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U.S. House of Representatives Committee on International Relations

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**FOREIGN GOVERNMENT COMPLICITY IN
HUMAN TRAFFICKING:
A REVIEW OF THE STATE DEPARTMENT'S
"2002 TRAFFICKING IN PERSONS REPORT"**

HEARING
BEFORE THE
**COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES**
ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

—————
JUNE 19, 2002
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**FOREIGN GOVERNMENT COMPLICITY IN
HUMAN TRAFFICKING: A REVIEW OF THE
STATE DEPARTMENT'S "2002 TRAFFICKING
IN PERSONS REPORT"**

WEDNESDAY, JUNE 19, 2002

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Committee met, pursuant to call, at 1:47 p.m. in Room 2172, Rayburn House Office Building, Hon. Henry J. Hyde (Chairman of the Committee) presiding.

Chairman HYDE. The Committee will come to order.

I am pleased to convene this hearing, which is the second in a series of hearings being held by the House Committee on International Relations on implementation of the Smith-Gejdenson Trafficking Victims Protection Act of 2000.

The Smith-Gejdenson Act provides a comprehensive plan for putting an end to modern-day slavery. A key component of this plan is the State Department's annual *Trafficking in Persons Report*. This report is intended to inform the President and the Congress about which foreign governments are making serious efforts to combat the most egregious forms of trafficking in persons—the buying and selling of women and children into the international sex industry, and the trafficking of men, women, and children alike into slavery and involuntary servitude—and which governments are failing to make such efforts.

At today's hearing, the Committee will hear testimony on the State Department's second annual *Trafficking in Persons Report*. This year's report is particularly important because it is intended to serve as a final "wakeup call" to governments which are doing little or nothing to combat human trafficking. This is because the Trafficking Victims Protection Act contemplates that the United States will withdraw non-humanitarian aid from governments which remain on the "Tier Three" list after the next year's report. The "Tier Three" governments are those that not only fail to meet minimum international standards for combating human trafficking, but who are not even making serious efforts to bring themselves into compliance with these standards.

In addition to providing an overview of the state of the war against human trafficking and the general assessment of the *Trafficking in Persons Report*, I hope our witnesses will address one question in particular. The Trafficking Victims Protection Act places particular emphasis on the need to take action against gov-

ernments that not only tolerate human trafficking but are actively complicit in such trafficking through their agencies and officials. Both this year and last year, criticism of the report by human rights advocates and humanitarian organizations have singled out governments that are omitted from the Tier Three list even though they appear to give impunity to their own officials who participate in and profit from sex trafficking and slave trafficking. In some cases, the report acknowledges this problem but finds, nevertheless, that the government has engaged in “significant efforts” to end trafficking. These efforts typically include co-sponsoring rehabilitation and training programs with international organizations, or perhaps prosecuting an occasional perpetrator.

This raises the question whether governments whose own agencies or officials are pervasively involved in human trafficking—and who lack the political will to take the difficult measures that would be necessary to put an end to such involvement—will nevertheless be able to avoid sanctions under the Trafficking Victims Protection Act. If so, what must be done to put an end to this impunity? Should the State Department reassess its standard for what constitutes “significant efforts” by a government whose officials or agencies are engaged in human trafficking? Or does the act need to be amended in order to make clear that government complicity in sex trafficking and slave trafficking is simply unacceptable?

I look forward to hearing from our witnesses today; and I am pleased to yield to the distinguished Ranking Member of the Committee, Representative Tom Lantos, for any opening remarks he may have.

[The prepared statement of Mr. Hyde follows:]

PREPARED STATEMENT OF THE HONORABLE HENRY J. HYDE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS, AND CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

I am pleased to convene this hearing, which is the second in a series of hearings being held by the House Committee on International Relations on implementation of the Smith-Gejdensen Trafficking Victims Protection Act of 2000.

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governments that are omitted from the Tier Three list even though they appear to give impunity to their own officials who participate in and profit from sex trafficking and slave trafficking. In some cases, the report acknowledges this problem, but finds nevertheless that the government has engaged in 'significant efforts' to end trafficking. These efforts typically include co-sponsoring rehabilitation and training programs with international organizations, or perhaps prosecuting an occasional perpetrator.

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I look forward to hearing from our witnesses today, and I yield to the distinguished Ranking Member of the Committee, Representative Tom Lantos, for any opening remarks he may have.

Mr. LANTOS. Thank you very much, Mr. Chairman.

Let me at the outset thank you for holding this extremely important hearing on trafficking in persons, a heinous practice that amounts to nothing less than modern-day slavery.

At the outset, I would like to pay special tribute to my good friend, Chris Smith of New Jersey, who has played such a pivotal role on this whole issue, and to my friend and colleague, the Republican co-Chair of the Human Rights Caucus, Frank Wolf of Virginia, who has been such a staunch advocate for all of these human rights issues.

I also want to express publicly my personal gratitude to three women who taught me everything I know about human rights and particularly this issue: my wife Annette, who is here in the audience, and our two daughters, Annette and Katrina. Katrina, when she lived in Copenhagen the last 3 years as the wife of our Ambassador, took it upon herself to choose the issue of trafficking as her cause and devoted untold hours on behalf of fighting this important issue.

From the foothills of the Himalayas to the rice paddies of the Mekong Delta and from the steps of Central Asia and to the desert sands of the Arabian Peninsula, hundreds of thousands, probably millions of women and girls are suffering under the yoke of sexual slavery and other unthinkable forms of forced labor. Tragically, this practice—terrible practice extends to our own shores.

Each year, Mr. Chairman, thousands of kidnapped or manipulated women and children slip through our own borders to join the underground workforce of coerced labor here in the United States. Sadly, our government has for too long been woefully unprepared to combat this barbarous behavior. Recognizing this growing problem, our Committee during the last Congress successfully worked for the enactment of the Trafficking Victims Protection Act of 2000.

In addition to initiatives to prevent trafficking, to protect victims and to punish traffickers, one of the most important achievements of our legislation was the creation of the report we are to hear about today which focuses international attention on these horrendous abuses.

This report's primary purpose, of course, is to penetrate the darkness surrounding this subject and shed light on the countries

where trafficking occurs, where trafficking is tolerated and, in some instances, where trafficking is encouraged. The report holds foreign governments accountable for the persistence of trafficking on their soil. No longer will they get away with making excuses rather than taking action.

Many argue, Mr. Chairman, that human rights reporting such as this needlessly complicates our diplomacy and often proves counter-productive. I couldn't disagree more. Since the publication of the first *Trafficking in Persons Report*, 14 countries have responded by intensifying their efforts to combat trafficking. This year's report by the Department of State recognizes these countries for their progress, and they are properly praised for making important strides in achieving the goal of eliminating this sickening practice.

For example, the state of Israel, despite being under unceasing attacks by terrorists and human suicide bombers, has passed a new law against trafficking. Israel has been actively prosecuting trafficking cases. It has been cracking down on government officials who have been connected with trafficking activities.

In direct response to last year's report, our friends in South Korea established new mechanisms to prosecute traffickers, to promote public awareness, and to protect victims.

Mr. Chairman, while the effectiveness of this report has already been seen, we must do much more. There are still far too many trafficking victims. Countries that are making progress need to sustain that progress, and countries that have yet to act must do so now. If not, U.S. law will require that we impose sanctions on these countries.

Let there be no mistake, Mr. Chairman, we will not hold back from taking action where we must. The voices of thousands of women and children from all over the world who are suffering every day compel us to expose these horrible practices and to take stern measures to ensure that these practices end.

I want to thank you, Mr. Chairman. I look forward to listening to the witnesses.

Chairman HYDE. Thank you, Mr. Lantos.

Mr. Smith.

Mr. SMITH OF NEW JERSEY. Thank you very much, Mr. Chairman, for convening this very important hearing to review the 2002 *Trafficking in Persons Report* that has been issued by the State Department; and I want to especially thank you for your leadership.

I think everyone, every Member knows that this bill was referred to four major Committees, I believe it was 11 or 12 Subcommittees; and one of the key pieces of the legislation was protection for the victims, a sea change—a radical change that we were seeking to effectuate that would protect the women and cease the treatment of those women as criminals and treat them as victims. That piece went to the Judiciary Committee when Chairman Hyde was Chairman of that Committee; and there was reluctance among some of the key Members, including a key Committee Member.

Without Chairman Hyde's leadership, the new T Visa and the protection side of this would not have been enacted into law. So I want to thank especially our distinguished Chairman, now that he chairs this Committee, but also in his previous chairmanship for

making that possible. It was the dead letter, and he made it possible.

Mr. LANTOS. Will my friend yield for a second?

I want to associate myself with these remarks concerning Chairman Hyde.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Lantos.

Let me say as well that Joseph Rees, David Abramowitz, and Sam Gejdenson, whom you mentioned and was our chief Democratic sponsor, worked together on that. On the Senate side, it was Brownback and Wellstone. It was a team effort, and that is why this legislation is law, and now it is being faithfully implemented by the Bush Administration.

Let me say that, when the law was enacted, there were many people that didn't want to publicly name offending countries. The experience of the first two *TIP Reports*, however, supports the argument that I and others made, that some countries would only get serious about their failure to address this travesty of human rights if their deficiencies were publicly identified.

During the year between the first and second reports the governments of more than two dozen countries improved their behavior and policies enough to merit an improved mark. Only Cambodia and Tajikistan dropped in ranking from the first year to the second. Naming names commands the attention of the countries around the globe and puts all countries on notice that if they are found to have a significant amount of human trafficking taking place on their soil, they, too, will be included in the next report.

The guiding principle for the State Department in preparing this report should be to go where, and anywhere, that the evidence leads. Countries which are not making significant efforts to comply with minimum standards must be placed on Tier Three and remain there, regardless of competing political considerations, until their efforts truly warrant their elevation. Even our allies do not escape scrutiny if the facts show that they are failing to address modern-day slavery. If the report is to continue to be an effective document, it must continue to honestly evaluate countries according to the evidence.

In this regard, although I agree with most of this report, I do take exception to the placement of India, Thailand, and Vietnam on Tier Two rather than Tier Three again this year as they were in the 2001 report.

In the case of Vietnam, there is clear evidence that the government's own labor export program is deeply complicit in human trafficking. Indeed, much of this evidence can be found in a recent decision by a U.S. court in American Samoa. This landmark anti-trafficking case found that two Vietnamese government-owned export companies actively participated in trafficking several hundred workers into slavery in a factory in American Samoa and repeatedly threatened them with retaliation if they complained about the abuses to which they were subjected.

In India, more than 200,000 persons are trafficked in the country each year. More than 2.3 million girls and women are believed to be working in the sex industry against their will at any given time in India. Possibly as many as 40 percent are children. Indian boys,

some as young as age four, are trafficked abroad to be enslaved and brutalized as jockeys in camel races.

Evidence exists that law enforcement and government officials help facilitate human trafficking, that investigations and prosecutions of traffickers are rare. Indeed, the State Department points to just 47 cases in Delhi to support the statement that investigations and prosecutions are rare but increasing. In any event, local corruption renders most prosecutorial efforts ineffective.

I do not mean to suggest that the governments of India, Thailand, and Vietnam are not taking any steps to address trafficking or to assist victims. I am saying that their efforts to combat trafficking cannot reasonably be judged to be significant in light of the enormity of the human trafficking problems in those countries and the absence of meaningful legal accountability for the traffickers.

In Vietnam, India and Thailand and, frankly, in other Tier Two countries such as Albania, Bulgaria, Moldova, traffickers are oftentimes corrupt officials, and are rarely prosecuted and even more rarely convicted. This lack of accountability is not made acceptable by the fact that the NGOs are allowed to run awareness-raising campaigns in the country or that police officers or other government officials participate in training seminars. Nevertheless, the State Department deemed these countries to be making significant efforts to comply with the minimum standards.

There should be no question in anyone's mind, however, that countries on Tier Two and perhaps even on Tier 1 still have a great deal of work to do to combat trafficking. Countries on Tier Two are not meeting the barest minimum standards to effectively end the trafficking of persons on their territory. Being placed on Tier Two is not, by any stretch of the imagination, a badge of honor.

I applaud those governments such as Romania, Yugoslavia, and Israel which created the political will in the past year to raise themselves from Tier Three to Two. Last January, in Yugoslavia, for example, Serbian police launched a nationwide crackdown on human trafficking which involved raids on 441 different locations where trafficked women were likely being held. The government today is cooperating with the OSCE and other international organizations. Anti-trafficking initiatives and new anti-trafficking law is currently under consideration by parliament.

Despite the improved rankings of Yugoslavia, Romania, Israel and others, let us be clear on one point. Abhorrent human rights violations continue in these countries. In Belgrade today, women and girls are still being sold to the highest bidder at auctions where they are stripped of their clothes and inspected like cattle. I look to each of these countries to press forward with the same political will in the coming years until the day that they can say that trafficking and slavery has been eradicated in their lands and the victims of trafficking and slavery were protected in the process.

Finally, I just want to thank—we are joined, Mr. Chairman, as you know, by Congressman Frank Wolf, the Chairman of the Commerce, Justice, and State Committee and the Appropriations Committee, who in his bill last year and again this year has ensured that sufficient monies are allocated and appropriated to fight this terrible scourge. Mr. Wolf has been a leader on human rights as

well on a whole host of areas like religious freedom. It is so great to have him here.

Thank you.

Chairman HYDE. Thank you, Mr. Smith.

One of the benefits of being Chairman of the Committee is you get to pronounce some very exotic names. Shalikashvili, General Shalikashvili, I learned that one. Former Prime Minister of Israel, Benjamin Netanyahu. But we have on this Committee the most exotic name of all, and belonging to one of the really fine Congressmen from American Samoa, Eni Faleomavaega.

Mr. FALEOMAVAEGA. Mr. Chairman, thank you for such a pronounced introduction, and for which I really do appreciate.

I look forward to hearing from our witnesses this afternoon and am curious also to find out how our State Department makes the evaluations in classifying different countries in Tier 1, 2, and 3. From all that I have heard so far, Mr. Chairman, I suspect that maybe even our own country might qualify for Tier 1. But I look forward to hearing from our good friends and witnesses representing the State Department.

As my good friend from New Jersey has alluded to earlier, we did have a little problem of Vietnamese workers that were brought in by a foreign national. I just wanted to let my friend from New Jersey know that the situation has been resolved. Quite critically, one of the biggest problems we had were the companies that were represented by the government of Vietnam that caused so much of the mess that we ended up with. But I do want to assure my good friend from New Jersey that the problem no longer exists, and I would welcome any Member of this Committee to come and join me to visit my humble jurisdiction out there in the middle of Pacific.

But, with that, Mr. Chairman, I do look forward to hearing from our witnesses this afternoon. Thank you.

Chairman HYDE. Thank you.

Mr. Tancredo from Colorado.

Mr. TANCREDO. Mr. Chairman, thank you.

In order to expedite this part of the hearing, I would only want to say that I want to associate myself with all of the comments that have been made to this point, especially the accolades that have been heaped upon you, Mr. Chairman.

Chairman HYDE. Does the gentleman require additional time?

Thank you, Mr. Tancredo. We will cut you off now. Thank you.

Mr. Smith of Michigan.

Mr. SMITH OF MICHIGAN. Mr. Chairman, likewise, thank you for having this hearing. Certainly, I would like to align myself with a lot of the comments made so far.

I would like my full written statement to be entered into the record without objection.

Chairman HYDE. Without objection, so ordered.

Mr. SMITH OF MICHIGAN. Let me recognize our former Congresswoman, Linda Smith, who has done so much in the last several years to rescue women from trafficking throughout the world. So, thank you, Linda, for being here and for all that you have done.

Trafficking affects virtually every country in the world and is one of the fastest-growing areas of international criminal activity. Chinese and Vietnamese triads, the Japanese Yakuza, South American

drug cartels, the Italian Mafia, the Russian gangs are some of the worst offenders. But it is also believed that some 50,000 people are trafficked here to the United States in reports that I have recently surveyed. Hopefully, our strengthening our I N S is going to result in a better job of reducing that trafficking, at least in the United States.

Beginning in fiscal year 2004, countries that remain in Tier 3 will be subject to sanctions from the United States. Although I support harsh actions against countries who refuse to make the necessary changes to combat trafficking, I do have serious concerns that, by withdrawing aid or some of the other penalties, we will in some cases exacerbate conditions that increase the likelihood of trafficking. Chronic unemployment, widespread poverty create opportunities for trafficking. So I think it is very important that we examine these on a case-by-case basis to make sure that our reaction and penalties for trafficking don't exacerbate the situation.

With that, I yield back, Mr. Chairman.

Chairman HYDE. I thank the gentleman.

[The prepared statement of Mr. Smith of Michigan follows:]

PREPARED STATEMENT OF THE HONORABLE NICK SMITH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF MICHIGAN

In October of 2000, Congress passed the Trafficking Victims Protection Act to combat the illegal trafficking of people and to protect victims of trafficking. We use the term "trafficking"—but what it really means is slavery. Sadly, at least 700,000, and possibly as many as four million men, women and children were bought and sold into slave-like conditions last year. The forms range from sexual slaves, forced labor conditions, even to the kidnapping of children to be used as camel jockeys. Once the victims are removed from their homes, they often have no way of returning and remain estranged from their loved ones, living in areas where they don't know the language or culture.

Trafficking affects virtually every country in the world and is one of the fastest growing areas of international criminal activity. Chinese and Vietnamese Triads, the Japanese Yakuza, South American drug cartels, the Italian mafia and Russian gangs are among the worst offenders. But, it is also believed that some 50,000 people are trafficked to the United States every year.

The Trafficking Victims Protection Act requires that the Department of State present an annual Trafficking in Persons Report. The second of these reports, which we are receiving today still includes 89 countries that are somehow involved or related to either the transit or trafficking of victims. Of those countries, 19 are still classified as Tier 3, which means that their governments do not meet the minimum international standards against trafficking and are not making significant efforts to bring themselves into compliance. There has been improvement, this past year, 14 countries were upgraded from Tier 3 to Tier 2; however, 19 nations in Tier 3 is still too high.

Beginning in fiscal year 2004, countries that remain in Tier 3 will be subject to sanctions from the United States. Although I suppose harsh actions against countries who refuse to make the necessary changes to combat trafficking, I have serious concerns that by withdrawing aid, we will in some cases exacerbate conditions that increase the likelihood of trafficking. Chronic unemployment and widespread poverty create opportunities for traffickers to lure unsuspecting people into their networks. Economic and political instability make it more difficult for governments to combat these traffickers. Fledgling governments, such as the newly created regime in Afghanistan, currently face the threat of economic sanctions because of trafficking. There must be a case by case evaluation. We must make sure that the remedy imposed to combat trafficking will have the intended result—rather than making the situation worse.

I commend the Administration for the work that went into this report to Congress and for their efforts to coordinate with the international community to eliminate trafficking. Last year, the U.S. Government supported over 110 anti-trafficking programs in approximately 50 countries. As I said, we have made progress. But, true

success will mean that next year when this report is presented to Congress, no nations remain on the Tier 3 list.

Chairman HYDE. Mr. Pitts of Pennsylvania.

Mr. PITTS. Thank you, Mr. Chairman; and thank you for holding this important and timely hearing regarding the *Trafficking in Persons Report*. I think it is vital that the Congress and the Administration continue to shine the spotlight on the terrible violence against men, women and children as they are forced into slave labor or sexual servitude. The human rights violations, the criminal actions, must be addressed in the strongest possible manner so that the criminals, the violators, receive a clear message that their actions will not be tolerated.

Thank you to all the individuals who worked on this report—the Department of State, Department of Justice, other officials who are working on trafficking issues and helping bring perpetrators to justice.

I would like to specifically thank Under Secretary Paula Dobriansky and Ambassador Ely-Raphel for their work on this report and their efforts to raise the profile on this issue.

As continued progress is made to erase this terrible form of slavery, clear leadership from the Administration will help millions of enslaved women, children, and even men around the world. There are horrifying stories of young girls imprisoned, forced to sexually service large numbers of men each day. The physical, the psychological toll on these individuals is heartwrenching, and the rescue and the rehabilitation work being done by many NGOs on behalf of those in forced servitude is commendable and should be supported. We also need, however, to focus on preventing the servitude from ever occurring and on prosecuting those involved in criminal activities.

A number of NGOs working on trafficking in persons issues as well as a number of Members of Congress have concerns about the State Department's *Trafficking in Persons Report* and the lack of clarity regarding data collection and methodology of decision-making. There have been particular concerns regarding the placement of India, Vietnam, and Thailand in the ranking as there seems to be substantial evidence that these nations deserve to be placed in Tier 3 instead of Tier 2. It would be helpful as this report develops for the State Department to clarify their decision-making process that was used.

So, thank you, Mr. Chairman. I look forward to hearing from our distinguished witnesses today.

Chairman HYDE. Thank you, Mr. Pitts.

I would like to welcome Dr. Paula Dobriansky. Prior to her appointment as Under Secretary of State for Global Affairs, Dr. Dobriansky served as Senior Vice President and Director of the Washington Office of the Council on Foreign Relations. Previously, she served as Senior International Affairs and Trade Advisor at the law firm of Hunton & Williams, and as Co-Chair of the International TV Council at the Corporation for Public Broadcasting.

Dr. Dobriansky is accompanied by Ambassador Nancy Ely-Raphel, Senior Advisor to the Secretary of State on Trafficking in Persons.

We are very honored to have you appear before the Committee today, both of you; and if you could proceed with a 5-minute summary, give or take. Your full statement will be made a part of the record. Secretary Dobriansky.

**STATEMENT OF THE HONORABLE PAULA DOBRIANSKY,
UNDER SECRETARY FOR GLOBAL AFFAIRS, U.S. DEPARTMENT OF STATE**

Ms. DOBRIANSKY. Thank you, Mr. Chairman.

First, thank you for inviting me—us—here today to discuss U.S. policy to combat trafficking in persons and the 2nd annual *Trafficking in Persons Report*. I will submit a longer version for the record and will condense my remarks.

Your strong leadership on this issue, first by passing the Trafficking Victims Protection Act of 2000 and then by focusing national attention on its implementation, has been crucial. We look forward to continuing to work closely with Congress, as well as with foreign governments and NGOs, toward eradicating this egregious human rights abuse and crime. The annual *Trafficking in Persons Report* is an essential tool available to the United States government for achieving this objective.

In accordance with the legislative mandate, foreign governments are judged on whether they comply with the minimum standards to eliminate trafficking in persons. Governments are judged on their actions, not on plans that are merely in progress. Countries must treat victims as victims, not criminals; they must prosecute traffickers; and they must prevent trafficking, recognizing the importance of public education campaigns in not only urban but also rural areas.

Since the release of the first report, we have used its contents to engage aggressively with other countries about what more effective concrete steps they can take in the area of prevention, protection, and prosecution. To that end, I have met personally with representatives from India, Cote d'Ivoire, Romania, South Korea, and numerous other countries to discuss trafficking in persons. Ambassador Ely-Raphel and her team in the office to monitor and combat trafficking in persons have met with representatives from more than two dozen countries, some of these repeatedly. Our Ambassadors and their staffs, as well as others in the Department, have also raised this issue numerous times with a very broad range of foreign government officials. These efforts have made a difference, and over the last year there were some improvements. At the same time, there was, disappointingly, regression and no change in a number of countries.

It is important to note that the report goes beyond what is called for specifically in the act, which requires a listing of three tiers. Instead, we include brief country narratives which are invaluable in identifying for foreign governments the areas in which they need to improve their efforts. Based on NGO input, we directed U.S. missions overseas to expand their information-gathering efforts to include specific inquiries about numbers of arrests, indictments and prosecutions, evidence of government involvement or corruption and what steps have been taken to deal with these circumstances. As a result, the report reflects our increased collection

of data and consideration of the scope of the trafficking problem in many countries.

The release of this year's report has already generated many responses from a number of countries on Tiers Two and Three, including Japan, Malaysia, Greece, and Turkey. We are meeting with each to discuss the report and to suggest concrete follow-up steps.

Just as the report has already elicited feedback from countries listed in the report, it has also generated considerable reaction from activists in this country as well as Members of Congress. I appreciate and indeed share the fervor that so many people bring to this issue. Let there be no mistake about it. We are all in pursuit of the same goal, namely, the eradication of trafficking once and for all.

In response to some of the criticisms I have heard expressed since the release of the report and in anticipation of some of your questions today, I wish to address some of the criticisms that have been rendered.

First, I have heard some people say that placement of certain countries on Tier 2 constitutes their receiving a passing grade. The legislation calls for three lists. Countries that are in full compliance with the act's minimum standards merit a Tier 1 ranking. Countries not yet in full compliance but making significant efforts are on Tier 2. Countries neither meeting minimum standards nor making significant efforts to do so are placed on Tier 3. Countries with some of the worst trafficking problems are also some of the countries making a significant effort to combat that. The two are not necessarily mutually exclusive.

There is no question that Tier 3 placement is for the worst offenders, but being listed on Tier 2 means that countries are not in full compliance. It is not a pass to be listed on Tier 2. Countries do not like to be listed on Tier 2 or on Tier 3 and, in fact, have challenged our findings. Moreover, countries on Tier 2 do not want to run the risk of falling to Tier 3 next year and face sanctions, including the possible cutoffs of non-humanitarian aid.

Second and related to this is the fact that honest people can disagree on the tier placements of certain countries. Congress asked that we look at the significant effort that a country is making. What constitutes a significant effort as defined in the act is something that people can discuss and maybe analyze differently. No country, including our own, is doing enough as long as trafficking continues to exist.

That said, progress in one country will look very different from progress in others, as circumstances are different and what can impact the situation may also be different.

At the same time, in our diplomatic engagement we will set a high bar for these countries and demand solid action, not rhetoric. This is an extremely complex issue in which numerous factors—law enforcement, judicial action, legislative action, women's and children's rights, protection, economic conditions, and social assistance—have a bearing on how effective a country is in dealing with the problem and how we can engage and pressure that country to make progress. Simply, in each case, there is not just one defining issue. We recognize the complexity and will take a hard look at each country.

Lastly, some have criticized the report for lacking data. I would like to assure you that we have made significant efforts to collect data which we then factored into our decision-making. With the world estimate of between 700,000, on one hand, and four million trafficking victims, on the other hand, this underground crime is not easy to pinpoint. Accumulating verifiable data is extremely difficult, even here in the United States. Statistics are important, and we will continue to push our various sources on collection. But statistics are one part of what we are looking at. Action or inaction is the primary focus.

The report is one of many tools at our disposal to address this criminal activity, to shed light on the terrible problem of trafficking and to crack down on traffickers. The report is most effective when combined with a comprehensive strategy of diplomacy and direct engagement with other governments, multilateral fora, public affairs, programmatic support, and technical assistance.

We have taken other steps which we believe reinforce the impact of the report. These include: the President's Cabinet-level Inter-agency Task Force; the newly-established Senior Policy Advisory Group; a comprehensive review of prospective programs; the usage of every forum—bilateral, regional, global; the ratification process of the U N Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; and educating the public, for example, through the annual Country Reports on Human Rights Practices.

In conclusion, let me reiterate that we want to continue to work vigorously with you, the NGO community, and other governments to eradicate the often-hidden phenomenon of human bondage in modern-day society.

Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. [Presiding.] Thank you very much, Secretary Dobriansky.

[The prepared statement of Ms. Dobriansky follows:]

PREPARED STATEMENT OF THE HONORABLE PAULA DOBRIANSKY, UNDER SECRETARY FOR GLOBAL AFFAIRS, U.S. DEPARTMENT OF STATE

Thank you for inviting me here today to discuss U.S. policy to combat trafficking in persons and the second annual *Trafficking in Persons Report*. Your strong leadership on this issue, first by passing the Trafficking Victims Protection Act of 2000 and then by focusing national attention on its implementation has been crucial. We look forward to continuing to work closely with Congress—as well as foreign governments and NGOs—toward eradicating this egregious human rights abuse and crime.

The annual *Trafficking in Persons Report* is an essential tool available to the U.S. Government for achieving this objective. As Secretary Powell has said, the “annual Trafficking in Persons Report shines a much-needed light on this global problem. We use the information we collect for the report to bolster the will of the international community to combat this unconscionable crime.”

In accordance with the legislative mandate, foreign governments are judged on whether they comply with the minimum standards to eliminate trafficking in persons and are ranked in one of three tiers. These governments are judged on their actions, not on plans that are merely in progress. According to the statute's minimum standards, countries must treat victims as victims, not criminals; they must prosecute traffickers, recognizing that trafficking is a crime that must be punished with sentences commensurate for those of other grave crimes, such as sexual assault; and they must prevent trafficking, recognizing the importance of public education campaigns in not only urban but also rural areas.

Since the release of the first report, we have used its contents to engage aggressively with other countries about what more effective concrete steps they can take in the area of prevention, protection and prosecution. To that end, I have met per-

sonally with representatives from India, Cote d'Ivoire, Romania, South Korea and numerous other countries to discuss trafficking in persons. Ambassador Ely-Raphel and her team in the Office to Monitor and Combat Trafficking in Persons have met with representatives from more than two dozen countries—some of them repeatedly. Our ambassadors and their staffs, as well as others in the Department, have also raised this issue numerous times with foreign government officials. These efforts have made a difference, and over the last year there were some improvements. At the same time, there was, disappointingly, regression and no change in a number of countries.

In preparing this year's report, our team undertook some new steps. They gathered information from 186 posts overseas, with input from Ministries of Foreign Affairs, Justice and Interior, as well as law enforcement, border officials, local NGOs, representatives of international organizations working in those countries, academics, and journalists. The Trafficking in Persons Report team also supplemented the information with assessments from the intelligence community. Moreover, in December 2001, the Trafficking in Persons Office invited 150 U.S. NGOs to submit information on trafficking in persons through a specially-established email address.

It's important to note that the Report goes beyond what is called for in the Act, which requires a listing of three tiers. Instead, we included brief country summaries, which are invaluable in identifying for foreign governments the areas in which they need to improve their efforts. Based on NGO input, we directed U.S. missions overseas to expand their information-gathering efforts to include specific inquiries about numbers of arrests, indictments and prosecutions, evidence of governmental involvement or corruption and what steps have been taken to deal with these circumstances. As a result, the report reflects our increased collection of data and consideration of the scope of the trafficking problem in many countries.

The report analyzes the actions of countries based on the determination of whether they were "a country of origin, transit or destination for a significant number of victims" of trafficking and whether they were meeting the minimum standards to eliminate severe forms of trafficking in persons, and, if not, whether they are making significant efforts to do so. Political considerations were not a factor in our assessments. Many of our friends and allies are on Tiers II and III. They simply do not comply with minimum standards.

The release of this year's report has already generated many responses from a number of countries on Tiers II and III, including Japan, Malaysia, Greece and Turkey. We are meeting with each to discuss the report and suggest concrete follow-up steps. In addition, throughout the year we work with foreign NGOs to obtain feedback on whether the report's descriptions ring true to their experiences working with trafficking victims. We also distribute and publicize the report within the United States to educate Americans about the global scope of trafficking in persons.

Just as the report has already elicited feedback from countries listed in the report, it has also generated considerable reaction among activists in this country, as well as Members of Congress. I appreciate—and indeed share—the fervor that so many people bring to this issue. Let there be no mistake about it: we are all in pursuit of the same goal, namely the eradication of trafficking once and for all. In response to some of the criticisms I have heard expressed since release of the report and in anticipation of some of your questions today, I wish to address some of the criticisms of the report.

First, I have heard people say that placement of certain countries on Tier II constitutes their receiving a "passing grade." The legislation calls for three lists. Countries that are in full compliance with the Act's minimum standards merit a Tier I ranking. Countries not yet in full compliance but making significant efforts are on Tier II. Countries neither meeting minimum standards nor making significant efforts to do so are placed on Tier III. Countries with some of the worst trafficking problems are also some of the countries making a significant effort to combat them. The two are not mutually exclusive.

There is no question that Tier III placement is for the worst offenders, but being listed on Tier II means that countries are not in full compliance. It's not a pass to be listed on Tier II. Countries do not like to be listed on either Tier II or III and have challenged our findings. Moreover, countries on Tier II do not want to run the risk of falling to Tier III next year and face sanctions, including the possible cutoffs of non-humanitarian aid.

Second, and related to this, is the fact that honest people can disagree on the tier placements of certain countries. Congress asked that we look at the "significant effort" that a country is making. What constitutes a significant effort as defined in the Act is something that people can discuss and analyze differently. No country—including our own—is doing enough as long as trafficking continues to exist. That said, progress in one country will look very different from progress in others—as cir-

cumstances are different and what can impact the situation may also be different. At the same time, in our diplomatic engagement, we will set a high bar for these countries and demand solid action, not rhetoric. This is an extremely complex issue in which numerous factors—law enforcement, judicial action, legislative action, women’s and children’s rights, protection, economic conditions, and social assistance—have a bearing on how effective a country is in dealing with the problem and how we can engage and pressure that country to make progress. Simply, in each case there is not just one defining issue. We recognize the complexity and will take a hard look at each country.

Lastly, some have criticized the report for lacking data. I’d like to assure you that we have made significant efforts to collect data, which we then factored into our decision-making. With a world estimate of between 700,000 and four million trafficking victims, this underground crime is not easy to pinpoint. Accumulating verifiable data is extremely difficult, even here in the United States. Statistics are important and we will continue to push our various sources on collection. But statistics are one part of what we are looking at. Action, or inaction, is the primary focus.

The report is one of many tools at our disposal to address this criminal activity, to shed light on the terrible problem of trafficking, and to crack down on traffickers. The report is most effective when combined with a comprehensive strategy of diplomacy and direct engagement with other governments, multilateral fora, public affairs, programmatic support and technical assistance. That is why we are moving forward on developing and implementing a comprehensive approach to dealing with this issue. We have taken other steps, which we believe reinforce the impact of the report. These include:

- (1) The meeting of the President’s Cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons, which established the Senior Policy Advisory Group of representatives from the various task force agencies. This Senior Policy Advisory Group has already undertaken two significant actions: the completion of the Overview of the Administration’s Implementation of the Trafficking Victims’ Protection Act and a review of our policy parameters.
- (2) A comprehensive review of prospective programs with a view to having the greatest amount of influence on these problematic areas.
- (3) Seeking to use every forum—bilateral, regional and global—to aggressively address the issue of trafficking in persons. Working closely with our partners to spotlight such egregious human rights abuses can only strengthen our hand in eradicating trafficking.
- (4) Moving forward with the ratification process of the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention Against Transnational Organized Crime and was adopted by the UN General Assembly in November 2000. To date, the United States and 104 other countries have signed the Protocol.
- (5) Educating the public about the issue, by expanding the section on trafficking in persons in our annual Country Reports on Human Rights Practices, which has contributed to our keeping the issue of trafficking in persons central in our discourse with other countries—particularly the offenders; and speaking at conferences and with the media.

In conclusion, let me reiterate that we want to continue to work vigorously with you, the NGOs and other governments to eradicate the often-hidden phenomenon of human bondage in modern-day society.

Thank you.

Mr. SMITH OF NEW JERSEY. Ambassador? Madam Ambassador?

Ms. ELY-RAPHEL. I don’t have a statement.

Mr. SMITH OF NEW JERSEY. Okay. Thank you.

Without objection, a number of written statements by groups and individuals who are unable to testify today will be included in the record.

[The information referred to follows:]

PREPARED STATEMENT OF DR. MOHAMED MATTAR, CO-DIRECTOR, THE PROTECTION PROJECT, SCHOOL OF ADVANCED INTERNATIONAL STUDIES (SAIS), JOHNS HOPKINS UNIVERSITY

INTRODUCTION:

The Purpose of the Trafficking Victims Protection Act of 2000 is “to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims” (Section 102).

