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Trafficking in Persons: The U.S. and International Response

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Summary

Trafficking in people for prostitution and forced labor is one of the most prolific areas of international criminal activity and is of significant concern to the United States and the international community. The overwhelming majority of those trafficked are women and children. According to the most recent Department of State estimates, between 600,000 and 800,000 people are trafficked across borders each year. If trafficking within countries is included in the total world figures, official U.S. estimates are that 2 to 4 million people are trafficked annually. However, there are even higher estimates, ranging from 4 to 27 million for total numbers of forced or bonded laborers. As many as 17,500 people are believed to be trafficked to the United States each year. Human trafficking is now considered a leading source of profits for organized crime, together with drugs and weapons, generating billions of dollars. Trafficking in persons affects virtually every country in the world. Traffickers exploit poverty, war, natural or man-made disasters, and ignorance.

Since enactment of the **Victims of Trafficking and Violence Protection Act of 2000** (P.L. 106-386), the Administration and Congress have given priority to the human trafficking problem. In December 2005, Congress adopted the **Trafficking Victims Protection Reauthorization Act of 2005** (P.L. 109-164, signed into law by the President on January 10, 2006), authorizing appropriations for FY2006 and FY2007, and amending previous laws to strengthen anti-trafficking policies and programs.

The State Department issued its sixth congressionally mandated Trafficking in Persons (TIP) Report on June 5, 2006. It categorized countries into four groups according to the efforts they were making to combat trafficking. Those countries (Tier Three) that do not cooperate in the fight against trafficking have been made subject to U.S. sanctions since 2003. The group includes a total of 12 countries. The President must make a determination within 90 days from the release of the TIP report on whether to impose sanctions on any or all of these countries.

In the second session of the 109th Congress, both chambers are expected to continue to address the human trafficking issue as part of their authorization, appropriations, and oversight activities. Some of the specific issues they may face include whether U.S. policies and programs are succeeding in the fight against human trafficking? Have the legislation, policies, and funding been adequate? What have been the effects of other U.S. policy priorities, such as the global war on terrorism, on combating terrorism?

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Trafficking in Persons: The U.S. and International Response

Definition

Severe forms of trafficking in persons have been defined in U.S. law as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or ... the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”¹ Others have put forward slightly different definitions.² In the case of minors, there is general agreement in the United States and much of the international community that the trafficking term applies whether a child was taken forcibly or voluntarily. Trafficking is distinguished from alien smuggling which involves the provision of a service, albeit illegal, to people who knowingly buy the service in order to get into a foreign country.

Scope of the Problem Worldwide

Trafficking in persons is considered to be one of the leading criminal enterprises of the early 21st Century, affecting every country around the globe. It is estimated that between 600,000 and 800,000 people are trafficked across borders each year. If trafficking within countries is included in the total world figures, official U.S. estimates are that 2 to 4 million people are trafficked annually. However, there are even higher estimates ranging 4 to 27 million for total numbers of forced or bonded laborers. The International Labor Office (ILO) estimates that there are some 12.3 million victims of forced labor at any given time. Of these victims, 80% are thought to be women and some 50% are thought to be under 18 years old.³

¹ *Victims of Trafficking and Violence Protection Act of 2000* (P.L.106-386).

² Some religious groups, as well as feminist organizations, have campaigned to broaden the definition of trafficking to include all forms of prostitution, whether forced or voluntary, on grounds that prostitution is never truly voluntary and that traffickers will simply force their victims to claim to be acting voluntarily. However, others have rejected this broadened definition, arguing that it would impede the capacity of the international community to achieve consensus and act decisively against major traffickers.

³ [<http://www.state.gov/g/tip/rls/tiprpt/2006/>]

Trafficking is believed to generate billions of dollars annually for organized crime, generating some \$9.5 billion in one year, according to the F.B.I.⁴

Trafficking is a problem that affects virtually every country in the world. Generally, the flow of trafficking is from less developed countries to industrialized nations, including the United States, or toward neighboring countries with marginally higher standards of living. Since trafficking is an underground criminal enterprise, there are no precise statistics on the extent of the problem and all estimates are unreliable. The largest number of victims trafficked internationally are still believed to come from South and Southeast Asia. The former Soviet Union may be the largest new source of trafficking for prostitution and the sex industry. Many people are also trafficked to Eastern Europe. Other main source regions include Latin America and the Caribbean, and Africa. Most of the victims are sent to Asia, the Middle East, Western Europe and North America. They usually end up in large cities, vacation and tourist areas, or near military bases, where the demand is highest.

Causes of Rise in Trafficking

The reasons for the increase in trafficking are many. In general, the criminal business feeds on poverty, despair, war, crisis, and ignorance. The globalization of the world economy has increased the movement of people across borders, legally and illegally, especially from poorer to wealthier countries. International organized crime has taken advantage of the freer flow of people, money, goods and services to extend its own international reach.

Other contributing factors include:

- the continuing subordination of women in many societies, as reflected in economic, educational, and work opportunity disparities between men and women. Many societies still favor sons and view girls as an economic burden. Desperate families in some of the most impoverished countries sell their daughters to brothels or traffickers for the immediate payoff and to avoid having to pay the dowry to marry off daughters;
- the hardship and economic dislocations caused by the transition following the collapse of Communism in the former Soviet Union and Eastern Europe, as well as the wars in the former Yugoslavia. The lack of opportunity and the eagerness for a better life abroad have made many women and girls especially vulnerable to entrapment by traffickers. With the weakening of law enforcement in post-Communist societies, criminal organizations have grown and established themselves in the lucrative business of international trafficking;
- the high demand, worldwide, for trafficked women and children as sex workers, cheap sweatshop labor, and domestic workers.

⁴ Cited in the State Department *Trafficking in Persons Report, 2005*, p.13.

