

GLOBAL TRENDS IN TRAFFICKING AND THE “TRAFFICKING IN PERSONS REPORT”

HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TERRORISM, NONPROLIFERATION AND HUMAN RIGHTS OF THE COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTH CONGRESS

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WEDNESDAY, JUNE 25, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL TERRORISM,
NONPROLIFERATION AND HUMAN RIGHTS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:30 p.m. in Room 2200, Rayburn House Office Building, Hon. Elton Gallegly [Chairman of the Subcommittee] presiding.

Mr. GALLEGLY. We call to order the Subcommittee on International Terrorism, Nonproliferation and Human Rights. I am pleased to convene this hearing of the Subcommittee on International Terrorism, Nonproliferation and Human Rights on the terrible human rights abuse and crime of human trafficking.

Human trafficking is a worldwide problem of enormous proportions, with virtually every nation in the world serving as either a source, transit or destination country of trafficked victims. The United States Government estimates that over 800,000 people are trafficked each year across international borders, including 18,000 to 20,000 who are trafficked here at home in the United States.

Today's hearing will examine the State Department's annual *Trafficking in Persons Report*, which provides the President and Congress with information about which countries are making progress in stopping the buying and selling of women, men, children into a life of slavery or involuntary servitude.

The report evaluates 116 countries and places them into three tiers, based on their compliance with minimum standards to eliminate trafficking. This year's report is particularly important, because for the first time countries that are placed on tier three, the lowest of the three tiers, face a potential cutoff in U.S. non-humanitarian and non-trade related assistance, unless the President of course waives these sanctions, they could go into effect on October 1.

This hearing however will not be limited to an overview of the trafficking report. It will also explore the many causes of global trafficking and what more our government can do to help eradicate human trafficking. Specifically we will examine the link between organized crime and trafficking, the link between AIDS and trafficking, as well as domestic violence and trafficking, and also efforts to close the legal loopholes in foreign countries that allow trafficking to continue, and the treatment of trafficking victims.

I also hope that the witnesses will address two other key issues. First, the extent to which foreign governments are either actively involved in human trafficking or permit trafficking to be conducted within their borders, because of widespread corruption by government officials. Second, their assessment on whether the Trafficking Victims Protection Act has had a real and measurable impact in decreasing human trafficking since it became law over 3 years ago.

I look forward to hearing from all the witnesses on these issues. I would especially like to welcome my very good friend and former colleague, John Miller, who is the Director of the State Department's Office to Monitor and Combat Trafficking. I am very pleased that Mr. Miller is leading this office and I can think of few people who could bring his knowledge, commitment and passion to this position.

In addition, I want to thank the Vice-Chairman of the Subcommittee, Joe Pitts, for his interest in this issue and his work in preparation for this hearing and I really appreciate his hard work along with other Members of this Subcommittee.

[The prepared statement of Mr. Gallegly follows:]

PREPARED STATEMENT OF THE HONORABLE ELTON GALLEGLY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SUBCOMMITTEE ON INTERNATIONAL TERRORISM, NONPROLIFERATION AND HUMAN RIGHTS

I am pleased to convene this hearing of the Subcommittee on International Terrorism, Nonproliferation and Human Rights on the terrible human rights abuse and crime of human trafficking.

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Today's hearing will examine the State Department's Annual Trafficking in Persons Report, which provides the President and Congress with information about which countries are making progress in stopping the buying and selling of women, men and children into a life of slavery or involuntary servitude. The Report evaluates 116 countries and places them into three tiers based upon their compliance with minimum standards to eliminate trafficking. This year's Report is particularly important because for the first time countries which are placed "Tier 3"—the lowest of the three tiers—face a potential cut-off in U.S. non-humanitarian and non-trade related assistance. Unless the President waives these sanctions, they would go in effect on October 1.

This hearing, however, will not be limited to an overview of the Trafficking Report. It will also explore the many causes of global trafficking and what more our government can do to help eradicate human trafficking.

Specifically, we will examine the link between organized crime and trafficking, the link between both AIDS and domestic violence and trafficking, efforts to close legal loopholes in foreign countries that allow trafficking to continue, and the treatment of trafficking victims.

I also hope that the witnesses will address two other key issues. First, the extent to which foreign governments are either actively involved in human trafficking or permit trafficking to be conducted within their borders because of widespread corruption by governmental officials. Second, their assessment on whether the Trafficking Victims Protection Act has had a real, measurable impact in decreasing human trafficking since it became law over three years ago.

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In addition, I would like to thank the vice chairman of the subcommittee, Joe Pitts, for his interest in this issue and his work in preparation for this hearing. I appreciate your hard work on this matter.

I now turn to Mr. Sherman, the Ranking Member on this subcommittee, for any remarks he may wish to make.

Mr. GALLEGLY. Now I see that our Ranking Member, Mr. Sherman, is not here. Mr. Schiff, do you have an opening statement for the Subcommittee?

Mr. SCHIFF. Mr. Chairman, I would be happy to waive my opening statement.

Mr. GALLEGLY. With that, then we will open the hearing and Mr. Miller, would you like to come forward? It is a pleasure to welcome you here. For many years we served shoulder-to-shoulder here. My shoulder is a little lower than yours. I always looked up to you, John.

John recently came into my office and I had not seen him for some time. I said you know, John, every morning when I come to work I see your face. He could not believe what I was talking about, but if you look up on the wall on my office, in a very prominent place is a picture of John and Lech Walesa and I that has been there for at least 12 years. It is still there, John. Welcome. We welcome your testimony.

**STATEMENT OF THE HONORABLE JOHN R. MILLER, SENIOR
ADVISOR TO THE SECRETARY, DIRECTOR OF THE OFFICE
TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S.
DEPARTMENT OF STATE**

Mr. MILLER. Thank you, Mr. Chairman. Thank you, Congressman Pitts, Congressman Smith, the lead sponsor of the legislation that brought our office into being, Congressman Schiff.

I was sworn into office last March 2 and I must say that I really feel blessed to be working on what I believe is the emerging human rights issue of the 21st century. What can be more important than the difference between slavery and freedom?

That is what you were about when you passed the legislation. That is what President Bush was about when he issued his presidential directive last December. That is what many citizens and non-profit groups who have been about who have pushed for the legislation and that is what I hope my dedicated, but small 12 or 13 person staff is about.

You mentioned the report this year. The Secretary of State issued it just about 2 weeks ago. I am just going to take a minute to just briefly explain some of the features in this report, which you are familiar with, but this is last year's report that I am holding in my left hand and this is this year's report.

It is considerably expanded, as it should be given the importance of the issue. This year the report, for the first time, does not just talk about laws and countries and documents. The report talks about victims, because we have to keep in mind that that is what we are concerned about here first and foremost. The victims of slavery. The victims of forced labor slavery. The victims of sex slavery.

That is why the report right in the beginning on page five starts out with the story of Nina, the 19-year-old waitress who was captured and beaten and raped in Southeastern Europe and escaped and then kidnapped again and finally had to flee to another country. Nina's story and many other stories are interspersed here, be-

cause we want everybody that reads the report to understand that it is about the victims.

Then of course the report has a lot of explanation of the trafficking law, of the standards that we apply that you have set out, they are exacting standards for tier one. There are four standards with seven more detailed standards of serious and sustained efforts. Of course those are the countries that are in tier one. That does not mean they do not have a problem. Just about everybody in the world, every country in the world has a problem, but those are the countries that meet the standards.

Then of course countries in tier two and tier three and there the key you have set out is whether they are making significant efforts. Many countries, not surprisingly, are now awakening to this issue and are making significant efforts, but there are some that we list in the report that we feel are not making significant efforts and that list is on page 21.

For the first year under your statute, those countries face the possibility of sanctions. The President this fall, as authorized by the law, to decide in whether sanctions should be imposed, which could mean the loss of non-trade related, non-humanitarian aid for those countries that do not in the next 3 or 4 months step up their significant efforts.

Now, I am going to turn it over to you for questions, but I will briefly address a question that you raised right in your opening statement. Measure the impact of the law in the report.

It is not easy to do scientifically, but the good news is that in the 2 months preceding the issuance of this report, we saw more steps taken by more countries than we had seen in the previous year. The passage of anti-trafficking laws from Haiti to the Philippines, the massive arrests from Serbia to Cambodia, that to me conveys a message that the engagement you called for, the threat of sanctions that you provided, is having an impact and even with those countries listed in tier three, if 3 or 4 months you show significant efforts before the presidential decision, you have drafted mini-plans for many of these countries.

Our Embassies are engaged now around the world and we are seeing more efforts in these countries, since the issuance of the report. So that is all a testament to your good efforts in drafting this legislation.

Two other things I want to point out about the report, which you all have in front of you. One, which I think is particularly important, page 18 best practices. We tried, along with victim stories in evaluating countries, we tried to praise countries that were doing good things.

If you look there, it is amazing how many of the good things that are being done are low cost or no cost. Countries that do not have a lot of resources: Africa making their continental soccer cup a forum for issuing red cards to people to reject child labor slavery, Nepal rehabilitating victims and using them with border guards to identify traffickers, Benin working with their taxi drivers to educate them on signs of traffickers. These are not high tech, expensive things, but it is wonderful to me and it shows what can happen when the United States takes the lead as you and the Congress decided to do.

Before I turn it over to questions, let me turn to page 17, areas for improvement. I sat on your side of the podium for 8 years and I do not believe anybody should come up before you and just say, oh everything is going fine. You know we are just doing the greatest job. No. I think we have made improvements between this report and this report, but there is a lot more to be done that we can do just as there is a lot more to be done in the fight against slavery. We have just begun.

I list some specific areas for improvement in the report. Specific information about law enforcement efforts. We got criticized or the office got criticized a year ago for not having enough specific information on law enforcement. If you look at the country reports this year, there is a lot more information. A lot more information on arrests and convictions. Not enough, however.

At the suggestion of one of our witnesses today, Mr. Haugen, a couple of months ago we shifted the burden, made it clear to countries that they have the burden of coming forth with evidence on prosecutions and convictions. So we are just putting that into effect. I think we will do even better on that next year.

A second weakness: Omission of countries from the list. You are going to go through here and you are going to say, why is that country not on the list? Now, the good news is we added 30 countries. So there is an improvement. The key to putting a country on the list is we have to show a significant number of victims and there are still countries where I suspect you may believe and we may believe that there is a trafficking problem, but where we were not able to show 100 victims, which is the standard that I found in place when I arrived for measuring significant number of victims. So we have got to do more research. We have to do more work in some countries.

Then the whole demand issue. I mention that because I believe that this report, maybe of necessity over the past several years, has focused on the source countries, the supplying countries and we know who they are. Yes, the report covers source, transit, destination countries, but I think we need to put more emphasis on demand.

I will just give you one example. Sex tourism. Every day, every day thousands of children are sold into prostitution. I mean just think about this around the world. One of the major causes of that is sex tourism. The demand that sex tourists have for children.

I am not going to go into some of the brutal stories, but it is there. Okay. The sex tourism facilities are in certain countries, but where do the tourists come from? Where does the demand come? I am hoping this coming year, manpower and budget constraints allowing, to focus on this sex tourism issue, come up with not only better reporting on demand next year, but come up with a plan that developed nations can use to reduce the number of sex tourists coming from their country.

I think I have gone on long enough and I would be happy to yield to any questions or suggestions you have.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF THE HONORABLE JOHN R. MILLER, SENIOR ADVISOR TO
THE SECRETARY, DIRECTOR OF THE OFFICE TO MONITOR AND COMBAT TRAFFICKING
IN PERSONS, U.S. DEPARTMENT OF STATE

Mr. Chairman and other Members of the Committee,

I want to thank you for the opportunity to personally present to the Congress the third annual Trafficking in Persons Report prepared by the Department of State. As you know, Secretary Powell announced the issuance of the Report on June 11, 2003, but I personally looked forward to the opportunity to discuss this year's report directly with members of this committee.

All of us are keenly aware of the horrific experiences of the 800,000 to 900,000 women, children and men who are trafficked across international borders every year. These numbers do not include victims who are trafficked within their own countries. We now estimate that this modern-day slavery also includes 18,000 to 20,000 victims who enter the United States annually. Thanks to the passage of the Trafficking Victims Protection Act of 2000, the federal government is actively combating trafficking here and abroad.

This third annual report carries special significance because for the first time, governments that are not making significant efforts to bring themselves into compliance with the Act's minimum standards could face consequences that include the loss of non-humanitarian, non-trade related assistance. I would like to assure the Committee that the Department views the imposition of penalties on other countries as a very serious matter and that my staff conducted extensive research into the anti-trafficking activities of other governments. Our embassies submitted serious and detailed reports, and international and non-governmental organizations continued to share with us their experiences and understanding of trafficking developments around the world. As a result, I am pleased to present what I consider to be the most comprehensive report on the effort of governments worldwide to combat what the Act defines as "severe forms of trafficking in persons."

Our research resulted in the addition of 30 countries to the tier lists in this year's report. A total of 116 countries are on the report's tier lists. The governments of 26 countries were found to fully comply with the Act's minimum standards, so those countries were placed on tier 1. We determined that 75 countries had governments that do not yet fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance. These countries were placed on tier 2. There were another 15 countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so. These 15 countries fell into tier 3.

As I stated earlier, governments in tier 3 could be subject to certain consequences including the withholding of non-humanitarian, non-trade related assistance. Tier 3 governments not receiving such assistance may be subject to withholding of funding for participation of their officials in cultural or educational exchange programs. The United States may also be directed to oppose assistance for Tier 3 countries through the International Monetary Fund, World Bank, and other multilateral development banks. These potential consequences take effect during the next fiscal year, which begins October 1, 2003.

The assistance-related consequences can be waived, totally or in part, based on a determination that the provision of the assistance would promote the purposes of the Act or is otherwise in the national interest of the United States. This waiver authority must be exercised when necessary to avoid significant adverse effects on vulnerable populations, including women and children. The sanctions would also not apply if the Department finds that before October 1, 2003, a government has taken steps that effectively move it out of tier 3, that is, it has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

My staff is working actively with several of our embassies to outline the steps that we believe a country can and should be taking. Our goal is to aggressively utilize this period of heightened attention and threat of sanctions to galvanize real action that will translate into lives saved and victims rescued. These steps would naturally also demonstrate that a country is making significant efforts to bring itself into compliance and not subject to these consequences. In the end, it is not the imposition of sanctions that we seek but the recognition by governments that they must address the problem of trafficking in persons seriously, they must develop strategies and programs to fight it effectively, and they must rescue the victims. And more than just the recognition by governments, we seek their action.

There are many actions governments have taken to fight trafficking and, as noted in our report, they do not have to be expensive or elaborate. For instance, the Royal Government of Nepal employs former victims to work alongside border guards to

identify traffickers and victims. The Government of Sri Lanka encourages the use of video taped testimony from children and other victims to lessen the trauma of testifying against traffickers. In Andhra Pradesh, India, a law enforcement officer's performance rating is linked to his or her effort to investigate and apprehend human traffickers. The burden is on the governments to demonstrate that they are making significant efforts to fight trafficking in spite of their economic or other possible limitations.

Finally, I would like to emphasize that the Administration's State Department efforts to fight trafficking in persons is not confined to this annual report. In February, we convened 400 people from the United States and abroad who were active participants in the fight against sex trafficking. Congressmen Frank Wolf and Chris Smith addressed the delegates who came from all strata of society and represented an enormous range of anti-trafficking experiences. The conference brought together many groups and individuals who had no knowledge of each other but who now seek to work together. At another level, I am convening next week the latest quarterly meeting of a multi-agency meeting group to coordinate the anti-trafficking strategies and programs of the federal agencies involved in this fight against traffickers. Our ambassadors throughout the world are keeping this issue on our bilateral agenda, raising awareness, and calling for action. Through our outreach efforts here and abroad, we are raising awareness about this issue so that everyone who learns of the problem can be part of the solution. My staff has traveled to scores of countries to meet with foreign government officials, non-governmental representatives and others who are joining the fight.

There is much being done to fight trafficking and clearly much more needs to be done. I am pleased to report that this fight truly engages the Department's energy and imagination and we appreciate the unswerving support we have received from the Congress. I will close my remarks at this point and will be happy to answer any questions you may have.

Mr. GALLEGLY. Thank you very much, John. From a procedural standpoint, with my good friend and colleague from California, the Ranking Member Brad Sherman, after we finish this panel I would defer for opening statement purposes to Mr. Sherman and I understand Mr. Smith and Mr. Pitts and maybe the other Mr. Smith have an opening statement. If they do, we will make that a part of the record in the hearing and allow the Ranking Member to present his opening statement after we finish this panel.

John, again thank you very much for being here today. Most experts agree that both carrots and sticks may be needed to encourage other governments to take action against human trafficking. Nevertheless, some critics continue to argue against sanctions and say they are an inappropriate tool for dealing with the issue.

Do you anticipate that the sanctions will be imposed after October 1 deadline for presidential determination? And if so, how will the Administration decide against which tier three countries to impose sanctions?

Mr. MILLER. Okay. I have to assume that with the 15 or 16 countries on tier three there is a likelihood that sanctions will be imposed on some of them. How will that decision be made? As I mentioned earlier, those countries who want to avoid sanctions and want to work on this problem, on this challenge, we are drawing up mini-plans involving our Embassies, involving the countries, listing specific things they can do to show "significant effort."

One of the tests will be: Have they shown significant efforts? In that case, they can move up to tier two. However, as you know, Mr. Chairman, under the law the President also has the authority to waive sanctions in the national interest. That is a broad phrase and I assume that national interest includes a lot of factors, including the war on terrorism, national security, economic matters. That

is beyond my station as to how the President will apply that national interest waiver criteria.

I did want to come back to the first part of your question, the philosophical part. Carrots and sticks, should sanctions be used. When I was serving with you, Mr. Chairman, we had this debate many times, as you know. It was not in connection with this legislation obviously, but this whole question of whether sanctions should be used.

It was put in terms of engagement versus sanctions. I suppose this argument will go on for decades. I can give you my view and I think it is the Administration's view on this issue and that is: In this area, effective engagement goes hand-in-hand with the possibility of sanctions and the proof of that is what I said. All these actions taken the last 2 months by scores of countries in anticipation of this report and what I am anticipating scores of other actions that will be taken in the next 3 or 4 months, as countries seek to avoid sanctions.

So I think Congress was wise to include sanctions. That is not the goal of this legislation. Do not get me wrong. The goal is not to impose sanctions. The goal is to get progress against slavery. That is the goal. But, the grant programs, the carrots, the diplomacy, the sanctions, they are all tools toward that goal.

Mr. GALLEGLY. The threshold question of course, and I think you have really answered the question very well, but I am assuming from your answer the President is fully prepared to impose the sanctions where he believes it is appropriate.

Mr. MILLER. I believe that is so.

Mr. GALLEGLY. One other quick question. I will yield myself one additional minute. Can you give us some idea of the extent of the problem of kidnapping of children for adoption and particularly as it relates to the United States?

Mr. MILLER. I cannot pretend to be an expert on that issue. I know it has come up with regards to India for example lately. I would be happy to get more information for you on that in terms of you are talking about children coming into this country for adoption.

Mr. GALLEGLY. Correct.

Mr. MILLER. We have not dealt with that as part of the slavery issue, because generally there is a "willing seller," but I think having read about what is going on, this is an issue that we have to take a closer look at.

Mr. GALLEGLY. You know historically we have had issues, maybe not directly relating under the category of trafficking, but under categories viewed as black market and other things in places like Romania and elsewhere. With that, I would yield to the gentleman from California, my friend the Ranking Member, Mr. Sherman.

Mr. SHERMAN. Thank you, Mr. Chairman and thank you for holding these hearings on an important issue. Mr. Miller, you bring up an interesting question and that is: You have not only the sending country, the receiving country, but you have the demand creating country in the area of sex tourism. What legislation could we pass preventing or impairing the ability of folks to advertise in the United States and sell as their product a tour involving those who are kept against their will, those who have not even reached the

age of majority and accordingly do not have the capacity to make those decisions? What can we do legally to prevent the United States from being a source of the demand?

Mr. MILLER. Fair question and I hope by the end of the coming year I will have a complete answer, but let me give you a partial answer now. I do not know the legalities of regulating advertising, but I do know that Congress, that you in your wisdom just recently passed legislation making it easier for the Justice Department to prosecute those that leave the United States, go to these countries and come back, having engaged in such acts or are caught there, providing for their extradition back.

I do know there is a lot we could do with airlines and shipping companies and travel agencies. Congressman Smith has been giving I know some thought to this issue. For example, one foreign airline, AirFrance, carries information brochures and advertisements when the planes are heading toward countries that might be sex tourist destinations, warning people that they may be prosecuted, warning about the dangers, appealing to their better nature.

So we need to really dig into that, but there are things we can do. Good question.

Mr. SHERMAN. I was surprised to find two NATO members among the tier three countries, because usually you associate being in tier three with either a dictatorial regime or a complete breakdown of law and order or at least extreme poverty that makes it difficult for the government to enforce reasonable laws.

Now, I am trying to understand why Greece was listed, when as your report notes the Greek government has adopted a new anti-trafficking law and as far as I can tell in reading the report, there is not a lot that differentiates Greece from countries listed in tier two. Why is it listed in tier three?

Mr. MILLER. Okay. You have to keep in mind that there are several criteria in deciding between tier two and tier three on significant efforts. One of them are the resources of a country and capacity. Greece—

Mr. SHERMAN. So you do grade on the curve.

Mr. MILLER. Yes. Greece is certainly above the line in terms of resources. Another criteria is not only the deviation from the standards, but particularly government complicity. You asked us to focus on that. I think it is fair to say when the pan-hellenic confederation of police officers publicly acknowledges the problem of complicity in human trafficking of police officers, that Greece has a problem in that regard.

One of the criteria that you look at in terms of the standards is vigorous investigation and prosecution, convictions. We did not see evidence of convictions from Greece.

Finally, we look at how victims are treated and we had reports from a very credible NGO that children that were trafficked into Greece were not treated as victims. They were either just held in detention centers or moved back to the Albanian border and dumped where they were seized by traffickers to be re trafficked. So there are a lot of factors at play here.

I will say this: We have a very energetic Ambassador in Greece, who has been working hard on this issue and he is going to be

working hard with the Greek government over the next 3 or 4 months on one of those mini-plans that I talked about to see if Greece can move up to tier two.

Mr. SHERMAN. Just one comment and then I believe my time is expired and that is: I know our focus is on the word sanctions. That is a term that is often used for giving less financial aid, which is an odd sanction. I see sanctions in which countries that might have gotten 50 million only get 25 million and I want to say if getting 25 million is being sanctioned, I am ready to be sanctioned. I yield back.

Mr. GALLEGLY. I thank the gentleman. Before I yield the chair to my friend, Mr. Pitts, the Vice-Chair of the Committee, I would like to welcome Ms. McCollum as a new Member of our Subcommittee, the gentlelady from Minnesota, who I know will make a great contribution to the Subcommittee. We welcome you joining the Subcommittee.

Ms. MCCOLLUM. Thank you, Mr. Chair and to not leave you with a bad impression, I am hosting the international tour to survival day by the U.N. and I have a victims center of torture in my district. I am going to be going over there for a little bit to introduce them. So if I have your permission—

Mr. GALLEGLY. In fact, this is a very busy place. We all have more balls in the air than we can normally handle. That is the very reason that I am going to have to yield the chair to Mr. Pitts, not because of my lack of interest as John Miller will tell you firsthand, but there is probably no one that I have known over the years that has a greater commitment to the issue of trafficking and human rights than my good friend, Mr. Pitts. With that, I would yield the Chair to him until I can get back.

Mr. PITTS [presiding]. Thank you, Mr. Chairman. Again, thank you for holding this very important hearing. Mr. Miller, your report this year is, I think, much improved over last year. You and all those involved in preparing the report should be commended.

I have a couple of questions. One concerns the disinterest and in some cases even the complicity of governments in trafficking is a major problem. Could you cite any governments that have been, in particular, a problem in this regard? Would the impositions of sanctions against such governments be an effective tool? Does the U.S., for instance, need the support in the war against terrorism from governments with poor records on combatting trafficking? Does that need make it more difficult to pressure those governments to crack down on trafficking? Would you address that?

Mr. MILLER. I do not doubt the last part of your statement that there is an increase of difficulty there. To get to the first part of your question, I think most of the countries on tier three and several on tier two you could say have a corruption or complicity problem and it is something, Congressman Pitts, that has troubled me, because I think if there was honest law enforcement around the world, we would be taking one big step toward solving this problem because obviously we know that particularly sex slavery is linked to billions in profits. For that matter, forced labor slavery is profitable.

Sex slavery we are told there are links to organized crime and it takes complicity in governments looking the other way. So you

know I think most of the countries on tier three and probably you could come up with 10 or 15 countries on tier two.

Now, I suppose there are degrees of corruption, but there are a couple of countries in this report that are on tier two that we warned that unless they make progress, but we did not quite put it that way, but if you read the paragraph it is pretty clear, unless they make progress on this issue, they are not going to stay in tier two.

This whole issue makes me think that in some of the other programs you deal with and I know you have vast programs, the millennium challenge account, other programs, but it really drives home how important honest law enforcement is. If we can make a contribution abroad that would have so many spillover effects in this issue and other issues, I hardily concur.

Mr. PITTS. I notice for instance, United Arab Emirates moved to tier one from tier three last year, but you still have for instance India and Indonesia on tier two.

Mr. MILLER. Yes.

Mr. PITTS. Kazakhstan, I believe, and Uzbekistan dropped down to tier three. Can you explain or discuss some of the reasons, some of the circumstances surrounding some of these moves that you have made?

Mr. MILLER. Well, I think I am not surprised that people are surprised that the United Arab Emirates went from tier three to tier one. But the Administration feels, with good reason, this is a country and this is the impact of this report, last year they were in tier three. They were ashamed and they set out to do something about it and they became a leader.

Let me just give you some of the ways they led. One of the problems, major slavery problems in the middle east, is the camel jockey problem. Taking these 6 and 8-year-old kids from the Indian subcontinent, shipping them to the Middle East, starving them, enslaving them, strapping them to camels, racing them. United Arab Emirates outlawed child camel jockeys and they enforced the ban and they put their money where their mouth was. They started using retina scans and DNA tests to back the ban up.

They went further. Their problem primarily, along with the camel jockeys, had been forced domestics. Forced labor coming from abroad, from other countries. They got in touch with their Embassies in other countries, where a lot of these workers were coming from. They made sure that brochures were distributed to workers who were considering coming to the Arab Emirates. They made sure they had a hotline that they could call in case they got in trouble.

They boosted their number of labor inspectors. When they got calls, they acted. They made arrests. They blacklisted businesses that were involved in abusive practices, 215 companies. So this country I think surprised us by what they did in a year. We are out to reward positive behavior.

Mr. PITTS. On another note, could you give us some idea of the extent of the problem of kidnapping of children to be sold for adoption?

Mr. MILLER. Yes.

Mr. PITTS. Do current laws and programs adequately deal with this issue and is there any indication that trafficking for purposes of adoption is on the decline?

Mr. MILLER. I am going to have to beg off on that question. I will be happy to get back to you. It is something that we have to look at in terms of whether it comes within the scope of this trafficking victim protection act. I realize there has been a lot of attention to it. It is not an issue that we have focused on this past year, but we will take a look at it and I will get back to you on that, if I have your permission.

Mr. PITTS. Thank you. Chair recognizes Mr. Schiff.

Mr. SCHIFF. I yield back my time to the Chair. Thank you.

Mr. PITTS. Mr. Smith.

Mr. CHRISTOPHER SMITH. Thank you very much, Mr. Chairman. First of all, Mr. Miller, let me congratulate you on an extraordinary job you have done on behalf of the Administration, the Congress, the American people in heading up this trafficking office. You have brought a passion, a can-do attitude you and your staff, but with you taking the helm. It is what we intended.

I say that collectively, in a bipartisan way, because this bill that eventually became the Trafficking Victims Protection Act had many, many stakeholders. It was a good, solid bipartisan effort and in the end, if it is not implemented right it is not worth the paper it is printed on. So we want to thank you for the good work you are doing. It is so reassuring. And your frequent contact with many of us who continue to push in this area, because you are taking a lead and it is greatly appreciated.

I just have a couple of questions I would like to ask. Just for the record, I want you to know that probably later on today, if not tomorrow, we have it in almost final form, I will be introducing the trafficking victims protection reauthorization act of 2003, which will seek to close some of the gaps that we discovered.

Again, many of the people who are out there in the field have fed into the creation of what we hope will be a new and expanded building on the permanent law that is already in place. For example, you were talking about the police. When we originally wrote the minimum standards, we were talking about investigations and prosecutions, not realizing that some would gain the system and arrest and even investigate, but not convict and sentence. So we are going to add that to it.

We have a right of civil action by aggrieved persons so that there is at least that remedy open to a woman or a man who has been trafficked and several additional updates and a reauthorization level for each of the areas for 15 million rather than what was a \$10 million authorization. Mr. Lantos is the principle co-sponsor and we will be building I hope a very, very strong and robust group of Members to push that.

You mentioned significant or the 100 threshold. The original act, as you know, did not specify a number. I am not sure, I guess the State Department in its wisdom thought 100 was a number to be grasped at. I am concerned that countries like Australia and others, where there probably is a real problem of trafficking, it probably exceeds the 100 by manyfold, but we do not know. There has not been enough work done there. You might want to speak to

countries that are not on the list that perhaps we ought to take a look at.

I do have a question about whether or not your office has the resources. I find it is a Herculean task that you do. You probably joust and do battle with the regional bureaus who have clientitis, who want to see their individual countries or region come off as relatively unscathed as possible. We all know how that works. I think it does a disservice to the trafficked persons, but we want honest reporting and I am sure there is some give and take there that you have to try to referee and come down on the side.

The prerequisite to that is that you have the resources to get the job done, the personnel as well as the physical space, the computers. Do you have enough? If you could tell us as candidly as possible.

On the reports, as you know this report is an annual report. We wrote into the law that if there is information that warrants it, reports can be written by your office and by the State Department at any given time. That was to build flexibility into the process so that if there is a country making improvements or in the reverse going in reverse, that can be adequately highlighted.

And I would hope especially now that the sanctions capability presents itself, that authority will be utilized to issue reports when and wherever they are warranted. You might want to speak to that.

On the waiver, I would strongly encourage you and the Administration, because I know at the end it will probably be Secretary of State Colin Powell and the President who will make these decisions, but your recommendations will weigh heavily not to use the waiver, except as a last resort.

If this modest club to try to encourage a country to treat with respect its women and children and men from this modern day slavery, if we forego that, especially in the first year, but in any given year thereafter, we will do a grave disservice I would submit respectfully to the whole cause, because if any of this is perceived which I do not think it is, as a paper tiger, the tyrants out there and those who do not give one whit about the women and the men will just go back to their old impunities. Please bring that back: Last resort. It should not be seen as something that could be waived and done so lightly.

In answer to an earlier question, somebody was talking about the NATO countries, I think it is worth noting that this Administration had the courage to put Israel, South Korea, Saudi Arabia on the list, tier three and those countries Israel I looked at all their documentation, they worked overtime to get off of that list, to get off of tier three. Saudi Arabia got rid of so many things, including that as you told me the other day their entertainment visa, which was a rouse in order to bring in prostitutes from Russia and elsewhere.

So we are willing to speak truth to power, even when they are close friends and allies, because friends should not let friends commit human rights abuses. I congratulate the Administration in doing that.

One final question, because I am running out of time, on close calls. There are 75 countries on tier two. That means they have an egregious problem with trafficking, a significant problem, but there

must be gradations, some that are very close to being flipped into tier three. Is there any insights you can provide us? That is where those additional reports might come in.

If somebody falls off the wagon so-to-speak and the next thing you know they say hey we are on tier two, no problem and they get even worse, my hope would be that they would be on tier three quicker than you can snap your fingers and then be subjected to potential sanctions.

Mr. PITTS. Mr. Miller, would you like to respond?

Mr. MILLER. Okay. I would be delighted to. First, let me express appreciation for your kind words, Congressman Smith. Those words are especially appreciated coming from one of the fathers of this legislation and I think everybody on my staff appreciates the work that you have done and the support that you have given to our effort and the effort to save the victims.

Let me just go down the list here and if I leave something out, please let me know, but you commented on countries not on the list, such as Australia. Yes, when I arrived I found that the legislative language "significant victims," that a definition of 100 had been used. I agree with you.

There are countries, such as Australia, where people in my office believe there are a significant number of victims and there is a problem.

But, we were not able to establish that there were 100 victims. Victims do not line up their hands to be counted. That is the problem. If a country does not prosecute a trafficker as a trafficker, you just prosecute smugglers, that is another difficulty in figuring out how many victims.

So what can be done about that? First, we have to look at the definition we have been using, this standard of 100. Maybe there is a better standard. It is hard to come up with a standard, but we certainly should look at that.

Second, we have to improve our research, our techniques for establishing the number of victims. We may have to, again budget and manpower constraints allowing, have our people spend more time in countries such as Australia.

