tend to remain stable over time. Diaz-Kope, Lombard, and Miller-Stevens (2013) increased the utility of ACF by incorporating the role of policy-broker in their analysis of the 2009 federal bailout of the U.S. auto

industry. Elgin and Weible (2013) demonstrated that ACF can be used in conjunction with other theories by combining ACF with policy analytical capacity in their analysis of climate and energy policy subsystems in the state of Colorado. Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil (2012) likewise used ACF in combination with other theories. Their study combined ACF with both cultural theory and transition theory to understand the role that external shocks have on policy development (including coalition maintenance and defection) in their study of Dutch water-management policies. Sliva (2017) used ACF to explore the restorative justice policies in legislation in both Colorado and Texas. Hughes, Ritter, Lancaster, and Hoppe (2017) used ACF to conduct a document analysis of police drug detection dog policy in Australia.

Taking a slightly different approach, Henry and Dietz (2012) contrasted ACF with values based norms theory to understand the role that learning plays in environmental policy development. Nohrstedt (2011) proposed expanding ACF theory by incorporating the concepts of policy entrepreneurship, hierarchy within coalitions, and revision of policy narratives in his study of signals intelligence policy in Sweden. Fischer (2014) further refined ACF by exploring the role and degree of “conflict, collaboration, and power relations” between coalitions in a political venue distinctly different from that of the United States. Whereas the United States relies on majoritarian democracy, albeit with safeguards on minority rights, Fischer applied ACF to a series of Swiss policy venues, where policy change is achieved by consensus among the various coalitions (Fischer, 2014).

The ability of ACF to accommodate analysis of a wide variety of policy subsystems across a number of different venues is the reason that I selected ACF as the conceptual framework for this study. I anticipated that a number of different coalition actors would be identified in this study, including members of Congress, the President, federal agencies, federal contractors, the media, and advocacy groups involved in the fight against human sex trafficking. Given the nature of the topic, I also anticipated that moral values, education, and external shocks would be involved in the policy change that made federal contractors liable for the actions of their employees and subcontractor employees in the commercial sex market. Finally, because ACF would accommodate policy analysis across a wide range of policy subjects, it was suitable for a study of the role of federal contract policy in combatting human sex trafficking.

The ACF framework relates to this study because of its emphasis on policy advocacy coalitions, technical information and learning within and between coalitions, and shared moral values of coalition members to explain policy changes. The potential for external shocks and power shifts between coalitions, as discussed by Albright (2011), Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil (2012), and Fischer (2014), further related ACF to this study, due to the possibility that external shocks and coalition power shifts played a role in this study.

### **Agenda Setting Theory and its Relationship to Advocacy Coalition Framework**

Agenda setting theory was established as a result of the 1968 U.S. Presidential elections, and postulates the importance of the media in setting public policy agendas (Camaj, 2014; Guggenheim, Jang, & Bae, 2014; Hunter, Van Wassenhove, Besiou, &

van Halderen, 2013; Neuman, Ragas, Tran, & Martin, 2014; Wolfe, Jones, & Baumgartner, 2013). Traditional news media, including television, radio, and print, are assumed to have their greatest impact in establishing the importance of a given issue, rather than in persuading citizens and groups toward a given policy outcome (Neuman, Guggenheim, Jang, & Bae, 2014; Wolfe, Jones, & Baumgartner, 2013). The advent of media channels owned by policy stakeholders (such as advocacy journals, newsletters, websites, and blogs) has altered the focus of agenda setting theory, as stakeholder owned media attempts to both establish the importance of an issue and promote a specific policy outcome (Hunter, Van Wassenhove, Besiou, & van Halderen, 2013). Studies on the use of social media in agenda setting theory have been inconclusive (Ragas, Tran, & Martin, 2014). One study of social media concluded that social media users were as likely to follow the agendas set by traditional media outlets as traditional media outlets were to follow social media (Neuman, Guggenheim, Jang, & Bae, 2014).

Kingdon expanded on the role of the media and identifies three streams of problem, policy, and politics (Kingdon, 1995). The problem stream entails government officials' recognition of an issue through feedback and related indicators, and the officials' judgement of the relative importance of the issue. The policy stream consists of subject matter experts in a subject-matter community who develop courses of action, with or without a defined problem to which to attach the policy. The politics stream consists of elected officials' analysis of the electoral mood and its desire to address a problem or engage on a course of action. Kingdon (1995) noted the existence of policy



entrepreneurs who use their personal and political resources to advocate for policies they support.

Advocacy coalition theory tends to view media groups as part of advocacy coalitions (Sabatier & Jenkins-Smith, 1999; Weible, Sabatier, Jenkins-Smith, Nohrstedt, Henry, & deLeon, 2011). This explanation is inconsistent with agenda setting theory when looking at traditional media outlets, which seek to set the agenda without advocating a policy position (Hunter, Van Wassenhove, Besiou, & van Halderen, 2013). However, the inclusion of media groups in advocacy coalitions is consistent with stakeholder media, which seeks to promote specific policy outcomes (Hunter, Van Wassenhove, Besiou, & van Halderen, 2013). For purposes of this study, media in all forms (traditional, stakeholder, and social) were treated as part of advocacy coalitions in accordance with the premises of advocacy coalition theory.

ACF overlaps Kingdon's theories of the policy process in two important aspects. First, Kingdon identified policy advocacy groups, including policy entrepreneurs, as part of the policy stream (Kingdon, 1995). Second, Kingdon noted the importance of the "policy open window", which can result from unexpected events, and is closely related to the ACF's concept of external shock to the system (Kingdon, 1995; Sabatier & Weible, 2007). Because of the overlap between agenda setting theory and the ACF this study relied on the ACF in conjunction with social responsibility theory, rather than add agenda setting theory to the mix.

## **Literature Review Related to Human Trafficking**

### **What is Human Trafficking?**

One of the significant challenges in discussing human trafficking is the wide variety of definitions of the phenomenon (Kotiswaran, 2014; McAlpine, Hossain, & Zimmerman, 2016; UNODC, 2009). Most jurisdictions throughout the world, at both the national and sub-national level, have crafted slightly different meanings of the term human trafficking based on their own unique legislative, cultural, and political histories (Kotiswaran, 2014; UNODC, 2009).

The disparate legal definitions are not the only difficulty when discussing human trafficking. In their review of public discussions of human sex trafficking in the international policy arena, Merilainen and Vos (2015) noted that human sex trafficking must compete with other major policy advocacy groups for public attention. Since anti-human sex trafficking advocates must both distinguish the importance of their issue area while simultaneously assembling the greatest number of allies, the literature tends to conflate human sex trafficking with other important human issues (Merilainen and Vos, 2015). Examples include “rape, labor relations, sexual exploitation, kidnapping, prostitution, blackmail, governmental corruption, ill treatment or abuse and murder”, as well as “gender equality and women’s rights, equal opportunity between the sexes, fundamental rights and freedoms, and general concepts about democracy” (Merilainen and Vos, 2015).

To circumvent some of these difficulties, this paper focused on the United States Federal Government classification of human trafficking and related definitions. The

official United States definition of human trafficking discussed below was the focus for this paper because it informs the requirements found in 22 U.S.C. §7104 Prevention of Trafficking.

### **United States Federal Government Definition of Human Sex Trafficking**

The Victims of Trafficking Violence Protection Act of 2000 (U.S. Public Law 106-386) defined “sex trafficking” as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act”, and defined “commercial sex act” as “any sex act on account of which anything of value is given to or received by any person”. However, it is important to recognize that much of the literature in recent years has focused on the transnational nature of human trafficking and on the U.N. definition (Amahazion, 2014; Efrat, 2016; Kotiswaran, 2014; Matter, 2013; Merilainen & Vos, 2015; Simm, 2013).

The remainder of this portion of the literature review discusses the literature related to human trafficking for “commercial sex acts”, known more colloquially as prostitution. This study will focus on “commercial sex acts” involving adults, rather than the significant literature involving the subset of commercial sex acts and trafficking involving children, since children are not specifically mentioned in the legislation regarding contractor and subcontractor employees that is the focus of this study. For the same reason, the review focuses on the literature related to prosecution legislation, rather than literature focusing on prevention of trafficking and the protection of victims.

One important nuance of the U.S. definition of human sex trafficking, as well as the definitions used by the U.N. and some other governments, is that prostitution itself is

not the focus of the definition, but rather the exploitation of the prostitution of others (Kotiswaran, 2014). The nuance is a compromise that resulted from significant worldwide disagreement regarding the illegality and immorality of prostitution (Kotiswaran, 2014; Simm, 2013). The international debate about prostitution provides useful background in understanding the deliberations in the United States that led to the language in 22 USC §7104.

### **The Debate on Prostitution**

Advocates for legalized prostitution have argued that prostitution is an economic service like any other, and that people have the right to enter into the profession of their own free will without societal or government interference (Cheng & Kim, 2014; Simm, 2013). Legalized prostitution allows women the ability to become self-employed, increase their income, and provide for their families (Simm, 2013). Other advocates have argued that legalizing prostitution offers protection for the prostitute, since legalization allows for state regulation of the industry, which would in turn reduce the influence of organized crime and improve the working conditions in the industry (Huisman & Kleemans, 2014; Rose, 2013). Legalized and regulated prostitution could also reduce the spread of infectious disease and prevent abuse of the prostitute (Kotiswaran, 2014; Simm, 2013). Legalized prostitution has also been shown to be inversely correlated to human sex trafficking, though the presence of correlation does not necessarily imply causation (Hedlin, 2017). The Netherlands is an example of a country that legalizes and regulates prostitution (Huisman & Kleemans, 2014).

On the other side of the ideological debate are the “abolitionists” (Rose, 2013). This group has argued that prostitutes are rarely in a position to choose prostitution freely, but instead are coerced into the situation, and are often trafficking victims (Rose, 2013). Legalization in this view would simply make it more difficult for law enforcement agencies to separate the legal prostitution from the illegal trafficking, thereby significantly increasing jurisdictional confusion between regulators and law enforcement while not improving the situation of the victims (Huisman & Kleemans, 2014). Other abolitionists have approached the debate from a moral vantage point, arguing that commercial sex is wrong on its face, regardless of whether the prostitute is consenting or not, and that all aspects of prostitution should therefore be criminalized (Rose, 2013). The United States, excluding eight counties in the state of Nevada where prostitution is legal and regulated, is a country where all aspects of prostitution are criminalized (England, 2015; Nichols & Heil, 2015).

Operating in a middle group between abolition and legalization are countries operating under the Swedish model (Kotiswaran, 2014; Rose, 2013). Under this model, the sale of commercial sex is legal, but the purchase of commercial sex is illegal (Kotiswaran, 2014; Rose, 2013;). This model is based on the notion that prostitutes tend to be victims of circumstances outside of their control (economic disadvantages, demographic disadvantages, domestic violence), while the customers are the group which perpetuates the need for a continuous supply of new prostitution victims (Jefft, 2013; Rose, 2013). Sweden is an example of a country that legalizes the sale of commercial sex, while criminalizing the purchase of commercial sex (Rose, 2013). The focus of 22

U.S.C. §7104 on the purchase of commercial sex seems to align the policy with the Swedish model.

### **Combatting Human Sex Trafficking**

It is important to note that not all prostitutes are victims of human trafficking (Cheng & Kim, 2014; Zrinka, 2014), nor are all victims of human trafficking victims of human sex trafficking (Hall, 2014). This can be challenging at times because many government officials, especially in the United States, tend to conflate all human trafficking with human sex trafficking, and all prostitution with human sex trafficking (Farrell et al., 2014; Nichols & Heil, 2015; Rose, 2013;).

The differences in legal definitions were identified by Amahzaion (2014) as a significant reason for different strategies for combating sex trafficking (Amahazion, 2014). Other authors focused on additional reasons for differences in anti-trafficking strategies. Avdeyeva (2012) found that government compliance with international standards of anti-trafficking was significantly impacted by both domestic and international factors, including the presence of women in legislative bodies, as well as the government's international standing among nations. Cho, Dreher, and Neumayer (2011) found that government policies related to trafficking are subject to a learning effect, and that countries will look to "peer countries" (those with similar cultures and histories, significant trading partners, as well as those in close geographical proximity) when developing or revising their own anti-trafficking policies. While the approaches may differ, both the United States and the United Nations share a common philosophy of combating trafficking, based on the idea of prosecution of traffickers, prevention of

trafficking through increased awareness and the removal of economic and related factors that can lead to victimization, and protection of trafficking victims (Amahazion, 2014).

There are a number of difficulties in identifying and prosecuting sex trafficking cases. The official statistics regarding human trafficking are suspect, and could under report or over report the number of cases (Kotiswaran, 2014). As noted earlier, there are a number of competing definitions for human trafficking, which makes actual tallying of numbers difficult (Kotiswaran, 2014; UNODC, 2009).

Additionally, the hidden nature of the crime, reporting and clerical errors, as well as statutes of limitations and jurisdictional issues makes it difficult to prosecute sex traffickers (Mattar, 2013; Nichols & Heil, 2015). Prosecutorial efforts in the United States are further exacerbated by U.S. deportation policy, which at times conflates sex trafficking victims with illegal immigrants (Nichols & Heil, 2015), despite the existence of “T-Visas” which allow victims of human trafficking in the United States to remain in the U.S. temporarily in order to assist with law enforcement (Department of State, 2015). Between 2002 and 2012, only 5,202 applications were received for T-Visas, of which only 3,269 were approved, against an estimated 14,500 persons trafficked in the U.S. each year (Siskin & Wyler, 2013). This is consistent with other findings that worldwide government legal responses to trafficking have tended to be “rooted in state security concerns about uncontrolled immigration, mass flows of undocumented individuals or groups, and maintaining the legitimacy of borders” (Amahazion, 2014, pp. 180-181).