Traffickers are encouraged by large tax-free profits and continuing income from the same victims, until recently at very low risk;

- The inadequacy of laws and law enforcement in most origin, transit, and destination countries hampers efforts to fight trafficking. Even in the United States, more effective legal remedies are only now being implemented. Prostitution is legal or tolerated in many countries, and widespread in most. When authorities do crack down, it is usually against prostitutes, themselves. Penalties for trafficking humans for sexual exploitation are often relatively minor compared with those for other criminal activities like drug and gun trafficking.
- The priority placed on stemming illegal immigration in many countries has often resulted in treatment of trafficking cases as a problem of illegal immigration, thus treating victims as criminals. When police raid brothels, women are often detained and punished, subjected to human rights abuses in jail, and swiftly deported. Few steps have been taken to provide support, health care, and access to justice. Few victims dare testify against the traffickers or those who hold them, fearing retribution for themselves and their families since most governments do not offer stays of deportation or adequate protection for witnesses.
- The disinterest and in some cases even complicity of governments is another big problem. Many law-enforcement agencies and governments ignore the plight of trafficking victims and downplay the scope of the trafficking problem. In some cases, police and other governmental authorities accept bribes and collude with traffickers by selling fake documentation, etc.⁵ In addition, local police often fear reprisals from criminal gangs so they find it easier to deny knowledge of trafficking. Many countries have no specific laws aimed at trafficking in humans.

Traffickers and Their Victims

Chinese, Asian, Mexican, Central American, Russian and other former Soviet Union gangs are among the major traffickers of people. Chinese and Vietnamese Triads, the Japanese Yakuza, South American drug cartels, the Italian mafia, and Russian gangs increasingly interact with local networks to provide transportation, safe houses, local contacts, and documentation.

Traffickers acquire their victims in a number of ways. Sometimes women are kidnaped outright in one country and taken forcibly to another. In other cases, victims are lured with phony job offers. Traffickers entice victims to migrate

⁵ For instance, according to Global Survival Network, an NGO group, Russian traffickers can obtain false documentation in order to enable a minor to travel to destination countries to work as a prostitute from corrupt officials in the Ministry of Foreign Affairs for approximately \$800.

voluntarily with false promises of well-paying jobs in foreign countries as au pairs, models, dancers, domestic workers, etc. Traffickers advertise these “jobs” as well as marriage opportunities abroad in local newspapers. Russian crime gangs reportedly use marriage agency databases and match-making parties to find victims. In some cases, traffickers approach women or their families directly with offers of lucrative jobs elsewhere. After providing transportation and false documents to get victims to their destination, they subsequently charge exorbitant fees for those services, often creating life-time debt bondage.

While there is no single victim stereotype, a majority of trafficked women are under the age of 25, with many in their mid to late teens. The fear of infection with HIV and AIDS among customers has driven traffickers to recruit younger women and girls, some as young as seven, erroneously perceived by customers to be too young to have been infected.

Trafficking victims are often subjected to cruel mental and physical abuse in order to keep them in servitude, including beating, rape, starvation, forced drug use, confinement, and seclusion. Once victims are brought into destination countries, their passports are often confiscated. Victims are forced to have sex, often unprotected, with large numbers of partners, and to work unsustainably long hours. Many victims suffer mental break-downs and are exposed to sexually-transmitted diseases, including HIV and AIDS. They are often denied medical care and those who become ill are sometimes even killed.

Regional Trends⁶

Asia and the Pacific. The largest number of victims are trafficked from Southeast Asia annually according to the U.S. Department of State. The growth of sex tourism in this region is one of the main contributing factors. Large-scale child prostitution occurs in many countries. Thailand, Cambodia, and the Philippines are popular travel destinations for “sex tourists,” including pedophiles, from Europe, North America, Japan, and Australia.

Japan is considered the largest market for Asian women trafficked for sex. Victims are believed to come mainly from the Philippines and Thailand.⁷ Victims are also trafficked to Taiwan, Malaysia, Hong-Kong, and Thailand. Cross-border trafficking is prevalent in the Mekong region of Thailand, Burma, Laos, Cambodia, Vietnam, and the Southern Yunan province of China. Vietnamese women are trafficked to China and Cambodia. According to various NGO sources, hundreds of thousands of foreign women and children have been sold into the Thai sex industry

⁶ Information in this section is summarized from a wide range of official and NGO sources. Specific estimates of numbers trafficked to and from individual countries and regions are not included in this update because their accuracy is so uncertain and the numbers presented by different sources are dated and cannot be reconciled with new global estimates by the State Department.

⁷ The Coalition against Trafficking in Women (CATW), Trafficking in Women and Prostitution in Asia, [<http://www.catwinternational.org/>]. The CATW is an international NGO.

since 1990, with most coming from Burma, Southern China, Laos, and Vietnam. East Asia, especially Japan, is also a destination for trafficked women from Russia and Eastern Europe.

Victims from Southeast Asia, especially China, Burma, the Philippines, Thailand, Cambodia, and Vietnam, are also sent to Western Europe, the United States, Australia, and the Middle East.

South Asia may be the second highest source region for trafficking victims according to the State Department. The low status of women in some societies as well as the growth of sex tourism contribute significantly to trafficking in this region. Sri Lanka and India are among the favored destinations of sex tourists from other parts of the world. Bangladesh and Nepal, the poorest countries in the region, are the main source countries. India and Pakistan are key destination countries. Thousands of Nepalese girls and young women are lured or abducted to India for sexual exploitation each year. The total number of Nepalese working as prostitutes in India are believed to be in the tens of thousands. Thousands of women and children from Bangladesh are trafficked to Pakistan each year. Also, according to Amnesty International, Afghan women have been sold into prostitution in Pakistan.

Thousands of Nepalese women and children are believed to be trafficked for prostitution to the Asia Pacific region, especially Hong Kong. Bangladeshi women and children have also been trafficked to the Middle East in large numbers, over the last 20 years. India is a source, transit, and destination country, receiving women and children from Bangladesh, Nepal, Bhutan, Sri Lanka, and Pakistan and sending victims to Europe and the Middle East.

Australia has been a prime source of sex tourists in Asia. The Philippines, Thailand, South Korea, Sri Lanka, and Hong Kong are some of the primary Asian destinations for organized sex tours. Indonesia and Taiwan are secondary destinations. Australians also travel to Europe and Latin America. To counteract this problem, the Australian government has developed extraterritorial legislation and public awareness campaigns aimed at travelers.⁸ International criminal organizations traffic hundreds of Thai women yearly to Australia for prostitution. Australia is developing tougher laws including long jail terms to stop the trafficking of Asian women to Australia.⁹

There have been unconfirmed reports that child trafficking has increased in countries devastated by natural disasters such as the December 26, 2004 Indian Ocean tsunami. Presumably, traffickers have exploited the separation of many children from their families, amid the general confusion in the aftermath of such disasters.

