

Testimony of  
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Prepared Statement of Martina E. Vandenberg, J.D. Senate Judiciary Subcommittee on Human Rights "Legal Options to Stop Human Trafficking" March 26, 2007

Mr. Chairman and Members of the Subcommittee:

It is an honor to testify before you today on a grave violation of human rights, trafficking in persons. My name is Martina Vandenberg, and I am an attorney in private practice with the firm of Jenner & Block. I am the author of two reports on trafficking in persons: *Hopes Betrayed: Trafficking in Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*, published by Human Rights Watch, and *Trafficking of Women to Israel for Forced Prostitution*, published by the Israel Women's Network. I also represent trafficking victims pro bono in civil suits against their traffickers here in the United States.

I would like to thank Senator Durbin and the members of the Subcommittee for convening this hearing. The panel today provides a rare opportunity to identify gaps in the United States government's implementation of international human rights norms in the area of trafficking in persons.

Traffickers often flourish because they operate in zones of lawlessness and impunity. Over the past decade, Congress, the executive branch, and non-governmental organizations have worked together to develop innovative criminal and civil remedies to assist victims and bring traffickers to justice. But gaps do still exist, and traffickers continue to operate with impunity within these lacunae.

I would like to focus this afternoon on three concrete trafficking cases that illustrate these gaps. I will begin with the human rights norms -- the substantive international law on trafficking. I will then turn to the case studies: one in Iraq, one in Bosnia and Herzegovina, and one right here in the Washington, D.C. suburbs.

#### I. International Law

Trafficking in persons is a gruesome human rights violation, which traps men, women, and children in debt bondage, forced labor, and forced prostitution. Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, defines trafficking as the recruitment, transportation, transfer, harboring or receipt of persons, by the threat or use of force or any other means, for the purpose of exploitation.<sup>1</sup> The Protocol, while fundamentally an international crime control cooperation treaty, nevertheless includes protections for victims of trafficking. The inclusion of these provisions merely reflects that states have a duty to protect and provide remedies to victims who have suffered violations of their most fundamental human rights.<sup>2</sup> Specifically, the Protocol presses states to provide appropriate shelter for victims; counseling and information in a language the victim can understand; medical,

psychological, and material assistance; witness protection; and the possibility of obtaining compensation.<sup>3</sup>

Research by Human Rights Watch and other human rights organizations has shown that historically, states have treated victims of trafficking as illegal migrants, criminals, or both, often detaining them, prosecuting them, and then summarily deporting them. Protection of victims, and the creation of visa regimes to permit victims to remain legally in countries of destination, is a fairly recent phenomenon. And while the model adopted by the international community has tended to focus largely on law enforcement measures, some countries, including the United States, have opted for a victim-centered approach. It would be too far a stretch to characterize this as a "rights-based" approach, unfortunately.

Obtaining a special trafficking victim visa, or T-visa, in the United States still requires cooperation with law enforcement. But the steps that have been taken do go some distance toward eliminating what Ann Jordan, director of the Global Rights Initiative Against Trafficking in Persons and one of the leading experts on trafficking in persons, once dubbed "the disposable witness syndrome." Victims cannot be used, and then abandoned. Victims must be viewed as individuals with human rights, and not as mere tools for states to obtain trafficking convictions in order to avoid landing on the State Department Trafficking In Persons report's tier III. At a minimum, victims must have witness protection, without which they cannot safely testify against those who perpetrated these crimes. This is particularly true in light of the crucial role played by official corruption, both in countries of origin and countries of destination. Without protections and services for victims, impunity for traffickers will remain the rule.

I offer these case studies to illustrate the gaps in the United States' own legal regime, in the hope that these gaps can be plugged with legislation or enhanced political will.