The Nicholas and Heil (2015) findings are also consistent with historical U.S. prosecution responses to sex trafficking, and of prostitution more generally. In any sex

trafficking scenario, there are three principle actors: the trafficker, the victim, and the customer (Jefft, 2013). However, traditional U.S. laws have focused on the prostitute, rather than the customer (Rose, 2013), and the prostitute is the most likely to be arrested, reportedly at a 50:1 ratio (Jefft, 2013). The Federal Bureau of Investigation on-line arrest statistics seems to bear this out, since the formal definition of “prostitution and commercialized vice” on their website deals exclusively with solicitation of customers for commercial sex, the promotion of commercial sex, or the provision of a place to engage in commercial sex (U.S. Department of Justice, 2015).

This definition seems to avoid the role of the customer altogether. Farrell et al. (2014) determined that U.S. state laws had until recently conflated all trafficking with sex trafficking, and all sex trafficking with prostitution. This at times can lead to local law enforcement and prosecutors treating sex trafficking victims as criminals rather than victims (Farrell et al., 2014). Recent literature has called for more balance in state laws, to address both the trafficker (Eppick, 2016; Hall, 2014) and the customer (Rose, 2013; Vardaman & Raino, 2013), greater emphasis on prosecution of the customer in order to deter the demand that drives the trade (Vardaman & Raino, 2013; Kreuser, 2017), and revisions to sentencing guidelines for sex-trafficking victims who are forced into oversight roles in the sex-trafficking organization (Crocke, 2017).

### **Summary of Human Trafficking Literature**

Human trafficking is an illegal multi-billion dollar industry, generally subdivided into two groupings: human labor trafficking and human sex trafficking (United Nations, 2011). While there is worldwide agreement to end human trafficking, there is significant



variance between governments about what actions constitute human trafficking. In addition, discussion on human sex trafficking in particular is complicated by the parallel debate on abolition versus legalization of prostitution. As a result of divergent laws regarding human sex trafficking and prostitution, as well as the inherent difficulty in enforcing such laws and the potential unfairness of focusing police attention solely on the prostitutes themselves, there have been calls from victim advocates to focus law enforcement activity on the demand side of the equation: the consumers of commercial sex (Kreuser, 2017; Nichols & Heil, 2015; Rose, 2013).

This leads to the next section, which addresses U.S. government contracting policy, and the penalties that can accrue to federal contractors when their employees or subcontractor employees purchase commercial sex.

### **U.S. Federal Contracting Policy**

This study explored the rationale for the language contained in 22 U.S.C. §7104 which provides that federal contractors can have their contracts terminated if any of their employees or subcontractor employees engage in a commercial sex act as well as the language in 22 U.S.C §7104 as to its application to United States government contracts. In order to appreciate this language, it is first necessary to explore the background of U.S. federal procurement policy, and contracting in general.

#### **What is a Federal Contract?**

A contract is a mutual agreement between legally competent parties in which one party agrees to perform or not perform a legal act for the other party in exchange for some form of consideration (Cornell, 2014). Federal contracts are heavily legislated and

regulated. These rules generally occur in an effort to correct a perceived past abuse or improve the performance of government contracting (Keeney, 2007; Kim & Brown, 2017), or to help implement a federal policy through the power the United States has as the largest single purchaser in the world (Croucher, 2014; Gitterman, 2012, 2013; Manuel, Halchin, Lunder, & Christenson, 2015).

Manuel, Halchin, Lunder, and Christenson (2015) identified a number of federal statutes related to federal contracting, including the Buy Indian Act 1910 (2015), the Buy American Act of 1933 (2015), the Economy Act of 1932 (2015), the Miller Act of 1935 (2015), the Walsh-Healey Public Contracts Act of 1936 (2015), the Davis-Bacon Act of 1939 (2015), the Armed Services Procurement Act of 1947 (2015), the Federal Property and Administrative Services Act of 1949 (2015), the Defense Production Act of 1950 (2015), the Contract Work Hours and Safety Standards Act of 1962 (2015), the Truth in Negotiations Act of 1962 (2015), the Service Contract Act of 1965 (2015), the Small Business Act of 1953 (2015), the Brooks Act of 1972 (2015), the Office of Federal Procurement Policy Act of 1974 (2015), the Contracts Disputes Act of 1978 (2015), the Trade Agreements Act of 1979 (2015), the Prompt Payments Act of 1982 (2015), the Anti-Kickback Act of 1986 (2015), and the Federal Activities Inventory Reform (FAIR) Act of 1998 (2015). To these could be added statutory language related to federal contracts in other acts, such as requirements in the Clean Air Act and Clean Water Act, which add certain environmental requirements in federal contracts. Additionally, federal contract language is often incorporated into annual Authorization Acts, such as the 2015 National Defense Authorization Act language directing the Department of Defense to

adopt measures to avoid the purchase of counterfeit electronic parts (Public Law 113-291).

These and similar statutes can be found in various sections of the United States Code. Statutes governing federal contracting are concentrated in Title 41 and Title 10. Title 41 of the United States Code is devoted solely to public contracts. Title 10, Part IV addresses service, supply and procurement in the United States armed forces. Other Codes contain statutes related to federal procurement as well. Title 15, which deals with commerce and trade in the United States generally, also contains specific federal contracting guidelines related to contracting with small businesses (15 U.S.C. § 644 Awards or Contracts). Title 42, which deals with Public Health and Welfare, contains sections related to foreign detention of U.S. contractors (42 U.S.C Chapter 12), contracts for scientific and technological research (42 U.S.C. Chapter 16B), and federal contracts for drug and alcohol abuse prevention (42 U.S.C. § 4577) among others.

Federal contracting statutes place requirements and restrictions on both federal agencies and federal contractors. Statutes define what, how, when, and from whom federal agencies can purchase. Similarly, federal procurement statutes govern who the contractor can hire, how they are to pay their employees and subcontractors, how the contractor is to perform the contract, and how they are to bill for services rendered. In this respect, anti-trafficking requirements in federal contracts are a continuation of a long-established trend in federal procurement policy.

## **Federal Contracting and Human Trafficking Literature**

As seen in previous sections, there is extensive literature related to human sex trafficking, as well as human trafficking in general. Similarly, there is extensive literature related to government contracting in general, and some literature related to the intersection of federal contracting and human trafficking.

A wide range of literature exists regarding contracting in general. For example, there is significant literature regarding contract theory. The liberal theory of contract argues that individuals have a right to enter into agreements and have those agreements respected (Gutmann, 2013). The property theory of contract maintains that individuals own property and have exclusive rights to that property and its future uses which can be exchanged for consideration (Gold, 2009). There is also significant literature regarding the practical considerations of contracting, such as obligations of the parties (Cardwell, 2011), negotiation (Daley, 2012), implementation and enforcement (Rajendran, Clarke, & Whelan, 2013), and litigation (Drahozai & Rutledge, 2011).

Additional literature is related more specifically to U.S government contracting. Keeney (2007) discusses the historical background of federal contracting and Gitterman (2012, 2013) discusses the role of the President in the federal procurement process. Various authors (Gitterman, 2012, 2013; Kidalov & Snider 2011; Lessack 2013; Smith & Fernandez, 2010) describe the role of federal procurement policy in implementing U.S. government policies related to equal employment opportunity, anti-discrimination, unemployment and inflation, small and disadvantaged businesses, labor relations, immigration, and transparency and accountability. By placing clauses in contracts related

to these areas, the federal government not only influences behavior in companies with federal contracts, but also influences corporate behavior throughout the economy as a result of the influence those companies have on other companies resulting from supplier and competitor relationships (Gitterman, 2012, 2013; Kidalov & Snider, 2011; Lessack, 2013; Simcoe and Toffel, 2012).

Literature at the intersection of human trafficking and federal contracting is more limited, and tends to focus on human labor trafficking rather than human sex trafficking. Trade journals serving the federal contracting community have posted articles advising their readers of the liability of contractors under the Trafficking Victims Protection Reauthorization Act of 2003 (Reider-Gordon & Funk, 2013). Reider-Gordon and Funk also detail contractor statutory and contractual responsibilities to file annual compliance certifications, take steps to eliminate and avoid human trafficking in their supply chain, develop and maintain compliance plans, and self-report any violations to the Federal government. Other articles have provided some suggested strategies for companies to use to avoid human labor trafficking in their international supply chain (Croucher, 2014; Fallon, 2017). This focus on rule-compliance is perhaps unsurprising in trade journal literature, which tends to focus on requirements and best practices.

Articles in legal journals such as the *Oklahoma Law Review*, *Wisconsin International Law Review*, *BYU Journal of Public Law*, *Arizona Law Review*, *Northwestern University Law Review*, *New York University Journal of International Law & Politics*, *Houston Journal of International Law*, and *University of Memphis Law Review*, have tended to focus on the legal theory and corporate liability of corporations

resulting from human trafficking legislation. At the same time that consumers are placing pressure on corporations to monitor the supply chain, corporations are faced with the risk of additional government regulation over their supply chains, as well as the risk of litigation related to human trafficking (E. Johnson, 2013).

Dryhurst (2013) argued that, while human labor trafficking has gained international attention, the focus of legislation and prosecution to date has focused on individual liability rather than corporate liability. This in turn has reduced the incentive for corporations to monitor the conditions in their international supply chain (Dryhurst, 2013). The limited liability of corporations for the activities of their suppliers, combined with the economic incentive of lower costs resulting from trafficked labor in their suppliers, has to date encouraged corporations to turn a blind-eye to potential trafficking in their supply chain (Dryhurst, 2013). While the current U.S. anti-trafficking laws begin to hold corporations liable for their supply chain, additional economic incentives and legal liabilities would further reduce labor trafficking world-wide (Dryhurst, 2013).

Bang (2013) addressed the additional legal liabilities issue by presenting a legal theory of joint-employability in the supply chain, arguing that a corporation cannot distance itself from the activities of its suppliers, even when those suppliers are separate legal entities incorporated in foreign jurisdictions. A joint-employability doctrine would make a corporation legally responsible, and liable, for the working conditions of any vendor in its supply chain (Bang, 2013). While Bang was not addressing federal contracts in particular, instead focusing on consumer goods manufacturers and retailers,

the arguments presented under the joint-employability doctrine parallel the contractual obligations of prime contractors in federal contracts.

Grimmer (2013) presented an anti-trafficking legal argument directly on point for Federal contracts by arguing that despite the official zero-tolerance policy of the Federal government, few federal contractors are charged or convicted under the policy. Because labor trafficking in suppliers is often difficult to observe, and federal contractors can be severely penalized if trafficking is reported, there is a significant disincentive for contractors to self-report violations, as required under both the statute and the resulting FAR clause (Grimmer, 2013). Grimmer (2013) advocated using the provisions of the False Claims Act to hold contractors liable for falsifying their annual anti-trafficking compliance certifications. As applicable to trafficking certifications, the False Claims Act allows third parties (as opposed to the Federal government) to bring a civil suit against companies that provide false certifications regarding federal contract performance (Grimmer, 2013). This would incentivize contractor and subcontractor/supplier employees to report trafficking violations in the supply chain, since civil suits under the False Claims Act allow for triple damages to awardees (Grimmer, 2013). Since labor trafficking is a multi-billion dollar industry worldwide (United Nations, 2011), a successful suit against even a marginal player could generate significant legal awards.

Finally, there is some literature that deals with federal contract policy and the subsection of human trafficking that is human sex trafficking. Public awareness of contractor involvement in human sex trafficking began in 2000, with accusations that employees of private military security corporations under contract to the United Nations

in Bosnia were actively involved in human sex trafficking rings (Maffai, 2009). Efforts to investigate the allegations were hampered by jurisdictional disputes, with both U.S. forces and Bosnian government officials uncertain if they had jurisdiction over U.N. contractors in a combat environment (Maffai, 2009). Ultimately, several of the contractor employees were fired for their alleged activities, though none were actually prosecuted (Maffai, 2009). Of special note, the private military security corporation in question was later hired by the United States government to provide security support in Iraq (Maffai, 2009).

Additional literature discussed the practical implications of the Trafficking in Victims Protection Act (2000) as amended under the 2013 reauthorization of the Violence Against Women Act (Fallon, 2017; R. Johnson, 2013). According to both Fallon and Johnson, corporations can be held liable for the off-duty engagement of their employees or subcontractor employees in a commercial sex act, even if the act was legal in the jurisdiction in which it took place. That liability can include litigation risk, termination of federal government contracts, and debarment from future Federal government contracts. Fallon (2017) and Johnson (2013) identify a number of strategies that corporations can employ to mitigate their risk, including proactively revising their company policies related to human sex trafficking, completing risk assessments of their geographical operations areas (and potentially avoiding those areas where human sex trafficking is most prolific), identifying warning signs of potential human trafficking, and providing extensive training to employees and subcontractor employees.



## **Summary of Federal Contracting Literature**

Contracts are legal instruments that bind two parties into a mutual arrangement. Federal contracts, like non-federal contracts, require the contractor to perform specified services or deliver specified products to the government in exchange for payment. In addition, federal contracts require contractors to engage in activities that support other U.S. government policy objectives, including activities designed to reduce or eliminate trafficking in persons. The contracting literature related to human trafficking tends to focus on the supply chains for international corporations, and addresses human labor trafficking. A subsection of the contracting literature discusses human sex trafficking, and provides some practical advice to corporations in dealing with their employees and subcontractor employees.

There appeared to be a gap in the literature, however, regarding why federal contractors are held legally liable if their employees or subcontractor employees engage in commercial sex activities. That question lay at the heart of this study.

## **Selection of the Study Concepts**

The literature review has identified four key literature groupings: ACF literature, CSR literature, human trafficking literature, and federal contracting policy literature. Each of these literature groupings contained some significant concepts related to this study.

The literature related to the ACF identified three concepts that were applicable to this study: coalitions, education, and system shock. As used in the ACF literature, coalitions consist of like-minded individuals and groups that attempt to translate their

personal beliefs into government policy (Albright, 2011; Fischer, 2014; Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil, 2012). As related to this study, I anticipated that coalitions developed which advocated holding contractors accountable for the off-duty activities of their employees and subcontractor employees.