The purpose of this act is to engage and so it is difficult to work with a country that is not even on the list. So whether it is Australia, Panama or whatever, but being as that is, countries do not like to come on the list. So they resist saying yes, we have 100 victims.

Next you asked about resources. Well, I am going to give you a blunt answer. In the researching of this report, each researcher had 63 countries per person. When it comes to programs in our office, helping to administer, coordinate \$20 million in grants, 63 countries per person.

This is not counting the new tasks that have been given to us. Congress last March said and I think rightly so, this office should coordinate all the agencies in a senior operating group that have something to do with trafficking and make sure there is an exchange of information on grants. That obviously needs manpower to do.

The President put out an Executive Order in December calling on all agencies to draft implementation plans to make trafficking

the number one priority, domestic, foreign, whatever and we are supposed to coordinate that. That obviously takes manpower.

The statute calls for us to look at sex tourism, which has not been done. I mentioned it. I want to do it. That takes manpower. The President's Executive Order says there should be a zero tolerance policy, which means we should be working with the Department of Defense in areas like Bosnia and Iraq. The Department of Defense pleaded with me, have somebody go with them to Bosnia. This was just a couple of weeks ago and I said, no. They wanted our help. Why did I say no? Well, our expert in this issue was one of the three researchers preparing this report.

So given that this is an emerging issue and that 10 years ago people did not know anything about it, I have to admit a few years ago I did not know anything about it, yes, there are manpower requirements. If we are going to do the job, we are going to have to expand the staff to some degree. I just have to tell you I do not know how we are going to meet all these new tasks otherwise, let alone keep turning out better reports with 63 countries apiece.

You mentioned interim reports. That is a very good point. The statute provides for interim reports. We do not like to have massive interim reports because it is a lot of work and we go through a lot of work getting this done and given our staff resources, it is difficult. However, we have talked about that 4-month period where countries get off tier three, get to tier two.

Well maybe it should work the other way too. There is a country that the news I have gotten the last 2 days is very disappointing on. I am going to name the country if this does not offend people: Russia. Russia is on tier two. It was a good case to be made for Russia on tier two. But, part of that case was that Russia had been working the last year on what was described as and I believe to be a model anti-trafficking law. I was assured by our Embassy that this law had gone through several readings of the douma and most of it or a good part of it would pass this month. Now, we are getting word that it is off. I need to find out more about it.

There are other criteria that go into determining whether a country is tier two or tier three. That is not the only one, but it is very disappointing news. Countries, such as Russia, should know that tier two status is not an inherited right. Not only do we look at this every year, but we can look at this in the interim. Labor.

Mr. CHRISTOPHER SMITH. Waiver.

Mr. MILLER. What is that?

Mr. CHRISTOPHER SMITH. Using waiver as the last resort.

Mr. MILLER. The waiver. Yes. The waiver as the last resort. I will convey that message. I will convey that message to the State Department, to the White House, to whoever will hear me. I think you were loud and clear on that. Then I think your last question was——

Mr. CHRISTOPHER SMITH. Close calls.

Mr. MILLER. What is that?

Mr. CHRISTOPHER SMITH. The close calls.

Mr. MILLER. Close calls on tier two. I think I covered that a little by saying that a country could fall from tier two to tier three. But just to comment further on that, I recognize most of the countries are in tier two.

I think that is inevitable. It is inevitable because the world is awakening to this issue. Governments are starting to do something. They are making significant efforts, but they have not met the minimum standards.

One thing to consider: Maybe we can do this without legislation, maybe it needs legislation, I have not talked to our lawyers, some way to indicate that since tier two is so vast and there is such a wide range of countries on tier two, no question about it, there is some way to indicate countries that are the upper half of tier two or the lower half of tier two. I think that would be helpful. Did I address all your questions?

Mr. CHRISTOPHER SMITH. Thank you, Mr. Miller.

Mr. MILLER. Yes.

Mr. PITTS. Thank you. Mr. Schiff, you have a question?

Mr. SCHIFF. Thank you, Mr. Chairman. I just actually had a question for my colleague, Ms. McCollum, who had to depart early and I think we both understand the answer, but we just wanted further clarification and that is that the sanctions that are available under this legislation would not apply to cut off for example the AIDS funding to nations like Haiti that might be in tier three. That would be characterized as humanitarian aid and the sanctions do not go to that assistance; is that correct?

Mr. MILLER. Yes, I believe that is the case. Humanitarian aid is not affected. Trade related aid is not affected. Aid that goes to help fight trafficking is not affected.

Mr. SCHIFF. So for example, development aid, aid under the micro enterprise legislation, that might be impacted, but—

Mr. MILLER. I would have to turn to our lawyers on that. I think it probably would get to the definition of humanitarian. I know the act clearly military aid is covered. Clearly the act specifically mentions our support at the World Bank and IMF and other international institutions, assuming it is not humanitarian. I can get back to you, if you want on that micro enterprise. I am not sure there is a blanket answer there.

Mr. SCHIFF. Thank you.

Mr. PITTS. Thank you very much, Mr. Miller. You have been very responsive. We have gone a little over time on the 5-minute rule. So after the opening statements, we will go back to the 5-minute rule.

Mr. MILLER. Once again, I thank all of you for your interest, because part of the battle is making people aware of this issue. I often say if you go out and talk to Americans about slavery, they might say well, didn't that end with the Civil War? Government sanctioned slavery based on color did, but the kind of slavery we are talking about here is right with us in the 21st century.

If you keep talking about it and we all keep working on it and we bring it to more and more people's attention and more and more groups and more and more churches get involved and more and more governments, then I think we can move on to try to abolish slavery. Thank you.

Mr. SHERMAN. Mr. Miller, although I have an opening statement, maybe you could sit there and if you just have one or two sentences at the end, I am sure we could hear those.

Mr. MILLER. Sure.

Mr. SHERMAN. I will try to truncate my statement. According to a conservative estimate, our State Department believes that there are some 800 to 900,000 people trafficked across borders every year and that does not include the intra-country trafficking in such places as Mauritania and Sudan. Those who traffic in human beings attempt to send tens of thousands of those victims into the United States. This is not a problem limited to poor states.

This year marks the advent of the third State Department *Trafficking in Persons Report* and thank you for presenting it to us. This report has not been received without criticism, but it is an important tool. Congress has mandated the Executive Branch use this report in part of our fight against trafficking.

States will, for the first time, face sanctions as Mr. Miller has pointed out to us. I should point out that not only are these sanctions waivable, but they are relatively weak. Access to the American market for exports, not affected. Most favored nation status, not affected. A chance to get taxpayer aid and loans, if that is connected with buying American products, unaffected. Certain aid, not affected. Other aid, affected.

Then finally, we would vote against such a country in seeking a loan from the World Bank, for example, but we voted against a \$180 million loan to Iran from the World Bank. We just got overridden. Frankly, the bureaucracy over there is going to do what it wants to do.

So not only are these sanctions waivable, they are weaker than they ought to be. We will explore in the next year or two whether this level of sanctions is sufficient, but I bet you there would be support on this Subcommittee to add additional arrows to the Administration's quiver.

I want to point out that while there are business lobbyists in this town opposed to any sanctions and especially opposed to any sanctions that affect trade, we have to reflect the values of the American people and those values include doing everything we can to stop this trafficking.

I should point out that trafficking plays two roles with regard to HIV/AIDS. As Ms. Burkhalter will point out in her testimony, trafficking not only spreads AIDS but AIDS spreads trafficking in that it creates circumstances where people are so desperate that trafficking can result.

Finally, two criticisms that have been voiced of this report or should I say areas in which suggestions have been made? First, some including some of the witnesses that we will hear today, have noted the lack of underlying data or the lack of explanation of the source of information. Now sometimes you have to conceal sources in order to protect those sources, but underlying data could be put forward in an annex to your report or in footnotes. It is important to give the report credibility and to illustrate for people, both to quantify and to illustrate the problem.

The second is that there are a number of countries that you pointed out that are not in any tier, because you do not have the information. We have good relations with those countries. Some are in a state of flux, like Afghanistan and Iraq, but to see countries like Egypt and Mauritania just not listed in the report, especially

Mauritania which after all abolished legal slavery just 23, 24 years ago.

So we certainly do not want a circumstance where a country feels that it is best strategy is to stonewall. The best strategy should be to do everything possible, just as the United States should be doing everything possible and that is why I wait your input on what we can do to change our internal laws. I thank you.

Mr. PITTS. The Chair thanks the Ranking Member.

Mr. MILLER. Could I just briefly—

Mr. PITTS. Do you want him to respond now or in writing later?

Mr. SHERMAN. Let us give the witness a minute or 2. Normally this opening statement would have preceded your comments.

Mr. MILLER. Your point about data is well taken. At the beginning I pointed out that there is a lot more data this year than last year. A lot more evidence, information on convictions, arrests and prosecutions, but not enough. One of the ways we are going to get more data next year is completely shifting the burden to the countries so that the countries understand they have to provide the data.

Now, it has been pointed out some poorer countries maybe do not have the computer and data systems, but even a poor country has a telephone. The Justice Department can call somebody and get the information and the impact of that call can have a lot of beneficial effects. So I hope that will improve and that is an area where we need to improve.

Countries not listed, I agree with you, we need to improve there. Mauritania is an interesting example and I am going to use Mauritania to make a pitch here. Mauritania I think we found three alleged cases over the last several years. Three alleged cases of slavery. This does not mean that it is not happening. It is a country that is remote.

We have and somebody on my staff will tell you, this is at the top of our travel list. Somebody is going to be going to Mauritania and studying Mauritania and finding out if in fact the abolition of slavery was meaningful or if it hangs on. This leads to a final pitch here.

When I commended you and asked for your help, we need the help of non-profit organizations. One of the weaknesses and I did not list it here when I said areas we need to improve, but this should have been in there, when you look at our sources of evidence, Congressman, we have data from the Embassies, we have the NGO's, we have the news media, we have the international organizations, we have our own travel, our own trips.

I would say 67, 75 percent of the information comes from the Embassies. Now, we sent out letters to a lot of NGO's, but we need to do better there, particularly with indigenous NGO's. We have to find ways of getting more information from NGO's in the countries, including some of the countries you mentioned.

Anything you can do to help in that regard is much appreciated and that is something that I really have to work on in the coming months. Thank you very much.

Mr. PITTS. Thank you again, Mr. Miller. You have been very helpful and have made very excellent comments.

At this time, we will proceed to our second panel. We have some tremendous experts on this panel. I am delighted that each one is here today and we thank you for participating. I will ask if you will please take your seats.

Our first panelist is Ms. Nancy Murphy, the Executive Director of Northwest Family Life of Seattle, Washington, a non-profit agency dedicated to assisting families, individuals in healing from the pain of domestic violence. In addition to engaging in advocacy and support for abused women and children, the Northwest Family Life offers a state certified treatment program for batterers. Ms. Murphy was a member of the U.S. Department of State delegation to the OSCE, was a speaker on violence against women and has testified before the OSCE in Europe.

Our second witness is Reverend Lauran Bethell, who is internationally known for her pioneering work on behalf of women and children at risk at being trafficked. Reverend Bethell served for 15 years as the Director of the New Life Center in Chang Mai, Thailand. In January of this year, I visited the Center in Thailand and saw the wonderful impact of the work of the people like Reverend Bethell and others on the lives of young girls.

I just might mention one of the most heart wrenching aspects of my visit was a visit to an orphanage with young children from Burma. We listened to the stories of the tragedy in these young lives. One of the little boys was 8-years-old and by that time, by the way he could not even smile, he could show no emotion, he had lost both of his parents whom he had seen killed. He was trafficked across the border to Thailand. He somehow managed to escape from his owners and reach the relative safety of the refugee camp.

My delegation saw numerous examples of children at risk in the region. The New Life Center was started to offer young tribal women and ethnic minorities an opportunity to receive an education and vocational training as an alternative to prostitution and other forms of exploitation. They house something like 200 young ladies in four homes and do a tremendous job in Thailand.

The next speaker is Ms. Holly Burkhalter, U.S. Policy Director of Physicians for Human Rights, a Boston-based human rights organization, which specializes in medical, scientific, forensic investigations of violations of internationally recognized human rights. Prior to joining Physicians for Human Rights, Ms. Burkhalter worked with Human Rights Watch for 14 years as Advocacy Director and Director of the Washington, DC office.

Our fourth panelist is Dr. Mohamed Mattar, Co-Director of the Protection Project of the Foreign Policy Institute, Johns Hopkins School of Advanced International Studies in Washington, DC. He also serves as Adjunct Professor at Georgetown Law Center, American University at Washington College of Law, Johns Hopkins University and is also a Professor and Legal Advisor to governments and businesses in numerous countries of the Gulf and Middle East.

Our fifth witness, Dr. Louise Shelley is the founder and Director of the Transnational Crime and Corruption Center and is a leading United States expert on organized crime and corruption in the former Soviet Union. Dr. Shelley has run programs in Russia, more recently in Ukraine, with leading specialists on problems of organized crime and corruption and has been a principle investigator

in large scale projects on money laundering. She is also Director of Training of law enforcement personnel on the issue of trafficking persons.

Our final witness is Dr. Gary Haugen, Founder and Director of International Justice Mission. Prior to founding IJM in 1994, Mr. Haugen served as a counsel in the civil rights division of the United States Department of Justice, served as officer in charge of the U.N. genocide investigation in Rwanda, and has been involved in the global fight against trafficking, including forced labor and sexual exploitation.

With that, I want to thank each of you for being here today and we will start with Ms. Murphy.

**STATEMENT OF NANCY MURPHY, EXECUTIVE DIRECTOR,
NORTHWEST FAMILY LIFE LEARNING AND COUNSELING
CENTER**

Ms. MURPHY. Well Mr. Chairman, thank you for holding this hearing. I am pleased to be here and I am very pleased that this Committee is focusing on the issue of trafficking in persons.

I would like to submit my written testimony for the record. It is much more complete than the brief comments I am going to make today. In the limited amount of time I have to speak, I would like to tell you a little bit about my context, beginning with my conclusion and working backwards from there.

I was a victim of domestic violence and left my homeland in Canada in 1990 to find safety for my children and for myself. Since that time, I have worked exclusively on issues of domestic violence to provide advocacy and support for victims, court mandated treatment for perpetrators, and training for direct service providers and law enforcement, medical, professional and judicial system personnel.

The issue of trafficking in persons was brought to my attention about 5 years ago as women came to our agency who were court ordered to domestic violence treatment for "battering" their pimps or some of their customers. So within the confines of confidential counselling, these strip club dancers began to tell us bits and pieces of their stories. We learned of their captivity, their enslavement, and how they have been trafficked from other countries to Seattle, Washington.

We began to note what they shared. As they shared their stories of vulnerability to what we now call trafficking, they told stories that are so common, they all sound familiar: Stories of poverty, homelessness, domestic violence, or sexual assault in their homes. They had been abused or witnessed profound violence at home. It was hope, a hope for something new, something different, a hope for love that attracted them into this alternative.

My conclusion is this: Trauma counselling must be provided to victims of trafficking in such a way that they are empowered to hope again. Rescue and prosecution are truly necessary as a beginning, but without concentrated efforts to bring physical, emotional and spiritual healing and empowerment to those who have been so deeply injured, I believe we will have similar problems or greater problems ahead of us.

For example, let's consider the impact of domestic violence alone; studies conducted in North America depict the severe harm done to children, especially boys, who are exposed to violence in their homes. Children who have witnessed violence—not been directly assaulted, but witnessed it—are at a higher risk to become our next generation of abusers.

They are five times more likely to exhibit serious behavioral problems than other children, six times more likely to commit suicide, 24 times more likely to commit sexual assault, 50 percent more likely to abuse drugs and alcohol, and 74 percent more likely to commit crimes against others. Sixty percent of boys in the United States incarcerated for murder between the ages of 15 and 21 have been convicted of killing their mother's abusers.

Sadly, when faced with violence at home, many youth and children feel safer on the streets with strangers than with their families. In the United States, approximately half of all women and children experiencing homelessness are fleeing domestic violence. It is not just a local problem. It is a global problem.

Studies conducted in several countries offer these percentages of women who have been physically assaulted: In the United States 22.1 percent, in Canada 29 percent, in Turkey 57.9 percent, in South Africa 25 percent report being assaulted every week; in India 40 percent overall and 76 percent of lower caste rural women, and in the West Bank and Gaza Strip 53 percent. In Thailand 20 percent of men report hitting, slapping or kicking their wives at least once since the marriage. These percentages only include physical assault. You can imagine what it would be if emotional and sexual abuse were included.

The *Trafficking in Persons (TIP) Report* of 2003 is a very important document that turns our mind to focus on prevention, prosecution and protection of trafficking victims and to help focus resources. It appears, according to my reading of this report, that roughly half of the countries researched provide some sort of shelter, mostly temporary, for victims of trafficking and about one quarter of countries provide some form of psychological services (sometimes referred to as counselling or rehabilitation). But you will note that some mention was made about those services that they could actually revictimize women and children.

While it is not the role of government to provide counselling, it is the role of government to promote a civil society that protects the human dignity of all of its members, including the most vulnerable. I am opposed, as you are, to all forms of oppression and exploitation. As I read the *TIP Report*, I am impressed with some of the best practices that John Miller reported to us that countries are using to bring justice.

It was not that long ago that my children and I were alone and afraid, so it is tremendous to be here today and to be part of a country that is so deliberately saying "No!" to trafficking in persons. I want to thank you for all of your tireless efforts.

[The prepared statement of Ms. Murphy follows:]

PREPARED STATEMENT OF NANCY MURPHY, EXECUTIVE DIRECTOR, NORTHWEST
FAMILY LIFE LEARNING AND COUNSELING CENTER

SUSCEPTIBLE TO TRAFFICKING: WHO OF US IS NOT VULNERABLE?

The question has been asked of me: What makes a person susceptible to trafficking? According to Webster's Dictionary, 'susceptible' means:

- 1: capable of submitting to an action, process, or operation <a theory *susceptible* to proof>
- 2: open, subject, or unresistant to some stimulus, influence, or agency
- 3: impressionable; responsive

Since no victim is ever 'open' or 'responsive' to what he or she will face in this money-mongering, humiliating, life- and spirit-killing enterprise, we must ask instead, what makes a person *vulnerable* to trafficking? Webster's Dictionary defines 'vulnerable' as:

- 1: capable of being physically wounded
- 2: open to attack or damage: assailable

First, we should be clear that *all* people are potentially vulnerable to human trafficking, though the vast preponderance of victims are women, and children of both genders. According to the United States Department of State, "trafficking in persons refers to actions, often including use of force, fraud, or coercion, to compel someone into a situation in which he or she will be exploited for sexual purposes, which could include prostitution or pornography, or for labor without compensation, which could include forced or bonded labor."¹

The vulnerability to trafficking is much higher among those who are poor, who have children to feed, and who live in nations where resources and opportunities are limited. Lower class and poor families are forced in any country to make difficult choices among shelter, food, clothing, education and healthcare that can become an all-consuming and often defeating balancing act. The solution for some poverty-stricken rural families is to sell their children to traffickers, whom they mistakenly believe are benefactors who will take their children to the city for educational and employment opportunities unavailable at home.

Even when children remain with their families, they are often required to bring in money by means that increase their vulnerability to traffickers. For instance, during a visit to Bangalore, India, I was introduced to two little girls under the age of 10 who were "working" in a market at the center of the city. These little girls had been sent by their parents to the city, and it was their duty to steal onions. Their daily quota was four 20-pound mesh bags full, and they achieved this by stealing one or two onions at a time from merchants' tables and produce trucks. If they reached their quota, they could return home for the night. If not, they were forced to remain on the streets, where they were at grave risk for kidnapping or rape.

Globally, of the estimated 1.3 billion people living in poverty, more than 70 percent are females. The number of rural women living in absolute poverty rose by nearly 50 percent between 1975 and 1995.² Forty percent of all persons living in poverty are children.³ Poverty contributes to homelessness, and both are inextricably entwined with vulnerability to trafficking.

In Hong Kong, I recently had the opportunity to have coffee with a young, beautiful, talented lounge singer while she was on a break. With shame and sadness, she told me a small part of her story. In the Philippines, her home, she had watched many movies and been dazzled by the fame and fortune of beautiful and talented celebrities. Her family was very poor, and she had jumped at the chance to make it big when she was offered a job singing in lounges of classy Hong Kong hotels. Now, she said, she wished she were ugly and had no talent. She wished only to be dead. She owes such a large sum of money to the human traffickers who transported her and "set her up" in business that she cannot imagine when she will ever finish repaying the debt. Her piano accompanist serves also as her "bodyguard", eliminating all possibility of escape. And even if she could get away, she knows that she could never return home now. Her family would no longer want her. She was disgraced. This young woman's vacant beauty and bleak situation continues to haunt me.

Another major contributor to homelessness, and thus trafficking, is my area of expertise, domestic violence. Battered women are often forced to choose between abu-

¹ United States Department of State, 2003

² United Nations Development Programme, 1995

³ U.S. Bureau of the Census, 2001

sive relationships and homelessness. Anna, an Eastern European woman, was raped by her stepfather when she was 10 or 12 years old. She was later gang raped at age 13 while on her way to visit her grandmother. She became pregnant at 18. She was married three times, each time to husbands who beat her. She responded readily to a job offer to waitress in Germany to escape the alcoholic husband who regularly beat her and threatened her life. Because she was desperate to break the hopeless cycle of abuse and violence that engulfed her, she unwittingly sold herself to a trafficker from whom she now has little hope of escape.

In the United States, approximately half of all women and children experiencing homelessness are fleeing domestic violence.⁴ Domestic violence is a leading cause of injury and death to women worldwide; one in three women around the globe are physically or sexually abused in their lifetime.⁵ Gender violence causes more death and disability among women aged 15 to 44 than cancer, malaria, traffic accidents and war combined.⁶ Research informs us that domestic violence is a global problem. Research studies conducted in several countries conclude that the following percentages of women have been physically assaulted by an intimate partner:

- In the United States of America, 22.1 percent⁷
- In Canada, 29 percent⁸
- In Turkey, 57.9 percent⁹
- In South Africa, 25 percent report being assaulted every week¹⁰
- In India, 40 percent¹¹ overall and 76 percent among lower caste rural women¹²
- In West Bank and Gaza Strip, 53 percent¹³
- In Thailand, 20 percent of men reported hitting, slapping or kicking their wives at least once since marriage. Socioeconomic status was inversely correlated to the occurrence of physical abuse of the wife.¹⁴

These percentages include only physical assault, yet physical violence is just one aspect of domestic violence. If emotional and sexual violence were factored in, the numbers would increase exponentially. Sexual assault is the most frequent form of gender-based violence reported to authorities in all countries. The perpetrators in the vast majority of instances are men known to the victims. The outcome can be fatal; in Thailand in 1995, of 139 women reported to be raped, 31 percent were killed by their perpetrator. Forty percent of these rape victims were girls under 15 years old. Six of them were aged 0–3 years, and the youngest victim was only eight months old.¹⁵

Studies conducted in North America depict the severe harm done to children, particularly boys, who are exposed to violence at home. March of Dimes research reveals that domestic violence is the number one cause of birth defects in newborn children.¹⁶ Children who have witnessed violence in the home, even if not directly assaulted themselves, are at higher risk to become the next generation of abusers.¹⁷ Children who see their mothers victimized are five times more likely to exhibit serious behavioral problems than other children.¹⁸ These children are six times more likely to commit suicide, 24 times more likely to commit sexual assault, 50 percent more likely to abuse drugs and alcohol, and 74 percent more likely to commit crimes against others; 60 percent of boys incarcerated for murder between the ages of 15 and 21 have been convicted of killing their mother's abuser.¹⁹ When faced with such violence at home, sadly, many youth and children feel safer on the streets with strangers than with their families. Yet running away from a community where they

⁴ Zorza, 1991; National Coalition Against Domestic Violence, 2001.

⁵ *ibid*

⁶ Kroeger, C. Clark & Nason-Clark, N., 2001

⁷ U.S. Department of Justice, 1998

⁸ Rodgers, 1994; Statistics Canada 1993

⁹ Ilkkaracan et al., 1998

¹⁰ UN Children's Emergency Fund, quote in YOU magazine, January 26, 1995

¹¹ Jejeebhoy 1997

¹² Mahanjan A, Madhurima O., 1995

¹³ Haj-Yahia, 1998

¹⁴ Hoffman et al (1994)

¹⁵ Archavanitkul K, Havanon N., WHO Regional Office for South East Asia; 1998

¹⁶ March of Dimes publication

¹⁷ Jaffe et al. 1986: cf. Statistics Canada 1993

¹⁸ Moore, 1999

¹⁹ Massachusetts Department of Youth Services

are known or can be identified greatly increases their vulnerability to trafficking, both in the United States and abroad.

We have a serious global problem as a result of our failure to address the problems of poverty, homelessness, and family violence. The United Nations estimates that almost one million women and children are sold into the slavery of forced prostitution, pornography, labor, and other forms of exploitation (harvesting of body parts, forced military conscription, kidnapping children for adoption) every year. Religious, cultural, and political institutions (legislatures, judiciaries, governmental bodies) that could come to the aid of women and children living in violent situations often fail, and for a variety of reasons. In some homes, women and children are viewed as property—a commodity to be owned, therefore subject to sale. In some countries, a woman who has been raped is imprisoned or disowned to alleviate the family's shame. In other cases, psychological coercion and domination are rooted in the religious belief that to disobey a man is to disobey God. The cumulative impact of these and other institutionalized beliefs is severe. Women are forced to choose between home and homelessness. Children who witness abuse become abusers or victims themselves. Socioeconomic structures perpetuate poverty, as “the poor get poorer”. The proliferation of readily accessible pornography produces a dissatisfaction that heightens the cycle of abuse. And cultural and religious institutions that should protect the vulnerable often instead reinforce the rights of men to dominate women and children.

Imagine, if you can, in the midst of such suffering, the response of a woman to an invitation to make a better life for herself and her children. Hope. The hope for a better future, for education, employment, opportunity, a path out of poverty, and freedom from physical and sexual assault. We have all had the same dream for ourselves, for our children. So we ask again, who are the vulnerable? They are the women and children, the poor, the homeless, the victims of domestic violence who are living in desperation but with the abiding hopes and dreams for a better life that we all share. Ironically, they become victims of their own hope.

As horrific as it is, traffickers see good business in this pool of human misery and take great advantage of it. Recruiters use various tactics. Some victims are taken through threat and coercion, having been beaten, brutalized, or kidnapped. In other instances, trickery is used. Recruiters select a couple of girls, known as ‘dolls’, whom they protect and provide with a high standard of living in order to showcase them. The ‘dolls’ are charged with the task of promoting traffickers through the telling of “nice” fictions—of hopes realized and dreams fulfilled—to potential new recruits, the unsuspecting young women, children, and even families who are desperately seeking a better life. In still other cases, a victim may even realize that she will become involved in the sex industry or hard labor, but her life is so hopeless that she sees it as the only possible avenue to an education or a better future. Recruiters work in collaboration with each other through a well-organized “brotherhood”. Within this sophisticated network, a vulnerable victim becomes helplessly trapped, held captive to a humiliating and life-destroying powerlessness—no voice, no name, no rights. Regardless of the means by which victims are initially captured—whether by force, by trickery, or by their own sense of self-defeat—they are quickly stripped of all human dignity and rights and must learn to carry on in traumatized resignation and fear.

I have been invited here today to speak to the Subcommittee on International Terrorism, Nonproliferation, and Human Rights. I submit that human trafficking is a profound form of terrorism directed against women and children worldwide. Not unlike the victims of 9/11, these women and children are leading normal lives by their own cultural standards when a sudden, unexpected blow comes from outside that not only destroys their individual lives at the “point of impact” but also sends shock waves shuddering through their families, villages, and whole societies. Like any form of terrorism, the victims are targeted not as individuals, but as members of a vulnerable group whose destruction or exploitation the terrorist desires. Like any terrorist, the human trafficker must be flushed out and punished.

Our government is responding to this need through the newly formed Interagency Task Force to Monitor and Combat Trafficking in Persons. The Department of State, Department of Justice, Immigration Department, and Health and Human Services, along with the US Agency for International Development and the Department of Labor are coming forward with funding, training, investigation, and focus on this problem. I am proud that my home state of Washington is leading the nation in collaborative action against human trafficking through the establishment of the first statewide Anti-Trafficking Task Force in the country²⁰. There is so much work to

²⁰ Washington State Task Force Report on Trafficking in Persons, 2002

be done. Our country, by virtue of wealth, education, opportunity, and understanding of this human tragedy is in the position to take the lead.

Mr. PITTS. Thank you very much, Ms. Murphy, for your testimony. Reverend Lauran Bethell, please proceed with your testimony.

STATEMENT OF THE REVEREND LAURAN BETHELL, INTERNATIONAL BAPTIST THEOLOGICAL SEMINARY OF THE EUROPEAN BAPTIST FEDERATION

Reverend BETHELL. Thank you very much. I very much appreciate all the time and energy that Mr. Chairman and Committee Members are putting forth in this effort to combat trafficking of persons.

In my written report, I talked about two young women who were victims of trafficking. One from a European situation from a formerly communist country to a western European country, because she wanted to support her child and she was promised a great job there and ended up having to work in sexual slavery. The second young woman I talk about is a woman who was trafficked from one Asian country to another.

The thing that these young women have in common is that both of them were able to find shelter at a place where they could heal and both of them have gone on to lead productive lives. Because women have been trafficked does not mean that their lives have to be totally devastated, but I really feel that their lives have been able to be renewed, because they were able to find appropriate after care.

Both of them experienced compassionate after care, which I was very honored to participate in and both of them would talk about how important that was. Last week I was with the young woman who was trafficked in Asia when she was 13 years old and she was very proudly showing me the house that now her two children and her could live in and be happy and to talk about the life that she had. Just because she was raped 13 times a day for a year did not mean that her life had to be devastated, though she does live with scars, as does the young woman from Europe.

So prevention is absolutely critical, but so is after care for victims of trafficking. It will look very different in whatever situation is it applied, but there are certain principles that we can look at. The situation of Europe is going to be very different, because the cultural backgrounds of the people that are affected by trafficking are very different.

I would like to mention 10 principles very quickly. The victims should always be kept in the center of any planning for his or her care. The victims are the at-risk individuals, will be the ones to let their caregivers know what they need most in order to heal. We cannot determine appropriate after care from thousands of miles away. The victim has to be in the center and to tell us what it is that they need to know. This point supersedes all others.

There are no quick fixes, number two. Healing and restoration take a lot of time and band-aid approaches are almost worse than no approach at all. A 1-, 2- or 3-month rehabilitation program is a myth. After care requires a commitment of time, usually many years of time. The girls at the New Life Center where I worked in

Thailand stayed for 2 to 7 years and sometimes longer if they were able to attend university. They made the decision to leave when they knew it was time to finish their education and move on with their lives.

Number three, safety and security must be felt. The first feeling someone coming out of a trafficking situation must have are those of safety and security. However, care has to be given to assure that the facility is more seen as a home than as a prison.

Number four, community environment provides the greatest opportunities for healing. Victims generally do not want to be spotlighted, at least the ones I have worked with, but would prefer to be with others who care for them and who may have shared similar experiences. In many cultures, the community is absolutely central to all aspects of society and is key in any decision that an individual makes. A community environment is absolutely essential to promote healing in many situations.

Number five, compassionate listeners need to be available and these people may be involved as residents or as employees or as volunteers in the after care community or they could be professional counsellors, psychologists, therapists, depending on the cultural context. Victims need to be able to tell their stories sometimes many, many times to people that they trust, in order to move toward healing.

Number six and a very key component has to be of economic support. People are trafficked because they are moving from one very difficult economic situation and they are looking for a better economic situation. So individuals must have a means of supporting themselves and their families while they are also in after care. The usual reason that they were trafficked was out of desperation and they will stay and give themselves time to heal, if they feel that they can be supporting their families while they are healing. Otherwise, they will leave and they will probably return to another situation where they can be exploited.

Number seven, there must be an educational and skill development component to after care. Monika, the young woman I talked about from Europe, had been educated through vocational school, but she needed language skills in order to cope with her new setting that she was moving to, her new country. MiiChu needed literacy and vocational training. Nearly all of the women that I worked with in Thailand were totally illiterate and literacy was absolutely key in moving them toward the fact that they felt a sense of hope.

Number eight, medical care must be available with compassionate, understanding health care providers. Number nine, provisions must be made for victims who are HIV positive. Pre and post test counselling has to be provided. If clients are symptomatic HIV, alternatives have to be provided for them and their children.

Number ten, of course legal advocacy needs to be provided. There are often many complicated legal situations that need to be worked through having to do with labor, immigration and human rights. It is most important to know that an after care provider have contacts with people who can help, who knows the laws and they know government officials who can help them navigate complex legal structures.

When I first began working with the victims of trafficking in 1987, I doubt that there was one government in the world that was addressing this issue in any substantive way. Now I am quite sure there is not one single government in the world that is unaware of the issue and unconcerned about consequences of passivity and I applaud the efforts that are being made in my own country to use its influence and power through legislation to intervene in the lives of millions who are exploited through trafficking.