## II. Impunity for Trafficking of Persons into Iraq for Forced Labor

On August 19, 2004, insurgents kidnapped twelve Nepalese men traveling on the road from Amman to Baghdad. All twelve were executed on August 31, 2004. An intrepid Chicago Tribune reporter, Cam Simpson, launched an investigation into the events leading up to their abduction and deaths. The Chicago Tribune series, "Pipeline to Peril," uncovered a trafficking network stretching from the remote mountains of Katmandu to U.S. military bases in Iraq.<sup>4</sup> The chain began with recruiters in the men's villages, who promised the workers lucrative jobs in five-star hotels in Jordan. In exchange for facilitating these job opportunities, the recruiters demanded upfront payments amounting to nearly one year's wages for an average Nepali. The Nepalese men's families borrowed heavily to advance the funds, in some cases mortgaging the family farm.

The recruiters delivered the men to a Jordanian company in Amman, which demanded additional payment for placement services. The company held the men in apartments and did not provide the promised jobs in Jordanian luxury hotels. Instead, the Nepalese workers found themselves transferred into the hands of yet another Jordanian company, which provided their transportation into Iraq in an unguarded convoy. Upon arrival in Iraq, the traffickers intended to hand the workers off to a third Jordanian company, a subcontractor to Kellogg, Brown, & Root (KBR).

Insurgents killed the Nepalese workers before they began their employment with the KBR subcontractor.

The meticulously researched Chicago Tribune series did not constitute the first allegation of trafficking for forced labor in U.S. military bases in Iraq. Indeed, at a joint issues forum cohosted by the House Armed Services Committee and the Helsinki Commission in September 2004, Senator Clinton questioned the Department of Defense Inspector General about a story in The Washington Post reporting labor violations against third country nationals in Iraq.<sup>5</sup>

In the wake of the Chicago Tribune series, the Department of Defense (DoD) Office of the Inspector General launched an investigation. On April 14, 2006, in a memorandum to the Under Secretary of Defense for Personnel and Readiness, Thomas Gimble, the Principal Deputy DoD Inspector General, reported that he "found no reason to question the sequence or accuracy of events outlined in the Chicago Tribune articles published October 9 and 10, 2005." The memorandum also confirmed that "[s]ome of the Nepalese [men] clearly felt they had been deceived about their place of employment (Iraq versus Jordan)."<sup>6</sup>

But, troublingly, the memorandum concluded that "while it would appear that some foreign-based companies are using false pretenses to provide laborers to KBR/Halliburton subcontractors in Iraq, we must note that none of the allegations in the Chicago Tribune articles are against U.S. persons or U.S. contractors." There is no indication that the DoD Inspector General delved into the issue of criminal complicity by U.S. persons or contractors. Indeed, there is no hint of any investigation whatsoever into involvement by U.S. contractors in a criminal conspiracy. Instead, the DoD conflated criminal and civil law principles, finding that "[t]here are no privities of contract between DoD and the foreign companies allegedly guilty of these trafficking practices; therefore, the U.S. has no jurisdiction over the persons or the offenses."<sup>7</sup>

This statement is simply incorrect as a matter of law. Under the Military Extraterritorial Jurisdiction Act of 2000, the United States does have criminal jurisdiction over felonies committed abroad by U.S. DoD contractors. Congressman John McHugh questioned Gimble on precisely this issue in a joint hearing convened by the House Armed Services Committee Subcommittee on Military Personnel in June 2006.<sup>8</sup> Gimble's responses point to a level of superficiality in both the DoD Inspector General's analysis and investigation. Responding to Congressman McHugh's question on why the U.S. government did not attempt a criminal prosecution under the Military Extraterritorial Jurisdiction Act of 2000 (MEJA), Gimble stated:

[T]here [were] no clauses in the contract, and these were not U.S. contracts. So we didn't think we had the authority to go down into those. So far as prosecution, that probably should go back into the local -- the Iraqi government should be the one prosecuting the murders on that.<sup>9</sup>