The purpose of this commentary is to address the question of whether the 2002 Trafficking in Persons Department of State Report serves the purposes of the Act, and whether the Report applies the minimum standards for the elimination of trafficking as required by the Act.

This commentary argues that the findings of the 2002 Trafficking in Persons Report are a reflection of the process of reporting itself, and that any attempt to examine the effectiveness of the Report must first reconsider the Act itself and how the report applies the provisions of the Act.

This commentary recognizes the comprehensive approach adopted by the Act, and its effectiveness, in combating trafficking. It also recognizes the limitations imposed by the Act in reporting on the status of trafficking in the various countries around the world. The Act does not require examination of all forms of trafficking, but merely sex trafficking and labor trafficking. Moreover, the Act does not include in the reporting process sex trafficking in the absence of force, fraud, or coercion. Similarly, labor trafficking does not include all forms of exploitative labor by limiting its definition to force, fraud, or coercion. The Act narrowly defines preventive measures, which do not include any explicit measure to curtail demand for commercial sex. More importantly, the Act does not require the Report to include a description of the nature or the scope of the problem of trafficking in any particular country.

This commentary will conclude that the Report must take into consideration the scope of the problem of trafficking in a particular country, so that a country does not get a “passing grade” in spite of the government’s legalization of prostitution which encourages the demand for commercial sexual exploitation which thus contributes to the trafficking infrastructure.

This commentary will also conclude that in reporting on the status of some forms of trafficking the Report must interpret the minimum standards for the elimination of trafficking in light of the purpose of the Act to combat trafficking, and its intent in designing the Report as an enforcement mechanism to implement such purpose.

THE MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING:

In compliance with Section 110(b)(1) of the Trafficking Victims Protection Act of 2000, (herein after referred to as “the Act”) (Pub. No. 106–386, 114 Stat. 1464 (2000)), the Secretary of State has submitted the “annual report” to the appropriate Congressional committee with respect to “the status of severe forms of trafficking in persons.”

As required by the Act, the 2002 Trafficking in Persons Report (herein after referred to as “the Report”) divides countries into three tiers based upon their compliance, or efforts of compliance, if any, with the “minimum standards for the elimination of trafficking” as stipulated in Section 108 of the Act.

The initial question becomes whether the Report properly applies these “minimum standards for the elimination of trafficking” to the 89 countries that are examined in the Report. The minimum standards are:

First, the government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking (Section 108(A)(1)).

Second, for the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault (Section 108(A)(2)).

Third, for the knowing commission of any act of severe forms of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense (Section 108(A)(3)).

Fourth, the government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons (Section 108(A)(4)).

CRIMINALIZATION:

The first standard requires the Report to examine the issue of criminalization, i.e. whether a particular country prohibits “severe forms of trafficking in persons.” In our judgment, this standard requires an examination of two important issues. First, whether the country has a law specifically recognizing trafficking in persons as a criminal offense, and second, whether such law prohibits all forms of trafficking in persons.

ANTI-TRAFFICKING LAW:

The Report constantly inquires into whether a particular country has an anti-trafficking law; but some of the findings in the Report are questionable.

For instance, in documenting whether Burma has “a trafficking law” the Report explicitly states: “There is no trafficking law, although there are laws against migrant smuggling and kidnapping, which can be used against traffickers.”

However, our research indicates that the Penal Code of Burma “prohibits habitual dealing in slaves.” According to Article 371 of the Code, “whoever habitually imports, removes, buys, sells, traffics, or deals in slaves shall be punished with deportation for life or with imprisonment for a term not exceeding 10 years, and shall also be liable to fine” (BURMA CODE Vol. VIII). The Code also prohibits “buying or disposing of any person as a slave” (BURMA CODE Vol. VIII, Art. 370).

In addition, the Code provides that “whoever imports into the Union of Burma, from any country outside the Union of Burma, any girl under the age of 21 years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to 10 years and shall also be liable to fine” (BURMA CODE Vol. VIII, Art. 366B). These findings are published in our 2002 Human Rights Report on Trafficking in Persons, Especially Women and Children (p. 92).

Likewise, the Report states that “Cambodia does not have a law against all forms of trafficking in persons, but traffickers have been prosecuted under related laws.” However, our research indicates that Article II of the Suppression of Kidnapping, Trafficking and Exportation of Human Persons Act of 1996 (“Suppression Act of 1996”) states: “Kidnapping of human persons for trafficking/sale or for prostitution and the exploitation of human persons, inside or outside of the Kingdom of Cambodia, shall be strictly prohibited.”

Furthermore, Article III of the Suppression Act of 1996 states, “Any person who lures a human person, even male or female [minor] or adult of whatever nationality by ways of enticing or any other means, by promising to offer any money or jewelry, even though [there] is or [is not] consent from the concerned person, by ways of forcing, threatening or using of hypnotic drugs, in order to kidnap him/her for trafficking/sale or for prostitution, shall be subject to imprisonment from ten to fifteen years, shall be punished by imprisonment from fifteen to twenty years, in the case where the victim is a minor under the age of 15.”

In addition the labor law of Cambodia provides, that “forced or compulsory labor is absolutely forbidden . . . this [prohibition] applies to everyone, including domestic or household servants and all workers in agricultural enterprises or businesses” (Art. 15). Labor law further provides that “Hiring of people for work to pay off debts is forbidden” (Art. 16). These findings are published in our Human Rights Report on Trafficking in Persons, Especially Women and Children (p. 100–101).

DEFINITION OF “FORMS OF TRAFFICKING:” IS TRAFFICKING LIMITED TO SEX AND LABOR TRAFFICKING?

Moreover, while the Report adequately addresses the issue of whether trafficking is prohibited as a specific offense or as a part of similar or related offenses, the Report does not always inquire into whether a country criminalizes all forms of trafficking in persons.

Combating trafficking in persons requires us to adopt a more comprehensive definition of trafficking to include: baby trafficking or the sale of children in the name of inter-country adoption, trafficking in human organs, domestic service or the “maid trade,” mail-order brides, forced marriage, sex tourism, forced labor, trafficking in children for military purposes, and trafficking for other practices similar to slavery.

Section 103(8) defines “. . . forms of trafficking in persons” to include not only sex trafficking but labor trafficking as well. Sex trafficking is defined “as any commercial sex act,” which means “any sex act on account of which anything of value is given to or received by any persons.” This definition, no doubt, includes, mail-

order brides, marriages of convenience, sex tourism, and trafficking for the purpose of prostitution (Pub. No. 106–386, 114 Stat. 1464 (2000)).

The Report covers some of these forms of sex trafficking such as forced marriages in Afghanistan, China, Ethiopia, and The United Kingdom, and sex tourism in Brazil, the Dominican Republic, and Poland.

However, these occasional references to the problem of sex tourism do not suffice, especially since the Act considers examining sex tourism as one of the main activities of the Interagency Taskforce to Monitor and Combat Trafficking. According to Section 105 of the Act. “The Taskforce shall . . . examine the role of the international “sex tourism” industry in the trafficking of persons and in the sexual exploitation of women and children around the world.”

Section 103 also broadly defines labor trafficking to include trafficking for labor and services for the purpose of “involuntary servitude” and “slavery” (Pub. No. 106–386, 114 Stat. 1464 (2000)). Although trafficking for military purposes falls within the scope of this definition, it is less clear whether baby trafficking or sale of children in the name of inter-country adoption would also be included.

The Report applies the definition of trafficking in persons as stated in the Act, and thus it focuses on sex trafficking and labor trafficking.

The 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, which has been signed by the United States, adopts a more comprehensive definition of trafficking in persons as stipulated in Article 3(A).

- Article 3(A) defines trafficking in persons to include, in addition to sex trafficking and labor trafficking, trafficking for the purposes of “slavery, or practices similar to slavery, [or] servitude . . .”
- The Travaux Préparatoires to the Protocol considers trafficking of children for illicit adoption as “a practice similar to slavery.”
- The Protocol also includes “the removal of organs” as a form of trafficking.

It is interesting to note that the Report made a reference to “baby-selling” in Cambodia. The Report follows the State Department Annual Country Reports on Human Rights Practices, which states that in Cambodia “There is also a problem with the illegal purchase and sale of infants and children. Sometimes this is for [sic] purpose of adoption, including by foreign couples, but some of these children may end up abused and exploited.”

We also understand that the sale of human organs is of concern to the Department of State as demonstrated in its testimony before the House Subcommittee on International Operations and Human Rights, on June 27, 2001.

Unfortunately, although baby trafficking and trafficking in human organs constitute severe forms of trafficking, which we believe must be documented, strict interpretation of the definition of severe forms of trafficking under the Act does not allow for their inclusion in the Report.

“FORCED PROSTITUTION” OR “PROSTITUTION:” WHAT IS A SEVERE FORM OF TRAFFICKING?

The Act requires unlawful means, specifically “force, fraud or coercion” in cases of sex trafficking involving persons over the age of 18 (Pub. No. 106–386, 114 Stat. 1464, Section 103(8) (2000)).

The question is whether the Report should consider only forced prostitution as a severe form of sex trafficking, or should it also include trafficking for the purpose of prostitution, even in the absence of force. The Report strictly applies the Act, although, it uses various terms when referring to sex trafficking such as: “sex,” “sexual abuse,” “prostitution,” “forced prostitution,” “exploitation of prostitution,” “sexual exploitation,” “sex trade,” “sex work,” and “sexual servitude.”

Unlike the Act, the Protocol adopts a broader definition of what is considered illegal means, which include not only the use of force, coercion or fraud, but also the “abuse of power,” or a “position of vulnerability” (Article 3(b)).

Moreover, whether a law of a particular country decriminalizes or legalizes prostitution has no bearing in the Report in considering whether a country is in compliance with the minimum standards set forth by the Act. The Report does not recognize any relation between the legalization of prostitution and the proliferation of trafficking, especially since in 16 out of the 18 Tier 1 countries, the act of prostitution itself is not criminalized. The act of prostitution is legal in Austria, Belgium, Canada, Columbia, Czech Republic, France, Germany, Hong Kong, Italy, Macedonia, the Netherlands, Poland, Republic of Korea, Spain, Switzerland, and the United Kingdom. Nonetheless, the Report considers that these countries are making serious efforts for the elimination of trafficking.

The initial question however is whether the Act requires the Report to address the issue of legalization of prostitution as a factor that contributes to sex trafficking.

It is interesting to note here that the State Department Annual Country Reports on Human Rights Practices addresses explicitly the issues of prostitution and the legalization of prostitution in several countries as they relate to trafficking. Moreover it documents in detail the scope of the problem of trafficking in the various countries included therein, in accordance with Section 104 of the Act which provides that the Human Rights report should include “a description of the nature and extent of severe forms of trafficking in persons as defined in Section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.”

The question becomes to what extent does the Act require the Report to document the scope of the problem of trafficking in a particular country?

Section 110 (3)(a) requires the State Department to consider “the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking.” While the Report makes these distinctions in describing the countries, it does not incorporate the distinction between countries of origin and countries of destination in analyzing the appropriate measures to be taken by the government of a country in combating trafficking in persons.

The Report lists 16 out of 18 Tier 1 countries as countries of destination, including Austria, Belgium, Canada, Czech Republic, France, Germany, Italy, Lithuania, Macedonia, Netherlands, Poland, Portugal, South Korea, Spain, Switzerland, and the United Kingdom. So, the fact that a particular country is a consumer country does not affect its rating as a Tier 1 country, and the fact that such consumer countries provide the demand or market for prostitution and trafficking does not appear to make a difference.

This analysis is inconsistent with Article 9 (5) of the UN Protocol which provides that: “States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

Moreover, we believe that the prevention of prostitution should be considered as an important preventive measure, which contributes to the elimination of sex trafficking. The Act requires that the Report inquire into whether the government of a country adopts preventive measures to deter trafficking. The Act defines preventive measures to include “initiatives to enhance economic opportunity for potential victims as a method to deter trafficking,” and “programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.” These programs regarding the dangers of trafficking should include the harms of prostitution itself.

We also believe that criminalizing prostitution should not be limited to child prostitution, but should include adult prostitution as well. Studies show that where an adult sex industry exists, the sexual exploitation of children increases.

It suffices here to cite the study made by Richard J. Estes and Neil Alan Weiner, entitled “The Commercial Sexual Exploitation of Children in the U.S., Canada and Mexico” which concluded on page 42 that, “Without equivocation, the investigators can confirm that the presence of pre-existing adult prostitution markets contributes measurable to the creation of secondary sexual markets in which children are sexually exploited. Indeed, in every community we visited in which a substantial adult prostitution markets exists—Chicago, Honolulu, Las Vegas, New Orleans, New York, San Francisco—we also found substantial numbers of young people being sexually exploited—often alongside older prostituted women and men soliciting sex on the same streets and pursuing the same clients.”

DISTINGUISHING BETWEEN EXPLOITATIVE LABOR AND LABOR TRAFFICKING:

The Act requires use of “force, fraud or coercion” as a means for trafficking in persons for the purpose of labor or services. Does the Report document instances of what it considers labor trafficking even in the absence of “force, fraud, or coercion?”

In placing Saudi Arabia in Tier 3 the Report addresses solely labor trafficking. It cites that “victims come primarily . . . to work as domestic servants and menial laborers. Many low-skilled foreign workers have their contracts altered and are subjected to extreme working conditions and physical abuse.” While this may be considered “exploitative labor,” it does not always amount to labor trafficking. The Report should make the distinction between exploitative labor and labor trafficking. Nonetheless, we believe that labor trafficking should be considered as such regardless of whether the trafficked person has been induced to perform labor or services by force.

While we understand that only severe forms of trafficking in persons trigger the application of the enforcement provisions of the Act, we believe that trafficking in persons may pose a severe violation of human rights in other instances where the trafficked person is subjected to practices similar to slavery even in the absence of force, fraud or coercion.

In the context of labor trafficking the Report refers to domestic service in 31 of 89 countries. We concur with the findings of the Report that the “maid trade” is a significant problem that contributes to trafficking in persons, and we urge the State Department to assist foreign countries in drafting laws that specifically apply to domestic servants, as required by the Act (Section 109). This is especially important considering that in many countries domestic service falls outside of the scope of application of the labor laws.

PENALTIES:

The first three standards of the Act address the issue of penalties. While the Report discusses the question of whether a particular country has anti-trafficking legislation, it does not delve into the issue of punishment as required by the Act. Combating trafficking in persons requires countries not only to criminalize the offense of trafficking, but also to provide for the appropriate punishment for such an offense.

The Report does not adequately address the issue of whether the anti-trafficking laws punish acts of trafficking, whether such punishment is proportional to the offense of trafficking or whether such penalties deter such grave crimes as required by Section 108(A)(1), (2) and (3), respectively.

The Report assesses the severity of the sentence of trafficking in persons in several countries, including Greece, Indonesia, Japan, the Kyrgyz Republic, Albania, Dominican Republic, Nepal, Hong Kong, and the Philippines. The Report is not exhaustive in its examination of the punishment of trafficking in persons in other countries.

However, one must observe that prison sentences tend to be shorter in most European countries including the sentences for trafficking in persons. These countries do not recognize plea-bargaining as a device, which may result in a lesser sentence. While the Act provides for up to 20 years of imprisonment, the United States’ criminal justice system recognizes plea-bargaining. This comparative note must be taken into consideration in assessing the penalty for trafficking in persons.

For instance, the European Council framework Decision on Combating Trafficking in Human Beings of 2001 provides that “each member state shall take the necessary measures to ensure that an offense (concerning trafficking in human beings) is punishable by effective, proportionate and dissuasive penalties, including the terms of imprisonment with a maximum penalty that is not less than six years” and “not less than ten years when it involves particular ruthlessness, or it generates substantial proceeds, or it is committed within the framework of criminal organization” (Article 4).

THE CONVENTIONAL “PROSECUTION-PROTECTION-PREVENTION” ANALYSIS VS. THE SEVEN CRITERIA OF THE ACT: WHAT IS THE APPROPRIATE METHODOLOGY?

The fourth standard under the Act requires an examination of efforts made by governments to eliminate severe forms of trafficking in persons. According to the Act such efforts must be measured pursuant to the following criteria:

- First, whether the government of a country investigates and prosecutes acts of trafficking in persons in its territory (Section 108(B)(1)).
- Second, whether it protects and assists victims of trafficking (Section 108(B)(2)).
- Third, whether it adopts preventive measures to deter trafficking (Section 108(B)(3)).
- Fourth, whether it cooperates other governments in combating trafficking (Section 108(B)(4)).
- Fifth, whether it extradites persons charged with trafficking (Section 108(B)(5)).
- Sixth, whether the government monitors immigration for evidence of trafficking and whether law enforcement adequately responds to such evidence (Section 108(B)(6)).
- Seventh, whether the government investigates and prosecutes public officials who participate in or facilitate trafficking (Section 108(B)(7)).

The Report, however, adopts a different approach by following the conventional “prosecution-protection-prevention” analysis. Although this three-phase analysis is appropriate and effective, it should have specifically taken into consideration the seven criteria as adopted by the Act. In some instances, a vigorous analysis of these seven criteria is not consistently followed in the Report. We urge that more weight be placed behind all of the seven criteria specified in the Act.

This seven criteria analysis, while encompassing elements of the three-phase “prosecution-protection-prevention” approach, should have guided the Report in its entirety in examining whether the government of a particular country is making “serious and sustained efforts to eliminate severe forms trafficking in persons.”

INVESTIGATION AND PROSECUTION OF ACTS OF TRAFFICKING IN PERSONS

Although the Report acknowledges some cases of trafficking where the traffickers have been punished, it does not cite specific statistics in the majority of countries mentioned in the Report.

In addition it is not sufficient to make references to countries where trafficking cases have been filed and some of which have resulted in conviction. It is also important to inquire into more specific questions as to how many of these cases involved a child, how many cases resulted in convictions of the customer of the victim of trafficking, how many of these cases resulted in conviction of the trafficked person for using false passports or other immigration documents, how many of the victims of trafficking have testified against the traffickers, how many of these cases have resulted in the closure of a brothel, and how many of these cases resulted in the prosecution of a public official. Only when these difficult questions are answered will we be able to assess government efforts made to combat trafficking in persons.

PROTECTION AND ASSISTANCE OF VICTIMS OF TRAFFICKING

Protection and assistance of victims of trafficking must address, in our view, three main rights of victims of trafficking: civil compensation, witness protection, and some type of residency provision.

Civil Compensation: Victims of trafficking must have the right to a claim of civil compensation, which should include not only compensatory damages, but also punitive damages. This is the rule for instance under the Trafficking in Persons and Sexual Exploitation of Children Law of Cyprus in 2000. Article 8(3) of the 2000 Law states: “the Court may award punitive damages when the degree of exploitation or the degree of relationships or the dominating position of the offender with regard to the victims so requires.”

While the Act provides for mandatory restitution as a criminal sanction, it does not explicitly grant victims of trafficking a private civil action. The question becomes how should the Report assess a certain protective measure. Should such an assessment be made in accordance with what the Act provides or in accordance with models of civil compensation of the various legal systems.

The Report does not consider the issue of civil compensation except in a few references made regarding the countries of Austria, France, Germany, and Hong Kong in Tier 1, Kazakhstan, the Philippines, and Ukraine in Tier 2, and Russia and Tajikistan in Tier 3.

Witness Protection: The Act requires governments to protect victims of severe forms of trafficking in persons (Section 108(b)(2)), which includes protecting witnesses. The Report appropriately notes that Witness Protection is available in the majority of Tier 1 countries and some Tier 2 countries. However, the Report should address how a Witness Protection program would meet the special needs of child victims, including allowing a child to testify outside the courtroom, removing the defendant from the courtroom, allowing a child to be questioned by a special youth examiner, and/or allowing the child to be accompanied by an appropriate person, as provided by different legal systems.

In fact, addressing the issue of trafficking in children separately from trafficking in women is warranted regarding other protective measures.

Immigration Status: Another element of victim protection, which is adequately considered by the Report is whether a country grants victims of trafficking an immigration status, which is either temporary or permanent in nature. Here again, it is not clear what the Report considers an appropriate protective immigration status.

The question is whether granting such status should be contingent upon the condition that the victim shall serve as a potential witness to such trafficking? Or should such a status be granted to the victims of trafficking on humanitarian bases regardless of whether the victim would testify?

The T-Visa regulation in the Act requires not only a demonstration that the victims would suffer extreme hardship if they were removed from the United States,

but also that they have complied with any reasonable request for assistance in the investigation and prosecution of acts of trafficking in persons.

This is also the requirement in other countries, such as Germany, Belgium, Czech Republic, Lithuania, the Netherlands, Poland, the United Kingdom, Portugal, Canada, and Spain, as mentioned in the Report. However, in other countries, such as Italy, an immigration status is granted to victims of trafficking on a humanitarian basis regardless of whether she testifies against the trafficker. This is also the case in France, where asylum is the mechanism for granting a residency status for victims of trafficking.

INTERNATIONAL COOPERATION:

Since trafficking is of a transnational nature it requires not only domestic policies but also international polices to combat trafficking. The Act requires the Report to inquire into whether a government of a country cooperates with other countries in combating trafficking. The Report appropriately makes such an inquiry regarding some of the countries mentioned therein. We would like to see this regional approach regarding other countries.

It is interesting to note that all the countries in the region of the Middle East, except Israel, are listed in Tier 3. These countries include, Lebanon, Turkey, Bahrain, Iran, Qatar, Saudi Arabia. We urge the State Department to devote additional resources to raise awareness of the problem in this region, especially because many of these countries do not recognize the instances mentioned in the Report as trafficking.

We believe that any effort to combat trafficking in persons must also include the extraterritorial application of domestic anti-trafficking legislation.

For instance, Article 5 of the Criminal Code of Macau provides that the criminal law is applicable to acts carried out outside of Macau when such acts constitute the crimes of “trafficking in human beings,” “trade in slavery,” and when such acts are committed by a national or resident of the country. In Thailand, the Penal Code Amendment Act has expanded the territorial jurisdiction of courts to cover “indecent sexual acts” and “trafficking offenses” provided in Sections 282 and 283 of the Penal Code, irrespective of where such offenses are committed. Likewise, in New Zealand, the Crimes Act Amendment of 1995 applies to offenses concerning sexual conduct with children committed by nationals abroad (Article 144A). The Act also prohibits assisting persons traveling overseas for the purpose of having sex with children.

The United States also recognizes the extraterritoriality principle in the Child Sexual Abuse Act of 1994, which prohibits child sex tourism. Under the act a United States citizen or resident alien is subject to criminal liability if such person travels in interstate or foreign commerce for the purpose of engaging in a sexual act with a child. We believe that the Act does not provide adequate protection for all children. The Act only protects children under the age of 16, although the Act defines a “child” as a person under the age of 18. However, it does not recognize a sexual act as an offense in the absence of force or threat of force with a child who is 16 or 17 years old. The Act provides for a sentence of only 10 years imprisonment. This sentence is inconsistent with the 20-year penalty of the Trafficking Victims Protection Act of 2000.

The Report should consider the examination of the extraterritoriality principle in the context of examining international cooperation as required by the Act.

EXTRADITION:

Combating trafficking requires countries to recognize trafficking as an extraditable offense. For example, in Cyprus, trafficking in persons and sexual exploitation of children are deemed as extractable offenses under the Extraction of Fugitive Law No 97 of 1970 (Article 13 of the Combating of Trafficking in Persons and Sexual Exploitation of Children Law of 2000).

Similarly, a pending bill in Nigeria (The Act to Establish the National Agency for Traffic in Persons, which has been published as a supplement to the Federal Republic of Nigeria’s Official Gazette, No. 32, May 11, 2002) provides in Article 59(1) that trafficking in persons offenses will, for the purposes of the Extradition Act, be regarded as extraditable offenses.

The Act requires the Report to inquire into whether a government of a country extradites a person charged with trafficking. However, the Report does not inquire into the issue of extradition except in relation to the countries of Republic of Korea in Tier 1, Estonia and Nigeria in Tier 2, and Burma and Iran in Tier 3.

PUBLIC CORRUPTION:

Corruption is an important issue that needs to be more thoroughly and consistently addressed in the Report. A country may “vigorously investigate and prosecute acts of trafficking” pursuant to (Section 108(b)(1)), but the same country may neglect to “prosecute public officials who participate in or facilitate severe forms of trafficking in persons” under (Section 108(b)(7)). The presence of government corruption is a plausible factor in the difficulty of convicting traffickers in countries with such “vigorous investigat[ing]” (Section 108(b)(1)).

The Report explicitly addresses the issue of public officials’ participation in or facilitation of trafficking in persons, as required by the Act, in several countries including Albania, Bangladesh, Belarus, Bosnia-Herzegovina, Bulgaria, Burma, Cambodia, Gabon, Georgia, Guatemala, Honduras, Hungary, India, Indonesia, Israel, Kazakhstan, Kyrgyz Republic, Mexico, Morocco, Nepal, Nigeria, Pakistan, Romania, Senegal, Singapore, Sudan, Tajikistan, Tanzania, Thailand, Togo, Turkey, Ukraine, and Vietnam. We would like to see the issue of public corruption addressed in the Report in more detail to inquire into whether efforts made by governments to combat corruption are “serious and sustained.” We would also like to see the problem addressed in more countries as well.

MONEY-LAUNDERING:

Any effort to combat trafficking in persons must also expand the scope of money-laundering legislation from one solely related to drug-trafficking to one related to all proceeds from trafficking in persons. Consequently, while the Report focuses on the criminal laws of a particular country, we believe that examination of money-laundering legislation must be considered in addition to the extradition laws as mandated by the Act.

DO WE HAVE ENOUGH INFORMATION?

The Report adds 10 countries that did not appear in the 2001 Report: Afghanistan, Armenia, Equatorial Guinea, Estonia, Iran, Latvia, Portugal, Senegal, Tajikistan, and Tanzania. The Report does not include three countries that were included in the 2001 Report: Taiwan, Sweden, and the Democratic Republic of Congo. Overall, the Report only includes 89 countries, an increase from 2001.

The report does not contain any information on the following countries and territories: Algeria, Andorra, Argentina, Australia, Azerbaijan, Antigua/Barbuda, the Bahamas, Barbados, Belize, Bhutan, Bolivia, Botswana, Brunei, Burundi, Cape Verde, Central African Republic, Chad, Chile, Comoros, Democratic Republic of Congo, Croatia, Cuba, Cyprus, Denmark, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Fiji, Finland, Gambia, Grenada, Guinea, Guinea-Bissau, Guyana, Iceland, Ireland, Iraq, Jamaica, Jordan, Kenya, Kuwait, Kiribati, Lesotho, Liberia, Libya, Liechtenstein, Luxembourg, Macau, Madagascar, Malawi, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Micronesia, Monaco, Mongolia, Mozambique, Namibia, Nauru, New Zealand, Nicaragua, Niger, North Korea, Northern Mariana Islands, Norway, Oman, Palau, Panama, Papua New Guinea, Paraguay, Peru, Rwanda, Samoa, Sao Tome & Principe, Serbia & Montenegro, Seychelles, Slovakia, Somalia, St. Kitts & Nevis, St. Lucia, St. Vincent & Grenadines, Suriname, Swaziland, Sweden, Syria, Taiwan, Tonga, Trinidad & Tobago, Tunisia, Turkmenistan, Tuvalu, Uruguay, Uzbekistan, Vanuatu, Venezuela, Yemen, Zambia, and Zimbabwe.

While recognizing that adequate information must be available before placing a country in a specific tier, we urge the Department of State to collect information regarding other countries for the 2003 report, so that no country will be exempt from sanctions only on the basis of insufficient information.

WHAT DOES THE IMPLEMENTATION OF THE ACT REQUIRE?

It must be re-emphasized that the Report is designed to serve as an enforcement mechanism to implement the purposes of the Act. This is why we encourage more efforts to be made by the Office to Monitor and Combat Trafficking in Persons to work with countries to move from Tier 3 to Tier 2, as in the case of Israel, from Tier 2 to Tier 1, as in the case of France, and from Tier 3 to Tier 1, as in the case of South Korea.

This is mandated by Section 109 of the Act which authorizes providing assistance to foreign countries “directly or through non-governmental and multi-lateral organizations for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking . . . including—(1) the drafting of laws to prohibit and punish acts of trafficking; (2) the investigation and prosecution of traffickers; (3) the creation and maintenance of facilities, programs, projects, and activi-

ties for the protection of victims; and (4) the expansion of exchange programs and international visitor programs, governmental and nongovernmental personnel to combat trafficking.”

We hope to see these programs, projects and activities implemented as stipulated by the Act to assist “foreign countries” and “governmental and non-governmental personnel” in these countries to meet the minimum standards for the elimination of trafficking.

CONCLUSION:

Based upon the aforementioned comments, we believe that reporting on the status of severe forms of trafficking in persons must take into consideration the following:

1. Broadening the definition of trafficking in persons to entail all forms of trafficking.
2. Addressing trafficking for the purpose of prostitution and not only “forced prostitution” or “exploitation of prostitution.”
3. Interpreting prevention of prostitution as an important preventive measure which must be adopted by countries in their efforts to combat trafficking.
4. Drawing the distinction between exploitative labor and labor trafficking, and documenting cases of labor trafficking, even in the absence of force.
5. Inquiring into the adequacy of penalties provided by an anti-trafficking legislation.
6. Adhering to the seven criteria of the Act, which include the conventional “prosecution-prevention-protection” analysis of trafficking in persons.
7. Incorporating the distinction between countries of origin and countries of destination in analyzing the appropriate measures to be taken by the government of a country to combat trafficking.
8. Adopting a regional approach to the problem of trafficking in persons, in addition to a country-by-country analysis of the problem of trafficking.
9. Emphasizing the transnational policies, which must be adopted by countries in addition to any domestic policies.
10. Collecting information regarding the status of all forms of trafficking in other countries, which have not been included so that no country will be exempt from sanction only on the basis of insufficient information.
11. Taking into consideration comparative legislation and different models of anti-trafficking policies in the assessment of any preventive or protective measures.
12. Implementing fully the mandate of the Act to provide assistance to foreign countries to meet the minimum standards for elimination of trafficking.

We hope to see these recommendations implemented in an interim report, as authorized by Section 110 b (2) of the Act, which states that:

“In addition to the annual report, under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments—(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or (B) have begun or ceased to make significant efforts to bring themselves into compliance, since the transmission of the last annual report.”

PREPARED STATEMENT OF MARK WEST, J.D., DIRECTOR, THE DAYWALKA FOUNDATION

U.S. national interests are well served with a developed, economically stable Nepal. The country is strategically important as a buffer zone between the two most populous nations—China and India—in a volatile region of the world. By supporting Nepal’s struggle to eliminate the underlying causes of its homegrown insurrection, the United States is making important contributions to regional stability and the global war on terrorism.

USAID NEPAL REPORT, 2003

INTRODUCTION

I would like to thank the Chairman and the Committee for receiving this report as supporting documentation to help explain the scope of the problem of girl trafficking in South Asia, and hopefully it will provide some insight into the importance

of our collective attention to the State Department's 2002 Trafficking in Persons Report. My name is Mark West, and I am a Professor at Seattle University and the Director of The Daywalka Foundation—a grassroots-based NGO which has studied the problem of Nepalese girl trafficking using ethnographic research methods, and implemented various direct aid program activities, over the past seven years. Our findings underscore the alarm of other recent reports, including those of the World Bank Group, USAID, and The Asia Foundation, but we also see much hope. The Daywalka Foundation is so-named as a pseudonym for the first survivor woman we worked with some seven years ago, and who remains a colleague to this day. The name is intended to act as a reminder that—when we implement delicate policy solutions to wide-reaching social problems—we should always keep in mind cases first.

AN EPIDEMIC

In addition to witnessing the unspeakable breaches of dignity of hundreds of thousands of its daughters, Nepal is also at the brink of an epidemic. As HIV/AIDS rates continue to surpass 5% in at-risk groups, the chances that the countryside will be swept up in a full-blown epidemic are great. While current efforts have begun to make in-roads against the disease, help for those most at risk is still incomplete. The catastrophic effects of HIV/AIDS in poverty-stricken, unstable countries are well documented. In the wake of September 11th the U.S. has begun to recognize the increasing importance of stable, prosperous democracy in South Asia. Nepal sits at the crux of a full-blown, African style AIDS epidemic and a destabilizing political drama that threatens the relationships of two of Asia's largest powers: China and India. Efforts now to stabilize the epidemic and strengthen the democratic forces within Nepal are urgently needed.

In its recent report on Nepal, the World Bank, for example, has warned that one major regional risk factor—girl trafficking—is accelerating, and will heighten the likelihood of an HIV/AIDS catastrophe, which will in turn increase the current political instability in Nepal. Further devastation to the health care and economic infrastructure there will undoubtedly roll back decades of gains on many fronts. The imperative for turning this situation around, the World Bank insists, is “immediate and vigorous” attention to anti-trafficking education efforts to change at-risk persons' behaviors in Nepal.

LARGEST PER CAPITA SEX SLAVERY PROBLEM IN THE WORLD

Though there are some information gaps about the full extent of the problem of Nepali girls in debt bondage in the brothels of large Indian cities, most informed researchers estimate that some 200,000 Nepali girls have been trafficked. According to a study conducted by Pulitzer Prize nominee and Peabody Award winning author Kevin Bales, published in the April 2002 *Scientific American*, the per capita ratio of trafficked girls from Nepal is exceeded by none, save India. And, the India and Nepal numbers are inextricably linked.

All these girls have been trafficked, the vast majority against their will, and all against the local, national, and international laws prohibiting human trafficking. With girls frequently as young as eleven or twelve-years-old having unsafe sex with up to ten Indian men daily, this entire population of trafficked Nepali girls is at extremely high risk for contracting HIV and developing AIDS. The use of torture, beatings, and rape to induce submission (by inflicting Battered Woman Syndrome) is the norm. The record of Indian law enforcement against these brothel owners and traffickers is dismal at best, and police complicity is commonplace.

Young women and girls who emerge from the brothels invariably suffer long-lasting trauma, often carry HIV, or present full-blown AIDS, and yet they encounter health care systems unable assist them, and cultures resistant to dedicating scarce resources to their rehabilitation. Many more never see home, instead joining generations of mothers and daughters living out their lives in what can be described as “brothel-cities.” With their residents in debt-bondage numbering ten thousand or more, these giant brothel districts—complete with tea stalls, laundries, and de facto schools—are tucked infamously, and yet anonymously, into major Indian cities like Bombay, Delhi, and Calcutta.

ETHNIC MINORITY AND LOW CASTE GIRLS SOLD

A variety of factors lead to this continuing flow of girls from the tens of thousands impoverished hill villages of Nepal, including a cruel mix of desperate economic conditions and a tradition of strict gender hierarchy. The consistent status of Nepal as among the very poorest of nations, and the attraction of a market for unwanted daughters across the border in India, disproportionately affects Nepali minority and low caste girls. Most of those trafficked are Tamang minority girls, and other mi-

norities (such as Sherpas), as well as those in the lowest castes (Blacksmith and Tailor castes, for example). This ethnic bias and cultural bias may tend to reinforce government indifference to this human rights crisis, and does entrench destructive cultural habits of the poorest underclasses, which in turn reinforces the slow progress of respect for lower castes and minorities.

The pressures of poverty in village life forces families of all stations to make difficult decisions. Brokers provide a choice which appears to be a necessary alternative for fathers and mothers faced with desperate poverty, and the inevitable life and death consequences it brings. Many families sell daughters willingly, while others are in denial of the probable destinations of their daughters "going off to work." Many more are actually tricked by brokers who promise jobs in the city at carpet factories, or by some who go so far as to marry a girl and then sell her.

