

FOCUS

The United States' Effort to Combat Trafficking in Persons

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The State Department heads a sweeping government effort to rescue victims and prosecute traffickers, both in the United States and in other nations.

Modern day slavery is one of the great human rights challenges of our time. The United States is adamant that this form of transnational crime must be prevented and its perpetrators punished. The actions of increasing numbers of nations around the world make it clear they share this commitment.

The keystone of the American government's response to modern day slavery is the Trafficking Victims Protection Act (TVPA), enacted into law in October 2000. The United States recognized at that time that existing laws in this country and others failed to deter trafficking or to punish traffickers sufficiently. The Protection Act requires federal agencies to combat trafficking domestically and to work with other nations to address this problem internationally. On December 16, 2002, President George W. Bush endorsed the goals of the Protection Act by signing National Security Presidential Directive 22, in which he directs federal agencies to "strengthen their collective efforts, capabilities, and coordination to support the policy to combat trafficking in persons."

More specifically, the Protection Act declares trafficking to be a crime and calls on the U.S. government to prosecute and punish traffickers, protect and rehabilitate the victims, and prevent

these criminal activities. U.S. anti-trafficking policies and programs are overseen by the President's Interagency Task Force chaired by the secretary of state and implemented by the Senior Policy Operating Group consisting of high-ranking federal government officials. The task force and the operating group ensure that all aspects of the fight against trafficking are addressed by the appropriate government agencies.

Anti-Trafficking Efforts in the United States

The Departments of Justice, Health and Human Services, and the newly formed Homeland Security have the primary responsibility for fighting traffickers and assisting the victims within the United States. Justice Department attorneys—led by the Criminal Section of the Civil Rights Division—prosecute cases against traffickers and provide training regarding the new anti-trafficking law. Hundreds of victims of severe forms of forced labor and sexual exploitation have been successfully rescued; their traffickers have been prosecuted and convicted through Justice Department efforts.

Even before the passage of the Protection Act, the assistant attorney general for civil rights and the solicitor of the Department of Labor were empowered to establish and co-chair the Trafficking in Persons and Worker Exploitation Task Force that oversaw prosecutions of traffickers under involuntary servitude, peonage, and labor statutes. The Protection Act amended these statutes to make prosecutions more effective and increased the statutory maximum sentences for traffickers. This task force established and maintains a multi-lingual, national, complaint line for trafficking victims.

The Department of Health and Human Services (HHS) is responsible for certifying that a person is a trafficking victim and therefore eligible for temporary housing, legal assistance, educational opportunities, mental health counseling, foster child care, and other benefits. These programs are implemented by states and by dozens of non-government organizations (NGOs) with the assistance of HHS. In some situations, a person may have been identified by law enforcement officials as a potential victim but not yet "certified" by HHS. To help these persons and to gain their assistance in prosecuting traffickers, the Department of Justice

also has extended grants to NGOs to provide similar assistance to victims who are identified by law enforcement but are not yet certified.

Many victims in the United States entered the country without visas or, if they originally possessed visas, are determined to be "out of status" for immigration law purposes, for example, because of illegal activity. Before the passage of the Protection Act, such victims were often subject to deportation. This outdated approach is still the practice of many countries today.

The Protection Act rejected this approach. Instead of treating trafficked persons as illegal migrants subject to deportation, the new law grants victims of trafficking the opportunity to receive a specially created T-visa. They are required to assist in the investigation or prosecution of acts of trafficking. They may be granted permanent residence in the United States if their removal would cause them extreme hardship. Victims are entitled to privacy, physical protection, and other forms of assistance while their cases are investigated and prosecuted.

While each government agency trains its own staff to implement the Protection Act and provide services, much of the direct care and psychological, legal, and physical protection of the victims is provided by NGOs, sometimes with funding from the government. Such care and attention from NGOs is particularly helpful since many of the victims are distrustful of the police and other government officials – especially if they are in the country illegally. NGOs are particularly effective in reinforcing the notion that these people are not to be treated as criminals but as victims.

Anti-Trafficking Efforts Abroad

The Protection Act also directs the administration to work with other governments to protect and assist victims and to fight and prosecute traffickers. The Department of State, Department of Labor (DOL), and the U.S. Agency for International Development (USAID) all work with governments, international organizations, and international NGOs to rescue and support victims of trafficking, to punish traffickers, and to prevent trafficking by helping to educate, train, and assist potential victims to develop economically viable skills. Many NGOs

have extensive experience working with refugees, war victims, and exploited men, women, and children. Some NGOs are religiously affiliated, others are not. They all share the goal of protecting and delivering services to victims.

DOL combats international trafficking through its own programs and through nongovernmental and faith-based organizations. On the international level, DOL works in conjunction with the International Labor Organization's campaign to eliminate child labor in programs now reaching 28 countries. These projects rescue children from trafficking and exploitative work situations, provide them with rehabilitation services and educational opportunities, and provide prevention information.