Laws and good law enforcement are absolutely essential and are what governments can do best in addressing this issue, but I truly believe that cooperation with non-government organizations, church groups, private individuals, who have committed themselves to work through the maze of issue and long-term applications of caring and instilling hope is absolutely essential. Thank you so much.

[The prepared statement of Mr. Bethell follows:]

PREPARED STATEMENT OF THE REVEREND LAURAN BETHELL, INTERNATIONAL BAPTIST THEOLOGICAL SEMINARY OF THE EUROPEAN BAPTIST FEDERATION

Monika¹ was told that she could get a good-paying job working as a dancer in a West European country. She was promised that she would not have to prostitute herself, and that within 6 months, she would have enough money to buy a house. Barely earning enough money to survive in her homeland, a formerly Communist satellite country, she was desperate to provide a decent place to live for herself and her young daughter. She trusted the man who said that he would arrange for her to work legitimately.

Upon arriving in the West, her documents were kept, and she was threatened with her life if she tried to go to the police. She was forced to prostitute herself, and her "owner" made more than \$70,000 in the year that she describes as "hell". She was finally rescued by a local man who fell in love with her, and they were eventually married. In order to live legitimately in her husband's country, she had to return to her own country to process the visa. She was terrified that she would be seen by her former captors: they had warned her never to return home and never to reveal their identity or they would do harm to her and/or her family. She and her daughter remained safe during their stay, and were granted visas to return to her husband's home. She is now working for a social welfare agency, helping others who are in similarly desperate situations.

She now looks back on her time in the "safe house" in her home country as the most healing experience of her life. Housed in a comfortable apartment in a secure location, Monika was also surrounded by a community of people who truly cared for her. During her months there, she was frequently awakened by nightmares, recalling long-repressed memories of the abuse of her childhood, adolescence, and in the brothel. Sharing these experiences with caring listeners, she was able to begin to release the pain of her past. She made contact with her mother, who had thrown Monika out of the house when she was 14 years old, and began working on restoring that relationship. When she ran into problems with securing her visa, advocates came forth and worked on her behalf, clearing the way.

MiiChu² was 13 years old when she was promised a "good job" working as a housemaid in a neighboring Asian country. Her mother's death had devastated her and her two younger brothers. Her father coped with his grief by smoking opium. Her only thought was that she could support her brothers if she could get good work.

Having no education and no documents, she was completely at the mercy of the man who betrayed her and forced her to work in a brothel. After more than a year there, raped by as many as 15 men a day, she managed to smuggle out a note with a sympathetic customer. This led to her rescue and placement in a shelter. There, she was able to tell her story. She was also surrounded by a community of young women who spoke her ethnic language. She received an education and vocational training at the shelter. She began to feel that there was hope for the future, and that she could move beyond her past. She is now married and has two sons who

¹This is a true story, but the name has been changed.

²This is a true story, but the name has been changed.

are in school. She has been able to secure citizenship in her husband's home country. She works as a seamstress, her husband in a factory, and they recently bought a house. One of her brothers is in the middle of his university studies and the other one is supporting him.

Both Monika and MiiChu experienced compassionate after-care, which they felt led to their healing and restoration. Without it, both have said that they probably would have been stuck in lives filled with depression and fear, unable to move beyond their traumatic experiences. But the care that each received was quite different because their circumstances and cultures are quite different.

Though after-care for victims of trafficking will look different in every situation in which it is organized, there are certain principles that can be applied.

- 1) The victim should always be kept in the center of any planning for his/her care. The victims or the at-risk individuals will be the ones to let care-givers know what they need in order to heal. Their voices need to be the ones we listen to the most. This point supercedes all others.
- 2) There are no "quick fixes". Healing and restoration take much time. Band-aid approaches are almost worse than no approach at all. A one, two or three month "rehabilitation program" is a myth. After-care requires a commitment of time, most often many years of time. The girls at the New Life Center³, where I worked in Thailand stayed for 2–7 years and sometimes longer if they attended university. *They* made the decision to leave when they knew it was time to finish their education move on with their lives. Time limits cannot be set arbitrarily for the sake of the institution. The client must always be the focus of the decision and determine his/her own healing path.
- 3) Safety and security must be felt. The first feelings someone coming out of a trafficking situation must have are those of safety and security. However, care must be given to assure that a facility be seen more as a home than as a prison.
- 4) A community environment provides the greatest opportunity for healing. Victims generally don't want to be "spotlighted", but would prefer to be with others who care for them and who may have shared similar experiences. In many cultures, the community is central to all aspects of the society, and is key in any decisions that an individual makes. A community environment is essential to promote healing.
- 5) Compassionate listeners need to be available. These may be people involved as residents, employees, or volunteers in the after-care community. Or they could be professional counselors, psychologists, therapists, depending on the cultural context. Victims need to be able to tell their stories, sometimes many times, to someone they trust, in order to move toward healing.
- 6) There must be a component of economic support. The individuals must be able to have a means to support themselves and their families while they are in after-care. The usual reason that they were trafficked was out of desperation to financially provide for themselves and their families. They must be able to continue doing that at some level while making a new life for themselves. Otherwise, out of desperation to support their families, they will often return to another situation of exploitation.⁴
- 7) There must be an educational/skill development component to after-care. Monika had been educated through vocational school, but needed language skills in order to cope in her new country. MiiChu needed literacy and vocational training.
- 8) Medical care must be available, with compassionate and understanding health care providers.
- 9) Provisions must be made for victims who are HIV+. Pre- and post-test counseling needs to be provided. If clients are symptomatic HIV+, alternatives for care for them and their children need to be available.
- 10) Legal advocacy needs to be provided. There are often many complicated legal situations that need to be worked through, having to do with labor, immigration and human rights. It is most important that an after-care pro-

³For more information go to <www.newlifethailand.org>

⁴There are some successful programs which are built around economic alternatives. One program in Asia has positioned itself in a red-light district and is employing prostitutes, many victims of trafficking, in a jute bag making factory. Their goal is to economically transform the district from the inside out. See <www.juteforfreedom.org>

vider have contacts with people who know the laws and that they know government officials who can help them navigate the complex legal structures.

When I began working with victims of trafficking in 1987, I doubt that there was one government in the world that was addressing the issue in any substantive way. Now, however, I'm quite sure that there is not one government in the world that is unaware of the issue, and unconcerned about consequences of passivity. I applaud the efforts that are being made in my own country to use its influence and power through legislation to intervene in the lives of the millions who are exploited through trafficking. Laws and good law-enforcement are absolutely essential, and are what governments can do best in addressing the issue.

Restoration of life for victims, and infusion of *hope*, is most often best done by private grass-roots groups, NGO's, and individuals who have committed themselves to work through the maze of issues and long-term implications of caring. Often in my travels, what I hear is that laws are in place, advocacy is being done and research is being compiled, but that after-care, the healing touch of caring for individuals, is what is most lacking. This can't be legislated or mandated. But it can be encouraged by governments in the following ways:

- 1) Government agencies can actively seek to dialogue with those who are working with NGO's and grass-roots organizations. We work with the individuals who have been traumatically affected by trafficking, and have information and ideas to share which can impact your legislation. And we simply appreciate your encouragement and support of our endeavors. The visits to our very grass-roots project, the New Life Center, by the former First Lady and then later the former Secretary of State, and now by some of you on the panel, is speaking volumes to the local government. The high profile visits spoke so loudly to the local government that they began to invite our staff to fully participate in local forums with the social welfare department, the police and immigration department to which we previously had limited access. Embassy and Consulate officials in overseas contexts need to make as many contacts as possible with those working in the field, both in the public and private sectors and across religious and sectarian boundaries. You are demonstrating your will to truly seek healing for victims by listening to the presenters today, and I commend you for it.
- 2) Often, it is through supporting small budget groups and endeavors that the most lasting impact is made on individuals. Large grants of funds are easier to administer, but small grants, supporting very grass-roots efforts are often the most effective ways to see success. Efficiency does not equal efficacy. I've seen a grant of \$5000 make more of an impact on individual lives than one of \$50,000 or \$500,000. This is not to say that the "big money" isn't needed. It is. But it needs to be administered in such a way that as many individual lives are impacted as possible, and that is often through a variety of small endeavors.

Before closing, we must always keep in mind that prevention needs to be a major focus in fighting trafficking. And keeping girls in school is the fundamental tool of prevention in most developing countries. Governments need to be actively involved in facilitating the promotion of education for girls, through the highest levels possible. Hopefully, the U.S. Government is doing all that it can to make it possible for girls to study in countries where they have previously been denied that opportunity.

Your expression of support for those of us working with victims of trafficking, demonstrated by this hearing today, is immensely gratifying and is a great encouragement to me personally. Thank you for being willing to listen, and for investing your limited time and energy so that lives devastated by the deception and betrayal of trafficking can be healed and restored.

Mr. PITTS. Thank you, Reverend Bethell. Excellent testimony. Ms. Holly Burkhalter will now present her testimony.

STATEMENT OF HOLLY BURKHALTER, U.S. POLICY DIRECTOR, PHYSICIANS FOR HUMAN RIGHTS

Ms. BURKHALTER. Thank you very much for inviting me to testify. I am glad to be here. I was asked by the Committee to talk about trafficking and the global HIV/AIDS pandemic so that is

what I will focus on. My written testimony includes a great deal of medical data, for which I want to thank my research assistance, Eric Friedman and I will talk quickly through for the record.

As I noted in my testimony, women and girls everywhere and in almost all situations are uniquely vulnerable to contracting HIV/AIDS for a variety of reasons. But the most important among them is that in many, many countries in Africa and Asia and certainly even in western Europe and in our own country, women and girls are not always and in many cases almost never able to control the terms of sexual contact. Women and girls do not have the right in many places to say what is going to happen to their own bodies.

HIV/AIDS best practices and prevention are all built upon the premise that people can act on informed, educated choices. So whatever the intervention might be, whether it is abstinence education, whether it is condom use, whether it is selecting sexual partners, whether it is fidelity, those are all part of good practice, in terms of preventing HIV/AIDS transmission. But that is precisely what many women and girls, married women, unmarried women do not have.

Whether it is because they are subjected to sexual violence at home or outside the home, whether it is because they are economically very vulnerable, we have a whole new generation of AIDS orphans who are particularly vulnerable to sexual exploitation because they have absolutely nothing. They have no adults protecting them. They are living on the streets and they number in the millions.

But if many women and girls in Asia and Africa in particular are vulnerable to the HIV/AIDS pandemic, surely the most vulnerable among them are trafficked women and girls and children. Why? Well, there are a number of medical and physiological reasons why that probably do not need to be explained to this Committee, but it is worth noting because it is such an ugly, ugly crime.

First of all, women's physiology makes them more vulnerable to contracting AIDS through sexual intercourse than men. Women have a much higher rate of sexually transmitted disease and those women who are in brothel situations where they are subject to sexual relations with many, many, many people are of course very vulnerable to other sexually transmitted diseases, which raises their vulnerability to being infected with HIV/AIDS by 10 times.

Moreover, you can understand without me telling you that to coerce or force a woman or a child into sexual acts requires force and frequently injury and the younger the girl is, the more likely she is to be injured, the first time and the 21st time.

The exchange of fluids, of course, is the way that AIDS is transmitted and the presence of injury vastly enhances the possibility that a woman or girl will contract AIDS in a sexual act. The kinds of sexual acts that are common in trafficked coerced sex do not need to be described, but are particularly injurious and are those most associated with AIDS transmission.

It is not possible for me to give you precise data on the amount of actual cases of AIDS transmission that come from trafficking, because numbers are difficult to get at. You know you cannot go into a brothel and say, who in this establishment has been trafficked? No one can tell the truth freely when they are in slavery and so

you cannot ethically do such a study. But we can learn something from the information available about prevalence of HIV among persons engaged in commercial sex more generally. A large amount of HIV/AIDS is found among prostitutes in countries with high AIDS burden.

Look at, for example, the case of Thailand, whose epidemic has peaked much earlier than some of the other countries we know of in the second and third wave of the pandemic. Thailand's AIDS epidemic was transmitted almost entirely through commercial sex work and through injecting needle users. Ten years ago, it was estimated that something on the order of 30 percent of the persons engaged in commercial sex were HIV positive.

Now Thailand has very aggressively dealt with this problem of providing prevention services to some persons in the commercial sex industry and has brought their, to my knowledge, prevalence of HIV among persons in the commercial sex industry down to about 18 percent, which in any context except the global AIDS pandemic would be considered just horrendous and atrocious, which of course it is. Each one of those pieces of data is a human life that certainly will die of this disease which has a treatment, but not a cure and certainly not a treatment available to the very poor.

But having said that, I simply want to indicate that while Thailand is to be commended for having very aggressively dealt with AIDS transmissions in commercial sex work, they are not aggressively dealing with trafficking. You have a whole category of women that cannot possibly avail themselves of any health services.

Many of them are not resident in that country and fear if they even raise their heads to try to find health care or prevention services, are not going to be able to get it. They are not even permitted to leave the place where they are held. Many of these are tiny kids who have no idea what they could possibly have, but most of all the very fact that they are sexual slaves, they are being coerced and held against their wills, I must tell you that those people are uniquely not able to ask for condom use.

Indeed, male clients purchase very young women precisely because they cannot insist on condom use. Few sex workers can and those least able to are those whose bodies literally have been sold and are in slavery.

So, all of the premises of best practice and prevention do not apply and that is why not only the primary issue is the rights of these victims, but in terms of looking at trafficking as a public health issue, it is very profound. It is estimated that India has 2.3 million people, women and girls primarily who are coerced or being held in forcible sexual commerce or who are under age. That is just millions of AIDS cases that we can expect and it is a very likely death sentence.

Well, I have said a lot about the way that sex trafficking contributes to the pandemic, but it is interesting to note that as Congressman Sherman mentioned, the pandemic helps drive sex trafficking as well. The mistaken notion that having sex with a virgin or a young girl can cure someone of AIDS has contributed to an epidemic of child rape and baby rape, particularly in southern Africa, which I describe in my testimony.

But I also think it is important to note that the purchase of ever younger girls in pursuit of virgins for sexual relations is very much linked to the HIV/AIDS pandemic.

Unlike some of the other best practices and prevention, all of which I strongly support by the way, this is one area where I think there is a bright light of hope. A best health practice, with regard to trafficking, is actually law enforcement. It may seem odd for someone who works for a medical organization to come and talk about police work, but that is actually the health intervention that is probably most needed and is most possible. Another witness will talk about this further, but it is because trafficking either selling underage children or coercing or forcing women against their will, is illegal everywhere.

Whether prostitution per se is illegal or not, there is no question that trafficking is illegal. How do you then offer these victims to the public on a regular basis without the connivance of the police? Well, you cannot.

Thus, for example, I find in the *TIP Report* on India that whereas 2.3 million women and girls are forced into the sex industry, certainly their clients have had no trouble finding them. But the police cannot seem to find any of them or maybe there is one case out of 2.3 million, which is why I think that India by the way, parenthetically, belongs on tier three. One of my recommendations is that there ought to be a mid course review on India and Thailand, two of the countries most associated with very young child sex.

I had a couple of other recommendations. I have listed 10 in my testimony, but I see that Congressman Smith and Congressman Sherman were way ahead of me. I have already taken advantage of your generosity and I will not use my time, but I would say just in closing that the AIDS pandemic and our government's very strong engagement in it, which I commend, offers many new opportunities to raise up this issue and to ask other donors to join with us.

I would note for your edification that the next AIDS summit in 2004, these are very important occasions where the major figures in AIDS prevention, care and treatment from all over the world will be present. A major enterprise. It will be in Bangkok, 1 year from now, July of 2004.

I think this will be an important occasion. Thailand has a year to prepare for this. This will be an occasion where the international community can either praise Thailand for having done something about AIDS transmissions in the commercial sex industry or they can condemn them for not having taken a very good look at the active complicity of a very large number of their law enforcement figures in the child sex and trafficked and coerced sex industry.

I would just conclude by making a personal remark, if you would forgive me. I have been in the human rights field for 24 years, longer than just about anyone, which is why I have more gray hair than most of my colleagues at either Human Rights Watch or Physicians for Human Rights. But I guess that after 24 years you have finally found something you just absolutely cannot live with and you cannot stand it and I think all of us do our best work when we get to that point: After having worked in human rights for many, many years, this is the one thing I just cannot bear.

I have a little girl and she is Vietnamese and when I have seen the photographs of some of the children who have rescued from brothels in Cambodia, I note that they look just like her. She weighs about 32 pounds and she just finished kindergarten. Thank you.

[The prepared statement of Ms. Burkhalter follows:]

PREPARED STATEMENT OF HOLLY BURKHALTER, U.S. POLICY DIRECTOR, PHYSICIANS FOR HUMAN RIGHTS

Thank you, Mr. Chairman, for holding this important hearing. I am honored to be here. My name is Holly Burkhalter, and I am the Director of U.S. Policy for Physicians for Human Rights, a Boston-based human rights organization. Since forming our "Health Action AIDS" campaign two years ago, Physicians for Human Rights has engaged in extensive activities to mobilize the medical, nursing, and public health communities in the United States to confront the global HIV/AIDS pandemic. Our Health Action AIDS advisory board includes this country's leading specialists in HIV/AIDS prevention, care, and treatment, many of whom are engaged in overseas programs.

Women and Girls' vulnerability to HIV/AIDS: A priority of Physicians for Human Rights and our Health Action AIDS campaign is to support the right of people everywhere to avoid contracting HIV/AIDS, and, if infected, to secure care and treatment. We are particularly concerned about women and girls' special vulnerability to AIDS. Discrimination and subordination of women and girls in many countries has denied them schooling, access to health care, the opportunity to work, has constrained their legal rights and economic opportunities, and has also disproportionately heightened their risk of contracting HIV/AIDS. Despite their relative equal numbers in the population, for example, young women in sub-Saharan Africa are many times more likely to contract the disease than their male age cohorts. A 2002 UNICEF study in Ethiopia, Malawi, Tanzania, Zambia, and Zimbabwe, for example, found that there were five to six 15–19 year-old girls infected with AIDS for every boy in that age group.

In part, such disparities are a reflection of physiological differences—women are as much as 2–4 times more likely than men to contract the disease through heterosexual acts. Female genital mutilation also increases the risk of HIV transmission.¹ But the high rate of infection among 15–19 year-old girls also reflects women's powerlessness within and outside of marriage to control the terms of sexual contact. Moreover, while fidelity after marriage is required for many African and Asian women, many men do not uphold such norms. According to Stephanie Urdang of the U.N. agency for women, UNIFEM, among the highest HIV/AIDS risk factors for southern African women is marriage. Among the highest HIV/AIDS risk factors for women in India is marriage.

A report on sexual violence in Sierra Leone by Physicians for Human Rights noted the high rates of rape and gang rape in the context of civil war, but pointed out as well the vulnerability of Sierra Leonean women and girls to sexual violence from boyfriends or husbands. Nearly 67% of urban women interviewed for a survey on AIDS knowledge, practices and behaviors revealed that they had been beaten by an intimate male partner, and over 50% reported being forced to have sexual intercourse. In over 90% of these cases, a boyfriend or husband was the perpetrator.²

Vulnerability of Trafficked Women and Girls to HIV/AIDS: If women and girls are more vulnerable to the disease because of political, social, and cultural inequality, those most at risk are surely those who are trafficked—coerced, forced, or tricked into commercial sex. Sex trafficking is an almost inevitable death sentence for the victims for several reasons. First, because they are virtually or literally enslaved, trafficking victims have no ability to insist upon condom use and are vulnerable to dangerous sexual practices most associated with transmission. Second, trafficking victims are forced to endure intercourse with multiple partners. And third, violence is common in commercial sex and particularly prevalent when women or children are forcibly subjected to sex against their will. Injuries and abrasions sustained dur-

¹See UNAIDS, *Women and AIDS, Best Practices Collection* (Oct. 1997), at 3. Available at <http://www.unaids.org/publications/documents/human/gender/womenpve.pdf>; UNAIDS, *Gender and HIV/AIDS: Taking Stock of Research Programs* (March 1999), at 5. Available at <http://www.unaids.org/publications/documents/human/gender/una99e16.pdf>.

²"Violence Against Women in Sierra Leone: Frequency and Correlates of Intimate Partner Violence and Forced Sexual Intercourse," *African Journal of Reproductive Health*, 1998; 2(1). Cited in "War Related Violence in Sierra Leone," Physicians for Human Rights, 2002.

ing sexual contact heighten physical vulnerability to AIDS transmission.³ And young girls' physically immature bodies are highly vulnerable to injuries, significantly heightening their risk of infection. Moreover, having other sexually transmitted diseases (STDs) heightens the risk of contracting HIV by up to a factor of 10.⁴ STDs are more common among women than men, and women often contract STDs at a younger age than men.⁵

Enormity of the Crime of Sex Trafficking: Though the percentage of HIV transmissions that can be attributed to trafficking has not, to my knowledge, been determined, it seems highly likely that coercing or forcing millions of cases of girls and women into violent, unprotected sex acts with multiple partners is a significant factor in the spread of the AIDS pandemic. The consequences of trafficking can be gleaned from the significance of commercial sex transactions in the national AIDS epidemics in two of the countries where trafficking is most prevalent, Thailand and India. At the height of Thailand's AIDS epidemic, more than 80% of HIV/AIDS cases could be attributed to women in the sex industry and their clients.⁶ Commercial sex work is one of the driving forces behind the AIDS pandemic elsewhere, such as India, where HIV levels among sex workers in Mumbai (Bombay) exceeds 50%.⁷ A 1997 study in Sierra Leone showed that 70.6% of those engaged in commercial sex in Freetown were HIV positive, compared to 26.7% just two years earlier.⁸

As reported by Human Rights Watch in its report on Thai women trafficked into debt bondage in Japan, statistics from Japan's National AIDS Surveillance Committee confirm the particular vulnerability of female trafficking victims and other foreign women to HIV/AIDS in Japan: from 1985 through 1997, non-Japanese females accounted for 34% of all HIV cases and 8% of all AIDS cases. Human Rights Watch goes on to note that a 1997 study presented at the Regional Meeting on Traffic in Women in Asia and Pacific found that more than 90% of all non-hemophilic cases of HIV/AIDS in Naano and Ibaraki prefectures involved foreign migrants, with most of those infected coming from Thailand and other Asian countries.

The vulnerability of trafficked women to sexually transmitted diseases is compounded by their inability to receive medical testing, treatment, counseling, prevention services, or other health care. Inability to speak or understand the language in a foreign land, poverty and indebtedness, and lack of freedom of movement may grossly impede access to health care. Moreover, as Human Rights Watch noted in its report on Japan, trafficked foreign women and girls are denied access to government-subsidized services for HIV/AIDS that are available to citizens of Japan.

While accurate statistics on the total number of women and girls trafficked into the sex industry are difficult to obtain, given the illegality of trafficking, estimates indicate that the numbers are enormous. The most recent State Department Country Reports on Human Rights affirm that there are 2.3 million women and girls held in prostitution against their will in India alone.

The State Department Country Reports provide other estimates as well. The latest report estimates that at least 10,400 women and girls were trafficked from Vietnam to China in recent years. Local NGO's in Nepal estimate that from 5,000 to 12,000 Nepali women and girls were lured or abducted annually into India and forced into prostitution, and the Nepali human rights organization, Prayas, estimates that there are from 200,000 to 375,000 Nepali women in Indian brothels.⁹ Moreover, the Asia Partnership for Human Development (APHD) Regional Programme Against Trafficking of Women and Children in South Asia notes most of the Nepalese girls currently working in Indian brothels are between the ages of 10 and 20 years. The World Bank's "Nepal HIV/AIDS Update of 2002" states that

³See UNAIDS, *Women and AIDS, Best Practices Collection* (Oct. 1997), at 3. Available at <http://www.unaids.org/publications/documents/human/gender/womenpve.pdf> ("Tearing and bleeding during intercourse, whether from 'rough sex,' rape or prior genital mutilation (female "circumcision") multiplies the risk of HIV infection."). See also UNAIDS, *HIV/AIDS and Gender-Based Violence factsheet*, c. 1999. Available at <http://www.unaids.org/gender/docs/Gender%20Package/GenderBasedViolence.pdf>.

⁴See UNAIDS, *Women and AIDS, Best Practices Collection* (Oct. 1997), at 3. Available at <http://www.unaids.org/publications/documents/human/gender/womenpve.pdf>.

⁵See Royal Tropical Institute (Netherlands), Southern Africa AIDS Information Dissemination Service (Zimbabwe) & World Health Organization/Global Programme on AIDS, 1995-6, "Facing the Challenges of HIV/AIDS/STDs: How Extensive are HIV/AIDS and STDs?" (1995) Available at <http://www.hsph.harvard.edu/Organizations/healthnet/HIV/docs/sea-aids/gend/gend80.html>.

⁶See Avert, *AIDS in Thailand*, <http://www.avert.org/aidsthai.htm>. Accessed June 18, 2003.

⁷See World Bank, *Spotlight on India's AIDS Control Efforts* (c. 2001). Available at <http://wbln1018.worldbank.org/sar/sa.nsf/0/271dafec85f5958a8525686b005c2d20?OpenDocument>.

⁸Ministry of Health and Sanitation, National AIDS/STD Control Programme Annual Report for 1998 (Freetown, Ministry of Health and Sanitation, 1998, p. 3).

⁹"AIDS fuels traffic of Nepali girls to India," June 9, 03, Reuters.

“Nepal runs the risk of an increased epidemic due to an active sex trade and high rates of girl trafficking to India for sex work.”

Human rights groups in Bangladesh estimate that more than 20,000 women and children were trafficked annually for the purpose of prostitution, and more than 50,000 women and children were estimated to have been trafficked into India annually, most for the sex trade. Of an estimated 200,000 females engaged in commercial sex in Thailand, approximately 30,000–40,000 are under 18 years of age. There are a similar number of children, about 35,000 according to UNICEF estimates, engaged in commercial sex in West Africa.¹⁰ A leading HIV/AIDS epidemiologist, Dr. Chris Beyrer of Johns Hopkins has linked the phenomenon of sex trafficking to the spread and mutation of the AIDS virus, and stated that new strains of HIV/AIDS are proving resistant to treatment. “What we are seeing is that the trafficking part of the sex industry is aiding the global dispersion of HIV subtypes.”¹¹

The HIV/AIDS Pandemic Contributes to Trafficking and Sexual Violence: While it is fairly well understood that prostitution and trafficking are significant contributors to the growth of the AIDS pandemic, it is less well understood that the AIDS pandemic is apparently a factor in the crime of sex trafficking, particularly the traffic in young girls. Men seek ever-younger partners or virgins to avoid becoming infected themselves, or in the mistaken belief that having sex with a virgin will cure a person of AIDS.

In South Africa, these factors very likely have contributed to a dramatic rise in child rape. According to statistics from the South African government, child rape incidents increased from 7,559 in 1994 to 15,732 in 1998, and are believed to have surpassed the 20,000 mark in 2000.¹² Some 50,000 rapes in South Africa are reported annually; the South African Medical Research Council estimates that this figure represents 10 percent of the actual total. In the first nine months of 2001, 15,650 child rape cases were reported; 5859 of the reported cases of rape, and more than one third were against children under the age of 11.¹³

The AIDS epidemic drives the sexual exploitation of women and girls in other ways, as well. With so many family breadwinners dead or ill, orphaned children and widows engage in “survival sex,” which places them at risk of the disease. More than 12 million African children have lost one or both parents to HIV/AIDS, and the number of children living on the street has grown exponentially. Save the Children/Sweden interviewed service providers for street children orphaned by HIV/AIDS in Kenya, Uganda, Tanzania, and Ethiopia, and noted that “an unprotected girl working on the streets will sooner or later end up working as a prostitute.”¹⁴ Some estimates place the number of HIV/AIDS-orphaned children living on the streets at 350,000.¹⁵

Trafficking Can Be Stopped: It is very hard to imagine a crueller crime than sex trafficking or a more violent mode of AIDS transmission. There is one unique aspect to this crime, however, that offers hope that it can be eradicated, saving the lives of hundreds of thousands of women and girl trafficking victims and eliminating a significant source of AIDS transmission. That unique feature is that holding women and children in sexual slavery is illegal in every country in the world. It can only flourish when government officials are actively complicit. Thus ending sexual trafficking only requires the will of a country to end official complicity in violent sexual crimes. Physicians for Human Rights urges this Committee to incorporate measures to pressure governments to end sex trafficking as an integral part of “best practices” in HIV prevention.

Ending Trafficking as a Means of AIDS Prevention: Currently, “best practices” in HIV/AIDS prevention are known to include a number of medical and political interventions. Medical professionals know that successful strategies to prevent HIV/AIDS transmission include national leadership to promote safe sexual practices (such as Uganda’s “ABC” approach), making condoms widely available to those most likely to engage in high-risk behavior (such as truck drivers, men who have sex with men,

¹⁰ See UNICEF, *Profiting from Abuse* (Nov. 2001). Available at <http://www.unicef.org/pubsgen/profit/profit.pdf>.

¹¹ April 19, 2002, UPI.

¹² See Jean Redpath, “Children at Risk,” *Focus* (Helen Suzman Foundation), June 18, 2000. Available at <http://www.hsf.org.za/focus18/childfocus18.html?FACTNet>; Gavin du Venage, “Rape of children surges in South Africa: Minors account for about 40% of attack victim,” *San Francisco Chronicle*, Feb. 12, 2002. Available at <http://www.aegis.com/news/sc/2002/SC020203.html>.

¹³ “Unthinkable Crime,” by Samantha Power. Marie Claire, February 2003.

¹⁴ Stefan Savenstedt, Gerd Savenstedt, and Terttu Haggstrom, “East African Children of the Streets—a Question of Health,” (Stockholm: Save the Children-Sweden, 2000), as cited by “HIV/AIDS and Children’s Rights in Kenya,” Human Rights Watch, June 2001.

¹⁵ “Crimes Against Humanity,” Time Magazine, January 12, 2001, p. 8.

and people involved in commercial sex), needle exchange for injecting drug users, voluntary counseling and testing and treatment of sexually transmitted disease, including HIV/AIDS, and assuring safety in medical settings by eliminating reuse of needles and syringes, securing a safe blood supply, and enabling health workers to adhere to universal safety precautions.

There is another AIDS prevention practice that should be endorsed and promoted that has not yet been incorporated into campaigns to confront the pandemic: eliminating sex trafficking.

As Gary Haugen of the International Justice Mission has stated, trafficking and child prostitution requires the active protection of a country's police and judicial establishments. In order for those who force or coerce women and girls into prostitution or who engage children under the age of 18 in any commercial sexual transaction to pursue their illegal operations, brothel owners must offer the victims of multiple felonies (assault, rape, theft, abduction, illegal detention, etc.) to the public on a regular basis. How can they do this? By operating with the complicity of local law enforcement officials. How else can one explain how brothels in Cambodia offering five-year-old trafficked Vietnamese girls to Western pedophiles were able to pursue this trade in broad daylight at locations known to anyone who cared to surf an Internet porn site, or walk through the Sway Pak neighborhood in Phnom Penh?

Using the Leverage of the Trafficking Victims Protection Act: If government authorities can be persuaded that it is in their or their country's interest to end sex trafficking, then traffickers and brothel owners will become uniquely vulnerable because of their complete dependence on corrupt police, immigration authorities, or judicial personnel. Consider the case of Cambodia. The forced prostitution of extremely young children (almost all of them very young Vietnamese girls) and of women coerced into sexual bondage has flourished in Cambodia for many years. Indeed, it is considered to be one of the top three countries in the world for such crimes, along with India and Thailand. When the Congress enacted the Trafficking Victims Protection Act of 2000, it handed the U.S. Government a powerful tool to encourage Cambodia and other countries to take action against traffickers and those corrupt government officials who facilitate their illegal activities.

Last year the State Department appropriately placed Cambodia on "Tier III"—a category mandated in the Act reflecting countries with severe trafficking problems that are not taking steps to address them. After a one-year grace period, Cambodia stood to lose virtually all its American foreign aid (except for humanitarian programs), under the authority of the sanctions authorized by the Act. A U.S. human rights group, the International Justice Mission, assembled damning evidence of high-level police corruption and horrifying undercover video footage of brothel owners offering kindergarten-aged trafficked Vietnamese girls to undercover investigators presumed to be sex tourists. Strong diplomatic pressure from the U.S. Ambassador to Cambodia, Charles Ray, ultimately persuaded the country's highest authorities to at last cooperate in a raid that took place in April and effectively shuttered the Sway Pak neighborhood where the youngest girls had been forced to engage in commercial sex. Dozens of little girls are now in after-care programs, and a Cambodian police major implicated in a protection racket is on trial in the Cambodian courts. His case is believed to be the first of its kind in Cambodia.