Europe. The former Soviet Union and Central and Eastern Europe have replaced Asia as the main source of women trafficked to Western Europe. Victims come from Russia, Ukraine, and other East European countries. With the economic

⁸ World Congress Against Commercial Sexual Exploitation of Children, Regional Profiles.

⁹ Maria Moscaritolo, "Australia takes aim at Asian sex slave trade," Reuters, May 26, 1998.

and political turmoil after the collapse of the Soviet Union, trafficking from the region has escalated from a minor problem before 1991 into a major crisis. As criminal organizations have grown, especially in Russia, they have gravitated to this lucrative business. Russian organizations now play a dominant role not just in the trafficking of Russian women but also women from throughout Eastern Europe. Russian organized crime groups and others including Albanian, Estonian, Chechen, Serb, and Italian gangs are involved in human trafficking in Europe. Furthermore, Russian organized crime is starting to take over the sex industry in a number of West European countries. Russian criminal groups reportedly are also active in prostitution in Israel, and parts of the United States.¹⁰

The largest number of victims trafficked annually from the former Soviet Union and Eastern Europe come from Russia and Ukraine. In addition, several Central and East European countries are reported to be source, receiving, and transit countries. The conflicts in Bosnia and Kosovo provided new opportunities for traffickers in the former Yugoslavia and the Balkans. Traffickers targeted refugee women who fled Kosovo. According to the Women's Commission for Refugee Women and Children, Albanian traffickers have smuggled thousands of Kosovo women into Italy by boat for the sex trade.

Most Russian and East European victims are believed to be sent to West European countries (especially Germany, Italy, France, Switzerland, the Netherlands, Greece, Austria, and England). A substantial number are also sent to the Middle East (especially Israel and Saudi Arabia) and the Far East (especially Japan and Thailand). Many wind up in the United States or Canada. The remainder are sent to Central European countries, especially Poland, Hungary, the Czech Republic.¹¹

Western European countries are also destination points for victims from other parts of the world, including Africa (Ghana, Nigeria, Morocco), Latin America (Brazil, Colombia, the Dominican Republic), and Southeast Asia (the Philippines, Thailand).

Middle East. The sexual exploitation of women and children in the Middle East usually involves the importation of women from other regions. The exploitation of Middle Eastern women tends to have less of a commercial dimension.¹²

Women and children, mostly from Asia (Thailand, the Philippines, Indonesia), are trafficked as prostitutes or brides to the Middle East (Saudi Arabia, The United Arab Emirates). Women from the former Soviet Republics are sent to Israel. According to the Israel Women's Network, every year several hundred women from

¹⁰ Global Survival Network. An Expose of the Traffic in Women for Prostitution from the Newly Independent States. Washington, D.C., 1998, p. 5-10.

¹¹ Ibid.

¹² World Congress Against Commercial Sexual Exploitation of Children, Regional Profiles.

Russia and the former Soviet Union are brought to Israel by well-organized criminal groups.¹³

Latin America and the Caribbean.¹⁴ Tens of thousands of Latin American and Caribbean women and children are believed to be trafficked for sexual exploitation each year. Impoverished children are particularly vulnerable to trafficking for prostitution. Victims from Latin America and the Caribbean are trafficked to Western Europe and the United States. The Central American countries and Mexico are also transit countries for trafficking to the United States.

The presence of sex tourists from Europe, North America, and Australia has significantly contributed to the trafficking of women and children. A growing number of sex tourists are going to Latin America, partly as a result of recent restrictions placed on sex tourism in Thailand, Sri Lanka, and other Asian countries.¹⁵ Favored sex tourism destinations are Brazil, Argentina, the Dominican Republic, Mexico, Honduras, Costa Rica, Trinidad and Tobago. Brazil has one of the worst child prostitution problems in the world.¹⁶

Africa. In Africa, tens of thousands of victims are believed to be trafficked annually according to the U.S. Department of State, although the extent of trafficking is not well documented. Like elsewhere, poverty and the low status of women are major contributing factors. In addition, wars and civil strife engulfing countries like Sudan and Rwanda, as well as the indifference of some governments make women and children vulnerable to trafficking.¹⁷

Trafficking in children for labor is a serious problem in Togo and Benin as well as Botswana, Zaire, Somalia, Ethiopia, Zambia, Nigeria, Algeria. Victims are trafficked to Nigeria, Gabon, Ghana, and South Africa. Africans, especially women from Nigeria, are trafficked to Western Europe and the Middle East.

Trafficking to the United States

As many as 17,500 people are trafficked to the United States each year, according to the most recent Department of State estimates.¹⁸ Most come from

¹³ Michael Specter, "Traffickers' New Cargo: Naive Slavic Women," *New York Times*, January 11, 1998.

¹⁴ See also CRS Report RL33200, *Trafficking in Persons in Latin America and the Caribbean*, by Clare M. Ribando.

¹⁵ Casa Alianza/Covenant House Latin America, "Casa Alianza Warns That Central America Is New Sex Tourism Destination," November 17, 1997.

¹⁶ Social Security Network, "Brazil spends \$1.7mil on helping child prostitutes." *Reuters*, June 12, 1998.

¹⁷ John Eibner of Christian Solidarity International, Karin Davies, "Slave Trade Thrives in Sudan," *Associated Press*, February 7, 1998.

¹⁸ U.S. Department of State. *Trafficking in Persons Report, 2005*, June 3, 2005. (continued...)

Southeast Asia and the former Soviet Union. About half of those are forced into sweatshop labor and domestic servitude. The rest are forced into prostitution and the sex industry, or in the case of young children, kidnaped and sold for adoption. While many victims come willingly, they are not aware of the terms and conditions they will face. Women trafficked to the United States most often wind up in the larger cities in New York, Florida, North Carolina, California, and Hawaii.¹⁹ But the problem is also migrating to smaller cities and suburbs. Russian crime groups are said to be actively involved in trafficking and the sex industry in the United States.

The United States is also the major destination country for young children kidnaped and trafficked for adoption by childless couples unwilling to wait for a child through legitimate adoption procedures and agencies. The largest source country is Mexico. Mexican children are also kidnaped and trafficked to the United States for child prostitution.

Before 2000, U.S. laws were widely believed to be inadequate to deal with trafficking in women and children or to protect and assist victims. Sweeping anti-trafficking legislation and programs have been implemented with the hope of significantly improving the situation.