THE SOUTHEAST CORRIDOR OF NEPAL NEEDS IMMEDIATE ATTENTION

Action now across the southeastern Nepali countryside is of critical importance as major trafficking routes are active there, brokering thousands of girls to Calcutta and throughout India. This area is especially sensitive and in need of attention for two main reasons. First, the general epidemic has yet to gain a foothold in South Asia, so a few years remain before a Southern Africa-style AIDS explosion becomes inevitable. Reasonable efforts at geographical containment necessitate focusing resources where they can make a strong but realistic effort with expertise, and without redundancy. Second, the S.E. Nepal, N.E. India corridor is under-addressed within current aid regimes. According to the International Justice Mission, which monitors and supports hundreds of anti-trafficking efforts in Asia and elsewhere, the Kathmandu-Calcutta corridor is uniquely vulnerable.

Although the dire need of attention on this area is seemingly overwhelming, in actuality it is not only one of the neediest regions, but also one most ripe for anti-trafficking capacity building with a variety of extremely effective sectors. Overall, this is the safest investment area because, first, it is the region farthest from Western Nepal—home to the vast majority of the Maoist and Army violence; and second, it is on the opposite side of India from the Pakistani border, thus insulating it from the significant religious and national tensions in Gujarat, from the conflict in Jammu and Kashmir, and from potential spillover from Operation Enduring Freedom. The aid infrastructure of the S.E. Nepal corridor is the safest in the region.

Finally, the Daywalka Foundation has extensive experience with the two major local anti-trafficking NGOs doing aid work in the corridor. Maiti Nepal of Kathmandu and Kakarbhatta, and Sanlaap of Calcutta, work with the Daywalka Foundation on this trafficking route to enhance trafficking prevention activities. Together they gather evidence, perform brothel rescue operations with local police, repeatedly rescued girls in repatriation hearings, work with survivor women deputized as border guards, conduct research, and develop education programs using indigenous communication methods.

THE DEVASTATION OF SOUTHERN AFRICA, BUT IN THE HEART OF ASIA

The health care catastrophe currently gripping much of Southern Africa is a harbinger of South Asia's own future if current trends are not reversed. The only significant difference between the scale of the human tragedy in Africa, and that of India and Nepal, is that the Subcontinent still has perhaps ten years to go. The implications of a similar outcome in Asia are far more unsettling: while the effects of disease itself will be identical, the global security implications of a severe health care and economic breakdown are quite severe. At the crossroads of China, India, and Pakistan lays Nepal, and its regularly trafficked open borders which affect the entire region.

Unfortunately, a rising chorus of researchers and aid providers has begun to, with some hesitation, invoke the above scenario of a looming humanitarian crisis. Many factors contribute to this coming epidemic, and one critical link is the trafficking of hundreds of thousand of girls across the border from Nepal. Their HIV status does, and will increasingly, spin out an epidemiological web of infection which spreads farther still with each increase of globalism in Asia. The paths are becoming more well-worn: Indian truck drivers through the brothels of Bombay, Chinese container ships in the docks of Calcutta, and the IV drug users and their trade increasing overland through the Yunnan Province of China. And for Nepal itself, without increased efforts toward addressing the behaviors of at-risk girls, According to the World Bank 2001 Report, the epidemic will hit by 2010.

REGIONAL POLITICAL STABILITY

The political situation in Nepal, with six years of a slowly building and presently low scale Maoist insurrection, could go either way. The last thing needed in a civil war is an AIDS epidemic and a countryside population with nothing to live for. By creating sustainable, healthy localities, political stability is promoted in accordance with democratic governance. The legitimacy of democratic institutions is enhanced when effective, non-corrupt development assistance begins to transform villages. Hope sewn by long-lasting, grassroots aid and inspiration goes a long way toward discouraging the taking up of arms. Regardless of the direction of the outcome of this political unrest, the community best suited to times of turmoil is the one that is sustainable and healthy.

The regional implications of a worsening political situation in Nepal are not small. China, India, and Pakistan all have competing interests at this intersection of South and East Asia, and each—as a nuclear state—can alter the well-being of the region. A stable, and improving Nepal contributes positively to the region, while a Maoist revolution which grows hand in hand with poverty, and an AIDS-induced migration nightmare, are the last things the U.S. needs in South Asia.

Whether on an individual level of providing post-trauma counseling to survivor women, or at the large scale of protecting against regional security implications of a full-blown AIDS catastrophe in Asia, the repeated recommendation of the World Bank's report stands insistent: we must take "immediate and vigorous efforts" to combat girl trafficking in Nepal.

FUNDING GRASSROOTS PREVENTION EFFORTS BUILDS CAPACITY, REDUCES TRAFFICKING,
AND PROMOTES THE STATUS OF WOMEN

As the Daywalka Foundation has conducted ethnographic research over the past seven years in Nepal and India, and worked with various other anti-trafficking NGOs and government agencies, several specific activities have continually emerged as key in-roads against trafficking. These activities have been adopted by the Foundation as the key enterprises of its capacity-building work of the past two years, and in their implementation confirm their efficacy.

1. Community Awareness-Raising through Indigenous Behavioral Change Activities

Young Nepalese girls may formally learn concepts in their rural school classrooms, but they live their lives in song, dance and play on the grass fields and red clay trails of their hill villages. Whether in the village, or in the finest primary schools in Kathmandu, Nepalese girls of all stripes have certain communication methods which carry deep lessons of culture. Some local NGOs recognize this as a key to anti-trafficking awareness and AIDS prevention, and in turn use indigenous communication techniques such as dramas, songs, dance, and call-response, all as methods of sending messages of social change. With literally thousands of villages to reach, and only a handful of drama tours hitting a few dozen remote communities, the effectiveness of the status quo is limited. With assistance in building the capacity of committed, local NGOs to continue this critical work, one major component of the strategy to reduce trafficking can be in place.

Composed by Nepalese girls and women, these dramas, stories, and songs do have a tremendous impact on not only the girls in the audience, but the entire village which comes to watch. This process of song, story, dance and drama tells the narrative of betrayal, suffering and death, and exerts strong social pressure on families, while building up the community as a preferred alternative. The Daywalka Foundation has a unique focus on facilitating touring groups of survivor girls, women, and at-risk girls to present these workshops; it also encourages local participation, and continued dialogue in the villages visited, to enhance the implementation of the additional program activities discussed below. Many of these educational initiatives, subjects, and curricula, use as their method of delivery these indigenous behavioral change activities.

2. Providing Renewable Scholarships for At-Risk Girls

Public school in Nepal is free for all children, free if you can afford several very expensive items: two school uniforms, shoes, books, notebooks, and a geometry box. This adds up to about fifty dollars, and is money few poor rural families have to spend for one child, much less for four or more children. As a result, as many as 30% of Nepalese village children never attend any school, and of those who do, the girl student usually drops out around grade six. The novelty of funding a youngest daughter's education wears off quite soon, with several pressures mounting by age twelve: the decreasing likelihood that she'll ever use her education to get work, the inability for her to work in the fields or around the house during the day, the need

for marriage, the expense of a marriage dowry, and the profitable alternative of selling her.

Scholarships offset the family's monetary and opportunity costs which cause this complicity in trafficking. As ABC Nepal wrote in its study of the causes of trafficking, it is often a choice of feeding a family, and morality takes a back seat. Time and again, when a father is given the opportunity to fund his daughter's education with a renewable scholarship, that is enough to convince him that his family's long term security is best protected with his youngest in school, rather than with her in the fields. If the family decides that the daughter is needed at home, this will evince itself by her lack of attendance, and the scholarship is not renewed. This outcome is far eclipsed by the families who choose to gamble on education instead.

In addition to keeping them out of the brothels, the scholarships keep the girls in school long term, which affords them the benefit of an education and literacy, something only one in four Nepali women possess. Also while in school, the anti-trafficking message is further enforced through a health curriculum, and an enhanced self-image which assists girls in resisting high risk situations. Aside from these additional benefits, put simply, but for the scholarships, these girls would be trafficked; the tradeoff is direct.

3. *Full-Time Female Nepalese Teachers in Rural Schools*

Rural schools the remote hill villages have very few or no female teachers. By hiring female Nepali teachers to teach in villages, it provides a critical role model for young girls, encourages them to try to stay in school, provides a confidant to discuss the pressures of poverty and the dangers of trafficking, and acts as an example of an income generating device for the girls once they graduate from school themselves. In the Eastern Nepali district of Sindupalchowk, one Daywalka hire is a local village single mother who excelled in school herself, but ended up trapped as a cast-away because her husband abandoned her and her infant daughter. In this town, Dubachowr, at the age of twenty-one this young woman became the first full time female teacher out of a faculty of ten. She is now treated as an equal colleague, the breastfeeding needs of her infant are generously accommodated, and she has continued to excel in classroom—now on the other side of the lectern.

4. *Local Advocacy Training*

The Daywalka Foundation has strong roots in advocacy training, and through its use of ethnography has found a wealth of corollaries in local Nepalese history and contemporary society. So, in addition to building the capacity of teachers to convey messages warning of HIV/AIDS and trafficking, as well as the capacity of girls to be in those classrooms, and for women to be teaching, the Foundation supports a curriculum which trumpets Nepal's own extensive women and labor advocacy work. The tireless work of local women's NGOs are models enough for girls' education, but Daywalka also brings professionals from the city to model positive schooling outcomes. Each from similar poor, rural villages themselves, these physicians, attorneys, cooks, seamstresses, tourism workers, and college students all show how there are bright alternatives for the industrious.

The issues most important to at-risk girls and women are often village specific, and the closely knit grassroots work of the Daywalka Foundation strives to identify these issues and weave them into the advocacy curriculum. Advocacy training curriculum can also be unique to one region, as land rights, labor protections, and other community-specific factors are critical program elements. One Village Development Committee (VDC) Chairman described in a lengthy ethnographic interview about a successful strike and negotiation that his village went through with the local Chinese administrators of a hydroelectric project nearby. The resulting contract significantly improved the site safety, health plans for workers, wages, and child labor rules. This Nepali labor movement success is incorporated into the Foundation's advocacy training in that village, and acts as a useful case study as well as an inspiration.

5. *Survivor Women as Deputized Border Guards*

In Nepal today, few police give attention to traffickers. Fewer still in India, where the police are usually complicit with the brokers and brothel owners, and have little incentive to act against their own interests. The Nepalese border guards are caught in the middle—with few resources to staff border checkpoints, and lacking training or facilities for maintaining a database of suspects, they need help. The deputizing of survivor women as anti-trafficking border guards, on the other hand, produces results.

First, they are the best spotters of trafficking. Survivors know what signs to watch for, they recognize warning signs in the look of girl's face, and sometimes know the traffickers personally. Second, the employment serves as an income gener-

ating device. Escaped and rescued girls often dwell in transit shelters, such as those run by Maiti Nepal, and the ability to obtain a job and steady income near one's home helps many of these young women break out of the cycle of at-risk behavior. Third, the deputizing provides a check on corruption. Survivor women have lived it, and are the least likely to be "persuaded" by the traffickers' devices. This aversion to corruption gives them credibility on the ground, thus encouraging trafficking victims to speak up, where there is a widespread belief that the regular police are paid to look the other way.

Finally, and perhaps most important, the work provides the young survivor with an invaluable catharsis, an ability to exact justice on often the very brokers who kidnapped them. Not every survivor girl is able to get clinical therapeutic help in Kathmandu, but for those trapped on the borders, the positive effects that come from giving back as a deputized border guard are profound indeed.

6. *Female Anti-Trafficking Prosecutors*

A long-term legal strategy which addresses the underlying networks that operate relatively freely is now underway in the area of law enforcement. Public and private prosecutors—like those at the Daywalka Foundation—are beginning to handle a small portion of the thousands of causes of action which could be brought against brokers. While important victories have been achieved, the numbers need to expand massively. One area of expansion that Daywalka focuses on is the support of the hiring of female Nepalese anti-trafficking prosecutors. This carries numerous benefits, including providing income generation for progressive, professional women in Nepal, as well as increasing the pressure brought by female attorneys in Nepal, pressure which is one of the few consistent reform engines on women and development matters. Employment opportunity brings with it good governance.

7. *Building a Trafficking Law Library in Kathmandu, Nepal*

Legal information resources exist in a variety of offices throughout Nepal, India, and the larger international community, but none are centralized and accessible. An effective trafficking law library would include, at a minimum: 1. statutory law including relevant international treaty and customary law, Indian and Nepalese domestic federal statutes, and local statutes governing related crimes such as assault and kidnapping; 2. common law compiled from previous decisions in the many trafficking cases successfully and unsuccessfully prosecuted; 3. methodical organization of cases currently under investigation, in trial, or in disposition; 4. a record of collaboration between private and public prosecutors; and 5. an effective computer and hardcopy database for storing all the above material in an accessible and easily updated information structure.

GRASSROOTS ACTIVITIES PROMOTE WOMEN'S STATUS AND CULTURAL TRANSFORMATION

Education and Literacy. These program activities provide alternatives to the pressing realities of hill village life which in turn keep girls out of school and illiterate. A daughter whose mother received an education is dramatically less likely to be trafficked, and more likely to have a hand in stopping the trade. As girls become educated, and emerge as leaders in society, they are able to achieve much greater gains, such as land reform and other development advances.

Income Generation Devices. Teaching, counseling, advocacy training, and law enforcement all mean jobs and an opportunity to break the cycles that survivors face. The capacity building that comes from the Foundation's multi-sectoral approach serves to mutually reinforce women's employment opportunities, by connecting them to a much larger network of local NGOs, government agencies, and like-minded peers and mentors.

Modeling as a Transformative Cultural Process. Jobs and positions of civic leadership encourage cultural practices that value women and cast them as leaders and role models in village, city, and national life. Visible women provide hope and a step-by-step guide for girls, as well as alternative visions of life for women, and for men, of all ages.

Catharsis for Survivors. Projects which allow survivors to confront their oppressors with the legitimacy of law and public approval substantially help to heal deep wounds. The ability to build an anti-trafficking movement, from its local foundations into an effective national force, and coupled with local mental health counseling by medical professionals, is an achievement that can transform a large portion of a generation back to health from its current direction of despair.

CONCLUSION

The program activities described in this report are effective, scalable, and currently underway at the initiation of our Nepalese regional partners. These local

NGOs are now in need of capacity-building assistance by our Western aid agencies to allow this multi-sectoral approach to flourish. The hard, never-ending work of anti-trafficking regional aid providers is exhausting its agents, yet those who propose and implement these activities will not cease. And they must not, if we are to return dignity to hundreds of thousands of Nepalese girls and young women, and have a chance at restoring regional security for South Asia and its neighbors. Thank you for taking a close look at the efforts of our local partners, and I strongly encourage you and your colleagues to heed the request of these caregivers who ask for our assistance.

Mr. SMITH OF NEW JERSEY. I do want to make clear to my good friend from American Samoa, Mr. Faleomavaega, that while I am aware and very pleased that the justice system on that island has operated well, the problem is with the Vietnamese government and the fact that these people were working for state-run organizations. So I think his point was well taken. The judicial system worked, and worked well, but there still is a problem with the government. Just so that is very clear.

I do have some questions; and, again, I want to thank both of you for being here and the work you are doing on behalf of trafficked human beings, especially of the women who disproportionately are being malaffected by this egregious practice.

A couple of questions. I was wondering if you can tell us, either of you, how well are our Embassies abroad using this issue? Are they raising it in their diplomatic discussions? Data collection is important. Certainly it is part of a diplomatic process. Are they letting particularly the egregious violators know that sanctions are really real, that they are in the offing if significant reform is not made? And what has been the response? Madam Secretary?

Ms. DOBRIANSKY. Mr. Chairman, the answer is yes. Our Ambassadors and our officials in our posts abroad have been very aggressive in raising the issue of trafficking in persons with foreign counterparts.

First, before many of our Ambassadors go overseas, I have had the benefit of briefing them through ambassadorial seminars that we hold at the State Department in which this topic has been extensively discussed. Many of our Ambassadors have also come to see me personally, and have also visited with Ambassador Ely-Raphael to discuss the issue prior to departure.

In addition, when the report comes out and even before the report comes out, the posts are extremely well-engaged in discussion on this case.

As you know, we derive our information from our posts. We solicit, prior to the putting together of the report, a rather extensive amount of documentation from our posts abroad in which we pose questions that emanate from the standards and the criteria as set forth in the act.

In addition, our posts have not only come back but also have been very engaged—particularly in those countries that have been very willing and interested in partnering with us—they have been very engaged in setting forth programs and plans by which countries can become much more effective in their trafficking programs.

Mr. SMITH OF NEW JERSEY. If I could ask you, I was wondering why countries like Syria, Iraq, Cuba and Libya, known sponsors of terrorism, are not included in the report and are not analyzed in the report?

Ms. DOBRIANSKY. Well, let me respond to those countries that you mentioned where we do not have a post and we don't have diplomatic relations.

First, in terms of our access, in those countries in which our relationship is virtually non-existent, the ability to acquire access to information is much more limited. In fact, this time in the introduction of the report we address this particular issue, the fact that a number of our posts have been constrained. The example that we cite is not one of the ones that you have mentioned but is North Korea, which has come up and we have had under discussion since we don't have direct access through a diplomatic presence on the ground.

Having said that, we are determined through other ways and means of trying to get as much information as we can.

Mr. SMITH OF NEW JERSEY. If I could encourage you, as you go forward, to look at those countries. Because, barring access—we had the same problem with the International Religious Freedom Act countries of interest. And you mentioned North Korea. North Korea in particular was left out of the mix.

As our most recent hearing on this Committee chaired by Mr. Hyde pointed out—or Mr. Leach pointed out, the Subcommittee Chairman—and it is now a country of interest to the United States in that regard, the crackdown on the religious believers is comprehensive and barbaric in that country.

So I just throw that out as—I mean, there is some, at least from the human rights organizations and other means of deriving information, that it might be—at least give us the ability to classify.

Let me just ask you. Were there cases—and you don't have to tell us which ones—in which the trafficking office staff initially recommended a country be placed on Tier 3, but in which the country was eventually put on Tier 2 after a pushback from the U.S. Embassy in that country? Were there any examples?

Ms. DOBRIANSKY. I will respond, and I think Nancy should respond to this. I am not aware. I will say this, because your question was about whether our posts came in and challenged—

Mr. SMITH OF NEW JERSEY. Right.

Ms. DOBRIANSKY [continuing]. Is that what you want?

Mr. SMITH OF NEW JERSEY. That is basically the bottom line here, that it might muck up the relationship that is being—

Ms. DOBRIANSKY. They come in and they provide the data, and discussions take place within the Department on an interagency basis. I am not aware of this occurring in this round—in last year's round there were some challenges. In this year's round, I am not aware of any.

Ms. ELY-RAPHEL. No, I am not aware of any, either.

The decisions were really made back in the State Department. We would go back out to them asking questions, but there really was not a post that came in. They are complaining now, but they didn't complain at the time.

Mr. SMITH OF NEW JERSEY. Okay. Let me ask a question on China. In today's USA Today, there is a front-page story: China Thrown Off Balance As Boys Outnumber Girls.

Many of us on this panel—and I've been doing it since the early 1980s—have raised the specter of a disproportionate number of

boys vis-a-vis girls; that is to say, many fewer girls or women in that country. As a matter of fact, the State Department report suggested that the imbalance may be as high as 100 million boys versus girls—males versus females in that country, which is because of the one-child-per-couple policy. But it also creates, as we all know, a magnet for bribes. This points out that there may be 40 million young Chinese men who won't be able to marry or start families because of this disproportionality.

China is a Tier 2 country. In other words, it has a serious problem but has been judged to be making some progress. The point is made in the narrative that it has a law on trafficking, and the police maintain a national database of abducted and rescued people and a DNA data return to facilitate the return of abducted children. Do we have any figures on how many have been prosecuted—because that is also mentioned in the narrative—how many have been abducted, children and women, and how many have been rescued?

Ms. DOBRIANSKY. I don't have with me the specific data. But, Congressman, Mr. Chairman, excuse me. You raise I think an important point, which I did address in my opening remarks, and that is, the issue about data collection. We did go out to all of our posts to solicit specific data across the board, and the responses back were varied and in some cases, contingent upon what they were honestly able to get on the ground, and in some cases, influenced by a lack of access or very poor recordkeeping. There were a combination of factors.

Having said that, we can certainly provide you with that information. We have not in all of our narratives gone through and provided documentation and statistics, but through this process of hearing critiques from Congress and from the NGO community, it seems that it would be very helpful in our future round for us to look at that data integration into our future reports.

Mr. SMITH OF NEW JERSEY. I raise that question about the numbers especially. We all know and we recently—and as a matter of fact, I had a resolution that passed on behalf of one of the scholars that when information very quickly is classified as state secrets by the Chinese government, and that even Dow Jones or Reuters or one of the press organizations ran into a problem on financial information being somehow construed to be state secrets. It would seem to me that, if we have that information, it would be helpful to know—with a police state, I would be concerned about national DNA data banks, particularly in China with the dictatorship running that country.

But I think the Committee would benefit greatly if you would provide that to us in as great of detail as possible.

Ms. DOBRIANSKY. On your specific question concerning China or any other questions you may have, we will come back to you with that information.

[The information referred to follows:]

QUESTIONS FOR THE RECORD SUBMITTED TO UNDER SECRETARY PAULA DOBRIANSKY
BY THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEW JERSEY AND RESPONSES

Question:

What are you doing to ensure that we are getting all possible information from those closed, repressive societies where information is not accessible?

Answer:

In preparation for the 2002 report, an instruction cable was sent to each post requesting responses to questions covering relevant items in the legislation. In countries such as Syria, Cuba, and Burma, we have a presence which allows our posts to meet with government officials, local non-governmental organizations ("NGOs"), where available, and others who work on the trafficking in persons issue. In other countries such as Libya, North Korea, and Iraq our lack of diplomatic presence hampers our ability to collect information. Also, in each of these countries, the restrictions on civil society have limited NGO and press coverage of the trafficking issue generally.

As a follow-up to the hearing, we are contacting posts where we have a presence, urging them to continue collecting information despite the widespread obstacles and restrictions. Also, we are looking at more creative methods of information collection, including consultation with countries that have a diplomatic presence in regions where we lack such presence and work with them to gather information they might have on the subject. Presently, we are establishing a regime for collecting information from what we have termed "non-traditional information sources." Such sources could include humanitarian aid workers, faith-based organizations and refugee advocates who have access to vulnerable populations in closed countries. We plan to establish an easy, yet secure, system that taps into existing networks already functioning in such countries that have not been, to date, activated on the issue of trafficking. We are also looking into providing short, interim updates in between the annual reports that would focus on specific countries.

Question:

What is the number of trafficking victims, abductions and prosecutions in China?

Answer:

In response to your question, there were no official estimates last year for the total number of trafficking victims in China, nor specific figures regarding abductions. Chinese authorities claim to have rescued more than 123,000 women and children from trafficking circumstances in 2000. Those cases led to the total reported arrests of 19,182 persons of whom 11,048 received some form of punishment, including at least eight death sentences. Additionally, we have information about trafficking into China from North Korea, Vietnam, and other Asian countries. UNICEF estimates that 1,000 victims are trafficked annually to China from Vietnam. Lastly, the U.S. Embassy reports that approximately 80 to 100 North Koreans are trafficked to China each year.

Question:

What is the number of trafficking victims and the extent of sex tourism in Cuba?

Answer:

Regarding Cuba, press reports and information from independent journalists and church groups indicate that sex tourism is extremely common. During Cuba's so-called "Special Period" which was the economic depression created when Soviet subsidies ended, the Cuban regime even appeared to endorse tourists' solicitation of Cuban prostitutes. Castro actually referred approvingly to the sex trade in a 1992 speech to the National Assembly. However, there are no reliable estimates of the number of trafficking victims in Cuba. Strict governmental control of information and the status of US-Cuba relations further complicate information gathering.

Given the underground nature of trafficking and the fact that many countries are only now focusing on this scourge, the collection of information is often difficult. Despite this challenge, the Department remains committed to collecting as much information from as many reliable sources as possible. Here, too, we will consult with other countries with a diplomatic presence to see what information they might have on this issue.

Question:

What is the State Department's response to concerns that U.S. troops in South Korea are frequenting brothels with trafficking victims while the military police tolerate this practice?

Answer:

In response to your question concerning allegations that U.S. troops in South Korea are frequenting brothels containing trafficking victims, I understand you recently received a letter from the Secretary of the Army, Thomas E. White. I agree with the Pentagon's assessment of this issue as serious, and support its efforts to review policies and enforcement practices in South Korea. Ambassador Nancy Ely-Raphel, the Senior Advisor to the Secretary of State and Director of the Office to Monitor and Combat Trafficking in Persons, is working with our Assistant Secretary for Political-Military Affairs regarding these concerns, which she will continue to raise with the Department of Defense during our interagency discussions. We also are working closely with the South Korean Government to continue to strengthen efforts to combat trafficking in the region.

In addition, I have spoken with the Under Secretary of Defense for Policy, Douglas Feith, about this issue, and we agreed on the need for more systematic engagement. He has asked me to meet with senior Pentagon officials, in particular, the heads of each of the services, to discuss the issue and raise awareness.

Question:

What are the possible legislative changes to the Trafficking Victims Protection Act of 2000 (the "TVPA")?

Answer:

We are in the process of compiling suggested additions to the Trafficking Victims Protection Act of 2000. The Office to Monitor and Combat Trafficking in Persons is working closely with other agencies to compile a comprehensive list that addresses all relevant areas. We will consult with Congress as soon as our review is complete.

Mr. SMITH OF NEW JERSEY. Finally—and then I will yield to my good friend and colleague, Mr. Faleomavaega.

On India, the narrative makes clear—and I said this in my opening comments—about the—making significant—investigations and prosecutions of traffickers are rare. If you could just perhaps touch on that.

Part of it is, as pointed out here and I've seen this elsewhere, is the lack of coordination between the federal and the states, the bribing of local police, as a matter of fact, local police actually being on the take. But you do point out this Swadahar, which is a government shelter program, as being at least a positive that needs to be lifted up and hopefully increased in India. You might want to touch on that as well.

Ms. DOBRIANSKY. Okay. Well, several points.

First, with regard to our evaluation of India on prevention, protection, and prosecution, we would certainly not dispute—in fact, we documented it in here by saying that India—in the area of prosecution, India's record has been abysmal. We ranked India in Tier 2 because of what it has done with respect to prevention and protection.

But let me comment first on the point of the issue of prosecutions. Here, you are quite right, Mr. Chairman, in pointing this out. In my discussions with Indian officials, a frustration exists due to the fact that the federal authorities have not been able to secure the kind of cooperation and the kind of responsibility that should exist from state authorities. I think there is a recognition that this is an area that is extremely weak, to say the least, and that there needs to be much more aggressive action taken.

Having said that, we ranked India the way we did because, in looking at what India has done in the area of prevention and protection, India has provided resources, given the very limited finances and budget which it has. This is one of the criteria that one must look at, the availability of resources which a country is able to commit against trafficking in persons. Here, there are some 80 shelters that have been built and exist.

The program, by the way, that is mentioned in the report is a program which is a continuation of establishing more shelters throughout India. It is, in fact, to establish more shelters to basically rescue those women who are confronted not only with the crime of trafficking but even other human rights abuses which they have been confronted with.

The Indians have announced this. This has just gotten underway. But what we based our information on was not this program but the 80 shelters are already in place, not on what they are planning to do for the future.

Last point, on prevention. The federal government has been centrally involved. The President of India delivered a speech on Republic Day in which he addressed the issue of trafficking in persons. There have been other efforts taken by the government to wage a number of prevention campaigns, not only in urban areas but in rural areas, through the media, the theater, and a variety of means. These are the reasons why we gave India the ranking which we did.

By the way, I have to say again, we do not see that rank as a pass. But we also do take note of, clearly, the emphasis that has been placed in the critiques on the significance of prosecutions and the significance of taking concrete action to curb corruption.

Mr. SMITH OF NEW JERSEY. Let me just ask one final question. I do have others which I will submit for the record or if we do a second round.

I recently reviewed some videotape that Tom Merriman from Fox News Channel out in Ohio had filmed in an undercover operation that he embarked upon in South Korea, right outside of Camp Casey. It raised the question of whether or not we are doing all that we can possibly do to mitigate and hopefully have a zero tolerance policy when it comes to exploitation of women, trafficked women—in this case Russians, Philipinos, and indigenous women from South Korea. I know, Ambassador, your office reviewed it and was outraged by it and expressed deep concern.

We have fired off a letter to Secretary Rumsfeld asking for, (A) a complete investigation, and (B) to stop it. If it is going on, military police should not be policing in a way that protects the traffickers. They ought to be arresting, working—obviously, the South Korean police ought to be arresting these traffickers, rather than providing some protection so that the exploitation can continue unabated. And you might want to comment on it.

But it is very, very disturbing. We want no part of this. We need to lead by example.

Again, I was glad to see, Madam Ambassador, your office very strongly denouncing what was going on there; And so thank you for that. But if you wanted to comment on it.

Ms. DOBRIANSKY. I will make a quick comment, and then you should comment.

My only quick comment is we do plan to follow up with our colleagues at the Department of Defense in response to the letter that you have sent to them. We want to ensure that we collaborate on this. Our policy is one of zero tolerance.

Ms. ELY-RAPHEL. I did follow up, and the Secretary of the Army is responding. It is his office that is handling this, and they will get back to you. They are coordinating with us as well.

Mr. SMITH OF NEW JERSEY. Thank you very much.

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. And I want to thank Secretary Dobriansky for that very eloquent statement.

I would be the last person to render judgment in terms of having to be tasked in trying to resolve such a very complex issue and a problem that is certainly worldwide in scale.

As you had mentioned, Madam Secretary, there was minimum standard being applicable in rendering some 90 countries, if my math is correct, into these three tiers—Tier 1, Tier 2, and Tier 3. And I just wanted to ask you, how does the State Department make a determination of these minimum standards? For example, how do our allied countries, like France and Germany and the United Kingdom, qualify for Tier 1, in your assessment?

Ms. DOBRIANSKY. The reason why these countries are listed on Tier 1, first and foremost, is, we use a standard of how many individuals, based on our data, are trafficked into or through a country, and the standard is 100 persons. That is what we use. So why you see countries included in the report at all is simply because we started with the premise that there are over 100 persons trafficked through those countries.

And then, as I mentioned—

Mr. FALEOMAVAEGA. And so with a country like France, with 70 million people, if your statistical analysis is saying that there are over 100 people being trafficked, France qualifies for Tier 1?

Ms. DOBRIANSKY. Correct, it would qualify to be considered for the report because it is over 100. That is what we start with.

And then secondly, there are those countries that we have—according to the legislation, evaluated to determine whether we see them as complying with the minimum standards set forth.

Mr. FALEOMAVAEGA. You consider the standard pretty fair in assessing? I am trying to get a sense of relativity here.

I mean, we are dealing with 900 million people and if 100 people are trafficked, therefore, they automatically fall into Tier 1. I am trying to understand it with a sense of—with the populations in some of these countries.

Ms. DOBRIANSKY. I think we think that the legislation did set forth important parameters for judgment. The minimum standards—let me just give you a thumbnail sketch here—includes that governments prohibit severe forms of trafficking and punish acts of trafficking; governments prescribe punishment commensurate with grave crimes; governments prescribe punishment sufficiently stringent to deter and reflect trafficking; governments make serious and sustained efforts.

These are broad parameters, if you will, but we have looked at these minimum standards and then the seven criteria detailed in the legislation.

My response to you is, first, we think that those standards are certainly very appropriate because they do place an emphasis on looking at what governments are doing in the three critical areas: prevention, protection, and prosecution.

Second, I would also add that from this process of hearing various critiques, there are some areas that we can refine more. I think that in our evaluations we can be much more specific in terms of the information that we provide in the report, and also on trafficking-related issues that we address further with governments.

Mr. FALEOMAVAEGA. If my arithmetic serves me correctly, I think we have listed some 90 countries out of some, what, 189 nations that make up the United Nations.

The fact that the other 100 nations are not listed, what does this mean in terms of our report? That means they are doing an outstanding job? Or they are just so miserably bad we can't even put them in Tier 3?

Ms. ELY-RAPHEL. No, that is not the case. The first determination we have to make in doing an analysis on every country in the world is whether or not there are a significant number of trafficked victims in that country, either as a source from the country, through the country, or as a destination to that country. If we determine that there are at least 100 victims, we determine if the government is meeting the minimum standards set out in the legislation. The countries that are not on the list are the ones we were not able to get sufficient evidence, through our investigation, to determine that there were a significant number of at least 100 victims. Or it is a country like North Korea about which we haven't been able to get enough information.

There are many countries that we are still looking at, including countries in regions where there is a lot of trafficking. We look at the countries to determine if there are trafficked victims and where they come from, so that ultimately we can identify 100 victims and then make the analysis.

Mr. FALEOMAVAEGA. There is always a sensitive reaction from our friendly allies and other nations of the world, because we are making a judgment against them, putting a standard and saying 100 traffickers; therefore, you are it.

And my question is, how does our Nation bear this standard that we are applying against to other nations as far as human trafficking is concerned?

Ms. DOBRIANSKY. Congressman, you posed that point in your opening remarks. In the opening of the *Trafficking in Persons Report* in our introduction, we reference the fact that in the United States we have a problem. We cite the rough figure that there are some 40,000 to 50,000 persons trafficked here. When we sit down with other countries, we explain that we have a problem in the United States. And, by the way, we also tell them what steps other countries take have ramifications for us, just as what steps we take have ramifications for others.

That is why this is not and cannot be an individual effort. We have to see action from all those countries in which significant numbers are being trafficked from, through, and to.

Mr. FALEOMAVAEGA. If I understood you, you said in our own country we have 40,000 traffickers going on?

Ms. DOBRIANSKY. Yes. It is in the introduction.

Mr. FALEOMAVAEGA. Why are we not listed then ourselves in these tiers?

Ms. DOBRIANSKY. We don't because the State Department doesn't rank the United States itself. We don't rate ourselves in our own country human rights reports, as you know. But we have called attention to the reality of the trafficking problem in this country, quite openly in the introduction.

Mr. FALEOMAVAEGA. I see. Do you consider, Madam Secretary, are there any other provisions in the current law that might need improvements in terms of human trafficking?

Ms. DOBRIANSKY. Well the point about the need for more specific data in the report, and not just only in our solicitations to the posts, is something, as I have already suggested, that we should certainly be considering. There have already been a number of ideas that have been put on the table by many of the NGOs. I will just say this, that at this time we want to have the benefit of hearing these ideas, thinking about how to best integrate them. But as a result of the issuance of this report, there have been clearly certain ideas voiced of the three areas, protection, prevention, and prosecution, it appears that some prefer a heavy emphasis particularly on prosecution, even over the other two categories of protection and prevention.

Mr. FALEOMAVAEGA. What about in some of these countries that have an entirely different cultural bearing as far as relationships go? Not necessarily to say that one is right or one is better, but how do you pass judgment? Some of the countries in the Middle East have entirely different standards or different ways of looking at and making judgments to say whether the person should be convicted of committing a crime, breaking a moral code or whatever, in their society is quite different from Western society.

Ms. DOBRIANSKY. Well, I will make two comments. I don't know if my colleague would like to comment. First, I know from having worked extensively in the human rights field, I start with the premise that there are some human rights abuses that can't be explained away by culture.

I remember that we had discussions about torture when I was in the Human Rights Bureau. Torture cannot be explained away by culture. A human rights abuse is a human rights abuse.

Secondly, we have tried to suggest that there are a number of tools which we could use that we think could be effective. The report is one tool which we can and should use in our diplomatic discussions and break through some barriers that may exist with other countries. Some countries, not for cultural reasons, are outright not even willing to acknowledge the existence of trafficking-in-persons as a problem.