It is important to note that human rights groups such as the International Justice Mission do not have to investigate and prepare for prosecution every brothel owner or trafficker in Cambodia to eliminate the market for children and trafficked women in the sex trade. A mere handful of prosecutions that yield significant jail sentences for the perpetrators may be enough to deter those who had never before faced any risk for the crimes they committed against children and women.

The IJM's experience in Cambodia and elsewhere show that even corrupt and repressive governments will move against police or other officials when they are convinced that the cost of not doing so is significant.

Increase Pressure on Thailand and India: Having done an excellent job on the Cambodia case, the Bush Administration now needs to be similarly tough on other governments that tolerate, protect, and facilitate trafficking and child prostitution. India and Thailand are two of them. Both have had ample warning of a potential loss of foreign assistance and neither has taken appropriate action against police and other officials implicated in trafficking and the protection of brothels that retain women and girls by force. Both of these countries retained their wholly undeserved "Tier II" status—suggesting without evidence that they have begun to take effective action to address severe trafficking problems.

The State Department Trafficking office makes important contributions to the prevention of trafficking and provides a wealth of information about the problem in many countries. But this year's report, as was the case in the two previous reports, is flawed by a paucity of data on prosecutions, convictions, and punishments for per-

sons engaged in the crime of trafficking, reflecting the negligible response to severe trafficking problems by the governments in question. The case of India is illustrative: this year's newly released Trafficking in Persons (TIP) report notes that "14 people have been convicted and sentenced in New Delhi so far."¹⁶ Yet the report indicates that only one case—that of a Swiss couple sentenced to seven years for kidnapping and molesting a child—resulted in a jail sentence, and there is no information in the report about disciplinary or judicial action taken against Indian police officials.

The TIP report notes that "[t]he [Indian] government has significantly increased the number of arrests, prosecutions, and convictions of traffickers and brothel owners over the past year, but backlogged courts slow criminal justice proceedings." This suggests a surge of activity, yet without seeing data on the total number of convictions (and sentences) from this year and previous years with names of those receiving punishment, it is impossible to know whether indeed there has been an increase or whether those convictions are resulting in the release of even dozens, much less millions of women and girls in sexual slavery in India.

The TIP report entry on Thailand is similarly unprepossessing. The report notes that there were a total of 42 prosecutions and 21 jail sentences, but provides no details whatsoever on the cases. In Thailand, as in almost all other countries with severe trafficking problems, what few arrests occur in brothels are almost invariably the victims themselves. A May 4, 2003 report in the main Bangkok daily, "The Nation," is illustrative. The paper noted that police arrested 29 Burmese and Shan women in Chiang Mai and charged them with selling sex services, just 1.5 kilometers away from the city's police station.¹⁷ Although the article noted that the women had been duped into working for a restaurant but later forced to provide sex services, there is no report that the perpetrators of the crime were arrested. If such arrests of perpetrators have been made, we would like to know the details, and encourage the Committee to request them.

It is safe to presume that India and Thailand are not holding back on information relating to successful convictions of the policemen who protect and thrive from the traffic in coerced young girls and women. Rather, the paltry numbers provided in the TIP report without edification on what the cases were or who was actually prosecuted reflect reality. It is not up to the State Department TIP office to chase down the data. If it is not freely forthcoming, we may presume that it does not exist. If it does not exist, then we may presume that the governments in question are not taking the steps required to seriously address trafficking. Accordingly, they do not merit Tier II status, and should be downgraded.

Amendment of the Trafficking Victims Protection Act Needed: This being the third year that the relevant governments have failed to take appropriate action resulting in jail sentences for traffickers, brothel owners, and government officials involved in sexual violence and exploitation of women and girls, I believe it is time to amend the Trafficking Victims Protection Act of 2000 to require that the State Department provide the following data on accountability for trafficking: How many cases have been investigated, prosecuted, and jail sentences mandated? What are those cases, and who was convicted? Who among complicit police or other law enforcement officials has been investigated, fired, prosecuted, and sentenced to jail? What crime were they convicted of? How long were the sentences?

The reason that such detail must be required is that in almost all of the very few known cases of prosecution for trafficking, jail time was minimal (under 30 days) or the perpetrators got off with a fine. Imposing fines on brothel owners or traffickers is not an appropriate response to violent crimes against women and girls. It almost invariably results in those fines being passed off to the victims, who end up paying it themselves.

The Congress clearly intended that the Trafficking Victims Protection Act should be used by the executive branch to use the leverage of foreign aid to actually end the crime of trafficking—something that every government has within its grasp. For countries that victimize millions of women and girls and convict virtually no one, three years is too long to get a passing grade. Thailand and India should both be informed that absent detailed judicial records of convictions resulting in significant penalties—jail sentences, not fines—of police officials, brothel owners, and others involved in the sexual slave trade, they will be relegated to Tier III status in 2004, with a diminution in non-humanitarian foreign aid to be expected a year later. This gives such governments a full two years to do what they are demonstrably able to do: end the involvement of their own police, immigration, and judicial authorities that allows entrepreneurs to offer the victims of sexual violence to the public.

¹⁶Trafficking in Persons Report, June 2003, Department of State.

¹⁷"29 Alien Sex Workers Arrested in Police Raid," The Nation, May 4, 2003.

Recommendations: The Trafficking Victims Protection Act provides a unique opportunity for our government to help curtail an epidemic of violent crimes against women and girls, and to sharply curb an important transmission factor in the worst health crisis in human history. Physicians for Human Rights encourages the U.S. Government to incorporate anti-trafficking activities into its HIV/AIDS programs and activities.

Recommendations follow:

1. The executive branch should request from the governments of countries on Tier II and Tier III (those with a trafficking problem) evidence of the actions taken on specific cases of officials involved in trafficking. Failure to provide such specific cases should be assumed to reflect reality—that governments have indeed failed to take appropriate action. They should be automatically given Tier III status, and preparations to constrict their foreign aid should begin.
2. Congress should amend the Trafficking Victims Protection Act to require the data described above.
3. Diplomatic demarches should be prepared to inform India and Thailand that their Tier II status is fragile.
4. Congress and the executive branch should provide assistance to non-governmental organizations that engage in investigation, documentation, rescue, police training, advocacy to promote prosecutions and convictions, and after-care for victims.
5. Governments that receive U.S. assistance for HIV/AIDS activities should be encouraged to include an anti-trafficking component in their plans. The U.S. should provide technical advice and support for actions aimed at liberating, sheltering, and rehabilitating trafficked women and children and prosecuting those who profited from the crimes committed against them.
6. U.S. prevention programs should include efforts to provide health care and HIV/AIDS protection for those most at risk of contracting and transmitting the disease, including women in the sex industry.
7. The U.S. Government should use the upcoming international HIV/AIDS Conference in Bangkok, scheduled for July of 2004, to highlight the obligation of governments to end trafficking. U.S. officials, including those most engaged in developing HIV/AIDS programs, should use the coming year to strongly pressure the Thai government to take actions against its own officials that it has heretofore resisted or risk embarrassment at next year's AIDS summit.
8. The U.S. should promote "best practices" in ending trafficking and rescuing and caring for trafficking survivors by publicizing successes and rewarding good governance with increased assistance, particularly to police and judicial officials willing to take action against official corruption and crime.
9. When good governance criteria are established to administer new spigots of foreign aid (including the Millennium Challenge Account), actions or the lack thereof to end official complicity in sex trafficking should be a key consideration.
10. The U.S. government should take steps to collect epidemiological data on the relationship between sex trafficking and AIDS transmission, and should develop enforcement and assistance strategies in the context of its bilateral HIV/AIDS programs, as well as the international programs to which it contributes, to assist the victims of trafficking and to promote prosecution of perpetrators of trafficking and other violent sexual crimes.

Mr. PITTS. Thank you very much, Ms. Burkhalter for your testimony. Your entire written testimony, as well as the opening statements, will be a part of the record. So thank you very much.

Next, Dr. Mohamed Mattar will proceed. Welcome.

**STATEMENT OF MOHAMED Y. MATTAR, S.J.D., CO-DIRECTOR,
THE PROTECTION PROJECT, JOHNS HOPKINS UNIVERSITY,
SCHOOL OF ADVANCED INTERNATIONAL STUDIES**

Mr. MATTAR. Thank you. Mr. Chairman and distinguished Members of the Subcommittee, I am privileged to speak to you today on the current status of the existing anti-trafficking legislation. I have

a prepared statement; however, my remarks will be a brief summary of that statement.

I have seven issues, which I would like to address. First, an anti-trafficking legislation must address all forms of trafficking. Congressman Pitts asked about trafficking for the purpose of adoption. The Trafficking Victims Protection Act does not cover adoption. So I am making the case here that any anti-trafficking legislation should really address all forms of trafficking.

Here I would like to draw a distinction between commercial sex, which you mentioned, and non-commercial sex. Other forms of commercial sex, besides prostitution, such as pornography and sex tourism must be addressed by the legal system, and the *TIP Report* this year really inquired into the issue of sex tourism for the first time. I think that this is something really good.

When non-commercial sex involves exploitation, it should be also considered an illicit activity. By non-commercial sex I mean trafficking for the purpose of early marriages and forced marriages, child marriages, mail order brides and so on.

Second, my reading of the recent anti-trafficking legislation suggests that some legal systems make prosecution of trafficking difficult by including unnecessary elements, such as material profit, organized criminal activity, crossing of borders, violence, enslavement or force, fraud or coercion.

Third, the causes of vulnerability of women and children must be addressed in any preventive legal response. However, birth registration laws are not always enforced, neither are labor laws regarding the minimum age of employment. Laws that regulate the activities of NGO's and I believe the NGO laws plays a really important role, laws that regulate NGO's activities must also be reformed. Unfortunately, many legal systems around the world do not allow civil society to flourish.

Fourth, the entertainment visa and it was mentioned earlier, as a disguised vehicle for trafficking must be subject to strict regulations. In addition, holding travel documents of foreign workers must also be outlawed. Here I want to mention the sponsorship rule which takes place in many countries in the Middle East. I think it should be abolished and Saudi Arabia did so a year ago, and this is something which is really encouraging, and it was mentioned in the *TIP Report*.

Deportation is still the norm in most parts of the world. The *TIP Report* talks about 20 something countries where a residency status is granted to victims of trafficking, such as the case under the Trafficking Victims Protection Act, but unfortunately most countries do not do so. Most countries deny a victim of trafficking any kind of residency status when they need one.

Fifth, victims of trafficking should be entitled to basic human rights, and these rights are still being violated by legal systems that still follow the double witness rule. This is basically the rule in most of the legal systems of Africa. The rules of testimony must also be adopted to meet the special needs of child witnesses.

When you look at the trafficking laws around the world, they address adult trafficking and then they only address the issue of children by exception, and this is really not enough. Anti-trafficking legislation should address trafficking of children. The model law

which was released by the State Department has a nice section, section 312, which addresses the special needs of children.

Sixth, victims of trafficking should be entitled to a right to safety. However, many legal systems still lack witness protection programs or do not extend such protection to victims of trafficking.

Seventh, finally, I advocate a behavioral model approach to trafficking, where you should target all principle actors in the trafficking enterprise. Here public officials must be prosecuted. Here we have to draw a distinction between natural persons and legal persons. Earlier the issue of travel agencies was raised. The issue of advertisement agencies was raised. You do that by providing for criminal liability of legal persons including travel employment, advertisement, adoption agencies, matchmaking organizations, hotels, restaurants and so on.

A few legal systems criminalize the behavior of the customer. Moslem countries punish both the woman in prostitution and the customer. That is an approach.

The second approach is adopted by the Swedish law where the Swedish law makes the purchase of sexual services a crime. I think it is a good approach.

A third approach is adopted by a country like Macedonia, where the knowledge of trafficking constitutes grounds for liability of the customer. So if the customer knows that the women in prostitution are being trafficked, the customer should be held liable. I think that is a good approach.

The *TIP Report* addresses the issue of demand by making explicit references to the role of Sweden and Islamic law as being applied in Saudi Arabia and Pakistan. However, it is not clear whether demand was a significant factor in placing countries in certain tiers.

There is a constructive role for the United States to play and I want to conclude by making reference to the most comprehensive law of all legal systems and that is the Trafficking Victims Protection Act. The act, section 102, provides that existing legislation in most foreign countries is inadequate, and the act secondly, in section 105, recognizes that the United States should provide assistance to foreign countries, especially in drafting of laws.

The model law released by the State Department on March 12, 2003, I think, is an excellent model and it serves as a good tool when going to countries and helping to assist countries in drafting anti-trafficking legislation. The State Department model law follows the U.N. protocol definition of trafficking, and here I want to make a point that since the model law follows the U.N. protocol, I think the United States should expedite United Nations protocol ratification process.

In conclusion, I would like to thank you, and I would like to make the case that more legislative reform is needed. Legislative reform which includes all the laws which I refer to in my written testimony. Thank you.

[The prepared statement of Mr. Mattar follows:]

PREPARED STATEMENT OF MOHAMED Y. MATTAR, S.J.D., CO-DIRECTOR, THE PROTECTION PROJECT, JOHNS HOPKINS UNIVERSITY, SCHOOL OF ADVANCED INTERNATIONAL STUDIES

A COMPARATIVE ANALYSIS OF THE ANTI-TRAFFICKING LEGISLATION IN FOREIGN COUNTRIES: TOWARDS A COMPREHENSIVE AND EFFECTIVE LEGAL RESPONSE TO COMBATING TRAFFICKING IN PERSONS

The Status of the Early "Procurator Laws" and the "Prostitution Laws." On June 28, 1999, Laura Lederer, the former Director of The Protection Project at Johns Hopkins University School of Advanced International Studies testified before the 106th Congress stating:

"We have found that more than 154 countries currently have legislation that at least minimally target the prosecution of traffickers by prohibiting the procurement of women or children for the purposes of prostitution and forced labor. Most of these laws were drafted between 1912 and 1960 to address earlier waves of trafficking. However, these laws are poorly, if ever, enforced. In fact, we found that the prostitution laws are enforced, but the procurator laws are ignored. They're rarely invoked. So that the women and children end up in jail and the traffickers go free."

This was the status of anti-trafficking legislation in foreign countries prior to the passage of the United States Trafficking Victims Protection Act of 2000 [hereinafter referred to as the "TVPA"] and the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime [hereinafter referred to as the "UN Protocol"].

I am privileged to speak to you today on the current status of existing anti-trafficking legislation and to report to you on what has been done in the anti-trafficking legislative movement in foreign countries and what should be done to move towards a more comprehensive and effective legal response to combat the problem of trafficking in persons.

I would like to give you a brief overview of early anti-trafficking legislation.

First, most anti-trafficking legislation was enacted as a part of the Penal Code or Criminal Code rather than as separate comprehensive acts and, as such, they only addressed trafficking as a criminal offense. Since the function of criminal law is to describe crimes and determine punishments for such crimes, protection of women and children was not part of these laws.

Second, trafficking in persons was prohibited mainly as a prostitution related activity. Anti-trafficking legislation during this time were influenced by the "White Slave Traffic" Conventions, especially the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others. The Convention mandated that "The Parties to the present Convention agree to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person." In fact, this language was explicitly used in the criminal codes of many countries.

Third, trafficking in persons was not recognized as a specific crime. Instead, it was addressed under other related offenses such as kidnapping, abduction, illegal confinement, deprivation of liberty, international prostitution, sexual slavery, sexual violence, illegal transportation of aliens across state borders, torture, violation of equality, procurement and compelling a person to engage in sexual intercourse.

Fourth, criminal sanctions for the procurement of prostitution were limited to a small fine and/or short term of imprisonment, which is not comparable to the gravity of the crime.

Fifth, the trafficked person was treated as a criminal who is subject to deportation for the commission of the acts of illegal entry, falsification of travel documents and prostitution.

Inadequate Measures in Satisfying the Special Needs of Victims of Trafficking. Domestic laws provided limited measure of protection. In particular, the 1956 Suppression of Immoral Traffic in Women and Girls Act of India called for "rescue of women and girls" and "protective homes," the 1956 Prostitution and Prevention Act of Japan called for taking measures of "rehabilitation" of women in prostitution, the 1973 Women and Girls Protection Act of Malaysia provided for the removal of the women in prostitution to "a place of refuge" [Section 7], the 1973 Women and Girls Protection Act of Brunei provided for "care" and "education of women and girls detained under this act" [Section 25(1)], and the Measures in Prevention and Suppression of Trafficking in Women and Children Act of 1997 in Thailand provided for "ap-

appropriate assistance” to the trafficked woman or child including, “primary shelter” and repatriation. However, these measures were inadequate in meeting the special needs of victims of trafficking.

Regional Initiatives Calling for Adopting Domestic Measures to Combat Trafficking. On the regional level, there have been a number of initiatives calling for drafting comprehensive anti-trafficking legislation that not only criminalize the trafficking offense, but also prevent the act of trafficking and protect the victims of trafficking. The February 24, 1997 Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children adopted by the European Council mandates that Member States “review their relevant national laws” to classify trafficking as a criminal offense, provide the appropriate penalties for such offense and take the necessary measures that to ensure “appropriate assistance for victims . . .”. The European Parliament, in a May 19, 2000 resolution, called for “legislative action against trafficking in human beings, including common definition, incriminations and sanctions.” The European Council Framework Decision of July 19, 2002 mandates that Member States must take the necessary measures, no later than August 1, 2004 to criminalize trafficking in persons and provide for the appropriate penalties in addition to assistance to victims of trafficking. The 1994 Inter-American Convention on International Traffic in Minors mandates that “The States Parties undertake to adopt effective measures, under their domestic law, to prevent and severely punish the international traffic in minors defined in this Convention” [Article 7]. The Economic Community of West African States [ECOWAS] Declaration of December 2001 on the Fight Against Trafficking in Persons calls upon Member States to “adopt . . . such legislative . . . measures as that are necessary to establish as criminal offenses the trafficking in persons . . .” [Para. 5]. The January 2002 South Asian Association for Regional Cooperation [SAARC] Convention on Prevention and Combating Trafficking in Women and Children for Prostitution mandates that “The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and make such an offence punishable by appropriate penalties which take into account its grave nature” [Article 3]. The Organization for Cooperation and Security in Europe [OSCE] Declaration on Trafficking in Human Beings of December 2002 states “We will consider adopting legislative . . . measures that permit victims of trafficking to remain in our territory, temporarily or permanently in appropriate cases . . .”

Recognition of Trafficking in Persons as a Human Rights Violation Under International Treaty Law. International conventional law has recognized trafficking in persons as a human rights violation. The 1956 Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery outlawed slavery practices including debt bondage, serfdom, bride price and exploitation of child labor. The 1979 Convention on the Elimination of All Forms of Discrimination Against Women [CEDAW] explicitly prohibited “exploitation of prostitution of women” and “all forms of traffic in women” [Article 6]. The 1989 Convention on the Rights of the Child mandated that state parties must take all appropriate measures to prevent “the abduction of, the sale of or traffic in children for any purpose or in any form” [Article 35]. The 1999 Convention to Eliminate the Worst Forms of Child Labour similarly prohibited “the use, procuring or offering of a child for prostitution . . .” [Article 3(c)]. However, it was the UN Protocol that provided the first definition of trafficking in persons and a comprehensive approach to the problem of trafficking. The Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families which goes into effect July 1, 2003 provides that “No migrant worker or member of his or her family shall be held in slavery or servitude” and “No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.” [Article 11(1)–(2)].

Recent Anti-Trafficking Legislation Recognizing the Trafficked Person as a Victim of a Crime. In response to these international mandates a number of new anti-trafficking legislation have been enacted. These laws shifted the focus from criminalizing the behavior of the trafficked person to recognizing such a person as a victim of a crime. These laws include: the “Prohibiting Trafficking in Human Beings for Sexual Purposes Act” of Sweden, which entered into force on July 1, 2002; the Nigerian Act to Establish the National Agency for Traffic in Persons Law Enforcement and Administration to Enforce Laws Against Traffic in Persons, To Investigate and Prosecute Persons Suspected to be Engaged in Traffic in Persons, and to Take Charge and Co-ordinate the Rehabilitation and Counseling of Trafficked Persons and For Other Matters Connected Therewith; the UNMIK Regulation No 2001/4 on the Prohibition of Trafficking; Law Number 678 of Romania on the Prevention and Combat of Trafficking in Human Beings (December 2001); Combating of Trafficking in Persons and Sexual Exploitation of Children Law of Cyprus of 2000 and the Bulgarian Law On Combating Illegal Trafficking of Human Beings of 2002. In 2002,

Greece, Denmark and Pakistan enacted anti-trafficking legislation and in 2003 France and the Philippines enacted anti-trafficking legislation.

Amending Existing Criminal Laws to Criminalize Trafficking in Persons as a Specific Offense. In addition to the enactment of comprehensive anti-trafficking legislation, some countries have amended existing Criminal Codes to criminalize trafficking in persons as a specific offense. These amendments include: Article 169 the Criminal Code of Portugal, as amended by Act 99/2001, of August 25, 2001; Article 165 “Trafficking in Human Beings” of the Criminal Code of Moldova as amended, which entered into force September 13, 2002; Article 149 “Trafficking in Human Beings or Other Transfer Deals in Respect of Human Beings” of Ukraine which entered into force on September 1, 2001 and Article 110a “Trafficking of Human Beings” of the Criminal Code of Albania, as amended by Law No. 8733 of January 24, 2001. In addition, Armenia, Bosnia and Herzegovina, Serbia, Tanzania and Turkey have amended their existing Criminal Codes to recognize trafficking in persons as a specific offense.

Recent Draft Anti-Trafficking Legislation. Many countries are considering drafting new anti-trafficking legislation. These drafts include: the Federal Law of the Russian Federation on “Countering Trafficking in Persons and Measures to Protect Victims of Trafficking in Persons;” the Georgian Draft Law on Amendments to the Criminal Code on “Trade in People [Trafficking in Persons] and other Unlawful Deal [bargain, agreement] Regarding Transfer of a Human” Article 144; and the Draft Amendments to the Criminal Code of Tajikistan Article 130, “Trafficking in Human Beings.” In addition, the following countries are in the process of enacting new anti-trafficking laws: Burkina Faso, Burundi, Cote d’Ivoire, Croatia, Dominican Republic, Equatorial Guinea, Finland, Gabon, Jamaica, Kyrgyz Republic, Mauritius, Niger, Slovenia and Togo.

A Call for a Comprehensive Legal Approach to Trafficking that Include Crime Control, Human Rights, Immigration Status, Behavioral Model, and Foreign Policy. A study of these recent anti-trafficking laws indicates that the crime control approach to trafficking in persons has been coupled with a human rights-based approach to trafficking. Many immigration policies have been redefined to allow for a legitimate immigration status for the trafficked person. Some laws even provide for what I call a behavioral approach. In addition, the United States recognizes trafficking in persons as a foreign policy objective.

The following is a discussion of these five approaches to the problem of trafficking.

1. *Crime Control: An Effective Criminal Law Approach to the Offense of Trafficking in Persons*

Anti-Trafficking Legislation Must Criminalize All Forms of Trafficking. Obviously any anti-trafficking legislation must address the scope of what it considers to be an offense of trafficking. Some criminal codes only criminalize trafficking for the purpose of prostitution, such as the Criminal Code of Germany as amended by the Criminal Law Reform Act (trafficking in human beings) of 1992; Article 246 entitled “Trafficking in human beings for the purpose of sexual relations” of the criminal law of the Czech Republic, as amended in 2002; the 2002 “Prohibiting Trafficking in Human Beings for Sexual Purposes Act” of Sweden; Article 169 of the Criminal Code of Portugal, as amended by Act 99/2001 which prohibits trafficking for “Prostitution” and Article 250(a) of the penal code of the Netherlands prohibits trafficking in human beings for the purpose of “the performance of sexual acts” (Draft of 2001).

A Distinction Between Commercial and Non-Commercial Sex. A comprehensive anti-trafficking law should not be limited to criminalizing trafficking for the purpose of prostitution. Here I would like to draw a distinction between commercial sex and non-commercial sex.

Commercial Sex. Commercial sex typically covers prostitution. However, there are other forms of commercial sex such as pornography and sex tourism, which may constitute a form of trafficking. For example, the Criminal Code of Colombia explicitly criminalizes sex tourism. The Code provides that “any person who directs, organizes, or promotes tourist activities that include the sexual use of minors shall be punished by imprisonment of three to eight years. The penalty shall be increased by one half if the conduct is committed with a minor under the age of twelve years” (Article 219). Section 2423 of the Mann Act prohibits a United States national or resident from traveling abroad with the intent to engage in illicit sexual activity with a child.

Non-Commercial Sex. In the event that non-commercial sex involves abuse, it should be considered an illicit activity, especially in cases of forced marriages, arranged marriages, early marriages, temporary marriages, marriages for the purpose of child bearing and mail-order brides. It must be noted that mail-order brides may be classified as trafficking for the purpose of labor or a case of sex trafficking. Sec-

tion 652 of the United States Illegal Immigration Reform and Immigrant Responsibility Act of 1996 imposes upon the matchmaking organizations an obligation to inform the prospective bride “upon recruitment, such immigration and naturalization information as the Immigration and Naturalization Service deems appropriate, in the recruit’s native language, including information regarding conditional permanent residence status and the battered spouse waiver under such status, permanent resident status, marriage fraud penalties, the unregulated nature of the business engaged in by such organizations, and the study required under subsection (c).”

The 2003 TIP Report Monitoring the Status of Commercial Sex and Non-Commercial Sex. Section 105(d)(5) of the TVPA which calls for the Inter Agency Task Force to Monitor and Combat Trafficking in Persons to “examine the role of the international “sex tourism” industry in the trafficking of persons and the sexual exploitation of women and children around the world.” The 2003 United States Department of State Trafficking in Persons Report [hereinafter referred to as “TIP Report”] examines the problem and makes explicit reference to its significance in the countries of Brazil, Cambodia, Costa Rica, Cuba, France, Gambia, India, Jamaica, Japan, Malawi, Mauritius, the Philippines, South Africa, Sri Lanka, Taiwan and Thailand.

TIP Report, in addition to documenting cases of sex trafficking and labor trafficking, also addresses the problem of marriage which may contribute to the problem of trafficking in the countries of Armenia, Belarus, Finland, Ghana, Malawi, Niger, Taiwan, Uzbekistan and Vietnam. The TIP Report also makes references to pornography and trafficking for the purpose of pornography in Gambia, India, Lithuania, Mexico, the Philippines and Zimbabwe.

The TVPA Limiting Sex Trafficking to Trafficking for a Commercial Sex Act. It must be noted, however that the TVPA narrowly defines sex trafficking to mean “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act” and defines “Commercial Sex Act” to mean only “any sex act on account of which anything of value is given to or received by any person” [Section 103(9) and 103(3), respectively].

An anti-trafficking legislation must address all forms of trafficking including trafficking for the purpose of commercial sex and non-commercial sex, trafficking for the purpose of forced labor, including domestic service, street begging, camel jockeying, trafficking for the purpose of illicit inter-country adoption, trafficking for military purposes, trafficking for the removal of organs and trafficking for other forms of exploitation.

Determining the Elements of Criminal Liability in a Trafficking Case: What Should Be Included and What Should Be Excluded. My reading of recent anti-trafficking legislation suggests that some legal systems make prosecution of cases of trafficking difficult by including unnecessary elements, which make such proof difficult or impossible.

Is Proof of Material Profit Required? Some anti-trafficking legislation require material profit. For instance, Article 110 of the Criminal Code of Albania of 1995 requires proof of “material profit or any other profit.” Likewise, Article 113–2 of the Criminal Code of Moldova, as amended in 2001, defines trafficking in human beings to include trafficking “with the purpose of obtaining profit.” Article 180(b) of the German Law on Trafficking in Human Beings also makes material benefit an element of the crime of trafficking. Although, in the event that the act of trafficking was “committed with the intention of gaining valuable benefit,” such act may warrant an enhanced penalty as provided, for example, by Article 246 of the Criminal Code of the Czech Republic.

Should Organized Trafficking Be Required for the Establishment of the Crime? Criminal liability of a trafficker should not depend upon whether the activity is organized. Many cases of trafficking involve only an individual and individual trafficking should not be excluded from the definition of the crime. If the act of trafficking is committed by a member of an organized gang, the punishment for such crime should be enhanced such as the case under Article 246 of the Criminal Code of the Czech Republic. Similarly, Article 181 of the German Law on Trafficking in Human Beings makes “professional recruitment” grounds for an enhanced penalty of 10 years instead of 5 years.

Defining Trafficking to Include Transnational Trafficking and Internal Trafficking. Most cases of trafficking are transnational in nature; however, internal trafficking must be included in any definition of trafficking in persons. Crossing international borders should not be an element of the crime itself, although it may warrant an additional penalty. Internal trafficking is a problem in many countries, including Afghanistan, Brazil, Haiti, India, Malawi, the Philippines and Russia, and should not be excluded from the definition of trafficking.

Recognizing Trafficking as a Form of Violence Against Women or as a Form of Slavery Should Not Effect the Prima-Facie Case of Trafficking. Violence also should

not be an element of the crime of trafficking, although it may be grounds for increasing the penalty for such crime. Likewise, while trafficking is a form of slavery, enslavement, as traditionally, defined should not be required for the existence of the crime of trafficking.

The TVPA Narrowly Defining "Illegal Means" by Requiring Force, Fraud, and Coercion. Illegal means should be broadly defined to include debt bondage, disclosure of confidential information to the victim's family or to other persons, confiscation of travel documents, abuse of power, abuse of office, bribery, abuse of a position of vulnerability and other illegal or improper means. The TVPA requires force, fraud or coercion to prove a case of trafficking. Such requirement may render prosecution of a case of trafficking difficult where the victims of trafficking are not coerced into prostitution. Suffice here, to mention the case of *United States v. Wu* was prosecuted under Title 18, United States Code Sections 2421 and 2422 and not under the TVPA.

Trafficking in Persons Must Be Recognized As A Serious Crime. Many anti-trafficking laws do not provide for the appropriate sentence to the crime of trafficking. For instance, Article 367 of the Criminal Code of Chile only provides for a fine for "one who promotes or facilitates the entry or exit of persons to or from the country to exercise prostitution in the national territory or abroad." According to Article 436 of the Criminal Code of Turkey "Whoever transports from one place to another a virgin or a woman who has not yet reached the age of twenty-one for the purpose of prostitution . . . seduction or procurement or transportation, will be sentenced to between one and three years of imprisonment and be fined from nine thousand to ninety thousand liars."

Legal systems do not always consider sex trafficking as grave a crime as other sexual offenses. Many laws do not impose similar punishments for trafficking offenses as for other serious crimes such as rape. For example, in Guatemala, the punishment for rape under the Criminal Code is six months to one year in prison, whereas the punishment for trafficking is only a fine.

Recently, many anti-trafficking laws increased the criminal sanctions for the crime of trafficking in persons. For instance, Israel has changed its law to enhance the penalty to 16 years of imprisonment for "any person who buys or sells another person for the purpose of prostitution . . ." The Women and Children Suppression Prevention Act of 2000 of Bangladesh states that "whoever brings or traffics or sends any [women] abroad with the intention of using that woman in prostitution or using for unlawful or immoral purposes or buys or sells or lets to hire or hands her over for any kind of torture or similar reason, keeps a woman in his possession, [care] or puts under his custody, shall be punished with death sentence or life imprisonment . . ." [Section 5(1)].

I have no contention with the maximum penalties provided in most of the countries of the Asia-Pacific region, although the minimum sentence should not be less than 4 years in accordance with the United Nations Convention against Transnational Organized Crime [Article 2]. In Burma punishment is up to 10 years imprisonment. In Cambodia punishment is 5 to 10 years, which is enhanced to 10 to 20 years if the offense is committed against a minor younger than 15. In Indonesia punishment for trafficking is imprisonment up to 6 years. In Malaysia punishment for trafficking is imprisonment for up to 5 years. In Singapore the punishment for trafficking is also imprisonment for up to 5 years.

Prison sentences tend to be shorter in most European countries, including the sentences for trafficking in persons. The European Council Framework Decision of July 19, 2002 mandates that European countries provide penalties for trafficking of at least 8 years imprisonment. It must be noted that European domestic laws as well other legal systems following the civil law model do not recognize plea-bargaining as a device, which may result in a lesser sentence. The TVPA provides for up to 20 years imprisonment and recognizes plea-bargaining.

Criminal sanctions for trafficking in persons should not be limited to prison sentences. An anti-trafficking legislation must also provide for the forfeiture of the assets of the trafficker, the proceeds of which is used to compensate victims of trafficking.

Recognition of Trafficking in Persons as a Transnational Crime. Since trafficking is transnational in nature, combating the problem requires transnational legal responses.