U.S. Policy and the Role of Congress

Anti-Trafficking Legislation and Programs. The human trafficking problem gained attention in the United States and worldwide in the late 1990s. It has been addressed as a priority by Congress, as well as the Clinton and Bush Administrations. As part of former President Clinton's announced International Crime Control Strategy, an interagency working group was set up to address international crime implications of trafficking. On March 11, 1998, President Clinton issued a directive establishing a U.S. government-wide anti-trafficking strategy of (1) prevention, (2) protection and support for victims, and (3) prosecution of traffickers. The strategy, as announced, had strong domestic and international policy components:

- In the area of prevention, the Administration outlined the need for programs to increase economic opportunities for potential victims and dissemination of information in other countries to increase public awareness of trafficking dangers and funding for more research on trafficking.
- In terms of victim protection and assistance, the Administration argued for legislation to provide shelter and the support services to victims who are in the country unlawfully and therefore presently ineligible for assistance. It pressed for creation of a humanitarian, non-immigrant visa classification to allow victims to receive

¹⁸ (...continued)

[<http://www.state.gov/g/tip/rls/tiprpt/2005>]

¹⁹ U.S. Department of State. Bureau of Consular Affairs, Fraud Digest, November/December, 1997.

temporary resident status so that they could receive assistance and help to prosecute traffickers. Also, support was sought for developing countries to protect and reintegrate trafficking victims once they were returned.

- As far as prosecution and enforcement, the Administration pressed for laws to more effectively go after traffickers and increase the penalties they can face. In addition, restitution for trafficked victims was sought in part by creating the possibility of bringing private civil lawsuits against traffickers. The Department of Justice called for laws that would expand the definition of involuntary servitude, criminalize a broader range of actions constituting involuntary servitude, and increase the penalties for placing people in involuntary servitude. Justice Department spokesmen also urged that prosecutors be given the capability to go after those who profit from trafficking, not just those directly involved in trafficking.²⁰ They also called for amending immigration statutes to punish traffickers who entrap victims by taking their passports and identification from them.

On the domestic side, a Workers' Exploitation Task Force, chaired by the Department of Justice's Civil Rights Division and the Solicitor's Office in the Department of Labor, was charged with investigating and prosecuting cases of exploitation and trafficking. In addition, the Department of Justice reviewed existing U.S. criminal laws and their enforcement to see if they adequately dealt with the crime of trafficking.

The Department of State sponsored the creation of a database on U.S. and international legislation on trafficking. An Interagency Council on Women formed by the Clinton Administration established a senior governmental working group on trafficking. The Council sponsored a meeting of governmental and non-governmental representatives from source countries, transit countries, destination countries, and international organizations to call attention to the trafficking issue and to develop strategies for combating this problem. The Clinton Administration worked with Congress on what it considered urgently needed legislation to fight trafficking at home and abroad, building on its framework of "prevention, protection, and prosecution" to strengthen tools available for the fight and to help advance the U.S. policy on trafficking in other countries. The Administration also urged the enactment of legislation to encourage and support strong action by foreign governments and help the work of non-governmental organizations (NGOs) in this area.

Several bills were introduced in the 106th Congress on human trafficking. **H.R. 3244**, was introduced by Representative Christopher Smith (R-NJ) on November 8, 1999. A similar bill was sponsored in the Senate by Senator Sam Brownback (R-KS). In conference, the bills were combined with the Violence against Women Act

²⁰ Testimony of William R. Yeomans, Chief of Staff of the Civil Rights Division, Department of Justice, before the Subcommittee on Near Eastern and South Asian Affairs, Senate Foreign Relations Committee, April 4, 2000.

of 2000 and repackaged as the **Victims of Trafficking and Violence Protection Act of 2000**, along with miscellaneous anti-crime and anti-terrorism provisions. President Clinton signed the bill into law on October 28, 2000 (**P.L. 106-386**).

Among its key provisions, **P.L. 106-386**:

- Directed the Secretary of State to provide an annual report by June 1, listing countries that do and do not comply with minimum standards for the elimination of trafficking and to provide in his annual report on human rights information on a country-by-country basis describing the nature and extent of severe forms of trafficking in persons in each country and an assessment of the efforts by governments to combat trafficking;
- Called for establishing an Interagency Task Force to Monitor and Combat Trafficking, chaired by the Secretary of State, and authorized the Secretary to establish within the Department of State an Office to Monitor and Combat Trafficking to assist the Task Force;
- Called for measures to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking, to increase public awareness, particularly among potential victims, of the dangers of trafficking and the protections that are available for victims, and for the government to work with NGOs to combat trafficking;
- Established programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement of victims of trafficking and their children, as well as programs to provide assistance to victims of severe forms of trafficking in persons within the United States, without regard to such victims' immigration status and to make such victims eligible, without regard to their immigration status, for any benefits that are otherwise available under the Crime Victims Fund;
- Provided protection and assistance for victims of severe forms of trafficking while in the United States;
- Amended the code to make funds derived from the sale of assets seized from and forfeited by trafficking available for victims assistance programs under this act;
- Amended the Immigration and Nationality Act to allow the Attorney General to grant up to 5000 non-immigrant visas per year to certain victims of severe forms of trafficking who are in the United States and who would face a significant possibility of retribution or other harm if they were removed from the United States. In addition, amended the act to adjust to lawful permanent resident the status of up to 5000 victims per year who have been in the United States

continuously for three years since admission, who have remained of good moral character, who have not unreasonably refused to assist in trafficking investigations or prosecutions, and who would face a significant possibility of retribution or other harm if removed from the United States;

- Established minimum standards applicable to countries that have a significant trafficking problem. Urged such countries to prohibit severe forms of trafficking in persons, to punish such acts, and to make serious and sustained efforts to eliminate such trafficking;
- Provided for assistance to foreign countries for programs and activities designed to meet the minimum international standards for the elimination of trafficking;
- Withheld U.S. non-humanitarian assistance and instructed the U.S. executive director of each multilateral development bank and the International Monetary Fund to vote against non-humanitarian assistance to such countries that do not meet minimum standards against trafficking and are not making efforts to meet minimum standards, unless continued assistance is deemed to be in the U.S. national interest;
- Encouraged the President to compile and publish a list of foreign persons who play a significant role in a severe form of trafficking in persons. Also encouraged the President to impose sanctions under the International Emergency Economic Powers Act, including the freezing of assets located in the United States, and to exclude significant traffickers, and those who knowingly assist them, from entry into the United States; and
- Amended the U.S. Code to double the current maximum penalties for peonage, enticement into slavery, and sale into involuntary servitude from 10 years to 20 years imprisonment and to add the possibility of life imprisonment for such violations resulting in death or involving kidnaping, aggravated sexual abuse, or an attempt to kill.

