

Testimony of
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Mr. Chairperson and Members of the Subcommittee,

Thank you for inviting me to provide testimony on behalf of Human Rights Watch on efforts to address trafficking in persons in the United States. It is an honor to testify before you today. My colleagues and I at Human Rights Watch thank you for focusing on this important human rights problem.

For over a decade, Human Rights Watch has documented and monitored trafficking of persons around the world. We have published reports on trafficking of women and girls from Burma to Thailand, Nepal to India, Thailand to Japan, Eastern Europe to Greece, and countries of the former Soviet Union and Eastern Europe to post-conflict Bosnia and Herzegovina. Our recent reports have documented trafficking of children for domestic and agricultural labor in West Africa, focusing on Togo, and trafficking of Bhutanese refugee women from refugee camps in Nepal. In 2001, we reported on the abuse of domestic workers with special employer-based visas in the United States.

Trafficking flourishes throughout the world, aided by corruption and neglect by states. Seeking better lives and opportunities, trafficking victims migrate only to find themselves trapped in debt bondage, forced labor, and slavery-like conditions. The United Nations has estimated that 700,000 people are trafficked into forced labor and forced prostitution around the world each year. Recent U.S. government estimates (600,000 to 800,000) are consistent with this figure.

In researching trafficking, Human Rights Watch has relied since December 2000 on the international standard that defines trafficking as set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Trafficking Protocol). In Article 3(a), the Protocol defines trafficking in persons as:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of abuse of power or

of position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The Trafficking Protocol gives governments a framework for providing human rights protections to victims of trafficking, including medical and psychological care, appropriate shelter, legal assistance, protection and safety, temporary residence, and safe repatriation.

Like the Trafficking Protocol, the U.S. Trafficking Victims Protection Act of 2000 covers all forms of trafficking. As our research has shown, trafficking occurs for a variety of pernicious purposes, ranging from bonded labor to forced prostitution. Women, men, girls, and boys are trafficked and forced to work or provide services in or on farms, factories, restaurants, homes, brothels, and bars. Despite the varied settings into which people are trafficked, the common element in all trafficking cases is the ongoing violation of the person. The goal of traffickers is to exert total control over the victim in order to extract labor or services from him or her. Traffickers around the world use a common set of tactics to trap their victims in exploitative situations: physical force, threats of physical force, deception, fraud, intimidation, isolation, debt bondage, threats of deportation, and threats to family members. It is vital for the U.S. government to address trafficking in all of its horrific forms.

Trafficking in persons is in many ways a quintessential 21st century crime problem. In an era of globalization and enhanced technology, small networks of criminals can operate internationally, preying on those who would migrate in search of work or a better life and subjecting them to horrible abuse. As governments map out anti-trafficking strategies, they must see this problem not only in law enforcement terms, but in human rights terms. They need to understand that trafficking in persons is a serious human rights issue, and that governments have an obligation to protect victims and to provide redress. This obligation is firmly rooted in human rights principles.

I will briefly speak to you today about how the U.S. government can better prosecute traffickers and protect victims of trafficking here in the United States. I will make five main points, drawn from our research on and monitoring of trafficking in persons in numerous countries around the world.

First, the United States should ratify the Trafficking in Persons Protocol. Proposed by the United States and Argentina in January 1999, this is the first international protocol to require governments to criminalize trafficking in persons and to provide a framework for enhanced protection of, and assistance to, victims. The text of the Trafficking Protocol was adopted and opened for signature in the fall of 2000, establishing a global standard for government action, which is particularly important given the transnational nature of many trafficking networks. The Protocol offers an historic opportunity for countries of origin, transit, and destination to work together to investigate and prosecute traffickers, and to afford essential protections and assistance to trafficking victims.

The Trafficking Protocol entered into force in December, 2003 and now has 62 states party and 117 signatories. The U.S government was among the first countries to sign the Trafficking Protocol in December 2000. Earlier this year, President Bush transmitted the Protocol, together with the main Convention Against Transnational Organized Crime, to the Senate seeking its advice and consent to ratification. On June 17, the Senate Foreign Relations Committee held a hearing on a number of law enforcement treaties, including the Trafficking Protocol. We urge the Senate to promptly provide its advice and consent to ratification of the Trafficking Protocol, and enable the United States to join the large number of countries who have already pledged to prosecute traffickers, protect victims, and undertake prevention efforts.

Second, the U.S. government should enhance its capacity to provide meaningful witness protection and victim protection for victims of trafficking in the United States. All too often, witness protection is thought of in its most traditional, most well-known form: protecting a witness who testifies on behalf of the government in a criminal trial. But existing witness protection programs were typically designed for witnesses who were themselves criminals, not for victims, and certainly not for vulnerable victims who may have endured serious trauma.

Instead, we should think of witness protection as a subset of the broader category of victim protection -- and which is not limited to the safety of witnesses in a criminal proceeding. To be sure, prosecution is a core obligation of states in protecting the rights of trafficking victims and in curbing trafficking. Traffickers must be held accountable for the crimes, victims need access to justice, and trafficking networks need to be disrupted and future trafficking prevented. Despite the critical importance of prosecution in trafficking cases, it would be a mistake to talk about protection for victims and witnesses only in the context of testimony at trial. Victims need protection in order to break free from the control of their traffickers and to avoid falling back into the hands of the traffickers. Victims need safety, whether they are being treated in a hospital, staying at a local shelter, or living in a private home. Whether they stay in the country to which they were trafficked or return to their home countries, they need to be able to do so safely. They also need a range of support and assistance in order to rebuild their lives without fear of reprisal from those who trafficked them.