The issue, however, was not the prosecution of the killings, but the criminal prosecution of the underlying trafficking offenses. And on that issue, the DoD Inspector General's analysis was inadequate for two reasons. First, while these twelve Nepalese workers did not make it to the U.S. base in Iraq, between 35,000 and 48,000 third country nationals did. It is clear that some fraction of that work force suffered the same trafficking abuses as the twelve Nepalese men who died. Colonel Boyles, formerly of Joint Contracting Command Iraq, testified at the June 2006 hearing that he had to force contractors to comply with General Casey's order to return passports

to third country nationals by May 1, 2006.<sup>10</sup> Boyles told the members of Congress present at the joint hearing that gaining compliance from contractors withholding third country nationals' passports was "like pulling teeth."<sup>11</sup> And while the DoD Inspector General apparently interviewed 850 third country nationals in Iraq, no one from the Department of Defense at the joint hearing answered a fundamental question posed by Congressman Chris Smith. Congressman Smith asked, "the real question is, was there any knowledge that American contractors or members of the military had knowledge of the trafficking that was taking place by the subcontractors?"<sup>12</sup> That question, the key to a criminal prosecution, remains unanswered.

The lack of an investigation into that question reflects a problem identified by Dr. Sarah Mendelson of the Center for Strategic and International Studies in her report, *Barracks and Brothels*. Dr. Mendelson observed the Inspector General's formal investigation in 2003 into complicity of DoD personnel in the Balkans, and concluded that the investigation was "superficial and pro forma." She wrote: "Had DoD personnel followed the leads they were given, they would have found evidence of civilian contractor complicity in human trafficking." They did not pursue those leads, nor did they meet with non-governmental organizations or trafficking victims.<sup>13</sup>

And even if the IG had asked the right questions and pursued all available leads in 2003, that institutional memory is gone. All of the IG staff members who have conducted trafficking investigations, save one, have left the office.

So what is the bottom line? Impunity. After an exposé in a major U.S. newspaper, a DoD Inspector General investigation confirming the trafficking allegations, and a congressional hearing, not a single contractor has been terminated, and not a single criminal prosecution is underway. Indeed, it appears that many of the subcontractors implicated in the scandal continue to enjoy DoD subcontracts in Iraq. The U.S. military, after the issuance of General Casey's order, seems to have declared victory. I see no evidence that would support such a claim.

So let me tell you, in the inimitable words of Paul Harvey, the rest of the story. Through the efforts of the Chicago Tribune reporter, Cam Simpson, the families of the murdered Nepalese trafficking victims found pro bono counsel in the United States. The attorneys filed for a death benefit under the Defense Base Act, which requires all contractors and subcontractors to carry insurance for their employees who perform work overseas. The Department of Labor processed the claims quickly, and attempted to facilitate the insurer's payment of death benefits to the families in Nepal. The insurer, however, has refused to pay the families. Three years after the trafficking and brutal murders of these workers, their families have yet to receive any compensation whatsoever from the United States.<sup>14</sup>

In January 2006, Ambassador Miller of the State Department Trafficking in Persons Office told the Chicago Tribune "Our view is that the U.S. contractor has to take responsibility."<sup>15</sup> But three years later, no one has taken responsibility. Three years later, the victims' families remain strapped by the original debts they incurred to send their relatives abroad.

This impunity is just business as usual for the Department of Defense on trafficking issues.

Take the case of Bosnia & Herzegovina.

### III. Impunity for Contractors and Trafficking in Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution.

The case of trafficking into post-conflict Bosnia & Herzegovina is the poster child for impunity for U.S. defense contractors. Deputy Principal Inspector General Thomas Gimble, testifying in June 2006 about the lack of prosecutions in Iraq, stated: It's kind of the same thing, as you recall, back in the Bosnia issue where they had the prostitution ring back in 2002 that we had reported.... We referred that back to the local jurisdictions over there, and I'm not sure whether they ever investigated or prosecuted or not..."

There was neither an investigation, nor a single prosecution. Nor was this a simple "prostitution ring." In a three-year investigation I conducted for Human Rights Watch, researchers uncovered at least eight cases of U.S. personnel who allegedly bought trafficked women and girls.<sup>16</sup> Despite these purchases of human beings as chattel, no prosecutions occurred in Bosnia or the United States. In four of the cases, the individuals were State Department contractors, and beyond the reach of MEJA. In the other four cases, the contractors were whisked out of the country before local Bosnian law enforcement could intervene. Even if the local authorities had wanted to prosecute the Americans, which they did not, it would have been impossible to do so. The alleged perpetrators had fled.<sup>17</sup>

The allegations came to light after two whistleblowers, one a State Department contractor serving as an International Police Task Force officer with the United Nations Mission in Bosnia & Herzegovina, and the second a DoD contractor serving at Eagle Base, came forward. Both whistleblowers were then fired by their employer, DynCorp.