The Bush Administration, as well Congress, continued the anti-trafficking effort with strong bipartisan support. Attorney General John Ashcroft announced in March 2001 that the fight against trafficking would be a top priority for the Administration and that U.S. law enforcement agencies, including the FBI, the Immigration and Naturalization Service, and the Justice Department's Civil Rights Division would cooperate closely to upgrade their efforts to combat trafficking. The Justice Department also announced new guidelines for federal prosecutors to pursue

trafficking cases.²¹ The State Department issued its first Congressionally mandated report on worldwide trafficking in July 2001.²²

On January 24, 2002, U.S. Attorney General announced the implementation of a special “T” visa, as called for in P.L.106-386, for victims of trafficking in the United States who cooperate with law enforcement officials. Under the statute, victims who cooperate with law enforcement against their traffickers and would be likely to suffer severe harm if returned to their home countries may be granted permission to stay in the United States. After three years in T status, the victims are eligible to apply for permanent residency and for non-immigrant status for their spouses and children.²³

On February 13, 2002, President Bush signed an Executive Order establishing an Interagency Task Force to Monitor and Combat Trafficking in Persons. The Task Force, mandated by the Trafficking Victims Protection Act of 2000 (P.L. 106-386), includes the Secretary of State, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of the Central Intelligence Agency, the Administrator of the Agency for International Development, the Director of the Office of Management and Budget, and Office of the National Security Advisor. The Task Force is charged with strengthening coordination among key agencies. It is to identify what more needs to be done to protect potential victims, to punish traffickers, and to prevent future trafficking. According to Secretary of State Powell, the United States would work closely with other governments, non-governmental organizations and concerned people throughout the world to put an end to trafficking. The State Department Office to Monitor and Combat Trafficking in Person was tasked with assisting the Interagency Task Force in implementing P.L. 106-386 and Task Force initiatives.

In addition to announcing the establishment of the Interagency Task Force, the State Department issued a fact sheet on February 14, 2002, detailing planned U.S. activities to stop trafficking in persons.²⁴ The Departments of State and Justice were to establish a Migrant Smuggling and Trafficking in Persons Center to gather and disseminate information from intelligence and law enforcement. USAID was charged with developing partnerships between source and destination countries to combat trafficking. The Department of Justice was to institute training programs for federal prosecutors, Immigration and Naturalization Service personnel, and FBI agents in 2002. The Department of Justice announced that it would seek sponsors in Congress for legislation to punish Americans engaging in “sex tourism” abroad with minors. The Department of Labor was to establish six training and support centers for women victims or at risk of trafficking in major cities of Central and Eastern

²¹ Attorney General John Ashcroft’s news conference on March 27, 2001. See [<http://www.usdoj.gov/archive/ag/speeches/2001/032701workerexploitation.htm>].

²² [<http://www.state.gov/g/tip/rls/tiprpt/2001/>]

²³ U.S. Department of State. International Information Programs. Washington File, January 24, 2002. [<http://usinfo.state.gov>]

²⁴ U.S. Department of State. International Information Programs. Washington File, February 14, 2002. [<http://usinfo.state.gov>]

Europe and the Newly Independent States. The Department of Health and Human Services was to launch a public awareness campaign to encourage trafficking victims to come forward.

In 2002 Congress amended the Victims of Trafficking and Violence Protection Act of 2000 in **Sec. 682 of the Foreign Relations Authorization Act, FY2003 (P.L. 107-228)** to provide “...(a) support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities; (b) support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention; (c) education and training for trafficked women and girls; (d) the safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual; and (e) support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.” The amendment also authorized an increase in appropriations for FY2003 to fund such programs.

In 2003, Congress approved the **Trafficking Victims Protection Reauthorization Act of 2003**. The president signed the act into law on December 19, 2003 (**P.L. 108-193**). The act authorized substantial increases in funding for anti-trafficking programs in FY2004 and FY2005 (over \$100 million for each fiscal year). P.L. 108-193 refined and expanded on the Minimum standards for the elimination of trafficking that governments must meet and placed on such governments the responsibility to provide the information and data by which their compliance with the standards could be judged. The legislation created a “special watch list” of countries that the Secretary of State determined to require special scrutiny in the coming year. The list was to include countries where (1) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; (2) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or (3) the determination that a country is making significant efforts to bring itself into compliance with minimum standards is based on its commitments to take additional steps over the next year. In the case of such countries, not later than February 1st of each year, the Secretary of State is to provide to the appropriate congressional committees an assessment of the progress that the country had made since the last annual report.

The **Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164)** was introduced in the House on February 17, 2005, by Representative Christopher Smith and nine co-sponsors to authorize appropriations for FY2006 and FY2007 and close loopholes in previous anti-trafficking legislation. Among other things, the bill has provisions to increase U.S. assistance to foreign trafficking victims in the United States, including access to legal counsel and better information on programs to aid victims. It addresses the special needs of child victims, as well as the plight of Americans trafficked within the United States. The bill directs

relevant U.S. government agencies to develop anti-trafficking strategies for post-conflict situations and humanitarian emergencies abroad. It seeks to extend U.S. criminal jurisdiction over government personnel and contractors who are involved in acts of trafficking abroad while doing work for the government. It addresses the problem of peacekeepers and aid workers who are complicit in trafficking. The bill was passed by the House and Senate in December 2005 and signed into law by the President on January 10, 2006.

On October 7, 2005, the U.S. Senate gave its advice and consent to ratify the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons. The President signed the Protocol on December 3, 2005.

The Trafficking in Persons Report, 2006.

