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Trafficking in Persons: U.S. Policy and Issues for Congress

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Trafficking in Persons: U.S. Policy and Issues for Congress

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, roughly 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 some 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 a leading source of profits for organized crime syndicates, together with drugs and weapons, generating billions of dollars. Trafficking in persons affects virtually every country in the world.

Since enactment of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), the Administration and Congress have aimed to address the human trafficking problem. The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA), which President Bush signed into law on January 10, 2006 (P.L. 109-164), authorized appropriations for FY2006 and FY2007.

The State Department issued its seventh congressionally mandated Trafficking in Persons (TIP) Report on June 12, 2007. Each report categorizes countries into four tiers according to the government's efforts to combat trafficking. Those countries that do not cooperate in the fight against trafficking (Tier 3) have been made subject to U.S. sanctions since 2003. Sixteen countries were placed on Tier 3 in the 2007 report. On October 18, 2007, President Bush imposed new trafficking in persons related sanctions on Burma, Cuba, Iran, North Korea, Syria, and Venezuela.

In the 110th Congress, there are several bills with trafficking-related provisions. The Implementing the 9/11 Commission Recommendations Act of 2007 (P.L. 110-53) directs the Secretary of Homeland Security to provide specified funding and administrative support to strengthen the Human Smuggling and Trafficking Center. H.R. 3887 (Lantos), approved by the House on December 4, 2007 by a vote of 405-2, would, among other provisions, reauthorize anti-trafficking programs through FY2011, and amend the criminal code and immigration law related to trafficking. It is likely to be considered by the Senate early in the second session of the 110th Congress. Another bill, H.R. 2522 (Lewis), would establish a Commission to evaluate the effectiveness of current U.S. anti-slavery efforts, including anti-trafficking in persons programs, and make recommendations. S. 1703 (Durbin), approved by the Senate Judiciary Committee on September 20, 2007, would create additional jurisdiction in U.S. courts for trafficking offenses occurring in other countries. This report will be updated periodically to reflect major developments.

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Trafficking in Persons: U.S. Policy and Issues for Congress

Background

Trafficking in persons for forced labor or sexual exploitation is both an international and domestic crime and a major human rights violation. In 2006, the Federal Bureau of Investigations (FBI) estimated that human trafficking generates approximately \$9.5 billion annually for organized crime.¹ Human trafficking is of great concern to the United States and the international community. Anti-trafficking in persons (anti-TIP) efforts have accelerated in the United States since the enactment of the Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) and internationally since the passage of the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, adopted in 2000. Congress is continuously re-evaluating the efficacy of U.S. anti-trafficking laws and programs, and since 2000 has passed several anti-trafficking statutes. (For a discussion of these statutes, see **Appendix A.**)

This report focuses on human trafficking both internationally and within the United States. The report begins with an overview of human trafficking including a discussion of the definition of human trafficking, the scope of the problem, and an examination of the victims. It follows with an analysis of the international aspects of human trafficking, examining regional trends and global anti-trafficking efforts by the United States and the international community. The report then focuses on trafficking into and within the United States, examining relief for trafficking victims in the United States and discussing U.S. law enforcement efforts to combat domestic trafficking. The report concludes with an overview of anti-trafficking legislation in the 110th Congress, and an analysis of policy issues related to human trafficking.

Definitions

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.”² The United Nations defines human trafficking as the “recruitment, transportation, transfer,

¹ This figure was cited in the U.S. Department of State, *Trafficking in Persons Report, 2006*, June 5, 2006. [<http://www.state.gov/g/tip/rls/tiprpt/2006>].

² *Victims of Trafficking and Violence Protection Act of 2000* (P.L.106-386).

harboring, or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud or deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude, or the removal of organs.”³ Others have put forward slightly different definitions.⁴ 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 and Alien Smuggling

In 2000, the United Nations drafted two protocols, known as the Palermo Protocols, to address trafficking in persons and human smuggling.⁵ Trafficking in persons is often confused with alien or human smuggling. Alien smuggling involves the provision of a service, generally procurement or transport, to people who knowingly consent to that service in order to gain illegal entry into a foreign country. It ends with the arrival of the migrant at their destination. The Trafficking Protocol considers people who have been trafficked, who are assumed to be primarily women and children, as “victims” who are entitled to protection and a broad range of social services from governments. In contrast, the Smuggling Protocol considers people who have been smuggled as willing participants in a criminal activity who should be given “humane treatment and full protection of their rights” while being returned to their country of origin.⁶

Some observers contend that smuggling is a “crime against the state” and that smuggled migrants should be immediately deported, while trafficking is a “crime against a person” whose victims deserve to be given government assistance and protection.⁷ The Department of Justice asserts that the existence of “force, fraud, or coercion” is what distinguishes trafficking from human smuggling.⁸ Under U.S. immigration law, a trafficked alien is a victim, while an alien who consents to be

³ United Nations. Office on Drugs and Crime (UNODC), *Trafficking in Persons: Global Patterns*. April 2006, p. 50.

⁴ Some U.S. officials, politicians, religious groups, and non-governmental 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.

⁵ The United Nations Convention Against Organized Crime and Its Protocols, available at [http://www.unodc.org/unodc/en/crime_cicp_convention.html].

⁶ *Ibid.*

⁷ Statement by Claire Antonelli of Global Rights, Center for Strategic and International Studies Event on Human Trafficking in Latin America, July 9, 2004.

⁸ U.S. Department of Justice, Human Smuggling and Trafficking Center, “Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking,” January 2005.

smuggled may be subject to criminal prosecution and deportation. Others maintain that there are few clear-cut distinctions between trafficking and smuggling cases and that many people who are considered “smuggled” should actually be viewed as trafficking victims. They argue that as immigration and border restrictions have tightened, smuggling costs have increased and migration routes have become more dangerous. Some smugglers have sold undocumented migrants into situations of forced labor or prostitution in order to recover their costs.⁹

Scope of the Problem

Trafficking in persons is considered to be one of the leading criminal enterprises of the early 21st Century, affecting every country around the globe, according to the United Nations Office of Drugs and Crime (UNODC).¹⁰ 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. The overwhelming majority of those trafficked are women and children. The International Labor Organization (ILO) estimates that there are some 12.3 million victims of forced labor at any given time. Of those, some 2.4 million people have been trafficked.¹¹ It should be noted that the accuracy of these and other estimates have been questioned. The U.S. Government Accountability Office (GAO) released a report in 2006 casting doubt on the methodology and reliability of official U.S. government figures. It concluded that the “U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various government agencies.”¹² Figures provided by other international organizations are unlikely to be any more accurate.

Generally, the trafficking flows from less developed countries to industrialized nations, including the United States, or toward neighboring countries with marginally higher standards of living. 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 source of trafficking for prostitution and the sex industry. 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. The ILO estimates that trafficking is the main route into forced labor for victims in Western Europe and North America, the former Soviet countries, and in the Middle East and North Africa.¹³ Victims, particularly those forced to work in the

⁹ Ann Jordan, “Human Trafficking and Globalization,” Center for American Progress, October 2004; “Mexico-U.S.-Caribbean: Tighter Borders Spur People Traffickers,” *Latin America Weekly Report*, April 11, 2006.

¹⁰ UNODC, *Trafficking in Persons: Global Patterns*, April 2006.

¹¹ International Labor Organization (ILO), “A Global Alliance Against Forced Labor,” 2005.

¹² U.S. Government Accountability Office, “Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad,” July 2006, p. 3. (GAO-06-825).

¹³ ILO, 2005.

commercial sex industry, 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 in the last decade or so are believed to be 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.¹⁴
- 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 trafficking.
- The high demand, worldwide, for women and children to work as sex workers, sweatshop labor, and domestic servants.¹⁵
- The increasing restrictions on legal immigration to many destination countries — including the United States and Western Europe — has caused many migrants to turn to alien smugglers and even human traffickers, despite the associated risks involved.¹⁶
- The tendency to treat trafficking victims as criminals has made many victims reluctant to cooperate with law enforcement. When police raid brothels, women are sometimes detained and punished. In some countries, they are swiftly deported. Few steps have been taken to provide TIP victims with support, healthcare, and access to justice. Many TIP victims are reluctant to testify against the traffickers or

¹⁴ United Nations Development Fund for Women (UNIFEM), “Trafficking in Persons, A Gender & Rights Perspective Briefing Kit,” 2002.

¹⁵ UNODC, April 2006, p. 38.

¹⁶ Terry Coonan and Robin Thompson, “Ancient Evil, Modern Face: The Fight Against Human Trafficking,” *Georgetown Journal of International Affairs*, Winter 2005.

those who hold them, fearing retribution since most governments do not offer adequate protection for witnesses.¹⁷

- The inadequacy of laws and law enforcement in some origin, transit, and destination countries hampers efforts to fight trafficking. Penalties for trafficking humans for sexual exploitation are often relatively minor compared with those for other criminal activities like drug and gun trafficking.
- The disinterest and in some cases even complicity of governments is another major problem, according to State Department officials.¹⁸ Some 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. Many countries still have no specific laws aimed at trafficking in persons.

Traffickers and Their Victims

Chinese, Asian, Mexican, Central American, Russian and other former Soviet Union gangs are among the major traffickers of people.¹⁹ 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.²⁰ 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 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 and on the internet. 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.

¹⁷ Janie Chuang, “Beyond a Snapshot: Preventing Human Trafficking in the Global Economy,” *Indiana Journal of Global Legal Studies*, 13, 1, Winter 2006.

¹⁸ Ambassador Mark P. Lagon, Director, State Department Office to Monitor and Combat Trafficking in Persons (G-TIP), Remarks at “Human Trafficking and Freedom Event,” December 3, 2007, available at [<http://www.state.gov/g/tip/rls/rm/07/96171.htm>].

¹⁹ For sources on organized crime and trafficking, see Mohamed Mattar, “Trafficking in Persons: An Annotated Bibliography,” 2004, available at [http://aallnet.org/products/pub_llj_v96n04/2004-47.pdf].

²⁰ See UNODC, April 2006, pp. 57-80.

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. In Latin America, for example, research indicates that children tend to be trafficked within their own countries, while women between the ages of 18 and 30 are often trafficked internationally, sometimes with the consent of their husbands or other family members.²¹ The fear of infection with HIV and AIDS among customers has driven traffickers to recruit younger women and girls, 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/AIDS. They are often denied medical care and those who become ill are sometimes even killed.

Regional Trends²²

The largest number of victims trafficked internationally are believed to come from Asia. Many women and children trafficked to work in the commercial sex industry (i.e. prostitution) also originate from the former Soviet Union and southeastern Europe. In recent years, Latin America and the Caribbean and Africa have also become major source regions. Most victims are sent to Asia, the Middle East, Western Europe and North America. Victims have traditionally ended up in large cities, vacation and tourist areas, or near military bases, where the demand for sex workers is highest, but, more recently, are also ending up in smaller cities and even rural areas. In addition to the sex industry, victims are trafficked to work in seasonal agriculture, manufacturing, particularly the garment industry, and domestic service.

Asia and the Pacific

Asia remains a major source and destination region for victims of trafficking. Among the major countries of origin are China, Thailand, Bangladesh, Cambodia, India, Laos, Burma, Nepal, Pakistan, the Philippines, and Vietnam. Thailand is both a major source and destination country. Japan, Israel, and Turkey are significant

²¹ Laura Langberg, "A Review of Recent OAS Research on Human Trafficking in the Latin American and Caribbean Region," in *Data and Research on Human Trafficking: A Global Survey*, International Organization for Migration (IOM), 2005.

²² 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 report because their accuracy is uncertain and the numbers presented by different sources are dated and cannot be reconciled with new global estimates.

destination countries for victims trafficked from Southeast Asia and the Commonwealth of Independent States (CIS).²³

The largest source region of trafficking victims is Southeast Asia, 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” from Europe, North America, Japan, and Australia. 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 non-governmental organizations (NGOs), hundreds of thousands of foreign women and children have been sold into the Thai sex industry 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 are also sent to Western Europe, the United States, Australia, and the Middle East.

South Asia is also a primary source region for trafficking victims according to the State Department. Bangladesh and Nepal, the poorest countries in the region, are the main source countries. India and Pakistan are key destination countries. Thousands of Nepali and Bangladeshi girls and young women are lured or abducted to India for sexual exploitation each year, according to the United Nations. The Asian Development Bank estimates that the total number of Nepali working as prostitutes in India is probably 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 Nepali 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.

Landlessness, extreme poverty, a lack of access to education and jobs, and vulnerability to natural calamities fuel internal human trafficking in many countries in the region. For example, unconfirmed reports have indicated that child trafficking increased in countries devastated by natural disasters such as the December 26, 2004 Indian Ocean tsunami. Sex tourism and unregulated labor migration also contribute to the problem. Migrant workers, particularly poor and uneducated women and children traveling alone, are also vulnerable to trafficking in persons. At the same time, prejudices against certain castes and/or social groups and gender inequalities make some more vulnerable to trafficking than others. Human trafficking is reportedly fueling the spread of HIV/AIDs in some parts of South Asia. Anti-TIP NGOs in India are reporting that one out of three trafficking victims rescued from the commercial sex industry are testing HIV-positive.²⁴

²³ UNODC, April 2006, p.88, 89, and 103.