Mr. FALEOMAVAEGA. But that is basically a minority among the countries, though, I mean, outright rejection of what we are trying

to resolve here. I mean, you can't say that that is generally the sense of all the countries.

Ms. DOBRIANSKY. No, I am not suggesting that.

Mr. FALEOMAVEGA. And I have got one more question, Mr. Chairman, perhaps the common factor that really ties into the problem that we have in trying to resolve the situation with these countries is lack of resources?

Ms. DOBRIANSKY. It does tie in. In fact, that's one of the criteria mentioned in what constitutes significant efforts. It calls for what measures are reasonable to bring governments into compliance with minimum standards in light of their resources and capabilities. This is one of the factors that we have to take into account and also weigh against other considerations.

Mr. FALEOMAVEGA. And India probably is the greatest example of that. It is not because the officials don't want to enforce human trafficking but just simply the resources are so limited.

Ms. DOBRIANSKY. I think that it is a combination of factors, but in my own response to the Chairman, I did reference this point. I do think that resources have had an impact on what they have been able to do, but I would add at the same time, that in the area of prosecutions, they certainly can be doing a lot more than they have.

Mr. FALEOMAVEGA. Thank you, Madam Secretary. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Mr. Pitts.

Mr. PITTS. Thank you, Mr. Chairman. In follow-up to questions of the previous Member, could you tell us how the United States Government is encouraging the implementation of the Trafficking Victims Protection Act law enforcement provisions in the United States?

Ms. DOBRIANSKY. Well, as a result of our senior policy review group, we called upon all of the agencies, like Justice, the FBI and others, to come forward with a report on what they have been doing quite specifically to implement the act.

In fact, I brought with me a copy here today. We sent you a copy of the report a couple of months ago when we concluded this effort. It documents what different agencies are doing. I can't recount all acts with the exception of the recent announcement by the Department of Justice about the T visa—which I think was important. Each agency has responsibility for documenting what it has been doing to fully implement the TVPA. I would be glad to certainly share another copy of the report with you. I don't know if you have any comments on that.

Ambassador ELY-RAPHEL. I would just add one other thing, and that is that we have detailees from the Department of Justice—two lawyers. We had another detailee from Health and Human Services. This has been a great advantage in dealing with those agencies, and I think when they return to their agencies, they will know much more about what the agencies can do to fight trafficking.

We also will have someone detailed to our office from the Bureau of Consular Affairs and the Labor Department.

Ms. DOBRIANSKY. Congressman, may I just add one thing. I should note that that effort was only our first round. I hope you did receive the report because we sent it to each Member when we

concluded it right after we set up our senior policy review group. In fact, separate from the policy review that is almost concluded, we did ask all of the participating agencies to document how they have followed the act and what steps they have taken to fulfill the act. Each agency came in with papers to Ambassador Ely-Raphel's office, which put the report together and sent it out. But as I said, we will make sure you get another copy.

Mr. PITTS. Thank you. When we last met, Madam Secretary, you informed us that some 85 countries had signed the new U.N. protocol on trafficking. I am wondering, has this translated into concrete steps by the signatory countries to address the problem as it resulted in increased pressure on traffickers? Has it facilitated international cooperation to address the crime? And how many Tier 3 countries, for instance, are signatories to the protocol? Is support for the protocol a measure used by the department to differentiate between Tier 3 countries?

Ms. DOBRIANSKY. Well, let me respond. First, in terms of the last question about whether or not it is a measure, each of our posts, when they come back in and report on the progress or lack thereof by various countries almost—I believe almost—all of them have indicated whether a country is or is not a signatory.

Having said that, I think the greatest influence that the protocol has is that it brings international attention to bear on the issue of trafficking in persons. However, I think back to my days in the Human Rights Bureau where you have, at times, situations where you may have countries that may be signatories, but their record may not necessarily equate with the signing of a protocol or a convention. In this case, actually, I would have to get back to you in terms of all the Tier 3 countries and who has signed and who has not. But I can tell you a few that have signed and are on Tier 3. Bosnia-Herzegovina, for example, is one; Indonesia; Greece; and yet, we have placed them on Tier 3.

Mr. PITTS. Okay. Based on the feedback that you received from U.S. Embassies, can you talk about the willingness of foreign governments to share data with the United States regarding the extent of their trafficking problem or their efforts to combat it? Specifically, how willing are governments to compile and share data on investigations, arrests, prosecutions, or convictions against traffickers, and does willingness vary a great deal, depending on the countries' ranking in the *TIP Report*? You know, which governments provide data on prosecution and which don't? Do you have a list of those?

Ms. DOBRIANSKY. I will give my response, and if Ambassador Ely-Raphel would like to comment on this matter as well. First, in terms of the data, I would say that the actual scope of how forthcoming countries have been, honestly, depends on the number of prosecutions and the specific country. In some cases it may be attributable not to a lack of intent or to avoid giving data. But it can be attributable to what we were discussing earlier, a lack of gathered or collected information, a lack of resources, and governance problems that exist in the country.

I will give you one example. I think that we need to do a much better job in terms of getting data in the case of Vietnam. Earlier, I was sharing my views with the Chairman that in looking at the

record of Vietnam, the way in which they compile their statistics, based on our Embassies' reporting is complicated. They do it in broad groupings over a period of a number of years. When you look at it, the number of cases that they say have been addressed, you can view it as possibly being significant. But what is very unclear is the way the data is presented in terms of prosecutions—what precisely is the end result.

The point I would make is that this is the area on which, going back to the question of areas of improvement, I think we need to be much more vigilant and really pin down governments. Maybe we need to document in our reports those that are forthcoming with data and those that are not forthcoming with such data.

Do you have a comment on this?

Ambassador ELY-RAPHEL. I would say that it varies from country to country and a great deal depends whether or not that data is even available. This morning I had a digital video conference with the government of Ukraine through our Embassy. Their Ministers of Interior and Justice were there and I asked them your question. They had statistics, they had figures, but they were aggregate figures. They could tell you how many cases they had from 1998 to now. But they didn't break it down. So I think you find this. It really does vary.

Mr. PITTS. One last question. How has the war on terrorism affected our efforts with the central south Asia countries' efforts to monitor and combat trafficking? You know, we have a sensitive relationship, some improved relations with some of those countries who are allied with us in this war. How does that balance against their traditionally poor record in the area of trafficking?

Ms. DOBRIANSKY. Well, first, Congressman, the way in which we did these evaluations, we undertook these evaluations based on the criteria set forth in the legislation—looking at prevention, prosecution, and protection. In terms of coalition members and whether there is influence or not in this rating, there is no correlation. But I will say this, in the broad area of human rights, and this being a human rights issue and a very egregious one, interestingly enough, because of the coalition effort we have been afforded opportunities of more direct engagement with countries—countries that have heretofore shunned many of these issues and have been very unwilling to discuss these issues with us. Actually now by being coalition members, the door is open for discussion and we are aggressively addressing human rights concerns with a number of countries.

In fact, there are several on the list which we have ranked in Tier 3, including Tajikistan, that I believe were in fact not listed last year. We want to be able to, through this open door, engage, and hope that that does not deter countries from being open and honestly addressing this very serious problem.

Mr. PITTS. Thank you for that answer and for your efforts. And finally, let me just say, regardless of cultural differences, slavery, specifically sex slavery exploitation of women and children is always wrong. Thank you.

Mr. SMITH OF NEW JERSEY. Thank you, Mr. Pitts. Ms. Watson.

Ms. WATSON. Thank you so much, Mr. Chairman, for having the witnesses here so we can hear the report. And I understand that

according to the State Department report, the United States is principally a transit-and-destination country for approximately 50,000 or more enslaved persons. These persons are primarily women and children who are exploited and abused to perform commercial sex, servitude, and to work in sweatshops or the agriculture sector under conditions that are comparable to slavery.

Furthermore, studies have shown that more than 8 million children are currently enslaved around the world. There is little discussion of whether race or other forms of discrimination contributed to the likelihood of women and children becoming victims of trafficking. Despite the success of the department's report in highlighting the extent of human trafficking, I am concerned that we are not paying more attention to the demand side of human trafficking, especially here in the United States. We might should be listed in that report.

Furthermore, I am concerned that the report does not recognize explicit connections between trafficking, racism and racial discrimination. The demand-and-supply aspect of this issue is similar to the war on drugs. As a country, we can assist foreign nations in helping poor rural farmers find alternative crops to grow in place of the poppies, and we can supply air support and training to detect and bring down planeloads of cocaine. But what remains is a demand. Simple economics teach us that without demand, there is little need for supply.

Therefore, Mr. Chairman and Members, I wonder if we are doing enough to address the demands of sex tourism, commercial sex, human servitude and inexpensive labor here in our own country.

I am also concerned that political decisions are driving how countries are placed in this tier scheme. Some of the worst offenders seem to be granted some leniency, and are we too concerned about causing offense that might damage our U.S. interests and turn a blind eye to the offenders such as India, Thailand, Vietnam, Burma, Cambodia, and the list goes on. Addressing this problem and bringing relief to the many victims will only be possible with international cooperation. And trafficking has reached staggering dimensions around the globe, and we must address all aspects of this problem. In addressing this issue, we need to focus upon the long-term approaches which will address each aspect of the trafficking cycle and which recognize explicitly the connections between demand, trafficking, migration, racism and racial discrimination. And that is the statement. I will give the rest for the record, Mr. Chairman.

[The prepared statement of Ms. Watson follows:]

PREPARED STATEMENT OF THE HONORABLE DIANE E. WATSON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Chairman Hyde and Ranking member Lantos, for holding these hearings on the Trafficking in Persons Report that was just released from the State Department. This hearing provides us an opportunity to review the report and learn more about the problem, causes, magnitude, and the efforts of the United States as well as foreign governments to response to this problem.

I have every confidence that our witnesses here today will provide us additional perspective into the issue and its complexity.

According to the State department report, the United States is principally a transit and destination country for approximately 50,000 or more enslaved persons. These persons are primarily women and children, who are exploited and abused to

perform commercial sex, servitude, and to work in sweat shops or the agricultural sector under conditions comparable to slavery. Furthermore, studies have shown that more than 8 million children are currently enslaved around the world. There is little discussion of whether race or other forms of discrimination contribute to the likelihood of women and children becoming victims of trafficking.

Despite the success of the Departments report in highlighting the extent of human trafficking, I am concerned that we are not paying more attention to the demand side of human trafficking, especially here in the United States. Furthermore, I am concerned that the report does not recognize explicit connections between trafficking, racism, and racial discrimination.

The demand and supply aspect of this issue is similar to the war on drugs. As a country, we can assist foreign nations in helping poor rural farmers find alternative crops to grow in place of poppy, and we can supply air support and training to detect and bring down plane loads of cocaine, but what remains is a demand. Simple economics teaches us that without demand there is little need for supply. Therefore Mr. Chairman, I wonder if we are doing enough to address the demands of sex tourism, commercial sex, human servitude, and inexpensive labor here in the United States.

I am also concerned that political decisions are driving how countries are placed in the tier scheme. Some of the worst offenders seem to be granted leniency. Are we too concerned about causing offense that might damage other U.S. interests and turn a blind eye to offenders such as India, Thailand, Vietnam and Cambodia?

Addressing this problem and bringing relief to its many victims will only be possible with international cooperation. Trafficking has reached staggering dimensions around the globe and we must address all aspects of this problem. In addressing this issue, we need to focus upon the long-term approaches which will address each aspect of the trafficking cycle and which recognize explicitly the connections between demand, trafficking, migration, racism, and racial discrimination.

Hopefully we can then truly address this issue and take prudent steps to combat trafficking. Thank you to all our witnesses for coming today to share their insights.

Ms. WATSON. But I would like to bring some attention to an issue that was brought up in Los Angeles. We have been told just this afternoon that our country does not help the victims of trafficking. Rather, what we are doing, particularly where there are women and children, is put them in jail and waiting for them to be deported. Some of them have been there for years. So you might want to comment on that.

And also I would like to raise this question, and I won't be here for the answers because I have two more hearings to go to, but I do have staff here that will report back to me. And the last two questions are, what is the status of the UN protocol that we talked about in the last hearing that we had on trafficking? And why hasn't the United States submitted whatever they have to the Senate for its advice and consent?

So if you can remark on the overall statement and on these two questions, I would appreciate it. Thank you so much for being here and supplying us with the details.

Ms. DOBRIANSKY. Okay. Thank you. Congresswoman, if you are here, I can respond very quickly.

Ms. WATSON. Go ahead. Yes.

Ms. DOBRIANSKY. First, let me address the three specific issues.

On the issue of helping the victims here in the United States, I am going to suggest that we have you briefed by someone who joined me in the hearing last year, Dr. Wade Horn of the Health and Human Services. HHS is very responsible and very engaged in this issue of helping victims in the United States, providing the kind of assistance that is necessary. I will make sure that we follow up directly with you and your office on this issue. But I will say that they have the lead—the State Department doesn't do this

kind of work, but we work with them. Clearly, HHS has been very aggressive about helping victims here in the United States.

Ms. WATSON. Let me just say this to the issue of deportation. Can you address, are they placed in jail while they are waiting to be deported?

Ms. DOBRIANSKY. Not to my knowledge.

Ms. WATSON. Okay. Just check that out.

Ms. DOBRIANSKY. Not to my knowledge, but that is why I am going to ensure that we come to visit you with our colleagues from Health and Human Services and the Department of Justice and INS.

On the status of the U.N. protocol, we are almost there. We do expect that this will be moved shortly to the Senate. Some colleagues of mine are here from our legal advisers' office. We have had issues that we have had to clarify, but we expect fairly quick movement on that.

Ms. WATSON. What kind of time are we talking about?

Ambassador ELY-RAPHEL. I believe we are expecting to send that up this summer.

Ms. WATSON. Thank you.

Mr. SMITH OF NEW JERSEY. Will the gentlelady yield? I am sorry.

Ms. DOBRIANSKY. I was going to make one final comment that is on your broader point. I have taken notes, we have taken notes, and we certainly will take that all into account in terms of our deliberations as to how we improve and refine this report and our narratives in the future.

Ms. WATSON. In closing, Mr. Chair, I would like to thank you. You did come to my office. We did have some discussions on the concerns that I raised then, and I continue to raise. I would appreciate it if we could set up another time Madam Ambassador, absolutely, when we can sit down and talk about some of the trouble points. I do plan to take a CODEL down to Micronesia. We might also look at going to Burma where we just got a report earlier today and we might be able to check out some of these other points, too. So thank you very much. I will look forward to talking with you.

Thank you, Mr. Chairman. I yield.

Mr. SMITH OF NEW JERSEY. If the gentlelady would yield, just the law itself established that the woman should be treated as a victim and not as part of a—not as a criminal. If you have any instances where you know of anywhere that law, our law is not being followed, please let us know because I think, you know, we have asked INS, we have asked HHS and all the other people who have a piece of this, to make sure that they adequately implement it. And the Attorney General, John Ashcroft, has been very faithful in promulgating—we think it is a little bit slow, but it is still nevertheless happening in issuing guidance to the prosecutors, the U.S. attorneys to go after the traffickers, but to treat the women, the victims, as victims and not as part of the problem. So—

Ms. WATSON. I will get in touch with your staff.

Mr. SMITH OF NEW JERSEY. Please do. Thank you for bringing that up.

Mr. Tancredo.

Mr. TANCREDO. Thank you, Mr. Chairman.

Madam Secretary, Madam Ambassador, I am trying very hard to believe that this report was not influenced at all by the State Department's perspective, vis-a-vis each of these countries and any other kind of relationship that the United States has with them. I am trying to believe that that didn't enter into this report at all and that the report was based solely and entirely on the legislation that we passed. I must say that something appears to be wrong here, and I do not know exactly where to affix the blame, if any is actually necessary. But when you have, let's see, the Wilberforce Form, the International Justice Mission protection project, the Salvation Army, Human Rights Watch, European Law Enforcement, the International Justice Mission, Southern Baptist Ethics and Religious Liberty Commission, Concerned Women for America, when you have these organizations expressing such opposition, such concern about this report, it seems to me something is wrong. It is just as pure and simple as that. It seems as though they understand fully well.

I think at least you know most of the people that I mentioned here, most of the organizations are relatively sophisticated in this particular arena. They understand the kind of constraints that you face and that you actually addressed here in your testimony with trying to obtain good data. And so I guess my question to you is this: Are there legislative changes that you would propose that would enable us to avoid what is apparently a contradiction in the listings, that is to say where countries that end up in Tier 2? For instance, countries that are so blatantly, again, it appears from my point of view, undeserving of even that status. They have a much more severe penalty than that should be attached to their inability, unwillingness to participate in any effort to try and stop this horrendous activity? And if it is our fault, if there is something that there is in the law that we passed that prevents you from doing what you would do if you did not have the constraints of the law, and actually were able to call a spade a spade here. For instance, put these countries in the position, into the categories that you really think they should be, is there something that we need to do that would help you to do that?

Ms. DOBRIANSKY. Congressman, if I may first address the first part of your question about the doubts about placement. Let me call your attention to not only last year's report, but this year's report in terms of some of our closest allies and friends who are on Tier 3. Israel and South Korea were on Tier 3 last year. This year we have close relationships with Greece and Turkey, and that did not interfere with the placement of these countries on Tier 3.

Secondly, I tried to suggest and address in my testimony, that I think there are some times, as I said, when honest people who are committed to the same goal and objective can honestly and genuinely disagree. Here we did evaluate countries on the three P's—protection, prevention and prosecution. It is clear to me from a number of comments that have been made today, and also, the comments from all of the very extremely engaged groups that you have mentioned and groups that we have benefited from, the NGOs, that a heavy emphasis is placed on prosecution. And as we go forward, because a number of you have raised what could we do and what would we recommend. I want to give thought to your last

question as to how the report can be more refined. When we look at the issue of significant efforts, for example, the Congressman from Samoa asked, and I won't venture to pronounce his name as my name is difficult enough. The Congressman from Samoa had questioned how do you factor in a country's resources? We do factor that consideration into our deliberations. We, at the same time, look at the magnitude of the problem. We look at concrete actions. I have been very struck by—based on the report, which countries come in and who we could go to, to have a discussion where you know that there is political will to try to bring about change versus cases where there is no political will and it is a solid placement in Tier 3.

I would like to give some serious thought to your question. It has been raised by almost everyone here and I think that is worth our giving serious consideration to it and coming back in a very thoughtful way as to how we can refine the report and be more effective in our targeted approach.

Mr. TANCREDO. Thank you very much. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you. Madam Secretary, I am sure you were referring to Smith when you were talking about pronunciation.

Ms. DOBRIANSKY. Yes.

Mr. SMITH OF NEW JERSEY. Gary Haugen makes—after our hearing that we had last fall, winter, made some recommendations and I know he made them to the State Department in terms of improving—and, of course, everything is a work in progress and I think that he had some very good ideas. One, the estimated number of victimizations ought to be included; the number of prosecutions and convictions for sex trafficking offenses, number two; and number three, the number of government employees, including police officers, who are disciplined for complicity in sex trafficking. I think it is a very worthwhile recommendation to add more specifics to it, which may already be in your database. Maybe that is already part of the qualitative, you know, analysis that you are making, but it would help us to make a better analysis as well, especially since there seems to be, I think, almost uniform concern about India, Thailand. Holly Burkhalter will be testifying later and she points out Thailand and India. Others have done likewise, so I just would ask you to, you know, consider those three recommendations by the International Justice Mission. I think they are very well thought out.

Ms. DOBRIANSKY. Mr. Chairman, in fact, Gary Haugen visited with us and we were discussing these issues. We did use his suggestions in our solicitation to our post. However, this gets back to the other point that we were just discussing with Gary—the need to also work this at the other end, meaning with our Embassies. We need to think of ways and means and strategies of getting as much reliable information and documentation on corruption as we can.

We also, as I said earlier, did not register this data in these country *Trafficking in Persons Reports*. And clearly, there is a great deal of interest in that and for our next report round, that is one of the changes that we will, in fact, make.

Mr. SMITH OF NEW JERSEY. Let me just ask you on Cuba, if I could. When I mentioned earlier about countries that are terrorist countries that were not included in the list, obviously we have an intersection there so we do have some reporting capabilities. But they do have Internet sites where Cuban girls are actually promoted for sale as escorts, offering them as merchandise, and obviously the sex tourism industry there is alive and regrettably very profitable for Fidel Castro. Are we looking at Cuba at all, Ambassador?

Ambassador ELY-RAPHEL. Yes, we are. We are. Again, however, we are not able to obtain all the numbers, but clearly that is one of the countries that we are looking at.

Mr. SMITH OF NEW JERSEY. Well, I know you know this, but, you know, there is an annual report that is prescribed by law, but we also put language in the statute that says interim reports can be offered up at any time that data is available, so—and that is important, too, even as you do analysis or reanalysis of countries that are on Tier 2 or Three. If, after these hearings and looking at the body of evidence, you want to put Thailand, for example, or India—Thailand is, like I said before, offered up by many of the NGOs and human rights organizations as a country that ought to be on Tier 3. Perhaps that could be reevaluated and a report issued before next year, because obviously interim reports can be proffered at any time.

So I would ask you if you would look into that at any time.

Mr. FALCOMA. Mr. Chairman, I was just wondering, I think in the years past, hasn't our country taken the lead in bringing this issue before the United Nations? And that there was tremendous resistance from our own allied countries that wanted to get into this issue which they considered an internal problem, that it is none of your business sort of reaction? And are we still trying to pursue this issue before the United Nations to make this clearly a global issue and not something that is pursued just by our country, and also putting the mandate on these other countries to comply and really to resolve this hideous activity?

Ms. DOBRIANSKY. Yes, we have brought these issues forward to the United Nations. There have been a number of meetings that have taken place in which the United States has been very much in the lead.

And as to your other point, I would even say it more broadly. Whether we are talking about allies or we are talking about non-allies, there has been, depending upon the country, a great uneasiness. That has also been the case with the issue of human rights and how human rights issues have been addressed, for example, in the UN Human Rights Commission meetings.

Mr. FALCOMA. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Madam Secretary, last year at the hearing, you mentioned that the Democratic Republic of Congo was one of the, quote, major violators in term of human trafficking and a country which has not engaged in a positive manner with the United States on the issue. Could you explain why the Congo did not appear in this year's report?

Ms. DOBRIANSKY. Yes. My understanding—and Ambassador Ely-Raphel may want to comment a bit more on this—my under-

standing is that given the developments in the Congo, our post, in fact, came in to say that the previous reports on trafficking were not accurate. This goes back to the point as to why some countries are listed, and why some other countries are not listed. And that may be, for example, something that we need to consider because it is not necessarily the case that there may not be a problem. We may not know precisely the scope of the problem, and especially if you have an ongoing war and conflict situation, it is particularly difficult to get data. That is the reason.

I don't know if you have anything to add.

Ambassador ELY-RAPHEL. I would just add that we got additional information this past year that did not corroborate the information that we had the year before.

Mr. SMITH OF NEW JERSEY. I appreciate that explanation. The interagency working group, how well is that working?

Ms. DOBRIANSKY. The interagency working group, if you mean in this case the senior policy interagency review?

Mr. SMITH OF NEW JERSEY. Yes.

Ms. DOBRIANSKY. Prior to the report we met to address the two goals that I mentioned earlier. One was to undertake a policy review. We are almost at the end of that review, which I think will be quite important. And then second, we did call upon all participants to report how they are fulfilling the act, which is the TVPA implementation report that we shared and sent to you a couple of months back. What we are looking to achieve in our next phase is to bring the group together, to sit down and look at programs, quite specifically, how in light of problems and troublesome areas, how our resources can be used most effectively. That's the next goal and objective of the—

Mr. SMITH OF NEW JERSEY. If I could just ask for some hurry-up in terms of the programs. This year's fiscal year appropriations bills are making their way. Last year I think we got less than what was possible in the House standing conference on foreign ops. Mr. Wolf was very faithful and came forward with his piece on Commerce, Justice and State, but from my continued conversations with other governments, I think we lost out on an opportunity. This morning I met with several parliamentarians from Kosovo who were here for that meeting in Warrenton, Virginia—there were 30 of them in the room and then we had a hearing on Kosovo to elaborate in the area of trafficking. There are still not enough resources so, while we can't pinpoint exactly how every dollar will be spent going in, I am sure the need so far outnumbers the current authorization levels that we should at least meet those authorization levels. So I would hope that you could provide us with it and let the appropriators know.

Ms. DOBRIANSKY. We want to move expeditiously.

Mr. SMITH OF NEW JERSEY. Mr. Wolf, do you have any questions? Chairman Wolf?

Mr. WOLF. No.

Mr. SMITH OF NEW JERSEY. According to written testimony that was submitted to the Committee by the Vietnamese-American human rights organization Boat People S.O.S., the trafficking reports in Vietnam focus on relatively insignificant government ac-

tions and misses the big picture, according to S.O.S., when it finds that the government has made significant efforts.

[The information referred to follows:]

PREPARED STATEMENT OF DR. NGUYEN DINH THANG, EXECUTIVE DIRECTOR, BOAT PEOPLE S.O.S.

Mr. Chairman and Distinguished Committee Members,

It is with grave concern that I read the June 2002 Department of State Trafficking in Persons Report. I am deeply disturbed by the designation of Vietnam as a "Tier Two" country. The Department of State thus asserts that the Vietnamese government is "making significant efforts to bring [itself] into compliance" with the minimum standards required by the Victims of Trafficking and Violence Protection Act of 2000. The Country Narrative asserts that the Vietnamese government prosecutes traffickers and protects the victims; however we know that this is not true.

The Vietnamese government has been complicit in the trafficking of approximately 200 workers, almost all women, to a garment factory in American Samoa.

First, government agents working for government-owned labor export companies drafted the contract which required victims to pay fees of \$3,000–\$4,000 and contained a clause which would penalize workers a fine of \$5,000 for quitting.

Second, the government appointed an agent, named Chuyen, to oversee the conditions of the workers and their compliance with the factory's management. When workers complained about the conditions and filed a civil suit for back pay and damages, Mr. Chuyen threatened the workers and their families with retribution if they did not immediately drop the suit and comply with the requirements of the sweatshop owner.

Third, when the Vietnamese workers pressed on with the suit, the Vietnamese government sent a high Ministry of Labor official—Pham Do Nhat Tan, the Deputy Director of the Labour Export Management Department—to American Samoa to intimidate the trafficking victims into dropping their complaints and going back to work under the slavery-like conditions that had been imposed on them.

In its recent decision a U.S. court (the High Court of American Samoa) held two Vietnamese government-owned labor export companies, Tour Company 12 and International Manpower Supply, responsible for the trafficking of these workers into what amounted to slavery in American Samoa.

The Trafficking in Persons Report notes this decision, as well as the widespread corruption that effectively prevents accountability for government officials involved in trafficking. But the report justifies a Tier Two, rather than Tier Three, ranking for Viet Nam on the basis that one junior official of one of the companies has been prosecuted. It also notes that the Vietnamese government has job training programs for trafficking victims and has sent law enforcement officers to training programs that included, along with many other issues, training on trafficking issues.

In reality, the government has offered no protection to the former workers and their families against the moneylenders who loaned the workers the initial fees required by the government. Government agents have threatened and harassed a number of former workers who have returned to Vietnam. Local government authorities have placed many repatriated workers on their black list, making it impossible for these returnees to find work to support themselves and their families.

In the case of the said labor export company official who was prosecuted, he was however prosecuted not for trafficking the women, but for "misappropriation of government funds"—that is, for losing the bond money that the government itself had taken from the workers. He apparently lost this money when his Korean accomplice absconded with it.

What the Trafficking in Persons Report does not even mention is that in April 1999 Pham Do Nhat Tan, the Deputy Director of the Labour Export Management Department, headed a delegation to American Samoa to address the trafficking scandal. He accused the victims of breaking the rules when they spoke up against the traffickers, because they should have gone through their team leader, who did not want to take any position. Mr. Nhat Tan also suggested that they did not use the right, decent language in addressing Mr. Lee, the trafficker-in-chief and owner/operator of the factory. He defended the employment contract signed with Daewoosa Samoa, claiming that it conforms to American Samoa's laws. He concluded that Mr. Lee might have done a few things that were not right but the workers themselves were definitely wrong in challenging his abuses. He suggested that the women who had complained "would face consequences" for breaking the rules.

The Department of State report also fails to mention that Mr. Nhat Tan, the key Vietnamese government official responsible for sending the workers to American

Samoa and then for suppressing their calls for justice, continues to play a key role in the government's program for the export of Vietnamese workers. The attached article from the Vietnamese government's official press service shows that Mr. Nhat Tan is in charge of the government's plan to increase its export of Vietnamese workers to North America, Southeast Asia, Europe, Africa, and the Middle-East for year 2002.

In conclusion, I find it irresponsible of the State Department to designate Vietnam as a Tier Two country when evidence shows that the Vietnamese government is deeply involved in trafficking workers into slavery and has shown such animosity and indifference to the plight of the trafficked workers.

VIET NAM LOOKS FOR LABOUR EXPORT PROMOTION

Ha Noi, Jan. 4 (VNA)—Viet Nam plans to expand its labour market to Southeast Asia, Europe, Africa, North America and the Middle-East as well as increase vocational training in a bid to export around 45,000 workers this year, according to the Labour, War Invalids and Social Affairs Ministry.

The ministry said in 2001, 36,000 Vietnamese workers were sent to work abroad, mainly in Japan, the Republic of Korea and Taiwan. However, the figure was far below the initial target of more than 40,000 labourers set by the government.

Last year, the number of workers exported by some companies dropped considerably, even by a half compared to the previous year. They included the Specialist and Labour Export Company (Suleco) in Ho Chi Minh City, which sent only 700 workers overseas in 2001, or just a half of 2000's total, and the Labour Export, Trade and Tourism Co. (Sovilaco) in HCM City, that exported just a few hundreds, a year-on-year fall of 60 percent.

"In HCM City, only a few of ten labour export companies sent a small number of workers abroad last year," said Mrs Nguyen Kim Ly, Deputy Director of the Municipal Labour, War Invalids and Social Affairs Department.

She added "Vietnamese workers have failed to meet foreign language and professional skill standards as required by foreign labour markets, including traditional markets such as Japan, the RoK and Taiwan."

"This is the main obstacle barring Viet Nam from sending its workers to work abroad at present," Nguyen Kim Ly stressed.

According to Sovilaco Director Nguyen Hong Minh, Vietnamese workers' labour quality remains poor, while their working discipline is not so good, and many of them have broken their labour contracts.

"As a result, Japanese and RoK partners have forced Viet Nam's labour exporters to bring home those who broke contracts to live and work illegally in their countries," Minh said.

In addition to efforts to ease these difficulties, the government has issued policies to create a favourable legal corridor for labour export promotion. However, the government should promulgate credit and investment policies, including the establishment of a national fund for employment support, to further boost labour export.

"Vocational training promotion, human resource preparation as well as market exploration and expansion remain the most important thing in labour export," said Pham Do Nhat Tan, Deputy Director of the Labour Export Management Department of the Labour, War Invalids and Social Affairs Ministry.—VNA

Mr. SMITH OF NEW JERSEY. For example, the government prosecuted one junior official but not for anything he did to the women. It was for misappropriating government funds which he lost when his Korean accomplice absconded.

The report also ignores the fact that the Vietnamese Ministry of Labor official who traveled to American Samoa and publicly threatened the workers is now Deputy Director of the government's whole labor export program. How did we manage to miss these very important facts? And could it be that our Embassy in Hanoi is getting too many of its facts from the government itself and not enough from the human rights advocates?

Ms. DOBRIANSKY. On the last point, our Embassies do gather information from foreign NGOs, from our NGOs, as well as from government sources. In this case, you are quite right. We did not cite it, and I don't know the specific reason why. The case that you

mention was not referenced in the report. But, in fact, the American Samoa court case is referenced in the report and what action, although as we note belatedly, was taken by the Vietnamese. This gets back, I think to the broader point. We evaluated Vietnam based on efforts that it is taking in terms of prevention campaigns and efforts that it is taking in terms of protection campaigns. Where it certainly is and has not been doing well has been in the area of prosecution, which is something that we need to address much more aggressively, I think, with them.

Mr. SMITH OF NEW JERSEY. Thank you.

Ambassador ELY-RAPHEL. I would just add that as we gather evidence after the American Samoa case, we may find that there was a lot more government corruption involved in that case.

Mr. SMITH OF NEW JERSEY. I do have one final question on Indonesia. And in the report you mention that there was a conference held by a number of source transiting-and-destination countries. What was our role in that—what is your sense, say, with regard to Jakarta? Do you think they are putting some programs in place that might get them off Tier 3 and, most importantly, protect the women?

Ambassador ELY-RAPHEL. I was the representative to that conference in Bali, and it was the first ministerial meeting of its kind to be held in that region. All the governments came. I must say I was impressed with the statements. The president of the Philippines was there and made a very moving statement on trafficking. This was a conference that was cosponsored by Australia and Indonesia. They have lots of plans in the works but I want to see these plans implemented.

There were a lot of words that were said at the conference and I hope there will be follow-up particularly on trafficking. There was also a lot of focus on smuggling.

Regarding the government of Indonesia, I met with many of the government officials in Jakarta before I went to the meetings in Bali. They need to do a lot more than they are doing now to address the problem of trafficking, particularly drafting legislation, having a criminal statute and implementing it. They need to make improvements. They do cooperate with some very active NGOs on the prevention and the protection side, but I was disappointed with the prosecution side.

Mr. SMITH OF NEW JERSEY. Let me, and I know the time—it is getting late and I apologize to the second panel of witnesses and to many of you that this has gone longer than I think you might have anticipated. I do appreciate, Secretary Dobriansky, that you made the point that Turkey and Greece are on the list. I mean these are NATO countries, obviously. Turkey is the underbelly of NATO, as it has often been referred to. Very important strategic ally, and yet no punches were pulled there, and we all appreciate that.

And Russia, with whom we have a very close friendship, at least it would appear that way, is on the list as well. There have been recent agreements in the area of arms control with President Bush. Is this issue being raised at the highest levels? I have been to Russia many times. I have met with their Duma speaker; I have met with many of their leaders. They just don't seem to get it yet that

Russian women are being raped day in and day out, having been trafficked to New York and Philadelphia and elsewhere in the United States. Why don't they want to do more? And as pointed out in the report, age 14 is the age of consent, so it makes it even harder to pass a law. Perhaps the Duma will move to change that, but at the highest levels is it being raised?

Ms. DOBRIANSKY. We clearly need to do more. Because as the report demonstrates in the three areas, Russia has really come up miserably short. And we need to think about other creative ways and means, diplomatically, and at all levels, to raise this issue. And I think you raise a very important point because given the strides that we have made with Russia in other areas—we have a vibrant policy exchange with them, but this hasn't translated into action in this case. And in the area of trafficking in persons, we need to do more. We would welcome any suggestions that you may have because you have dealt with Russia for quite some time and have thought about ways and means of applying pressure, not only through the threat of sanctions, if they do not improve their record by 2003.

Mr. SMITH OF NEW JERSEY. Thank you very much. I want to thank both of you for your personal, strong commitment to eradicating this modern slavery. We do appreciate it on the Committee, the bipartisan way, and look forward to working with you in a cooperative way. We appreciate your testimony and your work.

I would like to now welcome our second panel of witnesses, Mr. Gary Haugen, President of the International Justice mission. Mr. Haugen has worked in the civil rights division of the U.S. Department of Justice and served as the Officer In Charge of the United Nations genocide investigation in Rwanda in 1994. Mr. Haugen also serves on the Executive Committee of the National Initiative for Reconciliation in South Africa. He is the author of numerous articles and books on foreign affairs, international law and human rights. We welcome Mr. Haugen to the Committee.

