

Ratification of the Palermo Protocol

On October 19, 2005, President Bush signed the instrument of ratification for the United Nations (UN) Convention against Transnational Organized Crime (TOC); its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and its Protocol against the Smuggling of Migrants by Land, Sea and Air. Secretary of State Condoleezza Rice countersigned the instrument of ratification on October 25, 2005. The United States deposited the instrument of ratification at UN headquarters in New York on November 3, 2005, and became an official party to the Convention and these two Protocols on December 3, 2005. It is also worth noting that U.S. Government anti-trafficking efforts have been independent of the Palermo Protocol. While the Protocol could be a catalyst for some nations, the U.S. Government's significant response to global trafficking is based on our nation's founding principles and legal traditions.

Institutional Mechanisms: National Action Plan, National Coordinator

While the U.S. Government does not have a national trafficking in persons (TIP) coordinator, the United States does have an effective national coordinating body. The U.S. Government has major, on-going TIP efforts in established federal government departments, whose high-level officials meet on a regular basis at Senior Policy Operating Group meetings. The President's Interagency Task Force on Trafficking in Persons (PITF), chaired by Secretary of State Rice and consisting of Cabinet-level members, designates senior officials as representatives to the SPOG. Each federal government department involved in fighting trafficking has an implementation plan, although it is true we have not merged these plans into one, grand strategic plan.

Identification of Trafficking Victims

The initial launch of the awareness campaigns of the Office of Refugee Resettlement within the Administration of Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS) only began in March 2004. To this point, the HHS "Rescue and Restore" campaign has focused on increasing the number of persons in the United States who are looking for victims of trafficking. This campaign seeks to inform individuals who are likely to encounter trafficked persons of the distinguishing attributes and characteristics of trafficked persons. In Fiscal Year 2005, the HHS outreach grantees report having identified 1708 suspected victims, and other grantees have served more than 400 pre-certified victims. All results must be viewed in the context of the 14,500 to 17,500 persons

the U.S. Government estimates are subjected to trafficking in this country every year, and, ultimately, the rate at which victims receive HHS certification. In that respect, although the rate of victim certification has increased, there is still a large gap between the estimated number of victims in the United States and the victims we serve. The U.S. Government recognizes this, and is in the process of making additional intensive efforts to find and certify more victims.

Child Trafficking

The U.S. Government has a service mechanism available to juvenile victims trafficked into the United States through the Unaccompanied Refugee Minors (URM) Program. Specifically, the URM program provides a care plan for each child victim tailored to meet the child's safety, educational, emotional, and health needs, and to take into consideration the child's religious and cultural background.

Under the Trafficking Victims Protection Act, victims under 18 years of age do not need to meet the statutory requirements for certification in order to receive benefits. For these victims, after a recommendation from either DHS or DOJ, OOR issues Letters of Eligibility, similar to adult certification letters, stating that a child is a victim of a severe form of trafficking and is eligible for federally funded or administered benefits to the same extent as refugees.

While the U.S. Government tracks the number of minors who have received Letters of Eligibility (similar to adult certification letters) from the HHS/ACF Office of Refugee Resettlement, we recognize that there seems to be a lack of information on domestic TIP victims that are U.S. citizens, particularly minors. In the U.S. Government's assessment of its own efforts to fight TIP, issued in September 2005, we noted that the U.S. Government should conduct more research to determine an accurate figure for the scope of the trafficking problem in the United States, including both domestic and foreign victims.

Prevention

The U.S. Agency for International Development (USAID) has analyzed its trafficking prevention programming (anti-trafficking is a relatively new area of activity for USAID). The Europe and Eurasia Bureau and the Office of Women in Development within USAID conducted an Assessment of Best Practices for Programming to Prevent Trafficking in Human Beings in Europe and Eurasia in October 2004. This report includes concrete lessons learned from awareness raising campaigns, as well as best practices and recommendations on comprehensive anti-TIP programming linking awareness and education to other prevention programming addressing root causes.

One lesson learned, for example, is that, while campaigns to raise awareness of the dangers and risks of human trafficking are successful in raising awareness, scare tactics do not work. It is critical to do research on target groups, and to provide more realistic and helpful information that potential victims would associate with their own lives, and which truly minimizes the risks. If you are interested in receiving a copy of this report, please let us know.

Assistance and Protection

The statement that, “...no country can claim to have adopted a victim-centered approach, if care or other benefits are conditioned upon law enforcement or other considerations extraneous to the recovery needs of the victim,” is subject to considerable debate. First, in the United States, apart from a willingness to cooperate with law-enforcement, there are no other conditions victims of trafficking must meet to receive benefits. Second, we believe the U.S. Government approach — one that prioritizes catching perpetrators to put them out of business and cease to exploit other victims — is a “victim-centered approach.”

HHS has specific authority through the Reauthorization Act of 2003 to assist pre-certified victims, and does so through a national network of grantees. For victims who elect to cooperate with our efforts to prosecute the traffickers, the United States offers very generous benefits including family reunification and, as your report notes, the possibility of permanent residency. As of 2005, the Department of State initiated a program of return, reintegration and family reunification with the International Organization for Migration (IOM) for victims in the U.S. This program facilitates the reunification of eligible family members with the trafficking victims in the U.S., as provided for by the generous provisions of the TVPA. This same program provides victims who do not elect to avail themselves of the protection and benefits of the T-visa to remain in the United States, with return transportation to their country of origin with a small reintegration grant.

As pertains to the annual *Trafficking in Persons Report*, we protect the identities of TIP victims and only publish photographs without obscuring their identities when there is victim consent. Also, as noted in the *TIP Report*, several of the photos are only representative of TIP victims. The *TIP Report* uses photos to remind the readers there are real human individuals behind the overwhelming statistics.