Applying the Extraterritorial Principle to the Crime of Trafficking in Persons. For instance, Article 5 of the Criminal Code of Macau provides that the criminal law is applicable to acts carried outside of Macau when such acts constitutes the crimes of "trafficking in human beings," "trade in slavery" and such acts are committed by a national or resident of the country. In Thailand, the Penal Code Amendment Act has expanded the territorial jurisdiction of courts to cover "indecent sexual acts" and

“trafficking offenses” provided in Section 282 and 283 of the Penal Code, irrespective of where such offenses are committed. In New Zealand, The Crimes Act Amendment of 1995 applies to offenses concerning sexual conduct with children committed by nationals abroad [Article 144A]. The Act also prohibits assisting persons traveling overseas for the purpose of having sex with children. In Ireland, under the Sexual Offenses (Jurisdiction) Act of 1996, persons who are nationals or residents of Ireland may be prosecuted for sexual offenses committed against children abroad. Law No. 269 of August 3, 1998 amended Article 604 of the Penal Code to extend its application to sexual offenses committed abroad by an Italian national or to the harm of an Italian national or by a foreign national in conjunction with an Italian national sex tour [Article 144C]. The Crimes (Child Sex Tourism) Amendment Act of 1994 of Australia provide for a similar rule. Other legal systems must consider the application of anti-trafficking legislation on extraterritorial basis, irrespective of the place where the crime of trafficking occurs.

Recognition of Trafficking in Persons as an Extraditable Offense. Trafficking in persons must be recognized as an extraditable offense. For instance, in Cyprus trafficking in persons and sexual exploitation of children are deemed as extractable offenses under the Extraction of Fugitive Law No 97 of 1970.

Under the United Nations Convention against Transnational Organized Crime, it is interesting to note that in Article 16(4) if a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the Convention the legal basis for extradition in respect of any offence to which this article applies.

Recognition of Trafficking in Persons as an Offense for the Purpose of Applying Anti-Money Laundering Legislation. Countries should expand the scope of the offense of money laundering from one solely related to goods arising from illicit-drug trafficking, to one related to all proceeds derived from trafficking in persons and other serious crimes. An anti-money laundering law must authorize the seizure of proceeds from prostitution, trafficking in persons, or other illegal activities.

Cooperation Between Countries of Origin and Countries of Destination. Bilateral treaties on mutual assistance in criminal matters must be a part of any transnational legal response since apprehension of traffickers, investigation of cases of trafficking and prosecution of the traffickers sometimes require cooperation between countries of origin and countries of destination in matters including request for assistance, search, seizure, attachment and surrender of property, measures for securing assets, service of judicial decision, judgments and verdicts, appearance of witness and expert witnesses and transmittal of information of records. This regional approach has been adopted by the 1996 Inter-American Convention on Mutual Assistance in Criminal Matters. Likewise, the 1959 European Convention on Mutual Assistance in Criminal Matters provides for similar measures.

Building Consensus as to the Appropriate Legal Response to Trafficking in Persons Through a Regional Approach. Consequently, a regional approach to the problem of trafficking is imperative. Such an approach builds regional consensus as to the forms of trafficking which must be subject to criminalization and the appropriate response for the prosecution of such crimes.

2. A Behavioral Model Approach to Trafficking in Persons: Targeting All Principle Actors in the Trafficking Enterprise.

Any comprehensive legal response to trafficking in persons must extend liability to all those who are responsible for committing or facilitating the act of trafficking.

Distinction Between Private Actors and Public Actors. I would like to first draw the distinction between public actors and private actors. While the trafficking act, whether the act of “recruitment, transportation, harbouring or receipt of persons” [UN Protocol, Article 3(a)] may be committed by a private individual or group, many cases involve a public official, an immigration officer, a law enforcement agent, a border patrol officer or other officials who facilitate the act of trafficking or refrain from prosecuting such an act. In such cases, an anti-trafficking law must render such an act a crime and provide for an enhanced penalty for such crime.

The United Nations Convention against Transnational Organized Crime criminalizes the corruption of public officials [Article 8] and requires that “Each state party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses, when committed intentionally: (a) the promise, offering, or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; (b) the solicitation or acceptance by a public officials, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or

refrain from acting in the exercise of his or her official duties.” The Convention further requires that State Parties shall “adopt legislative, administrative or other effective measures to promote integrity and to prevent, detect and punish the corruption of public officials” [Article 9].

Some anti-trafficking laws explicitly consider public corruption in the context of trafficking. For instance, the Criminal Code of Moldova recognizes not only “abuse of power” but “abuse of office” as an illegal means which gives rise to an enhanced penalty [Article 113/2].

Distinction Between Natural Persons and Legal Persons. I would like to draw a second distinction between natural persons and legal persons. Any effective legal response to trafficking in persons must address not only the liability of the trafficker, a natural person, but also the legal person or the corporate person that facilitates such acts. Travel agencies, employment agencies, adoption agencies, matchmaking organizations, advertisement agencies, hotels, restaurants, bars, taxi companies and sex operators must all be criminally liable for any illicit activity.

The liability of sex operators including, strip clubs, massage parlors, escort services, and should not be limited to compliance with residential zoning regulations. Instead, nuisance/tort liability should be combined with criminal liability in examining the legitimacy of sex operators. Sex operators who abuse their employees or force them to engage in illicit sexual activities should be fined, have their business license revoked, or be forced to close their business.

The July 2002 European Council Framework Decision on Trafficking in Persons calls upon countries to provide for liability of legal persons. The UN Protocol explicitly addresses the liability of commercial carriers “including any transportation companies or the owner or operator of any means of transport” [Article 11(3)].

Who Should be Liable? The Customer or the Victim: Addressing the Issue of Demand. “Prostitution laws” are divided as to whether to criminalize the act of the person in prostitution or the person who is buying the sexual services. However, few legal systems criminalize the behavior of the customer.

Criminalizing the Act of Prostitution and the Act of Purchasing Sexual Services. The Muslim countries such as Saudi Arabia, Iran, Pakistan, Yemen, Mauritania, Jordan, Bahrain, Sudan, Tunisia, Malaysia, Brunei and the United Arab Emirates punish both the women in prostitution and the customer.

Making the Purchase of Sexual Services a Crime. The Swedish Act “Prohibiting Purchase of Sexual Services” provides that “a person who obtains casual sexual relations in exchange for payment shall be sentenced—unless the act is punishable under the Swedish Penal Code—for the purchase of sexual services to a fine or imprisonment for at most six months.” Attempts to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code.

Knowledge of Trafficking Makes the Customer Liable. Another approach is adopted by Article 418-a of the Criminal Code of Macedonia which provides that “The one that uses or enables another person’s usage of sexual services from the persons for whom he knows are victims of human trafficking will be punished with from six months up to five years imprisonment.” The new draft legislation of Croatia of May 2003 follows the Macedonian model in criminalizing the act of the customer if he has knowledge that the person in prostitution has been trafficked.

When the Customer is Associated with United States Military. According to the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261–67 2000), criminal jurisdiction is established for acts committed by persons employed by or accompanying military forces outside the United States, including civilian employees of the Department of Defense and its contractors, if such acts would carry prison sentences of over one year within the United States.

When the Customer is a Tourist Engaging in Sex with a Child. Title 18, United States Code Section 2423 makes sex tourism a crime by prohibiting travel of United States citizens and residents who travel abroad to engage in illicit sexual activities with a child.

When the Customer is a Diplomat. I would like to say that the law of diplomatic immunity should not be used as a shield to justify abuse of domestic servants in the United States.

The Principle of Non-Criminalization of the Behavior of the Victim of Trafficking. While the customer should be penalized the victim, should be immune from liability every time she commits an illegal act as long as such act is related to their trafficking, whether this act is illegal entry, falsification of travel documents, or prostitution. This is the principle of non-criminalization of the behavior of the victim of trafficking, which has been articulated in United Nations Regulation No 2002/4 on the Prohibition of Trafficking in Persons in Kosovo, stating that “a person is not criminally responsible for prostitution or illegal entry, presence or work in Kosovo,

if that person provides evidence that supports a reasonable belief that he or she was the victim of trafficking.”

The Principle of No-Fault Liability in Civil Actions. Treating trafficked persons as victims means that the fault of the victim of trafficking should not be a hindrance in a civil compensation action. A victim should not be denied civil remedy by being blamed for her own victimization. This is principle of no-fault liability, which should be implemented by a civil judge. Treating trafficked persons as victims also means that a victim of trafficking must be granted the opportunity to abandon the illegal work and allowed to apply for employment, which is valid under the law.

To What Extent Does the 2003 TIP Report Consider the Issue of Demand? The TIP Report addresses the issue of demand by making explicit references to the law of Sweden stating that “the Government . . . passed a pioneering law that criminalizes the purchase rather than the sale of sex . . .” The TIP Report also makes reference to the Islamic law approach to the issue of demand explicitly stating that in Saudi Arabia “Islamic law prohibits sexual relationships outside the context of marriage and provides for strict penalties if the law is breached.” The TIP Report rightly criticizes the application of Islamic law in Pakistan when it states “If rape or forced prostitution cases are prosecuted under the Islamic law-oriented Hudood ordinances, victims are reluctant to testify since, the woman’s testimony is tantamount to an admission of adultery if prosecutors conclude that her testimony does not meet the burden of proof.” This application is inconsistent with the Qur’anic legislation, which states that women should not be forced into prostitution and if they are compelled they should not be punished because they have been forced into prostitution [Holy Qu’ran, Surah 14:33].

In a statement I submitted for the hearing before the Committee on International Relations, House of Representatives, 107th Congress, Second Session, June 19, 2002, I stated that although the TVPA does not require that the TIP Report takes into consideration “the extent of trafficking” but only “the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking” warning about harm of prostitution must be addressed in any program warning against the danger of trafficking. It is not clear to what extent the TIP Report takes into consideration the issue of demand in placing countries in certain tiers. Only the countries of Ghana, Lithuania, Morocco and the United Arab Emirates out of the 26 countries placed on Tier 1 outlaw prostitution. The other 22 countries legalize, decriminalize, or tolerate prostitution.

This approach is inconsistent with the TVPA, which explicitly distinguishes between sex trafficking and labor trafficking and does not consider sex as a form of labor. A review of this approach is imperative in light of the Trafficking in Persons National Security Directive of February 2003 which explicitly states that “Prostitution-related activities, which are inherently harmful and dehumanizing, contribute to the phenomenon of trafficking in persons . . .”

Potential Victims of Trafficking: Preventive Legal Measures to Combat Trafficking. The causes of vulnerability of women and children must be addressed in any preventive legal response, which must address poverty, lack of education, unemployment, gender discrimination, and other root causes of the trafficking infrastructure.

Birth registration laws should be enforced in accordance with Article 7 of the Convention on the Rights of the Child since unregistered children, such as 400,000 children in Honduras, are left vulnerable to exploitation. They do not attend school and they are targeted by traffickers who force them to work or sexually exploit them. Labor laws regarding the minimum age of employment should be enforced so that children do not enter the workforce at an age where they can be subject to exploitation. Similarly, the laws regarding the age of marriage, the age of consent and the age of majority must also be enforced.

The Legal System Must Allow For a Role of Non-Governmental Organizations. Laws that regulate the activities of organizations within civil society, especially non-governmental organizations, human rights organizations and advocacy groups, must also be reviewed in any legislative attempt to combat trafficking in persons. NGOs play a vital role coordinating with governmental agencies and providing services to victims of trafficking. Unfortunately, many countries are still ruled by authoritarian leaders who do not allow elements of civil society to perform these functions.

3. An Immigration Policy Approach: Granting a Victim of Trafficking a Residency Status in the Country of Destination

The Trafficked Victim: A Prohibited Immigrant Under Traditional Immigration Law. Traditional immigration law treated a trafficked victim as a “prohibited immigrant” who is ineligible for admission or entry into the country “if such a person is a . . . prostitute” and “prostitution is a grounds for deportation.” This is the rule in Section 22 of the Immigration and Deportation Act of Zambia, Section 8 of the

Immigration Act of Uganda, Article 10 of the Tanzania Citizenship Act, Section 9 of the Immigration Act of Swaziland, Section 31 of the Immigrants and Emigrants Act of Sri Lanka, Section 8 of the Immigration Act of Mauritius, Section 5 Immigration Law of Malta, Section 3 of the Proclamation Regulation the Issuance of Travel Documents and visas and Registration of Foreigners of Ethiopia and Section 14 of the Immigration Act of Zimbabwe. This traditional immigration law policy must shift its focus from denying women in prostitution entry into a foreign country to recognizing trafficking as a grounds for inadmissibility.

The Entertainment Visa as a Disguised Vehicle for Trafficking: Strict Regulations Must be Enforced. A legal system must control issuance of visas so that traffickers do not take advantage of existing types of visas that disguise the real purpose of travel of the holder of the visa. Although entertainment visas are used properly and legally in some countries, the law must provide for strict requirements so that such visas are not used illegally by the traffickers. In Cyprus the law allows for only 15 entertainment visas per nightclub and requires that prospective employers apply for the visa on behalf of the employee. The Thai law requires a letter issued by the employer confirming responsibility of the applicant for the entertainment visa and specifying the time of employment. In Norway, an entertainer who obtains an entertainment visa may work for a period of no more than one year, and an applicant for an entertainment visa must submit a written contract specifying the terms of employment. In Chile, the law requires an explicit authorization from the Ministry of Interior for the approval of an entertainment visa. In Portugal before the issuance of the entertainment visa, an inquiry is conducted into the criminal record and medical history of the applicant. The South Korean law requires HIV testing in addition to identity references. This month, South Korea ceased issuing entertainment visas to Philippine dancers because of the high numbers of women being trafficked to South Korea under the auspices of working as dancers.

Withholding the Travel Documents of Foreign Nations: A Call for the Abolition of the Sponsorship Rule. The February 23–26, 2003 International Conference on Path-breaking Strategies in the Global Fight against Sex Trafficking states in its recommendations released by the State Department that “the holding of passports and other travel documents by employers of foreign workers” must be outlawed. As I stated in my article published in Volume 26, *Fordham International Law Journal*, March 2003 entitled “Trafficking in Persons, Especially Women and Children, in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses,” the sponsorship rule is still followed in some countries of the Middle East and it must be abolished. It is encouraging that the Council of Ministers Decree, No. 166 (July 12, 2001) of Saudi Arabia has provided that the relationship between the employer and the alien employee must be regulated in accordance with the employment contract and not the sponsorship rule.

Is Trafficking in Persons a Crime Against the State or a Crime Against the Individual: A Call for a Humanitarian Basis for Granting Victims of Trafficking an Immigration Status. Deportation is still the norm in most parts of the world including the countries of the Middle East, Latin America, Africa and Asia. It reflects a traditional immigration law approach. Legal systems differ as to the basis of granting victims of trafficking a residency status.

In Belgium, a residency status is dependent upon the “legal proceedings.” First, a 45 day period is granted to allow the victim to decide whether to make statements (a complaint against the trafficker) or to prepare for a return to his or her country of origin. Second, a victim who has made a statement or filed a complaint during the 45 day period shall receive a temporary permit valid for three months and a temporary work permit for the same period. Third, if the prosecuting authorities decided to proceed with the case, the residency permit becomes valid for longer periods, usually six months, which may be renewed until the legal proceedings are concluded. Then the victim returns to their country of origin.

In Germany the Aliens Act grants victims of trafficking a grace period of at least 28 days to decide whether to cooperate with the authorities as witnesses or prepare to return to their country of origin. In Portugal, victims of trafficking can obtain a residency permit if they cooperate with prosecutors. In Hungary, the Alien Act provides for the possibility of suspending an expulsion order against victims of trafficking if they intend to testify against their traffickers. In Italy, the immigration law of 1998 provides victims of trafficking who are aliens, a special residency permit for a six month period. In Spain, a victim of trafficking, under a 2000 Act, is not to be deported if such victim reports the perpetrators of such trafficking to the proper authorities. They are granted temporary work permits. Once the legal proceedings are completed the government facilitate the return of the victims of trafficking to their country of origin.

In the Netherlands, expulsion of an illegal alien who is a victim of trafficking may be suspended for three months during which such victim decides to report the trafficking offense. If the victim decides to report, a residency permit is issued for the complete duration of the investigation, prosecution and trial. However, a residency permit may also be issued to a victim of trafficking upon the conclusion of the criminal proceedings. Such permit is granted on humanitarian grounds which includes the risk of reprisals against the victim or her family, the risk of persecution in the victim's country of origin for committing an offense related to prostitution, and the difficulty of social reintegration in the country of origin.

The TVPA does not require the victim of trafficking to testify in court to be eligible for a residency status under T-visa regulations. A victim of trafficking need only comply with any reasonable request for assistance in the investigation or prosecution of acts of trafficking. A victim may apply for an adjustment of the temporary status to acquire a permanent residency status. This new immigration policy shifts the focus from interception-detention-repatriation to prevention-protection-prosecution. This is a human rights approach to trafficking in persons, which must be followed by all legal systems.

The 2003 TIP Report Documenting Countries that Provide a Residency Status. The TIP Report takes into consideration whether a country provides a victim of trafficking a temporary or permanent residency status. The TIP Report made references to the following countries: Belgium, Bulgaria, Norway, Bosnia and Herzegovina, Czech Republic, Denmark, Portugal, Turkey, Romania, Russian Federation, Sweden, Moldova, Germany, Austria, Italy, Spain, the Netherlands, Israel, Canada, France, Hong Kong, Hungary, Macedonia, Pakistan, Switzerland, the United Kingdom and Bahrain. Other countries of destination must consider granting victims of trafficking a residency status.

4. A Human Rights Based Approach to Trafficking in Persons

Colombia, which is listed on Tier 1 of the 2003 TIP Report, recognizes, in Law No. 360, that "every person who is a victim of crimes against sexual liberty and human dignity has the right to be treated with dignity, privacy, and respect." This human rights approach must be emphasized in any anti-trafficking legislation in all legal systems.

A Bill of Rights for Victims of Trafficking. Victims of trafficking in persons should be entitled to basic human rights, especially the right to safety, the right to privacy, the right to information, the right to legal representation, the right to be heard in court, the right to compensation for damages, the right to medical assistance, the right to social assistance, the right to seek residence, and the right to return to their country of origin. Victims of trafficking should be treated with dignity, fairness, compassion and respect for their human rights.

The Double Witness Rule or the Corroborative Evidence Rule: A Violation of the Right of a Victim of Trafficking to be Heard in Court. These rights are being violated by legal systems that still follow the double witness rule or the corroborative evidence rule, which provides that in cases of trafficking in persons, the admission of evidence of only one witness is not permissible unless the witness's testimony is corroborated by another witness or other material evidence implicating the accused. This rule means that we are not treating the victim of trafficking as a credible witness. The rule is contradictory to the UN Protocol which mandates that "views and concerns [of the victims of trafficking] must . . . be presented and considered . . . against offenders." [Article 6(2)(b)]. This rule is followed by the legal systems of the countries of The Bahamas, Botswana, Fiji, Gambia, Iran, Ireland, Israel, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Malawi, Mauritius, Nigeria, Pakistan, and St. Kitts and Nevis, St. Lucia, St. Vincent and Grenadines, Seychelles, Sierra Leone, Tanzania, Tonga, Tuvalu, Uganda, and Zambia.

Special Testimonial Rules for a Child Witness. Special testimonial rules must be adopted to meet the special needs of child witnesses. A child witness should be allowed to testify outside the court or in court without the presence of the offender. A child witness should also be accompanied by a proper guardian.

Protection of the Right of Privacy of the Victim and the Derivative Victim Doctrine. Victims of trafficking are entitled to the right to privacy, which should extend to members of the victim's family, in accordance with the derivative victim doctrine. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power defines the term victim to include "the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization." The Declaration calls for "taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses

on their behalf, from intimidation and retaliation.” These measures must be explicitly recognized in an anti-trafficking legislation.

Extending Witness Protection Programs to Victims of Trafficking. Victims of trafficking should be entitled to the right to safety. They must be included in any witness protection program. Such program does not apply except when a witness is testifying in cases involving serious crimes. For instance, the witness protection program under the United States Victim and Witness Protection Act provides for protection of a witness in proceedings concerning “an organized criminal activity or other serious offense.” So the TVPA had to recognize trafficking as “an organized criminal activity or other serious offense” for the purpose of applying the witness protection program to victims of trafficking.

Recently, a number of countries enacted special witness protection laws including the law of July 14, 1999 of Portugal on “Governing the Enforcement of Measures on the Protection of Witnesses in Criminal Proceedings;” the law of March 2, 2001 of Bosnia and Herzegovina on “Special Witness Identity Protection in Criminal Proceedings;” the Law No. 137/2001 of Czech Republic on “The Special Protection of a Witness and Other Persons in Connection With Criminal Proceedings;” the Law of January 28, 1998 on “State Protection of the Victim, of Witnesses and Other Persons Who Provide Assistance in the Criminal Proceedings” of Moldova; and the August 31, 2001 Witness Protection Program Act of Canada. Other legal systems should adopt measure to include victims of trafficking in witness protection programs.

Victims of Trafficking Should be Entitled to Civil Compensation: a TVPA Shortcoming. Victims of trafficking should be entitled to the right to compensation for damages. Civil compensation is not restitution and restitution should not be a substitute for civil compensation. While the TVPA empowers a criminal court to order restitution, it does not provide victims of trafficking the ability to file a private civil action for damages. Other legal systems allow for such possibility including the right of trafficked person to seek punitive damages “when the degree of the exploitation or the degree of relationship or the dominating position of the offender with regard to the victim so require.” And I am quoting the 2000 Cyprus Combating of Trafficking in Persons and Sexual Exploitation of Children Law. So while the award of restitution depends upon a conviction of a crime and is a part of the sentencing of such crime, civil compensation should be awarded even if the trafficker is not convicted. I would also like to see the state itself paying for such compensation when an official of the state, whether that official is a police officer, an immigration officer, or any other public official is involved in the trafficking scheme.

5. Trafficking in Persons as a Foreign Policy Objective: The Role of the United States in Assisting Foreign Countries in Drafting Anti-Trafficking Legislation.

As I stated in an article entitled “Monitoring the Status of Severe Forms of Trafficking in Foreign Countries: Sanctions Mandated Under the U.S. Trafficking Victims Protection Act”, *Brown Journal of World Affairs*, Summer/Fall 2003, Vol. X, Issue 1:

“Human rights have been an important foreign policy objective of the United States . . . This policy provides that “the United States shall, in accordance with its international obligations as set forth in the charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.” . . . The TVPA explicitly recognized trafficking in persons as a “grave violation of human rights” and “a matter of pressing international concern.” I also stated that “(M)onitoring and combating trafficking in persons in foreign countries is not limited to reporting on the status of severe forms of trafficking in these countries. The United States Congress was not satisfied with merely making a statement of condemnation of human rights violation in the context of trafficking. Congress, in addition to the reporting process, decided to “name names” or engage in “shaming” by classifying countries into different categories, depending on their efforts to combat trafficking through the three tier model. It is also the policy of the United States, under the TVPA, to take actions against governments that do not comply with the minimum standards for the elimination of trafficking and are not making significant efforts to bring themselves into compliance with such standards. However, sanctions against governments must be carefully considered and applied in light of the numerous exceptions stipulated in the TVPA, especially when sanctions have adverse affects on the innocent population, including women and children. Sanctions should not be imposed when providing assistance instead of imposing

sanctions will induce the offending government to make the necessary efforts to comply with the minimum standards for the elimination of trafficking as required by the TVPA. "The United States should continue its policy of constructive engagement."

Constructive Engagement: The Need for Extending the State Department Legislative Assistance to Countries of the Middle East and Latin America. Congress recognized in Section 102 of the TVPA states that "[E]xisting legislation . . . in . . . other countries [is] inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved." The TVPA provides for assistance to foreign countries especially in ". . . drafting of laws to prohibit and punish acts of trafficking" [Section 109].

The United States through the Department of State and in cooperation with the Department of Justice and other agencies has been assisting countries in drafting comprehensive anti-trafficking legislation. These countries include: the ECOWAS countries, countries in Southeastern Europe, the Philippines, Togo, Thailand, Vietnam, Brazil, the Dominican Republic, Haiti and Russia.

It is to be noted that none of the countries of the Middle East except Sudan were placed in Tier 3, although none of these countries have a specific anti-trafficking legislation. Morocco and United Arab Emirates were placed in Tier 1, while Bahrain, Israel, Kuwait, Lebanon, Qatar and Saudi Arabia were placed on Tier 2. The Department of State has worked closely with some of these countries to improve the status of victims of trafficking and the results of these efforts were fairly documented in the narratives of the 2003 TIP Report, regardless of the discretionary judgment that was made regarding the placement of a country in a particular tier. I urge the Department of State to continue such efforts in the area of legislation, which I think need reform.

Similarly, most legal systems in the region of Latin America and the Caribbean still follow the traditional legal approach to trafficking and do not have a specific anti-trafficking legislation. Again, many countries within this region need the guidance of the Department of State in drafting comprehensive and effective anti-trafficking legislation.

The Role of Anti-Trafficking Legislation in Placing Countries in a Particular Tier in the 2003 TIP Report. Although the TIP Report takes into consideration whether a country has a specific anti-trafficking legislation that criminalizes trafficking and provides for the appropriate sentence for such trafficking, it is not clear to what extent the TIP Report considers legislation in placing countries in the three tiers. It may be argued that absence of an anti-trafficking legislation should be a determinative factor excluding a country from Tier 1. The same argument has previously been made regarding prosecution, which has been characterized as the most important criterion of serious and sustained efforts to eliminate trafficking in persons. In my judgment the TVPA plausibly does not indicate any priority to be given to any particular criterion of the seven criteria stipulated in Section 108.

As I stated in my aforementioned article: The minimum standards adequately address the various aspects of the problem of trafficking. There is no doubt that combating trafficking requires effective prosecution of the traffickers, but the root causes of the problem must also be addressed. Preventive measures must be taken to decrease the supply of innocent women and children. In the meantime, the trafficked person must be treated as a victim and governments must establish the necessary protective programs to assist victims of trafficking.

Does the TVPA require equal weight of these criteria in assessing government efforts to eliminate trafficking? It has been argued that prosecution should be considered the most important criterion of serious and sustained efforts to eliminate trafficking in persons, since the very first indicator is "whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons that take place wholly or partly within the territory of the country." The TVPA, however, does not indicate that it lists these criteria in any particular order. The seventh and last criteria in determining such efforts, is "whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and take all appropriate measures against officials who condone such trafficking." If one follows this argument, it may be concluded that the TVPA considers combating public corruption as the least important indicator of government efforts in eliminating trafficking. Official corruption threatens any efforts to combat trafficking and it must be confronted, otherwise any preventive measures or protective initiatives taken by the government would be severely and adversely affected. Abuse of public office for private gain circumvents the implementation of human rights, since misuse of government expenditures results in misallocation of resources, denying the population the right to education, employment, health and adequate living conditions. Another

problem with this argument is that it may implicitly indicate that prevention of the root causes of trafficking is less important, although as it has been pointed out that “prevention is the key” in combating trafficking in persons. In addition, while prosecution of the traffickers is an important tool in the fight against trafficking, many governments still treat trafficked persons as criminals who are not entitled to any rights. The mere fact that governments have changed their policies towards the protection of the trafficked person must be considered a “serious” step towards eliminate trafficking, even if such governments have not yet taken all the necessary measures to investigate and prosecute cases of trafficking, especially since the legislator never intended that governments would be required to fulfill all the criteria listed in the TVPA as an indication of its serious and sustained efforts.

The United States “Model Law on Trafficking” as a Model of a Anti-Trafficking Legislation to be Borrowed by Foreign Countries. The Model Law on Trafficking released by the Department of State in March 2003 serves as a good model of an anti-trafficking legislation. The Model Law is based upon the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the United Nations Regulation No 2002/4 on the Prohibition of Trafficking in Persons in Kosovo; the United States Trafficking Victims Protection Act of 2000 and the Romanian Law on Prevention and Combating Trafficking in Human Beings. The explanatory notes to the Model Law make references to these laws. I believe that other comparative anti-trafficking laws must also be considered in assisting foreign countries to design a comprehensive and effective legal response to combat trafficking in persons.

Bernhard Grossfeld, a comparative law scholar, recognized in “The Strengths and Weakness of Comparative Law” that “law develops mainly by borrowing” and “the ability of a legal system to react to change depends in large part on its ability to make good use of the experiences of other systems.”

Since the Model Law follows the UN Protocol and promotes its definition of trafficking and the approach to combat the problem of trafficking, the United States should expedite the UN Protocol ratification process. As of today there are 25 countries that have already ratified the UN Protocol. We need forty instruments of ratification for the UN Protocol to become international law.

In conclusion, I would like to emphasize that a more comprehensive legislative reform is needed. An anti-trafficking legislation should not be limited to the specific provision in the criminal code. While any effective legal response to combating trafficking in persons should ideally be embodied in a comprehensive anti-trafficking law, such legal response should take into consideration all relevant laws to which I made reference in my testimony.

Thank you.

Mr. PITTS. Thank you, Dr. Mattar. We will pursue that in questioning. Next, Dr. Louise Shelley will present her testimony.

**STATEMENT OF LOUISE I. SHELLEY, PH.D., DIRECTOR,
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UNIVERSITY**

Ms. SHELLEY. Thank you for inviting me to testify at this important hearing on this very sad topic that is growing. My topic is that on transnational crime and human trafficking as a form of transnational organized crime and its links with terrorism. A fuller statement has been submitted for the Committee.

Trafficking is not a homogenous phenomenon. Crime groups engage in trafficking range from small networks to a highly organized trade by large crime groups that deliver individuals across continents. Human trafficking in some regions of the world links with the funding of terrorism and the intermingled world of the illicit economy.

Human trafficking requires the cooperation of facilitators from the legitimate world and even legitimate corporations. This has been mentioned by a few of the previous speakers.

The vast global reach of traffickers, their large profits and significant regional variations suggest that international cooperation

is needed at the same time that a response must focus on the cultural and business perspectives of a particular crime group. The flexible nature of the networks which run this activity permits the continual reconstruction of trafficking groups. Therefore, strategies must be long-term and efforts sustained to address the problem.

The current trade in human beings combines traditional actors with new actors from the former socialist states and countries in Africa. Without effective law enforcement at home, perpetrators are able to recruit almost with impunity in their home countries. Corruption of local law enforcement, border and customs officials facilitates cross-border trade across vast geographic regions. This allows large scale movement from poorer countries in Asia and Africa to western Europe and the United States and within these regions.

One of the reasons this trade has grown so much is that smuggling and trafficking generate high profits, with low risk of detection and low penalties for the traffickers. Traffickers' organizations differ regionally by size and mode of operation. The trade in human beings is not a uniform business. Traditional patterns of trade and investment shape the trade in human beings as they do the trade in other commodities.

Despite the fact that much of the new trade, as opposed to some of what we heard in Asia has emerged from the former socialist world, the trade in human beings is very different out of Albania, Russia and China. This suggests that pre-revolutionary traditions of trade family and historical factors may be more important in determining the trade than the common features of the socialist system.

In this paper and in some other writings I have identified five different business models that exist in the trafficking area. Each of these models is associated with a different national group and they provide a means to categorize and understand the business of human smuggling.

Just as Reverend Bethell talked about cultural variations, these are important to understand because as one of the major fighters against organized crime, the late Judge Falcone in Italy said, you need to understand the mafia to combat it. Unless you understand how these organizations function, that is organize their activities, invest their money, corrupt law enforcement, move the people, you cannot effectively combat them. I will give you some titles of these groups and you can read more on them.

There is what I call the natural resource model, which is that of post Soviet organized crime. It pertains only to trafficking in women. It does not reflect an integrated business approach, but its focus is on short-term profits with little concern for the maintenance of supply and the long-term durability of the business. It sells women as if they were a readily available natural resource, such as timber or furs. It is under this condition that you have particularly severe violations of human rights.

The Chinese business functions as a trade and development model. It applies more to the smuggling of men, but according to the ledgers that law enforcement in the United States has seized from smugglers and traffickers, about 10 percent of the group that are smuggled are women who are trafficked for prostitution. This structured business generates very high profits and the money is

returned for significant investment capital in China. It is an integrated business from start to finish.

Third is what I would call the supermarket model. Low cost and high volume, which is the trade across the United States and the Mexican border. Much of that pertains to smuggling, but within that smuggling comes trafficking in women and some of the cases that we have had across this border show that it is a business that does not differ that much from the larger smuggling and that except for the fact that the women are subsequently enslaved and kept under the control of their traffickers.

This ongoing trade business requires significant profit sharing with local border officials and detection is difficult because trafficking is hidden within large scale smuggling operations. Then the trafficked women are serving as illegal immigrants in this country who have little contact with law enforcement.

The fourth case study pertains to what I call the violent entrepreneur model or the Balkan crime groups. These groups pertain almost only to the trafficking of women. It involves large numbers of women from the Balkans and those sold off by Balkan traders using women from the former Soviet Union.

It is an opportunistic model in both the source and recipient countries. The instability and civil conflict in the home region provide a large number of women who are vulnerable to be trafficked and there is direct involvement of top law enforcement personnel in the home country that makes international investigations more difficult.

Also as Ambassador Miller talked about, there is the problem of the peacekeepers in this region who are often using these trafficked women and providing profits to the traffickers that is allowing this crime to be more embedded in this region. Profits from this area are used to finance other illicit activities at home and businesses.