²⁴ “Human Trafficking and HIV,” United Nations Development Program (UNDP), August (continued...)

Australia has been a prime source of sex tourists in Asia but is also one of the countries that has done the most to end the practice. The Australian government has developed stringent laws that give authorities extraterritorial jurisdiction over crimes committed abroad by Australian citizens.²⁵ 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.

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, Belarus, Moldova, and several central and southeastern European countries, especially Albania, Bulgaria, Romania, and Lithuania. The main destination countries are Belgium, Germany, Greece, Italy, and the Netherlands.²⁶ 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). In addition, several Central and East European countries are reported to be source, receiving, and transit countries.

Since the economic and political turmoil after the collapse of the Soviet Union, trafficking from the region has escalated into a major international concern. Most Russian and Eastern European victims are believed to be sent to Western European countries. A substantial number are also sent to the Middle East and the Far East. Others wind up in the United States or Canada.²⁷ During the conflicts in Bosnia and Kosovo, traffickers found new opportunities 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 smuggled thousands of Kosovo women into Italy by boat for the sex trade.

Europe also includes source, destination, and transit countries for forced labor trafficking. According to the 2007 State Department TIP Report, victims of labor trafficking primarily originate from countries in Eastern Europe and Central Asia, with some additional victims originating from Latin America, Africa, and South Asia. Western Europe, Russia, and Central Asia are primary destinations for labor trafficking. Adult males are the predominant victims of labor trafficking involving the construction, agriculture, and maritime industries, as well as other work involving manual labor. Children and boys — especially Romanis — are common victims of labor trafficking involving forced begging and petty theft. Men, women, and children are victims of forced labor in restaurants and bars, as well as for domestic and involuntary servitude. In general, however, trafficking for the purposes of forced

²⁴ (...continued)
2007.

²⁵ Marianna Brungs, "Abolishing Child Sex Tourism: Australia's Contribution," *Australian Journal of Human Rights*, n.17, 2002.

²⁶ UNODC, *Trafficking in Persons: Global Patterns*, April 2006, p.90-95 and 103-104.

²⁷ Ibid.

labor in European countries tends to be less common than trafficking for the purposes of commercial sexual exploitation.

Middle East

The sexual exploitation of women and children in the Middle East usually involves the importation of women from other regions. Women and children, mostly from Asia (Thailand, the Philippines, Indonesia), are trafficked as domestics, prostitutes, or brides to the Middle East (Saudi Arabia, The United Arab Emirates). Domestic workers are not protected under labor laws in many countries of the Middle East and North Africa, making them especially vulnerable to abuse.²⁸ Some countries do little to punish traffickers. At the same time trafficked women in the region risk being punished for illegal prostitution. Women from the former Soviet Republics have been sent to Israel by organized criminal groups where they are then forced to work in the sex industry.

Israel, Jordan, Qatar and other countries in the region are destination points for low-skilled workers, both male and female, from South and Southeast Asia who migrate willingly to work in construction, agriculture, or healthcare, but are then trafficked into forced labor.

In recent years, there has been increasing concern about the plight of children trafficked from countries like Bangladesh, Pakistan, and the Sudan to work in the Persian Gulf States' camel jockeying industry. The State Department has reported that thousands of children as young as two years of age have been recruited to work as jockeys. Many have experienced physical and mental abuse and have been purposefully starved in order to stunt their growth.²⁹

Latin America and the Caribbean³⁰

Countries of Latin America and the Caribbean are reported primarily to be source countries for trafficking victims, although many also serve as transit and destination countries. The largest number of victims are trafficked from Brazil, Colombia, the Dominican Republic, Guatemala, and Mexico. The principal destinations are North America and Europe.³¹ 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. Brazil in particular has a major child prostitution

²⁸ ILO, 2005.

²⁹ U.S. Department of State, G-TIP, "The Facts About Children Forced to Work as Camel Jockeys," Fact Sheet, August 8, 2005.

³⁰ See CRS Report RL33200, *Trafficking in Persons in Latin America and the Caribbean*, by Clare Ribando Seelke.

³¹ UNODC, *Trafficking in Persons: Global Patterns*, April 2006, p.96-98 and 104.

problem.³² The Central American countries and Mexico are transit countries for trafficking to the United States, including victims brought from China and other countries. 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. Favored sex tourism destinations are Brazil, Argentina, the Dominican Republic, Mexico, Honduras, Costa Rica, Trinidad and Tobago.

Although it tends to be under-reported, trafficking for forced labor is also a major problem in Latin America. Trafficking for forced labor has occurred in the pig iron industry in Brazil, the mahogany and gold-mining industries in Peru, the mines of Bolivia, and the sugarcane fields of the Dominican Republic. Recent concerns have emerged about instances of forced labor on some sugarcane-ethanol properties in Brazil, especially in the northeast region of the country. Children are also trafficked both internally and across international borders for use as domestic servants. Moreover, increasing numbers of Latin Americans are ending up in situations of forced labor after migrating to Europe or the United States.

Africa

Africa is a source region for individuals trafficked into prostitution and forced labor, especially for individuals trafficked to Western Europe and the Middle East. Wars and civil strife in some countries, as well as the indifference of some governments, increase the likelihood that African populations may become victims of trafficking. Other “push” factors contributing to trafficking in Africa include societal subordination of women and a lack of economic and educational opportunities for women and girls. Traffickers tend to target women who have been left vulnerable by widowhood, divorce, separation, or abandonment.³³ Most African women trafficked overseas are believed to come from Nigeria, Benin, and Ghana. In West Africa, relatively porous borders, established criminal networks, corrupt government officials, and the absence of effective anti-trafficking legislation in many countries allow traffickers to act with relatively little risk of getting caught or punished for their actions.³⁴ Across the subcontinent, traffickers prey on the large number of poor children who lack identity documents and/or who have been orphaned by HIV/AIDS, armed conflicts, or disasters.³⁵ East African children, particularly from the Sudan, are trafficked to the Persian Gulf states to serve as jockeys in the camel racing industry.

³² [<http://www.state.gov/g/tip/rls/tiprpt/2006/>]

³³ United Nations Children’s Fund (UNICEF) Innocenti Research Center, “Trafficking in Human Beings, Especially Women and Children, in Africa,” Florence, Italy, 2003.

³⁴ UNODC, “Measures to Combat Trafficking in Human Beings in Benin, Nigeria, and Togo,” September 2006.

³⁵ U.S. Agency for International Development (USAID), “USAID Anti-Trafficking in Persons Programs in Africa: A Review,” April 2007.

Within the region, victims from other African countries are trafficked to Egypt, Gabon, the Ivory Coast, Nigeria, and South Africa, among other locations.³⁶ Trafficking into the commercial sex industry has been fueled by a demand from foreign tourists visiting resorts in Malawi, Kenya, Tanzania, and Uganda, as well as from international peacekeepers serving in the Democratic Republic of the Congo (DRC).³⁷ Young girls are also trafficked to other parts of the continent to serve as brides for migrant workers, with an ever-increasing demand for younger, virgin brides due to concerns about HIV/AIDS infection.³⁸ Victims of trafficking for commercial sexual exploitation often suffer psychological trauma, health issues resulting from physical and sexual assault (unwanted pregnancies, HIV/AIDS, and other sexually transmitted diseases), and stigma and rejection by their families and communities.³⁹

According to the United Nations, evidence suggests that trafficking into forced labor is more common in Angola, Cameroon, Chad, Congo (DRC), Equatorial Guinea, and Gabon than in other countries in the region.⁴⁰ Workers who migrate in search of work are often not informed of their rights and are often taken advantage of by unscrupulous labor recruiters. Some of those laborers become trapped in situations of debt bondage or involuntary servitude. Trafficking in children for labor is a specific concern in a number of African countries where children are trafficked to work as domestic servants, ambulant beggars, agricultural laborers, herders, and to work in mines and sweatshops. The forcible recruitment of child soldiers in several countries affected by armed conflict is also a major problem.

U.S. Funding for Global Anti-Trafficking Programs

The U.S. government supports many types of anti-trafficking (anti-TIP) initiatives overseas and domestically. U.S. anti-trafficking activities are authorized by the Trafficking Victims Protection Act (TVPA) of 2000 (P.L. 106-386), as amended. For a list of authorizations for all overseas and domestic anti-trafficking activities, see **Table 2 in Appendix B**. Since many U.S. government agencies do not have a line item in their budget requests for trafficking programs and/or TIP-related operations, it is often difficult to calculate exact levels of funding that have been appropriated by Congress to each agency for trafficking activities (programs and operations/law enforcement activities). See **Appendix B** for a more detailed discussion of TIP funding issues. Due to the methodological difficulties involved in calculating TIP appropriations and the fact that a large portion of TIP programs are supported by Economic Support Funds, which are appropriated to remain available for two years, the State Department calculates TIP program obligations by agency per

³⁶ Ibid; UNODC, *Trafficking in Persons: Global Patterns*, April 2006, p.85-87, and 102.

³⁷ UNICEF Innocenti Research Center, 2003.

³⁸ Ibid.

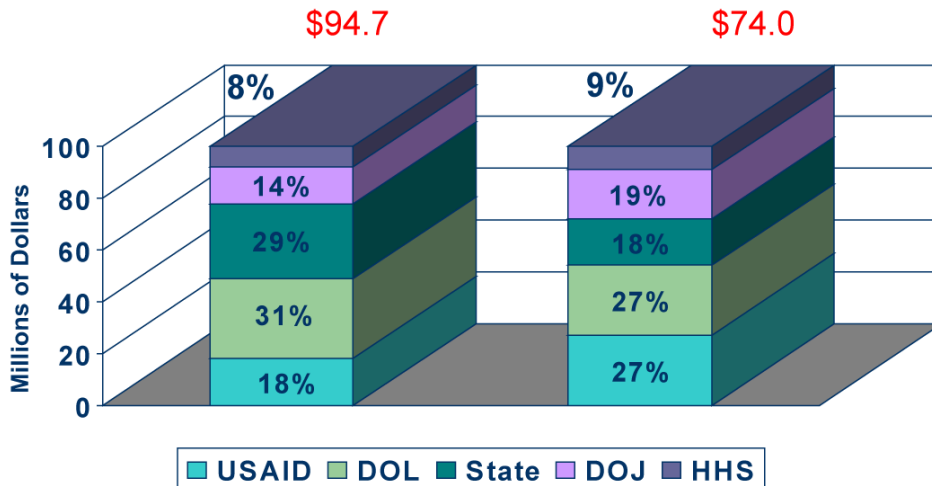
³⁹ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (G-TIP), Fact Sheet, "Health Consequences of Trafficking in Persons," August 8, 2007.

⁴⁰ UNODC, April 2006.

fiscal year. According to G-TIP, this generates the best estimate of the amount of funding spent on TIP programs by agency for each fiscal year. In FY2006, the U.S. government obligated an estimated \$74 million in anti-trafficking assistance to foreign governments, down from \$94.7 million in FY2005. Those totals are compared to roughly \$28.6 million obligated in FY2006 and \$25.2 million obligated in FY2005 for domestic anti-TIP programs. They do not include the costs of administering TIP operations or law enforcement investigations.⁴¹

U.S. funding for global anti-TIP activities supports roughly 154 global and regional anti-trafficking programs in 70 countries. The majority of U.S. anti-TIP programs are either regional, or aimed at helping countries resolve specific challenges they have had in addressing human trafficking. As authorized by TVPA, U.S. anti-TIP programs are coordinated at the cabinet-level by the President’s Interagency Task Force (PITF), which is chaired by the Secretary of State. The PITF meets annually to coordinate broad U.S. anti-TIP policy. There is also an inter-agency Senior Policy Operating Group (SPOG) that meets quarterly to carry out PITF initiatives and to discuss TIP policy issues.

Figure 1. Global Anti-TIP Obligations by Agency, FY2005 and FY2006



Source: G-TIP Fact Sheets, available at [<http://www.state.gov/g/tip/c12606.htm>]. FY2007 figures are not yet available.