The next witness will be our distinguished former Member of Congress, the Honorable Linda Smith. Ms. Smith began her political career by serving in the Washington State legislature and was elected to the U.S. House in 1994. During her tenure in Congress, Ms. Smith visited India and Nepal to witness firsthand the situation of young women and children who were being exploited there. After leaving Congress in 1998, Ms. Smith formed Shared Hope International in partnership with Teen Challenge International. These two groups worked together to rescue victims of trafficking and to supply them with shelter, health care and vocational training. Linda, welcome to the Committee today.

Next I would like to welcome Ms. Manju Poudel, a woman from Nepal. Ms. Poudel began her career as a journalist for the *Nepali Daily*. In 1994, she founded the Women's Section of the NGO Federation of Nepal and for the last 2 years has worked as a full-time social worker and researcher on women and development for INHURED International in Nepal.

Donna Hughes is a professor and the Oscar M. Carlson Endowed Chair in Women's Studies at the University of Rhode Island. Professor Hughes has done research and published reports on the trafficking of women in the United States, Russia, Ukraine and South-

east Asia. From 2000 to 2002, she was team leader for research trafficking with the Institute of Justice, a U.S.-Ukraine Research Partnership.

And finally, we will be hearing from Holly Burkhalter. Since 1997, Mrs. Burkhalter has been the Advocacy Director of Physicians for Human Rights, a Boston-based human rights organization that works to promote health by promoting human rights. Previously, for 14 years, she was affiliated with Human Rights Watch as its Advocacy Director and Director of its Washington office, and frequently provided her insights and Counsel to the Subcommittee that I previously chaired, the International Operations and Human Rights Subcommittee, and we have always valued her opinion. From 1981 to 1983, Ms. Burkhalter was a Professional Staff Member of our Committee's Subcommittee on International Operations and Human Rights. She was a frequent witness, as I just pointed out.

We look forward to your testimony. All of your testimonies will be made a part of the record. Mr. Haugen, if you could begin.

STATEMENT OF GARY HAUGEN, PRESIDENT, INTERNATIONAL JUSTICE MISSION

Mr. HAUGEN. Thank you, Mr. Chairman. First of all, I would like to thank, of course, Chairman Hyde for convening this hearing and grateful to you, sir, for your continued persistent leadership on this issue. We will be submitting our written statement for the record.

I am specifically grateful that this hearing on the *TIP Report* is focusing on government complicity in human trafficking. As the Congressman would know, the International Justice Mission spends thousands of hours infiltrating the commercial sex industry to specifically rescue victims of sex trafficking, and in the process we have learned, I think, some important lessons about the way the industry works and the way it can be most effectively combated.

Sex trafficking is, I think, clearly the ugliest and yet the most preventable man-made disaster on our globe today. Why is it so preventable? It is preventable because it requires the commission of multiple felonies openly before a customer public. You have to abduct these girls, you have to confine them, rape them, assault them, hold them against their liberty and hold them out to the public so that they can come as customers. So there are in fact 2.3 million women and girls held in forced prostitution in India, and they service about four to five customers a day, which means there are 10 million men every day who find the victims of sex trafficking. So this is not something that is really hard to find. I wish I could say that it was.

Why is it so preventable? Because, first, it requires the open commission of these multiple crimes. And then it then simply requires that you hold this out to the public on a continuous basis, unlike drugs, which you can consume and then it goes away. You have to hold out these victims for months and months and years and years. How do the traffickers get away with this? They only do it with one means, and that is with the complicity of government officials who are supposed to enforce these laws. Massive laws of sex trafficking simply don't occur everywhere in the world.

They only occur in those parts of the world where it is tolerated by local authorities. You can't have high levels of sex trafficking without government complicity because it has to be held open to the public.

We have just a couple of minutes of video that we wanted to share with the Committee that makes two points, one to show just how open and ugly the sex trafficking is, but secondly to also show you how casual the official complicity is in the crime of sex trafficking. And if we can get that up on the monitor, let's go ahead and run that. The first is some footage which was taken just a few weeks ago in Cambodia in Svay Pak, a particular neighborhood outside Phnom Penh can simply enter to buy in an open market these young girls for sex. These are girls between 11, 12, 13 years of age. They can be purchased for a dollar or two for short time sex or you can purchase them outright for between 50 and \$100. You can see this young girl here being presented to our investigator for sex, a very young girl. If you don't like that one, here is another little girl. Just one after another in this open market. There are hundreds of these minor girls simply offered for sale. You will see here actually a girl eventually being offered to us who was being held in the arms of the older woman there. That little girl, about 6 or 7 years of age, was being offered for sale for sex. As the video goes on, you can see just these very little girls that are sold out of these brothels, openly, to our customers. These are girls that should be tucked in bed at night in the proper way, but instead these are little Vietnamese girls in Cambodia right now who are being sold for sex.

We have been supplying this information to the Cambodians for more than a year and a half.

This shows you in India—when I say 2.3 million girls held in forced prostitution, that is sort of a vague statistic. But these are the conditions under which they are held. These are underground cells where these young girls are held and confined and they are forced to provide sex to customers between 10 and sometimes 30 times a day, 7 days a week. The end story for the vast majority of these girls is, of course, a death sentence because they will simply be forcibly injected with the HIV virus and will eventually die of AIDS. This has a very human face to it and it is totally out in the public.

How do you get away with this? With police complicity. This is a video, and I will let it speak for itself.

[Video played.]

Mr. HAUGEN. Here in the video, and something which we have been able to capture on video several times, in a country like Thailand the police are just very casual about their protection. Now, the good news in all of this is that sex trafficking can be drastically reduced if government simply switches sides, if they do two things, if they get their own officials out of the business and if they send to jail the perpetrators who openly commit the crimes. This is why this hearing is so important because it focuses specifically on the two actions that are most important for stopping sex trafficking and the two actions that are most doable for any government. One, disciplining their own police authorities who protect sex trafficking, and, two, convicting the perpetrators. And frankly, that is why this

TIP Report is so devastatingly disappointing to the International Justice Mission. That is a strong word to say, but the report simply refuses to provide verifiable data on the two things that matter most. Have you put anyone in jail. Have you dismissed anybody from the police force who is protecting this.

Is such information difficult or mysterious to obtain? No, because this is information about the government's own actions. It might be difficult to obtain precise numbers on numbers of victimizations and other things, but the government knows what the government has been doing or not doing. So this is the information that can be easily provided.

We met with the State Department early in January and began to discuss the need for this information, and it may be as I understand from the Secretary that the requests were made. But our concern is that it doesn't show up in the report. There are numbers on this. It would just be great for transparency to know what they are. The result, though, of rejecting that route is that the report gives passing grades to some of the worst offending countries who have the highest levels of victimization. Countries that have no known convictions and no known police disciplinary actions.

So India, with its 2.3 million women and children held in forced prostitution, zero known convictions, zero known disciplinary actions; Thailand, with hundreds of thousands of victims, zero known convictions, zero known disciplinary actions. All we have to do is think about if this applied to our own country. If we had an epidemic of rape in one of our cities and we said we want our officials to do something significant about it and they said, well, we have got protection centers to educate women that they shouldn't do certain things that make them vulnerable and here are some aftercare facilities, but, no, we don't ever send anybody to jail for this and, no, we don't discipline the police officers protected, no American would accept that as being significant.

The *TIP Report* has arrived at this tragic result simply because it has ignored the requirements of the statute which I think are quite straightforward. The battle is over whether you are on Tier 2 or Tier 3. We can say that Tier 2 is not really a passing grade, but I can say that in these countries I have found that it is treated as so.

There is in the legislation three clear points on whether or not you get to be on Tier 2: What is the extent of victimization, what is the extent of official tolerance and complicity and, thirdly, have you taken reasonable steps. The report should just report on those three things, what do you estimate the victimizations to be, what do you estimate the extent of official tolerance and complicity to be, and the way to answer that question is to see whether or not they have disciplined any police officers and sent anyone to jail.

But, instead, what does the report say? Here is how the report summarizes how countries like India and Thailand get to stay on Tier 2. And this is also just on page 9, I believe, of the report. It says, the government of countries in Tier 2 do not yet fully comply with the act's minimum standards but are making significant efforts to bring themselves into compliance with those standards by, one, some are strong in the prosecution of traffickers, but provide little or no assistance to victims; others work to assist victims and

punish traffickers but have not yet taken any significant steps to prevent traffickers; or, three, some governments are only beginning to address trafficking but nonetheless have already taken steps, significant steps toward the eradication of trafficking.

So if you ask which of these is India, are they strong in the prosecutions of traffickers? No, can't be number one because they have never convicted anyone. Could they be number two, work to assist victims and punish traffickers? Well, you can't punish a trafficker if you have never convicted them. So it is not one, it is not two. So then we are stuck with three. Is it a government that is only beginning to address trafficking but nonetheless have already taken significant steps toward the eradication of trafficking. I don't see how that helps our understanding.

Therefore, in the absence of simple objective facts, we are left with an utterly confusing and thus utterly subjective evaluation that undermines the usefulness of the accountability process that the statute was intended to provide. We have a simple and what we think is a very doable request, and I am so grateful that Madam Secretary has admitted that there is a need. And she has been very positive in working with us, a need to improve, and we would just like to make a simple suggestion for improvement. For any country that is not meeting minimum standards, that country should be required that they tell how many, if any, perpetrators they sent to jail, and how many of the dirty police they have dismissed.

In other words, if you right now aren't meeting minimum standards, you, the government, bear the burden of providing the data on the perpetrator you sent to jail and any police you have dismissed. The Embassy doesn't have to chase you to find that. The NGOs don't have to exhaust themselves. It is your government. You tell us who you sent to jail and whether you disciplined any police officers.

To do otherwise is to say that a country can be making significant efforts without any convictions and without ever dismissing any police officers that protect the crime. And I think the State Department should say so. If it is saying, well, there can be sufficient aftercare facilities and sufficient education programs, but even if there is zero convictions and zero police dismissals, that meets the standard, if that is the policy that should be well stated.

I have had to meet with scores of girls who have been victimized by sex trafficking. They have explained to me what it is like to have their mouth taped shut when the first customer is raping them. I see girls that limp because they have been so continuously brutalized. I have seen girls that are just laying in fetal positions in these homes because they have been brutalized over years of time. And I have seen them being carried out in little coffins dying from AIDS. What we have to do is picture that audience and tell them your country is meeting minimum standards even though, or rather your country is making significant efforts even though we have never sent anyone to jail for these crimes against you and we have never dismissed a police officer for protecting these crimes. I think we can do much better than that and that is what I would urge for a concrete change and improvement in next year's report.

And again, I thank Mr. Chairman for the opportunity to provide testimony at this hearing.

[The prepared statement of Gary Haugen follows:]

PREPARED STATEMENT OF GARY HAUGEN, PRESIDENT, INTERNATIONAL JUSTICE MISSION

INTRODUCTION

My name is Gary Haugen and I serve as president and CEO of International Justice Mission (IJM). I would like to extend my sincere thanks to Chairman Hyde and Members of the Committee for convening this hearing and for inviting me to participate. I am grateful for the opportunity to present the perspective of International Justice Mission to you on "Foreign Government Complicity in Human Trafficking: A Review of the State Department's 2002 *Trafficking in Person's Report*."

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

Many of the cases referred to us involve children trafficked into forced prostitution. Accordingly, we deploy criminal investigators to infiltrate the brothels, use surveillance technology to document where the children are being held, and then identify secure police contacts who will conduct raids with us to get the children out. We then coordinate the referral of these children to appropriate aftercare.

For example, our investigators just returned from Cambodia, where they gathered intelligence about a brothel village outside of Phnom Penh. Our investigators rented a 12-year-old and 13-year-old for about \$40.



IJM was able to rescue these girls along with two others, but hundreds remain unrescued.

I also want to tell you about a 14-year-old girl I met in Thailand a few days ago. UNICEF tells us that a million children are taken into forced prostitution each year around the world, but when I hear such mind-numbing statistics, I just think of this one 14-year-old girl. Her name is Dacie. A few weeks ago she was tricked into leaving her home in Burma during the school break to pursue the promise of a job in a noodle shop in Northern Thailand. A Thai police officer was kind enough to give her a ride in his truck, but he was just part of a cruel scheme that saw Dacie sold

into a brothel where she was raped by seven men on the first night. The first customer had paid extra to rape a virgin, and when she screamed the brothel owner came in and put tape across her mouth so that she wouldn't upset the customer.



Fortunately, our investigators found Dacie, and arranged for her rescue-but they were nearly thwarted in their efforts because a corrupt cop called the brothel owner to let her know our investigators were coming. Dacie knows that there are millions of other women and girls like her around the world who languish in their brothel situations.

Indeed it was the massive brutality of the growing sex trafficking nightmare that moved Congress to pass the Trafficking Victims Protection Act of 2000. The Act established the "Office to Combat Trafficking" at the State Department and mandated the preparation of an annual Trafficking In Persons (TIP) Report which would grade countries on whether they are making "significant efforts" to meet "minimum standards" in combating trafficking. Countries with failing grades would jeopardize certain forms of aid from the U.S. and would feel powerful pressure to end their toleration of forced child prostitution.

There was a hopeful anticipation that the United States might exercise its power and political influence through the Trafficking Victims Protection Act of 2000 to bequeath a voice to the vulnerable victims of trafficking. This voice would serve to create political will in the worst offending countries and thus restrain the hands of the perpetrators of trafficking. Sadly, the United States forfeited an historic opportunity with its release of the 2002 Trafficking in Persons Report. Instead of offering hope for the massive numbers of children victimized by this brutal crime, the TIP Report strengthens the complacency of the worst offending countries for another year.

METHODOLOGY FLAWS

How does the report fail? First, the Report ignores the statutory requirements that Congress set for determining whether a country has made significant efforts to combat trafficking. The statute requires that the State Department consider the following when assessing whether a country is making significant efforts to bring itself into compliance with minimum standards:

1. the extent of *trafficking victimizations*
2. the extent of *official toleration or complicity* in trafficking
3. the extent to which the country has taken available, *reasonable steps*.¹

The legislation required that the State Department weigh these factors before giving a country a passing grade. Unfortunately, the State Department never ties its analysis to these three factors.

Second, the report is structured to conceal any of the objective data that would allow an accurate assessment of a country's performance. A cursory look at the Report quickly reveals the nearly complete absence of hard numbers. In fact, numbers are only referenced in 7 out of the 89 countries in the Report. How can the State Department address a country's efforts if it makes no reference to the number of convictions for trafficking related offenses or the number of disciplinary actions taken against corrupt officials?

¹Section 104. H.R. 3244, Trafficking Victims Protection Act of 2000.

Why is this a problem?

Because of IJM's work in the field, we know that combating trafficking must mean that the perpetrators go to jail if there is to be any significant decrease in trafficking. Frankly, IJM feared that this year's TIP Report would again be devoid of hard numbers. So, after IJM's November testimony we were invited to meet with State Department officials where we provided to them a methodology with which to collect "hard" numbers on government actions in regard to prosecutions of trafficking cases and disciplinary actions related to police complicity in trafficking. Accordingly, we requested that the TIP Report should at a very minimum numerically note three things for each country: (1) the estimated number of victimizations;² (2) the number of prosecutions and convictions for sex trafficking offenses; and (3) the number of government employees, including police officers, who were disciplined for complicity in sex trafficking. We emphasized that a TIP Report without these criteria would not adequately communicate the importance of prosecution, government integrity, and victim care. As Congress determined, these criteria, central to the TVPA of 2000, are critical to the efforts to combat trafficking. Without these criteria, countries will not believe that the United States is serious about its report or about trafficking. Additionally, countries must be able to rely on clear and objective reporting with transparent criteria by the U.S. State Department. Providing a report with hard numbers removes subjective judgment and places all countries on a similar baseline footing.

Third, the State Department has replaced the statutory required "significant efforts" test with a "sustained efforts" test. In response to a question regarding India and Thailand at the June 5 press conference on the TIP Report, Ambassador Ely-Raphel stated they had "over the last year sustained the efforts to combat trafficking in persons." The 2001 TIP Report, like the current TIP Report makes no indication that these countries convicted anyone for trafficking related offenses or disciplined any complicit government officials. The relevant question is not whether India and Thailand have "sustained" this apparent lack of effort, but rather whether they have made "significant efforts" to do otherwise? If not, a weak Report in year one is perpetuated in each successive year under this "sustained efforts" test.

COUNTRY EXAMPLES

The failings of the Report can be seen clearly in the State Department's treatment of two of the most notorious sex trafficking countries: India and Thailand. The State Department admits that each of these countries fails to meet "minimum standards" in combating sex trafficking. Nevertheless, the State Department removes any incentive for these countries to do any better by endorsing their record as manifesting "significant" efforts to meet minimum standards. But as one examines the undisputed factual record of these countries, one can see how the State Department has rendered the standards of the act virtually meaningless.

No one disputes, least of all the State Department, that India and Thailand have massive numbers of victimizations. The State Department itself stated in its 2001 Country Report on Human Rights Practices that in India, "Over 2.3 million girls and women are believed to be working in the sex industry against their will within the country at any given time, and more than 200,000 persons are believed to be trafficked into, within, or through the country annually."³ In Thailand, The Protection Project of Johns Hopkins University cites estimates between 200,000–300,000 to a million trafficking victims are in Thailand.⁴ UNICEF estimates that there are at least 100,000 child trafficking victims in Thailand.⁵ Given that any one of these millions of victims are induced to provide sex "by force, fraud or coercion" several times a day and hundreds of days each year—there are, in fact, hundreds of millions of criminal acts of "severe forms of trafficking" every year in India and Thailand.

The 2002 TIP Report admits that in India "[S]everely backlogged courts and local corruption render most prosecutorial efforts ineffective," and that "there is evidence of low-level law enforcement involvement in facilitating the movement of trafficking victims and accepting bribes." Regarding Thailand, the TIP Report notes that ". . . investigations and prosecutions have been limited."

²Which is already provided in the State Department Human Rights Report and by authoritative sources like The Protection Project at John Hopkins University.

³"India, Trafficking in Persons." *Country Reports on Human Rights Practices, 2001*. Bureau of Democracy, Human Rights, and Labor; U.S. Department of State. March 4, 2002. Paragraph 2 of Section F.

⁴Lederer, Laura J., Ph.D. *Human Rights Report on Trafficking of Women and Children: A Country-by-Country Report on a Contemporary Form of Slavery*. The Protection Project, Johns Hopkins University. 2001. p. 415.

⁵Ibid. p. 418.

Despite the massive number of victimizations India and Thailand have sent virtually no one to jail in the face of millions of sex trafficking offenses; they have pervasive corruption and participation by the government in the offenses; and they have no record of ever disciplining or punishing these officials. Yet, the State Department has publicly granted a passing grade to these countries. In doing so, the State Department is effectively reversing the intended purpose of the Act. When the State Department endorses blatantly egregious records as acceptable, one begins to wonder if it would have been better if the Congress had never passed the Act rather than empower the State Department to put the U.S. Government on record as granting a satisfactory grade to countries that actively tolerate and protect sex trafficking.

According to statutory direction, the State Department must assess whether a country is taking "reasonable steps" to bring itself into compliance with minimum standards. What are some reasonable steps that India and Thailand should have taken in order to have received a Tier 2 rating?

- *Send Some Offenders to Jail.* Given the hundreds of millions of annual criminal violations and the open public nature of the crime (i.e., the victims are openly offered to the public customer base and can be easily found), it would be more than reasonable for the India authorities to secure a significant number of successful prosecutions and convictions. Nothing demonstrates more clearly that Indian and Thai authorities are *not* making "significant" efforts than the failure to secure successful prosecutions amidst an ocean of open violations of the law.
- *Dismiss Some Corrupt Police.* Given the massive involvement of government authorities in the protection of illegal sex trafficking operations, it would be very reasonable to expect that the government would get its own employees out of the business by disciplining or dismissing police and other authorities found to be taking bribes or otherwise protecting sex trafficking operations. These corrupt actions are neither hard to find (IJM and other NGOs readily observe them), nor expensive to punish. Although "budgetary limitations" are frequently cited as reasons for weak enforcement actions; in fact, it costs nothing for a government to dismiss police officers who are known to be involved with sex trafficking. Although the dismissal of even a few officers would transform the behavior of an entire force, there are no known cases of police dismissal for illegal acts everyone knows takes place thousands of times every day in India and Thailand.

While the State Department may have rightly judged the progress countries are making in providing adequate education about the problem of trafficking and aftercare for the victims, the report still remains a whitewash until it provides statistics about the number of victimizations, the number of convictions for sex trafficking offenses, and the number of government employees, including police officers, who were disciplined for complicity in sex trafficking. For example, what if the United States was asked to report on its progress in combating rape within its borders and replied by reporting that it had an excellent education program to prevent girls and women from being raped as well as quality aftercare facilities? What if those same officials could not tell you how many rapists had been convicted, if any? Could we really believe that the U.S. was serious about holding the perpetrators of rape accountable? Likewise, until countries like India and Thailand can point to even a single successful prosecution of a perpetrator of trafficking (let alone the thousands that should result from the scale of victimizations), how can we consider their efforts to combat trafficking "significant" and so willingly grant them Tier Two status?

In contrast, the State Department rightly assessed Cambodia's anti-trafficking efforts when it placed it on Tier 3. As a result, Cambodia will be quite busy in its efforts to combat trafficking in order to be given a passing grade next year. However, India and Thailand will continue their complacency under the gaze of the State Department while millions of women and girls are bought, sold, trafficked and raped.

How do I know that? Last year, Israel was placed on Tier Three. As a direct result it ramped up its efforts to combat trafficking. Twelve traffickers were convicted and sentenced from 1 to 10 years in prison. How do I know that? Because Israel presented that data to the State Department. Last year, India and Thailand were given passing grades. Those passing grades motivated them to convict approximately no one for sex trafficking. I sadly expect that this year's passing grades will merely encourage them to repeat that performance.

Trafficking is a market-driven industry in which a disruption of the market forces is an effective means of preventing the transaction from taking place. In order to

bring effective help to the human person victimized, we must apply pressure to the market that drives these transactions. The force of law, when properly applied, can add sufficient risk of criminal sanctions to the traffickers' and brothel keepers' cost calculation, so that the market transaction is no longer worth the threat it represents to their property and liberty. Epidemic levels of sex trafficking do not occur everywhere in the world. It does not even occur in every poor country in the world. It occurs exclusively in those places where the sex trafficking industry is allowed to flourish without anyone ever paying a meaningful cost in the form of criminal penalties. Clearly, India and Thailand are examples of a flourishing market for sex trafficking because of the pervasive and blatant complicity of the police and their negligence and unwillingness to hold the perpetrators of trafficking accountable.

CONCLUSION

The TIP Report is not an end in itself but rather an historic opportunity to encourage improved performance by countries with serious trafficking problems, applying pressure to create political will to protect the most vulnerable victims of society. International Justice Mission regrets to say that the 2002 TIP Report is disastrously unhelpful for those of us who are trying to work with governments to eradicate sex trafficking. The report trivializes the importance of actually convicting the perpetrators of these crimes by refusing to provide any objective data for the worst offending countries. Secondly, while acknowledging pervasive police complicity in sex trafficking, the Report treats police corruption as an excuse for why governments cannot do better, rather than examining whether these governments (who hire the police) have done anything to simply fire the corrupt police.

It is now up to the Congress to seize back the initiative—to hold probing hearings on the Report, to authorize a GAO investigation of how the whitewash was constructed, to direct the Bureau of Justice Statistics to design the State Department's survey, and even amend the Act to require the objective factual accounting that is required. The American people want their leaders to help girls like Dacie, and help begins with telling the truth.

Mr. SMITH OF NEW JERSEY. Mr. Haugen, thank you very much for your testimony, your very useful recommendations. And the record should show that as we crafted this legislation in the first place, you were very helpful in guiding us as to what it ought to look like, so I do thank you for that as well.

I would like to introduce Ms. Smith, former Member of Congress. And you know, some people, when they leave Congress go out and get these lucrative contracts with lobbying organizations. Linda Smith jumped into this very, very important human rights fight on behalf of the women who are being exploited, and we are very grateful for the work you do, Ms. Smith.

Mr. FALEOMAVAEGA. Will the Chairman yield. I would like to offer my personal welcome to our former colleague and Member of Congress, Ms. Smith, whom I have had the privilege of serving with years past in her membership on the Resources Committee. I am just so happy to see her as a witness this afternoon. So welcome, Linda. Thank you

STATEMENT OF THE HONORABLE LINDA SMITH, FOUNDER AND EXECUTIVE DIRECTOR, SHARED HOPE INTERNATIONAL

Ms. SMITH. Thank you. I want to first thank you and all of your efforts, particularly Chairman Smith. This is not an issue where there are people that vote, and so often it is easy to get caught up in votes or in issues where your constituency is pressuring you. And this is a silent constituency. It is a group of people with no one to speak for them, not even in their own countries. And when I left Congress, I had to make a decision on where I would go, but I spent a night in a brothel. In that brothel in Bombay, India, it got my heart, made me sick, and I had to face a question, and that

was whether I was going to leave the girls there. And I just couldn't. What I faced were little girls younger than my granddaughters, they are 6 to 14. For you who want to know how old I am, I do have a 14-year-old granddaughter. And these little girls were being used by men every 15 minutes, used as virgins, because they believed it cured AIDS.

Most of these women that I serve now—and we have 19 homes around the world—most of these girls were 7, 8, 9, 10 years old when they were put into prostitution. I don't think about them as them. I don't think about it as that issue over there. It has names. Manisha. I carry this little girl's picture with me because some days I want to kill somebody. I am frustrated with others, and sometimes I don't think I can go on because I have never dealt with anything that made me cry like this. Because, you see, I didn't cry until I was probably 40 years old, and these little girls make me cry.

Well, I would like to summarize my testimony with about 2½ minutes of my girls.

Then I would like to conclude with the recommendations that I have in my limited experience of 4 years with these girls and what I think our government should do as it relates to the *TIP Reports*. So if we could see that, with the permission of the Chair.

Mr. SMITH OF NEW JERSEY. Yes.

[Videotape played.]

Ms. SMITH. Thank you, Mr. Chairman. I wanted you to see the faces, because so often I sat where you are and we talked about issues. And I want you to know, Mr. Smith, that you are changing the lives of little girls like you just saw. Because shining the light on this problem itself is a strong first action to helping Gina and Ganga and Mannisha.

I have been encouraged by the Bush Administration. September 11th could have had us fall off the radar screen. I know what it is like here. I know when there are all these issues and all this pressure, that something like this go away, because they don't vote. And yet the Administration literally continued keeping this on the top burner, and I want to commend the Administration.

Ambassador Ely-Raphel, I know she got a new office, but this would not have been an easy one. And Paula Dobrianksky. I think that what they ended up getting was a lot of work in a very difficult time. And I say this right before I am going to just really be very much in opposition to some of their report.

I think heavy lifting is what they did. This report and the number of countries was heavy lifting. This Administration has been in, what, 18 months, just about 18 months, and they have had two reports so far. And so I have to believe that they are going to do better later. If they don't do better later, I think that we have to rewrite the legislation, or you have to rewrite the legislation to make it explicit as to what you want.

I encourage this Administration to keep the light on India, Nepal and several other countries. I would like them to tell them in writing that we can see, something that says, this was a D-minus. The only thing that is going to give you an A, or even a C, a passing grade, is prosecutions. We want to see the name of that affluent man in Bombay who is selling these little girls and comes to Amer-

ica for his vacations. We want to see his name. We want to see the prosecutions of those people who are going to die of old age, who have been prosecuted for selling these girls into other countries. We want to see that, if you are going to get a passing grade next time.

Now, I know that this is very difficult to address, but I also would like to have the Committee consider this issue very strongly. Any country that is tolerant of prostitution, regulates, or causes to be legal, prostitution is a cover for the violation of the girls you just saw. Any reports you are seeing—and I have been looking at a lot of them—as well as our experience in these countries will tell you that where there is legalized prostitution, it is hard to tell who is legal and who isn't, and you can't tell the ages. And it is just a blanket of cover to use these children.

I would like you to encourage this Administration and the trafficking office to rate next year on these two top issues: Do you have legalized prostitution? If you do, then you are not giving your best significant effort. Second, if you do not have prosecutions, you are not giving a significant effort to eliminate prostitution—or, excuse me, trafficking.

With that, Mr. Chairman, I want to again thank you for everything that you have done. And I want to say that we stand willing and able and anxious to be a part of the next report, which I believe will hopefully be a much better report than the one that we just received. Thank you.

Mr. SMITH OF NEW JERSEY. Thank you very much, Congresswoman Smith. And I just want to point out for the record—and I don't know if it has actually been implemented yet, because the Justice Department is still in the process—but section 111 of our law did provide for significant sanctions against the persons who traffic. Inadmissibility into the United States and other kinds of actions could be taken against those persons, so that the person you mentioned in Bombay making money from these little girls couldn't come to the United States to vacation because of the sanctions that are in this statute.

Ms. SMITH. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. But it needs to be implemented.

[The prepared statement of Ms. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE LINDA SMITH, FOUNDER AND EXECUTIVE DIRECTOR, SHARED HOPE INTERNATIONAL

Thank you Chairman Hyde and Ranking Member Lantos for holding this hearing on the subject of Human Trafficking. This is a human rights tragedy that affects millions of people around the world and knows no ideological barriers. Trafficking takes place in democratic and undemocratic countries. It takes place in rich and poor countries. It takes place in countries that respect the rule of law and countries that don't. There are very few countries in the world that are not, in some way, affected by the issue of trafficking in children, including our own, and I commend the Chairman for providing a forum for groups like mine, Shared Hope International, to share what we have seen in countries where we are working, what we are doing to help end the trafficking trade and restore its innocent victims and what we see as necessary steps the United States government should be taking to combat this problem.

Since leaving Congress in 1999, I have dedicated my life to helping victims of human trafficking—primarily women and children who have been trafficked for sexual purposes. This is not an issue that I expected to take up when I left Congress, but in my last months as a Member I had the opportunity to visit several brothels on the infamous Falkland Road in Bombay. What I saw there changed my life. I

talked with dozens of women and children who were trapped in a degrading and humiliating lifestyle, which they did not choose and could not escape. *Most were mere children when they were trafficked into sexual slavery.* I returned with my heart broken for these girls and decided to do what I could to help.

In 1999, I founded Shared Hope International and have since worked to establish 19 homes in three countries—India, Nepal and Jamaica—that serve as places of refuge and restoration for victims of trafficking. Most of the individuals we serve were sold by their parents or stolen by traffickers and moved into brothels as children. Shared Hope partners with other organizations such as Teen Challenge International to establish and run our shelters, which have the capacity to serve 300 women and children at a time.

Our goal is to help these women and children receive basic education and job skills, build their self-esteem and recognize their dignity as human beings. When they come to us they are broken and hopeless. They have been physically and psychologically abused. Most have spent years living in a dingy brothel stall where they have been forced to service many clients a day. Almost all our victims are in need of basic medical care to treat the sexually transmitted diseases they were given by their clients or to heal the scars from the years of beatings they endured.

Many victims were children when they entered the brothel.

I would like to share the stories of some of the women who have come to us for help:

Gina's story: Gina¹ was the first girl to find refuge in one of our safe houses in India three years ago when Shared Hope first began helping girls like her.

She was only 9 years old when her father sold her to a procurer. She came from a very poor family who apparently believed they could not afford to raise a girl. She was told that she was going on a trip to a very special place, that she would have new clothes, and that she would be working for a nice family who lived in a big house.

The reality turned out much, much different.

Gina should have been playing with dolls. Instead, this little girl was sold by her father and became a “doll” in a Bombay Brothel. At first she refused to do what the brothel owner told her she must do for clients. But, after several days of being kept in total darkness, given regular beatings with a belt, and nearly starved to death, Gina finally surrendered. She worked in that brothel for seven years. She serviced hundreds of clients. She saw many of the girls in the brothel become sick with “Bombay disease.” She saw them turned out into the streets to die.

These are her words.

“In those first days, I often cried myself to sleep, wishing I was back in my village, homesick for my mother.

I hated life in the brothel, hated what I saw, hated what I did. I hated what happened to the other girls—especially the sick ones.

But the tears grew less and less, and I became accustomed to my new life.

I dreamed of buying my freedom and going home to Nepal, but I knew there was little hope of that. By my sixteenth birthday, I had forgotten what hope was.”

She eventually had a little girl of her own that she tucked in a box under her bed.

Gina's life changed when she met the director of one of our homes in India who told her that she could be free. She sent her little girl to live in a Teen Challenge children's home and we were soon able to help secure Gina's freedom. She is now learning a trade, learning how to live again and feeling hope for the first time in a very long time. (Gina's complete story attached.)

Ganga's story: Ganga was imprisoned in a locked room for over 10 years after being drugged and moved 1,000 miles to a brothel as a young girl. She thinks she was about 8 when she was taken from her family, but doesn't know for sure. She doesn't fully understand what happened to her. Like most low caste girls from Nepal, she had no education or understanding of where she came from or where she was.

A few months ago, she finally had a chance to escape thanks to the help of a policeman who saw her through a window. He broke the lock on the door and told her to run fast. One of our workers saw her and took her to one of our safe houses. It is clear by her testimony that the police knew she was in bondage, but to our knowledge none of the brothel owners or operators have been arrested or prosecuted. It was almost as if he was afraid, too. He ran off.

¹The names of all victims in this testimony have been changed to protect their privacy.

When I first met Ganga, she just sat huddled in a corner rarely uttering a sound. For several months this frail battered girl was tended by the consistent love and care of the other women in the safe house.

My second visit with her was different. When she started talking she didn't even seem to stop for a breath as she repeated over and over her thanks. She first wanted to thank me for giving her freedom and a new home with a family that loves her. Her voice was filled with emotion when she expressed her thankfulness for her schooling. Until recent times it had been illegal to educate girls and it still is rare. She went on to say though that she was especially thankful because she could now read. (Ganga's complete story attached.)

Shoba and Mannisha's story: Shoba's parents sold her when she was a little girl, maybe to have the money to feed their other children but we don't really know why. By age 13, Shoba was a seasoned prostitute and had a baby of her own. Shoba remembered her life as a child, playing in the countryside, carefree. That's the life she wanted for her child, Mannisha.

But Shoba was trapped. Baby Mannisha had to sleep under the cot where Shoba was forced to service the brothel patrons. When the little girl was big enough to toddle about the room, Shoba saw the way these horrible men eyed her baby. In India, many believe that having sex with a virgin will cure AIDS, so the younger the prostitute, the more valuable she is to the brothel.

Shoba knew Mannisha was in great danger growing up in the brothel but there was little her mother could do to protect her. Shoba was terrified her daughter would be forced into prostitution, too.

When a Teen Challenge team came to the brothel to play with the children and tell their mothers there was a way out of this horrible life, Shoba eagerly listened. When she was told there was a place she could send her daughter where 8 year-old Mannisha would be safe and protected, she asked if the team could take her precious daughter right away.

Today, Mannisha lives in our safe house and attends a private school. For the first time in her life, her playground isn't a filthy brothel and her bed isn't the dirty floor under a cot.

Shoba was too frightened of her "owners" at the brothel to try to escape with Mannisha. Though she is only 21 years old, she is also very sick from the years of abuse and exploitation. We hope someday we will be able help her find the strength and courage she needs to join her little girl at our safe house. (Shoba and Mannisha's complete story attached.)

Though each woman found in the brothel has a different story, they have similar characteristics. *Many were children when they were forced into this lifestyle.* Most are from poor families. Most are uneducated. Most were sold unwittingly by a family member or family friend, lured out of their village by a promise of a good job in another city, or lured into false marriages and then abandoned without means of support. Most find themselves far away from home (often in another country) and report being drugged while in transit. Many ended up in the brothel when they were girls (*some were being used as young as 8 or 9 though many don't know their exact age since they easily lose track of dates and times when holed up in a brothel lifestyle.*) Most victims were beaten when they refused to cooperate with the brothel owners. Most report being forced to eat, sleep and work in a single room in a brothel never seeing the sunlight or being allowed outside.