Education is a second concept in ACF that related to this study. As used in the ACF literature, education refers to information generated about an issue designed to persuade coalition members, coalition “enemies”, or non-aligned third parties (Albright, 2011; Fischer, 2014; Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil, 2012). As related to this study, I anticipated that education efforts (such as policy briefings, analytical papers, and information meetings) would be identified which persuaded Congress to adopt legislation that holds contractors liable for the off-duty activities of their employees and subcontractor employees.

System shock is the third concept from ACF that I anticipated to be relevant to this study. System shocks, both internal and external, consist of events, which occur to trigger a change in coalition membership, coalition leadership, or overall system reaction to a policy issue (Albright, 2011; Fischer, 2014; Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil, 2012). Based on both ACF and human trafficking literature, I anticipated that system shocks would be an identified catalyst for the Congressional policy decisions. The public outcry over contractor involvement in human sex trafficking in Bosnia by private military security corporations discussed by Maffai (2009) is an example of the type of system shock that could prompt Congressional action.

CSR identified one significant concept with relevance to this study: corporate duty/responsibility. As used in CSR literature, corporations have a duty and a responsibility to uphold the basic norms of society, and those norms extend beyond the basic responsibility of corporations to maximize profits (Dodd, 1932). Corporations are part of the basic fabric of society, and derive their rights and privileged position from society (Bowen, 1954/2013). As a result, they are justifiably required by society to use their resources to help advance societal goals (Bowen, 1954/2013). As related to this study, I anticipated that several documents would discuss the duty of corporations to help eradicate human sex trafficking by holding their employees accountable for their off-duty actions that perpetuate the demand for sex trafficking victims.

Human trafficking literature described three concepts relevant to this study: human sex trafficking, commercial sex, and demand reduction. Human sex trafficking is a subset of the overall human trafficking issue. As discussed earlier, one of the key difficulties in discussing human sex trafficking (and human trafficking more generally) is the profusion of definitions. For purposes of this study, I relied on the definition of human sex trafficking contained in the Victims of Trafficking Violence Protection Act of 2000, which defines sex trafficking as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act”. The concept of human sex trafficking was integral to this study, as it formed the basis for the language of 22 U.S.C. §7104 Prevention of Trafficking.

The second concept of human trafficking related to this study is “commercial sex act”. Like the term “human sex trafficking”, this is a term with many different legal

definitions. This study relied on the definition found in the Victims of Trafficking Violence Protection Act of 2000, which defines “commercial sex act” as “any sex act on account of which anything of value is given to or received by any person”. This definition was central to this study because it is the concept used in 22 U.S.C. §7104 Prevention of Trafficking.

Demand reduction is the third concept that came to this study through the human trafficking literature (Nichols & Heil, 2015; Rose, 2013). Traditional legal and policy remedies for human sex trafficking have focused on the supply side of the equation, with efforts taken to arrest traffickers and commercial sex workers. Given the ease with which new victims are obtained, and the perceived injustice of punishing trafficking victims, there has been a renewed focus on reducing the demand for human sex trafficking victims by targeting customers (Rose, 2013; Vardaman & Raino, 2013).

The literature related to federal contracting policy had two concepts relevant to this study: federal market power, and corporate supply chain. Federal market power refers to the power of the Federal government to influence the actions of the private sector through its power as the largest single purchaser on the planet (Croucher, 2014; Gitterman, 2012, 2013; Manuel, Halchin, Lunder, & Christenson, 2015). The Federal government can change corporate behavior for its prime contractors and subcontractors through contract terms and conditions. Because of the magnitude of its purchasing, the Federal government can be assured that a significant percentage of corporations will change their behavior as a result. Because of the relative likelihood that changes in one

corporation will also drive changes in behavior in their competitors, the government can hope to drive change in corporate behavior throughout the economy.

The final concept identified in the literature was the corporate supply chain. Because corporations, especially international corporations, tend not to produce all of their required supplies and services in-house, they rely on a web of subcontractors and suppliers (Reider-Gordon & Funk, 2013). These companies are termed the corporation's supply chain. The corporate supply chain was important because the language of 22 U.S.C. §7104 makes the corporation liable the actions of its subcontractor employees.

The variables cited above are well known in the literature, and other than the legal definitions surrounding human sex trafficking tend to be non-controversial terms. However, the terms tend to be isolated within their own literature bases, and do not tend to "cross pollinate" each other. For instance, the literature on federal contract policy does not tend to have references to CSR, and the literature on CSR does not tend to have references to human sex trafficking. This study explored the linkages of these terms with respect to the contract requirements contained in 22 U.S.C. §7104 Prevention of Trafficking.

### **Review and Synthesis of Studies Related to the Research Question**

This study focused on the legislative decisions that led to the statutory language in 22 U.S.C. §7104 Prevention of Trafficking, and the liability placed on contractors for the off-duty activities of their employees and subcontractor employees. To date, there have been no other studies related to this specific research question, though there has been some discussion in the federal contract policy literature related to practical

implementation of the requirements and the legal doctrines associated with enforcement (Bang, 2013; Dryhurst, 2013; Fallon, 2017; Grimmer, 2013; E. Johnson, 2013; R. Johnson, 2013).

There have been studies conducted regarding legislative policy decisions on other, non-related topics at the various government levels. David, Atun, and La Vina (2012) used a document analysis approach in their study of how population discussions are framed in policy discussions. Purtle (2016) used document analysis in a review of 166 U.S. legislative bills related to post-traumatic stress disorder. Wild et al. (2016) used document analysis in their study of Canadian provincial and territorial policy documents related to harm reduction interventions among substance abusers in Canada. Hughes et al. (2017) used document analysis in their study of police drug detection policy in Australia. Dollins, Bray, and Gadbury-Amyot (2013) used a qualitative study methodology to explore the creation of a dental hygienist-therapist in the health-care system of a U.S. state. Their study included reviews of official government documents and newspaper articles, as well as interviews with key informants. Their review identified the importance of issue education and advocacy in the legislative process, as well as the importance of personal passion and the need to identify allies in the legislative process. Frick, Weinzimmer, and Waddell (2015) conducted a mixed-methods study to explore the opposition to sustainable building requirements in state legislative branches across all 50 U.S. states. Their research identified the importance of an organized opposition, both internal and external to the legislature, in defeating legislative proposals, and the importance of social media and the internet in organizing activism. In the

international arena, MacLennan, Kypri, Room, and Langley (2012) conducted a qualitative study of three local jurisdictions in Australia to explore the local legislative policy development process related to alcoholism. Their study identified the importance of stakeholder groups, the longevity of politicians, and the interactions between legislators and bureaucrats as key drivers in the legislative policy development process.

Other studies have explored environmental factors influencing legislative policies. Bolzendahl (2014) explored the role of gender in committee membership in Germany, Sweden, and the United States, and discovered that female legislators tend to predominate in those committees that deal with human rights issues. Dobbels and Neuhold (2013) explored the relative importance of bureaucratic expertise in European Union policy development. As relevant to this study, the research by Dobbels and Neuhold demonstrates that legislators may rely heavily on the executive branch in developing statutory language such as that in 22 U.S.C. §7104.

The studies related to legislative policy development have tended to involve document analysis and case studies, particularly when discussing a single piece of legislation. This intuitively makes sense, since an in-depth study of the policy development process for a single piece of legislation would be more conducive to these approaches rather than narrative analysis, grounded theory, phenomenology, ethnography, or the various forms of quantitative analysis.

## **Summary and Conclusions**

### **Major Themes in Corporate Social Responsibility Theory Literature**

There is a significant amount of literature regarding CSR theory. CSR has a significant history, going back to the early 20<sup>th</sup> century, though even that literature traces its roots back to medieval English common law. The major themes in the literature revolve around the need for corporations to act in a socially responsible manner.

Corporations must ensure that they remain profitable, since otherwise the corporation will collapse and will no longer be able to provide services to the community. Profitability cannot come at the cost of violating the accepted standards of the society (including areas related to environmental protection, employee benefits, and customer relations). Once profitability is ensured, it is incumbent upon the corporation to engage in activities that will actively promote improvements to the community.

### **Major Themes in Human Sex Trafficking Literature**

Overall themes reviewed indicate that human sex trafficking has existed for a long time, though public notice and interest has only been significant since the late 1980s. Governments throughout the world have committed to eliminating human sex trafficking, but to date those efforts have not been successful, and human sex trafficking continues to proliferate. Government failure to curb human sex trafficking likely results from the enormous economic incentives for traffickers, government focus on traffickers and victims, the confusion (especially in the United States) between voluntary and involuntary sex workers, and the relative exclusion of the customers from government strategic efforts. Several authors (Nichols & Heil, 2015; Rose, 2013) have recommended



that government enforcement efforts instead target customers of sex workers and thus reduce demand for human sex trafficking victims.

### **Major Themes in Federal Contract Policy Literature Related to Human Sex**

#### **Trafficking**

There is less research regarding federal contract policy as it relates to human sex trafficking. The literature that does exist in this area primarily focuses on the legal requirements for contractors under 22 U.S.C. §7104 Prevention of Trafficking, as well as practical suggestions for contractor compliance.

#### **Gap in the Literature**

There is CSR literature that holds that corporations must act in a socially responsible manner, and must be held liable for their actions when those actions violate societal norms. The literature solely addresses the activities of the corporation itself and that of employees acting in their role as corporate employees and officials. The literature does not address holding corporations accountable for the off-duty activities of their employees, and does not address the subcontractor relationship at all.

As seen previously, there was significant literature involving human sex trafficking, discussing topics as varied as legal definitions (U.S. Public Law 106-386), the transnational nature of human sex trafficking (Amahazion, 2014; Kotiswaran, 2014; Matter, 2013; Merilainen & Vos, 2015; Simm, 2013), the role of prostitution in human sex trafficking and ties to organized crime (Cheng & Kim, 2014; England, 2015; Huisman & Kleemans, 2014; Nichols & Heil, 2015; Rose, 2013; Simm, 2013;), and efforts to combat human sex trafficking (Cheng & Kim, 2014; Farrell et al., 2014;

Nichols & Heil, 2015; Rose, 2013; Zrinka, 2014). As most relevant to this study, the literature included the belief that the demand for human sex trafficking victims will be reduced if governments target the customers of commercial sex acts (Nichols & Heil, 2015; Rose, 2013). There was some practical literature for contractor compliance with the federal contract requirements regarding human sex trafficking, including holding contractors liable for the off-duty, potentially legal hiring of a commercial sex act by their employees or subcontractor employees. While there was literature surrounding the issue, there did not appear to be any literature regarding the legislative reasoning that led to the decision to hold contractors accountable for the off-duty, potentially legal commercial sex activities of their employees and subcontractor employees.

The purpose of this study was to address this gap in the literature, and develop an understanding of the Congressional reasoning behind the contractor liability discussed in 22 U.S.C. §7104 Prevention of Trafficking. It also serves as a bridge between the human sex trafficking literature and the federal contract policy literature, and may have implications for CSR theory based on the extension of corporate liability throughout the supply chain.

## Chapter 3: Research Method

### **Introduction**

As stated in Chapter 1, the purpose of this study was to explore the rationale for holding corporations liable for the personal actions of their employees and subcontractor employees, specifically the liability of federal contractors for their employees' and subcontractor employees' procurement of a commercial sex act. I used a pragmatic paradigm in conducting this study, because pragmatism allows the researcher to use any tool necessary in order to explore the phenomenon in question (Creswell, 2013; Patton, 2002).

In Chapter 3 I focus on the methodology and will address the research design limitations and strengths of the design, as well as alternative designs considered and rejected as inappropriate. I then discuss the official document review and data analysis. The chapter will conclude with a discussion of the ethics of the study.

### **Research Design and Rationale**

In this study, I sought to answer the following question:

RQ: According to publically available documents, why did the U.S. Congress decide to make federal contractors liable for the off-duty actions of their employees?

### **Document Analysis Literature**

I used a document analysis approach in conducting this research. Document analysis is a qualitative research strategy that relies on a contextual review of written documents (Bowen, 2009; McCulloch, 2004; Patton, 2002). Document analysis can be

performed in combination with other qualitative research techniques or as a strategy in its own right (Bowen, 2009). Documents suitable to document analysis come in many forms, including official government records (Bowen, 2009; McCulloch, 2004; Patton, 2002). Document analysis has been used in other studies of public policy and legislation. David et al. (2012) used a document analysis approach in their study of how population discussions were framed in policy discussions. Purtle (2016) used document analysis in a review of 166 U.S. legislative bills related to posttraumatic stress disorder. Wild et al. (2016) used document analysis in their study of Canadian provincial and territorial policy documents related to harm reduction interventions among substance abusers in Canada. Hughes et al. (2017) used document analysis in their study of police drug detection policy in Australia.

**Strengths and weaknesses of document analysis.** Document analysis is a useful analytical procedure to develop a deep, rich understanding of a single concept or event (Bowen, 2009). The sheer volume of documents in modern society can provide significant resources for a researcher (McCulloch, 2004; Patton, 2002). Documents provide historical context to past events and can provide insight into changes in thought patterns over time (Bowen, 2009). Bowen further noted that documents tend to be easier to access than other data sources such as interviews, do not change over time and so are available for continuous study, provide exact dates and other references, offer wide-ranging coverage, and are generally a cost-effective method of performing research. Because the documents exist prior to the researcher conducting the study, documents can provide more wide-ranging information than may be obtained through interviews and are

not affected by the presence of the researcher (Achen, Davis, & Foureur, 2016), though this can also result in insufficient detail to answer the research question (Bowen, 2009). Difficulties can arise with lack of access to documents, lack of understanding of the rationale for why specific documents were created, and determining the accuracy of documents (Patton, 2002). These weaknesses can be overcome with proper documentation of the study, including a description of the provenance of the documents themselves (Bowen, 2009).