On June 5, 2006, the State Department issued its sixth annual report on human trafficking, *Trafficking in Persons (TIP) Report, June 2006*,²⁵ as mandated by P.L.106-386, P.L. 108-193, and P.L. 109-164. The report reviews recent trends in the fight against trafficking and rates countries according to whether they meet “minimum standards” with regard to their anti-trafficking commitment and policies.²⁶ Secretary of State Condoleezza Rice introduced the latest report, stressing that the U.S. commitment to ending human trafficking is part of President Bush’s national security strategy. She also indicated that it was a key component of U.S. “transformational diplomacy.”²⁷

The report is more comprehensive than in previous years, focusing on 158 countries. In addition to the 149 that are ranked, the report discusses trafficking in nine “special case” countries where sufficient information was not available to provide a ranking. The number of countries covered in the TIP reports has grown steadily over the past six years. In addition to Tiers 1-3, there is a fourth category of countries, the “Tier 2 Watch-list.” The Department of State is required to issue an interim report on how watch list countries are performing by February 2007 in advance of the 2007 TIP report. Ambassador John Miller has indicated that the Watch-List is a proven effective tool with many of the countries on the list in the past having improved their performance. The report includes information about law enforcement efforts in other countries and U.S. efforts to prosecute traffickers and help victims.

²⁵ [<http://www.state.gov/g/tip/rls/tiprpt/2006/>]

²⁶ Governments meeting “minimum standards” are defined in the Trafficking and Violence Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003 as those that (1) prohibit and punish acts of trafficking; (2) prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the knowing commission of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, trafficking involving rape or kidnaping, or trafficking that causes a death); (3) prescribe punishment that is sufficiently stringent to deter, and that adequately reflects the offense’s heinous nature; and (4) make serious and sustained efforts to eliminate trafficking. The fourth minimum standard was amended and supplemented by the Trafficking Victims Reauthorization Act and now calls for consideration of ten criteria.

²⁷ [<http://www.state.gov/g/tip/rls/tiprpt/2006/65982.htm>]

The report highlights how the U.S. and international campaign against human trafficking has begun to show results. What had been a largely invisible problem, characterized by disinterest and even complicity of governments, is now being confronted by governments around the world. Many countries have enacted new anti-trafficking laws. Some 4,700 traffickers were convicted in 2005.

The report again includes examples of “best practices” or successful actions that have been taken by countries, individuals, and groups who are fighting slavery in different parts of the world. To convey the real human cost of trafficking, the report again places the spotlight on a number of individual cases.

The report also discusses what U.S. government agencies are doing domestically to combat trafficking. The U.S. Department of Health and Human Services, as of May 2006, had certified 1,000 trafficking victims for special status and the Department of Homeland Security issued 112 “T” visas to foreign survivors of trafficking. The Department of Justice charged 116 individuals with human trafficking.

The 2006 TIP report places greater attention on trafficking for forced labor, especially the invisible problem of low-skilled workers forced to work as domestic servants in their own countries or abroad, including in the United States, often under harsh and inhumane conditions. The number of victims is hard to quantify, but the report suggests that it may be larger than for sex trafficking.

U.S. anti-trafficking policy has long emphasized prosecution, protection, and prevention (“the 3 Ps”). The 2006 report places a new focus on rescue, rehabilitation, and reintegration (what it calls the “3 Rs”).

In response to Congressional Mandate, the report summarizes actions taken by international organizations stop trafficking and sexual exploitation by peacekeepers and humanitarian aid workers. The organizations covered include the United Nations, NATO, and the Organization for Security and Cooperation in Europe (OSCE).

The report indicates that many governments and law enforcement agencies make the mistake of placing too much emphasis on whether a person’s movement across borders is coerced or voluntary in deciding who is a trafficking victim. Very often, movement by victims is voluntary, in search of better opportunities. The report emphasizes that movement to a new location is incidental and that the defining element of trafficking is the force, fraud, or coercion against the victim to provide or continue service to a “master.” Also, some governments are thought to rely too heavily on victims of trafficking coming forward and identifying themselves. The reality, according to the report, is that most victims are afraid to identify themselves to law enforcement officials on first contact. Therefore it stresses that governments need to put in place other ways to identify trafficking victims, including through extensive interviews and counseling.

2006 Country Rankings. In the report, countries are ranked in four groups. Countries not included are either not seen as having a significant trafficking problem as source, transit, or destination countries (meaning more than 100 cases per year) or there is insufficient information about their role.

Tier 1 is made up of countries deemed by the State Department to have a serious trafficking problem but fully complying with the act's minimum standards for the elimination of trafficking. Twenty-six countries are included. Five countries were moved up to Tier I: Finland, Ireland, Malawi, Singapore, and Switzerland. Ireland was previously unranked; the others had been in Tier 2. In addition, the Czech Republic, Nepal, and Portugal were moved down to Tier 2 from their previous placement in Tier 1 in 2005.²⁸

Tier 2, as in past years, includes the largest number of countries, 79 in 2006 (up from 77 in 2005), whose governments the State Department views as not fully complying with those standards but which are seen as making "significant efforts to bring themselves into compliance." Twenty-four countries are new from 2005. Of these, three were moved down from Tier 1, three were previously unranked, and the rest moved up.²⁹

Tier 2 Watch list was first added as a category in the 2004 report. In 2006, it is made up of 32 countries that are on the border between Tier 2 and Tier 3 (up from 27 in 2005). All except seven are new to the list from 2005. Fifteen were moved down from Tier 2. Seven were moved up from Tier 3. Three of the countries were previously unranked. P.L. 108-193 requires that the Department of State issue an interim report on how these countries are performing by February 2007 in advance of the 2007 TIP report.³⁰

In **Tier 3** are those countries whose governments the State Department deems as not fully complying with those standards and not making significant efforts to do so. This

²⁸ Tier 1 includes Australia, Austria, Belgium, Canada, Colombia, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Lithuania, Luxembourg, Malawi, Morocco, The Netherlands, New Zealand, Norway, Poland, Singapore, South Korea, Spain, Sweden, Switzerland, and the United Kingdom.

²⁹ Tier 2 includes Afghanistan, Albania, Angola, Azerbaijan, Bangladesh, Belarus, Benin, Bosnia-Herzegovina, Bulgaria, Burkina Faso, Burundi, Cameroon, Chad, Chile, Congo (DRC), Costa Rica, Cote D'Ivoire, Croatia, Czech Republic, Dominican Republic, East Timor, Ecuador, El Salvador, Estonia, Ethiopia, Gabon, The Gambia, Georgia, Ghana, Greece, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Japan, Jordan, Kazakhstan, Kyrgyz Republic, Latvia, Lebanon, Macedonia, Madagascar, Mali, Malta, Mauritius, Moldova, Mongolia, Mozambique, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Philippines, Portugal, Romania, Rwanda, Senegal, Serbia-Montenegro, Sierra Leone, Slovak Republic, Slovenia, Sri Lanka, Suriname, Tajikistan, Tanzania, Thailand, Tunisia, Turkey, Uganda, Ukraine, Uruguay, Vietnam, Yemen, and Zambia.