Most victims report feeling lifeless, numb, rejected, alone, suicidal and hopeless while trapped in prostitution.

These women and children need help. They need the help of their own government, which, sadly, consistently turns a blind eye to their fate. They need the help of the international community to bring attention to their plight. Most importantly, they need the help of caring men and women who are willing to love them and help them obtain the skills necessary to get a job, earn an honest living and protect themselves from future exploitation.

Congress and Administration Action

The Trafficking Victims Protection Act (TVPA) of 2000 was a very important step forward in the fight against human trafficking. *If enforced rigorously it will force a change in behavior.* Congress did the right thing by passing the legislation and President Clinton did the right thing by signing it.

I have been very encouraged by the actions the Bush administration has taken so far on this issue. In light of the tremendous pressure put on all levels of the new Administration after the events of September 11, 2001, the problem of trafficking could have dropped off the radar screen. But it hasn't. President Bush has kept his commitment to make trafficking—a modern form of slavery—a top foreign policy and human rights priority.

I commend Secretary of State Colin Powell and Undersecretary for Global Affairs Paula Dobriansky for pulling together a team at the Trafficking in Persons Office and delivering the country report in a timely manner. An inter-agency working group of senior level officials has been meeting regularly illustrating a real commitment from those at the top of key agencies to make this issue a priority. I have been impressed by the enthusiastic and capable people I have met working this issue at the Departments of Justice, State, and Health and Human Services.

It is also worth noting and applauding the aggressive approach being taken at the Justice Department under the leadership of Attorney General Ashcroft to arrest and prosecute traffickers and to increase community awareness on the issue. We are improving efforts to combat the problem within our borders and that is a very positive sign.

I am also honored and encouraged to be part of a coalition of private organizations charged by Congress with hosting an International summit on human trafficking next year in conjunction with the State Department. The War Against Human Trafficking Summit, tentatively scheduled for March 2003 in Washington DC, will convene government leaders, policy makers, legislators, advocates, service providers, police and prosecutorial officials, members of the business community and other concerned citizens around the issue of trafficking of women and children for purposes of commercial sexual exploitation. The goals of this international conference are to galvanize, educate and empower individuals in their efforts to develop strategies for the prevention of trafficking, the prosecution of perpetrators and the restoration of victims of trafficking. The overarching goal is to equip an international cohort of committed individuals to put an end to this egregious form of human slavery.

There have been positive steps forward, but more must and can be done.

The TVPA will not be an effective tool for change unless we tell the truth about what is really going on in countries where we know trafficking and forced prostitution are a problem. We cannot soft pedal our message to governments which have shown little or no interest in addressing the root causes of trafficking in their country. Doing so only ensures that millions of women and children will continue to be exploited, deprived of their human rights and stripped of their ability to be productive individuals.

In the three countries where Shared Hope is working, we have seen no significant evidence of positive or effective government action to curb the trafficking problem. There have been very few prosecutions of traffickers in India and Nepal. There has been very little work done to change what we see as continued tolerance for children being used and abused. There has been very little done to inform and educate women about the dangers of trafficking or to provide legal safeguards for women. There has been no distinguishable change in protection for the victims. There has been little increase in the risk of coming to justice for the trafficker.

Recommendations:

I encourage the Administration and Congress to take the following actions:

- 1) *The United States must keep a spot light on countries like Nepal and India. India has no incentive to change if they see Tier 2 as a passing grade. They must be encouraged to see this as a "D"—(a barely passing grade) with the understanding that if they don't increase the arrests and prosecutions of traffickers they will not get a passing grade in 2003.*

We do not come to the same conclusion that there are 'significant efforts' to eliminate trafficking in the countries of Nepal and India. Significant efforts mean significant change for the victims and traffickers. We believe the only measure of progress is what effect actions have on getting between the traffickers and their victims.

The evaluations in the *Trafficking in Persons* report need to be based on arrests and prosecutions of those who would prey on the vulnerable from all social and economic levels. To give a good rating to a country based on its law and its commitment to do better is simply not enough. We must see a vigorous *enforcement* of the law including bringing the wealthy and powerful to justice. It is well known in both Nepal and India that those involved in using and selling children are frequently those in law enforcement, the privileged, and the high caste. There are currently situations where charges have been brought that are many years old and there is no expectation that there will ever be a trial. Countries like India that do not significantly increase arrests and prosecutions of traffickers should be put on notice.

- 2) *The annual Trafficking in Persons report must place a greater emphasis on the protection of vulnerable children like Mannisha who are in great danger of being victimized. Countries that have not shown significant evidence that*

they are executing strategies to protect children from traffickers, and prosecuting those who are involved in trafficking children, should not be given a good rating or progress report, in the future.

- 3) *I encourage the administration to consider countries with legalized or tolerated prostitution as having laws that are insufficient efforts to eliminate trafficking.* Studies now show that where there is a strong adult sex industry, the commercial sexual exploitation of children and sex slavery increases. Our observations confirm this as we see that that where there is tolerated prostitution it provides cover for the traffickers to exploit the most vulnerable in the population, especially children. Criminalizing prostitution should not be limited to child prostitution but should include adult prostitution as well.
- 4) *The U.S. government should enhance aid to victims service programs in countries where trafficking is a major problem to help ensure that more victims are rescued and restored and provide additional aid and technical assistance to governments who need help learning how to prosecute traffickers.*
- 5) *Every country should be rated.* The *Trafficking in Persons* report currently documents severe forms of trafficking of women and children in 89 countries. We urge the Department of State to collect information regarding other countries for the 2003 report, so that no country will be exempt from sanctions only on the basis of insufficient information.
- 6) *Prosecutions of American citizens, including military personnel, who use victims of sex slavery should be vigorous if America is to be taken seriously.* The recent revelations of American service personnel frequenting brothels where they know the women are there in slavery conditions is appalling and demands an immediate response by our President and the military.

Conclusion:

Human trafficking is a crime in which a person's most basic boundary, their own skin, is violated against their will. Shared Hope International is engaged in the crucial work of saving and transforming the victims of this heinous crime. We are saving the lives of these precious women and children by negotiating for their freedom and transforming them by restoring them to health and providing the vocational and life-skills training they need to become self-sufficient.

In our mission to rescue human trafficking victims, provide a safe refuge for them, and restore them to healthy and self-sufficient individuals, we also are working to prevent this crime through public awareness efforts. Cooperation of local and national governments is crucial to our prevention efforts. Unfortunately, we have found that there are governments who ignore this problem and some who even perpetuate it. It is essential for the United States government to hold these countries accountable for their actions and violations of the standards put forth in the Trafficking Victims Protection Act of 2000. I strongly encourage you to push for the recommendations that I have outlined for you today, as I believe that a more aggressive approach needs to be taken in evaluating each country's progress towards preventing and eliminating the trafficking of human beings.

We live in a world where girls as young as eight years old are traded, bartered or sold like cattle to be used up in dingy brothels, and where Gina's story is all too familiar to hundreds of thousands of women and children. In this world, we who are free must stand for the thousands still held in slavery. We cannot stand idly by while more women and children are robbed of their innocence, freedom, and human dignity.

Thank you Chairman Hyde and Ranking Member Lantos on behalf of the women and children I serve. They are so often without a voice, and I am proud to speak on their behalf so that their voices and their stories might be heard.

MANNISHA

Mannisha's mother, Shoba was sold into the brothel when she was just a little girl. By age 13, she was a seasoned prostitute, and soon had a baby of her own.

The little one slept under the cot where her mother was forced to service the brothel patrons.

Shoba wanted her baby to grow up differently: playing in the countryside, carefree and happy. It's what she dreamed of for her daughter, but *she was afraid Mannisha's future would be in the brothel.*

When Mannisha was big enough to toddle about the room, Shoba saw the way these horrible men eyed her baby. In many parts of the world, ignorant people think that sex with a virgin will cure AIDS, so the younger the prostitute, the more valu-

able she is to the brothel. That's why Mannisha was in so much danger growing up in the brothel.

By the time Mannisha was 8 years old, her mother was terrified that her daughter would be forced into prostitution, as so many girls her age are.

When a team from Teen Challenge International (our partner ministry) came to the brothel to play with the children and tell their mothers that *there was a way out of this horrible life*, Shoba eagerly listened.

When Shoba heard that there was a place she could send her little girl, Mannisha, where she would be safe and protected, she asked if the team could take her precious daughter there, to safety.

Today, Mannisha lives in our Safe House and attends a private school. For the first time in her life, her playground isn't a filthy brothel, and her bed isn't the dirty floor under a cot.

GANGA

She doesn't fully understand what happened to her. She remembers some happy times as a little girl and then one day waking up with everything changed. She was in a noisy place, with loud vehicle horns blasting and strange smells and voices speaking undistinguishable words outside her little room. Ganga thinks she was 8 and we know because of her beautiful round face and almond shaped eyes, and her distinct dialect where she originally came from. It appears that she was drugged and then moved nearly 1000 miles to a large Asian city brothel where she had been since her escape.

When I was with her a few months ago she just sat huddled in a corner rarely uttering a sound. For several months this frail battered girl was tended by the consistent love and care of the other women in the safe house.

My time with her this visit was different. When she started talking she didn't even seem to stop for a breath as she repeated over and over her thanks. She first wanted to thank me for giving her freedom and a new home with a family that loves her. Her voice was filled with emotion when she expressed her thankfulness for her schooling. Until recent times it had been illegal to educate low caste girls in Nepal and it still is rare. She went on to say though that she was especially thankful because she could now read her Bible.

Following are some of Ganga's words as she finally shared her heart with me, after months of learning she was safe.

"I was about 8 years old when I was taken. I do not understand. I always wanted to leave but when I said this, they beat me. I always had black marks all over my body.

I kept trying to run and they made me stay in a room with a big lock and chain on the door. A policeman saw me through the window and broke the chain lock with a rock.

He told me to run and he left fast.

I ran to the train station to go to a better place. I had no money because after each man left me the bad people always took the money from me. Then Yanki came to me in the train station and she said she knew where I came from. She said I could rest at her house so I went with her."

Yanki, one of the outreach workers, recognized Ganga as one of the girls from a remote village near where she herself had come from. She finally convinced Ganga to come to one of the Shared Hope Safe houses where she received medical care and shelter. When this young lady grew stronger she made a choice to return to her native land where she lives in a Shared Hope shelter. She is now serving in a home that will soon be receiving six new girls who have been rescued from lives in forced prostitution. Ganga now chooses to spend her life helping give hope to others like her who have no hope without the patient and consistent love she was given.

GINA'S STORY

She should have been playing with dolls. Instead, the bright-eyed little girl was sold by her father and became a "doll" in a Bombay brothel.

Gina was only nine when her father sold her to a procurer. She came from a very poor family. Seven children had been born to Gina's parents.

They certainly could not afford a girl. The bright-eyed little girl had no idea what was going on or how her life was about to change forever. She only knew that the lady named Kala had told her she was going on a trip to a very special place, that she would have new clothes, and that she would be working for a nice family who lived in a big house.

Following is Gina's Testimony:

The lady asked me if I was willing to work hard. I nodded. "Will you do anything that is asked of you?" I said I would try. I wanted my family to be proud of me.

The adventure began at the bus station in Kathmandu. I had never ridden a bus before. I wondered how many other girls would be fortunate enough to go to a big city like Bombay. Perhaps this was what my father meant when he talked about good karma. I couldn't wait to say my pujas (daily prayers), as my father and mother had taught me to give thanks for such good fortune.

I looked excitedly out the window as the Nepali hills rolled by. The bus trip lasted much longer than I expected—14 hours just to get to the border town of Nepalgunj. Once there, we walked across the border where we boarded another bus for the trip to Delhi.

I asked Kala if they were almost there. Kala told me that Bombay was very far away and we wouldn't be there for several days. After what seemed like forever, I asked again. Kala glowered at me. I decided that perhaps I should not ask such questions.

The stifling heat and the exhaust fumes made me sick to my stomach. I wondered if Bombay would be like this.

All that day the bus bumped and swayed over the dusty roads of North India. I began to realize that wherever Bombay was, it was a long way from home.

I wondered if my parents would come to see me.

Finally, after three days and hundreds of nameless Indian villages, the driver announced the good news—we were in Bombay.

I became excited. What will the family be like? What about their big house?

When Kala and I climbed down from the bus there was no one to meet us. I was confused. I looked around. Kala grabbed my hand and nearly jerked me off my feet. "Come, child!"

We walked quickly through the busy station, past the beggars who swarmed the sidewalk outside, and to the taxi stand. I had never been in a car.

Kala spoke crisply to the driver. "Falkland Road." This must be a very special place, I thought for the driver instantly nodded his head in recognition.

It was night when the taxi wound its way through Bombay's crowded streets, but unlike Nepal, it wasn't dark. Everywhere I looked, I saw lights, lots of lights with strange markings.

I did not know the meaning of the strange markings. I had never been to school.

After an hour's drive, the taxi turned onto what seemed to be the busiest street of all. The taxi stopped. Kala pulled my arm again. "This is where we get out," the woman said crossly.

This was a strange place. "Where's the pretty house?" I asked shyly.

"Quiet!" Kala barked. "This is your new home." Women and girls lounged in the doorway. Their faces were painted in ways I had never seen. I stopped and stared. Kala roughly pulled me through the door.

We walked down a series of long, poorly lit corridors. I could feel the wet garbage under my bare feet, oozing between my toes. There was a heaviness in the air. This did not seem like a happy place.

Suddenly, a woman was standing in front of them. "Here she is," Kala said tersely, "That'll be 40,000 rupees" (about \$100 U.S.).

The woman took me to a little room. "This is where you'll stay," the woman declared without emotion as she pushed me through the door.

I shivered when I heard the dead bolt slam into place. Something seemed very wrong. I felt frightened . . . and alone.

I prayed to the family gods. It didn't seem to help.

I went to sleep wondering what kind of place I had come to. When I woke up, I couldn't tell whether it was day or night because my room had no windows. After a long while, the woman returned.

She sat down on the bed and opened a little bag. She started putting make-up on my face. I winced.

A few minutes later the woman came back with a man. The woman told me what to do. I did not want to do such things. The woman slapped me.

I cried. The woman slapped me again. "No! No! I will not do such things."

The woman cursed me in Nepali and then left. A few minutes later, she returned with another man. His lip curled in a mocking snarl. I had never seen such a look.

"So, you don't want to work, eh?"

He pulled off his belt and began to beat me. He beat me until the pain filled my body. Then he left. I curled up on my cot and whimpered softly.

Later that day the woman came back. "Ready to work, little doll?"

I cried and pleaded with her. "Please don't make me do those things."

The man with the belt came back. Three times that day he beat me. When the time came to eat, they brought nothing to me. Still I resisted.

The torture lasted for days. Without light, I lost track of time. Without food I grew weak.

One of the other girls told me it was useless to resist. She told me of another girl who had been put in a room with a cobra until she changed her mind about doing as she was told. It didn't take long, the girl reported.

"The gods have forgotten you. This is your fate," the girl said sadly. Frightened, exhausted and hungry, I surrendered.

In those first days, I often cried myself to sleep, wishing I was back in my village, homesick for my mother.

I hated life in the brothel, hated what I saw, hated what I did. I hated what happened to the other girls—especially the sick ones.

But the tears grew less and less, and I became accustomed to my new life.

Seven years passed. Seven years without seeing my mother or brothers. Seven years in what me and the other girls called "that place." Seven years watching girls become sick with the "Bombay Disease." Seven years of watching them turned out on the streets to die.

I dreamed of buying my freedom and going home to Nepal, but I knew there was little hope of that. By my sixteenth birthday, I had forgotten what hope was. Until I met a man named Devaraj.

Devaraj was different than the other men I had known. I met him at a small church near Falkland Road. There he taught messages of hope that lifted my spirits. He talked of freedom. I visited there as often as I could.

I longed more than ever to be free from Falkland Road, but I still lacked the money to pay the "investment" the brothel owner had made in me.

One night after service, Devaraj told me I could leave the district. I could hardly believe what I was hearing. "How is this possible?" I asked.

Devaraj explained that some "friends" had given a gift to purchase my freedom.

In a few days, I left the brothel that had been my home since I was a young girl and moved into a "Home of Hope." Now I am learning how to live. I am learning a new trade. And thanks to people who care, my life is no longer surrounded by pain and disappointment. It is full of hope and optimism for the future.

Mr. SMITH OF NEW JERSEY. Ms. Poudel.

STATEMENT OF MANJU POUDEL, FOUNDER, THE DAYWALKA FOUNDATION

Ms. POUDEL. Good afternoon, Mr. Chairman, and Members of the Committee. Thank you for receiving me in your Congress. My name is Manju Poudel, and I am now Director of The Daywalka Foundation, an American and Nepali NGO that has been researching and working on the problem of girl trafficking in South Asia for several years.

Too, I would like to explain about the human rights crisis we see in Nepal and the danger it brings to the region. I hope you will forgive me if my English is not perfect, but I have come from Nepal region. And I do want to tell you some important things.

It is very difficult to say the exact number of Nepalese girls who have been trafficked to the brothels in India, but most women's NGOs in Nepal say it is about 200,000. There is no trafficking problem in the world bigger than Nepal and India. One in ten Nepalese girls live in this terrible condition on the borders of India. It is one at risk of HIV, one in 10. This is equal to 10,000 girls from just one major American city like Washington.

What does this look like? Why do small communities make such terrible choices and send their daughters away? First, we must see the village. In my field work, I have visited many remote areas of Nepal, very poor population of 23 million, and too often it is the same: Great poverty and a male-dominated society keep these problems going. I have walked all day through one village in search of

girls, only to find none. I have visited with one family who sold four daughters.

One of the victims of many that I have met, whose name is Nita, she was trafficked from eastern Nepal, from an extremely poor family in a town called Melumchi. Nita was one of the first girls I interviewed in my results. Nita refused to cooperate with her brothel owners. She received very harsh treatment, torture of her genitals, burning, and—I'm sorry—burning and very bad beating, but she never gives in. She was eventually sold and resold to eight different brothels. Nita told me,

“I never respect my customers and never cooperated with them.”

Nita also told me,

“I got sick, and it took a long time to get recovered, and the sickness repeated. After the brothel owner found I have HIV, she sent me back home with AIDS as a present.”

Nita spent some time in a rehabilitation center in Kathmandu, but soon she was too sick to continue her training and daily chores. In the end, after a year, she returned to her village where I saw her one last time. As I came down the hill, I saw her standing in front of her house. She wore a torn blouse—she had no money for a sari. Her body had swelled up, she had developed big rashes and her illness was getting worse, and she was dying alone. Even though she has a mother, she was also left alone her in the last stages.

Unfortunately, it is not only the hundreds of thousands of Nepalese girls who will suffer. The consequences of an epidemic for all of Asia are beyond imagination. Nepalese girls trafficking is a primary cause of what could be an AIDS epidemic in Asia in the next 10 years.

As we know, Nepal is located at the crossroads between the two largest countries in the world, India and China, countries which are major trading partners with the United States, countries which are nuclear rivals. Along with an AIDS epidemic comes the collapse of the health care infrastructure, and with that the collapse of economic and then regional instability.

In all of this darkness, there is some hope. Slavery once existed in your country for 300 years, and no one thought it might one day be ended, but it was. The United States can assist us in our antitrafficking efforts by helping our local NGOs to keep working.

Thank you for inviting me to testify. I have two young daughters myself, and I grew up in Nepalese hill villages. It can be heaven on earth. Please help us find the way back. Thank you.

Mr. SMITH OF NEW JERSEY. Ms. Poudel, thank you very much for your testimony. We do very much appreciate it.

[The prepared statement of Ms. Poudel follows:]

PREPARED STATEMENT OF MANJU POUDEL, FOUNDER, THE DAYWALKA FOUNDATION

INTRODUCTION

Good afternoon Mr. Chairman and Members of the Committee, thank you for receiving me in your Congress. Your decision to have a representative of the distant country of Nepal speaks very highly of our nations' relationship, and of your interest in our most difficult of problems. My name is Manju Poudel, and I am a Director

of The Daywalka Foundation, an American and Nepali NGO that has been researching and working on the problem of girl trafficking in South Asia for several years. In addition, I have worked on women and development issues in Nepalese villages for all of my professional life, and today I would like to provide the Committee with a glimpse of one of the most profound human rights crises in the world. I would like to briefly explain the awful predicament of these girls and the dangers for the region, address the underlying causes of this crisis, and finally show what solutions we believe are in need of an expanded scale.

THE PROBLEM

It is very difficult to pinpoint the exact number of Nepalese girls and young women who have been trafficked to the brothels of major Indian cities, but most women's NGOs in Nepal find that the commonly held figure of 200,000 is a reliable one. This translates into some 5 to 7000 girls trafficked across the border each year, and when you consider the small population of Nepal, it is really a staggering number. A recent study of over 100 developing nations, published in April of this year in your journal *Scientific American*, found that no nation's per capita trafficking problems exceed that of the Indian Subcontinent. And, unfortunately, it is the country of Nepal which is the source.

To better understand the scope of these numbers, consider that one in ten Nepalese girls languishes in these unspeakable conditions in the brothels of India—each likely to contract HIV, certain to be raped countless hundreds or thousands of times, and nearly guaranteed to face a future of shame, homelessness, and despair. One in ten. This is the equivalent of literally ten thousand Washington D.C.-area girls trafficked to just across the border in Mexico. Waiting. As ABC Nepal puts it: "Life in Hell."

MAYA AND NITA

What does this look like? What draws small communities to make such terrible choices, and to send their daughters away? First we must see the villages. In my fieldwork I have visited many remote areas of Nepal's very poor population of 23 million, and too often it is the same. Dire poverty, and a culture which places girls in an extremely subordinate status, create terrible choices, and cycles of shame result. I have walked all day through one village in search of girls, only to find none. I have visited with one family who sold four daughters, and when I was invited in I saw something peculiar: a nice carpet, a large cassette stereo, a pressure cooker in the kitchen. For us it is not surprising, to see this. But in that village, where most people don't know what it's like to feel a full stomach, it is very strange. In Nepal, when you are in a high risk village district, you can tell from a distance which houses have sold daughters—they can afford tin roofs.

Maya was from a very poor village in the Sindupowlchowk District of Eastern Nepal, and decided to accept an offer to work in a Kathmandu carpet factory at age 14 to earn money for her family. After three months in town, she was told by some men at her work that they could take her to a big city in India where she could make even more money weaving carpets. But when Maya arrived in Bombay, and was made to wait at a friend's house while the men went shopping for dresses; she was all alone. And the house turned out to be a brothel. She never saw the men again. In the beginning, Maya refused to participate, but she was beaten, starved, gang-raped, and received electric shock torture. The biggest abuser was the madam. This process, which is done to intentionally cause Battered Woman Syndrome, breaks down the girls and brain-washes them. It is quite common. And for Maya, it marked the beginning of four years of Hell. Typically Maya would have 12—often very abusive—clients per day. Condoms were rarely used. Maya, in the end, was lucky. A good-hearted "John" helped her escape, and with only enough for bus fare, Maya made it back home to her village. At first she told no one, got married, and had a beautiful young daughter. With this adjustment, she felt confident, and told her family about her ordeal in Bombay. Immediately she and her infant girl were shunned, and spent the next several years—as we say "garko n ghatko," which means neither here nor there. Homeless. Hopeless. Maya's one blessing, beside her daughter, was that she made it out alive, without HIV.

Nita was not so lucky. Also trafficked from Eastern Nepal, from an extremely poor family in a town called Melumchi, Nita was one of the first girls I interviewed in my studies. Nita refused to cooperate with her brothel owners. She received particularly harsh treatment—torture of her genitals, burning, stomping on her chest, being whipped all over until passing out. But she never gave in, and was eventually sold and re-sold to eight separate brothels. "I never respected my customers and never cooperated with them," she told me. Nita went on to say, "In September 1992,

I got sick and it took a long time to get recovered. And the sickness repeated in December too. The second time the brothel doctor suspected I was HIV positive and informed the brothel owner. They took me to hospital to get a blood test and I was found HIV positive. After getting this message the brothel owner sent me back home. I refused to leave the brothel, as I had nowhere to go. I had no skills to survive in the free world. But the brothel owner forcefully kicked me out of the brothel and threw me into the train to the Nepal border. They gave me nothing but travel expenses. In 1993 I came back home with AIDS as a present.”

Nita spent some time in a rehabilitation center in Kathmandu, but soon grew too weak to continue her sewing training and daily chores. In the end, after a year or so, she returned to her village where I saw her one last time. As I came down the hill trail toward the town of Melumchi, there she stood in front of her hill village home, in a torn blouse and sarong, without money for a sari or anyone to wear it for. Her body had swollen up, she had developed severe rashes, her illnesses grew worse, and she was living—and dying—in shame. Nita told me that even her mother had left her. So, without a bed, and with little food and no medical care, Nita fought through the last stages of AIDS alone.

REGIONAL CONSEQUENCES

Unfortunately, it is not only the hundreds of thousands of Nepalese girls—and the millions more they infect, and are infected by—who will suffer. The consequences of an epidemic for all of Asia are beyond imagination. The World Bank reported in 2001 that Nepalese girl trafficking is a primary cause of what will be a full-blown, African style, AIDS epidemic in Asia in the next ten years. As you well know, Nepal is located at the crossroads between the two largest countries in the world, countries which are major trading partners with the West. Countries which are nuclear rivals. Countries which also have fragile economies, and are undergoing major developmental transitions. Along with an AIDS epidemic comes the collapse of health care infrastructure, and with that the collapse of economies, and then regional instability.

SOLUTIONS

There is, in all of this darkness, some hope. The poverty which creates the fertile soil for trafficking, and the male-dominated society which plants the seeds, can be plowed over. Slavery once existed in your country, for 300 years, and no one thought it might one day be abolished. But it was.

The proper solutions which will assist the prosecution of traffickers, the prevention of the sex trade, and the protection of its victims, are also the same solutions which will transform our society. By adopting thoughtful, field-research informed policies to combat trafficking, we can not only end this scourge, but create good governance and assist our nation's legitimacy at a time it needs it most. Poor people want to believe in their government, not in the rebels who have given up, and chosen violence over hope.

The United States can assist us in our time of need by choosing to scale up some successful efforts which are already building the capacity of our local NGOs to tackle trafficking. My colleagues today are addressing the importance of the prosecution of traffickers, and of the protection of survivor girls and women. I will only add that we should encourage the criminal justice system to wake up to trafficking more directly: *female* anti-trafficking prosecutors, and survivor women as deputized border guards, can not only make arrests and get convictions, but they can model equality as they do so.

I would like to be specific about prevention. In addition to making arrests, securing convictions, and caring for the rehabilitation of survivors, we must address the coming epidemic as the World Bank insists we do: with innovative education. Long term education by providing scholarships to at-risk, low caste, minority girls. These directly trade off with trafficking. Long term education, and role modeling, by supporting female schoolteachers—a typical Nepalese village will have ten teachers, all men. Long term education through anti-trafficking dramas, dances, and songs. These indigenous behavioral change activities are not a nice cultural idea, but are critical to communicating to the most at-risk girls, and the entire community they live in. Village girls are, unfortunately, illiterate, and likely will stay that way. It is through oral culture that they will learn, and it is through oral culture that we will stop the coming AIDS epidemic.

Each of these solutions must have a village guardian who can monitor, evaluate, and be vigilant in assisting their implementation. We must help the development of regional NGO infrastructures by establishing, and supporting where they already exist, female Nepalese health assistants. These village anti-trafficking coordinators

already exist in many parts of Nepal. The Women's Self-Reliance Center, for example, has village women who are in charge of different sub-regions, and they monitor all the aspects of a successful anti-trafficking strategy: health care, counseling, family planning, education, scholarships, legal rights awareness, HIV/AIDS dramas, assistance to the landless, help with the lower castes and minorities. These health professionals, however, are severely overworked, under-funded, and simply exhausted and beaten-down. They have the capacity to provide revolutionary community incentives, and the foundation of hope, but they need our attention.

CONCLUSION

Thank you for inviting me to testify today. I have two young daughters myself, and I grew up in the world of Nepalese hill villages. It is can be Heaven on Earth. Please help us find the way back.

Mr. SMITH OF NEW JERSEY. Professor Hughes.

STATEMENT OF DONNA M. HUGHES, PROFESSOR AND CARLSON ENDOWED CHAIR IN WOMEN'S STUDIES, UNIVERSITY OF RHODE ISLAND

Ms. HUGHES. Thank you for this invitation to speak before the Committee. It is going to be tough, following these three powerful previous testimonies, but I will see what I can do.

As you well know, the trafficking of persons is a modern-day atrocity that we should take every opportunity to abolish. The Trafficking Victims Protection Act criminalized severe forms of trafficking for commercial sex acts and forced labor. These are two distinct crimes with different impacts on the victims. Both are serious, and all efforts should be made to combat both forms of trafficking in persons. Today, my comments will focus on trafficking for commercial sex acts.

The trafficking process begins with the demand for victims to be used in prostitution. Countries with legal or widely tolerated prostitution create the demand and are the destination countries, while countries where traffickers easily recruit victims are the sending countries. Unless compelled by poverty, past trauma, or substance addiction, few women will voluntarily engage in prostitution.

Where insufficient numbers of local women can be recruited, brothel owners and pimps place orders with traffickers for the number of women and children they need. In destination countries, pimps, organized crime groups, corrupt officials, and even governments devise strategies to protect the profits derived from the sale of women and children, which depends on maintaining the flow of foreign women to the brothels. It is this flow of victims that the Trafficking Act aimed to stop.

The *Trafficking in Persons Report* is a tool to evaluate countries in the world on their efforts to combat trafficking. It is a powerful tool to hold countries accountable for the trade of women and children that goes on within their borders. Consequently, it should be used wisely and vigorously.

The 2002 *TIP Report* has been widely criticized. I believe this universal criticism is the result of two major deficiencies in the report: First, the efforts to combat trafficking that a country had to make were pathetically low. Supposedly, the prosecution of traffickers was the heaviest weighted factor in determining peer placement; yet, there are countries on Tier 2 and even Tier 1 that have imprisoned few, if any, traffickers. Even in countries where there

are more convictions, there is little evidence that they have been sufficient to stem the tide of trafficking of thousands of victims.

Second, the *TIP Report* fails because of a lack of comprehension of demand factors that cause trafficking for the sex trade.

Ambassador Ely-Raphel has said that the *TIP Report* team did not consider prostitution or the demand for trafficking victims in their evaluation of countries. Trafficking is a modern form of slavery. To not understand the relationship between prostitution and trafficking is like not understanding the relationship between slavery in the Old South and the kidnapping of victims in Africa and the transatlantic shipment of them to our shores.

Ambassador Ely-Raphel has said that the connection between legalized prostitution and trafficking is only anecdotal. I believe that view is either naive or a lack of political will to face up to what the trafficking and the sex trade is all about. There is a connection between prostitution and trafficking.

In this brief oral testimony, I do not have time to review all the statistics I have. I refer you to the written text which I have submitted.

There are destination spots in every region of the world. To make my point, I am going to focus on the countries of Europe. First, they are popular destination countries; and second, most of them are ranked on Tier 1, meaning the trafficking office judged that they fully complied with the Trafficking Act's minimum standards.

In the brothels of Europe, foreign women make up a significant portion and, in most cases, the majority of women in prostitution. In the last 2 years, two European countries, both with a significant trafficking problem, legalized prostitution, pimping, and brothel-keeping.

In the case of the Netherlands, women in prostitution come from 32 different countries. There are few Dutch women in the brothels. One year after legalization of prostitution and brothels, the traffickers control 50 percent of the women.

The situation is similar in Germany, where there are an estimated 400,000 women in prostitution; 75 percent of those women come from other countries.

Tolerance and legalization of sex industries also lead to an increase in child prostitution. In the last 5 years, the number of children in prostitution in the Netherlands increased from 4,000 to 15,000, a 400 percent increase; yet, the Netherlands is placed on Tier 1 in the *TIP Report*. Increasing the demand for women in prostitution violates the criteria set out in the Trafficking Act that governments should adopt measures to prevent trafficking.

The 2002 *TIP Report* profoundly fails to grasp the scope, magnitude, and causal factors of trafficking, and what efforts are needed to hold countries accountable for their complicity in the trafficking. The trafficking of women and children for prostitution will decrease when two things happen: one, there are sufficient arrests and convictions, with sentences commensurate with the severity of the crimes to deter traffickers and corrupt officials from engaging in the buying and selling of victims; and two, there is a reduction in the demand for women and children to be used in prostitution. Those two crucial factors are missing in the evaluation and ranking of countries in this year's *TIP Report*.

This report is a lost opportunity to render assistance to millions of victims who have no one to speak on their behalf. It is a missed leadership opportunity to advance human rights for women and children in the world. We need a TIP office that is led by people with the insight, vision, and courage to take a stand against the trafficking of women and children who aren't afraid to name the brutal violence for what it is and not flinch at holding the perpetrators accountable.

Members of this Committee, I ask you to use the power invested in you to ensure that the Trafficking Victims Protection Act is implemented as intended, so that the victims of the global sex trade are freed from bondage and new victims are not recruited to replace them.

[The prepared statement of Ms. Hughes follows:]

PREPARED STATEMENT OF DONNA M. HUGHES, PROFESSOR AND ELEANOR M. AND OSCAR M. CARLSON ENDOWED CHAIR IN WOMEN'S STUDIES, UNIVERSITY OF RHODE ISLAND

THE "2002 TRAFFICKING IN PERSONS REPORT": LOST OPPORTUNITY FOR PROGRESS

Distinguished Co-Chairs and Members of the House Committee on International Relations:

As you well know, the trafficking of persons throughout the world is modern day atrocity that we should take every opportunity to abolish. The Trafficking Victims Protection Act (TVPA) of 2000 criminalized severe forms of trafficking for commercial sex acts and forced labor. These are two distinct crimes with different impact on the victims. Both are serious, and all efforts should be made to combat both forms of trafficking in persons. Today, my comments will focus only on trafficking for commercial sex acts, which for brevity I will refer to as sex trafficking.

The TVPA's definition of a severe form of sex trafficking is "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." Applying this definition, all children and the majority of women in the sex trade would be considered victims of trafficking.

The trafficking process begins with the demand for victims to be used in prostitution and other commercial sex acts. Countries with legal or widely tolerated prostitution create the demand and are the receiving or destination countries, while countries where traffickers easily recruit victims are the sending countries. The magnitude and flow of women and children is based on a balance between the demand for women and children for prostitution and the ability of traffickers to recruit victims.

Unless compelled by poverty, past trauma, or substance addictions, few women will voluntarily engage in prostitution. Where the demand for prostitution is high, insufficient numbers of local women can be recruited. Therefore, brothel owners and pimps place orders with traffickers for the number of women and children they need.

In destination countries, pimps, organized crime groups, corrupt officials and even governments devise strategies to protect their profits derived from the sale of the bodies of women and children. Globally, the profiteers of sex trafficking and slavery earn hundreds of millions of dollars per year. Their profits depend on maintaining the flow of foreign women to the brothels. It is this flow of victims that the TVPA aimed to stop. The Trafficking in Persons (TIP) Report is a tool to evaluate and rank the countries in the world on their efforts to combat trafficking. It is a powerful tool to hold countries accountable for their lack of action against the trade of women and children that goes on within their borders. Consequently, it should be used wisely and vigorously, with the intent of exposing countries for their lack of action or even complicity in these global crimes.