Figure 1 depicts global anti-TIP obligations by agency for FY2005 and FY2006. While some U.S. funding supports the anti-TIP efforts of the UN and other international organizations, the bulk of U.S. anti-trafficking programs abroad is administered by the State Department, the U.S. Agency for International Development (USAID), and the Department of Labor (DOL). Within the State Department, the Bureau of Population, Refugees, and Migration (PRM) funds programs focused on victim’s assistance, return, and reintegration. The Office to

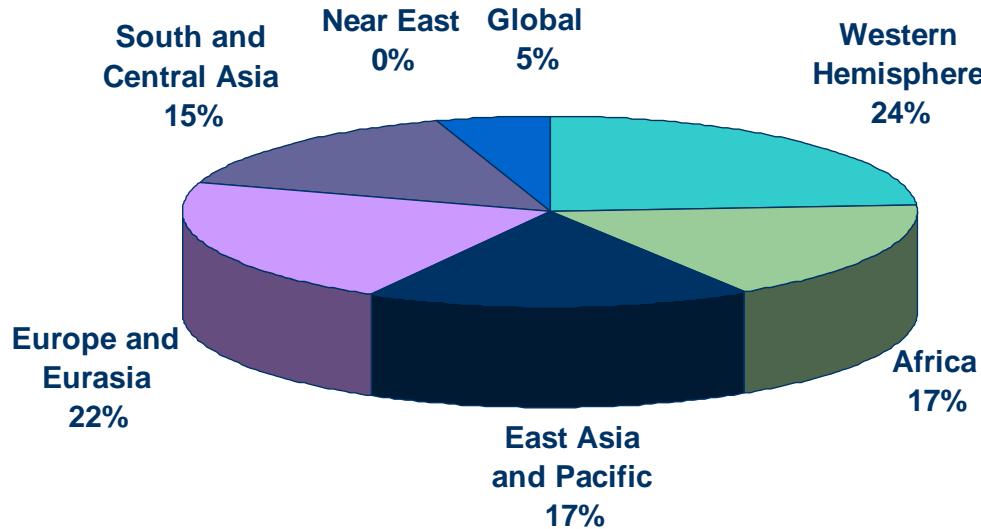
⁴¹ “U.S. Government Anti-Trafficking in Persons Obligated Project Funding (FY2006),” G-TIP Fact Sheet, April 23, 2007, [<http://www.state.gov/g/tip/rls/fs/07/83371.htm>]. FY2007 obligations by agency should be available by April 2008.

Monitor and Combat Trafficking in Persons (G-TIP) and the Bureau of Europe and Eurasian Affairs support prevention and public awareness campaigns, victim's assistance programs, and anti-TIP law enforcement programs. G-TIP and the Bureau of Education and Cultural Exchanges (ECA) also sponsor TIP-related research and exchange programs. USAID has supported prevention programs that include education and income generation for potential victims, protection programs, including training and support for local victim services providers, and anti-TIP training for police, prosecutors, and judges. The Department of Labor's Bureau of International Labor Affairs (ILAB) supports programs that focus on providing assistance to child victims of trafficking and preventing trafficking and forced labor through policy and legislative reform, public awareness campaigns, and capacity-building for governments and service providers. The Departments of Homeland Security (DHS) and the Department of Justice (DOJ)'s International Criminal Training Assistance Program (ICITAP) also provide some anti-TIP training to law enforcement and judicial officials overseas.

U.S. anti-trafficking policy has long emphasized prevention, protection, and prosecution ("the 3 Ps"). Prevention programs have combined public awareness and education campaigns with education and employment opportunities for those at-risk of trafficking, particularly women and girls. Protection programs have involved direct support for shelters, as well as training of local service providers, public officials, and religious groups. Programs to improve the prosecution rates of traffickers have helped countries draft or amend existing anti-TIP laws, as well as provided training for law enforcement and judiciaries to enforce those laws. U.S. policy has recently placed a new, more "victim-centered" focus on rescue, rehabilitation, and reintegration (what it calls the "3 Rs"). It has also emphasized the importance of combating forced labor among foreign migrant workers in destination countries, as well as addressing the public health consequences of human trafficking.

The countries with the largest numbers of programs obligated in recent years include several of the countries selected in 2004 by President George W. Bush as eligible to receive a combined total of \$50 million in strategic anti-trafficking in persons assistance.⁴² The President chose countries based on the severity of their trafficking programs, as well as their willingness to cooperate with U.S. agencies to combat the problem. They include Brazil, Cambodia, India, Indonesia, Mexico, Moldova, Sierra Leone, and Tanzania. As a result of this initiative, U.S. anti-TIP assistance to foreign governments spiked in FY2004 and FY2005, but is now on a downward trajectory.

⁴² The \$50 million consists of projects, the bulk of which were obligated in FY2004 and FY2005, that were approved by an inter-agency Senior Policy Operating Group (SPOG) on human trafficking and the Deputy Secretary of State for each region. Funding for the President's initiative came from channeling funds from existing aid programs to the countries identified to participate in the initiative. The funds came from roughly \$25 million in FY2003 Child Survival and Health monies, \$12.5 million in FY2004 Economic Support Funds, and \$12.5 million in FY2005 Economic Support Funds.

Figure 2. FY2006 Global Anti-TIP Obligations, Regional Distribution

Source: G-TIP, available at [<http://www.state.gov/g/tip/c12606.htm>].

FY2007 estimated allocations for anti-TIP programs and the FY2008 request for all relevant agencies are not yet available, but the Administration has requested some \$30.7 million for trafficking and migrant smuggling programs to be carried out by the State Department and USAID in FY2008.

Trafficking in Persons (TIP) Report

The Trafficking in Persons Report, 2007

On June 12, 2007, the State Department issued its seventh annual report on human trafficking 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.⁴³ The 2007 TIP report is more comprehensive than in previous years, focusing on 164 countries, up from 158 in 2006. In addition

⁴³ 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 of 2003 and now calls for consideration of ten criteria.

to the 151 countries that are ranked, the report discusses trafficking in 13 “special case” countries where sufficient information was not available to provide a ranking.⁴⁴

The 2007 report highlights how the U.S. and international campaign against human trafficking has begun to show results. What had been perceived by many as 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, including 21 in the 2006 reporting period. Some 3,160 traffickers were convicted worldwide in 2006.

2007 Country Rankings. In the report, countries are ranked in four groups:

Tier 1 is made up of countries deemed by the State Department to have a serious trafficking problem but fully complying with the statute’s minimum standards for eliminating trafficking. Twenty-eight countries are included. Four countries were moved up from Tier 2 to Tier 1, including the Czech Republic, Georgia, Hungary, and Slovenia. Ireland and Singapore were moved down to Tier 2 from Tier 1.⁴⁵

Tier 2, as in past years, includes the largest number of countries, 75 in 2007, (down from 79 in 2006), 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.” Of these, two moved down from Tier 1, one was previously unranked, eight moved up to Tier 2, and the rest remained the same as last year.⁴⁶

Tier 2 Watch List was first added as a category in the 2004 report. In 2007, it is made up of 32 countries that are on the border between Tier 2 and Tier 3 (the same number as in 2006). P.L. 108-193 requires that the Department of State issue an interim report on how these countries are performing by February 2008 in advance of the 2007 TIP report. Thirteen countries were moved down to the Watch List and two were previously unranked.⁴⁷

⁴⁴ Special case countries include Bahamas, Barbados, Brunei, Haiti, Iraq, Ireland, Kiribati, Lesotho, Solomon Islands, Somalia, Swaziland, Tunisia, and Turkmenistan.

⁴⁵ Tier 1 includes Australia, Austria, Belgium, Canada, Colombia, Czech Republic, Denmark, Finland, France, Georgia, Germany, Hong Kong, Hungary, Italy, Lithuania, Luxembourg, Malawi, Morocco, the Netherlands, New Zealand, Norway, Poland, Slovenia, Spain, South Korea, Sweden, Switzerland, and the United Kingdom.

⁴⁶ Tier 2 includes Afghanistan, Albania, Angola, Azerbaijan, Bangladesh, Belize, Benin, Bolivia, Bosnia-Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Chile, Congo (DRC), Costa Rica, Cote D’Ivoire, Croatia, East Timor, Ecuador, El Salvador, Estonia, Ethiopia, Gabon, Ghana, Greece, Guinea, Guinea-Bissau, Indonesia, Israel, Jamaica, Japan, Jordan, Kyrgyz Republic, Laos, Latvia, Lebanon, Liberia, Macedonia, Madagascar, Mali, Malta, Mauritius, Mongolia, Montenegro, Nepal, Nicaragua, Niger, Nigeria, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Romania, Senegal, Serbia, Sierra Leone, Singapore, Slovak Republic, Suriname, Taiwan, Tajikistan, Tanzania, Thailand, Togo, Turkey, Uganda, Uruguay, Vietnam, Yemen, Zambia, Zimbabwe, and Rwanda.

⁴⁷ The Tier 2 Watch List of countries include Argentina, Armenia, Belarus, Burundi, (continued...)

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 group includes a total of 16 countries (up from 12 in 2006). Countries new to Tier 3 in 2007 include Algeria, Bahrain, Equatorial Guinea, Kuwait, Malaysia, Oman, and Qatar.⁴⁸

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 13 countries.⁴⁹

Focus on Forced Labor Issues. As in the past two TIP reports, the 2007 report draws special attention to the issue of trafficking for forced labor, with sections on trafficking for involuntary domestic servitude and trafficking of migrant laborers. The report contends that many destination countries have “sponsorship laws” giving employers a large degree of personal control over their workers, which has led to serious rights abuses. Many destination countries in the Near East are ranked on the Tier 2 Watch-List or on Tier 3 in the report for failing to address the problem of trafficking for forced labor. Whereas previous TIP reports have put most of the onus for combating forced labor on destination countries, the 2007 report also discusses the obligations of source countries to protect the well-being of their citizens who work abroad. It urges source countries to ensure that recruitment fees charged by employment agencies advertising jobs abroad are kept at reasonable levels in order to prevent debt bondage. It also says that source countries should negotiate agreements with destination countries to guarantee the safety and well-being of their citizen’s rights while working abroad.

The 2007 report discusses some specific forms of trafficking, including forced labor on the high seas, trafficking of East Asian women through brokered marriages, debt bondage among prostitutes in Europe, and child soldiering. One of those sections, while acknowledging the rise of child sex tourism (CST) and child pornography, also provides some positive examples of how governments, NGOs, and the private sector are successfully working together to combat the problem. For example, the report highlights how internet service providers have worked with law enforcement officials to shut down CST chat rooms, and travel and tourism providers have signed a code of conduct for protecting children from sexual exploitation. In contrast, the report shows how the cocoa industry has postponed the date by which it will respond to congressional pressure and consumer demands that it develop a

⁴⁷ (...continued)

Cambodia, Central African Republic Chad, China (PRC), Cyprus, Djibouti, Dominican Republic, Egypt, Fiji, Gambia, Guatemala, Guyana, Honduras, India, Kazakhstan, Kenya, Libya, Macau, Mauritania, Mexico, Moldova, Mozambique, Papua New Guinea, Russia, South Africa, Sri Lanka, Ukraine, and the United Arab Emirates.

⁴⁸ Tier 3 countries include Algeria, Bahrain, Burma, Cuba, Equatorial Guinea, Iran, Kuwait, Malaysia, North Korea, Oman, Qatar, Saudi Arabia, Sudan, Syria, Uzbekistan, and Venezuela.

⁴⁹ Special case countries include Bahamas, Barbados, Brunei, Haiti, Iraq, Ireland, Kiribati, Lesotho, Solomon Islands, Somalia, Swaziland, Tunisia, and Turkmenistan.

certification system to ensure that cocoa products made in West Africa do not abuse child labor until July 2008.

Results from the 2007 TIP Ranking and Sanctions Process. P.L. 106-386 subjects to sanctions those countries listed in Tier 3, including termination of non-humanitarian, non-trade-related assistance and loss of U.S. support for loans from international financial institutions. Sanctions are to be imposed if such countries have not improved their performance within 90 days from the release of the report.

On October 18, 2007, President Bush issued his determination on sanctions for TIP Report Tier 3 countries.⁵⁰ He decided to impose sanctions on Burma, Cuba, Iran, North Korea, Syria, and Venezuela. He waived all trafficking-related sanctions with regard to Algeria, Bahrain, Malaysia, Oman, Qatar, Saudi Arabia, Sudan, and Uzbekistan on national interest grounds. He indicated that Equatorial Guinea and Kuwait would not be made subject to sanctions because of positive actions taken by their governments since release of the 2006 TIP Report.

The International Response

Although trafficking in persons is not a new phenomenon, it did not become a major human rights issue of concern until the 1990s. In 1995, 189 countries participating in the Fourth World Conference on Women in Beijing adopted a Plan for Action that included eliminating trafficking in women as a shared goal. The Plan also set out actions for governments to take in order to combat TIP and other forms of violence against women. As the decade progressed, the trafficking of women for sexual exploitation began to be seen as both a form of discrimination against women and as a major human rights violation.⁵¹

U.N. Protocol to Prevent, Suppress, and Punish TIP

Members of 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 Protocol on Trafficking commits countries to take law

⁵⁰ Presidential Determination with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons, October 18, 2007. [<http://www.state.gov/g/tip/rls/prsr/07/93704.htm>].