### **Other Research Approaches Considered**

I considered a quantitative methodology for this study, but I discarded it because quantitative methodologies tend to focus on the relationships between variables and are best suited to answering questions related to numbers (Landrum & Garza, 2015). As this study focused on the rationale for holding contractors accountable for the off-duty sexual activities of their employees, a quantitative study was considered to be inapplicable, and a qualitative methodology was chosen. Four other qualitative approaches for conducting this study were considered: narrative analysis, grounded theory, phenomenology, and ethnography. I rejected narrative analysis as inappropriate, due to its focus on understanding the stories that people and organizations tell about themselves and why those stories are told the way they are told (Reissman, 2008). Grounded theory was not suitable because this study did not seek to create an explanatory theoretical framework of the legislative process (Charmaz, 2006). I chose not to use a phenomenology approach because of its emphasis on description of an experience or phenomenon and the fact that it does not seek explanations or analysis of the event, but rather descriptions based on

intuition and reflections of the experience (Moustakas, 1994). Ethnography was rejected because this study does not involve analysis of people and cultures (Fetterman, 1998).

### **Role of the Researcher**

My role in this study was that of a subject matter expert in the field of federal contract policy implementation. I approached this research with the understanding that I was the instrument of the research (Patton, 2002), and while I was not in a position to influence the events of the past, I was in a position to impact the analysis of the past. Mitigation strategies for potential biases were addressed in Chapter 1; they relied primarily on constraining the scope of the study and seeking third party review by other subject matter experts of interview questions and study conclusions.

As the instrument of the research, I completed a literature review of the subject matter and designed the study methodology. For the research portion of the study, I identified the appropriate documentation and performed my own analysis of the official documentation. Procedures are detailed below.

### **Methodology**

This study consisted of a thorough analysis of publically available Congressional documents related to the study question. The research began with a compilation of the legislative history of Trafficking Victims Protection Reauthorization Act of 2003, specifically the section that imparts penalties to contractors in the event that their employees or subcontractor employees engage in a commercial sex act. Compilation of the legislative history required analysis of both the final legislation itself and previous versions of the bill as it went through committee and floor actions in Congress. Texts of

legislation were available to the public through the Library of Congress website at <http://thomas.loc.gov>, beginning with the 1989-1990 101st Congress (Congressional Research Services, 2013; Georgetown Law, 2014; Library of Congress, 2014). I relied upon the softcopy holdings of federal depository libraries in the United States (Congressional Research Services, 2013; Georgetown Law, 2014). A complete list of all documents analyzed for this study can be found in Appendix C. Additional details regarding the sources for the documents are discussed in the Instrumentation section below.

Additional documentary resources consisted of archived Congressional calendars, records of committee hearings, and floor discussion. I also found these through the publically accessible online repositories of the Government Printing Office, the Congressional Research Service, the Law Library of Congress, and in softcopy at federal depository libraries (Congressional Research Services, 2013; Georgetown Law, 2014).

The prohibition on contractor and subcontractor employee engagement in commercial sex acts first appeared in the Trafficking Victims Protection Reauthorization Act of 2003. I attempted to discover if the language was proposed (but not adopted) in the original Trafficking Victims Protection Act of 2000 in order to understand the legislative history of the language. I therefore used the above resources to explore the predecessor act.

Official Congressional documentation includes discussion and debate at both the committee level and the full floor level. However, official documentation does not normally include legislative history at the subcommittee level, where much legislation

originates (Congressional Research Service, 2013). The lack of official legislative history at the subcommittee level prompted the plan for interviews with key legislative aides.

### **Instrumentation**

I did not use separate instrumentation as part of this study. This study relied on document review of official government records. Official government records provide a rich source of data regarding government plans, policies, and operations, and are an important source of information for scholarly research (Braunstein & Fontenot, 2010; Potvin & Sare, 2016). The documents used were official records of hearings held in the United States Congress and the resulting FAR Case 2005-012 and were obtained through the services of the local federal depository library. The federal depository library system is administered by the U.S. Government Publications Office, and was established by Congress to provide the public with free access to official government records (U.S. Government Publishing Office, 2017). Congressional hearing transcripts from the Government Publications Office are the only official record of hearings, and contain both witnesses' prepared statements and verbatim transcripts of the question and answer portion of the hearings (U.S. Senate, 2017).

FAR Cases are contained in the Federal Register maintained by the National Archives and Records Administration and available through the U.S. Government Publications Office (National Archives, 2017). The Federal Register is the daily official newspaper of the Federal Government and contains proposed rules and public notices, as well as federal agency regulations (National Archives, 2017).



The use of U.S. Congressional hearing records, as well as notifications and public response from the Federal Register, was appropriate for this study because they represent the official, unedited testimonies, comments, and responses related to the subject matter. The United States Government Publications Office is the best source for this information because they are the only organization statutorily directed to provide this information to the public and are required to provide the information verbatim. This raw data is highly appropriate for a document analysis study because it removes interpretation bias that might otherwise appear in other sources that rely on primary evidence.

### **Data Analysis Plan**

The data from the study are stored on a laptop computer with off-site storage and backup capability available through a commercial cloud service. Copies of legislation, conference proceedings, and other official documents are stored in their native format or copied into Microsoft Word format. Each official document was assigned a unique storage identifier.

Provisional coding is a set of codes that the researcher prepares before data-gathering, based on existing literature (Miles & Huberman, 1994; Saldana, 2013). Provisional coding derived from the CSR and ACF literature was initially used to organize the data. All data obtained from the official record were coded using the provisional codes. After the first pass through the data, the codes were revised to capture more precisely the results of the data collection (Miles & Huberman, 1994; Saldana, 2013). In Vivo codes are codes that are developed based on participants' own language, and pattern coding is the amalgamation of similarly coded data (Saldana, 2013). The

document reviews resulted in additional types of coding methodologies beyond those listed here. Additional passes through the data were required as additional codes were developed based on the results of the document reviews. All revisions to the codes are documented in Chapter 4.

Data items which did not clearly belong in any established code resulted in separate codes. Five provisional codes used in this study were derived from the literature related to CSR and addressed the duty of business to society, the role of business in society, the power of business in society, legal requirements imposed on businesses, and the distinction between philanthropy and mandate in explaining corporate social actions. The CSR codes were derived from the works of Garriga and Mele (2004) and Carroll (1979, 2008). Four provisional codes were established from the ACF, and addressed the power of coalitions, learning across coalitions, system shock, and coordination among coalitions. The ACF codes were derived from the hypotheses of ACF postulated by Sabatier and Jenkins-Smith (1999) and Weible et al. (2011). Provisional codes can be found in Appendix B.

I relied on the Microsoft Office suite of products to assist in the data analysis. Specifically, I used Microsoft Excel. Microsoft Excel in particular has a number of capabilities useful for data analysis, including the ability to ingest data from multiple sources, sort data, filter data, and display data in a number of styles and formats. While other, more powerful qualitative data analysis programs exist, I was much more comfortable with the Microsoft capabilities and did not believe that the time and expense required to become proficient in a new software tool was warranted for this study. Using

tools which are comfortable for the researcher is an important step in ensuring timely completion of a high-quality research product (Yin, 2013).

### **Issues of Trustworthiness**

Credibility refers to the internal consistency of the study, and whether the research addresses the topics intended to be studied (Shenton, 2004). Credibility was established through triangulation and peer review. Triangulation is the process of comparing results across multiple types of data (Shenton, 2004; Yin, 2013). In this study, triangulation resulted from comparisons between multiple document types (Shenton, 2004). Requests for peer review were via email to subject matter experts and non-experts known to the author.

Transferability refers to the applicability of the findings of one study to other research studies (Shenton, 2004). Document analysis allows the researcher to develop a deep understanding of a limited number of cases (George and Bennet, 2005; McCulloch, 2004). This study focused on the intent behind a single piece of legislation, and over-generalization of the findings to other cases should be avoided (George & Bennet, 2005). Limited transferability in a qualitative document analysis study is achievable, however, if sufficiently thick, rich descriptive information is provided to allow other researchers to understand the context of the findings (Shenton, 2004). To facilitate transferability, this study provides clear delimitations, and provides sufficient descriptive information to ensure that future researchers can determine the applicability to their research.

Dependability concerns the ability of future researchers to replicate the study and obtain similar findings (Shenton, 2004). Dependability was achieved through careful

descriptions of the study as described in the methodology section of this chapter, and through the strict documentation of document analysis. By creating an audit trail of the document analysis, future researchers will be able to replicate the study.

Confirmability in qualitative research addresses the objectivity of the study and its findings, and is concerned that the biases of the researcher have limited impact on the study (Creswell, 2013; Patton, 2002; Shenton, 2004). The researcher is the instrument in qualitative research (Creswell, 2013; Patton, 2002), and as a result cannot be divorced from the research process (Dowling, 2006). Confirmability in qualitative research can be addressed through a combination of reflexivity, audit trails, and peer review (Dowling, 2006; Shenton, 2004). Reflexivity involves self-awareness of the researcher and honest self-evaluation of his role during all aspects of the study (Dowling, 2006). The role of the researcher, discussed earlier in this chapter, documents my reflective self-analysis regarding this study.

I conducted all coding for this study myself, which raised the potential for intra-coder reliability problems. Intra-coder reliability refers to the ability of the coder to code data similarly over time, and can be affected by issues such as mood, tiredness, and environmental changes. (Chen & Krauss, 2013). Intra-coder reliability can be addressed through a blind retest of the material (Mayring, 2014; Richards, 2005; Saldana, 2013). I coded all of the data, waited for one week, and then re-coded the data without referencing my initial coding. Common coding results would confirm intra-coder reliability. Coding outcomes, and the changes to codes that came about as a result, are discussed in Chapter

4. Using multiple types of coding is appropriate when using qualitative studies in order to gain the most insight possible from the data (Saldana, 2013).

### **Ethical Procedures**

This study was completed using publically available official government records, and did not contain interviews or other interactions with human subjects. All witnesses and committee members mentioned in this report were aware at the time of their testimony that their comments would be captured for the public record, and they had no reasonable expectation of privacy regarding their comments. As a result, no specific ethical procedures were created for this study. Institutional Review Board approval of this study was received on 1JUN16, number 06-02-16-0413022.

### **Summary**

This chapter has reviewed the methodology for the research and the potential weaknesses of the process as well as a discussion of the ways that they can be overcome. This study consisted of a review of official documentation, and data was coded using pre-established codes, though these codes were updated during the data analysis phase of the project.

This study also had a potential ethical issue in that the researcher is a federal contracting officer, and as such has been on the receiving end of legislation that affects federal contracting policy. The researcher overcame any potential biases through the structure of the study and through peer-review of the research questions and analysis.

## Chapter 4: Results

As discussed in Chapter 1, the purpose of this study was to explore the rationale behind the provision contained in the Trafficking Victims Protection Reauthorization Act of 2003 that holds corporations liable for the personal actions of their employees and subcontractor employees when those employees engage in a commercial sex act. In this study, I sought to answer the following question:

RQ: According to publically available documents, why did the U.S. Congress decide to make federal contractors liable for the off-duty actions of their employees?

In Chapter 4 I describe the results of the study, beginning with a discussion of the data collection phase of the study and the data analysis procedures used. I then provide the results obtained from data collection, beginning with a brief summary of two events that set the stage for the 2003 legislative language.

### **Data Collection**

I visited the local Federal Depository Library and searched their online database for all reports and hearings related to human trafficking and contractors. Multiple visits to the library resulted in 22 semiannual reports from the Congressional Research Service and 24 Congressional Hearings on trafficking in persons. I also reviewed Congressional comments for the record regarding the proposed legislation, newspaper accounts, and public speeches by the legislative sponsor on the topic of human trafficking. Finally, I reviewed the Federal Register for comments and administration responses to the

proposed federal contracting language designed to implement the statutory language. Newspaper accounts and public speeches did not provide sufficient detail for analysis. Some limited data for this study came from reports from the Congressional Research Service, Congressional comments for the record, and responses to comments in the Federal Register. The majority of the data obtained for this analysis came from 21 separate hearings before Congressional committees and subcommittees and consisted of public comments directly related to the subject of this study by either elected officials or hearing witnesses. Twelve of these hearings occurred in the U.S. House of Representatives, seven occurred in the U.S. Senate, and two occurred before the Commission on Security and Cooperation in Europe, which is a joint House/Senate committee. Hearings occurred between the years 2000 and 2012, with most germane comments coming from the hearings in the House in the years 2002 and 2003. A complete list of pertinent hearings and federal records is located in Appendix C.

### **Data Analysis**

Each hearing was convened to cover a specific issue, usually related to some aspect of human trafficking. Hearings followed a prescribed format, with prepared remarks from the Committee Chair and Senior Minority member, prepared statements by the witnesses, and then a series of questions and responses. The nature of the hearings ensured that each hearing covered a broad array of topics within the overall theme of the hearing. As a result, I read the transcripts of each hearing carefully in order to find information related to my specific research questions. I printed and read each document, highlighting portions that were germane to the study. I then typed each highlighted

relevant sentence into a separate cell in an Excel spreadsheet. Each quote in Excel was accompanied by cells that tracked the source of the quote, the date of the quote, and the page number to ensure that I could return to the raw data as necessary. I handled information from reports by the Congressional Research Service, Congressional comments on the legislation, as well as comments from the Federal Register in the same manner as transcripts from hearings.

I used the provisional codes that I had derived from the CSR and ACF literature in order to perform my initial coding (Miles & Huberman, 1994; Saldana, 2013). After my preliminary coding, and in accordance with the methodology described in Chapter 3, I waited one week and coded the data a second time. The purpose of the delay was to allow sufficient time for me to lose sight of the coding I had initially performed and allow me to code again without bias. The results were disappointing because of the complexity of the data input into Excel, the insufficiency of the provisional codes, and a lack of a standardized definition of each code for use by the rater during coding. Resolutions to these problems are discussed in the following paragraphs.