The 2002 TIP Report has been widely criticized. In fact, I have not heard one word of praise. It has been called "an insult to women and children,"¹ "[a] grave

¹Mariam Bell, The Wilberforce Forum, 5 June 2002.

disappointment,”² “a whitewash,”³ and “a deplorable shirking of responsibility.”⁴ As a tool to combat trafficking it “falls short,”⁵ “serves to strengthen the complacency of the worst offending countries,”⁶ and fails so miserably that it “undermines the usefulness of the new law.”⁷

I believe this universal severe criticism is the result of two major deficiencies in the Report. First, the efforts to combat trafficking that a country had to make were pathetically low. Ambassador Ely-Raphel has said that prosecutions of traffickers was the factor weighed the heaviest in determining tier placement,⁸ yet, there are countries in Tier 2 and even Tier 1, that have imprisoned few, if any, traffickers.⁹ Even in countries where there are more convictions, there is little evidence that they have been sufficient to stem the tide of trafficking of thousands of victims.

Second, the TIP Report fails because of a lack of comprehension of demand factors that create trafficking for the sex trade. Ambassador Ely-Raphel has told audiences at briefings that the evaluation team did not consider prostitution or the demand for trafficking victims in their evaluation of countries’ efforts to prevent and combat trafficking.¹⁰

Trafficking is said to be a modern form of slavery. In the 18th and 19th century U.S. Southern agriculture economy, slaves were needed to pick cotton (along with many other forms of labor). To not understand the relationship between prostitution and trafficking is like not understanding the relationship between slavery in the old South and the kidnapping of victims in Africa and the transatlantic shipment of them to our shores.

Ambassador Ely-Raphel has said that the connection between legalized prostitution in countries like the Netherlands, Germany and Australia and the trafficking of women and children for the sex trade is only “anecdotal.”¹¹ I believe that view is either extremely naive or a gross lack of political will to face-up to what the trafficking of women and children for the sex trade is all about.

I’d like to present the evidence of a connection between prostitution, whether legal or widely tolerated, and sex trafficking.

There are destination spots in every region of the world. To make my point, I’m going to focus on countries in the European Union. First, they are popular destination countries, and second, most of them are ranked in Tier 1, meaning the Trafficking Office judged that they fully complied with the TVPA’s minimum standards.

Table 1 has the percentages of “foreign” women in prostitution in the European Union, meaning they are not citizens of countries of the European Union. The estimated percentages vary by country and city, but comparisons between 1997 and 1999 show a consistent increase in the percentage of foreign women in prostitution.

In the last two years, two European countries, both with a severe trafficking problem, have legalized prostitution, pimping, and brothel keeping (although these practices had been tolerated for years).

²International Justice Mission, 6 June 2002.

³The Salvation Army, 10 June 2002.

⁴Southern Baptist Ethics and Religious Liberty Commission, 6 June 2002.

⁵Human Rights Watch, 6 June 2002.

⁶International Justice Mission, 6 June 2002.

⁷World Vision, 7 June 2002.

⁸Ambassador Nancy Ely-Raphel, NGO Briefing, 14 June 2002.

⁹See International Justice Mission, “State Department renders Trafficking Act useless by granting passing grades to worst offenders,” June 2002; and Preston Menderhall, “Global human trafficking soars,” *MSNBC*, 6 June 2002.

¹⁰Ambassador Nancy Ely-Raphel, NGO Briefing, 14 June 2002.

¹¹Ambassador Nancy Ely-Raphel, NGO Briefing, 14 June 2002.

Table 1: Estimates of Percent of Foreign Women in Prostitution in Countries of the European Union*

Country	1997	1999
Austria	70%	85%
Belgium	30%	45%
Denmark	30%	20% to 40%
Finland	20%	30%
France	40%	30% to 40%
Germany	60%	53% average — Northern region: 62% — Central region: 52% — Southern region: 32%
Greece	60%	70%
Ireland	10%	15%
Italy	80%	90%
Luxembourg	40%	
Netherlands	60%	68%
Norway		25%
Portugal	15%	
Spain	40%	50%
Sweden	20%	25%
United Kingdom	25%	Variations according to towns, can be as high as follows: — Glasgow: 99% — Edinburgh: 90% — Leeds: 95% — Middlesborough: 100% — Nottingham: 100% — West Surrey: 95%

*“Foreign women” will mean non-European Union citizens. Licia Brussa (ed.). 1999. “Health, Migration and Sex Work: Transnational AIDS/STD prevention among migrant prostitutes in Europe.” TAMPEP International Foundation: Amsterdam, pp. 25–26.

In October 2000, the Netherlands officially legalized prostitution and brothels. The Dutch sex industry is now a \$1 billion business or 5 percent of the Dutch economy, with the industry having increased 25 percent in the last decade.¹²

- Women in prostitution in the Netherlands come from 32 different countries. There are few Dutch women in the brothels.¹³
- One year after legalization of prostitution and brothels, traffickers control 50 percent of women in prostitution.¹⁴
- 70 percent of the trafficked women are from Central and Eastern European countries. Eighty percent of these women have their passports confiscated, are kept in isolation, forced to work long hours for no pay, and are physically and emotionally abused by pimps, traffickers and male buyers.¹⁵

The situation is similar in Germany. In December 2001, Germany legalized pimping and brothel keeping (prostitution was already legal), and officially stated that prostitution is no longer to be seen as immoral. The estimated turnover from bars,

¹² Suzanne Daley, “New rights for Dutch prostitutes, but no gain,” *New York Times*, 12 August 2001.

¹³ International Organization for Migration (IOM), *Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe*, May 1995.

¹⁴ Ralf Bodelier, “Outlawed Women,” *De Volkskrant*, October 20, 2001.

¹⁵ International Organization for Migration, *Trafficking and Prostitution*, May 1995.

clubs, and brothels connected to prostitution is \$4.5 billion per year.¹⁶ There are an estimated 400,000 women in prostitution in Germany.¹⁷

- 75 percent of the prostitutes are foreigners.¹⁸
- 80 percent of the trafficked women in Germany are from Central and Eastern Europe and countries of the former Soviet Union.¹⁹

Increasing the demand for women in prostitution in countries where a significant portion, and in most cases the majority, of the women are foreign citizens violates the criteria set out in the TVPA that governments should adopt measures to prevent trafficking.

Tolerance and legalization of sex industries also leads to an increase in child prostitution. The Amsterdam-based NGO ChildRight reported that from 1996 to 2001 the number of Dutch children abused and exploited in prostitution increased from 4,000 to 15,000, almost a 400 percent increase.²⁰ Yet, the Netherlands is placed on Tier 1 in the TIP Report.

The TVPA defines the use of any child under 18 for a commercial sex act as a severe form of trafficking. Yet, there are many countries listed in the TIP Report where there are known to be many more than 100 child victims (the threshold set by the TIP Office to be included in the TIP Report) that are not on Tier 3, as I believe they should be, such as: India, Thailand, Vietnam, Sri Lanka, South Africa, Honduras, and Laos, to name a few.

Legalized prostitution makes it difficult to hold traffickers accountable for their activities. According to a Netherlands based NGO, traffickers evade prosecution by claiming the women consented, and prosecutors generally have a hard time establishing the line between voluntary and forced prostitution.²¹ According to one report: "Where only forced prostitution is illegal; inability to prove constraint has repeatedly led to international procurers being acquitted by the courts."²²

This leads us back to the downfall of the 2002 TIP Report, which profoundly fails to grasp the scope, magnitude, or causal factors of trafficking in women and children, and what efforts are needed to hold countries accountable for their complicity in the trafficking, whether that be through lack of action against traffickers or their actions that lead to an increase in the demand for women and children to fill-up their expanding sex industries. The 2002 TIP Report is so weak it subverts the intent of the Trafficking Victims Protection Act.

The trafficking of women and children for prostitution will decrease when two things happen: 1) There are sufficient arrests and convictions with sentences commensurate with the severity of the crimes to deter pimps, traffickers, organized crime groups and corrupt officials from engaging in the buying and selling of victims; and 2) There is a reduction in the demand for women and children to be used in prostitution. These two crucial factors are missing in the evaluation and ranking of countries in the 2002 TIP Report.

The 2002 TIP Report is a lost opportunity to render assistance to the millions of victims who have no one to speak on their behalf. It is a missed leadership opportunity to advance human rights for women and children around the world. Dr. Laura Lederer, Sr. Deputy Advisor on Trafficking said, "[Trafficking] is inherently evil and we need to abolish it. That's the approach that we want to take—that this whole commercial sex industry is a human rights abuse."

We need a TIP Office that is led by people with the insight, vision, and courage to take a stand against the trafficking of women and children; who aren't afraid to name the brutal violence for what it is, and not flinch at holding the perpetrators accountable.

Members of this committee, I ask you to use the power invested in you to ensure that the Trafficking Victims Protection Act of 2000 is implemented as intended, so

¹⁶ Rob Broomby, "German prostitutes get new rights," *BBC News*, 20 December, 2001.

¹⁷ Irena Omelaniuk and Ginette Baerten, "Trafficking in women from Central and Eastern Europe—Focus on Germany," in *Migration in Central and Eastern Europe, 1999 Review*. (Vienna: International Organization for Migration and International Center for Migration Policy Development, March 1999).

¹⁸ International Organization for Migration, "Trafficking of Women to the European Union: Characteristic, Trends and Policy Issues," *European Conference on Trafficking in Women*, June 1996.

¹⁹ International Organization for Migration, *Information Campaign*.

²⁰ Carin Tiggeloven, "Child Prostitution in the Netherlands," *Radio Netherlands*, 18 December 2001.

²¹ Lily Hyde, "Women's groups battle sex slavery," *Kyiv Post*, 23 January 1998.

²² Michèle Hirsch, "Plan of Action Against Traffic in Women and Forced Prostitution," *Council of Europe*, 1996.

that victims of the global sex trade are freed from bondage, and new victims are not recruited to replace them.

ADDENDUM:

Today's Hearing focused on the 2002 Trafficking in Persons Report. However, the ineffectual TIP Report is only one area in which the U.S. government is failing to comply with the letter and spirit of the Trafficking Victims Protection Act of 2000.

There is an international movement to legitimize, legalize and regulate prostitution, which is referred to as "sex work." Many people who favor this position to varying degrees are well placed within the Department of State and Department of Justice. At every opportunity, they interpret law and policy to support this point of view.

One of the ways that the TVPA is being subverted is by U.S. government funds being used to support individuals, groups, and projects that work in opposition to the law. They advocate for the acceptance and legalization of prostitution, and fail to assist victims of trafficking, even when they come in contact with them.

The following is a partial list of projects, individuals and NGOs who advocate the legalization of prostitution that have received funds from US government agencies.

INDIVIDUALS AND GROUPS THAT SUPPORT LEGALIZED PROSTITUTION THAT RECEIVED
U.S. GOVERNMENT FUNDS FROM 1996–2001

Medecins sans Frontieres, Empower-Thailand, and Program for Appropriate Technology in Health (PATH)—Funded through USAID

At a conference on the Public Health Impact of Trafficking of Women and Children in New York on 11 April 2002, Medecins sans Frontieres made a presentation on their "Sex Worker Project 1999–2001." They described their project to "empower" sex workers" in Svay Pak, Cambodia. They said that they worked with children and "debt-bonded" women, meaning they met the definition of victims of severe form of trafficking. The presenter said they witnessed an ever-growing number of very young girls engaging in sex work. To gain access to the women and girls, the project built and "used small shacks for sex behind our clinic." They observed children as young as 5 being bought for oral sex and "penetration started with girls as young as 10." The presenter said that the project's critical mission was to teach "assertiveness" to the 5–10 year old Svay Pak girls engaged in "sex work." When asked, they said "assertiveness" meant teaching children as young as 5 or 6 to say in multiple languages, "Please wear a condom." The project leaders never called the police because that would "interrupt the bonding of the clinic workers with the sex workers."

Ann Jordan, International Human Rights Law Group—Funded in 1999, 2000 and 2001 through the International Information Program (IIP)

Ann Jordan is a leading advocate of the "sex work" movement. She advocates the legalization of prostitution as the solution to trafficking. She is quoted as saying:

"To those who feel their moral hackles rising at the prospect [of legalized prostitution]: "We don't support a woman's right to choose because we think abortion is a great thing, but because we believe fundamentally that women should have control over their own reproductive capacity. The same argument can be made for prostitution. Women who decide for whatever reason to sell sex should have the right to control their own body—and should be assured of basic protection on the job. As with abortions, we can dream of a day when sex work is safe, legal, and rare."²³

She argues that regulation of prostitution by labor law and enabling women to legally travel transnationally for "migrant sex work" is the "empowering" solution for women. She opposes using the sex trafficking statute in the TVPA and believes all trafficking crimes should be prosecuted as forced labor. In a message to domestic violence service providers about the TVPA, she stated that, "This provision [trafficking for commercial sex acts] will probably not be used for adults since it is easier to prosecute under the 'trafficking into forced labor, involuntary servitude' provision."²⁴

Penelope Saunders—Funded twice in 2000 through the International Information Program (IIP)

Penelope Saunders is associated with HIPS (Helping Individual Prostitutes Survivor) in Washington, DC. In her biography, Saunders says she "consults with the

²³ See <http://www.thirdworldtraveler.com/Women/Regulate—Global—Brothel.html>

²⁴ Email, Ann Jordan, Annj@HRLawgroup.org, 1 April 2002.

Network of Sex Work Projects, an international network of sex work advocacy and service groups.”²⁵

Saunders supports legalized prostitution and thinks labor law should regulate it. In an interview with Radio Free Europe, she said, “The sex industry in particular offers almost no worker’s rights, because sex work is not generally recognized as work.”²⁶

Saunders is part of the movement to normalize adults having sex with children. In a paper she wrote on child prostitution in Australia, she calls child prostitution “young people involved in the sex industry.” She puts terms like pedophiles in quotes. Instead of child prostitution, she refers to men buying and abusing children as “sex for favors.” She explains: “Our term ‘sex for favors’ has been accepted by service providers in South Australia [where prostitution is legal] as a neutral and non-judgmental way of speaking about the sensitive issues associated with young people having sex with adults for some kind of gain.” Her paper is housed on a well-known pro-prostitution Web site—“Commercial Sex Information Service—An ever-growing resource produced for and by sex workers.”²⁷

Saunders is now affiliated with the Center for the Study of Gender and Sexuality, New York University and Executive Director, Different Avenues, advocacy and social service agency for queer youth. Recently, she appeared as a discussant following a talk by Judith Levine, author of a new book on “child adult sex” “Harmful to Minors: The Perils of Protecting Children From Sex.”²⁸ The book states that sex between adults and children may not be harmful.

Empower-Thailand—Funded in 2001 through the Bureau of East Asian and Pacific Affairs (EAP)

Empower opposes child prostitution and forced adult prostitution, but supports adults right to work in prostitution. EMPOWER-Thailand hosted a “sex workers festival” for women in prostitution.²⁹

The Founder of Empower, Chantavipa “Noi” Apisuk, states: “Education is a weapon for Thailand’s sex workers. Since prostitution is illegal (though tolerated) in Thailand, sex workers are not protected by any laws. Now we are trying to push for the government to consider having sex workers protected under labor law.”³⁰

Empower-Thailand has been credited by Medecins sans Frontieres-Belguim with assisting them in developing their program to teach young children (6 and up) in Svay Pak, Cambodia how to ask men to wear condoms when they have sex with them. (See listing above about Medecins san Frontieres Belgium, Sex Worker Project 1999–2001)

Ludwig Boltzmann Institute of Human Rights in Austria—Funded in 2000 by International Narcotics and Law Enforcement Affairs (INL)

Ludwig Boltzmann Institutes was part of Ann Jordan’s Human Rights Caucus that lobbied for language that would *regulate* prostitution in the United Nations Convention Against Transnational Organized Crime. The following is an excerpt from a letter written by Ann Jordan and the Human Rights Caucus and signed by Ludwig Boltzmann Institute concerning the draft of the UN Convention Against Transnational Crime. The letter states that they are concerned that the Convention will become an “anti-prostitution” convention, and not allow prostitution with the consent of the person. “. . . a few delegates are proposing to move mutually-agreed, non-coerced migrant sex work (but no other form of migrant work) from the Smuggling Protocol into the Trafficking Protocol. This would transform the Trafficking Protocol into an anti-prostitution and anti-trafficking instrument.”

La Strada—Funded in 1998 and 2001 by USAID. Featured in the USAID report “Trafficking in Persons: USAID’s Response” published in September 2001, p. 9.

La Strada is a network founded and heavily financed by the Netherlands. They oppose trafficking, but advocate for legalized prostitution as the solution. I have dealt with the group face to face on numerous occasions. Their network is made up of organizations in the following countries: The Netherlands, Poland, Czech Republic, Ukraine, Bulgaria, Belarus, and Macedonia. Their “mother” organization is the Dutch Foundation Against Trafficking in Women (STV). Their strategy is to speak loudly against the worst trafficking, while supporting legalized prostitution and “mi-

²⁵ See <http://epmcnet.columbia.edu/dept/gender/fellows.htm>

²⁶ See <http://www.rferl.org/nca/features/1999/07/F.RU.990713143648.html>

²⁷ See <http://www.walnet.org/csis/papers/saunders-childpro.html>

²⁸ See <http://www.startribune.com/stories/384/2126968.html>

²⁹ See <http://www.walnet.org/csis/groups/nswp/conferences/durbanminutes.html>

³⁰ Asia Times, January 6, 2000, <http://www.atimes.com/se-asia/BA06Ae02.html>

grant sex work.” They defend the “rights” of women from their countries to go abroad to work in the sex industries. They only oppose prostitution if it is forced. A news article on La Strada-Czech Republic:

Legalisation might bring more money to prostitutes—La Strada

Czech News Agency, April 05, 2002

PRAGUE, April 5 (CTK)—Legalisation might bring more money to prostitutes because they would be able to avoid paying pimps, Iveta Bartunkova, the director of La Strada in the Czech Republic, said today.

La Strada is an NGO trying to protect the rights of women working in prostitution as well as those who have become victims of trafficking in women.

The Czech Statistical Office on Wednesday published a report saying that a total of 6,300 women earned their living as prostitutes in the Czech Republic in 2000, and that their average daily income was 2,500 crowns, which makes an annual aggregate of some 6 billion crowns.

The Interior Ministry estimates the number of female prostitutes at 10,000–12,000 in 2000. Half of them made their business on the streets, while the other half worked in erotic clubs, the ministry says.

Legalisation would correct the figures and the state would have its share in the business’s profit as well, Bartunkova said.

“In addition, the legal regulation of prostitution would enable women working as prostitutes to refer to their rights in case of their abuse,” Bartunkova said.

The new market trend is the growing number of Czech customers, Bartunkova said. The ministry says that prostitution is more and more often performed in erotic clubs.

Some municipalities attempt to regulate prostitution through public notices. Mostly, towns try to move prostitutes out of city centres. Although the Parliament has discussed legalisation of prostitution for years, the laws remain unchanged.

Of European countries, only Germany and the Netherlands permit and tax prostitution.

<<Czech News Agency—04/05/02>>

International Research and Exchange Board (IREX) in Bulgaria, Yugoslavia, Lithuania, Moldova, Romania, and Russia—Funded 2001–2003 by USAID, Department of Labor and Education and Cultural Affairs (ECA), Department of State

The funding of IREX is a special case, because a highly successful NGO, MiraMed, which had helped found an anti-trafficking NGO network—the Angel Coalition—throughout Russia and many of the other countries of the former Soviet Union, was defunded in order to make way for IREX. The founder of MiraMed was told that she would lose her funding if she continued to work with individuals and groups that didn’t favor legalized prostitution. Now, IREX has \$5 million in U.S. government money—all the anti-trafficking funding for Western Russia.

In August 2000, IREX sponsored a policy forum at the Department of State. Throughout the summary of the forum, prostitution is referred to as a form of labor. Decriminalizing prostitution and changing migration laws to allow for “migrant sex work” is recommended as a solution to trafficking in women. “Migrating sex workers are simply responding to a demand for their labor.” “Sex work” in other countries is said to be empowering for women because it enables them to migrate to other countries giving them “greater economic independency and autonomy from men.”³¹

On 14 June, Mirna Karzen, the Project Manager of an IREX funded project called the STAR Network (at World Learning) who is developing projects for women’s economic empowerment and making recommendations to funders, advocated the legalization of prostitution and unionization of prostitutes as one the alternatives for Eastern European women because “many of them don’t have entrepreneurial skills.”

ATSEC—West Bengal in India—Funded in 2001 by International Narcotics and Law Enforcement Affairs (INL)

ATSEC has a number of member groups who support legalization of prostitution. Most of its Bangladesh leaders are members of the Global Alliance Against the Trafficking of Women (a Dutch founded and supported international network of NGOs that oppose forced trafficking, but support legal migrant sex work and prostitution).

³¹IREX, “Putting an end to trafficking of women in the NIS and CEE,” Policy Forum at the State Department, 16 August 2000. <http://www.irex.org/publications-resources/policy-papers/trafficking—women.pdf>.

The National Coordinator of ATSEC-India, Mr. Manavendra Mandal, is a leader and was a consultant to Durbar Mahila Samanvay Samiti Sonagachi Kolkata, which is the pro-prostitution "collective of sex workers." ATSEC West Bengal has been a regular supporter of Durbar Mahila Samanvay Committee of Sonagachi (pro-sex work group).

Mr. SMITH OF NEW JERSEY. Ms. Hughes, thank you very much for that very powerful statement. We will weigh each of your comments. I think you have made a number of important contributions.

The convictions and penalties need to be commensurate with the crime that is committed, at least for our legislation for the United States. We looked at our own law and found that it was incredibly infirm, and had no real teeth, which is why we provide 20 years to life for the commission of these crimes by either harboring, transporting, or, as the final ending, exploitation of the women.

It seems to me that as we look at other countries, we ought to use that as the prism through which we look and say, how serious are you taking it? Is it the equivalent of rape or not? Is it the equivalent of what we would consider slavery, which it is, or not? And so I think your points were very well taken. Thank you.

Ms. Burkhalter.

**STATEMENT OF HOLLY BURKHALTER, ADVOCACY DIRECTOR,
PHYSICIANS FOR HUMAN RIGHTS**

Ms. BURKHALTER. Thank you, Mr. Chairman, for having me. I appreciate being here, and I will not take too much time since the preceding testimony has been so thorough and so excellent.

I was asked by the Committee staff to comment on the *TIP Report*, and I am glad to do so from the vantage point of about 2 decades on working of conditionality of one type or another. We have developed many human rights conditions on different parcels of foreign aid over the years, so I do have a perspective.

But I do want to begin by saying that my irritation over, particularly, the inclusion of Thailand and India in the second tier persuaded me to write a sentence or two in the written testimony that are intemperate. I would not want the record to be left with any lack of appreciation for not only the enormous changes that this law (Trafficking Victims Protection Act) has effected in the world in the area of protection of victims and prevention of the crime. It is one of the most extraordinary pieces of human rights legislation that I have ever seen. I also don't want to in any way disregard the extraordinary work done by my friends at the State Department in the trafficking office. So my criticism of the *TIP Report* should be tempered with those initial remarks.

Mr. Chairman, these days I am working almost full time on the global AIDS epidemic, representing many, many doctors and nurses who are concerned about the epidemic. And I know of no way that the epidemic can be checked and stopped, what with 65 million infections over the last 20 years and hundreds of thousands of new infections every year in India and China, the second wave. And Africa is just dying as we watch. But I will tell you that it should be possible to protect the youngest victims of HIV/AIDS, and those are children around the world who are trafficked into prostitution.

I note that UNICEF estimates that there may be as many as 2 million additional children induced into or forced into prostitution every year. Now, that is millions of victims that shouldn't be there and can be helped. They are now being subjected to, in addition to crimes that are life and soul destroying, in and of themselves, a death sentence within a matter of years because of HIV/AIDS. They are victims of violent transmission of AIDS, and those crimes against them must be stopped and can be. But I only know of one way, and that, of course, is to prosecute or otherwise discipline, convict, administratively punish persons involved in the trade. Here I don't need to amplify Gary's spectacularly good testimony. He has been my tutor on this subject.

Thus, I would like to look at the State Department reporting with regard to accountability. Secretary Dobriansky, who is a great friend of the human rights community and of myself and my colleagues at PHR (Physicians for Human Rights), if I heard her correctly, said she evaluated equally three factors in determining placement on the three tiers. She evaluated equally prevention, protection, and prosecution.

I don't understand why the State Department is taking that stance in terms of evaluating placement when I think the act makes it pretty clear that prosecution is your first consideration. The first four of the standards listed in section 104 in the reporting requirement all relate to accountability, and in the minimum standards—all of them relate to accountability. Moreover, under the criteria of serious and sustained efforts, the very first indicator listed is investigation, prosecution, and conviction. So I would encourage the Administration not to give equal weight to all three important features of determining a government's laxity with regard to trafficking, and elevate—as you did in the letter of the law—the issue of accountability.

How can we do this? There was a long and interesting discussion on data collection, a topic I am very interested in because I know how hard it is to collect data. We at Physicians for Human Rights use some very interesting data collection tools, using public health surveys to get at health data and human rights data in large populations.

It seems to me that, as Gary mentioned, the people who can give you the data about prosecutions and convictions and administrative punishments are the governments themselves. And if they refuse to do so or fail to do so, that alone should be a reason not to include them in the first two tiers. Withholding the information or being unable to produce the information in and of itself shows that a government is simply not engaged in even asking local officials what they are doing with regard to prosecutions.

There are no rewards and no promotions for providing police protection to the poor in this world. If government officials would query local officials who don't get any rewards whatsoever for proper policing, it becomes of interest to do so. Then one can imagine a policeman being able to try to swim against the tide, the tide of corruption, the tide of low pay, the tide of indifference and injustice against the poor everywhere, if there were a reason to.

Well, this report gives them a reason to. If their own higher-ups are demanding the data, you can imagine the very asking of that

question might cause a few people to scurry around. And it wouldn't take thousands of prosecutions; it might just take a dozen, for goodness sake. We are not asking governments to prosecute everyone involved or every corrupt individual, just enough to catch the attention of others who will modulate their activities accordingly.

So I think that the whole issue of data collection is actually key here in terms of using the report alone to make change. Never mind all the other really marvelous features of this law that provide help for the victims and assistance to governments of goodwill who are trying to do the right thing. I really think if governments are holding out on data, they themselves are not engaging in a key way of getting at the crime of trafficking and stopping the crime, which is why we are all here at the table.

Given the goodwill in the Executive Branch on this issue, I can't imagine that the law would actually have to be amended since it is a model of clarity as it is. But if it should have to be amended or if there were follow-up conversation between the Members and the Bureau and the Deputy Secretary, perhaps this issue of requiring that data be produced by governments that don't expect to get a failing grade would be one way to go about it.

A couple other very tiny suggestions, and then I will stop and let everybody go home after a long, though unusually important hearing, I would say.

You know, I remember the various efforts we made frequently together over the years to try to use the leverage of foreign aid to make change. What were the successful ones and what were the unsuccessful ones? Well, we need a couple hours for that; and I know you probably would like to stay that long, but the rest of the group would not, so I won't take you down memory lane about 20 years.

But I would direct your attention to the nuns' case in El Salvador, a case of high importance to every Member of this body and to our government, because four American churchwomen were raped and butchered by national policemen and other security officials in El Salvador in 1981. The Salvadorians just wouldn't prosecute that case because it implicated higher-ups. And finally Congress, which was willing—the majority, who were willing to provide continued large amounts of military aid, simply said, a portion of this is going to be held back until we get a conviction in that case. And, by golly, they did.

Congress held back—I can't even remember the numbers anymore; I am going to say 25 percent. It's been a long time. It doesn't actually matter what percentage. But there was this notion of, Congress didn't want to stop all of your foreign aid.

And, by the way, I have no problem with stopping military aid, but I am not a proponent of holding back humanitarian aid or other poverty alleviation assistance. And I know you have sheltered that in your bill quite appropriately. Putting this money in escrow is something that you might want to think about in terms of providing a little encouragement to those that do what is necessary to prosecute these crimes. And if they could get a little assistance after they do that, maybe hold back some of the assistance they otherwise would have gotten, it would be a way to go about this.

I might also add, just in terms of rewarding good behavior, another reason for including the data in this report is because there are so few rewards for doing the right thing in corrupt judicial systems and very poor judicial systems. This is one way to lift up and highlight and reward good example. You can simply name the cases where a police jurisdiction was cooperative in an investigation or a bust or a raid or a liberation, and name the brave magistrates who took these cases to trial. And it would be something that lifts them up above their colleagues and could even promote more—particularly if such cases there could be resources associated with doing that good work.

You know, I have no objection whatsoever to providing police and judicial assistance to governments of goodwill who are really trying, that need a little help. I would envision providing rewards precisely to those jurisdictions that are making a good effort. And then those rewards enhance the respectability and the value of prosecuting trafficking.

In closing, I would just direct your attention to seven recommendations for donors with regard to the global AIDS epidemic and violent transmission of HIV/AIDS through rape and sexual violence. It is an issue that the donors are largely not taking into account, but they lie at the heart of the spread of the pandemic, and I simply offer them for your consideration. Thank you very much. [The prepared statement of Ms. Burkhalter follows:]

PREPARED STATEMENT OF HOLLY BURKHALTER, ADVOCACY DIRECTOR, PHYSICIANS FOR HUMAN RIGHTS

Good Afternoon, Chairman Hyde and Members of the Committee. Thank you for inviting me to testify at today's important hearing. My name is Holly Burkhalter, and I am Advocacy Director of Physicians for Human Rights. Physicians for Human Rights is a Boston-based organization that investigates, researches and exposes human rights violations that impair health by employing the special skills, expertise, methods and authority of health professionals. I appreciate this opportunity to discuss the State Department's June 2002 report on Trafficking in Persons, submitted to Congress pursuant to Public Law 106-386, the "Victims of Trafficking and Violence Protection Act of 2000."

I appear here today not as an expert on trafficking but rather as one who has devoted much time to the question of how to use the leverage of U.S. foreign aid to promote human rights and deter abuses. Most recently, I authored a paper on the "Violent Transmission of HIV/AIDS" that proposed a number of ways that donors can use the stick and carrot of foreign aid to press governments to protect women and girls—including trafficking victims—from unwanted and unprotected sexual contact. (Center for Strategic International Studies, Task Force on HIV/AIDS, June 13, 2002.) Those recommendations are included at the end of this testimony.

Mr. Chairman, we in the human rights community as well as Members and Senators from both political parties were disappointed when the executive branch pulled its punches in last year's TIP report, the first to be issued pursuant to the "Victims of Trafficking and Violence Protection Act of 2000." Of particular concern was the fact that India and Thailand, among the countries that reportedly have the greatest incidence of official participation in sex trafficking, were placed on "Tier 2." As you know, "Tier 2" is the group of countries that did not meet the minimum standards for the elimination of trafficking but were judged as making significant efforts to do so. A candid factual determination at that time would have placed all three in "Tier 3" (countries that neither met the minimum standards nor made significant efforts to do so). If that candid determination had been made, the U.S. would have suspended its non-humanitarian foreign aid to those countries and voted against non-humanitarian loans to them in the international development banks.

I can only presume that the first TIP report was meant to represent a warning to these two countries. By not suspending their foreign aid, they were given a year's grace period (in addition to the year before the first report was issued) in which to

take actions that would have represented the “significant efforts” required by the Act. Two years is more than enough time for India and Thailand to have taken significant steps to meet the minimum standards in the Act. They did not do so. More precisely, they did not make “serious and sustained efforts to eliminate severe forms of trafficking in persons...” and they did not “vigorously investigate and prosecute acts of severe forms of trafficking in persons...” Indeed, they did not prosecute a single person for the crime, as near as I can tell. But the executive branch was not willing to say so frankly, either last year or this year.

Mr. Chairman, the Congress was extremely clear about its intentions to deny non-humanitarian foreign aid to countries that did not make a serious and sustained effort to end sex trafficking, and it was extremely clear about what those efforts should entail. Section 108 of the Act states that to meet the minimum standard, a government must make “serious and sustained efforts to eliminate severe forms of trafficking in persons.” Leaving nothing to the imagination, the Act goes on to instruct the executive branch, in determining how “serious and sustained” a government’s effort was, to consider whether the government “vigorously investigates and prosecutes acts of severe forms of trafficking in persons and whether the government “vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.”

Meeting this requirement is not an impossible task. The Act does not require a government to hold elections, protect minority rights, end human rights abuses, or eliminate poverty. Moreover, it does not even require governments to eliminate trafficking, nor does it require that they end all official complicity in the crime. It only requires that they make a serious effort to do so, as measured by the barest exercise of authority: investigating and prosecuting at least some persons involved in trafficking, most especially its own police, customs, and immigration authorities.

Sexual trafficking, including child prostitution, unlike other forms of commerce, can only take place when government officials tacitly permit it or are themselves actively involved in the practice. The reason why is clear, as Gary Haugen of the International Justice Mission has stated so eloquently. Trafficking in women and children requires the commission of multiple felonies (including abduction, rape, and illegal detention) in full view of the public. Indeed, the victims of these multiple crimes must be offered to the public on a daily basis. This would not be possible if public officials were not either turning a blind eye or actively participating in the crimes. To stop the practice would not require that every corrupt or abusive policeman or immigration official be prosecuted. A handful of highly publicized cases and a flurry of serious investigations would concentrate the minds of law enforcement, customs, and immigration officials, and could have disproportionately large consequences.

If the executive branch had made a robust effort to find out precisely how many investigations, prosecutions, or administrative actions had been taken to discipline government officials for participating in trafficking, the very inquiry could have yielded important results. Trafficking and child prostitution flourish because the authorities are not remotely interested in abuses against the poor—especially poor women and girls from other countries. If, however, at the insistence of diligent Embassy investigators, national and federal authorities had demanded of governors, police chiefs, mayors, and other officials hard data about the number of actual disciplinary endeavors they had undertaken, it might well have spurred heretofore unknown actions on their part.

If the executive branch did in fact solicit such information—and it may have done so—that information is not reflected in the TIP report. This year’s report indicates that “investigations and prosecutions are rare, but increasing.” They are certainly rare: indeed, we know of none. Yet details on the supposed “increase” are not forthcoming. How many prosecutions—of whom, in what location, and for what crime—have been completed? If the Administration has such information, it would support their case that India and Thailand are “making significant efforts” to eliminate the practice. Without such information, the case is wholly unpersuasive.

By giving India and Thailand a passing grade, the executive branch failed the victims and the Congress in more ways than one. First, the Bush Administration has squandered a very important tool for encouraging life-saving change in those countries: factually reporting the truth. By refusing to state plainly that India and Thailand have prosecuted not one single person, have fired or disciplined not one single policeman and has thus failed to meet the Act’s definition of “serious and sustained” the executive branch of the United States has largely nullified the stigma and embarrassment that are so vital to promoting change.

Even worse, by including governments that have prosecuted and punished no one in the category of those who are making respectable efforts to eliminate vile crimes,

the Bush Administration has effectively said, “your record is good enough.” By rewarding governments that have done absolutely nothing to stop grossly cruel practices with exactly the same designation on the List as governments that actually have taken concerted action, the Administration has trivialized progress and rewarded recalcitrance. I am very sorry to say that the extraordinary opportunity this bill offered for promoting actions that could save the lives and health of many women and girls has largely been thrown away.

This was wholly unnecessary. The Bush Administration, presumably, did not wish to suspend non-humanitarian foreign assistance from two allies, India and Thailand. It is not difficult to understand the foreign policy considerations that informed a judgement. But the law permits the President to waive the mandatory sanctions. Section 110(5) states that the President may continue providing assistance to those countries that have failed to make significant efforts to bring themselves into compliance with minimum standards if the continuation of such assistance would promote the purposes of the Act or is otherwise in the national interest of the United States.