³⁰ The Tier 2 Watch List of countries include Algeria, Argentina, Armenia, Bahrain, Bolivia, Brazil, Cambodia, Central African Republic, China, Cyprus, Djibouti, Egypt, Equatorial Guinea, India, Indonesia, Israel, Jamaica, Kenya, Kuwait, Libya, Macau, Malaysia, Mauritania, Mexico, Oman, Peru, Qatar, Russia, South Africa, Taiwan, Togo, and the United Arab Emirates.

group includes a total of 12 countries (down from 14 in 2005), but also includes six new countries — Belize, Iran, Laos, Syria, Uzbekistan, and Zimbabwe. These countries are subject to possible U.S. sanctions after October 1, 2006, if they have not improved their performance by then. Moved up from Tier 3 were eight countries — Bolivia, Cambodia, Ecuador, Jamaica, Kuwait, Qatar, Togo, and the United Arab Emirates (UAE). Ecuador was moved to Tier 2, the rest were placed on the Tier 2 Watch List.³¹ A number of these countries are on the list for their failure to address forced labor among foreign migrant workers.

Special Cases. Some countries were not ranked due to limited information on their trafficking problems, either as a result of internal upheaval or for other reasons. Nevertheless, available information was included on these nine countries.³²

Possible Consequences of Tier Placement. P.L. 106-386 subjects to sanctions those countries listed in Tier 3 (beginning with the 2003 State Department report), including termination of non-humanitarian, non-trade-related assistance and loss of U.S. support for loans from international financial institutions, specifically the International Monetary Fund and multilateral development banks such as the World Bank. Sanctions may be imposed if such countries have not improved their performance by the date by which the President is required to make a determination (within 90 days from the release of the report).³³

Based on the findings in the 2005 TIP report, on September 21, 2005, the President announced that of the 14 countries placed on Tier Three in the 2005 report, he was imposing full sanctions on Burma, Cuba, and North Korea.³⁴ Sanctions were waived for three Tier Three countries on national security grounds (Saudi Arabia, Kuwait, and Ecuador). He also declared that Venezuela and Cambodia were subject to sanctions based on their record, but that certain assistance to these countries would be permitted, either to promote the purposes of P.L. 108-193 or to further other U.S. interests. Six countries were said to have made sufficient strides to be taken off Tier Three (Bolivia, Jamaica, Qatar, Sudan, Togo, and the United Arab Emirates). From the 2005 Tier 3 list, Burma, Cuba, North Korea, Saudi Arabia, Sudan, and Venezuela remain on Tier 3 in the 2006 TIP report. Before October 1, 2006, the President must again make a determination on whether to impose sanctions on Tier 3 countries, if they have not improved their performance since the report.

³¹ Tier 3 includes Belize, Burma, Cuba, Iran, Laos, North Korea, Saudi Arabia, Sudan, Syria, Uzbekistan, Venezuela, and Zimbabwe.

³² Special case countries include the Bahamas, Brunei, Haiti, Iraq, Lesotho, Liberia, Somalia, Swaziland, and Turkmenistan.

³³ As a result of the findings in the 2003 TIP Report, the President imposed sanctions on five countries (Burma, Cuba, Liberia, North Korea, and Sudan) due to their poor records in combating trafficking. In the case of Liberia and Sudan, the sanctions were partially waived to give the United States greater leverage in seeking to end conflicts in those countries. Presidential Determination with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons (Presidential Determination No. 2003-35), September 9, 2003.

³⁴ White House Press Release, September 21, 2005. [<http://www.state.gov/tip/rls/prsrl/2005/53777.htm>]

The International Response

The United States and other countries are also pursuing a number of bilateral and multilateral programs and initiatives to combat trafficking. The steps taken by the United States internationally include the following:

- The Departments of State and Justice are training foreign law enforcement and immigration officers to better identify and crack-down on traffickers and their victims at the border.
- U.S. embassies and consulates worldwide are working with other countries to stop international trafficking in women and children. The United States has expanded its program to heighten public awareness about trafficking in source countries, targeting the messages to potential victims.
- The United States is also working with the European Union, the Group of Eight, the United Nations, and the Organization for Security and Cooperation in Europe (OSCE). The United States supported some 190 programs in over 92 countries to combat trafficking in FY2003.³⁵

The United States and the European Union agreed on a joint initiative to combat trafficking in November 1997.³⁶ U.S. and EU officials met in Luxembourg to launch a jointly funded initiative against trafficking in women from Russia and Eastern Europe. It is primarily an information campaign, warning potential victims and an education program for law enforcement, customs and consular officials to heighten their awareness of the problem. Pilot projects were launched in Poland by the EU and in Ukraine by the United States. The United States initiated bilateral cooperation programs in a number of countries, including Russia, other former Soviet Republics, Bosnia, Albania, Poland, Bulgaria, Hungary, Thailand, and the Philippines to fight trafficking.

In 2002, the Council of the European Union took a major further step in the fight against human trafficking, reaching agreement on a broad new framework decision. The decision sought to strengthen police and judicial cooperation and to harmonize the laws and policies of member states in areas such as criminalization, penalties, sanctions, aggravating circumstances, jurisdiction, and extradition. The deadline for implementation of the decision by Member States was set for August 1, 2002.³⁷

At the OSCE Summit Meeting in Istanbul in November 1999, leaders of the 55 OSCE member states from Europe, Central Asia, and North America, agreed to make combating trafficking in the OSCE area (where some 200,000 people are trafficked

³⁵ Trafficking in Persons Report, 2004, p. 259.

³⁶ Fact Sheet: US-EU Initiative to Prevent Trafficking in Women. USIS Washington File, December 5, 1997.