In all, Ben Johnston, the DoD whistleblower, identified eight DynCorp employees who allegedly admitted to him that they had purchased women and girls from brothels in 1999 and 2000. <sup>18</sup> Some had used the women for sexual services and as domestic servants in their local housing units. A U.S. Army Criminal Investigation Command investigation confirmed some of the allegations, and several DynCorp employees were repatriated as a result of the investigation.

Kathryn Bolkovac, the Department of State contractor who raised public allegations of trafficking, did so after one of her fellow American police officers confessed that he had purchased a woman and her passport from a local brothel. In testimony before Congress in 2002, Robert Gifford of the State Department Bureau for International Narcotics and Law Enforcement Affairs testified that six U.S. police officers had been sent home from Bosnia and Herzegovina for "sexual misconduct."<sup>19</sup>

In separate lawsuits for wrongful termination, the two whistleblowers accused the company of retaliating against them for reporting that their colleagues had purchased women and girls from brothels and nightclubs. The alleged purchasers confessed and returned to the United States. They were not prosecuted.

The trafficking victims in Bosnia & Herzegovina, most of whom hailed from Ukraine, Romania, and Moldova, never anticipated that they would be forced into prostitution in Bosnia & Herzegovina. Promised lucrative jobs in Europe in the entertainment, service, or sex industries, the women and girls instead found themselves trapped in debt bondage, stripped of their

passports, and forced to provide sexual services to truck drivers, local police officers, and peacekeepers alike. Corrupt Bosnian police officers colluded with traffickers and brothel owners to prevent the women's escape.

Again, as in Iraq, the DoD Inspector General confirmed that the allegations of trafficking were credible. In a report on Bosnia and Kosovo, published in December 2003, the IG concluded that the information the inspectors were able to collect in the field "suggests that DoD contractor employees may have more than a limited role in human trafficking. We were unable to gather more evidence of it precisely because there are no requirements and no procedures in place compelling contractors to gather such information regarding their employees or to report it to U.S. military authorities."<sup>20</sup>

This lack of transparency, which continues four years later, guarantees impunity for contractors who engage in trafficking.

#### IV. Civil Remedies for Trafficking Victims, Including Domestic Workers Trafficked into the United States by Diplomats.

On January 18, 2007, the ACLU Women's Rights Project filed a complaint in federal court in the District of Columbia.<sup>21</sup> Three Indian women plaintiffs brought the suit against a Kuwaiti military attaché and the Embassy of Kuwait in Washington, D.C. for trafficking the women into forced labor in violation of 18 U.S.C. § 1590. The plaintiffs, who had been "forced to work as domestic employees and childcare providers against their will," rooted their complaint in part on the civil remedies authorized under the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), 18 U.S.C. § 1595. They brought additional claims for relief under the Thirteenth Amendment to the United States Constitution, the Fair Labor Standards Act, contract theory, fraud, false imprisonment, assault, and battery. According to the complaint, the plaintiffs toiled seven days a week, sixteen to nineteen hours per day, and received less than fifty cents per hour. Until they escaped by running to a neighbor's house, the women alleged, the diplomat and his wife threatened them, refused to allow them to leave the house, subjected them to slavery-like conditions, and physically abused one of the women on numerous occasions.

I raise this case for three reasons. First, it is likely that the defendants will raise a defense of diplomatic immunity, as numerous defendants have done in the past in the face of similar suits by domestic workers. Should that immunity be allowed to shield the defendants from these allegations of slavery-like practices, they will enjoy complete impunity. The federal district court, should defendants prevail on an immunity claim, would dismiss the civil suit, leaving these victims without any remedy.