The complexity of the data resulted from the fact that I had included full sentences in Excel, while in numerous cases a single sentence expressed several different ideas. Initially, I attempted to use multiple codes for each sentence, but this soon became unmanageable. I ultimately broke sentences into sentence fragments, with each fragment expressing a single idea, which allowed the use of a single code for each thought.

I discovered inconsistency in my coding between the first and second weeks. Prior to the study I had developed a list of the provisional codes to include a brief



description and the relationship to the applicable theory. This listing proved to be insufficiently precise for actual coding. To address this, I developed a coding manual, which included a definition of each code and a description of when the code should be used. The coding manual can be found in Appendix D.

Finally, I realized that my provisional codes did not adequately capture the thoughts being expressed in the documentation. To address this, I developed In Vivo codes to capture these ideas. In Vivo codes are derived from the participant's own words in order to capture meaning adequately (Saldana, 2013). I also eliminated one code (CSR2, Role of Business in Society) when it became apparent that none of the data fit that code. Finally, I developed a separate, emerging code, "Background," which I used to capture comments that only expressed factual statements, such as a statement that a law had been passed on a given date. The "Background" code was also used when reviewing contractor responses to the Federal Register notice in order to capture their concerns with the future implementation of the regulatory language, since the contractor comments at that point had no bearing on the previously passed statutory language. Background information was removed from the final analysis of results. The net result of the coding changes was an increase in the number of codes, from nine to thirteen.

I eliminated code CSR2, dealing with the role of business in society. While this code was based on CSR theory, I was unable to find any data in the study that addressed the role of business. This code was merged with CSR1, which addressed the duty of business to society.

Four other codes emerged in addition to the Background code addressed above. The first, POL1, dealt with international politics and the international reputation of the United States in the fight against human trafficking. The second, POL2, dealt with the internal U.S. political atmosphere that allowed a political solution to occur. The third, MON1, dealt with the belief of speakers in the power of money to effect change in human trafficking. The final code, MOR1, dealt with moral certainty. This code was used when the speaker expressed moral outrage, indignation, or thoughts with absolute certainty and conviction.

After making these three changes, I coded again in week three. After waiting a week, I recoded again in week four.

### **Evidence of Trustworthiness**

#### **Credibility**

Credibility deals with the internal consistency of the study and seeks to ensure that the researcher does not veer into unintended areas (Shenton, 2004). In Chapter 3, I described the planned establishment of credibility through triangulation and peer review. Triangulation was achieved between documents as many of the speakers, both committee members and witnesses, were present in multiple hearings. Peer review was obtained from a subject matter expert and a nonexpert, further adding to study credibility. The subject matter expert is a federal contracting officer with 25 years of experience, including extensive experience in developing federal contracts policy. The non-expert was a recent college graduate with a liberal arts degree and a specialization in English, who was chosen to ensure that the paper was able to be understood by a non-specialist.

**Transferability**

Transferability deals with the ability to transfer the findings of one study to another research study (Shenton, 2004). As noted in Chapter 3, this inquiry delves into the legislative intent behind one aspect of the Trafficking Victims Protection Reauthorization Act of 2003, specifically the rationale for making federal contractors liable for the off-duty activities of their employees and their subcontractor employees. As mentioned in Chapter 1, there are limited opportunities to transfer the findings of this research to other studies, owing to the fact that this study focused on a single case, with the results not readily transferable to other cases (George & Bennet, 2005). Future researchers who study the rationale for other federal legislation related to federal contracts may find some of the findings presented herein applicable to their research.

**Dependability**

Dependability is demonstrated if future researchers can replicate the study and obtain similar results (Shenton, 2004). I have ensured the dependability of this research by providing a listing of all official documents used, detailing the methodology, and carefully describing the actual data analysis performed. Future researchers will be able to replicate this study as necessary.

**Confirmability**

Confirmability deals with limiting researcher biases in order to maintain the objectivity of the analysis (Creswell, 2013; Patton, 2002; Shenton, 2004). As discussed in Chapter 3, I have addressed confirmability through a combination of reflexivity, audit trails, and peer review (Dowling, 2006; Shenton, 2004). Peer reviews were conducted

with a subject matter experts and a nonexpert. A complete audit trail is provided for future researchers that consists of the study methodology contained in Chapter 3, the list of hearings and federal records contained in Appendix C, the coding manual contained in Appendix D, and the study results contained below. Reflexivity deals with the researcher's self-awareness (Dowling, 2006); it was addressed in Chapter 3.

To address the issue of intracoder reliability, I subjected the data to a blind retest of material (Mayring, 2014; Richards, 2005; Saldana, 2013). To accomplish this, I hid the results column of the Week 1 attempt in Microsoft Excel, and created a new column for the results for the Week 2 attempt. Using the same coding methodology as in Week 1, I then proceeded to code the data a second time without referencing the codes assigned during Week 1. I waited one week between the coding sessions to ensure that my Week 2 attempts were not prejudiced by my Week 1 attempts. The initial intracoder reliability achieved 68% commonality in results. After making changes to the data structure, revising the codes, and developing a coding manual, I subjected the data to a second round of blind retesting. Using the same procedures as in the initial round of testing, I created a Week 3 column of results and coded using the changed data structure, revised codes, and coding manual. I then hid the Week 3 column of results, waited one week, and repeated the process in a new Week 4 column of results. I achieved a 90% commonality in results following Week 4 coding.

### **Study Results**

During the course of my research, I discovered two historical events that served as catalysts for the language in the Trafficking Victims Protection Reauthorization Act of

2003. The first event occurred in March 2002. At that time, Fox News broadcasted the results of an undercover investigation of brothels outside Camp Casey in South Korea (Schmitz, 2002). Camp Casey is a U.S. Army base, and U.S. military personnel frequented the brothels outside the base. The report documented that many of the women working in the brothels were trafficking victims, and showed footage of U.S. military personnel, in uniform, patrolling the brothels in “courtesy patrols” (Schmitz, 2002). While courtesy patrols are designed to ensure that American soldiers are complying with Army regulations, the presence of the patrols gave the appearance that the United States government was actively supporting the brothel owners, and by implication, supporting the trafficking of women for sexual servitude (Schmitz, 2002). A letter to Secretary of Defense Donald Rumsfeld, signed by thirteen senators and Congressmen, expressed their grave concern with the situation and called for an immediate investigation by the Department (Schmitz, 2002).

The second event came to light in Bosnia in 2002. The U.S. military and forces from other NATO countries had been in the area since 1996 to monitor the Dayton Peace Accords under the auspices of the U.N. These forces included a significant number of U.S. contractors, owing to decisions in the 1990s to reduce the number of military members used to perform support services and replace them with civilian contractors (Labor abuses, 2012). While there were multiple companies performing during this period under contract to the United States and the United Nations, one company in particular became the center of controversy: DynCorp International, a U.S. company under contract to the United Nations (The U.N. and the Sex Slave Trade, 2002). During a

hearing before the U.S. House Subcommittee on International Relations and Human Rights, Mr. Ben Johnston, former employee of DynCorp in Bosnia, and Mr. David Lamb, former U.N. Human Rights Investigator in Bosnia, testified that at least eight DynCorp employees had participated in human trafficking (The U.N. and the Sex Slave Trade, 2002). In addition to frequenting local brothels in their company vehicles, several bought women to service them in their homes in Bosnia. Moreover, in-country company management appeared to be complicit in the activities, harassing Mr. Johnston when he attempted to draw attention to the situation, and stonewalling attempted investigations by Mr. Lamb (The U.N. and the Sex Slave Trade, 2002).

The situation in Bosnia was complicated by the legal status of the contractor employees. As employees of a private-sector company contracted to the U.N. in a foreign country, they did not fall under the jurisdiction of the U.S. government (The U.N. and the Sex Slave Trade, 2002). As Americans, and in accordance with the Dayton Agreement, they were not subject to either U.N. regulations or Bosnian law (The U.N. and the Sex Slave Trade, 2002). As the employees were not subject to any judicial remedy, DynCorp eventually repatriated the employees to the United States (Global Trends, 2003).

Various witnesses and panel members in Congressional hearings between 2002 and 2012 referenced these two events repeatedly. For example, Ms. Ann Jordan, Director of the Initiative Against Trafficking in Persons, International Human Rights Law Group, discussed the Bosnian situation during a 2002 Senate hearing reviewing the U.S. response to combating trafficking in persons (Monitoring, 2002). Mr. Mohamad Mattar, Co-

Director at Johns Hopkins University School of Advanced International Studies, referenced the situations in both South Korea and Bosnia at a 2003 House hearing providing an overview of international human trafficking (Ongoing Tragedy, 2003). Ms. Martina Vendeberg, attorney at Jenner & Block LLP, and Ms. Nancy Murphy, Executive Director of the Northwest Family Life Learning and Counseling Center, both referenced these events at a Senate Hearing discussing legal options to stop human trafficking (Legal Options, 2007). Representative Chris Smith (R, PA), the sponsor of the Trafficking Victims Protection Reauthorization Act of 2003, specifically cited the Bosnia case as one of the reasons for his including the language regarding contractors in the bill that eventually became the Reauthorization Act (H.R. 2620, 2003).

The situations in South Korea and Bosnia served as important background leading up to the Act, the first by demonstrating an American relationship to human sex trafficking, and the second by establishing involvement by American contractors in particular to human sex trafficking overseas. A careful review of the official documentation on the issue, from before, during, and after the passage of the legislation, provides the overall reasoning of Congress. Figure 1 below shows the number of times each code was utilized during the data analysis, and the results are discussed in greater detail later in this chapter. Initial codes are shown without bolding, and InVivo codes are shown in bold.

Code	Frequency
ACF1: Power of coalitions	6
ACF2: Learning across coalitions	3

ACF3: System shock	41
ACF4: Coordinating among coalitions	0
CSR1: Duty to society	1
CSR2: Role in society	0
CSR3: Power of business in society	8
CSR4: Legal requirements	28
CSR5: Philanthropy versus mandate	3
<b>POL1: Politics and international reputation</b>	19
<b>POL2: Political space</b>	2
<b>MON1: Economics/cash</b>	26
<b>MOR1: Moral conviction</b>	79
<b>BACK: Background</b>	30

Figure 1. Coding results by appearance in the coding manual.

RQ: According to publically available documents, why did the U.S. Congress decide to make federal contractors liable for the off-duty actions of their employees?

The ACF (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007) postulates that a system shock can serve as a catalyst for policy change, and the current findings certainly lend credence to that claim. System shock (coded as ACF3 below) accounts for 19% ( $f=41$ ) of the comments by witnesses and committee members in the hearings I reviewed. Figure 2 below places the coding results in greater context, sorting the results by frequency of occurrence. InVivo codes are highlighted. In this figure it is easier to see that system shock was the second-most often cited reason related to the language contained in the Trafficking Victims Protection Reauthorization Act of 2003. .

Code	Frequency
<b>MOR1: Moral conviction</b>	79
ACF3: System shock	41
<b>BACK: Background</b>	30



CSR4: Legal requirements	28
<b>MON1: Economics/cash</b>	26
<b>POL1: Politics and international reputation</b>	19
CSR3: Power of business in society	8
ACF1: Power of coalitions	6
ACF2: Learning across coalitions	3
CSR5: Philanthropy versus mandate	3
<b>POL2: Political space</b>	2
CSR1: Duty to society	1
ACF4: Coordination among coalitions	0
CSR2: Role in society	0

Figure 2. Coding results by frequency of occurrence.

Figure 3 below provides a graphic depiction of the results contained in Figure 2.

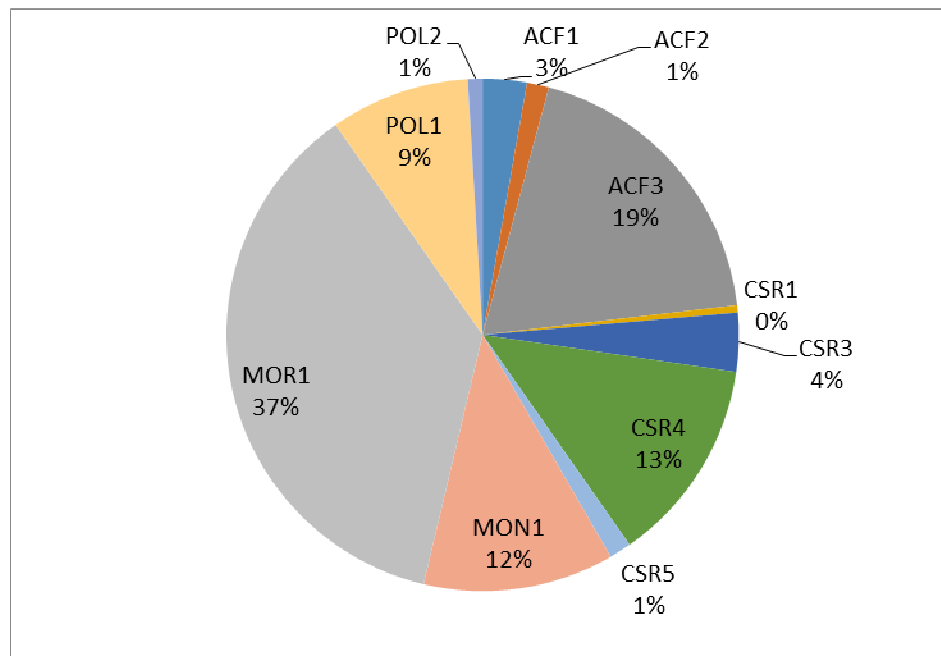
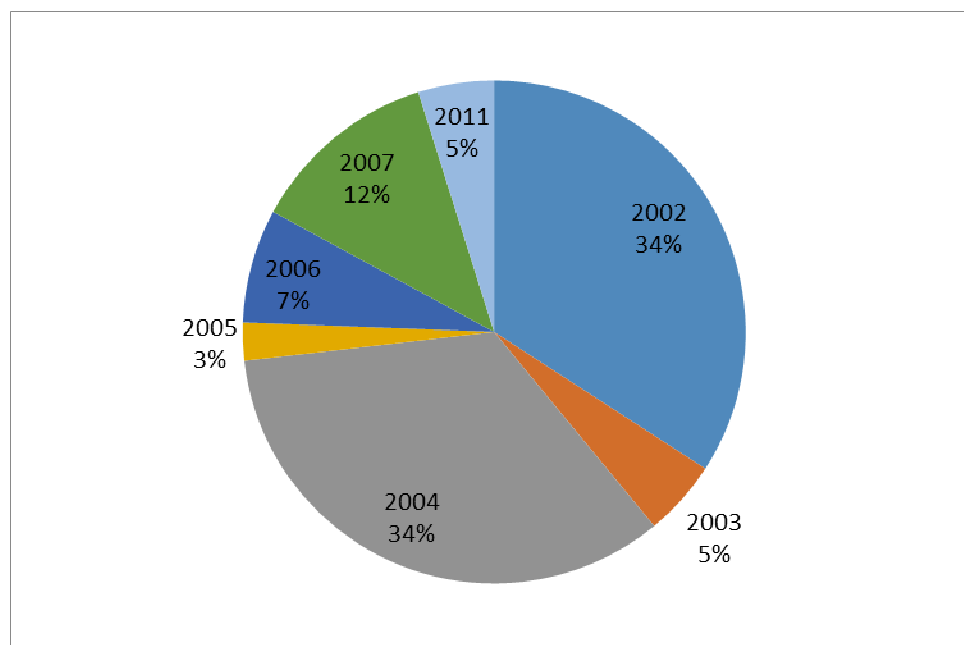


Figure 3. Graphical depiction of explanatory results.