⁵¹ United Nations General Assembly, "In-Depth Study on All Forms of Violence Against Women," July 6, 2006.

enforcement actions against traffickers, to provide some assistance and protection for TIP victims, and to share intelligence and increase border security cooperation with other countries. 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, 115 countries are party to the Protocol. The United States signed the U.N. Smuggling Protocol in December 2000 and became party to the Protocol on November 3, 2005. Some 106 countries are party to the Smuggling Protocol.

Other Relevant International Agreements

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 the United States in December 1999. As of November 2007, 165 countries have ratified ILO Convention 182. ILO Convention 105 concerning the Abolition of Forced Labor was ratified by the United States in 1991. Some 168 countries have ratified ILO Convention 105. The Protocol to the U.N. 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. As of November 2007, 115 countries are party to the Protocol.

U.N. and Related Agencies' Anti-Trafficking Programs

UNODC is the guardian and custodian of the U.N. Trafficking Protocol. Launched in 1999, UNODC's Global Program Against Trafficking in Human Beings assists member states in implementing the Protocol and preventing human trafficking. There are currently more than 30 UNODC technical cooperation projects underway. UNODC has developed numerous research projects, including an annual report on patterns in TIP. In February 2006, UNODC, the United States, and India launched the largest U.S. government-funded UNODC trafficking initiative in the world. The project provides training and awareness for law enforcement officers and strengthens their capacity to investigate and prosecute traffickers.

Several other U.N. agencies are involved in anti-TIP activities, many of which receive significant U.S. funding. The U.N. Children's Fund (UNICEF) provides support to child victims of trafficking, including return and reintegration assistance. In FY2006, the United States provided \$127 million in UNICEF funding, including \$500,000 to support identification and reintegration assistance for women and children TIP victims in the Democratic Republic of the Congo. In 2004, the Office of the U.N. High Commissioner of Human Rights created a Special Rapporteur on trafficking in persons to ensure the protection of trafficked victims' rights.⁵² The United Nations Development Fund for Women (UNIFEM) has anti-TIP programs that support women's political and social empowerment. In 2002, UNIFEM published a briefing kit to help practitioners rethink their efforts to combat trafficking from a gender and rights perspective. In FY2006, G-TIP provided some \$1.7 million

⁵² See [<http://www.ohchr.org/english/issues/trafficking/index.htm>].

to support UNIFEM's anti-TIP programs in India. The United Nations Development Program (UNDP) seeks to identify (and reduce) the vulnerabilities of women and girls to trafficking in source, transit, and destination countries. In FY2006, USAID provided UNDP with \$300,000 to support an anti-trafficking awareness program and victims assistance initiatives in Cyprus and \$900,000 to support shelters for TIP victims in Moldova.

The ILO works to promote internationally recognized human and labor rights. A number of ILO programs combat trafficking of women and girls, and forced and bonded labor. The ILO also has a number of programs to combat child labor that include gender-specific components. Through the International Program to Eliminate Child Labor (IPEC), ILO works with participating governments to prevent children from becoming child laborers; to remove children from hazardous work (including exploitative work like forced prostitution); and to offer children and their families education, income and employment opportunities. The United States is the single largest contributor to the IPEC Program, providing \$33.5 million for IPEC in FY2006. In 2001, the ILO created a Special Action Program to Combat Forced Labor (SAP-FL). In December 2006, it published a report entitled, *Globalization and the Illicit Market for Human Trafficking*. It regularly convenes conferences and training workshops to help governments improve their anti-forced labor efforts.

The International Organization for Migration (IOM) addresses trafficking as part of its broader efforts to protect the rights of migrant laborers. IOM conducts information campaigns in countries of origin to warn potential migrants about the dangers of trafficking and irregular migration. IOM helps governments draft anti-TIP legislation, and trains government officials and NGO representatives on how to identify traffickers and to provide proper assistance to victims. IOM maintains a global database on trafficking cases, and sponsors TIP-related research and conferences worldwide. In FY2006, the State Department provided \$6.1 million to IOM efforts in countries such as Indonesia, Moldova, Nicaragua and Vietnam. G-TIP also provided \$250,000 to support the IOM global database on TIP victims.

Other Regional Organizations and International Forums

In addition to supporting the work of the United Nations, the United States has worked with the European Union and the Organization for Security and Cooperation in Europe (OSCE) to eliminate human trafficking.

European Union. The United States and the European Union agreed to launch their first joint initiative to combat trafficking in November 1997. U.S. and EU officials met in Luxembourg to launch a jointly funded initiative against trafficking in women from Russia and Eastern Europe. It was primarily an information campaign, warning potential victims and an education program for law enforcement, customs and consular officials to heighten their awareness.

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.

In March 2003, the European Commission created an “Experts Group on Trafficking in Human Beings” to develop a comprehensive report on ways to strengthen EU anti-trafficking efforts. The Group began its consultative work in September 2003 and published its final report in December 2004. The report emphasizes the need for a human rights-based approach that is integrated and multi-disciplinary, as well as to address the specific needs of child victims. The report recommends that the EU establish a legally binding instrument covering the status of trafficked persons, National Rapporteurs on trafficking in persons, and comprehensive migration policies that protect migrants’ rights. The Commission’s Experts Group on TIP informed an EU conference on best practices in combating trafficking in Europe that was held in 2005, and supported German efforts to combat human trafficking during the World Cup in 2006.

Organization for Security and Cooperation in Europe (OSCE). In November 1999, leaders of the OSCE member states from Europe, Central Asia, and North America, agreed to make combating trafficking in the OSCE area a priority issue. Follow-up meetings were held in Vienna in June 2000, and in Bangkok in June 2002. In 2003, the OSCE adopted an Action Plan to Combat Trafficking in Human Beings and created a Special Representative within its Secretariat to coordinate participating countries’ anti-trafficking efforts. The first Special Representative, Helga Konrad, created an international forum of governmental and NGO officials called the “Alliance Against Trafficking in Persons” aimed at bringing together all relevant actors in the fight against trafficking. In May 2006, the OSCE and IOM held a conference in Vienna on improving the investigation of child trafficking cases and another in November 2006 on trafficking for forced labor. The Secretariat has also helped develop handbooks for law enforcement and migration officials on TIP-related topics and launched reports on trafficking in OSCE countries. In addition, the OSCE’s Office for Democratic Institutions and Human Rights has supported the creation of national referral mechanisms for TIP victims.

Trafficking into the United States

The United States is primarily a destination country for trafficking victims. As many as 17,500 people are trafficked to the United States each year, according to State Department estimates.⁵³ Most are believed to come from Southeast Asia, the former Soviet Union, and, more recently, Latin America. 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. But the problem is also migrating to smaller cities and suburbs.

⁵³ The 2007 TIP report does not contain figures on people trafficked to the United States. This estimate is taken from the U.S. Department of State. *Trafficking in Persons Report, 2006*, June 5, 2006.

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. Anti-trafficking legislation and programs have been implemented with the hope of improving the situation.

Official Estimates of Human Trafficking into the United States

In the most recent government reports on trafficking available as of November 2007, the Department of Justice (DOJ) has estimated that there are between 14,500 and 17,500 victims trafficked into the United States each year. This estimate of 14,500 to 17,500 victims first appeared in the 2004 report, *Assessment of U.S. Government Activities to Combat Trafficking in Persons*.⁵⁴ The *Attorney General's Report on U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2006*,⁵⁵ states that this estimate may be “overstated,” and asserts that “[f]urther research is underway to determine a more accurate figure based on more advanced methodologies and more complete understanding of the nature of trafficking.”

Notably, previous reports by the Central Intelligence Agency's Center for the Study of Intelligence, and the Department of Justice produced higher estimates of the number of trafficking victims in the United States. In November 1999, a report issued by the Center for the Study of Intelligence estimated that 45,000 to 50,000 women and children are trafficked annually to the United States.⁵⁶ In addition, the August 2003 version of the report, *Assessment of U.S. Government Activities to Combat Trafficking in Persons*, estimated that between 18,000 and 20,000 people are trafficked into the United States annually. Some researchers contend that the government estimates of human trafficking do not provide a full description of the data and methodologies used to arrive at the estimates. As a result, they argue that the lack of methodological information makes it difficult, if not impossible, to recreate, assess the validity of, or improve upon the estimates.⁵⁷

⁵⁴ Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, June 2004, p. 4.

⁵⁵ Department of Justice (DOJ), *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005*, June 2006.

⁵⁶ Amy O'Neill Richard, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*, Center for the Study of Intelligence, November 1999, p. iii.

⁵⁷ Free the Slaves and the Human Rights Center, *Hidden Slaves: Forced Labor in the United States*, September 2004, available at [http://hrcberkeley.org/download/hidden_slaves_report.pdf].

Response to Trafficking within the United States

The response to human trafficking within the United States has focused on: (1) assistance to victims of trafficking; and (2) law enforcement efforts to arrest and prosecute traffickers.

Immigration Relief for Trafficking Victims

Many of the trafficking victims in the United States are aliens (noncitizens) who are illegally present (i.e., unauthorized/illegal aliens). Some of these aliens entered legally, but overstayed their length of legal admittance. Other aliens were smuggled into or illegally entered the United States, and then became trafficking victims. In addition, some aliens have had their immigration documents confiscated by the traffickers as a form of control. The lack of immigration status may prevent victims from seeking help, and may interfere with the ability of the victim to provide testimony during a criminal trial. As such, under law, there are certain protections from removal (deportation) available to noncitizen victims of trafficking.

T Nonimmigrant Status. As discussed above, the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) created a new nonimmigrant category, known as T status or T-visa, for aliens who are victims of severe forms of trafficking in persons.⁵⁸ Aliens who received T status are eligible to remain in the United States for four years and may apply for lawful permanent residence status (LPR) after being continually present in the United States for three years.

To qualify for the “T” category, in addition to being a victim of a severe form of trafficking in persons,⁵⁹ the alien must:

⁵⁸ Section 107 of Division A of P.L. 106-386. “T” refers to the letter denoting the subsection of the Immigration and Nationality Act (INA) that provides the authority for the alien’s admission into the United States (i.e., INA §101(a)(15)(T)). Although T nonimmigrant status is often referred to as the T-visa, it is not technically a visa if it is given to aliens present in the United States because status is conferred by the Department of Homeland Security (DHS) who does not have the authority to issue visas. Only the Department of State (DOS) though consular offices may issue visas. Thus, only aliens present outside of the United States can receive T visas while aliens present in the United States receive T status. For more information on nonimmigrant visa issuance see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions* by Ruth Ellen Wasem.

⁵⁹ As discussed previously, TVPA defines a “severe form of trafficking in persons” as either: (1) 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 (2) 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. It is the applicant’s responsibility to demonstrate both elements of a severe form of trafficking in persons.

- be physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or a U.S. port of entry because of such trafficking;⁶⁰
- have complied with any reasonable request for assistance to law enforcement⁶¹ in the investigation or prosecution of acts of trafficking,⁶² or be under the age of 18;⁶³ and
- be likely to suffer extreme hardship involving unusual and severe harm upon removal.

To receive T status, the alien must also be admissible to the United States or obtain a waiver of inadmissibility. A waiver of inadmissibility is also available for health related grounds, public charge grounds, or criminal grounds if the activities rendering the alien inadmissible were caused by or were incident to the alien's victimization.⁶⁴ Waivers are not automatically granted, and there is no appeal if the inadmissibility waiver is denied. This waiver is especially important for those involved in sexual trafficking since prostitution is one of the grounds of inadmissibility specified in the Immigration and Nationality Act (INA).⁶⁵ Additionally, aliens who are present without being admitted or paroled⁶⁶ into the United States are inadmissible and would need to obtain a waiver to be eligible for T status. For example, an alien who paid a smuggler to enter the country illegally

⁶⁰ This is interpreted in the regulations to apply to those aliens who (1) are present because they are being held in some sort of severe form of trafficking situation; (2) were recently liberated from a severe form of trafficking; or (3) were subject to a severe form of trafficking in the past and remain present in the United States for reasons directly related to the original trafficking.

⁶¹ Applicants for T status may submit a Law Enforcement Agency (LEA) Enforcement to prove that they are complying with the investigation. The regulations require that the LEA enforcement come from a federal law enforcement agency since severe forms of trafficking in person are federal crimes under TVPA; however, the TVPRA of 2003 amended the law to allow state and local law enforcement to certify that the trafficking victim is aiding law enforcement.

⁶² Although to be eligible for T status, the aliens must comply with reasonable requests for assistance from law enforcement, it is not necessary for the alien to be sponsored for status from a law enforcement agency as is required by those applying for S nonimmigrant status for alien witnesses and informants. For more information on the S nonimmigrant classification see CRS Report RS21043, *Immigration: S Visas for Criminal and Terrorist Informants* by Karma Ester.

⁶³ Children under the age of 18 at the time that the application for T status is filed, are exempt from the requirement to comply with law enforcement requests for assistance. In the original law (TVPA of 2000) the age of mandatory compliance was under 15 years, but the TVPRA of 2003 increased the age of mandatory compliance to 18 years.

