

Testimony of
Sister Mary Ellen Dougherty

July 7, 2004

Testimony of Migration and Refugee Services
U.S. Conference of Catholic Bishops
on
Trafficking in Human Persons
Hearing before the Senate Committee on the Judiciary
Subcommittee on the Constitution, Civil Rights, and Property Rights

United States Senate
Wednesday, July 7, 2004

Sr. Mary Ellen Dougherty, SSD

I am Sister Mary Ellen Dougherty, a School Sister of Notre Dame and Program Manager for Outreach, Education, and Technical Assistance, Trafficking in Persons program, of Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB). I am pleased to be here today before the Subcommittee to testify on U.S. efforts to combat the growing problem of trafficking in human persons.

The movement of people across boundaries around the world is part of the collective human experience, but towards the end of the 20th century a new and disturbing issue related to the international migration of humans began to emerge: the trafficking of humans through the use of fraud, force, or coercion.

Now, in the twenty-first century, the practice reaches every corner of the globe, from Asia and Africa to Europe and the Americas. The purveyors of this new international scourge-- international traffickers and their accomplices--gain power and reap profits from their abuse and exploitation of those they traffic.

This is not a problem which exists merely on far away shores and in less developed lands. It exists right here in the United States, where thousands of persons are trafficked each year for purposes of forced prostitution or forced labor. Trafficking in persons is a modern-day form of slavery, and it is the largest manifestation of slavery today.

Catholic Social Teaching

The Catholic bishops of the United States and the church community throughout the nation have placed combating human trafficking as a top priority in their public advocacy, educational outreach, and in providing service to trafficking victims. From the Catholic perspective, human trafficking represents a scourge on the earth which must be eradicated. It is indeed troubling that

in the twenty-first century human beings are being sold into bondage as prostitutes, domestic workers, child laborers, and child soldiers.

His Holiness Pope John Paul II, in a letter on the occasion of the International Conference on "21st Century Slavery--the Human Rights Dimension to Trafficking in Human Beings," stated that human trafficking "constitutes a shocking offense against human dignity and a grave violation of fundamental human rights. In particular, the sexual exploitation of women and children is a particularly repugnant aspect of this trade, and must be recognized as an intrinsic violation of human dignity and human rights."

The Catholic bishops of the United States and Mexico have also spoken out on the issue, calling upon the governments of the United States and Mexico to work together to apprehend traffickers and destroy trafficking networks: "Both governments must vigilantly seek to end trafficking in human persons. Together, both governments should more effectively share information on trafficking operations and should engage in joint action to apprehend and prosecute traffickers."

Bishop Thomas Wenski, Coadjutor Bishop of Orlando, Florida, and Chairman, U.S. Conference of Catholic Bishops Committee on Migration, recently reaffirmed the commitment of the church to ending human trafficking: "The Catholic Church...in the United States stands ready to work with our government to end this scourge. We cannot rest until trafficking in human persons is eliminated from the globe."

The Scourge of Human Trafficking

At least 700,000 persons annually are trafficked within or across international boundaries. They are forced or enticed mainly from less-developed countries and regions, such as India, the former Soviet Union, Central and South America, and throughout Africa. They traverse the globe, ending in Germany, Italy, the Netherlands, Israel, Australia, Japan, Canada, and the United States.

It is estimated that as many as 17,000 human beings each year are trafficked into the United States. Women and children have been forced to work in prostitution and child pornography rings, while men, women, and children have been forced into different types of manual labor, without pay or protection.

Victims of human trafficking are commonly linked by poverty and lack of opportunity. They are also connected by their desperation and urge to escape the double trap of privation and their perception of migration as an accessible escape route. Often they seek to escape life in a dreary village or oppressive slum, with the hope of finding opportunity and a brighter future in a more developed land.

It is in these environments that human traffickers flourish, promising unsuspecting victims an opportunity to travel to a foreign land, at no immediate expense, for employment and housing. At the end of the journey, they find coercion, abuse, entrapment, and exploitation in a brothel, a massage parlor, an illicit factory, or an agricultural outpost. By the time they are rescued, if ever, they are shattered by physical, mental, and psychological abuse in the roles of prostitutes,

domestic servants, or manual laborers. Many become ill with disease or become infected with HIV. Some lose their lives.