Elaine Pearson's work on victim protection at Anti-Slavery International is instructive. In her report, she speaks of victim protection in terms of the right to confidentiality, the right to security of person, and the right to access to justice. This formulation embraces those elements of victim support that governments rarely provide - counseling, medical and psychological services (including specialized services and support for sexual assault), legal assistance, employment authorization and training, and safe, secure shelter.

In addition to these essential protections, the U.S. government should also provide the following protections for trafficking victims in the United States:

? Ensure that all trafficked persons are allowed to remain in the United States throughout the duration of any criminal or civil proceedings against their abusers.

? Ensure full implementation of measures that enable victims who fear retaliation upon return to their home country to apply for permanent resettlement on that basis. In particular, ensure that victims who fear retaliation at home can seek to remain in the United States, even if they are unable to comply with law enforcement requests for assistance.

? Prevent the further victimization of trafficked persons by guaranteeing their immunity from prosecution for immigration violations or other crimes related to their having been trafficked.
? For children under the age of 18: Provide for their protection and development, including appropriate urgent care, ongoing physical or mental health care, shelters separate from adults for recovery and reintegration, and education.

These kinds of protections - against reprisals, violence, and threats against victims and their families, especially children - are essential in protecting the rights of trafficking victims. Such protection is also a critical component of an effective anti-trafficking strategy. The inclusion of such provisions in the Trafficking Protocol and in the TVPA underscores a crucial reality: governments cannot effectively fight trafficking unless they develop and implement comprehensive protection policies and programs.

Third, the U.S. government should expand and intensify its efforts to train federal law enforcement, prosecutors, and victim-witness personnel, and to conduct outreach to state and local police, prosecutors, and service providers. Such training and outreach is critical in identifying trafficking victims and cases, and in ensuring that community-based networks are established to provide support for victims when a case occurs. Proactive, community-wide work is needed before federal prosecutors or local police encounter a large trafficking case with multiple victims who have urgent needs for shelter and services.

This kind of effort echoes a key recommendation of the Department of Justice's 2004 Assessment of U.S. Activities to Combat Trafficking in Persons. In its report, the Justice Department recommends that the U.S. government develop a standard trafficking in persons training program that can be implemented at the academy level for all state and local police, and expand training to prosecutors and judges to include the mental health consequences to victims. The report further recommends enhanced state and local involvement in identifying victims of trafficking, and further efforts to expand local government and community knowledge of the crime of trafficking and resources available to help victims. These are necessary steps that we urge the U.S. government to undertake in a comprehensive and sustained way.

Fourth, the Senate should not enact the Homeland Security Enhancement Act (HSEA), which would have serious consequences for trafficking victims and for trafficking investigations and prosecutions. If enacted, this bill and its House counterpart, the CLEAR Act, would require state and local officials to enforce federal civil immigration laws and to detain and remove non-citizens. These bills would thus further endanger some of the most vulnerable members of immigrant communities in the United States: battered, trafficked, or sexually abused women and children. Many immigrants, even if they are in the United States legally, will refrain from contacting police about abuses they have suffered for fear that they - or undocumented relatives who may live with them - will be arrested on immigration charges. Indeed, traffickers often use the threat of deportation and reprisals back home to prevent their victims from reporting the crimes they have suffered. The CLEAR Act and HSEA will simply give those criminals new confidence in their ability to act with impunity.

Even where limited relief for these victims may be available through new special visa categories, the CLEAR Act and HSEA risk harming these victims by making their recourse to justice and protection even more unlikely. Local law enforcement officers should protect victims of

trafficking. But if local officials are also required to enforce federal immigration laws, traffickers will have greater power to trap their victims in violent or exploitative situations. Not only will trafficking victims suffer serious abuse, but law enforcement will encounter much greater difficulty in identifying and prosecuting traffickers and other violent criminals.

Finally, the United States should, above all else, return control to the victims of trafficking. The greatest challenge for governments is not identifying the specific services that victims of trafficking need to survive and begin rebuilding their lives. That is indeed a challenge, as discussed above. The greatest challenge for governments is seeing and respecting, at the most basic level, the humanity of all survivors of trafficking and, therefore, working with survivors in a way that demonstrates their commitment to protecting the equality and dignity of all human beings. Because violation of human dignity lies at the core of human trafficking, the affirmation of the dignity of trafficking victims must be at the center of any effort to address and solve it.

Trafficking in persons is a profound human rights abuse, and women are particularly vulnerable to this practice due to the persistent inequalities they face in status and opportunity. Governments around the world must take this problem seriously. With the passage of domestic legislation, the elaboration of regional action plans, and the entry into force of an international trafficking protocol, important advances have been made in developing a framework for action. Governments now need to take concrete steps to prevent trafficking, punish traffickers, and provide human rights protections for victims. It is imperative that the United States demonstrate its leadership on this critical human rights issue by doing all it can to provide protection and redress for trafficking victims here in the United States.

Thank you.