⁶⁴ INA §212(d)(13)

⁶⁵ INA §212(a)(2)(D)

⁶⁶ "Parole" is a term in immigration law which means that the alien has been granted temporary permission to be in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when the parole expires, or if eligible, to be admitted in a lawful status.

and then was held in servitude would need to get an inadmissibility waiver to be eligible for T status.

T status is limited to 5,000 principal aliens each fiscal year. Additionally, the spouse, children, or parents of an alien under age 21, in order to avoid extreme hardship, may be given derivative T status which is not counted against the numerical limit.⁶⁷ Individuals who are eligible for T status may be granted work authorization.⁶⁸ T status is valid for four years, and may be extended if a federal, state, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of trafficking in persons.⁶⁹

Under law, aliens who have bona fide T applications⁷⁰ are eligible to receive certain public benefits to the same extent as refugees.⁷¹ Aliens who receive derivative T status (i.e., the family members of trafficking victims) are also eligible for benefits. In addition, regulations require that federal officials provide trafficking victims with specific information regarding their rights and services such as:

- immigration benefits;
- federal and state benefits and services (e.g., certification by the Department of Health and Human Services (HHS) and assistance through HHS' Office of Refugee Resettlement (ORR));
- medical services;
- pro-bono and low cost legal services;
- victim service organizations;

⁶⁷ In some cases, immediate family members of trafficking victims may receive a T visa to join the victim in the United States. This may be necessary if the traffickers are threatening the victim's family.

⁶⁸ From the perspective of trafficking victims' advocates, work authorization is viewed as an important tool in helping the victims become self sufficient and retake control of their lives.

⁶⁹ The four year period of validity for T-visas was codified by The Violence Against Women and Department of Justice Reauthorization Act of 2006 (P.L. 109-162, §821). Prior to P.L. 109-162, the validity period was three years and was specified, not by statute, but by regulation (8 *C.F.R.* 214.11).

⁷⁰ Bona fide application means an application for T status which after initial review has been determined that the application is complete, there is no evidence of fraud, and presents prima facie evidence of eligibility for T status including admissibility.

⁷¹ Refugees are generally eligible for federal, state and local public benefits. In addition, refugees are eligible for Food Stamps and Supplemental Security Income (SSI) for seven years after entry, and for Medicaid and Temporary Assistance for Needy Families for seven years after entrance and then at state option. See CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policies and Trends*, by Ruth Ellen Wasem.

- victims compensation (trafficked aliens are often eligible for compensation from state and federal crime victims programs);⁷²
- the right to restitution; and
- the rights of privacy and confidentiality.⁷³

T Visas Issued. As **Table 1** shows, between FY2002 and June 14, 2007, there were 1,678 applications for T-1 status, and 929 of these applications were approved. During the same period, there were 1,150 applications for derivative T status, and 845 applications were approved. Of the adjudicated applications for T-1 status, 60% were approved.

Table 1. T-visas Issued: FY2002 through FY2007

Fiscal Year	2002	2003	2004	2005	2006	2007 ^a	Total
Principle Aliens (Victims)							
Applied	115	557	278	229	345	154	1678
Approved	4	285	136	112	182	210	929
Denied	0	28	292	210	52	54	636
Derivative Aliens (Family)							
Applied	122	331	118	114	324	141	1150
Approved	0	207	216	114	99	209	845
Denied	0	13	26	18	43	36	136

Source: Department of Homeland Security data provided to CRS.

Note: Some approvals are from prior fiscal year(s) filings. Also, some applicants were denied more than once (e.g. filed once, denied, and filed again). For FY2004 and FY2005, 170 of the denials stemmed from one case where the applicants did not qualify as victims of trafficking under TVPA.

^aData for 2007 is through June 14, 2007.

⁷² Victims may also be repatriated to their home country if they desire with assistance from the Department of State, government of their country of origin, or nongovernmental organizations. The United States Conference of Catholic Bishops *et al.*, *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking*, prepared with a grant from the Department of Health and Human Services, Office of Refugee Resettlement, November 2004, p. Appendix 1-3. (Hereafter cited as Catholic Bishops, *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking*.)

⁷³ 28 C.F.R. §1100.3-§1100.33.

Adjustment to Lawful Permanent Residence. T status, which is originally valid for four years, is not renewable after the alien's presence in the United States is not necessary to assist in the investigation or prosecution of trafficking in persons. Nonetheless, after three years, aliens with T status may petition for legal permanent residence (LPR) status (i.e., green card or immigrant status). To adjust to LPR status an alien must:

- be admissible (i.e., that the alien is not ineligible for a visa or status adjustment under the so-called “grounds for inadmissibility” of the INA, which include having a criminal history, being a terrorist, and being a security risk to the United States.)
- have been physically present in the United States for at least three years since the granting of T status;
- during the three years of continued presence in the United States, been a person of good moral character; and
- establish that (1) they have complied with reasonable requests of assistance in the investigation or prosecution of acts of trafficking, or (2) that they would suffer extreme hardship upon removal from the United States.⁷⁴

As of November 7, 2007, the regulations concerning adjustment to LPR status from T status have not yet been released.

Continued Presence. Federal law enforcement officials who encounter victims of severe forms of trafficking in persons and are potential witnesses to that trafficking may request that DHS grant the continued presence of the alien in the United States. Historically, the Attorney General has had the discretionary authority to use a variety of statutory and administrative mechanisms to ensure the alien's continued presence.⁷⁵ Most of the statutory and administrative mechanisms for continued presence required that the alien depart from the United States once her presence for the criminal investigation or prosecution is no longer required. In most cases, victims granted continued presence are eligible for work authorization.⁷⁶ Requests for continued presence are now handled by the Parole and Humanitarian Assistance Branch of DHS' Immigration and Customs Enforcement (ICE).

In some cases, law enforcement prefer giving the alien continued presence rather than T status to prevent the appearance during the prosecution of the traffickers that the alien's testimony was “bought.” In FY2006, there were 117 requests for

⁷⁴ INA §245(l)

⁷⁵ 28 *C.F.R.* Part 1000.35. The mechanisms for continued presence may include parole, voluntary departure, stay of final removal orders, or any other authorized form of continued presence in the United States, including adjustment to an applicable nonimmigrant status. Some of these authorities were transferred to the Secretary of DHS in the Homeland Security Act of 2002 (P.L. 107-296). Others remain with or are shared by the Attorney General.

⁷⁶ Viet D. Dinh, Department of Justice. Testimony before the Senate Subcommittee on Near Eastern and South Asian Affairs concerning Monitoring and Combating Trafficking in Persons: How Are We Doing?, March 7, 2002.

continued presence relating to human trafficking cases; 112 were approved while five were withdrawn by the law enforcement agency due to insufficient evidence. In addition, there were 83 requests for extensions of existing continued presence grants, all of which were approved.⁷⁷

U Nonimmigrant Status. Some victims of trafficking are eligible for U nonimmigrant status. The Violence Against Women Act of 2000, Division B of TVPA, created the U nonimmigrant status, often called the U-visa, for victims of physical or mental abuse.⁷⁸ To qualify for U status, the alien must file a petition and establish that:

- he/she suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activities;⁷⁹
- as certified by a law enforcement or immigration official, he/she (or if the alien is a child under age 16, the child's parent, guardian or friend) possesses information about the criminal activity involved;
- he/she has been, is being or is likely to be helpful in the investigation and prosecution of the criminal activity by federal, state or local law enforcement authorities; and,
- the criminal activity violated the laws of the United States or occurred in the United States.

The U category is limited to 10,000 principal aliens per fiscal year.⁸⁰ After three years, those in U status may apply for LPR status. Unlike aliens with T status, those with U status are not eligible for assistance through the Office of Refugee Resettlement or for federal public benefits. Those who receive U status may be eligible for programs to assist crime victims through the Department of Justice's Office for Victims of Crime.

⁷⁷ In FY2006, aliens from 24 countries were granted continued presence due to human trafficking. Most victims were from Mexico, South Korea, and El Salvador. In addition, New York, Houston, and Newark were the cities with the most requests for continued presence. Departments of Justice, Health and Human Services, State, Labor, Homeland Security, and U.S. Agency for International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons: FY2006*, Sept, 2007: p. 3.

⁷⁸ INA 101(a)(15)(U).

⁷⁹ Certain criminal activity refers to one or more of the following or any similar activity in violation of federal or state criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnaping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter, murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

⁸⁰ Although the interim final regulations on U status were released in September 2007, prior to that aliens who met the criteria for U status were given immigration benefits similar to U status. In 2005, for example, 287 aliens were given "quasi-U" status. Unpublished data from DHS.

Aid Available to Victims of Trafficking in the United States

The Departments of Justice, Health and Human Services, and Labor have programs or administer grants to other entities to provide services to trafficking victims. In addition, the Legal Services Corporation⁸¹ has instructed its lawyers to provide legal assistance to trafficking victims.⁸² U.S. citizen and noncitizen victims of trafficking are eligible for all the programs discussed below, with one exception. Only noncitizen trafficking victims are eligible for refugee-specific programs.

Health and Human Services Grants. The TVPA required HHS to expand benefits and services to victims of severe forms of trafficking in the United States, without regard to the immigration status of such victims.⁸³ Under the law, to receive these benefits and services, victims of severe forms of trafficking who are at least 18 years of age must be certified by the Secretary of Health and Human Services, after consultation with the Secretary of Homeland Security,⁸⁴ as willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking, having made a bona fide application for a T-visa that has not been denied, and being granted continued presence in the United States by the Secretary of Homeland Security to effectuate the prosecution of traffickers in persons.⁸⁵ Under the law, trafficking victims under the age of 18 do not have to be certified to receive benefits and services, but it is HHS policy to issue eligibility letters to such victims. Although the law does not differentiate between U.S. Citizen and noncitizen trafficking victims, according to HHS, U.S. citizen trafficking victims also do not have to be certified to receive services.⁸⁶ HHS' Office of Refugee Resettlement (ORR) provides certification and eligibility letters for victims. From FY2001 through FY2004, HHS certified 1,076 people; 94% of the victims were female.⁸⁷

⁸¹ The Legal Services Corporation (LSC), established by Congress, is a private, nonprofit, federally funded corporation that helps provide legal assistance to low-income people in civil (i.e., non-criminal) matters.

⁸² DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons*, p.7.

⁸³ TVPA §107(b)(1)(B); 22 U.S.C. §7105(b)(1)(B). The act also created a grant program in DOJ for state, local, tribal governments, and nonprofit victims' service organizations to develop, strengthen, or expand service programs for trafficking victims. (22 U.S.C. §7105(b)(2))

⁸⁴ The Homeland Security Act of 2002 (HSA; P.L. 107-296) abolished the Immigration and Naturalization Service (INS) and transferred most of its functions to various bureaus in the new Department of Homeland Security (DHS) effective March 1, 2003. In addition, due to HSA, much of the Attorney General's authority in immigration law is currently vested in or shared with the Secretary of Homeland Security. For more information on the role of the Attorney General and Secretary of Homeland Security over immigration law, see CRS Report RL31997, *Authority to Enforce the Immigration and Nationality Act (INA) in the Wake of the Homeland Security Act: Legal Issues*, by Stephen R. Vina.

⁸⁵ TVPA §107(b)(1)(E); 22 U.S.C. §7105(b)(1)(E).

⁸⁶ Personal conversation with Scott Logan, Department of Health and Human Services, Administration for Children and Families, Congressional Affairs, April 2, 2007.

⁸⁷ Department of Justice, Department of Health and Human Services, Department of State, (continued...)

ORR funds and facilitates a variety of programs to help refugees “economic and social self-sufficiency in their new homes in the United States,” and noncitizen victims of severe forms of trafficking are eligible for these programs.⁸⁸ ORR-funded activities include cash and medical assistance, social services to help refugees become socially and economically self-sufficient, and targeted assistance for impacted areas. Special refugee cash assistance (RCA) and refugee medical assistance (RMA) are the heart of the refugee program. RCA and RMA, which are administered by the states, are intended to help needy refugees who are ineligible to receive benefits from mainstream federal assistance programs. In addition, minor noncitizen victims can participate in DHS’ Unaccompanied Refugee Minor Program. TVPA and the subsequent reauthorization acts, authorize funds for ORR to provide similar assistance to trafficking victims. While both U.S. citizen and noncitizen trafficking victims are eligible for the general federal public benefits, only noncitizen trafficking victims are eligible for the benefits specifically designed for refugees.⁸⁹

ORR also provides grants to organizations that render assistance specific to the needs of victims of trafficking, such as temporary housing, independent living skills, cultural orientation, transportation needs, access to appropriate educational programs, and legal assistance and referrals. These services are available to U.S. citizen and noncitizen trafficking victims. ORR may also supply trafficking victims with intensive case management programs to help the victim find housing and employment, and provide mental health counseling and specialized foster care programs for children. ORR performs outreach to inform victims of services and educate the public about trafficking.⁹⁰

In addition, HHS conducts outreach to inform victims of services and to educate the public about trafficking. HHS has established the Rescue and Restore Victims of Human Trafficking public awareness campaign, which promotes public awareness about trafficking and the protections available for trafficking victims. The goal of the campaign is to help communities identify and serve victims of trafficking, supporting them in coming forward to receive services and aid law enforcement. In addition to promoting public awareness about trafficking, HHS through the Rescue and Restore campaign has established anti-trafficking coalitions in 16 cities and the state of Illinois. Another component of the campaign is the creation of a toll-free

⁸⁷ (...continued)

Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, September 2007, p. 5.

