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Margaret Murphy

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INTERNATIONAL WATCH

MODERN DAY SLAVERY: THE TRAFFICKING OF WOMEN TO THE UNITED STATES

Margaret Murphy

Slavery is alive and well in the United States. Thousands of women, from all over the world are trafficked to this country for various purposes. These women enter the United States, often illegally, and are forced to work in situations that are often both inhuman, and against American law.

The United States government defines trafficking in persons as "all acts involved in the transport, harboring, or sale of persons within national or across international borders through coercion, force, kidnapping, deception or fraud, for the purposes of placing persons in situations of forced labor or services, such as forced prostitution, domestic servitude, debt bondage or other slavery-like practices."¹

¹ FRANCIS T. MIKO, TRAFFICKING IN WOMEN AND CHILDREN: THE U.S.

Trafficking is distinguished from alien smuggling which involves the provision of a service, albeit illegal, to people who knowingly buy the service in order to get into a foreign country.²

The trafficking of women for prostitution and forced labor is one of the fastest growing areas of international criminal activity. An estimated 1 to 2 million people are trafficked each year worldwide.³ Approximately 50,000 women and children are trafficked to the United States.⁴ Approximately 30,000 women and children are being trafficked annually from Southeast Asia; 10,000 from Latin America; 4,000 from the Newly Independent States and Eastern Europe; and 1,000 from other regions.⁵ These statistics are rough estimates; the secretive nature of trafficking of humans makes it very difficult for government

AND INTERNATIONAL RESPONSE,
CONG. RESEARCH SERV. REP. NO.
98-649 C (May 10, 2000).

² *Id.*

³ *Id.*

⁴ CENTRAL INTELLIGENCE AGENCY BRIEFING, GLOBAL TRAFFICKING IN WOMEN AND CHILDREN: ASSESSING THE MAGNITUDE (Apr. 1999).

⁵ *Id.*

agencies to gather accurate statistics of the number of women involved.

Traffickers acquire women in many ways. Some women are kidnapped outright, while others are lured with false promises of jobs as waitresses, nannies, models, factory workers, or exotic dancers.⁶ Traffickers advertise these phony jobs in newspapers and on the Internet. Traffickers also obtain women through marriage agency databases and matchmaking services. Still others are approached directly with offers of good paying jobs elsewhere.⁷ Bogus contracts are often drawn up to provide the image of legitimacy, lulling women into believing they are dealing with a reputable business.⁸ Women are sought

⁶ AMY O'NEILL RICHARD, CENTER FOR THE STUDY OF INTELLIGENCE, INTERNATIONAL TRAFFICKING IN WOMEN TO THE UNITED STATES: A CONTEMPORARY MANIFESTATION OF SLAVERY AND ORGANIZED CRIME (Apr. 2000), at <http://www.odci.gov/csi/monograph/women/trafficking.pdf>.

⁷ Miko, *supra* note 1.

⁸ Richard, *supra* note 6, citing *Crime and Servitude: An Expose of the Traffic in Women for Prostitution from the Newly Independent States*,

out in areas with weak economies. Typically they are disproportionately affected by unemployment, discrimination, and the lack of economic opportunity in their countries of origin.⁹ Women often feel they are forced to take the work in order to support themselves and their family.

There are many ways these women are brought into the United States. The easiest way to traffic women into the country is to have them overstay their visa. Traffickers in the Newly Independent States, central and Eastern Europe, and Asia commonly use business (B1), tourist (B2), student (F1), fiancée (K1), and entertainer (P1, P3) visas to bring women to the U.S.¹⁰ Traffickers often use fraudulent job letters, employment records, and bank statements as supporting

documentation for these visas.¹¹

Many times women are brought the United States by foreign diplomats under A-3 and G-5 visas to act as the diplomats' support staff. Although these women are brought to the U.S. in a way that is sanctioned by the government, many times they are placed in situations by their foreign employers that are akin to slavery. Often times they suffer the same consequences as the women who were brought to the United States through force or trickery. The employment laws of the U.S. still apply to these women, and their employers, even though they are not citizens of the U.S. Their employers may also have diplomatic immunity. What is ironic for the women in this situation, is that many of the officials and diplomats that they work for are members of institutions, including: the United Nations, the World Bank and Inter-American Development Bank, the International Monetary Fund, and the Organization of

GLOBAL SURVIVAL NETWORK (Oct. 1997).

⁹ Bruce Zagaris, *U.S. Enacts Act to Protect Victims from International Trafficking of Women and Children*, INTERNATIONAL ENFORCEMENT LAW REPORTER, Jan. 2001, available at LEXIS, News Library, News Group File.

¹⁰ Richard, *supra* note 6.

¹¹ *Id.*

American States.¹² The goal of many of these government agencies is to reduce human suffering and slavery throughout the world.