Another problem that we need to think about is in this large illicit economy in the Balkans, where there is a mingling of transnational crime and terrorism. This is one of the areas in the world where we probably see one of the strongest connections between transnational crime and terrorism.

The fifth model is what I call traditional slavery with modern technology, which is the trafficking that comes out of Nigeria and west Africa. These Nigerian organized crime groups with trafficked women are multifaceted crime groups in which trade in women is one part of their criminal profile. They use both traditional voodoo traditions to provide psychological pressure on the women, but use sophisticated modern technology to move the women and track their movements.

Significant financial resources are gained from this activity as there has been a tremendous rise in African trafficking, particularly to Europe since the late 1990s. It is this area when we talk about demand and what we need to do further in the area of demand in this area that this requires more attention. Much of the profits are believed to flow to other illicit activities and are laundered.

I want to endorse in going on to my next points the point that Dr. Mattar was making about trafficking and the need to target all parts of the criminal enterprise. It is not just the crime groups.

Just as our legal legislation on organized criminal organizations, trafficking involves prosecuting facilitators, corrupt individuals and even parts of the private commercial sector that may be involved for example in the drug trade or in the money laundering. This same strategy needs to be used in the trafficking area. It does not exist in a vacuum.

We have mentioned a lot about corruption in law enforcement, but we also have significant problems that our International Relations Committee needs to think about of corruption of consular officials, diplomats. We have had investigations of our consular missions overseas.

There have been individuals prosecuted who have infiltrated our consulates abroad that have facilitated trafficking and we also have lawyers who are involved in this and we have prosecuted at least one lawyer in the United States involved in a trafficking and smuggling ring and seized his assets and more needs to be done in this area.

Also there has been some mention of the transport sector. We need to be targeting individuals in airports and the railroad industry that are turning a blind eye to this activity.

We also mentioned earlier in some of the hearing on the involvement of the private sector. This is not only hotels and sex tourism, but hotels in this country and elsewhere that are allowing trafficking to operate and we have not paid enough attention to newspapers that are accepting ads for escort services. Some of our most reputable newspapers, magazines have done this and often these escort services are merely advertisements for trafficked women. So we need a strategy that thinks about this in a much broader way.

Some of the transfer businesses, the French have praised Western Union for their cooperation in helping them follow more laundering connected to trafficking. We need to work more with other commercial entities that are helping facilitate the movement of the profits.

I think some of this in the corporate sector is a lack of awareness of how they are contributing to trafficking. I think there needs to be much more awareness raising of their failure to acknowledge these problems. Then there needs to be legal strategies to penalize them in both civil and criminal ways.

I was an expert witness in a case not involving an American company, but a foreign company in which an employee had impeded a smuggling ring in his home country as an employee of a very reputable European airline. He was intimidated. He was physically beaten. He asked for help from the airline that was involved in this, but their profits were a greater concern to them than the protection of the individual who impeded the smuggling ring.

There needs to be serious considerations of what individuals are ready to do, because individuals who fight smuggling and trafficking place themselves at considerable risk and it is not just victims it is the people who stand up to the victims that also need protection.

Mr. PITTS. Could you summarize, please?

Ms. SHELLEY. Yes. The last point is on the links of trafficking with terrorism. Terrorists use the transportation networks of smugglers and traffickers to move operatives. In many parts of the

world, the huge profits of the illicit drug trade provide the funds for terrorism.

Trafficking is not as linked with terrorism as is parts of the drug trade, but in many areas of the world where there is a significant illicit economy there are linkages, such as in the Balkans, South-east Asia, Philippines and parts of the former Soviet Union.

To conclude, we need to look at this in many ways as an illicit business as we have focused on the drug trade and other areas of organized criminal activity and use some of the strategies we have used there to combat the trade in human beings. Thank you.

[The prepared statement of Ms. Shelley follows:]

PREPARED STATEMENT OF LOUISE I. SHELLEY, PH.D., DIRECTOR, TRANSNATIONAL CRIME AND CORRUPTION CENTER, AMERICAN UNIVERSITY

HUMAN TRAFFICKING: TRANSNATIONAL CRIME AND LINKS WITH TERRORISM

Human trafficking is a growing and serious form of organized crime. Far from being a homogeneous phenomenon, trafficking ranges from small networks to a highly organized trade by large crime groups that delivers individuals across continents. Human trafficking in some regions of the world links with the funding of terrorism in the intermingled world of the illicit economy. Human trafficking requires the cooperation of facilitators from the legitimate world and even legitimate corporations. The vast global reach of traffickers, their large profits and significant regional variations suggests that international cooperation is needed at the same time that a response must focus on the cultural and business perspectives of a particular crime group. The flexible nature of the networks which run this activity permits the continue reconstruction of trafficking groups. Therefore, strategies must be long-term and efforts sustained to address the problem.

The current trade in human beings combines traditional actors with new actors from the former socialist states and Africa. Without effective law enforcement at home, perpetrators are able to recruit almost with impunity in their home countries. Corruption of local law enforcement, border and customs officials facilitates cross-border trade across vast geographic regions. This allows large-scale movement from poorer countries in Asia and Africa to Western Europe and the United States.

Human Smuggling and Sex Trafficking as Businesses—Regional Differences

Smuggling and trafficking generate high profits with low risk of detection and low penalties for the traffickers. Therefore, crime groups which once trafficked in other commodities have moved into this sector and to new groups which have recently developed. The vast profits of this business allow them to hire high-level expertise just as the drug trafficking organizations have done in recent decades. This trade thrives not only because of the traffickers from poor and violence-ridden societies but also because of highly paid facilitators in the west. A Harvard-educated lawyer was recently arrested as the facilitator for a Chinese smuggling ring¹.

Many trafficking and smuggling organizations exist only for the last fifteen years but have already developed distinctive styles of operation and structure. There is not one form of human trafficking organization, just as the mafia is a very different phenomenon from the Yakuza in Japan.. Trafficking organizations differ regionally by size and mode of operation.

The trade in human beings is not a uniform business and operates very differently in different cultural and political contexts. Traditional patterns of trade and investment shape the trade in human beings as they do the trade in "other commodities." Despite the fact that much of the "new" trade has emerged from the former socialist world, the trade in human beings is very different out of Albania, Russia and China. This suggests that pre-revolutionary traditions of trade, family and historical factors may be more important in determining the trade than the common features of the socialist system². Women from Eastern Europe and the former Soviet Union are particularly vulnerable because the post-socialist transition has displaced

¹Mark Hamblett, "Government Outlines Case Against Porges," *New York Law Journal* September 27, 2000, p.1.

²Louise I. Shelley, "Post-Communist Transitions and Illegal Movement of Peoples: Chinese Smuggling and Russian Trafficking in Women", in *Annals of Scholarship*, Vol. 14, No. 2, 2000, pp.71-84.

many women and the feminization of poverty has been particularly acute in these former socialist countries.

Categorization of Trafficking Groups as Different Business Types or Criminal Enterprises

At least five different business model exist in the trafficking area. Each of these models is associated with a different national group and reflects deep historical influences, geographical realities and the market forces which drive the trade. These are ideal types and every crime group from a particular region does not fit a model. But they provide a means to categorize the business of human smuggling and trafficking. The models address the businesses that recruit men, women and children to be smuggled and trafficked. These models apply to different regions of the world as women are trafficked from former socialist countries, China, Latin America and Africa³.

1) Natural Resource Model: Post-Soviet Organized Crime

This model pertains almost only to the trafficking of women. It does not reflect an integrated business but its focus is on short-term profits with little concern for the maintenance of supply and the long-term durability of the business. Post-Soviet organized crime sells women as if they were a readily available natural resource such as timber or furs. In this respect this business reflects the pre-revolutionary Russian trade in natural resources and the new Russian emphasis on the sale of oil and gas⁴.

The business focuses on the recruitment of women and their sale to intermediaries who deliver them to the markets where they will "serve clients." Most often the women are sold off to nearby trading partners (usually the most proximate crime group). This model does not maximize profits and profits are not repatriated or used for development. Profits are disposed of through conspicuous consumption or are sometimes used to purchase another commodity with a rapid turnover. British law enforcement found that the profits from trade in women were used to buy rubber boots for sale in Ukraine or cars for sale in the Baltics.

This model results in very significant violations of human rights because the traffickers have no long-term interest in wresting long-term profits from these women and have no connections to their families. Repatriation efforts are often unsuccessful because the women are broken by the experience and there are not adequate social support services in their home communities.

2) Trade and Development Model: Chinese Traffickers

This model is most applicable to the smuggling of men but also is used to traffic women who may represent as much as ten percent of the total human trade (judging from confiscated ship logs). Chinese and Thai (controlled by Chinese-Thai) trafficking operations operate as a business that is integrated from start to finish. The control of the smuggling from recruitment through debt bondage or trafficking from recruitment to assignment to a brothel allows for long-term profits. The structured business generates very high profits. This trade resembles other Chinese trade that is integrated across continents and results in significant investment capital for China.

Much of the profits are repatriated and fuel development in Southern China, Northern Thailand, Bangkok and beach resorts south of Bangkok. Investigators can follow these cases because of the links of those trafficked with their families. Assets are laundered back sometimes through wire transfers but multi-millions are returned through the system of Chinese underground banking such as through gold shops and other similar techniques.

The vast majority of Chinese are smuggled and trafficked into the United States but this model is not applicable only to the United States. There is a rise of Chinese trafficking to Europe and other parts of the world. The outcome of the smuggling differs significantly based on the country to which the individual is trafficked. Smugglers of Chinese to the United States free those they smuggled after they have worked off their debt whereas prosecutors in Italy report that the individuals remain enslaved because individuals cannot be absorbed into the legitimate Italian economy and pay the smugglers to transport other members of their families. In the United States, it is in the financial interests of the smugglers to uphold their contracts with those smuggled but it is not in Italy.

³Louise I. Shelley, "Trafficking in Women: The Business Model Approach," *Brown Journal of International Affairs*, Vol. X, Issue I, 2003, pp.119-32 provides a full discussion of this.

⁴Louise I. Shelley, "Post-Communist Transitions and Illegal Movement of Peoples: Chinese Smuggling and Russian Trafficking in Women."

This model results in less significant violations of human rights than in Model 1 because the smugglers and traffickers have long term interest in wresting long term profits from these women and often have connections to their families. Violations may be greater in Europe than in the United States because individuals have less chance of being amnestied and integrated into the legitimate economy.

3) *Supermarket Model: Low Cost and High Volume U.S.-Mexican trade*

The trade is based on maximizing profits by moving the largest numbers of people and not charging significant sums for each individual. The smugglers may charge as little as several hundred dollars for their services.

This model is most applicable to the smuggling of men and women but the trafficking cases suggest that they use the same model. The trade in women is part of a much larger trade that involves moving large numbers of people across the border at low cost. In most cases the smugglers just facilitated the cross-border trade. This trade may require multiple attempts because 1.8 million individuals were arrested on the border in 2000. In a small percentage of cases, traffickers exploit vulnerable individuals such as a group of deaf who were forced to peddle or young girls who were forced into brothels in the Cadena case⁵. Most of the “people movers” specialize in this trade that is based on large-scale supply and existing demand.

The on-going trade requires significant profit sharing with local border officials. The Cadena case of young women trafficked to the southeastern U.S. gave insight into patterns of money laundering. Millions of dollars of profits were returned to Mexico and were invested in land and farms in Mexico.

Detection is difficult because trafficking is hidden within large scale smuggling operations. Trafficked women often serve legal and illegal immigrants who have little contact with law enforcement.

This model results in many significant violations of human rights and even fatalities of those smuggled. Because there is little profit to be gained from each individual who is moved, smugglers are not always concerned about the safe delivery of those smuggled to their ultimate destination. The desert region of the border area makes smugglers and traffickers obligated to provide adequate water to those who cross the border, an obligation that is not always fulfilled. Traffickers prey on the most vulnerable sectors of Mexican society, such as the deaf and minors.

4) *Violent Entrepreneur Model: Balkan Crime Groups*

This model pertains almost only to the trafficking of women. It involves large number of women from the Balkans and those sold off to Balkan traders by crime groups from the former Soviet Union and Eastern Europe. Therefore, it controls women from their base in the Balkans through their exploitation in the brothels of Western Europe. Balkan traders in women run an integrated business and are middlemen for the groups from Eastern Europe.

This is an opportunistic model in both the source and recipient countries. The instability and civil conflict in the home region provide a large number of women who are vulnerable to be trafficked. Balkan groups take over existing markets in Continental Europe and Great Britain by use of force against already established organized crime groups⁶. Trafficking victims and law enforcement professionals who seek to investigate these crimes become targets of the crime groups. The direct involvement of top-level law enforcement personnel in the home country makes international investigation more difficult. The control of many women in the highly profitable sex markets of Western Europe generates very high levels of profits for the traffickers. Profits from this trade appear to be used to finance other illicit activities at home and for investments in property and trade businesses overseas and at home. The money is returned through wire transfers and cash carried by couriers to the home country⁷.

In regions of extreme conflict such as the Balkans, the peacekeepers often contribute significantly to the growth of the trafficking networks and the embedding of organized crime within the community⁸. The peacekeepers are a major revenue

⁵Louise Shelley, “Corruption and Organized Crime in Mexico in the Post-PRI Transition,” *Journal of Contemporary Criminal Justice* Vol.17, No.3, August 2001, p.226.

⁶*Lawless Rule Versus Rule of Law in the Balkans* Special Report No.97, U.S. Institute of Peace, December 2002.

⁷Testimony of Jean-Michel Colombani, 25 April 2001 in Assemblée Nationale, *L’esclavage, en France, aujourd’hui* Document 3459, 2001, pp. 27–37.

⁸“Trafficking, Slavery and Peacekeeping: The Balkan Case” Conference for International Experts May 9–10, 2002 in Turin, Italy. This meeting, organized by TraCCC and United National Interregional Crime and Justice Research Institute (UNICRI), had the aim of collecting, ana-

source for the brothel owners who keep the trafficked women. These revenues are used to neutralize law enforcement through corruption and to invest in the technology, intelligence gathering, and communications that are needed to make the human trade grow.

This model results in very significant violations of human rights and terrible violence against trafficked women. This model's reliance on violence in all stages of its operations makes it the most serious violator of human rights. Threats to family members at home are combined with terrible physical abuse of the women.

5) Traditional Slavery with Modern Technology: Trafficking out of Nigeria and West Africa

Nigerian organized crime groups which traffick women are multi-faceted crime groups in which trade in women is one part of their criminal profile. Using female recruiters who conclude contracts with girls and women and manipulating voodoo traditions, they are able to force compliance through psychological as well physical pressure. Using the modern transport links of present-day Nigeria, they are very effective because they "combine the best of both modern and older worlds by allying sophisticated forms of modern technology to tribal customs."⁹ Exploiting the vulnerability of uneducated women, the trade resembles traditional slavery that has been modernized to the global age.

Human rights violations are significant, as children are abandoned in recipient countries and women are pressured to work in the most physically dangerous conditions at the lowest end of the prostitution market usually as streetwalkers exposed to the elements. Physical violence is common.

Significant financial resources are gained from this activity as there has been a tremendous rise in African trafficking, particularly to Europe, since the late 1990s. Small amounts of the profits are returned to the local operations of the crime groups and occasionally to family members of the girls and women. Much of the profits are believed to flow to other illicit activities and are laundered¹⁰.

Centrality of Corruption to Traffickers

Trafficking does not exist in a vacuum. Without corrupt law enforcement, consular officials, diplomats and lawyers this trade could not exist. Also central to the success of traffickers in the corruption of border guards, police, security sector and transport. Without personnel in the airports and railroad industry turning a blind eye, often after the payment of a significant sum, this organized crime could not proceed. The isolation and prosecution of the facilitators of trafficking both at home and abroad is as necessary as targeting the crime groups themselves.

Involvement of the Private Sector

Many trafficking organizations could not survive without the complicity of important, legitimate sectors of the economy. Sometimes these businesses know what they are doing and are complicit because of the high level of profits this generates. For others, it is a failure to make the connections between organized crime and their activity.

Examples of this include the hotels which tolerate prostitution because it is good for business, but instead they are allowing trafficking rings to obtain profits. Newspapers accept ads for escort services. The newspapers involved are not just shady publications but some of the most reputable in the industry. Often the advertised escort services have trafficked women. These highly lucrative ads are often not scrutinized by the newspapers. Yet they have been used by sophisticated anti-trafficking investigators to help break trafficking rings.

Other key legitimate sectors which facilitate the organized traffickers include the wire transfer businesses and transport firms. French investigators, tracing the money flows of the traffickers back to their home countries, have cited Western Union for its cooperation in assisting them in identifying money flows. But many other corporations in the wire transfer business who are facilitating the money flows are not so cooperative and willing to work with law enforcement.

In the aviation sector, some airlines have guidelines to prevent the trafficking and smuggling of people. But the implementation of these policies often takes enormous courage by the individuals in the locales where these policies need to be implemented. In one recent case in which I was involved, a senior employee of a Western

lyzing and comparing operational suggestions on how to tackle the traffic of human beings in Peacekeeping Operations (PKO) areas, <www.unicri.it/experts_meeting.htm>.

⁹ "European Union Organised Crime Situation Report," Europol 2000 <<http://www.europol.eu.int/index.asp?page=EUOrganisedCrimeSitRep2000>>.

¹⁰ IOM, Trafficking in Women to Italy for Sexual Exploitation," 1996. <www.iom.int/DOCUMENTS/PUBLICATION/EN/MIP_Italy_traff_eng.pdf, pp.22-23>.

airline tried to impede a smuggling ring. He received threats and was even beaten. The Western airline did not back him up or protect him. Having anti-smuggling and anti-trafficking policies is one thing. Backing them up and protecting the individuals who need to implement them requires greater will and the willingness to sacrifice profits in the name of a larger goal.

Just as the professional facilitators, the lawyers and bankers, can be prosecuted for participation in a criminal organization for assisting traffickers, we must move beyond the individual actors and look at some of the multinational corporations who are so crucial to the success of the traffickers. Greater education of the corporate sector on their role in facilitating this form of organized crime must be initiated. In the absence of an effective response, there must be targeted prosecutions of some of the more egregious offenders.

Links of Trafficking with Terrorism

Trafficking and terrorism are linked in some parts of the world. Terrorists use the transportation networks of smugglers and traffickers to move operatives. In many parts of the world, the huge profits of the illicit drug trade provides the funds for terrorism. The link between trafficking and terrorism does not appear to be as strong. For example, trafficking is not a major profit source for trafficking groups in Latin America as is the drug trade. It is in other regions of the world where trafficking is a large and significant component of the illicit economy where this link exists. Examples of this might include the Balkans, Southeast Asia, Philippines and parts of the former Soviet Union. In the Balkans, trafficking is a major source of profits for organized crime groups which have links to terrorists. The Russian Duma is justifying its new law against the "Trafficking in Human Beings" because of the links between terrorism and crime. In Southeast Asia and the Philippines where trafficking is a significant part of the illicit economy, potential terrorists can move their money easily through the channels of the illicit economy.

Conclusion

The business of human trafficking closely resembles the trade patterns of businesses and cultures of the region where trafficking operations are based. Trafficking is not its own sui generis business model but closely mirrors the trade in legitimate commodities. Therefore, anyone addressing the problem must understand the phenomenon in the context of the society where it operates.

The profits of the trafficking business are enormous. In some cases, they fuel development and support families without other means of support. Understanding that trafficking sometimes serves an economic function not only for the traffickers is crucial to addressing the phenomena. Trafficking cannot be combated solely through legal and administrative measures alone. Economic strategies to seize the assets of the traffickers and to find other financial means of support to trafficking victims and their families is key to developing a strategy to reduce trafficking. Furthermore, the facilitators in the legitimate economy who facilitate the trade in trafficking must also be targeted in law enforcement efforts.

A future anti-trafficking strategy must include the following:

- 1) Greater study and analysis of the operations of different trafficking organizations as forms of organized crime
- 2) Greater study and analysis of the links between transnational crime and terrorism operate in the operational and financial sides of the business
- 2) Greater efforts to address the facilitators of trafficking activities
- 3) Greater international cooperation in addressing trafficking. This includes coordination of laws, investigations and the seizure of crime proceeds.
- 4) Greater efforts to seize the profits of traffickers and use them for assistance and development
- 5) Greater educational programs for the public and the business sector on how they may be contributing to the problem of trafficking through its involvement with the legitimate economy

Mr. PITTS. Thank you very much, Dr. Shelley. Our final panelist will be Mr. Gary Haugen.

STATEMENT OF GARY A. HAUGEN, PRESIDENT AND CEO, FOUNDER, INTERNATIONAL JUSTICE MISSION

Mr. HAUGEN. Thank you very much, Mr. Chairman. Congressman Smith, it is a great privilege to appear before you this after-

noon on behalf of the International Justice Mission and no doubt as the sixth member of the panel I will try your attention span. We have had the privilege of a really splendid array of experts and I have given some technical remarks in my paper.

This afternoon I would just like to share two stories with you. The first is a story of a teenager I know from south Asia who a few days ago just died as a victim of sex trafficking and I would like to honor her by sharing her story to I think expose the raw reality of what sex trafficking actually looks like, but also to honor her by drawing out of her life some lessons about millions of other girls, how they might be spared of this suffering.

The second story is how these lessons can actually be practically applied by the United States government to actually be effective in combatting trafficking. Most of what the International Justice Mission has learned that has proved to be useful about sex trafficking we have learned from the victims and especially a victim like Balamani.

We, at the International Justice Mission, have interacted with hundreds and hundreds of these girls and women who have been trafficked, who have been abducted, bought and sold, tortured and raped as part of a money making enterprise. Everything useful that we have learned has emerged from entering into the nightmare of their experience.

I first came to know Balamani because another girl we had rescued from another brothel took us back to a place where there were hidden underground compartments of the brothel where they were hiding girls that were not initially rescued. Balamani was about 17 years old when she was lured from her rural village in south Asia with a promise of a job working as a domestic servant or as a worker in a medical center in the city.

The local trafficker won her trust and took her to a larger city in her state, but then tricked her to going to another city on the other side of the country. She was actually then sold into a brothel for about \$170. Once inside the brothel, she was ferociously beaten by the brothel keepers until she was forced to provide sex. Then she had to serve between 15 and 20 customers a day, 7 days a week, from 11 o'clock in the morning until about 5 o'clock in the morning the next day.

Local police officers regularly frequented the brothel to collect their weekly bribe and routinely threatened to take the young girls out of the brothel, if the brothel keepers did not pay an increasing bribe.

Based on information from other rescued girls, IJM was able to actually lead a raid on the brothel and rescue Balamani and about a dozen other girls out of this nightmare of brutal rape and slavery. Balamani actually responded well to the provision of after care and was able to return to her village.

She was able to get work and she was even expressing a willingness to testify against the perpetrators who were then facing prosecution, but before she was able to do so the deadly legacy of her abuse in the brothels just seized her body. The HIV virus that had been forcibly injected into her body exploded into full blown AIDS and she just laid dying on a gurney, painfully assaulted by meningitis, by tuberculosis and a host of sexually transmitted diseases.

A few days ago, Balamani died with my colleagues beside her. She was slowly and horribly murdered by the traffickers, pimps and brothel customers who abused her and by the police who protected the criminals rather than this vulnerable teenage girl.

This is a story that the IJM has seen repeated hundreds of times. The State Department itself affirms that it is the plight of millions of women and girls held in forced prostitution.

From this story three simple lessons I think come clear. First, sex trafficking flourishes only where it is tolerated by local law enforcement. Sex trafficking requires the commission of multiple felonies in a way that is held openly to the public. Therefore, it can be shut down wherever there is the political will and operational resources to do so. The customers could openly find Balamani and rape her. The police could also openly find her and defend her, if they had chosen to do so. But they chose to protect the brothel keeper, rather than Balamani and they were never held to account for that choice.

Second, poverty certainly makes people more vulnerable to sex trafficking, but it is not the decisive factor. Not all victims are desperately poor and not all poor are vulnerable to being trafficked. What is true is that wherever forced prostitution is flourishing, local police know where it is and is used to protect it instead of stopping it.

We must of course continue to fund poverty alleviation, because it does tremendously reduce vulnerability to trafficking. But we must remember that Balamani was not desperately poor nor was she ignorant. I mean she had a ninth grade education. But what she could not survive the circumstances where the local police knew she was being forcibly detained and raped and would not protect her. This she could not survive. On the other hand, if the police were able to switch sides, the enterprise that murdered Balamani could not have survived.

The third lesson I would draw from Balamani's story is the simple obvious: A truly explosive connection between sex trafficking and AIDS. As Dr. Burkhalter has pointed out, sex trafficking is one of the great engines of the AIDS epidemic today. Both Balamani's painful death and the grotesque mathematics of her servicing 15 to 20 men a day, 7 days a week should make all of this abundantly clear.

It is likewise clear that the traditional AIDS prevention strategies that focus on helping people to make good choices allow them to avoid high risk sexual contacts simply do not assist the millions of trafficking victims do not get to make choices about their sexual contacts.

Accordingly, this Congress must ensure, I believe, that the programs addressing sex trafficking and other forms of sexual violence which have been authorized under the new AIDS legislation should be fully funded and be made effective.

A second brief story I would like to share helps provide I think a better sign of hope and practical clarity about how the U.S. Government can effectively assist foreign governments in combatting sex trafficking. As detailed in my written testimony, we started an investigation of a horrific sex trafficking in Cambodia of very small children, where scores of children between the ages of about 5 and

10 years of age could just be purchased in an open market outside Phnom Penh.

The reluctance of the Cambodian authorities to address the problem initially was dramatically changed when Cambodia was placed on tier three in the 2003 *TIP Report*. Then when the United States Embassy, under the leadership of Ambassador Charles Ray began a vigorous dialogue with the Cambodian authorities about the need to address the problem, the result was that in April the Cambodian police were able to conduct an effective enforcement action with the IJM that rescued 37 minor girls, about a dozen of which were between the ages of 5 and 10 years of age and arrested more than a dozen perpetrators who are now facing closely monitored prosecutions, but perhaps most importantly and most dramatically of all, the senior police commander who was believed to be protecting and profiting from the child prostitution ring has been fired, arrested and is now sitting in prison facing a closely monitored prosecution. A very senior police official.

Again, this is the other face of sex trafficking that must be confronted and brought to account. The face of those authorities that provide the indispensable protection upon which the industry depends.

In follow-up, IJM has been able to conduct extensive training now with the Cambodia anti-trafficking unit and has already resulted in the arrests of additional perpetrators and the release of additional victims.

We believe these encouraging events help to serve as a model for what can be achieved when there are four things. Number one, transparent reporting through the *TIP Report* with objective data on convictions and police actions. I would really like to commend, heartily commend Director Miller in turning the whole direction of the *TIP Report* around and to now give the burden of that proof of data on the countries and the governments themselves to produce it.

Secondly, a meaningful application of the tier rating system, where there actually is a credible threat you might be placed on tier three. Third, direct advocacy by U.S. authorities at the highest levels of government.

Fourth, tangible practical assistance to foreign governments in bringing rescue to trafficking victims and justice to perpetrators. Many times that means actual training of the police, actual equipping of the police and then providing the kind of after care that is absolutely essential both to get the children's participation in any kind of prosecution, but also to make sure that they have a future. Without that after care, it is a lost game.

As a side note and finally I would like to thank the Congress for recently passing the protect act, which is paving the way for U.S. attorneys to vigorously prosecute Americans who travel abroad and exploit young girls. You cannot imagine the shame of listening to those little girls in Cambodia explain how it was the Americans who were coming to sodomize them. That is something that we as Americans should not tolerate. It is imperative that the United States crush the demand that is created by its own citizenry.

Thank you again, Congressman Smith and I am grateful for the opportunity to share these remarks with you.

[The prepared statement of Mr. Haugen follows:]

PREPARED STATEMENT OF GARY A. HAUGEN, PRESIDENT AND CEO, FOUNDER,
INTERNATIONAL JUSTICE MISSION

Mr. Chairman,

My name is Gary Haugen and I serve as the President of International Justice Mission (IJM). On behalf of IJM, I would like to express my thanks to the Committee for the privilege of participating in this important hearing on Global Trends in Trafficking and the Trafficking in Persons Report.

International Justice Mission is an international human rights agency that provides a hands-on, operational field response to cases of human rights abuse referred to us from faith-based ministries serving around the world. Frequently these workers observe severe human rights abuses in the communities where they serve. These workers refer these cases to us, and then we conduct a professional investigation to document the abuses and mobilize intervention on behalf of the victims.

Many of the cases referred to us involve women and children abducted into sex trafficking and commercial sexual exploitation. Accordingly, we deploy criminal investigators to infiltrate the brothels, use surveillance technology to document where the victims are being held, and then identify secure police contacts who will conduct raids with us to release the victims and arrest the perpetrators. We then coordinate the referral of these victims to appropriate aftercare, and support and monitor the prosecutions.

IJM investigators have spent literally thousands of hours infiltrating the sex trafficking industry and working with government authorities around the world to bring effective rescue to the victims and accountability to the perpetrators. In the process, IJM is gaining, I believe, some precise insights about the nature of the problem and helpful lessons about concrete steps that actually prove effective in fighting sex trafficking. We are grateful, therefore, for the opportunity to share something of what we have learned with this Committee.

Of course, most of what we have learned has come from the victims of sex trafficking themselves—the hundreds upon hundreds of individual women and girls whom we have come to know by name around the world. The hundreds of women and children who have been abducted, assaulted, bought and sold, tortured and raped as part of a moneymaking enterprise. Everything useful that we have learned has emerged from entering into the nightmare experience of girls like Balamani. We first came to know Balamani because another girl we had rescued from a brothel took us back on a follow-up raid to show us the underground dungeon in which other young trafficking victims were being hidden. Balamani was about 17-years-old when she was lured from her rural village in South Asia with promises of a job working as a domestic servant or at a medical center in the city. A local trafficker won her trust and diverted her to a larger city on the other side of the country where she was sold into a brothel for about \$170. Once inside the brothel she was ferociously beaten by the brothel keepers and forced to provide sex to the customers. From then on, Balamani had to service between 15 and 20 customers per day—7 days a week—from 11:00 am until 5:00 am—every day for 10 months. Some police regularly frequented the brothel to collect their weekly bribe, and routinely threatened to take the young girls out as a way of extorting a larger bribe from the brothel keeper.

Based on information from other rescued girls, IJM was able to lead a raid on the brothel and rescue Balamani and about about a dozen other girls out of this nightmare of brutal rape and slavery. Balamani responded well to the provision of aftercare and was able to return to her village, find work, and even expressed a willingness to testify against the brutal brothel keepers who were now facing prosecution. But before she was able to do so, the deadly legacy of her abuse in the brothel seized her body. The HIV virus that had been forcibly injected into her body exploded into full-blown AIDS—and soon she lay dying on a gurney, painfully assaulted now by tuberculosis, meningitis and a host of sexually transmitted diseases. A few days ago, Balamani died with my colleagues by her side. She was slowly, and horribly murdered by the traffickers, pimps and brothel customers who abused her. And by the police who protected the criminals rather than the vulnerable teenage girl.

Balamani's story gives a face and a heart to the otherwise the mind-numbing statistics about the epidemic of sex trafficking in our world. But also within Balamani's story are insights about why this global atrocity is of the most preventable catastrophes on our world today.

The simple fact of the matter is this: sex trafficking only flourishes where it is tolerated by local law enforcement. The business of sex trafficking and commercial

sexual exploitation requires that the perpetrators commit multiple felonies of abduction, rape, assault, and false imprisonment—and then it requires that the perpetrators hold out the victims of these crimes openly to the public so that the customers can find them. It does no good at all for the brothel keepers and pimps to hide their victims. In fact, to make money on their investment, the pimps and brothel keepers must make their victims openly available to the customer public—and not just once, but continuously, and over a long period of time. Obviously, therefore, if the customers can find the victims of sex trafficking whenever they want, so can the police. How, therefore, do you possibly get away with running a sex trafficking enterprise? You do so only if permitted by local law enforcement. Generally, this is facilitated by bringing the police into the business and sharing the profits with them in exchange for protection against the enforcement of the laws that are openly and continuously violated every single day the business is in operation. Certainly sex trafficking is exacerbated by poverty and economic desperation; but we do not find epidemic levels of sex trafficking wherever we find poverty in the world. Rather, sex trafficking flourishes on a large scale only in those countries where it is tolerated by local law enforcement.

This is the indispensable insight about the fundamental vulnerability of sex trafficking that must be grasped. Sex trafficking requires the commission of multiple felonies in a way that is held out openly to the public. Therefore it can be shut down wherever there is the political will and operational resources to do so.

Sex trafficking and commercial sexual exploitation can be drastically reduced wherever a country has the political will and the operational capacity to send the perpetrators to jail and to treat the victims with compassion and dignity. This is a fight that can actually be won. In fact, this was the animating conviction behind the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA sought to influence the political will of countries with serious trafficking problems by making clear that there would be consequences for a country's relationship with the United States, including the possibility of sanctions, if that country did not make significant efforts to meet minimum standards in combating sex trafficking. Secondly, the TVPA also authorized grants to help strengthen a country's capacity to address sex trafficking through prevention, prosecution, and protection activities.