⁸⁸ P.L. 106-386, § 107(b)(1)(A). The eligibility of noncitizens for public assistance programs is based on a complex set of rules that are determined largely by the type of noncitizen in question and the nature of services being offered. For example, refugees are eligible for Medicaid for five years after entry/grant of status, then made ineligible (unless they became citizens or qualified under another status). For a discussion of the eligibility of trafficking victims for state and federal means tested benefits see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policies and Trends*, by Ruth Ellen Wasem.

⁸⁹ For additional information on programs for refugees see CSR Report RL31269, *Refugee Admissions and Resettlement Policy*, by Andorra Bruno.

⁹⁰ DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons*, p.10.

National Human Trafficking Resource Center available for advice 24-hours a day.⁹¹ (For a discussion of authorizations and appropriations for the HHS grant program, see **Appendix C.**)

Department of Justice, Office for Victims of Crime. The TVPA created a grant program administered by the Attorney General to provide grants to states, Indian tribes, local governments, and nonprofit victims services organizations to develop, expand or strengthen victims service programs for trafficking victims.⁹² This grant program is administered through DOJ's Office for Victims of Crime (OVC) and provides emergency services, including temporary housing, medical care, crisis counseling and legal assistance, to victims as soon as they have been encountered, prior to certification by HHS (discussed above).⁹³ According to DOJ, OVC awards grants to non-governmental organizations to provide trafficking victims with comprehensive or specialized services, and training and technical assistance to grantees for program support and enhancement.⁹⁴ (For a discussion of authorizations and appropriations for this program, see **Appendix C.**)

Department of Labor. DOL's Employment and Training Administration (ETA) One-Stop Career Centers provide job search assistance, career counseling, and occupational skills training to trafficking victims. In addition, victims between the ages of 16 and 24 — both U.S. citizen victims and noncitizen victims who have work authorization — may be eligible to participate in Job Corps.⁹⁵ (For program authorizations, see **Appendix C.**)

Domestic Investigations of Trafficking Offenses

Human trafficking investigations are often complicated by language and humanitarian issues (e.g., the victim has been traumatized and is unable to aid in the investigation), as well as logistical challenges and difficulties (e.g., transporting, housing, and processing the victims especially alien victims). In addition, certain types of investigative techniques, such as controlled delivery operations,⁹⁶ cannot be used. Moreover, unlike drug trafficking cases where the contraband itself is proof of the illegal activity, the successful prosecution of trafficking cases relies on the

⁹¹ Department of Health and Human Services, "About Human Trafficking," available at [<http://www.acf.hhs.gov/trafficking/about/index.html#wwd>], visited March 22, 2007.

⁹² P.L. 106-386, §107(b)(2).

⁹³ See [<http://www.ojp.usdoj/ovc/help/tip.htm>].

⁹⁴ DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons*, p.6.

⁹⁵ Catholic Bishops, *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking*, p. Appendix 1-6.

⁹⁶ Controlled delivery is an investigative technique in which law enforcement knowingly allows a shipment to travel to its destination so that law enforcement can learn more about a criminal enterprise and the people involved.

availability of witnesses who may refuse to testify because of fear of retribution against themselves or their families.⁹⁷

Within the United States, the Departments of Justice (DOJ), Homeland Security (DHS), and Labor (DOL) have primary responsibility for investigating and prosecuting traffickers.⁹⁸ The majority of the cases are investigated by agents in DOJ's Federal Bureau of Investigation (FBI) and DHS's U.S. Immigration and Customs Enforcement (ICE), who coordinate as appropriate.⁹⁹ Agents in the FBI's Civil Rights Unit (CRU) investigate trafficking in the United States. In addition, under the FBI's Human Trafficking Initiative, FBI field offices use threat assessment to determine the existence and scope of trafficking in their region, participate in the anti-trafficking task force, conduct investigations and report significant case developments to the CRU. The CRU opened 535 trafficking cases between FY2001-FY2006.

ICE uses a global enforcement strategy to disrupt and dismantle domestic and international criminal organizations that engage in human trafficking. Between FY2004 and FY2006, ICE opened 837 trafficking cases.¹⁰⁰ In addition, DOL is involved in cases of trafficking through enforcement of labor standards laws such as the Fair Labor Standards Act¹⁰¹ and the Migrant and Seasonal Agricultural Worker Protection Act.¹⁰²

Human Smuggling and Trafficking Center. In July 2004, the Secretaries of DOS and DHS, and the Attorney General signed a charter to establish the Human Smuggling and Trafficking Center (HSTC), and The Intelligence Reform and Terrorism Protection Act of 2004 (P.L. 108-458, §7202), signed into law on December 17, 2004, formalized the HSTC. The HSTC serves as the federal government's information clearinghouse and intelligence fusion center for all federal agencies addressing human smuggling, human trafficking, and the potential use of smuggling routes by terrorists. Specifically, the HSTC is tasked with:

⁹⁷ U.S. Government Accountability Office, *Combating Alien Smuggling, Opportunities Exist to Improve the Federal Response*, GAO-05-305, May 2005, p. 10. (Hereafter cited as GAO, *Combating Alien Smuggling, Opportunities Exist to Improve the Federal Response*.)

⁹⁸ This section is based on the information in Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, September 2007.

⁹⁹ The division of responsibilities between these two agencies is not clearly delineated which may lead to a lack of coordination between the agencies as well as possibly some duplicative efforts.

¹⁰⁰ According to an ICE Office of Investigations (OI) official, the Border Patrol only has a minor role in alien smuggling and trafficking investigations and is required to coordinate with OI before initiating anti-smuggling investigations. GAO, *Immigration Enforcement: DHS Has Incorporated Immigration Enforcement Objectives and Is Addressing Future Planning Requirements (2004)*, p. 9.

¹⁰¹ 29 U.S.C. §§201-219.

¹⁰² 29 U.S.C. Chapter 20.

- serving as the focal point for interagency efforts to address terrorist travel;
- serving as a clearinghouse with respect to all relevant information from all federal agencies in support of the United States strategy to prevent clandestine terrorist travel, migrant smuggling, and trafficking of persons;
- ensuring cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the federal government to improve effectiveness and to convert all information relating to clandestine terrorist travel, and the facilitation migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and
- submitting to Congress, on an annual basis, a strategic assessment regarding vulnerabilities that may be exploited by international terrorists, human smugglers and traffickers.

During its two year existence, the HSTC has had issues with cooperation between the different agencies and departments, related to funding, staffing, and information sharing.¹⁰³ In The Implementing the 9/11 Commission Recommendations Act of 2007 (P.L. 110-53, discussed below), Congress attempted to address these issues.

Legislation in the 110th Congress

In the 110th Congress, both chambers are continuing to address human trafficking as part of their authorization, appropriations, and oversight activities. The Implementing the 9/11 Commission Recommendations Act of 2007, P.L. 110-53 (H.R. 1), signed into law on August 3, 2007, directs the Secretary of Homeland Security (Secretary of DHS) to provide specified funding and administrative support to strengthen the Human Smuggling and Trafficking Center (HSTC). The act directs the Secretary of DHS to nominate a U.S. government employee to direct the HSTC, and specifies that the HSTC be staffed by at least 40 full-time staff, including detailees.¹⁰⁴ In addition, the act mandates the hiring of not less than 40 full-time equivalent staff for the HSTC, and would specify the agencies and departments from which the personnel should be detailed (e.g., Transportation and Security Administration, United States Coast Guard, ICE, Central Intelligence Agency), and their areas of expertise (e.g., consular affairs, counter terrorism). It also directs the Secretary of DHS to provide the administrative support and funding for the HSTC.

¹⁰³ U.S. Congress, House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *9/11 Reform Act: Examining the Implementation of the Human Smuggling and Trafficking Center*, hearings, 109th Cong., 2nd sess., March 8, 2006.

¹⁰⁴ The act specifies a number of agencies from which, as appropriate, staff may be detailed to the HSTC, including but not limited to U.S Customs and Border Protection, Transportation Security Administration, Coast Guard, Central Intelligence Agency, National Security Agency, and the Departments of Defense, Justice, and State. The act also specifies that the detailees include an adequate number with specified expertise, and that agencies shall create policies and incentives for the detailees to serve terms of at least two years.

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, H.R. 3887 (Lantos).¹⁰⁵ H.R. 3887 was passed by the House under suspension of the rules on December 4, 2007. The vote was 405-2. H.R. 3887, as passed by the House, would authorize appropriations for FY2008 through FY2011 for the TVPA as amended and would establish a system to monitor and evaluate all assistance under the act. The bill would require the establishment of an integrated database used by U.S. governmental department and agencies to collect data for analysis on TIP. In addition, the bill would create a Presidential award for extraordinary efforts to combat trafficking in persons. H.R. 3887 would also require the Departments of Justice and Labor to appoint Coordinators to Combat Human Trafficking. H.R. 3887 is likely to be considered by the Senate early in the second session of the 110th Congress.

Measures to Address Human Trafficking in Foreign Countries. H.R. 3887 would provide more technical assistance and other support to help foreign governments inspect locations where forced labor occurs, register vulnerable populations, and provide more protection to foreign migrant workers. It would require specific actions to be taken against governments of countries that have been on the Tier 2 Watch-List for two consecutive years. It would also require translation of the Trafficking in Persons Report into the principal languages of as many countries as possible. Finally, among other measures to address the issue of child soldiers, it would prohibit military assistance to foreign governments that recruit and use child soldiers.

Preventing Trafficking to the United States. H.R. 3887 would require consular officers to provide certain aliens interviewing for nonimmigrant visas with information concerning U.S. laws against TIP and assistance for TIP victims in the United States. The bill would direct the Secretary of State to deny certain temporary employment visas (A3 and G5 visas) to aliens who would be working at a diplomatic mission or international institution where an alien had been subject to trafficking or exploitation at the mission or institution within the previous two years; or where an individual working at the mission or institution had left the United States because of credible evidence of a trafficking offense. Furthermore, the bill would create protections for foreign workers recruited abroad to work in the United States, including creating a registration process with the Department of Labor for persons abroad who engage in any foreign labor contracting activity (i.e., recruit, hiring or employing an alien outside the United States to perform work in the country).

Measures to Address Trafficking in the United States. H.R. 3887 would amend the requirements for the T visa, so that any request from law enforcement would be deemed unreasonable if it is determined by the Attorney General that such a request would cause the trafficking victim physical or psychological trauma. It would also require when determining whether the alien

¹⁰⁵ H.R. 3887 (Lantos) was co-sponsored by, among others, Rep. Chris Smith, who had previously submitted a separate bill, The Trafficking Victims Protection Reauthorization Act of 2007, H.R. 270. H.R. 270 was introduced on January 5, 2007, but saw no committee action. It would have authorized funds for anti-trafficking programs for FY2008 through FY2010.

meets the extreme hardship requirement for T status that the Secretary of DHS consider whether the country to which the alien would be removed can adequately address the alien's security and mental and physical health needs. In addition, H.R. 3887 would amend the requirements for the T visa so that an alien would be eligible if she was present in the United States after being allowed entry to aid in the prosecution of traffickers. The bill would also broaden the requirements for an alien to receive continued presence in the United States, and would make it easier for families of trafficking victims to be paroled into the United States. In addition, H.R. 3887 would amend the law to allow the Secretary of DHS to waive the good moral character requirement for those adjusting from T to LPR status, and allow the Secretary of DHS to provide a stay of removal for aliens with pending T applications (with a prima facie case for approval), until the application has been adjudicated. Furthermore, under the bill, the Secretary of DHS would be required no later than 120 days after enactment to promulgate the regulations concerning the adjustment from T to LPR status. H.R. 3887 would also make aliens with pending applications for T status eligible for public benefits, and would require the Secretary of HHS to make a prompt determination of eligibility for assistance for child trafficking victims.

The bill would also require the United States to enter into agreements designed to protect children from severe forms of TIP with contiguous countries regarding the return of unaccompanied minors,¹⁰⁶ and would specify screening procedures for children suspected of being trafficking victims. In addition, the bill would direct the Secretary of HHS to implement a program to appoint guardians ad litem for child trafficking victims and other vulnerable unaccompanied alien children.