Second, these victims, counter-intuitively, are among the lucky ones: they have lawyers. Most do not. The need for legal services for trafficking victims in the United States is revealed by the dearth of civil trafficking cases brought in U.S. federal courts since the creation of the civil right of action in the TVPRA (2003). The Attorney General reported to Congress that between 2001 and the end of 2005 the U.S. government charged 248 defendants with trafficking offenses and convicted 140.<sup>22</sup> And although 841 victims have received trafficking victim certifications and letters of eligibility from the Department of Health and Human Services in the same time period, 23 trafficking victims brought fewer than twenty civil trafficking suits under 18 U.S.C. § 1595.<sup>24</sup>

And although the U.S. government has achieved restitution for victims in criminal cases under the mandatory restitution provision, 18 U.S.C. § 1593, it is unclear how often victims actually receive any of those funds.

Finally, I raise this case because those trafficked into domestic servitude in the United States, and particularly those trafficked by diplomats, are among the most invisible trafficking victims in our country. And yet, as Colbert King pointed out in an op ed published in The Washington Post, enslavement of domestic workers by diplomats occurs within just a few miles of the White House.<sup>25</sup>

And, more often than not, the diplomats enjoy impunity.<sup>26</sup>

## V. CONCLUSIONS AND RECOMMENDATIONS

In the eternal words of the philosopher Nikolai G. Chernyshevsky, "what is to be done?" On the Department of Defense contractor front, I would propose the following concrete reforms:  
?Conduct thorough investigations and, where appropriate, bring indictments for trafficking into forced labor or forced prostitution by contractors and military personnel serving abroad. The Military Extraterritorial Jurisdiction Act has been used only twice to bring prosecutions in the United States. Neither of those cases has involved allegations of trafficking. Without investigations by trained personnel, and without protections for victims, contractors will continue to enjoy impunity in the face of credible trafficking allegations. With zero prosecutions, zero tolerance has zero credibility.

?Create an extension of the T-visa regime to permit victims trafficked by contractors or military personnel abroad to come to the United States to testify, and to remain in the United States as holders of T-visas. At the present time, victims trafficked by a U.S. contractor or military personnel abroad cannot enter the United States to testify and obtain benefits as trafficking victims. If the U.S. is to attempt prosecutions in such cases, the victims of these crimes must be brought into the United States and afforded the same protections and benefits as victims trafficked into the United States.

?Amend the UCMJ to explicitly criminalize trafficking in persons. The 2005 amendment to the Manual for Courts-Martial only criminalizes "patronizing a prostitute."<sup>27</sup> It is necessary to add a provision explicitly criminalizing all forms of trafficking, particularly trafficking for forced labor.  
<sup>28</sup>

?Mandate that the Attorney General's Report on U.S. Government Activities to Combat Trafficking in Persons include a report card on Department of Defense Activities. The Department of Defense has been woefully absent from this annual report card. The DoD's implementation of the zero tolerance policy must be held up to public scrutiny. The report should include the amount of funding budgeted for trafficking in persons activities. The DoD budget currently has no line item dedicated to combating human trafficking. In addition, the report to Congress should include data on debarments, terminations, and other adverse contracting outcomes related to trafficking, as authorized under the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS) anti-trafficking provisions.  
<sup>29</sup>

?Train Military criminal investigators and prosecutors to use existing provisions in the Uniform Code of Military Justice, the Manual for Courts-Martial, and the Military Extraterritorial

Jurisdiction Act to identify and prosecute human trafficking cases. The House Armed Services Committee Report for the FY07 DOD Authorization Act (H.R. 5122; Report 109-452, pp. 316-317) mandates that the Department of Defense carry out this training.

?Ensure that the Department of Defense focuses on all forms of human trafficking, and not just trafficking for forced prostitution. The Department of Defense has evidenced a tendency to conflate prostitution with trafficking. Training modules designed for dissemination among soldiers focus almost entirely on reducing demand for sexual services, ignoring the need to provide training on trafficking for forced labor. This myopic approach is particularly problematic in light of the allegations raised in the Chicago Tribune series.