The authors of the TVPA understood that it was essential to strengthen both the political will and the operational capacity of countries to fight sex trafficking. It was well understood that in many countries the victims of sex trafficking fundamentally lack the voice and power to make themselves a priority for national law enforcement. Sex trafficking operations prey upon the most marginalized groups in society—women, children, refugees, undocumented persons, ethnic minorities and the poor. Fundamentally, political leaders do not feel threatened in their hold on power if they fail to protect impoverished and low-status women and girls. Scarce law enforcement resources are deployed to protect the things that societies value the most, and thus women and children are often left utterly vulnerable to the brutalities of the commercial sex trade. Accordingly, the TVPA endeavored to place the voice and values of the American people on the side of these vulnerable women and children by making it clear that their abuse would not be tolerated. Specifically, the TVPA established the Office to Combat and Monitor Trafficking in Persons to provide a voice of accountability for the otherwise voiceless victims of trafficking. This new office would tell the truth about whether a country was vigorously defending women and children against the horrors of trafficking, with the understanding that those countries unwilling to provide such basic protections would find an adverse impact on their relationship with the United States.

This was the theory behind the policy expressed in the Trafficking Victims Protection Act of 2000. All of the great effort in passing the TVPA was intended to actually make a real-world difference for the women and children being crushed by the forces of sex trafficking. I offer this review simply to ask whether the policy is actually having its intended effect. What have we learned about the efforts to implement the policy that actually make a difference and what have we learned about those actions that undermine the impact of the policy? In a number of countries, IJM has been working hand-in-hand with foreign governments, NGOs and State Department personnel to conduct hands-on operations to rescue victims and to bring perpetrators to justice, and we are learning about the practical impact of U.S. policy at the street level. Our experience is starting to demonstrate that, as we all hoped, the policy can have a tremendous impact if implemented vigorously.

What makes the policy actually work?

I would suggest three things:

1. Vigorous and transparent reporting on a government's record on sex trafficking convictions and police disciplinary actions;

2. A credible and clearly communicated threat of consequences for governments that are not taking serious steps to actually send perpetrators to jail and to get police out of the trafficking business; and
3. Focused and practical capacity building for sending perpetrators to jail and caring compassionately for victims.

I would like to take a moment to examine these one at a time. *First, vigorous and transparent reporting on a government's record on sex trafficking convictions and police disciplinary actions.*

The purpose of the Trafficking In Persons Report is simple: it is intended to provide accountability. Therefore, the report has its intended effect when it is actually written in a way that makes accountability easy, rather than making it hard. We should make no mistake. There are those who will have an interest in making clear accountability harder rather than easier—and there are ways to fashion a document that either promotes accountability or obscures accountability. Effective accountability is achieved when the Report provides specific, objective, transparent data on a government's actions that actually matter. And from the perspective of the sex traffickers, only two government actions matter: a) Is the government seriously threatening to actually send me to jail for doing this? and b) Is the government seriously threatening to remove the police protection that I have paid for?

Consequently, effective accountability regarding the seriousness of a government's efforts to combat trafficking will only begin to emerge when there is specific objective data on the number of successful trafficking-related convictions resulting in jail time, as well as data on the number of disciplinary actions that have been taken against police who are complicit in protecting sex trafficking operations (remembering that such operations simply don't exist on a significant scale without such protection).

Again, it must be emphasized that the relevant data point is *convictions*—not raids, arrests, and prosecutions. Traffickers, brothel keepers, and pimps are quite willing to endure raids, arrests, and even prosecutions if, at the end of the day, they don't have to actually go to prison. In fact, such actions are just considered part of the cost of doing business. Moreover, even the most corrupt police carry out raids, arrests and initiate prosecutions. In fact, they must do so in order to maintain the credible threat by which they extort bribes from the perpetrators. That is why countries with the worst sex trafficking records can report raids, arrests, and prosecutions; but such countries have very little to report in terms of actual convictions. None of these other actions turn into a credible law enforcement threat that actually deters sex trafficking unless they result in convictions with imprisonment. This is the only cost of doing business that the perpetrators are unwilling to pay.

This is why IJM is so pleased that the new Director of the Office to Combat and Monitoring Trafficking in Persons, the Hon. John Miller, has adopted as the policy of his office that governments wishing to be certified as making serious efforts to meet minimum standards in combating sex trafficking must bear the burden of providing objective data on trafficking-related convictions and police disciplinary actions. After all, these governments are themselves in the best position to report on their own positive actions, and the Office cannot be reasonably expected to affirmatively certify that a government is making significant efforts if the government provides no verifiable data on these two most basic responsibilities. Self-reporting by a government regarding its own counter-trafficking initiatives with follow-up by the State Department provides the best means for transparency and accountability. As the TIP Report states, “. . . national governments must supply such information.” (See Trafficking in Persons Report, June 2003, p. 17).

The second ingredient for making the TVPA policy actually work has been a credible and clearly communicated threat of consequences for governments that are not taking serious steps to actually send perpetrators to jail and to get police out of the trafficking business.

In order to bring effective protection to women and children vulnerable to sex trafficking, governments must move counter-trafficking efforts from being a good idea to being an urgent priority. And in reality, the only dynamic that generates such a shift is usually the belief that something bad will happen if they fail to do so. This is why the threat of possible sanctions was incorporated within the legislation for countries placed on Tier 3 of the Trafficking In Persons Report (TIP). In this regard, we have found that trafficking issues become an urgent priority for the worst offending countries only after they have been placed on Tier 3 or faced a credible risk of being placed on Tier 3. While some countries may diplomatically protest their placement on Tier 2, foreign governments clearly understand that actual consequences for their poor trafficking record only kick in if they are on Tier 3. Among countries with serious trafficking problems, therefore, it is only the credible risk of

Tier 3 sanctions that actually moves countries to earnestly make the work of combating trafficking an urgent law enforcement priority, rather than just a public relations nuisance.

Accordingly, a TIP Report that presumes that Tier 3 status for certain countries is diplomatically intolerable or politically untenable severely undermines the effectiveness of the TIP Report process. An unspoken but *de facto* presumption against a Tier 3 ranking effectively freezes the status quo of the worst offending nations and weakens the TVPA's capacity to impact political will. It profoundly dishonors the suffering of women and children brutalized by sex trafficking and commercial sexual exploitation. Likewise, the TVPA's capacity to strengthen the political will of authorities to end the toleration of sex trafficking is utterly diluted by the failure to articulate clearly to foreign governments the straightforward requirements of the TVPA and the real risks of consequences associated with a poor trafficking record.

Finally, *U.S. policy is effectively advanced through focused and practical capacity building for programs that send perpetrators to jail and care compassionately for victims.* In addition to political will, foreign governments also need the practical wherewithal to take decisive law enforcement measures to combat trafficking and to care for the victims. Accordingly, U.S. policy is advanced by funding programs that address the intensely practical challenges of strengthening law enforcement capacities to investigate, arrest and successfully prosecute sex trafficking offenders. Programs are needed to support special anti-trafficking police units and prosecutorial teams with training, operational support, and hands-on assistance in achieving the priority outcome of sending offenders to jail and removing dirty cops.

Education, awareness, and poverty alleviation programs are important preventative measures, but such programs will never be able to keep pace with the entrepreneurial energy and creativity of the traffickers unless they are combined with practical programs that actually help make national law enforcement successful in sending perpetrators to jail. Police complicity in sex trafficking has been so pervasive and ugly that many have been tempted to imagine solutions that simply ignore the police. But in combating any crime, the answer to *bad* law enforcement is never no law enforcement—the answer must always be a committed struggle for *better* law enforcement.

Accordingly, IJM is very pleased that recent legislation has cleared the way for funding by USAID and other agencies of targeted programs that strengthen counter-trafficking activities of specialized police and prosecution units, as well as legal advocacy to protect victims and to bring perpetrators to justice. [See the Consolidated Appropriations Resolution, 2003 (P.L. 108-7).]

Equally critical are programs that fund comprehensive and compassionate aftercare services for the victims of sex trafficking. Not only are such programs necessary to treat victims with the dignity and care that they deserve, but they are also absolutely indispensable for establishing the victim cooperation that is essential for any meaningful counter-trafficking endeavor. At present, the existing capacities for providing comprehensive aftercare for the victims of sex trafficking are tragically inadequate. In fact, IJM has found itself limited in the rescue operations it could conduct for victims because of the lack of aftercare capacity. This is a need that can and must be addressed by targeted and generous appropriations.

Additional opportunities to fund programs to fight sex trafficking and commercial sexual exploitation have emerged as a result of President Bush's bold initiative to combat the AIDS epidemic. Research has demonstrated that sex trafficking is one of the great engines driving the spread of the AIDS global pandemic, and while traditional AIDS prevention programs of education and awareness go a long way in helping women and girls make good choices in avoiding high-risk sexual activities, these programs do nothing to protect the millions of women and girls who do not get to make choices about their sexual encounters—particularly the millions of victims of commercial sexual exploitation like Balamani who are forcibly infected with the HIV virus. Accordingly, federal funding of programs aimed at combating the international AIDS epidemic must include support of programs to combat sex trafficking and other forms of sexual violence against women and girls, or else America's effort to fight AIDS will simply fail to address one of the fundamental and certainly most brutal causes of the epidemic.

Finally, in recent weeks IJM has directly experienced the positive impact of U.S. policy in combating sex trafficking in Cambodia. More than two years ago, IJM began conducting extensive investigations into one of the most appalling cesspools of child prostitution in the world, a village called Svay Pak outside Phnom Penh where scores of girls between the ages of 5 and 12 were being sold in an open market for pedophiles and sex tourists. Over a two-year period we turned our investigative findings over to Cambodian authorities, but failed to obtain a satisfying response. Then last year, the TIP Report placed Cambodia on Tier 3 and the new U.S.

Ambassador to Cambodia, Ambassador Charles A. Ray, initiated a very proactive engagement with the senior Cambodian authorities on U.S. policy toward trafficking. This direct advocacy with Cambodian authorities and the excellent work of Ambassador Ray's staff, helped make it possible for IJM and the Cambodian authorities to bring rescue to 37 minor victims of commercial sexual exploitation out of Svay Pak, including about a dozen children between the ages of 5 and 10. In addition, approximately 12 suspects have been arrested and charged, with cooperative police investigations continuing with IJM to locate and prosecute additional suspects identified in our initial report.

Not only did these actions lead to the release of children from unspeakable horrors of sexual abuse; but also perhaps of even greater long-term significance, the senior Cambodian police official who was allegedly protecting and profiting from the child sex industry in Svay Pak has now been fired and finds himself behind bars facing a closely monitored prosecution. This is, of course, the other face of sex trafficking—the face of those police and public authorities who provide the official protection without which the open assault and rape of children could never flourish. When such corrupt authorities are brought to account, it will be the traffickers and brothel keepers who will live in fear, rather than the children of Cambodia, or South Asia, or West Africa or Eastern Europe. We will not have to watch the Balamanis waste away in pain and death, but can secure for them the life of goodness and hope we seek for our own daughters.

In the case of Cambodia, Ambassador Ray, and representatives of the U.S. State Department were very successful in making clear to the Cambodian authorities the priority that American foreign policy places on addressing sex trafficking. Senior Cambodian authorities were well and effectively briefed on the dynamics and significance of the tier rating system of the Trafficking Victims Protection Act, and on the consequences of failing to make significant efforts to meet minimum standards in combating trafficking. Consequently, by the time IJM was able to brief the Cambodian authorities on our latest Svay Pak investigation, they were prepared to provide extraordinary cooperation in working with IJM to seek rescue for the victims and to pursue accountability for the perpetrators. We believe that the advocacy of the U.S. Embassy with the Cambodian authorities was an indispensable and decisive factor in generating effective law enforcement cooperation.

These actions have paved the way for significant and continuing progress in mobilizing effective law enforcement responses to human trafficking in Cambodia. Cambodian police authorities have had a positive experience of effective counter-trafficking investigations and enforcement actions with IJM that produced arrests, proper charges, and compelling evidence for prosecution. They have participated in groundbreaking procedures for humanely conducting victim interviews in the presence of a social worker and an NGO lawyer-monitor while being videotaped. They have also requested further training from IJM in effective counter-trafficking investigations and enforcement actions.

Of course, it will be very important to continue to monitor the actions of the Cambodian authorities as they follow up on these specific cases, and as they persevere in vigorous efforts to investigate and successfully prosecute sex trafficking crimes on an on-going basis. Cambodia has had a very poor record of tolerating sex trafficking (especially among very young children) and such a record cannot be turned around overnight. But we believe that a very promising beginning has been made in supporting the Cambodian government in taking a new direction to seriously combat sex trafficking and commercial sexual exploitation.

We believe these encouraging events help to serve as a model for what can be achieved when there is transparent reporting through the TIP Report, a meaningful application of the tier rating system, direct advocacy by U.S. authorities at the highest levels of government, and tangible, practical assistance to foreign governments in bringing rescue to trafficking victims and justice to perpetrators.

I would also like to thank Congress for recently passing the PROTECT Act, paving the way for U.S. Attorneys' Offices to vigorously prosecute Americans who travel abroad and exploit young girls. The Act eliminates the intent requirement and necessitates only that a prosecutor prove an American committed an illicit sexual act abroad. As the little victims in Cambodia have told my colleagues, many of their clients were Americans. It is imperative that the U.S. crush the demand created by its own citizenry.

IJM looks forward to continuing its constructive work with the U.S. State Department, foreign governments, and partner NGOs in helping to ensure that the promises of U.S. policy in fighting sex trafficking and commercial sexual exploitation deliver tangible results to vulnerable women and children and hastens the day when these brutal enterprises of rape-for-profit are simply put out of business.

Thank you very much.

Mr. PITTS. Thank you very much, Mr. Haugen and I thank each of you for your excellent insight, excellent testimony on the trafficking issues that we face today. Again, your entire written statements will be included in the record.

I would like to now turn for questioning to the author of our law on trafficking and the Chairman of Helsinki Commission who has done a tremendous job in advocating this issue in the OSCE and with many governments, not only for them to enact good laws, but to enforce those laws. The gentleman from New Jersey, Congressman Smith.

Mr. CHRISTOPHER SMITH. Thank you very much, Mr. Chairman and I want to thank you for your great work on the Commission and this Subcommittee and on behalf of the issue of trafficking, which has been with us when Mr. Miller mentioned earlier about 10 years ago he did not know about. A lot of us did not know that it had the kind of dimension, I certainly did not either, but he is certainly the quintessential quick study, because he has literally made that office a true nerve center or war center if you will on the traffickers. I know I said it earlier, but I want to again repeat the sense that we all have that we know the office is in very good hands.

I want to thank the NGO's. I mean you all do so much for so little and for so long. I mean the hours that you work, the concern that you express. We all know it. You do not get the kind of accolades that you deserve. You do it for the right reasons obviously, because you care about humanity. You certainly do not get paid the way you should for the work you do, but I do have just a couple of questions. You have answered so many of them in your testimony.

This is an ongoing dialogue. This is not the first that you have been before these Committees or the Helsinki Commission to offer your very valuable advice. So much, as I said earlier, that went into the crafting of the legislation came from your written and oral recommendations and again we are getting them again for this updating of the legislation.

Mr. Haugen, just very briefly to you, you point out that there needs to be a more vigorous and transparent reporting on the government's record in sex trafficking, convictions and police disciplinary actions. As you know, we are putting into the new bill not just investigations and prosecutions, but convictions and sentencing. Would you agree that that is the case? On police disciplinary actions, that is something we also I think need to have as a criteria, which we do not have right now.

So I think your intervention is very timely, because I will never forget totally different issue, but it is a human rights issue so it certainly is in the same ballpark, when the Lawyers Committee for Human Rights looked at the policing issue in Northern Ireland and the fact that there was complicity and collusion with acts of terrorism in Northern Ireland, if my memory serves me correctly, there were about 16,000 cases where police were implicated in wrongdoing and no actions, no disciplinary actions.

A lot of complaints on this side of the ledger. Nothing over here in terms of any action taken. I think as you have pointed out previously this is the Achilles heel of trafficking. If we get the police

right, you know we are halfway there because it very often is not the President or Prime Minister, it is down at that level where there are people who are corrupt and on the dole, if you will.

Mr. HAUGEN. If I might just respond to the question about data on convictions. We have learned the hard way and a certain way that you have to figure out what really matters to the traffickers and the brothel keepers. It really turns out they do not mind raids. They do not mind investigations. They do not even mind prosecutions.

What they mind is going to jail and at any point along the process they can buy off the police, the prosecutors, even the judges to make sure that they do not go to jail. So the government at the end of the day has to be accountable for the end product. Did anybody get convicted and did they go to jail?

Fines are treated as a cost of doing business. So you have to count the number of times that the government successfully convicts someone and sends them to jail.

On the police disciplinary question, I do not know of a more cost effective action for even the poorest country than to simply fire a police officer. That is one of the cheapest things you can possibly do, but I tell you it sends an incredible signal down through the rest of the ranks and even in the poorest countries where police are quite desperate for their jobs, if they figure out that they are caught inside a brothel or taking some cash from a brothel, that they lose their job, they lose not only their income, but the capacity that they now have to even extort money.

So, they will understand very clearly that if a few people lose their job, the game is over. You can do lots of things maybe shady as a police officer, but here is one thing you cannot do. Police respond to command structures and if the leadership sends that signal through disciplinary action, it will change the way they behave.

Ms. BURKHALTER. I would just add really quickly, I would very much like to see more detail on these judicial actions in the *TIP Report*, which again is not the failing of the TIP office or the failing of the people who are collecting the data out at our Embassies, it is that the burden is not on them.

The reason why there is no information is because there is no information to be had. It is inconceivable to me that a government that is actually prosecuting police personnel for trafficking would hide that light under the bushel. No. They are not doing it. That is why it is not there. It is not as if there is a tremendous sort of huge tidal wave of prosecutions of brothel keepers going on. It is not happening.

Moreover, such judicial and police activities that are occurring are frequently directed against the victims, not against the perpetrators. So when you see that someone has been arrested in a raid, if you do not have the information, 9 times out of 10 it is going to be the Burmese child that is in a country illegally, because she was taken across the border and that is why I really worry when I see newspaper coverage for example in Thailand. I saw newspaper coverage of a May police action against a brothel and guess who was arrested? The women and girls for being illegals.

That is why you want to see more of this data. How about arresting the perps for a change?

Mr. MATTAR. Very quickly, the issue of public corruption I think is the most important issue, and in anti-trafficking legislation I think we should address it in two ways. One, when we are defining legal means, we should include bribery as improper means, as illegal means.

Secondly, when we provide for penalties every time a public official, a policeman, an immigration officer is involved, we should provide for an enhanced penalty. I think by doing both things, we can go after public corruption in an anti-trafficking legislation.

Mr. CHRISTOPHER SMITH. Let me ask you with regards to the line between legal prostitution and trafficked women: In a place like the Netherlands, where some estimates put the number of foreign women at something like 80 percent that work in these brothels, it is legal in the Netherlands. There very often is an open question as to how those women got there. Whether or not they were coerced. Whether or not they were deceived or in some way brought in under dubious circumstances.

You know we will have a parliamentary assembly with the OSCE next week and Mr. Pitts and I will be offering a resolution on trafficking. As we have done in every one of these parliamentary assemblies, our delegation has offered it. We have had big fights. At first we were met with disbelief and even disparagement by people who said, not here, and that especially went for the Russians, who said that it was a non-existent issue.

But in the Netherlands we run across a different situation where so many of these women are outsiders or foreigners I should say with a very real question as to whether or not they have been trafficked. I would raise the additional question, although it may not be germane here, that so many of these women who are in these brothels very often have very sad MO's, in terms of their life and have been exploited and while it may be voluntary as to how they walked into that brothel, the question remains how voluntary it really was and how desperate they actually had become to become a prostitute. If any of you would like to touch on that?

Ms. SHELLEY. In one of the recent OSCE meetings that I attended, I met with some of the Dutch specialists on the anti-trafficking. One of the things that they had talked about is that because women can only legally work in sex work in the Netherlands, if they have a legal right to work. Women who are trafficked have no legal right to work. Therefore, they cannot be employed in brothels.

One of the things that they have found that is extremely effective and they had a different position on this from Mr. Haugen, is that brothel keepers were making so much money from this that the thing that they most feared was not incarceration, because sentences in the Netherlands are rather short, is that they did not want to be put out of business.

The penalty that the Dutch have imposed on the brothel keepers is that if they have trafficked women, that is women who are not allowed to legally work in the Netherlands in the sex industry, then their brothels are closed down. There have been quite a number of cases of this and they think that that has been a very successful strategy to apply, which is a financial approach to combatting trafficking.

Mr. CHRISTOPHER SMITH. When you say a number of cases of that, would that beg the question as to whether or not women are indeed being trafficked? It also would raise the question about complicity on the part of the police, because I would not for a moment think the police in the Netherlands are any less suspect than they would be in other countries, including the United States where we know we have our own problem and that is why every police force particularly in a major city as an internal affairs, because of police corruption.

Why would we not have real suspicions that immigration or whatever the facsimile is in the Netherlands wouldn't be susceptible to bribes? We have seen with peacekeepers in Bosnia and Kosovo, DynCorp had people who were deployed there and their only penalty was a slap in the wrist. They were repatriated to the U.S. As a matter of fact, our new proposal would add penalties there where they do not presently exist.

My point being is that maybe you can shed some light on how many have been closed down in such a way. Even our own United States Military, we have word, as some of you may know, because we have shared it widely, a Fox News reporter who also was a former prosecutor broke a story that all of these women from Korea were finding their way into this country.

The question was asked: How did they get here? It turned out they were part of a network of trafficked women. Then as he followed the source back to Korea, found out that many of these women from Russia, the Philippines and elsewhere have been trafficked into Korea to be exploited by United States servicemen.

We turned around and we asked Mr. Pitts and I and others for an IG report, which we are getting. We know that there has been new orders that have gone out to shut these places down, but here under the best of circumstances our own U.S. military, however unwittingly was complicit in this.

Why do we not think the Dutch, given a very permissive standard that they have, might look the other way? At our OSCE mid winter meeting the question was asked of the Dutch Chair in office for the OSCE about: What about your prostitutes? Because he made the statement that one of his pillars of his Chair in office is trafficking. There was roars of not laughter but almost derision in the room about the Dutch situation. Do you want to respond?

Reverend BETHELL. I walked the streets of Amsterdam and talked to the girls behind the windows and I know for a fact that many of those girls are in fact brought in illegally on illegal documents and are working behind the windows. I have talked to women like that. So I do know the Dutch situation. There are women who are working there who have been brought into the country from other places.

In talking with the women who work in the organizations who help the women behind the windows, one thing they talk about is that the legalization of prostitution has actually driven a lot of it underground, because women now if they are working legally if it is legal work, then they have to pay taxes and they do not want to pay taxes.

So the access then to women has become more difficult to actually work and help the women has become more difficult in some

situations, because the women do not want to pay taxes, do not want to declare their incomes and so there is more activity that has gone underground and it has become less accessible.

Mr. HAUGEN. In regard to my colleague on the panel's comment about light jail sentences, it is certainly true that you can make them so trivial as to be things that they do not care about. So that is why it is all the more important in the *TIP Report* that there just actually be data about the significance of the sentences that were actually meted out in cases of conviction so then you could see whether it is trivial or meaningful.

But it is also certainly true that the brothel is a sitting duck for law enforcement action. If you find an underage minor inside there, minimal evidence to prove that they have been offered in prostitution, they are underage, you do not even have to prove consent and all of a sudden you have a felony.

We are starting now to work in countries who were able to shut down the brothels just on the successful evidentiary presentation with regard to a single individual minor inside that place and that has a leveraged impact throughout the whole commercial sex industry.

Ms. BURKHALTER. Let me just add one word. I would encourage a distinction between what is called by some the trafficking and the commercial sex industry—I use that term not to convey any dignity on the work; I think every human being has inherent dignity, but every form of labor does not. Because the term prostitute is seen by many as a term of disgust and derision for the victim it is a term that I do not want to use for the victims. I reserve my disgust for those who victimize them.

Having said that, my reason for urging that there be particular attention to trafficking and to child prostitution is because it is huge and it is uniquely vulnerable and it is the worst aspect of commercial sexual exploitation.

Having said that, however, I think it is intellectually dishonest to draw very bright lines between long-time participation in the sex industry, as if it is voluntary and trafficking and coercion are not. Why do I say that? For two reasons, though I yield to my other copanelists as the experts in this area.

First of all, it is women and girls who are trafficked or underage. Little tiny ones are commingled in a brothel with other women. It is very hard to tell sometimes who has been trafficked and who has not. So there will be some raids or some rescues by excellent organizations working overseas and protests made that not every victim was trafficked.

Well, it is not always possible to tell, particularly because women and girls who were in a situation are torture victims and they are in slavery, thus it is not safe for them to say so publicly. "Everyone who is here voluntarily, raise your hand." You can only discover in a situation of safety whether someone has been literally being held there against their will or even their age.

Second of all, once a woman or a girl has been coerced or forced or tricked or lured or beaten into commercial sex, that is all they will ever do unless they are among the handful that are rescued by the organizations at this table. Their lives are finished. What are their life choices then?

So any notion that somehow you could be a trafficking victim, but then you voluntarily stay, we will fling the doors open, come out and do something else. What, run for parliament? Be a doctor? Be a mother? Be married? Go back to your village? Have a job? Those options are not available to women who have been raped repeatedly day after day. They will be "sex workers" for the rest of their lives, which will be short.

Mr. CHRISTOPHER SMITH. Yes, go ahead.

Mr. MATTAR. If I could, Mr. Chairman. I just wanted to make the point that to me the issue of consent is irrelevant in cases of trafficking, and sometimes I feel by requiring force, fraud or coercion, as is the case under the TVPA, sometimes the prosecutor here finds it difficult to prosecute a case under the Trafficking Victims Protection Act, because he has to prove some kind of force, fraud or coercion.

I saw cases decided here in this country under the Mann Act. We are going back to the Mann Act because under the Mann Act you are criminalizing transportation for the purpose of prostitution. You do not need force, fraud or coercion. So to me, by requiring unnecessary elements for the existence of the crime, we make the prosecution of a trafficking case very difficult and consent to me is irrelevant. That is the U.N. protocol position and I would like to see it in every legal system.

Mr. CHRISTOPHER SMITH. You know for anybody who had not attained the age of 18 the assumption is that they have been trafficked for any woman or man. Let me just ask a couple of other questions and a follow-up.

I would hope that there would be some thought given to putting the Netherlands on tier two, if not tier three, but certainly that issue needs to be engaged, because it bears more scrutiny, I would respectfully submit.

Just very quickly, Dr. Shelley you talked about responsible newspapers. If you pick up *The Washington Post* today and go to the sports section, there is one ad after another and my hope would be that at some point sooner rather than later, the *Post* itself would divulge itself of that. Surely some, if not many of those women have been trafficked.

I would hope that the U.S. attorneys and we have already made this request or the Attorney General would look into Las Vegas to see how many women there have been trafficked. I cannot believe for a moment that every woman is there in a prostitution situation is there on her own volition or his.

Maybe you could just tell us, someone on the panel, how you would assess the performance of the other bureaucracies of our government. You have heard from the TIP office, but obviously you know 9/11 has certainly diverted some resources away from prosecution. U.S. attorneys still have prosecutorial discretion and I am not sure if many of them, despite the admonishment from John Ashcroft have gotten that this is really a high priority. You might want to respond to that and that would be it, because I have overstated my time. Thank you.

Mr. PITTS. Dr. Mattar?

Mr. MATTAR. If you are addressing the issue of liability of newspaper for false advertisement or liability of employment agencies

for false promises of employment and so on, I think the way to address the issue is to provide for the liability of a legal person. That is an approach which I think would take care of the problem. Why? Because it is not enough to go after the natural person, the trafficker, the female or the male. We have to go after the travel agency, the employment agency, the adoption agency and so on.

How we do that? Well, we start with a fine. Every time such an organization gets involved in some kind of illicit activity, we fine such an agency. Second, we go for revocation of the license for certain periods of time. If that will not work, we have to close the business down.

I read the draft Russian law, and the State Department really did an excellent job in cooperation with the Department of Justice helping the Russians putting that law together. There is a specific provision there calling for the liability of the legal person. I think we should do it so we can go after the matchmaker organizations and the employment agencies and travel agencies and so on.

Mr. PITTS. Dr. Shelley?

Ms. SHELLEY. I just wanted to add briefly that one of the things our research center TraCCC is doing is helping revise the curriculum of the U.S. Border Patrol to integrate material on noticing trafficking, how to combat it into the criminal and administrative law curriculum. I think much more needs to be done on making people aware of what scenarios exist.

We have many law enforcement people come and I am sure Dr. Mattar does, to our center asking us: How do we begin to investigate an anti-trafficking ring? Local law enforcement is not prepared. Federal law enforcement is not doing enough. I think there needs to be much more training and capacitation training in this area for our personnel.

Mr. PITTS. Mr. Haugen?

Mr. HAUGEN. I would just say that I think the training part can actually be very effectively done, as long as it is done in a very hands-on way, not where you have a conference in a hotel for a day and a half and put up some Powerpoint presentations, because that is not the way anybody in effective law enforcement gets trained. You get trained out in the field, walking them through the process of investigation, of arrest, of proper prosecutions and that can be done.

Gratefully, legislation has been changed to now provide USAID with the capacity to provide funding to police forces for training, specifically focused on sex trafficking. I think this is an opportunity for the United States to share some of its resources and expertise that will end up proving very effective for helping the actual victims on the ground.

Mr. PITTS. Would anyone else like to respond? Ms. Murphy?

Ms. MURPHY. Thanks. Washington State has published a fatality review on the victims—women, children, and the helpers, police officers, et cetera, who have been killed by perpetrators. Fifty-five adults and children lost their lives last year in Washington State because of domestic violence, according to that report.

From that review, we have been able to look at who had contact with each victim in the last year or 2 and identify all the people that had actually been involved in a given victim's life. The list was

enormous and very valuable for finding individuals involved in the trafficking of persons.

Trafficking is still a relatively unknown word. Most people do not have a clue what it is. They think of drugs. A good first step will be to do some sort of a campaign to introduce the term and the concept, so that becomes something we can speak about.

It has taken 10 years to train police officers for domestic violence intervention. It has taken 10 years to say, "This is serious." Yet we still have the problem that many police officers defend their own. Too often, they do not report each other. So we have lots of work to do to educate about trafficking in persons. We must remember that, at 3 years, we have just begun. It is going to take a long time and much effort.

We must remember that these are people's lives. They are people's children, husbands, wives.

My son is 23. He has been to Bulgaria four times because the price is right to travel there and he likes the Bulgarian people. He came home and was traumatized this last time and said, "Whatever you do, get out of this business of addressing trafficking. Do not do this. Stop right now." I said, "Why?" Well, he had met many of the traffickers, and he had met the women. He got himself kind of in on the in-crowd through a coffee shop with the traffickers, and it terrified him.

He refuses to go there again, but he said, "I will tell you what you need to do. You go tell President Bush to give you all of his money. You tell him to give me all of your money and pay those guys for each of the women they hold. Whoever takes the money, shoot them. That is the only way we are going to ferret them out." I am sad. My son is 23 and he is acquainted personally with this just from innocent travel because the price to travel is right. Thank you.

Mr. PITTS. Thank you. Any more questions? Ms. Murphy, if you would continue a little bit about the vulnerability of young people and that environment. What recommendations would you make to the Congress, to the U.S. Government regarding steps that could be taken to help other nations reduce the environment of vulnerability for young people and children around the world?

Ms. MURPHY. Thank you. That is quite the question. One thing in doing treatment with abusers (and we have studied over 1,000 that we have worked with in the last 10 years), is that violence is a learned behavior. That is a given. When children are confronted with violence at home they learn it. They see it. They do it.

They end up with a great disrespect for the weaker person. For whoever is the weakest, and often it is the mom who is being battered, there is a disrespect, coupled with an absolute hatred for the abuser. There is a deep sense of anger that rises up in young men and young women, and they do not know what to do with it. They become our abusers, our batterers. They get court ordered to treatment for a year and a year is not enough. It is just a beginning. It takes a long time.

I would like to see studies done on who the traffickers are—their family histories, personal relationships, and cultural values. I think we would learn that they have been witnesses of violence. I think that they have grown up in cultures where it is permitted and that

they have religious belief systems that keep women in their place, so to speak.

Another vulnerability is poverty. While poverty is not always a precursor for trafficking, it is a common denominator for those who end up in the clutches of ruthless people. If we do not provide economic opportunities for women and youth to become self-supporting, trafficking will continue unabated.

Next would come "trauma reduction," as Holly said. I really appreciated that. When someone has gone through something so devastating, what can we expect but more of the same?

We can offer all the help, all the rescue in the world, but if we are not there to show compassion, if we are not there to listen, and if we are not there to really do more than find their abusers and leave them on the streets, then we re-traumatize the victims. Then they do not want to tell. They give up. Their vulnerability needs to be looked at from all sorts of angles.