Moreover, the bill would create new grant programs for U.S. citizen victims of severe forms of trafficking and authorize appropriations for such programs. It would also require the Secretary of HHS and the Attorney General, within one year after enactment, to submit a report to Congress identifying any gaps between services provided to U.S. citizen and noncitizen victims of trafficking.

Furthermore, the bill would amend current trafficking offenses under U.S.C. Title 18 and create new offenses related to human trafficking including unlawful compelled service, and retaliation in foreign labor contracting. The bill, similar to S. 1703, would create additional jurisdiction in U.S. courts for trafficking offenses occurring in other countries if the alleged offender is present in the United States, and would create new offenses under the Immigration and Nationality Act (INA) for persons who smuggle aliens into the United States for prostitution. As in H.R. 270, H.R. 3887 would also require the Attorney General to prepare model anti-trafficking legislation for use by states.

Another bill that has seen committee action is **The Trafficking in Persons Accountability Act of 2007, S. 1703 (Durbin)**, which was ordered reported out of the Senate Judiciary Committee on September 20, 2007. S. 1703 would amend the federal criminal code (U.S.C. Title 18) to grant U.S. courts jurisdiction over cases involving peonage, slavery, and trafficking in persons, even if the offense occurred

¹⁰⁶ Unaccompanied minors are aliens who are in the United States without a parent or guardian.

outside the United States, in which the alleged offender is brought into, or found in the United States, not more than 10 years after such offense.

Another bill, the **Congressional Commission on the Abolition of Modern-Day Slavery Act, H.R. 2522 (Lewis)**, introduced on May 24, 2007, would establish a Commission to study modern-day slavery in all its forms (including trafficking in persons) and why it still exists, review and evaluate U.S. and international efforts to prevent or combat modern-day slavery, and make legislative and administrative recommendations necessary for the most effective ways to combat modern-day slavery to be put in place.

Policy Issues

A broad consensus appears to be shared in Congress and the policy community on the need for decisive action to curb human trafficking. However, there are some fundamental questions related to how broadly human trafficking should be defined. In addition, questions have been raised about the effective implementation of anti-trafficking programs.

How to Collect Data and Measure Success

It is often difficult to measure success in the fight against human trafficking. So far, few reliable indicators have been identified. For example, 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. 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. A recent GAO study seriously questions the adequacy of any of the estimates.¹⁰⁷

Credibility of TIP Rankings

Many analysts have asserted that the overall impact of the Trafficking report and sanctions process depends upon the credibility of the State Department's annual country TIP rankings. Some would argue that, although the TIP reports have improved with each year, "inconsistent application of the minimum standards [mandated by TVPA] and superficial country assessments have compromised their credibility."¹⁰⁸ Some argue that it is difficult to determine what standards make a country eligible for Tier 1. They assert that the Tier 2 and Tier 2 "Watch List" have become "catch-all" categories that include countries which should really be placed on Tier 3. According to the GAO, in addition to a lack of clarity in the tier ranking process, the TIP report's "incomplete narratives reduce the report's utility..." The

¹⁰⁷ GAO, July 2006, p. 3. (GAO-06-825)

¹⁰⁸ Chuang, 2006.

State Department, while acknowledging the need to continue to increase the comprehensiveness of the report, believes that “keeping the report concise is paramount.”¹⁰⁹

Sanctions: A Useful Tool?

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. Some assert that unilateral sanctions, when designed in accordance with international norms, can incite countries to internalize those norms.¹¹⁰ Sanctions seem to be most effective when they are clearly defined and evenly applied, criteria which some say U.S. trafficking sanctions have not yet met.¹¹¹ For example, since 2003, no governments in Latin America except Cuba and Venezuela have been subject to partial or full sanctions for failing to meet the minimum standards of TVPA. Some argue that sanctions will probably only be applied to countries already subject to other sanctions — such as Burma, Cuba, or North Korea — and that threatening other countries with sanctions may actually encourage them to become less open to working with the United States. Others argue that while that may be true in a few cases, most countries depend on good political and economic relations with the United States and fear the public humiliation that comes with a Tier 3 designation as much as actual sanctions.

Equal Focus on all Types of Trafficking?

The TVPA defines trafficking broadly to include problems such as forced labor, sex slavery, and domestic servitude. Although the U.S. government funds programs to combat all types of trafficking in persons, some observers believe that the government focuses too much on sex slavery as opposed to non-sexual labor exploitation. They argue that too large a percentage of the U.S. anti-trafficking budget has been directed to NGOs focused on rescuing women and children from the commercial sex industry. However, inventories of U.S. anti-trafficking programs since 2004 appear to counter these claims as they show U.S. support for a wide variety of NGOs that strive to protect victims and prosecute traffickers engaged in all types of human trafficking.¹¹² TIP reports since 2005 have placed an added emphasis on evaluating country efforts to combat trafficking for forced labor.

¹⁰⁹ GAO, July 2006, p. 3. (GAO-06-825).

¹¹⁰ Sarah H. Cleveland, “Norm Internationalization and U.S. Economic Sanctions,” *Yale Journal of International Law*, 2001, 1, 31.

¹¹¹ Chuang, 2006.

¹¹² Jennifer Block, “Sex Trafficking: Why the Faith Trade is Interested in the Sex Trade,” *Conscience*, Summer/Autumn 2004; Debbie Nathan, “Oversexed,” *The Nation*, August 29 - September 5, 2005, vol. 281; Janie Chuang, Winter 2006, 13, 1, G-TIP Fact Sheets, Available at: [<http://www.state.gov/g/tip/rls/fs/index.htm>].

Debates Regarding Prostitution and Trafficking

Several groups in the United States have sought to broaden the definition of trafficking in persons to include all forms of prostitution, but many countries have thus far rejected those attempts. Proponents of this broader definition of trafficking in persons argue that prostitution is “not ‘sex work;’ it is violence against women [that] exists because ... men are given social, moral and legal permission to buy women on demand.”¹¹³ Opponents, including many European and Latin American countries, have legal and regulated prostitution and argue that this broadened definition would impede the capacity of the international community to achieve consensus and work together to combat trafficking.

The U.S. State Department has repeatedly asserted that prostitution and trafficking in persons are inextricably linked. U.S. officials argue that “where prostitution is legalized or tolerated, there is greater demand for human trafficking victims and nearly always an increase in the number of women and children trafficked into commercial sex slavery.” The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193) restricts anti-trafficking funds to groups that oppose prostitution. Critics have argued that this policy excludes the people who are most able to report and combat abuses within the sex industry, prostitutes themselves and may hinder the success of well-established anti-TIP programs. They believe that giving prostitutes some measure of legitimacy short of legalization reduces the risk that they will be exposed to the dangers of trafficking.¹¹⁴

Issues Concerning Immigration Relief for Trafficking Victims

Most of the trafficking victims’ advocacy community and groups working to end trafficking are supportive of the T status. Nonetheless, these groups have raised concerns about aspects of the application process that may impede victims from applying for T status or create difficulties for the victims to meet the standards of T status. Some advocacy groups have questioned whether the T status protects the victims or is primarily a tool for law enforcement.

Nonetheless, there was opposition to the creation of the T status. Opponents of the T status contend that the new status rewards criminal behavior. Immigrant benefits are scarce and some argued that there are more meritorious people who deserve the benefits such as those who have been waiting to come into the country through legal methods. Some argue that there is a need to protect the victims, but that they are being given more access to public benefits than are relatives of United States citizens. Additionally, others expressed concern about the possibility of abuse of T status. For example, some aliens who had knowingly and willfully violated the law, may claim that they were coerced after they were arrested by DHS.

¹¹³ Janice G. Raymond, “Sex Trafficking is Not ‘Sex Work,’” *Conscience*, Spring 2005.

¹¹⁴ U.S. State Department web-site, [<http://www.state.gov/g/tip/>]; Feingold, September/October 2005.

As discussed above, between FY2002 and June 14, 2007, DHS approved 929 applications for T-1 status, while it is estimated that at least 14,500 aliens are trafficked into the United States each year. The comparatively small number of T visas issued relative to the estimates of trafficking into the United States raises some questions. Is the number of noncitizen trafficking victims in the United States overestimated? Is the United States government doing a poor job locating and identifying victims?¹¹⁵

Stringency of T Determination. The regulations state that “In view of the annual limit imposed by Congress for T-1 status, and the standard of extreme hardship involving unusual and severe harm, [DHS] acknowledges that the T-1 status will not be an appropriate response with respect to many cases involving aliens who are victims of severe forms of trafficking...”¹¹⁶ Some contend that the extreme hardship threshold makes it difficult for victims to receive T status.¹¹⁷ Nonetheless, some in law enforcement have raised concerns that advocacy organizations are able to ask ICE headquarters without the input of the local ICE agents to have an alien certified as a trafficking victim, contending that some of these aliens are not truly trafficking victims.¹¹⁸

Tool of Law Enforcement or Aid to Victims. According to the policy memorandum on T status, “the T classification provides an immigration mechanism for cooperating victims to remain temporarily in the United States to assist in investigations and prosecutions and provide humanitarian protection to the victims.” Some are concerned that the emphasis on aiding law enforcement is more important than aiding the victims, and note that a controversial aspect of the continued presence provision is that federal agents may supersede a victim’s wishes and require the victim to remain in the United States, if the victim’s “departure is deemed prejudicial to the interests of the United States.”¹¹⁹ Others argue, however, that the only mechanism for ending trafficking is by encouraging the victims’ cooperation in the prosecution and investigation.

Victims’ Safety. Some victims’ service providers who aid trafficking victims have also expressed concerns that outside of federal protective custody, there are few safe housing options for victims of trafficking. Shelters in many areas are full or inaccessible, and domestic violence shelters are ill-equipped to meet the safety needs

¹¹⁵ These issues are discussed in detail in: Jerry Markon, “Human Trafficking Evokes Outrage, Little Evidence; U.S. Estimates Thousands of Victims, But Efforts to Find Them Fall Short,” *Washington Post*, September 23, 2007.

¹¹⁶ *Federal Register* vol. 67, no. 21: p. 4785. January 31, 2002.

¹¹⁷ Testimony of Derek J. Marsh, Co-Director Orange County Human Trafficking Task Force, in U.S. Congress, House Committee on Homeland Security, *Crossing the Border: Immigrants in Detention and Victims of Trafficking, Part II*, 110th Cong., 1 sess., March 20, 2007.

¹¹⁸ Personal communication with ICE special agents in Los Angeles, California, August 16, 2005.

¹¹⁹ Raffonelli, “INS Final Rule to Assist Victims of Trafficking.” p.4.

of trafficking victims.¹²⁰ Other advocacy groups such as the Collation to Abolish Slavery and Trafficking (CAST) contend that forcing victims to aid in the investigation and prosecution of traffickers may endanger the victims' families who remain in the home country especially when the trafficker is deported back to the country. They argue that there needs to be some mechanism to either ensure the victims' families' safety in their home country or reunite the families with the victims in the United States.¹²¹ Dianne Post, an attorney for the Arizona Coalition Against Domestic Violence argues that the TVPA may create problems for victims, because victims can not receive services and benefits until they apply for T status, and if they do not speak English, they can not fill out the application without help. Often they will need to turn to the local immigrant community, and the traffickers may have ties in the same community.¹²²

¹²⁰ Lisa Raffonelli. "INS Final Rule to Assist Victims of Trafficking." *Refugee Reports*, vol. 23, no. 3 (April 2002): p.9. Hereafter referred to as Raffonelli, "INS Final Rule to Assist Victims of Trafficking."

¹²¹ Testimony of Cho. Testimony of Wendy Patten, U.S. Advocacy Director, Human Rights Watch, in U.S. Congress, Senate Committee on Judiciary, Subcommittee on Constitution, Civil Rights and Property Rights, *Examining U.S. Efforts to Combat Human Trafficking and Slavery*, hearings, 108th Cong., 2nd sess., (July 7, 2004). (Hereafter, Testimony Wendy Patten.)

¹²² Raffonelli, "INS Final Rule to Assist Victims of Trafficking." p.9.

Appendix A. Anti-Trafficking Administrative Directive and Legislation

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.¹²³ 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 support services to victims who are in the country unlawfully and therefore presently ineligible for assistance. It pressed for the creation of a humanitarian, non-immigrant visa classification to allow victims to receive temporary resident status so 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 (DOJ) 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.¹²⁴ They also called for amending immigration statutes to punish

¹²³ For a discussion of this directive, see Department of State, Office of the Historian, *History of the Department of State During the Clinton Presidency (1993-2001)*, available at [<http://www.state.gov/r/pa/ho/pubs/8523.htm>].

¹²⁴ 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.

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.

On the international front, the State Department 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 Administration 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.