?Investigate the lack of compensation for the executed Nepalese victims of trafficking under the Defense Base Act.

On the civil remedies front, I would recommend the following:

?Request a GAO study into the incidence and prevalence of trafficking by diplomats in the United States. Such a study would include interviews with trafficking victims, their civil attorneys and case workers, and the relevant Department of State and Department of Justice personnel. Questions would include how many cases have been registered by the Department of State, and how many investigations launched by the Department of Justice.

?Increase funding for legal services to trafficking victims to pursue civil remedies and enforce criminal restitution orders. Despite efforts by the private bar to train civil attorneys to undertake these cases on a pro bono basis, service providers form the core of legal representation for victims. Even when service provider staff attorneys farm cases out for pro bono representation, they must still monitor and supervise the cases. Increasing funding to support staff attorney positions is vital.

?Mandate that the Attorney General's Report on U.S. Government Activities to Combat Trafficking in Persons include a report card on trafficking victims' access to civil remedies, as well as the U.S. government response to trafficking by diplomats. The current report makes absolutely no mention of trafficking by diplomats. Nor does the report currently track the use of 18 U.S.C. § 1595 or collection rates under the mandatory restitution provisions of § 1593. These items should be added to the report to Congress.

In closing, I can only point to the theme running through my remarks today: impunity. Ultimately, holding traffickers accountable for these horrible human rights violations can only be done when their victims are safe, secure, and able to rebuild their lives. By focusing on the human rights and fundamental needs of the victims, we can close off the zones of impunity in which the traffickers thrive.

Again, thank you for inviting me to testify today. I would be happy to answer any questions that you might have concerning the issues raised here today.

1 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, G.A. Res. 55/25, annex II, U.N. Doc. A/RES/55/25 (November 2, 2000) [also referred to as the Palermo Protocol]. The Trafficking Protocol supplements the United Nations Convention Against Transnational Organized Crime, G.A. Res. 55/25, annex I, U.N. Doc. A/RES/55/25 (November 2, 2000). The Trafficking Protocol, to which the United States became a state party on December 3, 2005, entered into force on December 25, 2003.



2 For a full discussion of the Protocol and trafficking prevention generally, see Janie Chuang, "Beyond a Snapshot: Preventing Human Trafficking in the Global Economy," *Indiana Journal of Global Legal Studies*, Vol. 13, Issue 1 (Winter 2006). See also Global Rights, *The Complete Annotated Guide to the U.N. Trafficking Protocol*, available at [http://www.globalrights.org/site/DocServer/Annotated\\_Protocol.pdf?docID=2723](http://www.globalrights.org/site/DocServer/Annotated_Protocol.pdf?docID=2723) (accessed March 22, 2007).

3 Trafficking Protocol, Article 6.

4 Cam Simpson, "Pipeline to Peril," *The Chicago Tribune*, October 9-10, 2005, available at [http://www.chicagotribune.com/news/specials/chi-nepal-specialpackage.1\\_3634847.special?coll=chi](http://www.chicagotribune.com/news/specials/chi-nepal-specialpackage.1_3634847.special?coll=chi) newsspecialshed (accessed March 22, 2007)

5 Ariana Eunjung Cha, "Iraq: Many Foreign Laborers Receive Inferior Pay, Food and Shelter," *The Washington Post*, July 1, 2004. At a joint issue forum held on September 21, 2004, Senator Clinton asked, "[T]his past July and August, there were press reports indicating that subcontractors on DoD subcontracts may have kept Indian laborers in debt bondage...to the Inspector General, will you be considering labor trafficking and debt bondage issues as well as sex trafficking in your inspection process?" "Enforcing U.S. Policies Against Trafficking in Persons: How is the Military Doing?" 108th Congress, 2nd Session, Issue Forum Jointly Convened by the Commission on Security and Cooperation in Europe and the House Armed Services Committee, September 21, 2004, p. 20.

6 Memorandum to the Under Secretary of Defense for Personnel and Readiness from Thomas Gimble, Principal Deputy DoD Inspector General, April 14, 2006.