Since the President did not have to fudge the report and reward poor performance in order to maintain foreign aid, given the waiver authority, I can only assume that the Administration also did not want to embarrass these governments. If there was a crime for which governments should be shamed, it is this one. Trafficking in persons, and particularly sexual trafficking of women and girls, is participation in slavery and it is largely preventable. That the United States Government refuses to embarrass allies that have refused to discipline even one of their officials for participating in the worst form of slavery—a crime that destroys the health and lives of hundreds of thousands of women and girls—is indefensible.

Chairman Hyde, I have drafted or worked on a number of human rights provisions of various foreign aid authorizations over the past two decades. I worked for what was then known as the House Foreign Affairs Committee as staff of the Human Rights and International Organizations Subcommittee when legislation was enacted placing human rights conditions on U.S. military aid to El Salvador in 1981. Since then, I was associated with efforts to place human rights conditions on police aid to Guatemala during a period of extraordinary abuses, to condition on human rights grounds aid to the Duvalier regime in Haiti, to place human rights conditions on aid to Kenya in the late 1980’s. I testified before this Committee many years ago regarding human rights conditions on U.S. military aid to Peru at the height of then-President Fujimori’s abuses. I promoted human rights performance standards for police aid, anti-narcotics, and anti-terrorism assistance in the 1990’s.

The value of these measures in actually reducing abuses varies, but in most instances, human rights conditions on foreign aid and the reporting and certification requirements that accompanied them provided increased opportunities for the executive branch to leverage human rights improvements. That does not mean that aid should have been provided to abusive regimes. In my view, if a country does not meet the conditions of the law, foreign assistance—particularly military aid and untied government-to-government support—should cease. But even on those occasions when the executive branch maintained assistance to abusive regimes, human rights conditionality played a part in promoting some human rights reforms.

There are many examples, but one that I remember as being particularly useful—and a model for other conditionality regimes that followed—was the certification for U.S. assistance to Kenya, enacted in November, 1990. The law required that then-President Bush certify that the Kenyan authorities had met four human rights conditions before an estimated \$7 million in economic support funds and \$8 million in foreign military financing were released. The conditions were that the Kenyan government take steps to charge and try or release all prisoners, including any persons detained for political reasons; cease any physical abuse or mistreatment of prisoners; restore the independence of the judiciary; and restore freedom of expression.

These conditions, along with strong Congressional interest in Kenya, an outspoken human rights champion at the U.S. Embassy (Ambassador Smith Hempstone) and donor disgust with the Moi Government’s increasing corruption, together contributed to important human rights reforms. The Kenyan government, while it never became a democracy, did in fact carry out the steps required in the law. Virtually all political prisoners were released, political parties were legalized, and banned newspapers were permitted to resume publication.

In my view, the Kenya human rights conditions were particularly effective because they required precise and measurable actions. Unlike human rights conditions on aid to El Salvador a decade earlier, with its murky language about “improvement,” the Kenya conditions were practical and clear: either the government was releasing political prisoners or they were not. This is the kind of prodding that neither Democratic nor Republican Administrations like, but they are the most effec-

tive way of going about placing human rights conditions on foreign aid. The Victims of Trafficking and Violence Protection Act of 2000 is similarly precise, and, no doubt, similarly irritating.

The Bush Administration today is not, of course, the first Administration to find human rights conditions on foreign aid unappealing, and it is not the first to fudge the record or employ weasel words so as to avoid embarrassing allies. Physicians for Human Rights was publicly critical of Clinton Administration officials (including in testimony before the Senate Foreign Relations Committee) for example, for refusing to use the words “war crimes” to describe what was undeniably occurring during the complete destruction of Chechnya.

The Reagan Administration’s experience with human rights conditions on El Salvador was a bitter one. Congress was sharply divided over the Administration’s commitment to provide military aid to the Salvadoran army and police. Human rights organizations hotly disputed the executive branch’s factual findings of “progress” in twice-yearly reports that certified the human rights improvement that was required for U.S. military assistance to continue flowing. Then, as now, the full Committee held hearings and brought public and private witnesses together to wrestle with the facts of a country’s human rights record.

The early 1980’s were a terrible time for Salvadorans, and I would not minimize their suffering by looking for a silver lining. But for our purposes today, it is important to note that the human rights conditions that this Committee placed on U.S. military aid to El Salvador did give the Reagan Administration a tool to use, whether it was wanted or not. The so-called “death squads” were responsible for thousands of horrifying deaths of noncombatants. The human rights conditions placed by Congress on aid required that the army and police sever their links with the death squads. In fact, the death squads were none other than the security forces themselves, and Members of Congress from both sides of the aisle made it plain that the death squad killings had to stop or foreign aid would be seriously reduced. In 1983, Vice President George Bush traveled to El Salvador and met with the army and security forces’ high command. While many abuses continued at high levels for many years, “death squad” killings—that is, killings by the military and police in plain clothes—stopped.

It has been nearly twenty years since Congress and the executive branch struggled over the factual accounting of a country’s human rights performance, with foreign aid hanging in the balance. I would like to think that we were well beyond the obfuscation, phony progress, and shell games that so embarrassed the executive branch in the past. The India and Thailand sections of the TIP report are a throwback to that era, and a very unwelcome one.

It has been suggested by some that the Victims of Trafficking and Violence Protection Act should be amended to make it impossible to fudge the record of the world’s worst trafficking violators. It should not have been necessary to amend this excellent Act to persuade the Administration to report factually, given the authors’ clear interest in accountability for trafficking. But given the disappointing performance and the lack of precise information on the most important measure of a government’s response, the law could be amended to require the TIP report to include the number of investigations, prosecutions, and convictions imposed upon persons involved in trafficking, and the number of investigations, prosecutions, convictions, and administrative punishment of government officials involved in trafficking. The cases should include the names of the victims and the perpetrators, and the sentences and administrative punishments imposed.

In the meantime, I think that it is vitally important that Congress signal its discontent with the State Department’s disappointing performance in the current report with regard to honesty about accountability in the countries with the largest trafficking problem—India and Thailand among them. This Committee should return the report to the Secretary of State with a request for details on the allegedly “increasing” number of investigations, prosecutions and dismissals of corrupt and abusive police and other officials involved in trafficking. If the Administration is unable to provide such details, (and in numbers that would satisfy the terms of the legislation) Congress should take matters into its own hands and act upon its convictions. It should zero out the foreign assistance to India and Thailand that is not sheltered in the Act when fiscal year 2003 foreign aid appropriations are considered.

In conclusion, I would like to say a word about the health implications of rape and sexual violence. It is impossible to imagine a crime more injurious to the mental and physical health of women and girls than forcing them to endure daily or even hourly rape and sexual violence in conditions of forced prostitution. Sexually transmitted HIV/AIDS makes it likely that these daily abuses will be a death sentence for such women and girls within a matter of years.

Six years ago, Physicians for Human Rights issued a report on trafficking and child prostitution in Cambodia for the World Congress Against Commercial Sexual Exploitation of Children, held in Stockholm. Even then, the vulnerability of women and girls in the sex trade to HIV/AIDS was clear. As men increasingly requested virgins to avoid the risk of AIDS (or on the mistaken notion that having sex with a virgin will cure one of AIDS) the demand for ever-younger girls increased. The spread of AIDS among them can be seen even a decade ago: in 1992, the Cambodian AIDS Programme found that 9.5% of female commercial sex workers were HIV-positive. By September 1995, 37.9% were HIV-positive. A 1996 survey by AIDSCAP/University of Washington found rates of infection among commercial sex workers of 50% in Phnom Penh, 47% in Battambang, and 52% in Sihanoukville.

The international community is at last beginning to discuss the enormous sums of money that are required to stem the epidemic. Yet neither donor countries nor governments of HIV/AIDS-inflicted countries appears to have addressed women and girls' vulnerability to HIV/AIDS through violent transmission. It is past time that they do so. I have proposed a number of donor strategies to address rape and sexual violence, including trafficking, in the age of HIV/AIDS. Those recommendations follow.

1. Donors should endeavor to provide funding for the prevention, care and treatment of HIV/AIDS and other infectious diseases under all circumstances. In extreme cases, such as Burma, foreign assistance to address HIV/AIDS can and should be given to independent nongovernmental organizations, but funding the government directly is clearly inappropriate. Donors should use the leverage of foreign aid to reward human rights reforms that effectively combat the spread of AIDS through sexual violence. In cases where governments are complicit in the violent transmission of HIV/AIDS through trafficking, rape and other occasions of sexual violence, donors should consider withholding those funds that go directly to the authorities in the form of large infrastructure projects, military aid, or untied debt restructuring until they take necessary steps to protect women and girls from sexual violence. U.S. law already makes this linkage by requiring governments to end official complicity in sex trafficking as a condition of receiving certain forms of bilateral assistance.
2. International development agencies and donor governments should enlarge their understanding of "good governance" to include equal access to the protection of the law for women and girls. Good governance is the rubric increasingly used by the World Bank and other donors to assure anti-corruption measures, transparency, and fiscal accountability. But in the age of AIDS, donors should take a hard look at failings in governance that deny women and girls legal rights to property and access to education and health care. Good governance should include, as well, ending police complicity in trafficking and child prostitution, and prosecuting and punishing rape and sexual violence in both conflict and peacetime.

The World Bank has just unveiled a new program to integrate gender into its lending programs in the context of poverty reduction. A key component is a country-level gender analysis to identify "critical areas in which gender-responsive actions are likely to enhance growth, poverty reduction, and well-being in a particular country." The Bank proposes that Country Gender Assessments include a profile of laws, institutional frameworks, norms, and other societal practices that lead (implicitly or explicitly) to gender discrimination and/or gender inequality. A measure of the Bank's seriousness about governance and women's rights will be its candor on such questions as police involvement in trafficking and child prostitution, prosecution of rapists, and government support for legal reforms to assure women's right to property. The Bank should instruct its country teams to include in the Country Gender Assessments a baseline assessment of violence against women and girls that identifies concrete failings in governance that contribute to the problem, and correlate their findings to the spread of HIV/AIDS. Such an assessment can then be used to leverage reforms and fund best practices and should be the topic of conversation at every donor meeting and debt restructuring round.

3. The World Bank and other donors can also contribute significantly to protecting women and girls from the violent transmission of HIV/AIDS by funding women's economic empowerment. Income generating activities can offer options to women who engage in "partially consensual" sex in exchange for food or money. Such programs could of course benefit rape victims, dependent wives, widows, and commercial sex workers, as well. Providing women and girls with economic choices should be seen as a life-saving HIV/AIDS

prevention strategy, and integrated into the World Bank's development and health strategies.

4. Donors and African leaders alike should work with community groups, religious leaders, traditional leaders, teachers, and others to promote women's personal, political, and economic empowerment stigmatize violence and domestic abuse. The Ugandan case has demonstrated that many forces promoting responsible sexual behavior, including, abstinence and fidelity, can indeed have an impact on changing social behaviors by creating new social norms. And the case of Botswana has shown that even with resources, committed leadership, public-private partnerships, and a comprehensive country strategy, unless both men and women recognize and respect a women's right to negotiate the terms of sexual contact, the pandemic will continue to spread.
5. Donors should also scale up assistance to hundreds of small local organizations in Africa and Asia that provide humanitarian, legal, social services, and training in income-generating activities to women and girls. Local women's groups in Africa, Asia, and the Caribbean are vitally important to the work of assuring women's human rights in the context of HIV/AIDS, and the Global Fund and individual donors should find ways to support them. Development of microbicides and distribution of female condoms could help millions of women protect themselves from HIV/AIDS infection and should be generously supported. But these woman-controlled physical barriers to infection are not a substitute for women's right to avoid unwanted sexual contact. Donors should provide assistance to humanitarian groups that offer shelter for rape victims, child prostitutes and trafficking victims. They should fund legal reform initiatives that eliminate discrimination and assure women's inheritance, and consider offering judicial and police training to curtail rape and sex trafficking. Such projects are life-saving measures in the age of AIDS and should be front-burner funding priorities for the U.S. and multilateral donors.
6. The newly-formed Global Fund presents its own opportunities to address the issue of violent transmission of HIV/AIDS through sexual violence. One of the most innovative features of the Global Fund is its requirement that governments design country-wide, comprehensive HIV/AIDS, malaria, and tuberculosis strategies in consultation with local civil society organizations. The Fund's Technical Review Panel inspects the resulting Country Coordinating Mechanisms closely to assure that such consultation and collaboration actually takes place. The Global Fund has only funded one round of proposals, and it is thus too early to pronounce the experiment a complete success. It is nonetheless clear that the process has forced certain governments to consult nongovernmental organizations for the first time in their history.

The Global Fund mechanism is an excellent way of using foreign aid leverage to widen the political space for local civil society to flourish—a condition that is vital to the success of any HIV/AIDS prevention and treatment strategy. The Fund should insist that human rights and women's rights organizations be included in comprehensive country planning. The resulting country strategies for addressing infectious disease comprehensively should be scrutinized for their attention to protection of women and girls from violent transmission and good government practice with regard to gender equality.
7. Another strategy to accelerate protection as a form of prevention would be for donors to amass additional reserves to make substantial grants or provide debt relief to governments that have responsibly addressed the issue of sexual violence and discrimination. A "pot of gold" for governments that endeavor to protect those most vulnerable to contracting HIV/AIDS through sexual violence could highlight and reward best practices in such areas as prosecuting rape, ending trafficking, upgrading women's legal status, assuring women's access to reproductive services, and promoting public education about women's right to deny high-risk sexual contact. The G-7 should such a new funding mechanism a priority, and commit resources to it at their next summit meeting.

These strategies by donors will not end discrimination and violence against women and girls in HIV/AIDS-affected countries, nor will they assure that governments act promptly to prosecute combatants for rape in war or liberate children from prostitution. Moreover, the most obvious ways of combating sexual violence—ending government complicity in trafficking or rape in conflict—does not immediately address the vulnerability of the largest number of women at risk of con-

tracting HIV/AIDS: wives who only have sex with their husbands. But donor interest in the violent transmission of HIV/AIDS and insistence upon government strategies to address the problem could help motivate governments to take steps to meet the goals they agreed to in the General Assembly Declaration of Commitment on Global AIDS. The success of such efforts will likely be directly proportional to the wealthy countries' own seriousness in providing the \$7-\$10 billion or more per year to combat the epidemic.

Mr. SMITH OF NEW JERSEY. Thank you very much for your testimony. And you have done fine work.

You mentioned El Salvador, and you worked on that when you were here, that conditionality. I will never forget in 1984, when I was in San Salvador meeting with our Ambassador, but more importantly with President Duarte, and I asked him what he thought about the human rights' conditions on AIDS in El Salvador, and he said, keep them; it helps me within my own government.

So, just like the nuns' case—I mean, there are bad actors even in the government that—and I think he made a good-faith effort to provide a good government. Some may disagree. But he wanted those human rights conditions, and said so very candidly. And while we fight, Democratic and Republican Administrations who always say, no, that is counterproductive. I think 99.9 percent of the time it is very productive.

Just like the naming of names in this legislation. This legislation was almost defeated, and it would have been defeated by killing it in Committee or killing it and never getting it onto the floor because we insisted on naming names. Thankfully, it was done in a bipartisan way, so we had actors on both sides of the aisle pulling on the oar, and that is very important.

I do have a couple of questions, not many because your testimonies collectively have been thoroughly comprehensive.

Frontline NGOs, like Congresswoman Smith, what kind of risks do you, your workers, and the women and girls themselves take? I mean, obviously there has to be a retaliation factor. And how do you encourage the governments—and we do this, I do it—every parliamentarian I meet, every government official I talk to, I bring up not just the women and trafficking and the idea of treating them as victims, but also this issue of retaliation against the NGOs and the frontliners who are out there.

We know that, for example, in St. Petersburg, Russia, in meeting with some of the NGOs that do business there, they have been threatened—the women themselves get threatened, their families get threatened, but also those brave souls who step up to the plate to protect the women get threatened.

What about your experiences, Ms. Smith? And perhaps Gary or some of the others might want to touch on that as well.

Ms. SMITH. I don't call myself an authority on anything, Representative Smith, because I don't think 4 years gives me that. We have had some experiences where we have lost girls that have decided that they are going to go back and tell other girls that there is a place, there is a safe house. We have had one moved.

As we get larger—we are Teen Challenge International in Bombay, and we were just written up as being the largest NGO in that area under Teen Challenge. We are less likely to be touched when there is more visibility.

I think, though, that we have to remember that we do put those that are working with us in jeopardy if we are not careful. We can do things in some of these countries, and after 4 years there are some things we have done that I am proud of and some that I wouldn't do again. But when we leave, they are still there. As long as there are police corruption and those who make money at the lower levels, and the upper levels of India say, well, we don't have good coordination, we have very bad cover at the lower levels and our people are in danger.

So I think the important thing that I heard today from the Under Secretary was this: There is not good coordination in India between the higher levels and the different jurisdictions. They need to have one, and they need to have prosecutions of lower-level officials and higher-level officials to understand that retaliating against people that are fighting trafficking is an offense, and it will give us some cover; but right now, we just know that we take risks, and they are worth the risk.

Mr. HAUGEN. I would just add that, as everyone knows, in a society, the scariest thing is a police who is on the wrong side; and that we feel most exposed, most vulnerable when we sense that the police are part of perpetrating the crimes. But the police, as scary as they seem, are very accountable to their political superiors, and they will respond to the priorities of their political superiors, about what it is they are required to report on. And it would significantly change our sense of protection out in the field to know that the very highest authorities in the land were sending the message all the way down to the street-level police that, I want to know whether the police are getting dismissed from complicity with these crimes, and I want to see whether or not you are collecting evidence and prosecuting in such a way that you actually convict someone.

A lot of our girls that we interact with in the brothels, in some of these police raids, are very reluctant to come out because they are totally scared of the police. We will go on police raids and bring the police with us—usually it is a secure group of police that we have worked with before and we can trust.

But many times the girls will see that police party girls that have been visiting—I mean, police that have been visiting the brothel and protecting the brothel. They do do raids, but it is usually just for the purpose of extorting more money out of the brothel keepers.

But what will change that? When the idea that the police who are in the chain of command understand that the bosses up top want to see prosecutions succeed, and they want to see dirty police dismissed.

Mr. SMITH OF NEW JERSEY. You know—yes, Ms. Poudel.

Ms. POUDEL. My opinion is a little different. I think in my country there is very poor nutrition and people are not educated. Most important is education and it should be a first priority.

First of all, we go to the very root area, not like the police who they say go to the root area where the girls come from the village. We have to stop at that point and we have to give them education and some economic resources, like training or income-generating programs.

Mr. SMITH OF NEW JERSEY. I am just thinking out loud, and appreciate your thoughts on this.

When we began looking as a Committee and we had some seven hearings on it, the issue in Northern Ireland. One of the issues that jumped out—it wasn't just the extremism on the part of the IRA or the other paramilitaries on either side of that conflict—it was policing the collusion that we found, and the corruption in the police department that was aiding and abetting and creating a climate where this impunity could continue.

Perhaps we need a new initiative—and you have already said it in so many words—in the area of policing. I mean, put the heavy emphasis on the prime ministers, parliamentarians, and everybody in between, the attorneys general, but focus as well on police as being the point of contact and the point of corruption that facilitates these horrendous crimes.

I know for a fact that we do train a number of police. There are all kinds of cooperative efforts between the U.S. and other police departments. As a matter of fact, one amendment I had relative to Northern Ireland was that there could be no more training of the RUC (Royal Ulster Constabulary), from Northern Ireland at Quantico unless they were vetted and properly vetted to make sure that they are not in collusion with terrorists.

Perhaps we need to look at an initiative on police and use every venue imaginable, because there is an interface on an ongoing basis between New York police and everyone else with regards to this issue, to try to get at it and make this another avenue of attack. And certainly reporting on the number of police who have been held to account is the barest minimum to begin to get a handle on just how large in scope this is, as you have indicated.

Mr. HAUGEN. If I could just comment, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Yes.

Mr. HAUGEN. There is no way to combat trafficking that leaves out the police. The brothel keepers and the traffickers care about one thing, money, and whether they will go to jail. Whether they will go to jail depends upon whether or not the police on the street are on his side or not.

So the great problem now is the police, but the great hope is the police. And whenever we rescue girls that are in forced prostitution on raids, we do it with police. You can't do it without police. And so they are, in fact, the great hope, and there are wonderful ways to radically change the way police do their job.

Here in America 100 years ago, in an urban setting the police were thoroughly corrupt, thoroughly protective of forced prostitution within our own country. There were steps that were taken to improve that, and we are continually trying to do that.

But it is not all dark and dreary. There can be drastic change by addressing the police.

Mr. SMITH OF NEW JERSEY. Frankly, are we doing that? Are the U.S. State Department and other agencies of the U.S. Government promoting that, as far as you can see?

Mr. HAUGEN. I would just say that, right now, in the countries that we work in, the priority of dealing with sex trafficking has not been communicated down to the police. And this is part of the—one of the questions I would want to ask Secretary Dobriansky is,

where in the government are you interfacing? Because if you are meeting with the commissioner of women's affairs or something, someone within the government or someone who is most likely to be sympathetic, you are going to get most earnest responses.

But the question is, are you meeting with the people who—the general in charge of the entire police of the country? Do you have commitments from him? Do you have a sense of understanding that he understands his police force is riddled with people who are making money off this? What is the point of interface? And, as far as I know, there perhaps has not been as strong a direct interface with police and military who, in these countries, control who goes to jail.

Mr. SMITH OF NEW JERSEY. Would anyone else like to comment on that?

Ms. BURKHALTER. The only additional thought is, you don't want to forget about Customs officials and immigration officials in terms of complicity, particularly when you are talking about people moving across borders.

My testimony focused on child rape, child prostitution. But in terms of bringing people in and out of sovereign nations, the role of your Customs and Immigration and Border Patrol and Border Police and oftentimes military forces play that role in countries, particularly those that are in conflict or newly out of conflict. So don't forget to interface with them, particularly when you are talking about the movement of people. Let me speak just for a moment about another issue I was much involved with last year, conflict diamonds. It is pretty hard to find a way to monitor conflict diamonds coming across a border. They are little and they are valuable, and you can put a whole bunch of dollars' worth of them in your mouth.

Transporting people across a border, on the other hand, is a little different. You know, they are pretty visible, and thus you have to have official complicity for this to really go on without interference.

Mr. HAUGEN. Can I just add one word on that?

Ms. BURKHALTER. Please.

Mr. HAUGEN. Just that police are maybe 75 percent of it. The next 25 percent of getting to the goal line is the prosecutors and the courts who actually need to convict. And so there is a tremendous role of the U.S. Government being able to assist, either through its own resources or through NGOs, hands-on training of prosecutors and courts, because we are in countries where they have never done this successfully.

So lawyers never do anything for the first time; they go find a friend who has done it before and figure out how to do it.

In these countries, they don't have that person to go to, and so there is a significant need for training of prosecutors in the courts in a hands-on practical way.

Mr. SMITH OF NEW JERSEY. As you know, Mr. Haugen, again, the legislation that we have contemplated, at least some of that is providing an authorization for \$10 million for that kind of program in other countries. So I would hope that we would fully implement it. We have got to get a better accounting as to how that money is being spent. Maybe we need more.

Yes, Ms. Hughes.

Ms. HUGHES. Yes. I would just say that I agree with that. In my experience in the Ukraine, although certainly there are some very good police officers who really want to do the right thing, the majority of them that I interviewed really just didn't think there was a problem at all of trafficking of women, and had many excuses to either blame the victim or say the problem simply didn't exist.

In one particular case, I went with my research partner to a nightclub which was known to have underage girls performing sex acts there and was a site of recruitment by traffickers. The owner came and sat down and had dinner with us, and then the regional prosecutor joined us as well, as his best friend. So that showed us right there that there really was not going to be much action taken against what was happening in that nightclub.

Mr. SMITH OF NEW JERSEY. Yes, Ms. Poudel.

Ms. POUDEL. Yes. In my experience, we have open borders with India and Nepal. Our governments, also with police, they try to assist also. Every day people pass across the borders, because they say, my wife is sick, my sister—she is sick, or we are going to visit somebody in India, and it cannot be stopped.

In my country we need education of our nation like a health assistant to go to the villages—an earnest program like that. This is my experience with how to work.

Ms. SMITH. Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Yes.

Ms. SMITH. I had two things that I did want to address, and they are now a little beyond the time where they were addressed. One, the RFP.

Last year, the funding for this bill was extensive, focused on Shared Hope International and the World Trafficking Alliance, and we spent all year trying to make sure that the money was appropriated, working with Chairman Wolf's office extensively. We were pleased with what came through.

My concern is that money is not being distributed. The RFP from the State Department, Justice Department, and others—the money is still there. I am out there working and thinking that we need the training that an International Justice Mission (IJM) could do. I mean, they do a great job in places we are—and why aren't they training the policemen? I come back home and I find out, there is \$10 million sitting there waiting for bureaucracy to give it out. I guess it is bothering me a little bit.

If I were a Member, I think I would be knocking on the doors, and I would imagine you are. We need to get that money out there to credible groups that are doing the work, not just to ones that will talk about it.

It appears what has been happening with money is, often it has been at the level of the Ambassador, and they pass out condoms in some places, they do things, but I don't see any real strong programming. I would like this Committee to please take a look at those RPFs, get the money out to groups like IJM. We don't have an RPF, so I can say this.

The other thing that I would like to bring to your attention is, I am very concerned about that Korean incident with the military. Maybe not so much the military as the issue of the airport. If they were lining the women that were coming off of the airplane at the

airport along the side to be sold at auction, somebody had to be involved in that—immigration officials, Korean officials.

It is an airport, it is an international airport; and it appears it was done publicly and in front of everyone.

Why was Korea given a number one rating when they have an airport that has public auctions of women at the airport? I think that is a very serious issue of omission by the State Department—our side. But also, I think that the issue of Korea needs to be visited.

When I saw that tape, and I just saw it from your office, the issue of our American military is very serious, but the bigger issue to me was, they take them aside, line them up at the airport, and then auction them. Now, tell me that that isn't visible.

So I think that we have got a real, real issue with our officials accepting this, because we are very visible in the airports in these countries, and we have officials there also that had to have known it besides the military.

Mr. SMITH OF NEW JERSEY. I appreciate your bringing that up. We will get to the bottom of that. I mean, the request has been made of Donald Rumsfeld, our Secretary of Defense. It still has not been answered.

Earlier today Secretary Dobriansky, I think it was, who said that a letter will be forthcoming, or maybe it was the Ambassador, to us, explaining it. But orders need to be issued and cut immediately, if they are not already out there, on an absolute cessation and even a prosecution to the fullest extent of Korean law or any other breach, military order, code of conduct breaches, to ensure that those who have committed these crimes—I mean, on the tape, as you saw, I am sure, a member of the military police acting as a courtesy patrol, talking about how the standard operating procedure, the passport is taken away, these women are taken in captivity, and are offered.

Ms. SMITH. And lined up at the airport.

Mr. SMITH OF NEW JERSEY. And lined up at the airport.

Ms. SMITH. You know, Mr. Chairman, what bothered me about that whole thing was this—it was very clear everyone knew. But also what bothered me was our—the statement earlier today where she said, “We will issue a letter on it.” Today, right now, as you and I are sitting here, women are being auctioned, and they are talking about issuing letters. So I guess it is a concern to me that they act quicker than issuing a letter.

Mr. SMITH OF NEW JERSEY. Well, you know, in all candor, one of the reasons why we had the implementation hearing last fall was that we were unhappy with the pace of implementation. Of course, September 11—and Mr. Pitts did ask the question about that, whether or not the war on terrorism had a chilling effect or caused us to operate at less than optimum speed on this. The TBs have still not been issued.

The final regs, I understand, are in final—they are on final approach here, but they should have been issued much sooner so that women could garner the protections as envisioned by the law.

So hopefully this goes a little faster now. You know, we have been through this now the second time. I mention—and I would encourage all of you as very, very influential and knowledgeable non-

governmental organizations and individuals to encourage the Department to issue interim reports.

I mean, this isn't something that just shouldn't come around every year, like the country reports on human rights practices—which is a very good document—but information, as it becomes available, particularly when it becomes available in a way that is compelling, either way, ought to be issued as a report as envisioned by the statute.

So you know, for example, much has been stated about Thailand and India and Vietnam. Hopefully, the Department will go back and get out the documentation and have a second look at that.

You know, this is not frivolous criticism; this is very constructive criticism by people who care deeply and have sacrificed their time and their lives working on these issues. So you know, there are members of the Department here. I hope they would relook at those countries with an eye toward a revision, and a revision would be toward Tier 3, based on the documents and based on the documentation, as you would say, you know, looking at those tapes.

But both of you have provided—and others that I have seen, as well, it just absolutely breaks your heart. And to see the cop getting his cut, Gary, is very disturbing.

Let me just ask Ms. Burkhalter. You mentioned the UNICEF numbers, I think it was 2 million children that are unfortunately put into this terrible exploitation. In terms of the AIDS transmission, are there any numbers on how many of these children are getting AIDS, or other STDs, but especially AIDS?

Ms. BURKHALTER. No. And to my knowledge, no one has done the kind of public health data collection on AIDS prevalence among child prostitutes. And to be honest with you, that would be a very difficult—ethically speaking, that would be a very difficult study to do, because those children are torture victims. And to take data about their situation while they are there is something I think health professionals have a lot of difficulty doing.

But I think we can assume that anybody in prostitution has a very good chance of getting AIDS. I can't tell you what that chance is. But just to give you a sense about the exponential spread, we had a report on child prostitution in Cambodia in 1997, which are the earliest figures we have and AIDS prevalence among prostitution went from, like, 11 percent to 35 percent in a couple of years. And so when you consider that the CIA is estimating that the entire number of cases of AIDS in Africa is going to double by the year 2005 or 2006 just because of the prevalence in Nigeria and Ethiopia alone, you can see that people who are having nonconsensual sex 20 or 25 times a day or 6 or 10 times a day are going to be very vulnerable to AIDS. As you know, women are much more likely to be infected through sexual transmission of AIDS than men, which is part of the reason why prevalence is higher among women.

But I would also say that the technical responses of female condoms and microbicides, as helpful as they would be for married women to be able to use them if they have the choice—this does not get at women who have no choice, none whatsoever.

AIDS prevention, education, and strategies, particularly insisting upon condom use, cannot help those least able to negotiate the

terms of reference. That applies, by the way, to many married women, as well, in Africa and in Asia.

But particularly vulnerable, more vulnerable than any, I would think, are children in the sex trade who have no possibility of negotiating condom use that could save their lives.

Mr. SMITH OF NEW JERSEY. Yes.

Ms. HUGHES. I can give you some information that I just got from Steve Cook, who is the International Organization for Migration representative for Ukraine and Moldova, and they are assisting about 50 victims returning each month. And he said, 100 percent have sexually transmitted diseases. He didn't say what percentage of that was HIV, but 100 percent have some type of sexually transmitted infection.

Mr. SMITH OF NEW JERSEY. Are there any other comments any of you would like to make before we conclude the hearing?

Mr. HAUGEN. I, on behalf of the International Justice Mission, would like to echo Holly Burkhalter's comments about our commitment to engage constructively with the State Department on this. We appreciate the way Secretary Dobriensky has had an open door for us.

We feel like it has been a constructive give-and-take. Sometimes we are giving, obviously, in a critical way. But we feel like there has been an open door to that, and that this something that can get better. And for the International Justice Mission's part, I just want to say for the record that we have appreciated that very much.

Ms. SMITH. Mr. Chair, I would echo that, that I think the relationship especially with the Ambassador—excuse me, with Paula Dobriensky is a very open door. Not that the other levels aren't, it is just it has been an office in making that she has put together. She was a part of forming the summit idea last year, of having a summit, a world summit right here in Washington, DC, and worked with Chairman Wolf on getting that funded.

And now the World Alliance, of which International Justice Mission, Shared Hope International, Johns Hopkins University, Projection Project, and Salvation Army are the leaders. We are in cooperation with them in forming a summit where we can bring these people together who have not been able to be anywhere other than in isolation in their own countries, the real people that are doing the work.

And if there is any criticism I have had, it has been that often we get the reports and they come from the Ambassador level, and that level really doesn't have a clue of what is going on. And so our reports are insufficient because of that. We believe that the world summit, in cooperation with the State Department, will be able to bring together greater knowledge and also better and more open reporting, because many of these groups will not tell us anything, as well to their governments, because they are frightened of what will happen to them.

So we believe this will shine light on the issue. And the State Department and Under Secretary Paula Dobriensky have been a leader in that. So we are looking forward, all of us, to working with them and have a meeting tomorrow to bring this effort forward.

Mr. SMITH OF NEW JERSEY. Yes. Professor Hughes.

Ms. HUGHES. I would just like to second that about Paula Dobriansky's office. I have met with her on a couple of occasions. She and her staff have been very open for comments.

Mr. SMITH OF NEW JERSEY. Let me conclude just by reminding us that the Foreign Ops appropriations bill—I mean, Mr. Wolf has been very generous with his part. But last year I offered an amendment to provide \$30 million to fully fund the sections that are in the Foreign Ops part. That is for the purpose of assisting countries overseas in the development of their laws and policies.

It passed unanimously. I don't think there was a single vote against it, 400 and something to zero. It got into conference, and we lost a third of that funding. And part of the argument coming from the professional staff of the Foreign Ops Committee and others was that they can't absorb this money. And I said, that is why we designed the legislation and that is what we want you to think about new initiatives.

And, again, we will have another fight on this on the floor, and they will probably say, oh, we only need 20 million, not 30, or something along those lines.

I encourage you to be in touch with the appropriators, particularly the Chairman and the Ranking Member, to fully fund the authorized levels and to exceed it, get a waiver and exceed it. It seems to me that we can be building shelters until the cows come home, and we will not have enough shelters to help those women who are in need of rescue. So I just encourage you to help us on that as we go forward.

The hearing is adjourned. Thank you very much.

[Whereupon, at 4:48 p.m., the Committee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BENJAMIN A. GILMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

Thank you, Mr. Chairman. I want to express to you my thanks for conducting a hearing on such a timely and important matter. It is unthinkable that trafficking in human beings continues to plague our world today. Human trafficking, involving the forcible labor or sexual exploitation of people, constitutes a modern-day form of slavery.

The problem of trafficking in human beings continues to grow, and it is estimated that 50,000 individuals are trafficked into the United States alone every year. That such an abhorrent practice continues to impact the lives of hundreds of thousands of people around the world, and primarily women and children, should elicit from us not only a sense of moral repulsion, but concrete and immediate action to stamp out this scourge once and for all as well.

The Victims of Trafficking and Violence Protection Act has shown itself to be an effective tool in combating the problem that we address today. The State Department's second annual Trafficking in Person's Report reveals that 19 countries continue to be categorized as Tier Three according to the definition set out by the Act, indicating that these governments both fail to meet minimum international standards for combating human trafficking and are not making significant efforts to bring themselves into compliance with these standards.

Yet, it is important to note that since last year, 14 countries that were formerly considered noncompliant have been upgraded to Tier Two status, following their decision to make serious efforts to comply with international standards. It is essential that we continue to work with these countries, providing whatever assistance we may to ensure that they are able to fully and effectively carry out their duties in the furtherance of human rights.

In the case of governments that are unwilling to take action against this global problem, we must be willing to consider freezing foreign assistance until the time that they come into compliance with the standards set forth by the Victims of Trafficking and Violence Protection Act.

I would also like to take this opportunity to thank our witnesses for being here today, and I hope that today's hearing will provide us with the further impetus needed to ensure that our efforts to put an end to human trafficking are effectual.