Victims of Trafficking and Violence Protection Act of 2000. Several bills were introduced in the 106th Congress on human trafficking. In conference, the bills were combined with the Violence against Women Act 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). The act's key provisions on human trafficking:

- 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 information on the nature and extent of severe forms of trafficking in persons in each country and an assessment of the efforts by each government to combat trafficking in the State Department's annual human rights report;
- 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 for any benefits that are otherwise available under the Crime Victims Fund;¹²⁵

- Provided protection and assistance for victims of severe forms of trafficking while in the United States;
- Amended the Federal Criminal code to make funds derived from the sale of assets seized from and forfeited by traffickers available for victims assistance programs under this act;
- Amended the Immigration and Nationality Act (INA) to allow the Attorney General to grant up to 5,000 nonimmigrant visas (T visas) per year to certain victims of severe forms of trafficking who are in the United States and who would face unusual and severe harm if they were removed from the United States. In addition, amended the INA to allow up to 5,000 T visas holders per year to adjust to lawful permanent resident status if the aliens have been in the United States continuously for three years since admission, have remained of good moral character, have not unreasonably refused to assist in trafficking investigations or prosecutions, and would suffer extreme hardship if removed from the United States;
- Established minimum standards to combat human trafficking 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;
- Called for the United States to withhold 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

¹²⁵ For more information on the Crime Victims Fund, see CRS Report RL32579, *Victims of Crime Compensation and Assistance: Background and Funding*, by Celinda Franco.

significant traffickers, and those who knowingly assist them, from entry into the United States; and

- Amended the Federal Criminal Code (18 U.S.C.) 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 as Congress, continued the anti-trafficking effort. Then-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 former 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.¹²⁶ The State Department issued its first congressionally mandated report on worldwide trafficking in July 2001.

On January 24, 2002, Ashcroft 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.¹²⁷

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 by identifying what more needs to be done to protect potential victims, to punish traffickers, and to prevent future trafficking. The State Department Office to Monitor and Combat Trafficking in Persons (G-TIP) was tasked with assisting the Interagency Task Force in implementing P.L. 106-386 and Task Force initiatives.

The Foreign Relations Authorization Act of 2003. 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 :

¹²⁶ Attorney General John Ashcroft's news conference on March 27, 2001. See [<http://www.usdoj.gov/archive/ag/speeches/2001/032701workerexploitation.htm>].

¹²⁷ U.S. Department of State, Washington File, January 24, 2002. [<http://usinfo.state.gov>]

- support for local in-country nongovernmental organization to operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organizational networks and databases on trafficking;
- support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention;
- education and training for trafficked women and girls;
- the safe integration or reintegration of trafficked individuals into an appropriate community or family, while respecting the wishes, dignity, and safety of the trafficked individual; and
- support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members.

The amendment also authorized an increase in appropriations for FY2003 to fund such programs.

Trafficking Victims Protection Reauthorization Act of 2003. In 2003, Congress approved the Trafficking Victims Protection Reauthorization Act (TVPRA) 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 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 were to get 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.

Intelligence Reform and Terrorism Protection Act of 2004. In December 2004, Congress approved the Intelligence Reform and Terrorism Protection Act of 2004, signed into law on December 17, 2004 (P.L. 108-458). The law established a Human Smuggling and Trafficking Center to be jointly operated by the Department of Homeland Security, the State Department, and the Department of Justice. It required that the Center serve as a clearinghouse for Federal agency information in support of U.S. efforts to combat terrorist travel, migrant smuggling, and human trafficking.

Trafficking Victims Protection Reauthorization Act of 2005. On February 17, 2005, Representative Christopher Smith and nine co-sponsors introduced the Trafficking Victims Protection Reauthorization Act of 2005 to

authorize appropriations for FY2006 and FY2007 and close loopholes in previous anti-trafficking legislation. The bill was signed into law by the President on January 10, 2006 (P.L. 109-162). Among other things, the legislation had 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 attempted to address the special needs of child victims, as well as the plight of Americans trafficked within the United States. It directed relevant U.S. government agencies to develop anti-trafficking strategies for post-conflict situations and humanitarian emergencies abroad. It sought 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 addressed the problem of peacekeepers and aid workers who are complicit in trafficking.

Appendix B. Trafficking Funding Issues

The U.S. government supports many types of anti-trafficking (anti-TIP) activities overseas and domestically. U.S. anti-trafficking activities are authorized by the Trafficking Victims Protection Act (TVPA) of 2000 (P.L. 106-386), as amended. **Table 2** lists trafficking authorization for FY2001-FY2011. Figures for FY2008-FY2011 are estimates based on the levels proposed in H.R. 3887. Those authorizations are for TIP operations (including law enforcement investigations) and TIP programs.

Since many U.S. government agencies do not have a line item in their budget requests for trafficking programs and/or TIP-related operations, it is often difficult to calculate the exact level of funding that Congress appropriated for trafficking activities (programs and operations/law enforcement activities) by agency. Despite the challenges, the Office of Management and Budget tracks estimated TIP appropriations levels by gathering agency estimations of TIP-related spending for each fiscal year. See **Table 3** for TIP authorizations versus appropriations for FY2001-FY2007. According to OMB, funding for TVPA programs comes from appropriations to a number of U.S. departments and agencies, including the Department of State (Economic Support Fund, Migration and Refugee Assistance, International Narcotics Control and Law Enforcement (INCLE) Assistance); the Department of Justice (Victims of Trafficking Grants, Criminal and Civil Rights programs, and the Federal Bureau of Investigations); the Department of Labor (Bureau of International Labor Affairs); the Department of Health and Human Services; and the Department of Homeland Security (Immigration and Customs Enforcement).

In FY2006, aggregate appropriations for international anti-trafficking activities amounted to an estimated \$38.4 million, down from \$51.4 million in FY2005. The bulk of that funding supported anti-TIP programs in foreign countries that are administered by the Department of State, the U.S. Agency for International Development, and the Department of Labor.

Domestic anti-TIP activities include both services to victims, as well as law enforcement operations. Investigations into human trafficking are complex and as a

result often require significant resources. According to OMB, in FY2006, Congress appropriated \$113.5 for domestic anti-TIP activities, an increase of \$38.6 million over the FY2005 appropriations level of \$74.9 million. Approximately 17.6% (\$20 million) of the FY2006 appropriations were used for trafficking victims' services, while the majority of the appropriated monies funded the anti-TIP efforts of domestic law enforcement agencies including the Federal Bureau of Investigations (\$47.5 million) and Immigration and Customs Enforcement (\$11.9 million).

Due to the methodological difficulties involved in calculating TIP appropriations and the fact that a large portion of TIP programs are supported by Economic Support Funds, which are appropriated to remain available for two years, the State Department calculates TIP obligations by agency per fiscal year. According to G-TIP, this generates the best estimate of the amount of funding spent on TIP programs by agency for each fiscal year. In FY2006, the U.S. government obligated an estimated \$74 million in anti-trafficking assistance to foreign governments, down from \$94.7 million in FY2005. See **Figure 1** on p. 12 for TIP obligations by agency for FY2005 and FY2006. International anti-TIP program totals are compared to roughly \$28.6 million obligated in FY2006 and \$25.2 million obligated in FY2005 for domestic anti-TIP programs. They do not include the costs of TIP operations or law enforcement investigations.¹²⁸ See **Table 4** in **Appendix C** for authorizations and appropriations for grant programs to assist trafficking victims in the United States for FY2001-FY2007.

¹²⁸ "U.S. Government Anti-Trafficking in Persons Obligated Project Funding (FY2006)," G-TIP Fact Sheet, April 23, 2007, [<http://www.state.gov/g/tip/rls/fs/07/83371.htm>]. FY2007 obligations by agency should be available by April 2008.

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*Note: As amended by Sec. 682 of the Foreign Relations Authorization Act for FY2003 (P.L.107-228).

- a. For pilot program for residential rehabilitation facilities for victims of trafficking.
- b. To carry out activities under Sec.201(a)(1)(B)(i), a study on severe forms of trafficking in persons in the United States.
- c. To carry out activities under Sec.201(a)(1)(B)(ii), a study on sex trafficking and unlawful sex acts in the United States.
- d. To carry out activities under Sec.201(a)(2), annual trafficking conference.
- e. To carry out activities under Sec.203, protection of juvenile victims of trafficking in persons.
- f. To carry out activities under Sec.204, enhancing state and local efforts to combat trafficking in persons.
- g. (a) To Support Interagency Task Force in carrying out:
 - Sec. 104. Addition of Trafficking to State Dept. Human Rights Report. H.R. 3887 struck out reference to Sec. 104.
 - Sec. 105. Establishment of an Interagency Task force and State Dept. Office to Monitor and Combat Trafficking.
 - Sec. 110. Preparation of annual report and country list regarding severe forms of trafficking.
- h. To the State Department Office to Monitor and Combat Trafficking, for official reception and representational expenses, and for FY2008 through 2011 includes \$1.5m for additional personnel.
- i. (b) To HHS for purposes of Sec.107 (b). Assistance to victims of trafficking in the U.S.
- j. (c) To Secretary of State for State Dept. and USAID to carry out Sec.107(a) Assistance for Trafficking victims in other countries. For FY2004-2007, the total includes \$250,000 each year for the International Law Enforcement Academies (ILEA). For FY2008-2011, the total includes \$500,000 for each year for the ILEA. **H.R. 3887 proposes an amendment, striking “\$15m” and inserting “\$10m” for FY2003.
- k. For voluntary contribution to international organizations for projects related to trafficking.
- l. (d) To Department of Justice to carry out Sec.107 (b) Grants to states, localities for protection of victims.
- m. (e)(1) To President to carry out Sec.106, foreign victim aid, including
 - Enhancing economic opportunities for potential victims
 - Increasing public awareness and information
 - Consultation and working with NGOs
- n. For research on domestic and international trafficking.
- o. (e) (2) To President to carry out Sec. 109(2) Assistance to governments, NGOs, multilateral organizations to help countries to meet minimum standards:
 - law drafting assistance
 - investigation and prosecution
 - for facilities, programs, projects, exchanges
- p. (f) To Department of Labor to carry out Sec.107 (b), assistance to trafficking victims in U.S.
 - Employment assistance and benefits

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q. H.R. 3887 proposes to the Secretary of Labor \$1m for additional initiatives for each of the fiscal years 2008-2011.

r. (h) To the Director of the FBI, to be able until expended, to investigate severe forms of trafficking in persons

s. (i) For investigations by the Bureau of Immigration and Customs Enforcement of severe forms of trafficking.

Table 3. Trafficking Victims Protection Act (TVPA) of 2000, as Amended Authorizations and Appropriations, FY2001-2007
(\$ in millions)

Fiscal Year	Authorizing Public Law	Title	Authorizations (Millions \$)	Appropriations (Millions \$)
2001	106-386 (Part A)	Victims of Trafficking and Violence Protection Act of 2000	\$31.8	N/A
2002	106-386 (Part A)	Victims of Trafficking and Violence Protection Act of 2000	\$63.3	N/A
2003	106-386 (Part A) ¹²⁹	Victims of Trafficking and Violence Protection Act of 2000	\$48.3	N/A
2004	108-193	Trafficking Victims Protection Reauthorization Act of 2003	\$105.6	\$101.4
2005			\$105.6	\$114.6
2006	109-164	Trafficking Victims Protection Reauthorization Act of 2005	\$177.3	\$151.9
2007			\$162.3	\$149.0

Source: Estimated appropriations levels as calculated by the Office of Management and Budget. FY2007 figures are not yet available. Estimates not collected prior to FY2004.

¹²⁹ As amended by Sec. 682 of the Foreign Assistance Act for FY2003 (P.L. 107-228).

Appendix C. Information on Domestic Grant Programs for TIP Victims

Table 4. Authorizations and Appropriations for Grant Programs to Assist Victims of Trafficking in the United States: FY2001 — FY2008
(\$ in millions)

	Victims Services — DOJ		Office of Refugee Resettlement		DOL
	Authorized	Appropriated	Authorized	Appropriated	Authorized
FY2001	\$5	\$0	\$5	\$5	\$5
FY2002	\$10	\$10	\$10	\$10	\$10
FY2003	N.A.	\$10	N.A.	\$9.9	N.A.
FY2004	\$15	\$10	\$15	\$9.9	\$10
FY2005	\$15	\$10	\$15	\$9.9	\$10
FY2006	\$15	\$9.9	\$15	\$9.8	\$10
FY2007	\$15	\$9.9	\$15	\$9.8	\$10
FY2008	None	\$9.4 ^a	None	\$10	None

Source: P.L. 106-386, P.L. 108-193, P.L. 109-162, P.L. 107-77, P.L. 107-116, P.L. 108-7, P.L. 108-90, P.L. 108-199, P.L. 108-334, P.L. 108-447, P.L. 109-90, P.L. 109-149, P.L. 109-195, P.L. 110-5, P.L. 110-161.

^aThis includes funding for victims services programs under The Victims of Trafficking Act of 2000 P.L. (106-386) and DOJ programs authorized under Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164).