7 *Id.*

8 "Implementation of Zero-Tolerance for Human Trafficking," 109th Congress, Second Session, House of Representatives Armed Services Committee, Military Personnel Subcommittee Joint Hearing with the House International Relations Committee, Africa, Global Human Rights and International Operations Subcommittee on Human Trafficking, June 21, 2006.

9 *Id.* at 18.

10 MNF-I FRAGO 06-188 (April 2006).

11 *Id.* at 23.

12 *Id.* at 36.

13 Sarah E. Mendelson, *Barracks & Brothels: Peacekeepers and Human Trafficking in the Balkans*, CSIS, February 2005, p. ix.

14 According to the *Chicago Tribune*, each family received approximately \$14,000 from the Nepalese government. Cam Simpson, "Into a War Zone, on a Deadly Road," *Chicago Tribune*, October 10, 2005.

15 Cam Simpson, "U.S. to Probe Claims of Human Trafficking: Tribune Series on Iraq Abuses Sparked Action," *The Chicago Tribune*, January 19, 2006.

16 Human Rights Watch documented these cases through Freedom of Information Act (FOIA) requests to the Department of State, interviews with U.N. and U.S. government personnel, review of U.S. Army Criminal Investigation Command incident reports from Bosnia & Herzegovina, and interviews with two U.S. contractor whistleblowers.

17 For a full account of the trafficking allegations in Bosnia & Herzegovina, see Human Rights Watch, *Hopes Betrayed: Trafficking in Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*, Vol. 14, No. 9(D), p. 66 (November 2002) (available at <http://www.hrw.org/reports/2002/bosnia/>).

18 Testimony of Ben Johnston, "The U.N. and the Sex Slave Trade in Bosnia: Isolated Case or Larger Problem in the U.N. System?" Hearing before the Subcommittee on International

Operations and Human Rights of the Committee on International Relations of the House of Representatives, 107th Congress, April 24, 2002, Serial no. 107 85, available at [http://commdocs.house.gov/committees/intlrel/hfa78948.000/hfa78948\\_0f.htm](http://commdocs.house.gov/committees/intlrel/hfa78948.000/hfa78948_0f.htm).

19 Testimony of Robert Gifford, "The U.N. and the Sex Slave Trade in Bosnia; Isolated Case or Larger Problem in the U.N. System?"

20 Office of the Inspector General, "Assessment of DoD Efforts to Combat Trafficking in Persons: Phase II Bosnia- Herzegovina and Kosovo," December 8, 2003, p. 25.

21 Sabbithi v. Al Saleh, No. 07-cv-00115 (D.D.C. January 18, 2007).

22 Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons, Fiscal Year 2005, June 2006, at 16.

23 Id. at 6.

24 Author interview with Daniel Werner, Legal Director, Workers' Rights Law Center of New York, Inc., March 22, 2007. Jennifer Nam, a Columbia Law School student, has compiled a list of fourteen cases filed between December 2004 and January 2007.

25 Colbert I. King, The Slaves in Our Midst, December 23, 2006, available at [http://www.washingtonpost.com/wpdyn/content/article/2006/12/22/AR2006122201019.html?nav=rss\\_opinion/columns](http://www.washingtonpost.com/wpdyn/content/article/2006/12/22/AR2006122201019.html?nav=rss_opinion/columns) (accessed March 22, 2007).

26 See *Tabion v. Mufti*, 73 F.3d 535 (4th Cir. 1996) (holding that the Vienna Convention barred suit by live in domestic employee against a diplomat and his wife). See also Human Rights Watch, Hidden in the Home: Abuse of Domestic Workers with Special Visas, Vol. 13, No. 2 (G), June 2001, available at <http://www.hrw.org/reports/2001/usadom/> (accessed March 22, 2007).

27 E.O. 13387, signed October 14, 2005.

28 Legal guidance is also required for application of the UCMJ to civilians and contractors in contingency

operations, as mandated in the Defense Authorization Act of 2007. PL 109-364.

29 DFARS Case 2004-D017 (October 26, 2006); FAR Case 2005-012 (April 19, 2006).