Traffickers also use outright illegal means to bring women into the United States. This mode of entry is much more difficult for the traffickers. Many times they will use fake passports, or attempt to pass illegal women as women in legal passports.¹³ Others are simply smuggled to the U.S. without any type of documentation. Traffickers often fly women into major cities in Mexico and Canada, and then smuggle them across the Mexican and Canadian borders.

Once these women enter the United States and finally reach their destination, by whichever means they enter, they are often subjected to mental and physical abuse as a means of control. Women are often subject to beatings, rape, starvation, forced drug use, forced sexual contact with

others, confinement, long work hours without breaks, and seclusion.¹⁴ Traffickers frequently demand that women hand over their passports, any work contracts, and other legal papers "for safe keeping."¹⁵ The employer will then use the possession of these materials to threaten the arrest and deportation of the women. Without documents, local contacts, or knowledge of legal rights under U.S. law, the women are at the mercy of their employers. As mentioned above, many of these women have family members in their home country that depend upon them. This leaves great anxiety in the women concerning deportation and arrest.

Fortunately, the issue of trafficking of women has gained great national and international attention lately. In 1998, President Clinton announced his International Crime Control Strategy, an

¹² Abid Aslam, *Plight of Domestic Workers Wins Congressional Ear*, INTERPRESS SERVICE, Feb. 16, 2000, <http://www.globalexchange.org/wbim/f/ips021600.html>.

¹³ Richard, *supra* note 6.

¹⁴ *Id.*

¹⁵ Stephen Fried, *Empowering the Powerless: The Campaign for Migrant Domestic Workers Rights*, INSTITUTE FOR POLICY STUDIES, 2000, at <http://www.foreignpolicy-infocus.org/progresp/vol3/prog3n26.html>

interagency working group that was set up to address international crime implications of trafficking.¹⁶ Clinton issued a directive establishing a U.S. government-wide anti-trafficking strategy consisting of: (1) prevention, (2) protection and support for victims, and (3) prosecution of traffickers.¹⁷ Although several agencies were set up to address the problem, little was done until President Clinton challenged Congress to take action in this matter.

On October 28, 2000, Public Law 106-386, The Trafficking of Women and Children's Act of 2000, was enacted. The law is based on the three strategies of prevention, protection and prosecution, set forth by President Clinton. The law requires that the U.S. Department of State prepare a report for each country that receives economic and/or security assistance, and is a country of origin, transit, or destination for victims of trafficking.¹⁸ The Act also

requires the President to establish, and the Secretary of State to chair, an Inter-agency Task Force to Monitor and Combat Trafficking.¹⁹ The President is also authorized to deny nonhumanitarian, nontrade-related foreign assistance to any government that does not comply with the minimum standard for elimination of trafficking set forth in the act.²⁰

To meet the goal of protection of victims, the Act requires the President to establish and carry out international initiatives to enhance economic opportunities for potential victims of trafficking as a method to deter trafficking. These incentives may include: microcredit lending programs, training in business development, skills training, and job counseling.²¹ It also provides for programs to promote women's participation in economic decision-making, programs to keep children (especially girls) in elementary and secondary school, and to

¹⁶ Miko, *supra* note 1.

¹⁷ *Id.*

¹⁸ Victims of Trafficking and Violence Protection Act of 2000, Pub

L. No. 106-386, 114 Stat. 1464 (2000).

¹⁹ *Id.* at § 105.

²⁰ *Id.* at § 110.

²¹ *Id.* at § 106.

educate persons who have been victims of trafficking.²² Finally, the Act requires the formation of programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking.²³

In order to meet the third element of prosecution, the Act establishes new felony criminal offenses to combat trafficking with respect to slavery or peonage; sex trafficking in children; and unlawful confiscation of the victim's passport and other documents.²⁴ Additionally, the Act also creates a new "forced labor" felony criminal offense that will provide Federal prosecutors with tools required to prosecute nonphysical coercion that traffickers use to exploit their victims.²⁵ Those convicted of any of the new criminal offenses will be subject to forfeiture of assets and restitution to victims.

On December 12, 2000, the United Nations established its Convention against

Transnational Organized Crime (TOCC). TOCC established two protocols: one to prevent, suppress and punish trafficking in persons, the other against the smuggling of migrants by land, sea and air.²⁶ It is too soon to tell whether either the newly passed U.S. law, or the United Nation's Convention against Transnational Organized Crime will have any positive effect on the trafficking of women. What is evident is that government officials, both nationally and internationally, are taking steps to address this growing problem.

²² *Id.*

²³ *Supra* note 18 at §107.

²⁴ *Supra* note 18 at §112.

²⁵ *Id.*

²⁶ *UN Convention on Transnational Organized Crime Gains 124 Signatures on Opening*, INTERNATIONAL ENFORCEMENT LAW REPORTER, Feb. 2001, available at LEXIS, News Library, News Group File.