As used in this report, the system shock code (ACF3 System shock)( $f=41$ ) was used to denote comments that reflected the shock of finding Americans involved in human sex trafficking. System shock was reflected in the documentation every year during the period 2002-2007, with no additional references to support system shock until 2011 ( $f=2$ ). The greatest frequency of system shock occurred in 2002 ( $f=14$ ) and 2004 ( $f=14$ ). The documentation in those years reveals significant concern with the activities discussed above related to both Camp Casey and Bosnia, and is perhaps unsurprising given the occurrence of those events in 2002. Witnesses and committee members discussed the incidents that disturbed them, including the mechanics of trading in young girls, the brutality of the treatment they received, and the horror of discovering that Americans, especially under government auspices, were in any way associated with human sex trafficking. That the most frequent occurrences of the system shock variable bracketed the timeframe of the passage of TVPRA 2003 is unsurprising, as is the rapid decline in the occurrences over the following years as the events of 2002 were lost to more pressing issues. Of interest, however, the number of system shock-related statements in 2003 itself was relatively minor ( $f=2$ ). Figure 4 below provides a graphic description of the frequency of system shock-related statements in the documentation over time.



*Figure 4.* ACF3 system shock occurrences in the data.

While comments indicative of system shock were present in the hearings, other tenets of the ACF were less in evidence. Code ACF 1 (Power of Coalitions;  $f=6$ ) was devised based on the ACF's postulation that legislative change can occur when a group or series of groups possess sufficient political advantage to force change (Albright 2011; Fischer, 2014; Valkering, van der Brugge, Offermans, Hassnoot, and Vreugdenhil, 2012).

Code ACF2 (Learning Across Coalitions;  $f=1$ ) was established based on the learning hypothesis which states that learning can occur across coalitions when the issues are based on informed disagreement on secondary beliefs, as opposed to core beliefs, and are subject to quantitative data from controlled experiments rather than qualitative discussions of social or political beliefs (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007).

Code ACF4 (Coordination Among Coalitions;  $f=0$ ) was established based on the ACF's postulation that political change can occur when multiple groups synchronize their activity to achieve a common goal (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007).

Only 3% of the comments dealt with the Power of Coalitions (ACF1;  $f=6$ ) and only 1% dealt with the code for Learning Across Coalitions (ACF2;  $f=3$ ). I could not find any reference to Coordination among Coalitions (ACF4;  $f=0$ ) in the data. The relative paucity of data in these three categories could be the result of the nature of the hearings. For instance, a coalition representative may not have been invited to testify if the coalition itself had not already demonstrated the power of the coalition. This is speculative, however, and cannot be confirmed or refuted based on the data available.

Similarly, CSR theory (Dodd, 1932; Bowen, 1954/2013; Davis, 1967, 1973) did not seem to play an extensive role in the rationale for the language in the Trafficking Victims Protection Reauthorization Act of 2003. Of the four variables representing CSR Theory in the study, only Legal Requirements (CSR4;  $f=28$ ) appeared frequently in the data. Thirteen percent of comments reflected the need for a legal mandate for contractors to perform in society's best interests. The emphasis on a statutory solution is perhaps unsurprising in comments from the legislative branch.

Other principles of CSR theory were less in evidence. CSR1 (Duty to Society;  $f=1$ ) was drawn from the concept that a corporation has a moral requirement to behave in a socially acceptable manner, rather than focus solely on profit-maximization (Dodd, 1932). CSR2 (Role in Society;  $f=0$ ) was similarly drawn from the literature on CSR, and

attempts to capture the idea that corporations play a part in the society in which they are located, not only as an employer, but as an entity in their own right that interacts with other aspects of society (Davis, 1967). Code CSR3 (Power of Business in Society;  $f=8$ ) takes the concept of the role of business, and further enhances it by describing the influence that corporations can have on their societies, through political, economic, and environmental activities (Davis, 1967). Finally, CSR5 (Philanthropy;  $f=3$ ) is based on the CSR tenet that corporations have the discretion to act in a way that seeks to improve their society through charitable works and donations without thought for an economic return on their investment (Carroll 1979, 2008).

Only one comment (<1%) reflected the Duty of Business to Society (CSR1) ( $f=1$ ), 3% supported the Power of Business in Society (CSR3) ( $f=8$ ), and 1% discussed the concept of Philanthropy (CSR5;  $f=3$ ). The relative lack of comments focusing on the responsibilities of business may have been impacted by the fact that no companies or company officials were present at any of the hearings. I cannot determine from the data whether they were invited or not.

Altogether, the two theories with which I began this study generated only 41% of all comments. While not an insignificant total, clearly the codes from the ACF and CSR theory did not fully explain the reason for the language in the Trafficking Victims Protection Reauthorization Act of 2003. The four new codes I created accounted for 59% of the responses.

Political considerations accounted for 10% of the responses. Interestingly, 9% of all comments dealt with international reputation and the international consequences to the

United States of American involvement in human sex trafficking. POL1 (Political and Institutional Reputation;  $f=19$ ), was created to reflect comments that concerned the damage that American involvement in human sex trafficking does to the credibility of the United States in its efforts to push other countries to adopt anti-trafficking legislation. POL1 also captures the general loss of American geo-political influence due to the embarrassment of a leading power in the fight against human trafficking being unable to police its own workforce. POL2 (Political Space for Reform;  $f=2$ ) was created to capture comments that discussed the pragmatic ability to enact legislation, such as political strength of House members or a general consensus among legislators that action is needed on a topic.

Fewer comments were directed toward the domestic politics of human sex trafficking.

The subject of the power of money appeared in a number of comments. Comments regarding money came almost exclusively from Congressional committee members, rather than witnesses. I developed the code MON1 ( $f=26$ ) to capture comments that dealt with Representatives' belief that money could be a major motivator in combatting human sex trafficking, especially among contractors. This belief was expressed in 12% of all comments.

The plurality of comments, 37%, fell into a new category I chose to call Moral Conviction ( $f=79$ ). I used this code when a speaker was expressing complete moral certainty about an aspect of human sex trafficking that, based on background research, was considered to be an open question. For instance, as noted in Chapter 2, there is

considerable debate about legalizing prostitution, and whether prostitution is inextricably linked to human sex trafficking. A statement that maintained that prostitution inevitably lead to human sex trafficking would be considered moral conviction for the purposes of this study. I also included in this category any expressions of moral outrage.

The fundamental research question was to discover why Congress passed language in the Trafficking Victims Protection Reauthorization Act of 2003 that penalized contractors if their employees or subcontractor employees engaged in a commercial sex act. In an effort to place this legal requirement in the context of the overall federal contracting system, this study also sought to understand Congress' view of the ability of federal contractors to control the off-duty activities of their employees. Unfortunately, the data does not directly address the capability of federal contractors to control the off-duty activities of their employees. Eight statements touched on this issue tangentially. Two statements simply expressed the belief that companies could repatriate their employees if they were implicated in human sex trafficking. One statement complained that DynCorp had no existing procedures for ensuring their employees did not engage in commercial sex acts. Two statements pondered what steps companies were taking to prevent future incidents such as those in Bosnia, with no specific response or follow-up. Two statements noted that some contractors were making some efforts in monitoring their employees overseas, without providing any additional information. Finally, one statement expressed the belief that private sector companies should be able to prevent their overseas employees from engaging in commercial sex acts.

The absence of Congressional hearing data directly addressing the feasibility of the language prevented me from drawing any definitive conclusions. As noted earlier, the lack of data may have been because no private companies were present at any of the hearings. The first private-sector comments appear to have come in response to the Interim Rule published in the Federal Register on April 19, 2006. The Interim Rule created a federal contract clause implementing the language in the Trafficking Victims Protection Reauthorization Act of 2003, made it immediately applicable to all federal contracts, and requested public comments. Six public responses were received, addressing a wide range of issues, including the feasibility of companies monitoring the off-duty activities of their employees (FAR Case 2005-012, 2007).

### **Summary**

Chapter 4 discussed the results of the study, including challenges in data gathering, and changes in coding that resulted from reviewing the data. The data show that there were a number of factors underlying the decision by Congress to hold federal contractors accountable for the off-duty actions of their employees and subcontractor employees. Several of these factors, including moral conviction, international political considerations, and belief in the power of money, were not major themes drawn from either CSR theory or the ACF. Chapter 5 will discuss conclusions and recommendations drawn from the research.



## Chapter 5: Discussion, Conclusions, and Recommendations

As discussed in previous chapters, I undertook this research in order to explore the rationale behind the language contained in the Trafficking Victims Protection Reauthorization Act of 2003, which holds corporations liable for the personal actions of their employees and subcontractor employees when those employees engage in a commercial sex act. This was a qualitative document analysis grounded in CSR theory as promulgated by Dodd (1932), Bowen (1954/2013), and Davis (1967, 1973) within the context of the ACF developed by Sabatier and Jenkins-Smith (1999) and Sabatier and Weible (2007). The initial codes developed for the research drew from key concepts contained in both the theory and framework.

Based on my analysis, CSR theory and the ACF explained some, but not most, of the rationale behind the language in the Trafficking Victims Reauthorization Act of 2003. Combined, the codes drawn from CSR theory and the ACF accounted for only 41% of all data elements. Three separate factors accounted for the remaining 59% of all data elements: international political factors, belief in the power of money as a motivating force, and moral certainty. Moral certainty was the most pronounced single explanatory factor, accounting for 37% of all statements obtained from official documents.

In Chapter 5 I provide an interpretation of the findings of the research and discuss the limitations of the study. I then provide some recommendations for future research before adding some final thoughts and conclusions.

### **Interpretation of Findings**

In essence, CSR theory puts forward the assertion that companies have a responsibility to act not only in their own best interests, but to also act in a way that promotes the best interests of the society in which they operate (Bowen, 1954/2013; Davis, 1967, 1973; and Dodd, 1932). Legislation that included corporations in United States efforts to combat human trafficking would seem to align closely with CSR theory. However, the research findings indicated that only one aspect of CSR theory, legal requirements, had any significant mention in the public record on human sex trafficking. There does not seem to be a strong connection between CSR theory and the language of the Trafficking Victims Protection Reauthorization Act of 2003 regarding contractor employees.

There may be several reasons why CSR theory did not fit the data from this study very well. First, as noted in Chapter 4, there were no corporations included in the testimony presented before Congress. While it is impossible to tell whether corporations were invited to the hearings and simply declined to attend, the lack of corporate response to the issue may have skewed the testimony. Inclusion of corporate witnesses could have resulted in more testimony related to CSR1 (Duty to society), CSR3 (Power of business in society), and CSR5 (Philanthropy versus mandate).

A second potential reason relates to the nature of CSR theory as presented by Bowen (1954/2013), Davis (1967, 1973), and Dodd (1932). The literature surrounding the theory tended to focus on corporations, and did not tend to devote itself to the inner workings of the legislature. While other studies have used CSR theory in relation to

legislative bodies (Kinderman, 2013; Sheehy, 2012), other theories might have been better suited to the policy-making decision process of Congress. To put it more bluntly, individual Representatives may have had many reasons for making the policy decision and CSR may simply not have factored into their calculations. Both of these explanations, however, are speculative and can neither be confirmed nor refuted by the research data.

The ACF puts forward a structure delineating the power of policy coalitions, the interactions among allied coalitions, learning across coalitions, and the utility of system shocks to force legislative change (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). Of these framework principles, only system shock was apparent in the data, as Congressional Representatives struggled with the implications of both American servicemen frequenting South Korean brothels housing trafficked women and American contractor employees in Bosnia actively engaging in human sex trafficking. There does not appear to be a strong connection between the ACF and the Trafficking Victims Protection Reauthorization Act of 2003 language regarding contractor employees.

There may be multiple reasons for the framework not fitting the results of the study. First, the ACF is based on a premise that there are competing factions in public policy debates (Sabatier & Jenkins-Smith, 1999; Sabatier & Weible, 2007). As noted in Chapter 4, the committee hearings did not include representatives from industry or the contracting community. The absence of corporations (competing factions) could have hidden potentially competing viewpoints which, had they been visible, could have led to

more data points in the areas of ACF1 (Power of coalitions), ACF2 (Learning across coalitions), and ACF4 (Coordination among coalitions).