The OSCE Report does not reflect the contributions of the U.S. Department of Labor (DOL) to domestic anti-trafficking efforts. It neglects to mention the role of DOL’s Wage and Hour Division (WHD) inspectors, who interview workers and

become aware of situations where workers have been intimidated, forced to turn over immigration papers, threatened or held against their will. Victims of labor trafficking are most frequently found working in low-wage industries. WHD investigators are on the ground and in workplaces where there may be instances of human trafficking. WHD representatives participate on approximately 20 local task forces that have been formed in various localities nationwide to combat trafficking. Most recently, in May 2005, the Assistant U.S. Attorney for the District of New Hampshire briefed WHD senior staff (from the national office and all field offices) on U.S. trafficking in persons legislation and the law enforcement response.

Prosecution

To clarify the statistics, in Fiscal Years 2001 to 2005, the Civil Rights Division of the U.S. Department of Justice (DOJ) and U.S. Attorneys' Offices initiated prosecutions of 281 traffickers, more than three times the 80 prosecutions commenced during the prior five years. In Fiscal Years 2001 to 2005, the Civil Rights Division and U.S. Attorney's Offices secured 162 convictions and guilty pleas, which doubled the number obtained over the previous five years. In Fiscal Years 2001 to 2005, the DOJ Civil Rights Division and U.S. Attorney's Offices opened 480 new investigations, more than four times the 113 opened in the previous five years.

In Fiscal Year 2004, DOJ filed 29 human trafficking cases, almost equaling the 33 total that were filed in the three previous years combined. In Fiscal Year 2004, DOJ initiated prosecutions against 59 traffickers, the highest number ever prosecuted in a single year. More than half (32) of those defendants were charged with violations created by the TVPA, and all but one of those cases involved sexual exploitation. In Fiscal Year 2004, DOJ also obtained a record number of convictions against 43 traffickers, the highest number ever obtained in a single year.

To help support the U.S. efforts against traffickers and other criminals, in 2004, the United States established the interagency Human Smuggling and Trafficking Center, designed to turn information into law enforcement and other action, and work with other governments to address the separate but related issues of human smuggling, trafficking in persons, and criminal support of clandestine terrorist travel.

Training of Law Enforcement

The U.S. Government conducts significant training of law enforcement and prosecutors. DOJ over the past year has engaged in a task force initiative in 21 cities that involved comprehensive training and funding for state and local prosecutors, as well as social service providers. DOJ hosted two national

conferences for task force members, and more than 50 local training sessions. In addition to these single training sessions, the Executive Office for the U.S. Attorneys' Office of Legal Education, and the DOJ Civil Rights Division hosted a comprehensive training session for federal agents and prosecutors, including Federal Bureau of Investigation (FBI) and Immigration and Customs Enforcement (ICE) agents from the U.S. Department of Homeland Security (DHS), at DOJ's National Advocacy Center in January 2004. Furthermore, the DOJ Civil Rights Division actively participates in human trafficking training at U.S. Attorneys' Offices as part of the regular curriculum of agents in the FBI, DHS/ICE, and Department of State Diplomatic Security Service.

Finally, the FBI regularly includes a course on trafficking in persons for both its new and senior special agents, and trains high-ranking and executive management personnel from state and local law enforcement agencies. Also, in Fiscal Year 2004 alone, 300 state and local law enforcement officers received training through the Innocent Lost Initiative, which focuses on child prostitution.

Prostitution

While the U.S. Government sympathizes with the Swedish model, and we have partnered with the Swedish Government on several projects, our approach is not the same. We do not seek to reduce prostitution by decriminalizing the selling of sex and only arresting the buyer. However, just recently on December 14, the U.S. House of Representatives passed legislation aimed at shifting the focus from arresting women engaged in prostitution and encouraging, through federal grants, U.S. States and cities to arrest male customers.

Except in certain limited circumstances, patronizing a prostitute is not a federal crime because of a lack of connection to federal criminal jurisdiction under the U.S. Constitution; however, transporting people in prostitution across state lines is a federal crime. We do have state laws that prohibit prostitution, pimping, pandering, procuring, maintaining a brothel, profiting from prostitution, and more (soliciting, loitering, bawdy house laws, etc). (There are counties in Nevada that are exceptions.) Each U.S. state has its own set of laws, and these laws are operational. In almost every state in the United States selling sex is a crime, and in many states buying is a crime as well.

As noted in the OSCE report, the U.S. Government policy position at the federal level, as articulated by President Bush, is that prostitution is inherently harmful for men, women, and children, and that it contributes to the phenomenon of trafficking in persons. We therefore oppose prostitution as a legitimate form of work. We do

believe, as the recent House legislation shows, that victims should be helped and law enforcement should focus not on victims but the perpetrators.

Demand

The United States is one of the few leaders on the issue of demand. Regarding your comment on the Department of Defense (DOD), DOD adopted a zero-tolerance policy on prostitution and human trafficking, amended its *Manual for Courts Martial* in October 2005 so that patronizing a prostitute is a chargeable offense under the military justice system, and is conducting awareness training for all troops. Additionally, the U.S. Government is funding several demand-oriented projects, such as “Johns’ Schools” to educate men convicted of buying sex, in which they meet victims of sex trafficking to help them understand that their crimes are not victimless. We would welcome OSCE involvement and partnership on demand-reduction projects, for without demand, many traffickers would be out of business.

The U.S. Government agrees there is more that every country can do to abolish slavery. We will continue to strengthen our efforts to uncover, prosecute, and successfully convict human-trafficking rings. We will redouble our efforts to identify trafficking victims, and to rescue, restore, and reintegrate them. Having recognized that, the United States is still undoubtedly in a leadership position, thanks to our Congress, our President, and the dedicated efforts of USG agencies and NGOs working both at home and abroad.