The Church Response to Human Trafficking

As I mentioned, Mr. Chairman, the Catholic Church has placed the elimination of trafficking as an important priority in the areas of public advocacy, public education, and services to trafficking victims. We are working to raise awareness within the Catholic community about the problem, including trainings to help diocesan staff identify and assist victims of trafficking. We have sponsored roundtables and fora on the subject and held public meetings on several occasions to educate the Catholic faithful and others on human trafficking. It is important to note, Mr. Chairman, that all of our training and education are directed toward one end: the best interest of the victims. Our education and training are intended to help people to identify victims when they see them, and to empower them to act on what they see.

Part of this effort is driven by the Catholic Coalition Against Human Trafficking, which consists of about twenty Catholic organizations which convene quarterly and work together on advocacy and public outreach. The coalition was instrumental in influencing provisions of the Trafficking Victims Protection Act of 2000 and its successor, the Trafficking Victims Protection Reauthorization Act of 2003.

The Church and its service organizations, particularly Catholic Charities, also provide support services to both adult and child victims of trafficking, including health and mental health services, employment assistance, English-language training, counseling, housing and other material assistance. Through our service providers, we also provide case management services, social service assistance, and legal assistance, where appropriate. In our experience, Mr. Chairman, victims of trafficking need access to a continuum of services in order to attain self-sufficiency and restore mental and physical health.

Trafficking victims also need, first and foremost, safety and security. Many are terrified of the traffickers who brought them to the United States and show signs of post-traumatic stress disorder, among other mental health problems. Providing them with a secure, safe, and nurturing environment is crucial to ensuring their return to society as contributing members. In this vein, MRS/USCCB has developed a system for short-term emergency housing where victims can be safe until they are assigned to a non-governmental organization to provide them with the services they are entitled to as victims of trafficking. Our system of safe houses involves the commitment of individuals and communities, including religious communities, who open their doors when there is an emergency in their area or who network to ensure that victims receive housing and are protected.

Mr. Chairman, let me add that faith-based organizations are uniquely positioned to identify and provide assistance to victims of human trafficking. First, faith-based organizations act from a theological and philosophical perspective. For example, the themes of Catholic social teaching--the protection of human dignity and human rights; the preferential option for the poor; the call to family and community; the rights of workers; solidarity and care for creation--all address evils inherent in human trafficking. These principles of justice are not unique to Catholicism but are

manifest in most religions. Commitment to these principles gives the issue of human trafficking a sense of urgency to many faiths and religious communities.

Second, many faith-based organizations have national and international partner agencies that enhance their capacity and reach. The Catholic Church is certainly no exception and plays a leading role in giving voice to the victims of trafficking. Through advocacy and material support, the Church utilizes her full reach, resources, and expertise - both domestically and internationally - to bring peace, justice, and hope to this vulnerable population. For example, the Catholic Church is present overseas, in the form of Catholic Relief Services and other Catholic overseas assistance organizations and the universal Church, as well as domestically, in the form of Catholic Charities, local dioceses, and parishes. We also have access to other service providers, such as religious congregations around the world.

Finally, faith-based organizations have resources, in the form of human resources, in-kind donations, and other assets, which provide an important infrastructure which can assist in the fight against human trafficking. While we see the effort as a partnership with the U.S. government and other governments around the world, we would be performing this work regardless, particularly because of the moral gravity of the issue and the ongoing suffering of its victims.

U.S. Government Response to the Plague of Human Trafficking

Mr. Chairman, in 2000 the U.S. Congress passed landmark legislation, entitled the Trafficking Victims Protection Act of 2000, which provided the U.S. government the framework to respond to the plague of human trafficking in the United States. Just last year, you reauthorized the legislation and made major improvements to it, giving law enforcement authorities more tools to apprehend traffickers and giving trafficking victims, especially children, easier access to immigration benefits and services.