A second possibility rests on the background of the ACF itself. The framework was originally designed to describe how public administrators and politicians choose among various solutions to technical problems related to energy and the environment (Nohtstedt, 2011). While the framework has been used in other studies, it may have been inappropriate in the case of a policy decision that rested more on an emotional response to scandal rather than technocratic differences in policy options. This explanation is offset somewhat in that at least two other studies used the ACF to explore emotionally charged policy areas. Van Acker (2017) studied the role of government in marriage, while Zampini (2017) studied the belief structure of policy advocates in the arena of the commercial sex industry. Additional research into the proper use of the ACF could be useful.

A final, troubling, potential reason that this study did not seem to fit the ACF could be that the public hearings themselves may not have been honest attempts to better understand an issue and develop policy alternatives, but may have instead have been stage-managed productions designed to justify a policy decision that had already been made (or to provide other political benefits). Congressional hearings are designed to provide the legislative branch with an informed understanding of complex issues as part of its oversight and legislative functions, but hearings have the potential to become little more than theater designed to give the appearance of informed Congressional oversight while actually seeking to present the testimony in a manner that advances the interests of

the majority party (Binder, 2015; Boykin, 2014; Kelly, 2015; Ornstein, 2013). This last possibility is especially troubling because it would call into question the validity of not only the 22 hearings described in this study, but other hearings as well. Each of these potential reasons is speculative, however, and would be good topics for future research.

The research data shows that other considerations drove the language contained in the Act. Three categories accounted for 59% of all comments. The first category, expressed as POL1 and POL2 in this study, concerned political considerations in dealing with human sex trafficking, and dealt primarily with the implications to U.S. international leadership and prestige of American involvement in preventing human trafficking. A second explanatory category, expressed as code MON1 in this study, dealt with the belief that money can drive behavior. A third category, expressed as MOR1 in this study, dealt with moral certainty as to the nature and causes of human trafficking, and the need to “do something” to eliminate American involvement in human sex trafficking.

### **Unacknowledged Assumption**

Based on my research, it appears that I had an unacknowledged assumption for my study. The literature, and my own expectations, led me to believe that the decision to include the language in the Trafficking Victims Protection Reauthorization Act of 2003 related to contractors’ involvement in commercial sex would be subject to some level of debate regarding appropriateness and the feasibility of holding companies liable for the off-duty, potentially legal activities of their employees. CSR theory (Dodd, 1932; Bowen, 1954/2013; Davis, 1967, 1973) suggested that there would be discussion of the proper role of companies in combating human trafficking, and ACF suggested that there

would be evidence of coalitions opposing the language as well as coalitions supporting the language. Instead, the discussion on the language was entirely one-sided, and I could find no indication that companies or trade associations became aware of the language until FAR Case 2005-012 was released in the Federal Register.

Chapter 2 discussed the gap in the literature related to the Congressional rationale for the language in 22 U.S.C. §7104 Prevention of Trafficking regarding federal contractor liability. This study has expanded the knowledge in the discipline by addressing that gap and showing that the reason for the language was the result of a combination of system shock, legal requirements, belief in money as a motivating force, international political factors, and moral certainty. I also suggested in Chapter 2 that the results of this study might serve as a bridge between human trafficking literature and federal contract policy literature. The completed study serves as the link between the two literature groupings, though additional work is needed and will be discussed later in this chapter.

### **Limitations of the Study**

This was a qualitative research study that focused on the legislative intent behind a single federal statutory provision. The findings of a document analysis are inherently limited and usually are not directly transferable to another study (George & Bennet, 2005). An additional limitation of the study was the lack of interview data, which limited opportunities for triangulation of data from multiple sources (Yin, 2013). While triangulation of the data was still possible owing to the wide variety of official documents available and used in the research, the lack of first-hand interviews did limit the

opportunity to develop a deeper understanding of the rationale for the statutory language or the attitudes of Congressional staff regarding the role of federal contract policy. Additionally, the one-sided nature of the documentation, discussed above, limited this study as a result of the lack of countervailing arguments.

### **Recommendations**

One of the major realizations of this study was the fact that neither the ACF nor the CSR theory was able to explain the language in the Trafficking Victims Reauthorization Act of 2003 which held contractors liable for the off-duty, potentially legal engagement in a commercial sex act. As discussed earlier, the ACF was originally designed to address policy issues in the environmental and energy fields, though it has been used in other studies (Nohtstedt, 2011). I recommend additional research into the proper use of the ACF to demonstrate the suitability of the framework to studies outside the environmental and energy arenas.

A second realization of this study was that the Congressional hearings related to the topic did not include representatives from the private sector. The lack of countervailing viewpoints in the testimony, especially from the very companies that would ultimately become subject to the legislation, lends some credence to the arguments put forth by Binder (2015), Boykin (2014), Kelly (2015), and Ornstein (2013) that Congressional hearings may be political theater. I recommend additional research to fully explore the current practice of Congressional hearings.

This study purposefully did not look at the implementation of the language related to contractor liability, because of the potential conflict of interest that would exist. As

described in Chapter 1, I am a federal contracting officer by profession, and am required to implement legislation regarding federal contract policy. Therefore, I focused my research on the rationale for the language, rather than its effectiveness. I recommend further research to explore the effectiveness of the language in stopping American citizen involvement in human sex trafficking.

As mentioned in Chapter 2, the literature surrounding federal contract policy tends to focus on the implementation of federal statutes, rather than seeking to understand the rationale for the statutory language. While taking any specific language as given is useful for seeking best practices for implementation, a thorough exploration of Congressional intent would lead to a richer understanding of federal procurement policy. I recommend further research to explore the Congressional rationale for other federal procurement policies designed to address societal issues. The list of statutes in Chapter 2 provides a good starting point for additional research.

Researchers who choose to explore the Congressional rationale for specific legislation can use the study methodology I described in Chapter 3, as well as the revisions I discussed in Chapter 4. One item of advice for future researchers: do not assume, or rely upon, the willingness of current or former Congressional staff to speak with you. This is even more the case for the Members of Congress themselves. Charitably speaking, they are extremely busy people who operate in a political “here and now”, and are not inclined to discuss past events unless there is a clear connection to current or future legislative action. That said, if you are a resident of a Member’s district,



his or her office often provide literature or introductions to staff members from other districts.

### **Implications**

I initiated this study, in part, to gain a better understanding of the Congressional attitude toward federal procurement policy, and its perceived ability to serve as a social change agent. Chapters 1 and 2 listed a number of statutes, starting with the Buy Indian Act of 1910, which sought to use the purchasing power of the Federal government to improve society by focusing on corporate activities. (Gitterman, 2012, 2013; Kidalov & Snider 2011; Lessack 2013; Smith & Fernandez, 2010). The language in the Trafficking Victims Protection Reauthorization Act of 2003 was a departure from that tradition, in that it sought to use the purchasing power of the Federal government to require companies to change individual behavior. Both the study and the interview questions were designed to determine if this shift in approach was by happenstance or conscious design.

The public record seems to indicate that this was not a conscious change in focus, but a hasty reaction to a pair of scandals. As such, this particular study does not support the idea that Congress has abandoned its emphasis on corporate activities in favor of greater focus on controlling individual activities. This should be of great comfort to those concerned about personal privacy issues. Additional research will be required in order to determine if this conclusion is applicable to other legislative initiatives.

The findings from this study have a positive social impact by providing greater insight into the legislative thought process regarding the language contained in the

Trafficking Victims Protection Reauthorization Act of 2003 Those seeking to use federal procurement to implement social change should recognize that the study findings of system shock, legal requirements, belief in money as a motivating force, international political factors, and moral certainty have shown significant success as precursors to legislative action. Lastly, since understanding often precedes improved performance, the findings provide current and future federal contracts practitioners with context to help them better understand the rationale for a specific contract requirement, which could lead to improved work performance.

The findings do raise additional questions, which are of importance. The language in the Trafficking Victims Protection Reauthorization Act of 2003 dealing with federal contracts was passed in reaction to a specific situation. Further research could determine whether other legislation affecting federal procurement is similarly the result of unique events, and whether the requirements imposed on corporations make sense in retrospect. Both the current administration and the current Congress have emphasized the importance of reducing federal regulations. The President signed Executive Order 13771 entitled “Reducing Regulation and Controlling Regulatory Costs” on January 30, 2017, and Executive Order 13777 entitled “Enforcing the Regulatory Reform Agenda on February 24<sup>th</sup>, 2017. Meanwhile, Congress is currently debating H.R. 26 Regulations from the Executive in Need of Scrutiny Act of 2017. A thorough review of the existing federal procurement statutes would be in keeping with the current political environment.

The findings also raise the question of whether there is a coherent vision for the role of federal procurement policy. The ad-hoc nature of the language included in the

Trafficking Victims Protection Reauthorization Act of 2003 argues against the existence of a unified conceptual strategy. Reformers continue to call for more efficiency in federal contracting in the trade literature (Goodrich, 2015; Williamson, 2016; Sharma & Morrissey, 2016; Gould, 2017). Continued attempts by Congress to streamline the federal contracting process through such legislation as the Federal Acquisition Streamlining Act (1994), the Federal Acquisition Reform Act (1996), the Services Acquisition Reform Act (2003), and the Federal Information Technology Acquisition Reform Act (2015) also tend to indicate that a coherent vision for the role of federal procurement policy does not currently exist. A clear framework for the role of federal procurement could be the key help streamline the \$450 Billion per year federal procurement process (Federal Procurement Data System, 2015).

Finally, the findings of this study serve as a beginning of a conversation on the need for a new theory of contracting. Chapter 2 introduced the reader to both the liberal contract theory and the property theory of contract. The liberal theory of contract argues that individuals have a right to enter into agreements and have those agreements respected (Gutmann, 2013). The property theory of contract maintains that individuals own property and have exclusive rights to that property and its future uses which can be exchanged for consideration (Gold, 2009). However, both theories are grounded in contracts between individuals, though they can also be used to describe contracts between companies, and between companies and individuals. Neither theory adequately describes the profound way that contracting with the sovereign can alter an otherwise commercial

transaction. I believe the time is ripe for a dialogue leading to a theory of government contracting, and I hope that this study is the first of many such discussions.

### **Conclusions**

I initially proposed this study to answer a specific question: why had Congress chosen to hold companies liable for a specific action of their employees, when that action was likely performed off-duty, and was legal in many parts of the United States? Moreover, why would Congress use federal contract policy as the prime lever to implement that policy? As a contracting officer in the Federal government, those questions had bothered me since FAR Case 2005-012 was first published in the Federal Register. I now understand that the language may have been a tactical solution to an immediate scandal, not a piece of a larger strategic vision on the role of federal contractors in implementing federal policy. In that regard, my study is complete.

However, I have come to understand that a dissertation is not the end of a research project, but rather the beginning. I have identified above a number of future research projects that can result from this study, as well as the potential for significant policy discussions regarding federal procurement. A new theory of government contracting, should it come to pass, would be a momentous event. I am very much looking forward to playing a part in the future of the discipline.

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## Appendix A: Literature Review Search Log

Database	Search Terms	Search refinements	How Many hits	Notes
Google Scholar	federal contracting AND small business AND set aside		17100 hits	Too many to review
Thoreau	"social justice" AND contracts AND Rawls		29	Found reference to Rawls and social justice in another article; 4 usable articles
Thoreau	contract policy		15649	Too many to review
Thoreau	"Contract Policy" AND United States	2012-2015	3	None useful
Thoreau	"Contract Policy"	2012-2015	18	None useful
Thoreau	"Procurement Policy" AND Federal	2012-2015; peer reviewed	18	Found Gitterman article;
Thoreau	policy development AND contract AND United States	2012-2015; peer reviewed	12	None useful
Thoreau	contract policy development	2012-2015; peer reviewed	1	None useful
Thoreau	procurement policy development	2012-2015; peer reviewed	10	None useful

Thoreau	social policy development AND contract	2012-2015; peer reviewed	6	Found a fascinating article by Burnasheva and Baygulov. Unfortunately it was in cyrillic, and I couldn't copy it into the online translator.
Thoreau	social policy AND contract AND federal	2012-2015; peer reviewed	11	None useful
Thoreau	social policy AND procurement AND federal	2012-2015; peer reviewed	3	None useful
Thoreau	social policy AND procurement AND United States	2012-2015; peer reviewed	1	None useful
Thoreau	procurement policy AND development AND United States	2012-2015; peer reviewed	5	None useful
Thoreau	Procurement policy AND United States	2012-2015; peer reviewed	49	Found Snider 2013b article; found Simcoe article;
Thoreau	Prohibition on Trafficking AND procurement		1	none useful
Thoreau	Prohibition on Trafficking AND policy	peer reviewed	8	Papanicolaou 2008 article
Thoreau	Prohibition on Trafficking AND contract		NONE	N/A
Thoreau	Human Trafficking AND policy	peer reviewed	1923	Grimmer, 2013;
Thoreau	Human Trafficking AND federal AND procurement	peer reviewed	1	Grimmer, 2013

Thoreau	Human Trafficking AND statistics	peer reviewed	187	Johnson, 2013
Thoreau	"Corporate Social Responsibility"	peer reviewed; 2012-2015	9223	de Colle, 2014;
Thoreau	corporate responsibility AND employee actions	peer reviewed; 2012-2015	16	None useful
Thoreau	implicit and explicit CSR	all	18	Matten, 2008; Blindheim, 2015.
Thoreau	CSR theory	peer reviewed; 2012-2015	240	Wenzhong, 2013;
Thoreau	Advocacy Coalition Framework AND United States	peer reviewed; 2012-2015	18	Diaz, 2013;
Political Science Complete	"Corporate Social Responsibility" AND United States	peer reviewed; 2012-2015	14	None useful
Political Science Complete	"Advocacy Coalition Framework" AND United States	peer reviewed; 2012-2015	2	Duplicated Thoreau
Political Science Complete	CSR theory	peer reviewed; 2012-2015	3	None useful
Political Science Complete	"Corporate Social Responsibility" AND Theory	peer reviewed; 2012-2015	13	Bernhage, 2013
Political Science Complete	"Corporate Social Responsibility" AND implicit	peer reviewed; 2012-2015	1	Whitehead, 2014
Political Science Complete	procurement policy development	peer reviewed; 2012-2015	NONE	N/A
Political Science Complete	contract policy development	peer reviewed; 2012-2015	NONE	N/A