³⁷ [<http://europa.eu.int/>]

annually) a priority issue. A follow up meeting on trafficking was held in Vienna on June 19, 2000. The participating states agreed on steps to increase their efforts and better coordinate actions to fight the problem. The OSCE sponsored conference in Bangkok in June 2002 to deal with the trafficking issues. Speaking at the conference, Helga Konrad who heads the OSCE task force on human trafficking said that the approach taken to date to fighting trafficking has failed. She argued that closer collaboration between source and destination countries was vital.³⁸

The international community began meeting in 1999 to draft a Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children in conjunction with the U.N. Convention Against Transnational Organized Crime. The United States, along with Argentina, introduced the draft protocol in January 1999. Negotiations were concluded in 2000 on a revised draft. On November 15, 2000, the U.N. General Assembly adopted the Convention on Transnational Crime, including the Protocol on Trafficking. The Convention and Protocols formally signed in Palermo, Italy, in December 2000, were designed to enable countries to work together more closely against criminals engaged in cross-border crimes. The United States signed the U.N. protocol on Trafficking in December 2000 and ratified and became party to the Protocol on December 3, 2005, following Senate advice and consent on October 7, 2005. At present there are 94 countries that are party to the Protocol.

The United States is party to two other international agreements that have been adopted to address aspects of trafficking in children. The International Labor Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor was ratified by United States in December 1999.³⁹ The Protocol to the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child Pornography was signed by the United States July 2000 and ratified in December 2002. In January, 2002, the Protocol went into force, having been signed by 88 countries and ratified by 16.⁴⁰

The Organization of American States (OAS) has also placed the issue of trafficking on its agenda. The Inter-American Commission on Women has met several times on the issue of trafficking in the Americas.

Policy Issues for the 109th Congress

A broad consensus seems to be shared in Congress and the policy community on the need for decisive action to curb trafficking. The general framework of “prevention, protection, and prosecution” also has widespread support. Questions have been raised about implementation.

How can success be measured in the fight against human trafficking? Have the legislation and policies implemented to date been adequate? So far, few

³⁸ Agence France-Presse, June 20, 2002.

³⁹ See [<http://www.ilo.org/public/english/standards/ipecc/about/factsheet/facts23.htm>].

⁴⁰ See [<http://www.unicef.org/crc/>].

reliable indicators have been identified. The new estimates of numbers of trafficking victims in the United States seem considerably lower than some of the previous high-end estimates. Whether these figures reflect the success of U.S. policies and programs or more accurate data gathering is unclear. In February 2003, Attorney General John Ashcroft stated that since passage of U.S. anti-trafficking legislation, the U.S. Justice Department had doubled the number of prosecutions and convictions for trafficking.⁴¹ Hard evidence with regard to the results of the more vigorous international campaign against trafficking is also lacking. Information is often anecdotal. Worldwide estimates of the numbers of victims seemingly have not changed much, when cross-border trafficking and trafficking within countries are taken together.

How can the United States and international community better coordinate peacekeeping, stabilization, and humanitarian assistance programs with anti-trafficking efforts? Traffickers are known to exploit wars, turmoil, and natural disasters to target and enslave victims, especially women and children. This was the case during conflicts in the Balkans and Africa. More recently, there have been reports that child trafficking has increased in countries devastated by the December 26, 2004 Indian Ocean tsunami. Traffickers may be targeting children orphaned or separated from their families. An option for addressing the problem might be to build an anti-trafficking component into peacekeeping and humanitarian assistance operations.

How will efforts to combat human trafficking be affected by resource and personnel allocations to other policy priorities? Since the terrorist attacks on the United States on September 11, 2001, there has been concern that momentum might be lost in the battle to counter human trafficking. The concern has diminished in light of continued Administration and Congressional focus on the problem. However, there is still some question about whether the requirements for homeland security and the war on terrorism might sap financial, law enforcement, and judicial resources from other efforts, including the campaign against human trafficking. Some observers also wonder if the U.S. need for support in the war on terrorism from certain governments will make it more difficult to pressure those governments if their anti-trafficking efforts are inadequate.

What policy instruments work best to achieve international cooperation to combat trafficking? Most agree that extensive international cooperation is required in order to stop international trafficking and that both “carrots” and “sticks” may be needed to influence the policies of other governments, including financial and technical assistance, as well as the threat of sanctions. According to U.S. officials, the threat of sanctions has induced some governments to do more to curb trafficking. In other cases, sanctions have not proven an effective tool. The disinterest and even complicity of some governments in trafficking remains a problem.

Who is eligible for protection as a victim of trafficking? Are the standards of eligibility for benefits as a victim of trafficking the right ones? At present, protection

⁴¹ U.S. Department of State. International Information Programs. *Washington File*, February 26, 2003.

is limited to victims of “severe forms of trafficking”⁴² and victims must prove that they are in the United States as a direct result of trafficking and that they have a well-founded fear of retribution if they are returned to their country of origin. They must be willing and needed to help identify and prosecute their traffickers. Some critics argue that the standards are too high to help many deserving victims. Critics also argue that the line between pure victims and those who have a degree of complicity in being brought to the United States may be difficult to draw. Such distinctions, they argue, will leave some victims unprotected. P.L. 106-386 gives the executive branch some discretion in determining who qualifies.

More broadly, differing perspectives on what constitutes trafficking could make international cooperation more difficult. In the United States, some politicians, religious groups, as well as feminist and other organizations, have campaigned to broaden the definition of trafficking to include all prostitution, whether forced or voluntary, with the prostitutes are always victims, and that traffickers will simply force their victims to claim to be acting voluntarily. However, a number of countries including some western democracies with otherwise strong human rights records have legal and regulated prostitution, believing that the “world’s oldest profession” cannot be stamped out and that a carefully regulated sex industry is the best protection for those involved.

Do current legislation and programs adequately take into account the special needs of trafficked children? Some argue for greater emphasis on the special needs of children who have been trafficked. These include reuniting children with families, in some cases relocation of families, and providing care and education arrangements for child victims who cannot be returned to their families.

Are the links between human trafficking and HIV/AIDS receiving adequate attention? Trafficking victims in the sex industry are exposed to sexually-transmitted diseases, including HIV/AIDS, at much higher rates than the general population. Very often they have no access to medical care. In addition, the fear of infection with HIV/AIDS among customers has driven traffickers to recruit younger girls, erroneously perceived by customers to be too young to have been infected. Some question whether existing legislation, policies, and programs sufficiently address these issues.

⁴² Severe forms of trafficking is defined in Section 3 of the bill as “sex trafficking in which either a commercial sex act or any act or event contributing to such act is effected or induced by force, coercion, fraud or deception or in which the person induced to perform such acts has not attained the age of 18,” as well as “the purchase, sale, recruitment or harboring, transportation, transfer or receipt for the purpose of subjection to involuntary servitude....effected by force, coercion, fraud, or deception.”