Specifically, TVPA revamped U.S. law by making trafficking a crime against an individual, allowing the U.S. government to focus on victims of trafficking. The government now provides funding to assist victims and issues a T-visa, created under the law, to provide protection and permanence to victims. Reauthorization of TVPA allowed for minors to access the T-visa without being forced to testify in open court against their perpetrators and allowed for siblings of victims to come with their parents to the United States. We believe the T-visa and its protection is a major feature of U.S. law which permits victims to remain in the United States and not be sent back to potential traffickers in their home countries.

Since the passage of TVPA in 2000, the Department of State, the Department of Justice, and the Department of Health and Human Services have made great strides in implementing the law. Because of their joint and individual efforts, general awareness about the reality of human trafficking has increased, more victims have been identified and referred for services, and more traffickers have been brought to justice. Your leadership, Mr. Chairman, and that of Congress will help improve these efforts even further in the years ahead.

However, Mr. Chairman, improvements can be made in several areas, including the provision of a continuum of services to victims and in identifying and referring victims for care. We make the following recommendations for your consideration:

1. Funding for services should be increased and services should be made available to victims from the point they are rescued to the point they are self-sufficient and in good health.

While the Congress has appropriated funds for services to trafficking victims through the Office of Refugee Resettlement of the Department of Health and Human Services (ORR/HHS) and the Department of Justice, there exist gaps in funding and services for victims which should be addressed.

First, funding for services should be made more available once a victim is identified but before certification by HHS. This is a critical time in the care of a trafficking victim, who is usually traumatized, physically and mentally abused, and insecure. The funding which is available for pre-certification is inadequate to address the needs of an individual when the period between his or her identification and certification lasts many months. Care and placement should begin immediately upon the rescue of a victim. While both the Department of Justice's Office of Victims of Crime and HHS recognize this principle, the funding does not match the long-term care that the investigation mandates.

While HHS funding for victims has been adequate given the low numbers of victims identified, it will not accommodate numbers that will surface if the HHS Rescue and Restore program is effective. When large numbers of victims are uncovered, no funded agency can respond without depleting its funding on one single case. We recommend a contingency fund that is both large enough and flexible enough to provide for large-scale emergency cases.

Recent events on Long Island demonstrate the need for such a fund. Last week 69 Peruvians were rescued from captivity in Suffolk County, Long Island, by law enforcement authorities. They had been held in captivity for four years, forced to work 18 hour days and pay traffickers. Catholic Charities of the Rockville Centre diocese is now attempting to provide counseling, medical care, job placement, housing, and immigration assistance to the victims.

Second, consideration should be given for the care of victims post-certification, at least until they have achieved self-sufficiency and good health. Currently, funding provides for initial screening, health-care, employment referral, and other services, but does not follow the victim beyond the initial stages of resettlement. This leaves these victims susceptible to traffickers and to desperation on the streets.

We recommend that the subcommittee examine the continuum of care given to trafficking victims and work to fill the gaps which undermine the potential success of victims to lead happier and more fulfilling lives.

2. More avenues should be created for the referral of victims for certification and services.

Although as many as 17,000 persons are trafficked into the United States each year, approximately 500 have been identified and certified since 2000. This is primarily because of the

lack of awareness among the general public, community organizations and groups, and local law enforcement authorities, which should improve in the months and years ahead. It is also because there exist only certain avenues for referral, mainly by federal authorities who apprehend and prosecute traffickers and who rescue victims.

The reauthorization of the TVPA in 2003 includes a provision which allows ORR/HHS to consider referrals by state and local law enforcement authorities of trafficking victims for certification. However, the language is vague, resulting in confusion as to how local and state law enforcement are involved in referral/certification decisions. We recommend that the exact authority of local and state law enforcement to refer victims for services be clarified and enforced.

In addition, many state and local officials are unaware of this provision and of the certification process and services available to victims. Since state and local authorities often encounter trafficking rings and victims without recognizing them as such, more education should be provided by the federal government to state and local governments for this purpose. We applaud the initiatives of the Department of Justice to provide this education and encourage them to move expeditiously.