Political Science Complete	Human Trafficking AND federal AND procurement	peer reviewed; 2012-2015	NONE	N/A
Political Science Complete	Human Trafficking AND federal AND contract	peer reviewed; 2012-2015	NONE	N/A
Political Science Complete	Human Trafficking AND policy	peer reviewed; 2012-2015	35	Karlson, 2013
Political Science Complete	Procurement policy AND United States	2012-2015; peer reviewed	5	Duplicated Thoreau
Political Science Complete	contract policy AND United States	2012-2015; peer reviewed	1	None useful
Political Science Complete	policy development AND contract	2012-2015; peer reviewed	6	None useful
Political Science Complete	policy development AND procurement	2012-2015; peer reviewed	1	None useful
Political Science Complete	policy development AND "corporate social responsibility"	2012-2015; peer reviewed	5	Kinderman, 2013
Political Science Complete	social policy AND procurement	2012-2015; peer reviewed	NONE	N/A
Political Science Complete	Advocacy Coalition Framework theory	2003-2015; peer reviewed	5	Nohhrstedt, 2011
Political Science Complete	Advocacy Coalition Framework AND policy AND contracts	2003-2015; peer reviewed	NONE	N/A
Political Science Complete	Advocacy Coalition Framework AND policy AND procurement	2003-2015; peer reviewed	NONE	N/A

Political Science Complete	prohibition on trafficking AND procurement	2003-2015; peer reviewed	NONE	N/A
LegalTrac	Trafficking in persons AND contract		3	Starks, 2008
LegalTrac	Trafficking in persons AND procurement		NONE	N/A
LegalTrac	policy development AND contract		47	None useful
LegalTrac	social policy AND contract		NONE	N/A
LegalTrac	Corporate social responsibility		138	Sheehy, 2012
LegalTrac	Human Trafficking AND contract		4	repeats of earlier
LegalTrac	Human trafficking AND procurement		NONE	N/A
LegalTrac	procurement policy AND federal		24	None useful
LegalTrac	contract policy AND federal		99	None useful
LegalTrac	contract policy AND trafficking		NONE	N/A
Thoreau	case study AND interview AND legislation	2012-2015; peer reviewed	553	Dollins, 2013; Sheehy, 2012; Maclennen, 2013
Political Science Complete	legislative process AND case study	2012-2015; peer reviewed	5	None useful
Political Science Complete	legislation AND case study	2012-2015; peer reviewed	204	None useful
Thoreau	legislative process AND case study AND United States	2012-2015; peer reviewed	15	None useful

Thoreau	legislative process AND case study	2012-2015; peer reviewed	117	Duplicates
SAGE Premier	procurement policy AND process AND procurement AND United States	2012-2015	20	Halpern, 2012; Terman, 2013
SAGE Premier	"ACF theory"	2012-2015	2	Henry, 2012; Valkering, 2012
SAGE Premier	government contracting AND trafficking	2012-2015	4	None useful
SAGE Premier	procurement policy AND trafficking	2012-2015	1	None useful
SAGE Premier	contract policy AND trafficking	2012-2015	NONE	N/A
SAGE Premier	legislative process AND case study AND United States	2012-2015	70	None useful
SAGE Premier	legislative process AND case study	2012-2015	110	None useful
ProQuest Central	legislation AND "case study" AND United States	2012-2015	59	Duplicates
ProQuest Central	contract policy AND human trafficking AND United States	2012-2015	NONE	N/A
ProQuest Central	procurement policy AND human trafficking AND United States	2012-2015	NONE	N/A
ProQuest Central	procurement policy AND human trafficking	2012-2015	NONE	N/A
ProQuest Central	contract policy AND human trafficking	2012-2015	NONE	N/A
SAGE Premier	contract policy AND human trafficking	2012-2015	NONE	N/A

SAGE Premier	procurement policy AND human trafficking	2012-2015	1	None useful
SAGE Premier	"qualitative case study" AND legislation AND "United States"	2012-2015	39	Trappenberg-Frick, 2015;
SAGE Premier	procurement policy AND legislation AND "United States"	2012-2015	10	Duplicates
SAGE Premier	contract policy AND legislation AND "United States"	2012-2015	1	Duplicate
SAGE Premier	prostitution AND legislation AND "United States" AND contract	2012-2015	58	Weitzer 2014
SAGE Premier	contract policy AND federal	2012-2015	2	Duplicate
SAGE Premier	procurement policy AND federal	2012-2015	25	Duplicates
SAGE Premier	trafficking AND federal AND contract OR procurement	2012-2015	138	None useful
Business Source Complete	federal contract AND trafficking		NONE	N/A
Business Source Complete	federal procurement AND trafficking		NONE	N/A
Business Source Complete	legislative process AND case study	2012-2015 peer reviewed	8	None useful
Academic Search Complete	contract AND trafficking	2012-2015 peer reviewed	23	Kendall, 2012
Academic Search Complete	procurement AND trafficking	2012-2015 peer reviewed	12	Duplicates



Academic Search Complete	legislation AND case study AND United States AND contract	2012-2015 peer reviewed	12	None useful
Google Scholar	Advocacy Coalition Framework	Citing "A quarter century of the advocacy coalition framework: An introduction to the special issue"	70	Weible, 2011; Petridou, 2014
Thoreau	legislative case study	2013-2015 peer reviewed	20	Frick, 2015; Dobbels, 2013; Boldendahl, 2014; Gilsinan, 2014;
Thoreau	policy development case study	2013-2015 peer reviewed	42	Maclennan, 2012;
Thoreau	Congressional case study	2013-2015 peer reviewed	1	Bressman, 2014
Thoreau	"sex trafficking"	2013-2015 peer reviewed	171	Nichols, 2015; Gugic, 2014; Cheng, 2014; Jefft, 2013; Amahazion, 2014; Rose, 2013;
Thoreau	prostitution AND legalized	2013-2015 peer reviewed	9	Huisman, 2014;
Thoreau	federal contract AND trafficking	2013-2015 peer reviewed	4	Reider-Gordon 2013; Crucher, 2013

Thoreau	Violence Against Women Act AND contract	Peer reviewed	2	None useful
Thoreau	Violence Against Women Act AND procurement	Peer reviewed	NONE	N/A
Thoreau	contracting AND sex trafficking	peer reviewed 2008-2015	4	Bang, 2009
Thoreau	procurement AND sex trafficking	peer reviewed 2008-2015	2	None useful
Google Scholar	advantages of case study		2,270,000	Bennet, 2005;
Thoreau	"agenda setting theory" AND media	peer reviewed 2012-2015	252	Camaj, 2014; Hunter 2013; Neuman, 2014; Ragas, 2013; Wolfe, 2013

## Appendix B: Preset Codes

Code	Brief Description	Basis for Code
CSR1	Duty to society (business)	Corporate Social Responsibility Theory
CSR2	Role in society (business)	Corporate Social Responsibility Theory
CSR3	Power of business in society	Corporate Social Responsibility Theory
CSR4	Legal requirements (business)	Corporate Social Responsibility Theory
CSR5	Philanthropy versus mandate	Corporate Social Responsibility Theory
ACF1	Power of coalitions	Advocacy Coalition Framework
ACF2	Learning across coalitions	Advocacy Coalition Framework
ACF3	System shock	Advocacy Coalition Framework
ACF4	Coordination among coalitions	Advocacy Coalition Framework

## Appendix C: Hearings and Federal Records

### **HEARINGS BEFORE THE U.S. HOUSE OF REPRESENTATIVES**

*Are government contractors exploiting workers overseas? Examining enforcement of the Trafficking Victims Protection Act: Hearing before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform of the Committee on Oversight and Government Reform, House of Representatives, 112th Cong. 1 (2011).*

*Best practices and next steps: A new decade in the fight against human trafficking: Hearing before the Subcommittee on Africa, Global Health, and Human Rights of the Committee on Foreign Affairs, House of Representatives, 112th Cong. 1 (2011).*

*Combatting human trafficking: Achieving zero tolerance: Hearing before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations, House of Representatives, 109th Cong. 1 (2005).*

*Foreign government complicity in human trafficking: A review of the State Department's "2002 Trafficking in Persons Report": Hearing before the Committee on International Relations, House of Representatives, 107th Cong. 1 (2002).*

*Global trends in trafficking and the “Trafficking in Persons Report”*: Hearing before the Subcommittee on International Terrorism, Nonproliferation and Human Rights, House of Representatives, 108th Cong. 1 (2003).

*Labor abuses, human trafficking and government contractors: Is the government doing enough to protect vulnerable workers?:* Hearing before the Subcommittee on Technology, Information Policy, Intergovernmental Relations and Procurement Reform of the Committee on Oversight and Government Reform, House of Representatives, 112th Cong. 1 (2012).

*Out of the shadows: The global fight against human trafficking*: Hearing before the Committee on Foreign Affairs, House of Representatives, 111th Cong. 1 (2010).

*The U.N. and the sex slave trade in Bosnia: Isolated Case or larger problem in the U.N. system?:* Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, 107th Cong. 1 (2002).

*The ongoing tragedy of international slavery and human trafficking: An overview*, Hearing before the Subcommittee on Human Rights and Wellness of the Committee on Government Reform, House of Representatives, 108th Cong. 1 (2003).

*Trafficking in persons: Joint Hearing before the Military Personnel Subcommittee of the Committee on Armed Services meeting jointly with Africa, Global Human Rights, and International Operations Subcommittee of the Committee on International Relations*, House of Representatives, 109th Cong. 1 (2006).

*Trafficking in persons: The federal government's approach to eradicate this worldwide problem: Hearing before the Subcommittee on Human Rights and Wellness of the Committee on Government Reform, House of Representatives, 108th Cong. 1 (2004).*

*U.N. peacekeeping reform: Seeking greater accountability and integrity: Hearing before the Subcommittee on Africa, Global Human Rights and International Operations of the Committee on International Relations, House of Representatives, 109th Cong. 1 (2005).*

#### **HEARINGS BEFORE THE U.S. SENATE**

*Alien smuggling/Human trafficking: Sending a meaningful message of deterrence: Hearing before the Subcommittee on Crime, Corrections, and Victim's Rights of the Committee on the Judiciary, Senate, 108th Cong. 1 (2003).*

*Examining U.S. efforts to combat human trafficking and slavery: Hearing before the Subcommittee on the Constitution, Civil Rights and Property Rights of the Committee on the Judiciary, Senate, 108th Cong. 1 (2004).*

*International trafficking in women and children: Hearings before the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations, Senate, 106th Cong. 1 (2000).*

*Legal options to stop human trafficking: Hearing before the Subcommittee on Human Rights and the Law of the Committee on the Judiciary, Senate, 110th Cong. 1 (2007).*

*Monitoring and combating trafficking in persons: How are we doing?: Hearing before the Subcommittee on Near Eastern and South Asian Affairs, Committee on Foreign Relations, Senate, 107th Cong. 1 (2002).*

*The next ten years in the fight against human trafficking: Attacking the problem with the right tools: Hearing before the Committee on Foreign Relations, Senate, 112th Cong. 5 (2012).*

*Trafficking in women and children in East Asia and beyond: A review of U.S. policy: Hearing before the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations, Senate, 108th Cong. 1 (2003).*

## **HEARINGS BEFORE THE COMMISSION ON SECURITY COOPERATION IN EUROPE**

*Enforcing U.S. policies against trafficking in persons: How is the U.S. military doing?: An issue forum jointly convened by The Commission on Security and Cooperation in Europe and the House Armed Services Committee, 108th Cong. 1 (2004).*

*U.S. policy toward to OSCE: Hearing before the Commission on Security and Cooperation in Europe, 107th Cong. 1 (2002).*

## **OTHER FEDERAL DOCUMENTS**

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## Appendix D: Coding Manual

Code	Brief Description	How to Use
CSR1	Duty to society (business)	Use this code when the quote discusses the responsibility of a company to perform in a socially acceptable manner. For instance, if the company has a duty to fight human trafficking.
CSR2	<del>Role in society (business)</del>	<del>Use this code when the quote discusses the role that businesses have in society.</del> <del>MERGE WITH CSR1</del>
CSR3	Power business in society	Use this code when the quote discusses the power of business. For instance, if the company has power to control its subcontractors.
CSR4	Legal requirements (business)	Use this code when legal issues arise. For instance, if the quote discusses the need to hold corporations legally accountable, or that they are not legally accountable currently.
CSR5	Philanthropy versus mandate	Use this code when discussing corporate desire to voluntarily do social good. For instance, if the company is discussing its internal controls to fight human trafficking.
ACF1	Power of coalitions	Use this code when discussing the existence or power of coalitions. For instance, numbers of organizations involved in

		the fight.
ACF2	Learning across coalitions	Use this code when discussing any communication between coalition members.
ACF3	System shock	Use this code when discussing atrocities that spurred action.
ACF4	Coordination among coalitions	Use this code when discussing actions between divergent groups (e.g., between Republicans and Democrats in Congress).
POL1	Politics and International Reputation	Use this code when the quote discusses international embarrassment, lack of credibility, or the need to do something to ensure continued US leadership.
POL2	Political Space (for reform)	Use this code when the quote discusses the actual political capability for change. For instance, if it talks about the ability to make something happen as a result of a system shock.
MON1	Economics/cash	Use this code when discussing money in any form, to include comments about the power of money to affect change, government contract opportunities, and marketing (of anti-trafficking business actions).
MOR1	Moral conviction	Use this code when the speaker expresses a moral certainty, such as the absolute need to combat trafficking, or the belief that prostitution inevitably leads to trafficking.
BACK	Background, to include implementation concerns	Use this code when the quote makes a simple

		statement related to TVPRA 2003 or other government document. For example, if the quote specified that the FAR Council established a rule based on the language in the TVPRA 2003.
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