Mr. PITTS. We are running out of time here, but I want to ask a couple more questions. Reverend Bethell, what kind of a waiting list for treatment do you have at that Center? How many young people do you have to turn away for lack of funding or lack of resources? Would you elaborate a little bit on the issue of long-term versus short-term recovery assistance?

Reverend BETHELL. Okay. Actually, the New Life Center does not keep a waiting list. Certainly we accept in any young girl who is a victim of trafficking or of forced prostitution or a trauma of any kind. They are able to come in.

We also deal with prevention and that is where we have the waiting list. That is where girls who desperately want an education, who have been denied that opportunity would love to come in and for lack of resources, often we have to turn some of those girls away.

Your next question was on——

Mr. PITTS. Long-term versus short-term.

Reverend BETHELL [continuing]. Long-term versus short-term. Healing is a very, very long process and especially the kind of emotional healing that these young women need to have in order to recover. It is a multifold process. It is emotional healing.

It is economic sustainability for lives. I mean like I say, many of the people who do succumb to trafficking were seeking a better life for themselves and their families, most for their families. Most of the people I have worked with were doing this for their mothers or fathers or brothers or sisters or for their husbands and children and were willing to sacrifice themselves for the sake of their families. So there has to be some sort of way of providing them with economic alternatives.

I have seen so many times where an organization will have a girl for 3 months, 6 months and it just is not enough. Very often those girls will return to some situation where they will face exploitation all over again in some form or another. It is a long-term commitment to care is absolutely essential.

Mr. PITTS. Thank you. Gary, did you want to add something?

Mr. HAUGEN. Just to add and to confirm that, that the brothel keepers and traffickers are committed for the long-term to these girls and they will either wear you out or you will step up to the

same level of commitment that they have. If you are in it for a week or a month or whatever, you are just not going to compete.

It is certainly even true the brothel keepers and the traffickers will follow these girls around and find them wherever they are. We need to step up to the exact same level of 24/7 commitment as agencies and as a nation to the victims of trafficking that the traffickers and brothel keepers are demonstrating and until we do, we are on the losing side of the game.

Mr. PITTS. Ms. Burkhalter?

Ms. BURKHALTER. Let me just say a quick word about psychiatric rehabilitation. Physicians for Human Rights has 400 volunteer doctors who provide torture victims with medical examinations, if they are applying for asylum and they need information for that purpose.

I spoke with one of those doctors who is a New York psychiatrist who spends a great deal of time with torture victims and works with them. He was explaining to a Senate legislative aide, as a matter of fact. She asked about post traumatic stress disorder, which is a very well-known psychiatric illness that most torture victims have. It comes from, as he described it, having not been safe. It is very difficult to treat.

The symptoms are really life disabling. People with PTSD, who have been severely tortured have a very difficult time leading a normal life and he described his work with them was that to try to convince them over many, many, many visits that they were now safe.

If you liken a young child or a woman who was forced into prostitution, who is beaten regularly for not performing certain acts and who is not permitted to leave and who is ill all the time physically and if you compare that person to a torture victim, I think it is a fair comparison.

If you think not only how their bodies are broken through violent sex many times a day and the younger the worse of course, but if you also think about what has happened to their minds and their spirits, they are very much a torture victim. If it takes years and years of psychiatric care to rehabilitate other torture victims, I imagine it takes years and years to rehabilitate them, which is the reason why it should be not tolerated and such persons should be liberated and then helped.

I would add, by the way, I do not know how many trafficking victims and former child prostitutes are in caring situations, but I hope that every single one of those places has been provided or could be provided with medical support, including anti-retrovirals for those who have AIDS. It is an expensive drug and many of these local NGO's have no ability to purchase these medications and they will die. They may die anyway, but at least they have a chance if they have ARV's.

I would urge you, maybe this seems like kind of a romantic suggestion, but it is really meant seriously, I would urge you to bring up with either CDC or USAID, which are beginning more and more treatment pilots to their credit. Congress has just authorized legislation to do that. To make sure that our heroes who are providing safe environments for women and girls and providing them with

education and work are also providing for their health care needs, which in the case of HIV/AIDS is unfortunately terribly expensive.

Mr. PITTS. Thank you. Unfortunately we are running out of time. We have other questions, but we will submit those to you in writing and ask if you would respond in writing.

I want to thank you, each one, for your testimony, for the excellent testimony and the wonderful work that you do. Our country is deeply grateful to you. I want to say one minor point: Rarely does the Executive Branch ever stay for an entire hearing and Director Miller has stayed. He has listened. We thank you for that.

As we address the many issues surrounding trafficking in persons, it is vital that we keep two groups at the forefront of our efforts, the victims and the criminals and adequately focus on the issues surrounding both of these groups. We appreciate the excellent testimony and suggestions and we will share them with the other Members. Thank you very much again for coming and with that, this hearing is adjourned.

[Whereupon, at 5:08 p.m., the Subcommittee meeting was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND VICE CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

Thank you, Chairman Gallegly, for convening this hearing to review global trends in human trafficking and the 2003 Trafficking in Persons (TIP) Report issued by the State Department. The report is an essential tool for monitoring the efforts of governments worldwide to crack down on traffickers and protect their victims.

In this third annual report, the State Department identifies 116 countries with significant trafficking problems, only 15 of which appear in Tier 3—compare this to 22 countries in Tier 3, out of 89 countries reported on, in the 2001 report. Naming names commands the attention of countries around the globe and puts all countries on notice that if they are found to have a significant level of human trafficking taking place in their territory then they too will be included in the next report.

Beginning with this year's report, countries that fail to take significant steps to address trafficking risk losing some forms of U.S. assistance. This provision in the Trafficking Victims Protection Act created another powerful incentive for governments to act. In the Republic of Georgia, for example, the government's efforts to address trafficking landed it on Tier 2 in the 2002 report. The government apparently did not feel compelled to sustain its efforts and, as a result, this year, Georgia fell to Tier 3. Just in the last two weeks, Georgian authorities are reportedly working on adopting appropriate legislation and implementing a three-year anti-trafficking action plan, including the production of awareness-raising documentaries on human trafficking.

I understand that the Trafficking in Persons office and our embassies will be working with Tier 3 governments in the coming months on strategies to elevate the efforts of those governments. If these governments can show significant efforts before September 9—that is within 90 days of the issuance of this year's report—then President Bush will not have to decide whether to deny them U.S. assistance. I applaud the Department's initiative and would mention that, as Chairman of the U.S. Helsinki Commission, I have likewise already been engaged in similar efforts since the report's issuance. Within the next week, members of the Commission will be in contact with all of the governments in the OSCE region that appear in Tier 3.

If the report is to continue to be an effective document, it must honestly evaluate countries according to the evidence. Countries which are not making significant efforts to comply with the minimum standards must be placed on Tier 3 and remain there, regardless of competing political considerations, until their efforts truly warrant their elevation.

Likewise, granting a waiver of sanctions to Tier 3 country should only be done when there is a compelling reason to do so. Causing discomfort among U.S. diplomats will not be a compelling reason. Moreover, I take exception to the suggestion that a country which appears on the TIP report for the first time this year, and its debut occurs in Tier 3, should be entitled to a waiver on that basis. On the contrary, the TVPA has been in place for several years and three TIP reports have been issued. If our embassies have been doing their jobs, then these governments were put on notice long before the 2003 report was released. Human trafficking concerns have also been raised in international fora, including the UN and the OSCE. If the countries debuting in Tier 3 haven't gotten the message by now that the United States and the international community want action on this issue then it is due to wilful blindness on the part of those governments.

Countries on all three tiers still have a great deal of work to do. None of us can say we have eradicated modern-day slavery. Until that day comes, all governments

must continuously reinforce their efforts to end this scourge. In the United States, we passed the landmark Trafficking Victims Protection Act in October 2000. As a result of the TVPA, the U.S. Government allocated \$68.2 million last year to combat trafficking in human beings. In the past two years, federal prosecutors initiated prosecutions of 79 traffickers—three times as many as in the two previous years. Nearly 400 survivors of trafficking in the United States have received assistance, facilitated by the Department of Health and Human Services, to begin recovering from their trauma and to rebuild their shattered lives. Thanks to the efforts of the State Department, USAID, and the spotlight put on the issue through the annual TIP Report, governments worldwide are also taking action against human trafficking.

But we are not resting on our laurels. Despite these inroads, countless people continue to be bought and sold for exploitation every day. In the United States, some victims face unintended obstacles in the process of securing federal benefits or the “T visa” created for victims of trafficking. Other areas of concern include the failure, thus far, to seriously address trafficking in persons as an organized crime activity, the failure to aggressively target sex tourism as a contributing factor in the demand for trafficked persons in prostitution, and the need for more specialized research.

To address these and other areas of concern, Rep. Tom Lantos and I are, today or tomorrow, introducing a bill to reauthorize the Trafficking Victims Protection Act. I am certain the bill will garner broad bipartisan support. The bill would authorize funding to continue the U.S. Government’s efforts against trafficking and would build upon the experience of implementing the TVPA to refine U.S. laws and practices to better fulfill the intent of that law.

Thank you, Mr. Chairman. I look forward to hearing the testimony of our distinguished witnesses.

PREPARED STATEMENT OF THE HONORABLE JOSEPH R. PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. Chairman, thank you for holding this very important hearing on *Global Trends in Trafficking and the Trafficking in Persons Report*. The number of international human rights, humanitarian, social, legal, health, economic, and criminal issues intertwined with the issue of trafficking is mind-boggling. Our witnesses are leaders in a range of fields, all of which relate to the current global trends surrounding the issue of trafficking. It is vital, however, that as we hear the analysis of the various issues, we, particularly the United States Government, remain focused on the individuals affected by this terrible crime.

The State Department’s June 2003 *Trafficking in Persons Report* estimates that approximately 800,000 men, women, and children are trafficked each year into the sex industry and/or slave-like labor conditions. Other United States government reports estimate that between 18–20,000 victims are trafficked into the U.S. each year. It is vital that governments around the world address these issues strongly and strategically. It is also important, however, that non-governmental organizations, including faith-based organizations, and the American people are involved in stopping trafficking and in assisting the victims of trafficking. The *Victims of Trafficking and Violence Protection Act of 2000*, passed by the U.S. Congress, addresses some of the issues trafficking victims face—in some countries, the victims, not the criminals are arrested when brothels are raided.

There are a number of issues that the U.S. government must take into account when interacting with other nations on trafficking. One important issue is the question of what to do with victims of trafficking. The quality of aftercare dramatically impacts whether or not an individual is able to return to living a normal life in society. In January of this year, I visited the *New Life Center* in Chiang Mai, Thailand, and saw the wonderful impact the work of people like Rev. Bethell and others had on the lives of young girls. During that visit, I also traveled to the Thai-Burma border in January and met with NGOs, refugees, and government officials. One of the most heart-wrenching aspects of the journey was a visit to a refugee orphanage. There we listened to stories about the tragedy in these young lives. An eight-year-old boy, who could not smile, had lost both parents, was then trafficked across the border to Thailand, somehow escaped from his “owners,” and reached the relative safety of the refugee camps. Many children are at risk. Reports from NGOs working with victims reveal a need for further resources, particularly shelters and safe houses for the victims. Trafficking victims often need to recover from a host of physical and emotional health issues.

Once a victim has had time to recover, the question of where the victims should reside needs to be addressed. Repatriation issues must be addressed compas-

sionately. Some victims choose to resettle in their destination country, such as the United States or Western Europe. The victim needs assistance to ensure that she or he receives proper legal assistance in gaining appropriate visas or residency permits. Other victims desire to return to their country of origin. Appropriate assistance should be given to those returning home. Other victims, however, are forcibly repatriated to their home countries and face probable or imminent harm. Some nations go so far as to stamp the passport of the victim with terminology such as “illegal alien deported back to country for serving as a prostitute.” This humiliation further victimizes the individual. Victims returning home also often must face members of organized crime rings who are ready to re-traffick victims or somehow attack the victim and her family.

The legal issues of why a person is trafficked, why traffickers are not arrested and prosecuted, and why some governments do not take action on these issues must be addressed. Some governments do not have resources to pursue the traffickers; in other governments, corruption and organized crime prevent any positive action against traffickers. Some governments suffer from both problems. It is vital that the international community fights traffickers in the same way they fight organized crime and terrorist networks—there are reports that some terrorist organizations may be involved in trafficking of persons to finance their terrorist activities.

The United States Department of State *Trafficking in Persons* Report, and the ensuing ranking of countries according to their concrete actions to fight trafficking, is an important instrument in urging other governments to act. I would like to thank all those who worked on this year’s Report and the amount of time, energy and expertise that was poured into this document. While there is much to commend about this year’s Report, I remain concerned that some of the countries with the worst record on this issue yet again escaped being listed on Tier 3.

As one examines the issue of trafficking, the question arises as to how individuals originally become vulnerable to being trafficked? There is a strong correlation between an environment of domestic violence and its impact on those who later become victims of trafficking. One key approach to fighting trafficking is to urge governments, through law enforcement and other means, to condemn domestic violence; this violence is NOT simply an internal family matter—it deeply affects a society. Other issues that must be addressed in bringing change to an environment that supports trafficking are the lack of proper registration for children at the time of birth, early marriage, “temporary” marriage, forced marriage, quick divorce, the vulnerability in certain societies of widows and orphans without male protection, women in conflict zones, and the actions of international military or peacekeeping operations which often utilize the services provided by traffickers.

Thank you to each of the witnesses appearing today. I look forward to hearing from you as your expertise and insight will help provide further points for concerted action for the U.S. government, NGOs, other governments and international bodies.

RESPONSES TO THE QUESTIONS FROM THE HONORABLE JOSEPH PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA, SUBMITTED BY THE HONORABLE JOHN R. MILLER, SENIOR ADVISOR TO THE SECRETARY, DIRECTOR OF THE OFFICE TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, U.S. DEPARTMENT OF STATE

**Questions for the Record Submitted to
Director John Miller
Rep. Joseph Pitts (#1)
House Committee on International Relations
June 25, 2003**

Question:

Please address the circumstances surrounding the move of the United Arab Emirates from Tier 3 to Tier 1. What improvements were made?

Answer:

Over the past year the Government of the United Arab Emirates has taken a number of significant steps in the areas of prevention, protection of victims, and the prosecution of trafficking. These steps resulted in the Government of the United Arab Emirates being elevated to Tier 1 status. Trafficking in Persons is included in the annual bilateral Strategic Partnership talks between the Government of the United Arab Emirates and the U.S.

Prevention:

The majority of trafficking victims to the U.A.E. are women trafficked into domestic servitude; men trafficked as male servants, laborers, and unskilled workers in construction and agriculture; and boys trafficked for work as camel jockeys.

To prevent the trafficking of foreign nationals, the Ministry of Labor and Social Affairs published and distributed a "Guide to the Foreign Workers Who Wish to Work in the U.A.E." The booklet includes information on work permits, employment contracts and labor cards, working with private recruitment companies, work hours and leave, labor disputes, termination of employment contracts, and transfer of sponsorship. In addition the guide provides the telephone number and location of foreign embassies. The Minister of State for Foreign Affairs contacted primary source country foreign ministers asking for their cooperation in combating trafficking.

For foreign laborers already in the U.A.E, the Ministry of Health requires an annual physical exam for foreign employees and medical personnel with specialized training to look for signs of physical abuse. If a foreign laborer does not appear for the yearly physical, law enforcement is sent to the employer.

The Dubai Police Human Rights Department conducted an outreach program to foreign embassies to advise them of programs and services available to residents and visitors. The Dubai Tourist Security Department operates a 24-hour

hotline to assist visitors with inquiries or problems including trafficking. Brochures providing information about the hotline are distributed to tourists, who are potential trafficking victims, at points of entry. The brochures are made available in numerous languages.

The Minister of State for Foreign Affairs, Hamdan bin Zayed, spearheaded an effort to implement and enforce regulations banning the use of camel jockeys under the age of fifteen and weighing less than 45 kilograms. The age of prospective jockeys is verified with hand bone x-rays. The Ministry of Information and Culture supported a public awareness campaign in English and Arabic about the new age and weight requirements of the regulation. Law enforcement conducts DNA and other medical testing to investigate whether those claiming to be parents of camel jockeys are indeed parents or legal guardians.

Prosecution:

Legislation:

The penal code specifically prohibits trafficking; cases of trafficking can also be prosecuted under other statutes. Law enforcement actively investigates trafficking cases and

complaints of abuse. Prostitution is not legal in the U.A.E.

The Department of Naturalization and Residency at the Ministry of Interior established a central operations room to track the arrival and departure of individuals in the Emirates. To combat document fraud, the government instituted the use of retinal scans to add biometrics identification information to its databases.

Labor Trafficking:

The Ministry of Labor created a task force to inspect all industrial establishments in the private sector and added 54 additional labor inspectors. After being found guilty of labor violations in 2002, 215 companies were blacklisted from submitting applications for work permits or sponsorship transfers and were fined. The Institute for Judicial Training and Studies at the Ministry of Justice has instituted mandatory courses for prosecutors and judges on human rights, sex offenses, immigration, and labor violations.

Camel Jockeys:

The Government led the effort to implement and adopt age and weight regulations for camel jockeys.

Protection:

The government provides assistance and protection to victims; they are not detained, jailed or deported. Victims of trafficking are not prosecuted for violations of other laws, such as immigration or prostitution. The Ministry of Health maintains social workers and counselors in all public hospitals to which medical personnel refer patients when abuse is suspected.

The Human Rights Department of the Dubai Police developed a Crime Victims' Assistance Program, which included the creation of Victim Assistance Coordinators at each police station and police training in victim protection and assistance. Police departments provide victims' shelter separate from jail facilities. The government works with foreign governments and NGOs on trafficking in women when cases are brought to their attention. The government is working closely with the Government of Bangladesh and Pakistan on the repatriation of child camel jockeys.

Questions for the Record Submitted to
Director John Miller
Rep. Joseph Pitts (#2)
House Committee on International Relations
June 25, 2003

Question:

Regarding the countries on Tier 3, it is clear that working with the countries to improve conditions and law enforcement is best. Congress will be watching intently to see what happens with sanctions - it is hoped that they will not be necessary, but should they be, what impact do you see the sanctions having on these nations?

Answer:

Widespread U.S. diplomatic efforts and the threat of sanctions have spurred numerous governments - on all tiers, and prior to and since the report - to make significant progress in combating human trafficking. Over the last few months since the end of the reporting period, as the threat of sanctions loomed, many of these notable achievements, such as the passage of anti-trafficking legislation, the arrests of key traffickers, and support for victims' services, have occurred in Tier 3 countries. By September 9, the governments of ten countries - Belize, Bosnia and Herzegovina, the Dominican Republic, Georgia, Greece, Haiti, Kazakhstan, Suriname, Turkey, and Uzbekistan - had improved such that they were found to meet the standard for Tier 2 placement. Five others - Burma, Cuba, Liberia,

North Korea, and Sudan - had not, and were subject to sanctions and other determinations. The threat of sanctions has been an effective tool to motivate action on this trafficking issue. We will continue to engage countries on all tiers to urge them to strengthen their efforts until this crime is eradicated.

Questions for the Record Submitted to
Director John Miller
Rep. Joseph Pitts (#3)
House Committee on International Relations
June 25, 2003

Question:

After the terrorist attacks on the United States on September 11, 2001, there was some concern among those advocating strong policies to counter human trafficking that momentum might be lost. How has the war on terrorism and the emphasis on homeland security affected the efforts to combat human trafficking? Has cooperation between departments fighting organized crime increased or decreased as a result of the war on terror?

Answer:

The war on terrorism has enhanced cooperation between departments fighting organized crime, and has increased coordination on cross-border movement and intelligence collection. This has improved our trafficking efforts domestically and internationally. Since the September 11 attacks, the national and international enforcement environment has changed significantly. As part of the federal government's strategy to address the national security implications of trafficking, federal agencies such as the newly established Department of Homeland Security, Central Intelligence Agency, Department of Justice, and State Department have increased information sharing and coordination. The Senior Policy Operating Group continues

to coordinate interagency efforts, and is an important forum to ensure that such cooperation continues among the relevant agencies.

RESPONSE TO THE QUESTION FROM THE HONORABLE JOSEPH PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA, SUBMITTED BY NANCY MURPHY, EXECUTIVE DIRECTOR, NORTHWEST FAMILY LIFE LEARNING AND COUNSELING CENTER

Question:

What recommendations would you make to the US Congress and US Government regarding steps that could be taken to help other nations reduce the environment of vulnerability for young people?

Response:

Thank you for your question. Many trafficking victims believed that it would be safer for them to live on the streets than in their homes, where they have been victims of domestic violence and rape. But on the streets, their vulnerability actually increased. Any successful effort to reduce vulnerability to trafficking must focus on creating safer homes, stronger community networks, and financial self-sufficiency. In order to accomplish this, perpetrators must also be held accountable.

In many countries, domestic violence is not illegal. In other countries, there may be laws against domestic violence but they are not well enforced. The United States can promote criminalization of domestic violence and enforcement of existing laws by exercising economic sanctions against permissive governments.

In addition, the US government can provide economic support for short-term and long-term education and training efforts, both through sending American teams in to other countries for on-site training, and through bringing teams of international visitors to the US to observe programs here. Such training can be aimed at mental health providers, educators, police, judges, attorneys, physicians, NGO's, missionary agencies, and even governmental agencies in a train-the-trainer model focused on strengthening coordinated community responses and safety nets.

In my mind, it is vitally important that the US government can support direct therapeutic intervention to victims of domestic violence and trafficking by financing teams of expert providers from the US in short-term residencies in which they provide direct services to victims while at the same time establishing programs and training local providers to carry on the work.

Many trafficking victims are trapped in a cycle of poverty. The United States can continue to promote programs that offer opportunities for economic independence to women to help them become self-sufficient and reduce the vulnerability for themselves and their children. This empowerment model must be coupled with accountability for the perpetrators.

Finally, I urge us to look in our own back yard. Our government can legislate against sex tourism practices of our own citizens visiting foreign countries, and monitor our military bases to ensure that trafficking victims are not being used in prostitution or as domestic slaves.

The United States has the financial and legal resources to promote international policies aggressively addressing the needs of trafficking victims through trauma reduction, education, and prevention. Each of us has only one childhood. We as a nation have done tremendous work in ensuring the freedoms of children at home, but now we have the opportunity to extend these freedoms to children throughout the world. Thank you for allowing me to address this issue.

RESPONSE TO THE QUESTION FROM THE HONORABLE JOSEPH PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA, SUBMITTED BY THE REVEREND LAURAN BETHELL, INTERNATIONAL BAPTIST THEOLOGICAL SEMINARY OF THE EUROPEAN BAPTIST FEDERATION

Question:

Please elaborate on the issue of long-term vs. short-term recovery assistance and the specific programs that are helpful for the healing of victims of trafficking.

Response:

People are generally not trafficked from a situation of stability. They are trafficked out of extreme economic need. When they are helped to escape the trafficking situation and either allowed to remain in their country of destination, or are returned to their homes, that economic need continues to exist. This is the underlying issue, which is complicated by the fact that victims of trafficking have also experienced many different kinds of abuse, including:

- Extreme sexual abuse
- Physical violence
- Betrayal of trust
- Spiritual abuse (as in the case of the voodoo practices used to control the African women who are trafficked.)

In order for a person to fully move beyond the experience of having been trafficked, to heal and be restored, several things must take place:

- 1) Physical health must be restored
- 2) Emotional healing must be facilitated
- 3) Economic needs must be met through education, skill development, job placement

Simply releasing a person from a trafficked situation into "freedom" is not enough. It is not enough to simply expect that after a couple of weeks or months in a "safe house", or a detention center, a person who has been through the kind of trauma that these people have experienced will be able to function fully in society. Very often, trafficked people, after release, feeling that few other options are available to them, will return to their trafficked situation.

Short-term care situations are only the beginning. In these places, generally referred to as "emergency shelters" or "safe houses", victims should be able to find safety and security. They can begin to adjust to their release. It is in this place where immediate health and legal issues can be dealt with. People skilled in working with the emotional traumas of trafficking can begin to help the person to deal with the profound wounds, and help them to begin making decisions about their future.

But this is just the beginning. Two or three weeks or months are not going to be enough time for someone to recover from such trauma and also to find economic alternatives that are appropriate. A further step is necessary. Each person needs to be given the opportunity to be in a place where they are able to deal with the emotional wounds, and also move on into the future with skills which will enable them to provide economically for themselves and their families. The structure of such a program will differ in every cultural situation, as will the length of times that a person will need to stay. But what is key is that the victims be the center of the program and that their needs are listened to and being met in viable ways. The victims will let facilitators know when they are healed and prepared to move on. An arbitrary time limit is not appropriate, especially one that limits assistance to just a few months.

It cannot be emphasized enough that every cultural and economic system from which the trafficked victims come is different, and programs must be tailored within that context to meet their needs. Some situations are going to require many years of assistance, especially when trafficked victims are young, illiterate, and without family support. In these instances, residential care will also be necessary. Victims of any age need to be allowed to stay in a facility or participate in a program as a non-resident until their highest educational potential has been achieved—and that could mean many years. The investment of time and caring that is made in these lives is critical to their successful future. In cases where family support is present, residential care may not be essential, but resources which will facilitate skill development, economic alternatives and emotional healing are crucial. Again, the key factor is that the program meets the needs of the individual whose life has been traumatically affected by trafficking and not be dictated by arbitrary time limitations.

The majority of long-term care facilities that are available in the world are generally for children. There are few that meet the needs of adult victims, even though many people who work with the issues see a great need. Committed, caring leadership is the key, and is in short supply.

RESPONSES TO THE QUESTIONS FROM THE HONORABLE JOSEPH PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA, SUBMITTED BY MOHAMED Y. MATTAR, S.J.D., CO-DIRECTOR, THE PROTECTION PROJECT, JOHNS HOPKINS UNIVERSITY, SCHOOL OF ADVANCED INTERNATIONAL STUDIES

Question:

How would you assess the anti-trafficking laws in foreign countries? Would you say that countries are doing enough? Which countries or regions do you think need legal reform in the area of trafficking?

Response:

There has been a noticeable legislative movement to recognize trafficking in persons as a specific offense which should be subject to a serious punishment by many countries. Some countries mainly focus on amending existing Criminal Codes. Although this is required, it is not enough. A limited criminal law approach focusing on trafficking as a crime control problem does not take into consideration the important preventive and protective measures which must be adopted to prevent trafficking and protect victims of trafficking. This is why I like a more comprehensive approach, something similar to the Trafficking Victims Protection Act. This is what you see in the Law of Romania on the Prevention of Trafficking in Human Beings of 2001. Another good example is the Combating in Trafficking in Persons and Sexual Exploitation of Children Law of Cyprus of 2000. Some countries are enacting good and comprehensive anti-trafficking laws, however, that is not the case in many other countries and regions. I want to mention in particular countries of the Middle East. None of the countries of the Middle East have a comprehensive anti-trafficking legislation. A lot of work needs to be done in that part of the world in the area of legal reform. Similarly, most legal systems in Latin America do not have specific anti-trafficking legislation. These countries also need the guidance of the State Department in drafting laws.

Question:

Do you think that the TIP Report adequately addressed the Government efforts to enact laws that prohibit trafficking and punish trafficking, as required by the minimum standards under the TVPA?

Response:

I think this is an excellent question, because it addresses issues which are sometimes confusing, in particular how the TIP Report assesses government efforts, in complying with the minimum standards under the TVPA. The TVPA requires that the TIP Report inquire into whether a country has anti-trafficking legislation that criminalizes trafficking and provides for a sentence that is comparable to the gravity of the crime of trafficking. I believe that the TIP Report addressed that question adequately regarding the 26 countries on Tier 1, and the 70 countries on Tier 2, and the 15 countries on Tier 3. However, it is not clear to what extent did the TIP Report consider the existence of an anti-trafficking legislation in placing countries in different tiers.

My reading of the Report suggests that, for example, United Arab Emirates was placed on Tier 1 mainly because the recent law prohibiting use of children as camel jockeys, while Greece was placed in Tier 3, and has just passed an anti-trafficking legislation. So it is not clear how an absence of anti-trafficking legislation or presence of such legislation affects the placing mechanism. I am trying to suggest here that while the TVPA requires an anti-trafficking legislation, and legislation is very important, absence of such a law should not be a determining factor in the placement of the country into a lower tier. Assessing government efforts should be made on a case by case basis, taking into consideration what is important to combat trafficking in the particular country, whether that country is a country of origin or destination, because prevention and preventive measures should be heavily weighed in countries of origin, while a certain protective program in a country of destination, or the fact that the country grants victims of trafficking a residency status, should be a determinative factor in placing such a country into a certain tier.

Question:

NGOs play an important role in the worldwide fight against human trafficking. How would you assess the level of cooperation between governments and NGOs in fighting against trafficking, particularly in the Middle East? What special problems, if any, hamper cooperation?

Response:

Any adequate legal response to the problem of trafficking must include legal recognition of NGOs. In other words, NGOs must be allowed to work freely and without government intervention. I like to see NGOs, human rights organizations, and civil society in general, flourish more in the countries of the Middle East. Some of these countries do not recognize the importance of the role of NGOs, others do not like to see these organizations working. Perhaps in some cases this occurs because of the inaction or failure of the governments themselves to do something about the problem. That is why I welcome new developments in countries like Egypt, Qatar, Saudi Arabia, that are considering establishing human rights committees, but how that will materialize remains to be seen. And I think there is a lot to be done not only in terms of laws establishing NGOs, but also in education and raising awareness of the importance of development of civil society.

Question:

Please elaborate further on your comments regarding the legal importance of policy adequately taking into account the special needs of child victims of trafficking?

Response:

Congressman, your question addresses a very important issue, and that is how does a legal system respond to cases of trafficking of children, as opposed to trafficking in persons in general. I do not like to see an anti-trafficking legislation that covers trafficking in women, for example, or trafficking in persons, and only mentions children by way of exception or extension. So, an anti-trafficking law would require for example, proof of force to prove a case of trafficking, and make an exception in cases of children. Or the law would expand a sentence and consider trafficking in persons as an aggravated offence, which warrants an enhanced punishment. This is good, but it's not enough. The special needs of children as victims of trafficking must be addressed separately, so the law has to focus on preventive measures that specifically address trafficking in children. The law has to provide for the placement of children in shelters separate from adults. A child victim should be allowed to unite with his family, and the immigration policy of a country should allow for such unification. Special testimonial rules must also be adopted. The law should allow a child to testify outside the court or even in court without the presence of the offender. An anti-trafficking legislation should also prohibit all forms of trafficking in children. It is not enough to talk about sex trafficking or labor trafficking, trafficking of children for the purpose of illicit country adoption should also be included in any trafficking prohibition. Trafficking in children for sex tourism is a significant problem, and countries have to do something about it. And let me also mention again birth registration, because an unregistered child is more vulnerable to be trafficked, so countries should enforce child registration laws.

RESPONSE TO THE QUESTION FROM THE HONORABLE JOSEPH PITTS, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA, SUBMITTED BY LOUISE I. SHELLEY, PH.D., DIRECTOR, TRANSNATIONAL CRIME AND CORRUPTION CENTER, AMERICAN UNIVERSITY

Question:

Given the number of new international agreements, conventions, and programs against trafficking, how would you assess the effectiveness of international cooperation in the area of law enforcement? What weaknesses can you identify and what further measures are needed?

Response:

The international conventions establish a framework for cooperation but the effectiveness of international cooperation in the law enforcement arena is still very limited. There are several important reasons that there have been so few successful international prosecutions of traffickers.

Many countries from which women are trafficked still have inadequate domestic criminal and criminal procedural legislation to address trafficking. In many countries, combatting trafficking is not a priority of law enforcement or even of the specialized organized crime units of law enforcement. Many of the source and transit

countries lack the political will to address this problem and inadequate attention is paid by law enforcement in recipient countries. Furthermore, many countries from and through which victims are trafficked lack control over their territory because there are conflict zones outside of any authority of the central government.

Corruption in the border guards, police, prosecutors' offices and the judiciary makes it difficult to prosecute trafficking. This is aggravated by the corruption in the consular divisions of many countries who provide visas and passports to traffickers. Investigations of corrupt foreign affairs departments is often hard for law enforcement to do.

Compounding these problems is the fact that there is inadequate training in many countries including the United States. Our local law enforcement and many parts of the federal law enforcement system have not received training on how to investigate this form of transnational crime. American law enforcement colleagues need to work with colleagues abroad who have inadequate training and lack the rudimentary equipment to conduct an international investigation such as access to fax, xerox and international phone calls.

There is also an absence of intelligence gathered on crime trafficking networks. While enormous resources are devoted to drugs, intelligence resources are not allocated to this problem in the United States or abroad to the degree necessary.

Lastly, law enforcers in many countries are not doing enough to target the facilitators of trafficking. This includes the lawyers, transporters, corrupt officials and money launderers without whom this crime could not be committed.