3. Federal agencies should better coordinate efforts, especially in the certification, protection, and care of victims.

The creation of the State Department Office to Monitor and Combat Trafficking in Persons in the TVPA has helped focus the efforts of the U.S. government in the last several years. Among the initiatives undertaken by the Office include an interagency task force to coordinate efforts and initiatives to combat trafficking and the sponsorship of conferences and fora to educate the public and others about the issue. The Office also issues an annual Trafficking in Persons report, which identifies sending countries and holds them accountable for not addressing the issue in their countries. The Office also speaks for the U.S. government on trafficking issues, raising awareness domestically and abroad.

Coordination between federal agencies, however, such as the Department of Justice and the Department of Health and Human Services, should be improved. For example, information on victims and prosecutions should be more readily shared between the agencies, and questions about implementation of the law should be jointly considered and addressed. For example, confusion and disagreement over the role of state and local law enforcement in referring trafficking victims continues, without a clear system to take advantage of this provision and encourage those officials to use it.

Mr. Chairman, these suggestions and observations are given with the highest respect for the federal officials who are implementing this law and spearheading the U.S. response to this scourge. We must keep in mind that the issue of trafficking in human persons is an emerging issue which will take time to eradicate and that we must work together toward this goal.

Child Trafficking Victims

Mr. Chairman, MRS/USCCB has a special interest in the situation of children who are trafficking victims. As you know, children are particularly vulnerable to traffickers and are susceptible to their abuses. We must pay particular attention to child trafficking victims and ensure that they are protected and provided special care. Mr. Chairman, children are perhaps the most vulnerable group of victims of trafficking. While efforts to find and assist victims of trafficking have been pursued with commendable commitment over the last several years, we fear that children, as a group, have fallen through the cracks of these enforcement efforts. Since the enactment of TVPA, only 34 child victims have been identified within the United States and referred to trafficking victims assistance. However, knowledge of the nature of trafficking, the sexual exploitation of children, and statistics gathered by the State Department on child trafficking worldwide numbers leads one to conclude that many more children are being held involuntarily in trafficking situations in the United States than we have so far identified. Special attention needs to be given to identifying child victims of trafficking crimes.

Those children who are discovered are in need of special protection. Most are unaccompanied, without a parent or guardian to care for them, and their immigration status may be in doubt. Currently, the Office of Refugee Resettlement (ORR) ably cares for trafficked and other unaccompanied children without a firm immigration status. Congress could assist ORR by resolving structural ambiguities created when care and placement of these children was transferred from the now defunct Immigration and Naturalization Service (INS) to ORR.

Senators Dianne Feinstein and Sam Brownback have introduced S. 1129, the Unaccompanied Alien Child Protection Act of 2004, which would sensibly resolve these ambiguities and provide other needed reforms in the care and placement of these children, including ensuring that proactive steps are taken to protect such children from smugglers, traffickers, and unscrupulous attorneys who may be cooperating with such criminals. We commend the Senate Judiciary Committee for favorably reporting S. 1129 and urge the Senate and House of Representatives to pass it before the end of the 108th Congress.

Mr. Chairman, I would like to share with you and the subcommittee members a success story of trafficked children who were referred to our agency for services.

In early April, 2002, a local law enforcement agency conducted a raid on an organized crime syndicate involving illegal aliens engaged in prostitution in the U.S. Among those apprehended were four young girls from Mexico who had been lured to the U.S. with promises of marriage, but who instead were forced into prostitution and kept in virtual slavery. At the time of their apprehension by law enforcement personnel, the girls, ranging in ages from 14 to 16, had been in the U.S. and kept in slave-like conditions for two years. They were not allowed to leave the houses in which they were forced into prostitution, were often beaten, and were forbidden to even speak with each other.

Soon after the raid, a call was made to ORR/HHS and to Migration and Refugee Services of the U.S. Conference of Catholic Bishops in Washington, requesting assistance in locating an appropriate child welfare environment in which to place the girls. Within a week, the girls were transferred to a state-licensed, residential program for unaccompanied minors which specializes

in assisting children suffering from sexual abuse and is experienced in caring for children around the world.