DOL is also actively engaged in addressing the issue of child soldiers. In May of this year, the Department announced its intention to fund a \$13 million global initiative to help withdraw, rehabilitate, and reintegrate former child soldiers. In addition to its specific work against child labor, DOL's International Technical Cooperation Program mitigates trafficking by addressing the root causes of poverty—unemployment, skill development, and lack of a social safety net.

USAID implements its anti-trafficking programs in more than 30 countries through its overseas missions in partnership with international organizations, non-governmental organizations, and host countries. USAID programs support anti-trafficking efforts through public information and education campaigns. USAID programs provide economic and vocational opportunities for potential or actual trafficking victims and their families, assist victims of trafficking, and help support legislative reform to prosecute traffickers. The agency's ongoing development programs around the world reinforce these specific anti-trafficking efforts by helping to create conditions that lessen the vulnerability of women and children to traffickers, such as poverty reduction, girls' education, and promotion of the rule of law.

The Trafficking Victims Protection Act also authorized establishment of the Office to Monitor and Combat Trafficking in Persons (TIP Office) within the Department of State. Like USAID and DOL, the State Department, particularly through

the TIP Office and embassies abroad, supports international and nongovernmental organizations in the implementation of programs directed at preventing trafficking, prosecuting traffickers, and protecting trafficking victims. These programs are designed to improve anti-trafficking legislation around the world, to train prosecutors and police in the special needs of trafficking victims, and to develop support systems and protective services for victims. Since the passage of the Protection Act, the U.S. Government has invested more than \$100 million in anti-trafficking programs internationally. In addition, the State Department has primary responsibility for diplomatic engagement with other countries to help them become aware of this crime, to encourage cooperation in the fight against trafficking, and to develop full understanding of the importance of this issue to the United States.

The trafficking office is also responsible for publishing the annual Trafficking in Persons (TIP) Report. This report is a formal assessment of other governments' efforts to combat trafficking in persons. The third annual report was released on June 11, 2003 and can be found at www.state.gov/g/tip. The report includes a list of innovative ideas developed by different countries and organizations, some of which are not expensive. For example, when it is appropriate, a law enforcement officer's performance appraisal can be linked to his or her efforts to apprehend and investigate traffickers. Hotels that participate in a program discouraging child prostitution receive an extra "star" in their ratings. Local vigilance committees use chiefs and respected local women to legitimize the importance of enforcing penalties against traffickers.

The major feature of this annual report is the placement of countries on one of three tiers. The tier rankings indicate the degree to which a country's government meets the Protection Act's minimum standards for the elimination of trafficking. Governments of tier 1 countries fully comply, while governments of tier 3 countries do not fully comply and are not making significant efforts to bring themselves into compliance with these minimum standards. This year for the first time, the Protection Act requires that countries listed in tier 3 will be subject to possible sanctions, principally including the withholding of non-humanitarian, nontrade-related assistance. The

three annual reports issued to date demonstrate that the vast majority of governments of countries that face a significant trafficking problem are actively working to combat that problem, though it also shows that all could and should do more. (See a full description of these best practices under Additional Resources in this publication.)

The State Department, with other federal agencies, has strongly supported efforts to set international standards for cooperation against this transnational crime and human rights abuse. These efforts include negotiation of a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the U.N. Convention against Transnational Organized Crime. The United States has signed but not yet ratified this protocol. The State Department also led the negotiation of other related international instruments, including an ILO convention against the worst forms of child labor, and two protocols to the Convention on the Rights of the Child—one against child soldiers and another against child prostitution, child pornography, and the sale of children. The United States has ratified all three of these instruments.

In addition to leading the diplomatic engagement abroad, facilitating international anti-trafficking programs, and producing the Annual Trafficking Report, the trafficking office works to enhance awareness of the issue. The office, along with a coalition of NGOs, organized an international conference in February 2003, entitled "Pathbreaking Strategies in the Global Fight Against Sex Trafficking." Hundreds of attendees from around the world who are addressing the problem on a daily basis came up with numerous wide-reaching recommendations to fight trafficking. Some of their recommendations were:

- Pass comprehensive national anti-trafficking laws that prosecute traffickers and provide for the safety and privacy of the victim, proper

representation in court, access to medical care, social assistance, compensation for damages, and the right to seek and receive residency.

- Establish better cooperation and planning between governments and NGOs through close communications and regular meetings.
- Establish contact points in source, transit, and destination countries so that each country knows exactly whom to contact in emergencies.
- Use existing laws, as well as anti-trafficking legislation, to prosecute traffickers and customers.
- Assign specially trained female officers to anti-trafficking in persons units and hot lines.
- Provide awareness training to young men on gender issues. Training should be by peers teaching from their experience, and should include former victims when possible and appropriate.
- Allow the free expression of religion. Organizations of all faiths should be permitted to provide services to victims regardless of the beneficiaries' religious backgrounds.

These goals and ideas came from experienced lawyers, legislators, jurists, journalists, social workers, medical personnel, and survivors. They represent the efforts individuals and governments and private organizations are making in the constant fight against trafficking.

It is a difficult struggle even for a country with the resources of the United States, but our determination to fight this modern day slavery is strong and we will continue to work with other nations in this effort.