Since placement of the girls, reports are that their fears and trauma-induced nightmares are abating. The girls have since received T-visas and helped prosecute the men who trafficked them. The court convicted the traffickers and ordered them to give restitution of \$135,000 to the girls. They are receiving an education and two are living with family.

Mr. Chairman, this is an example of how the system should work. Unfortunately, it does not always work in this manner because not enough child victims are able to access the system.

Of the 17,000 persons trafficked into the United States each year, an estimated one-third are children. Unfortunately, there have been few referrals of children for services since 2000. Through FY 2003, only 18 children nationwide have been certified and referred for care. During the current fiscal year, we and our partner agency, the Lutheran Immigration and Refugee Service, have received only four referrals of children for services.

The children identified and "determined eligible" for services in the United States to date are largely being served in specialized foster care programs which have long experience caring for refugee, asylee, and other unaccompanied foreign-born children. Immediate safety and long-term stability are the overwhelming needs of child trafficking victims, regardless of age, background, type of enslavement or any other characteristic. For some of the children to date, the referral and service system has worked well. However, a continuum of care in which the child experiences the most stability should become the norm for child referral victims.

There are several different principles which should be invoked in any decision-making process regarding child victims:

? The "best interest of the child" standard should be used as the basis of all decision-making related to any child identified in any trafficking situation. In any question of age or "victimhood," the benefit of the doubt should go toward the greater care of the child.

? All children should receive immediate safe haven with a systematic plan for assessing the child's needs.

? Family reunification should be explored as a priority but with great care taken to assure that the claimants are genuine family members, do not have connection to traffickers, and are capable of providing safety for the child.

? Children should be placed in the least restrictive setting commensurate with their safety and emotional and physical needs.

? Children need assistance with legal obligations to assist prosecution and with immigration assistance to ensure that they remain in the United States, if that is in their best interest.

? All children should have a long-term plan for self-sufficiency.

Despite best efforts, there exist gaps in the continuum of care for child trafficking victims, including initial identification by law enforcement of trafficked persons as children and victims, referral to ORR/HHS to be determined eligible for services, and possible "family reunification" with traffickers.

These gaps can have major consequences for child trafficking victims. For example, when children are not identified as trafficking victims, they may be mistakenly identified as adults, detained and deported through the Department of Homeland Security detention system, placed in overburdened local child welfare systems with little security and planning, or released back to traffickers or their associates. When children are identified as trafficking victims but not referred to ORR/HHS for care, they can be placed in short-term shelters where they experience frequent moves, receive no orderly system of assessment and treatment, and have no long-term safety and security.

In order to avoid these devastating consequences for children, we offer the following recommendations:

? Procedures should be developed for all federal, state, and local law enforcement personnel to refer immediately children in trafficking-like situations for assessment and age determination with benefit of the doubt going to the child;

? A system of immediate safe haven should be developed where a child is safe while being determined eligible, which includes immediate care and assessment of needs and a strategy to assess family for possible safe reunification;

? Determination of eligibility for child victims should be expedited; and

? Long-term care in a least restrictive setting should be arranged, with capacity for therapeutic intervention; assistance with legal obligations; plan for family reunification; or eventual self-sufficiency.

? A Child Welfare specialist should be appointed to oversee the child from rescue to self-sufficiency. Such an expert can act as a decision-maker for a traumatized child in a complex legal and child welfare system.

The Catholic Church recognizes the special vulnerability of trafficked victims who are children and is ready to work with the federal government to develop and implement programs which address their needs.

Conclusion

Mr. Chairman, the issue of trafficking in human persons is perhaps one of the most important human rights issue facing the world community today. The United States, and Congress, have taken significant steps in the past several years to address this problem. The historic passage of trafficking legislation in 2000 established the framework for the U.S. response and places the United States as a moral leader in the effort to eradicate the scourge of trafficking from the face of the earth.

I am confident that, with better coordination and cooperation between all branches of government as well as all federal agencies, we can, as a nation, punish traffickers and provide appropriate care to victims. We also will, as a nation, influence other nations to step up their efforts to end this practice, so that vulnerable men, women, and children everywhere will not become victims of the worse side of humanity.

Thank you for considering our views today.