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Trafficking in Persons: U.S. Policy and Issues for Congress

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Summary

Trafficking in persons (TIP) for the purposes of exploitation is believed to be one of the most prolific areas of contemporary international criminal activity and is of significant interest to the United States and the international community as a serious human rights concern. TIP is both an international and a domestic crime that involves violations of labor, public health, and human rights standards, and criminal law.

In general, the trafficking business feeds on conditions of vulnerability, such as youth, gender, poverty, ignorance, social exclusion, political instability, and ongoing demand for cheap labor and sex workers. Actors engaged in human trafficking range from amateur family-run organizations to sophisticated transnational organized crime syndicates. Trafficking victims are often subjected to mental and physical abuse in order to control them, including debt bondage, social isolation, removal of identification cards and travel documents, violence, and fear of reprisals against them or their families. According to the International Labor Organization (ILO), in June 2012, some 20.9 million individuals were estimated to be victims of forced labor, including TIP. The most recent estimate from the U.S. government noted that as many as 17,500 people were believed to be trafficked into the United States each year, and some have estimated that 100,000 U.S. citizen (USC) children were victims of trafficking within the United States during the course of each year.

Human trafficking is of great concern to the United States and the international community. Anti-TIP efforts have accelerated in the United States since the enactment of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA, Division A of P.L. 106-386) and internationally since the passage of the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, adopted in 2000. Through the TVPA and its reauthorizations (TVPRAs), Congress has aimed to eliminate human trafficking by creating international and domestic grant programs for both victims and law enforcement, creating new criminal laws, and conducting oversight on the effectiveness and implications of U.S. anti-TIP policy. In March 2013, the TVPA was reauthorized through FY2017 in the Violence Against Women Reauthorization Act of 2013 (Title XII, P.L. 113-4).

The United States engages in anti-TIP efforts internationally and domestically. The bulk of U.S. anti-trafficking programs abroad is administered by the State Department, United States Agency for International Development, and Department of Labor (DOL). In keeping with U.S. anti-trafficking policy, these programs have emphasized prevention, protection, and prosecution (the three "Ps"). Prevention programs have combined public awareness and education campaigns with education and employment opportunities for those at risk of trafficking, particularly women and girls. Protection programs have involved direct support for shelters, as well as training of local service providers, public officials, and religious groups. Programs to improve the prosecution rates of traffickers have helped countries draft or amend existing anti-TIP laws, as well as provided training for law enforcement and judiciaries to enforce those laws. However, it is difficult to evaluate the impact of international U.S. anti-trafficking efforts since few reliable measures of TIP have been identified.

Domestically, anti-TIP efforts also include protection for victims, education of the public, and the investigation and prosecution of trafficking offenses. The Departments of Justice (DOJ), Health and Human Services (HHS), and DOL have programs or administer grants to other entities to provide assistance specific to the needs of victims of trafficking. These needs include temporary housing, independent living skills, cultural orientation, transportation needs, job training, mental health counseling, and legal assistance. Both HHS and the Department of Homeland Security (DHS) administer public awareness campaigns on recognizing human trafficking victims. In

addition, within the United States at the federal level, the Federal Bureau of Investigation (FBI) in DOJ and Immigration and Customs Enforcement (ICE) in the Department of Homeland Security both have primary responsibility for investigating and prosecuting traffickers.

Some of the issues surrounding U.S. policy to combat human trafficking include whether there is equal treatment of all victims—both foreign nationals and U.S. citizens, as well as victims of labor and sex trafficking; whether current law and services are adequate to deal with the emerging issue of minor sex trafficking in the United States (i.e., the prostitution of children in the United States); and whether U.S. efforts to stem human trafficking internationally are efficacious.

In addition, the current budget situation has heightened interest in Congress on the funding and oversight of current efforts to fight TIP, to make sure that the grant programs authorized under the TVPA as amended do not duplicate efforts and that funding is being used in the most efficacious manner. Obligations for global and domestic anti-TIP programs, not including operations and law enforcement investigations, totaled approximately $82.5 million in FY2011. The TVPRA of 2013 authorized $127.75 million in global and domestic anti-TIP programs for FY2014.

The 113th Congress has made TIP a priority. In February 2013, Congress passed S. 47 (P.L. 113-4), which amended and reauthorized the TVPA. Among other things, P.L. 113-4 modified some of the grant programs, expanded reporting requirements, created new criminal penalties for trafficking offenses, and reauthorized appropriations from FY2014 through FY2017. It is expected that Congress will consider other TIP legislation during the 113th session dealing with the child welfare system's response to minor sex trafficking, trying to limit demand for prostitution, and addressing the issue of online advertisements for the commercial sexual exploitation of minor trafficking victims.

See also CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin; and CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Rosen.

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Overview

Trafficking in persons (TIP), or human trafficking, is both an international and a domestic crime that is often also associated with violations of labor, public health, and human rights standards. As such, the United States and the international community have committed to combating the various manifestations of human trafficking. Anti-TIP efforts have accelerated in the United States since the enactment of the Trafficking Victims Protection Act of 2000 (TVPA),[1] and internationally since the passage of the U.N. Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (hereinafter, U.N. Protocol), adopted in 2000. Congress has been active in enacting anti-TIP laws, appropriating funds, and authorizing and evaluating anti-trafficking programs. Since 2000, Congress reauthorized the TVPA four times, most recently in 2013.[2]

This report focuses on international and domestic human trafficking and U.S. policy responses, with particular emphasis on the TVPA and its subsequent reauthorizations. The report begins with a description of key TIP-related definitions and an overview of the human trafficking problem. It follows with an overview of major foreign policy responses to international human trafficking. The report then focuses on responses to trafficking into and within the United States, examining the types of immigration relief available for trafficking victims in the United States and discussing U.S. law enforcement efforts to combat domestic trafficking. The report concludes with a discussion of the most recent TVPA reauthorization and an analysis of policy issues.

Definitions

Several international and domestic definitions are relevant to U.S. policy responses associated with TIP. These terms are variously used in international treaties as well as domestic statutes and are relevant for attempts to measure progress in combating the phenomenon.

Trafficking in Persons

Article 3 of the U.N. Protocol defines "trafficking in persons" as:

> [T]he recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a 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 includes, a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Often, the U.N. Protocol's definition of TIP is described as composed of three necessary elements:

1. the commission of specific *acts* (e.g., recruitment, transportation, transfer, harboring, or receipt of persons);
2. the use of specific methods or *means* in the commission of the above-listed acts (e.g., threat or use of force or other forms of coercion, abduction, fraud,

[1] Division A of P.L. 106-386.

[2] Congress passed the most recent TVPA reauthorization on March 7, 2013 (P.L. 113-4).

deception, abuse of power or position of vulnerability, giving or receiving payments or benefits to control another person); and

3. the primary *purpose* of committing the above-listed acts using the above-listed means is exploitation.

The three-part U.N. definition clarifies that TIP is unique among other trafficking and commodity smuggling crimes, as it does not require that victims move across national borders to trigger the definition. Instead, the U.N. definition emphasizes the role of human exploitation and vulnerability as core components. A victim's consent in a trafficking scheme is irrelevant to the U.N. definition when exploitation occurs as a result of specified means of force, fraud, and coercion. Additionally, persons under the age of 18 who are recruited, transported, transferred, harbored, or received for the purpose of exploitation are considered trafficking victims.[3]

Severe Forms of Trafficking in Persons

Federal statutes do not formally define human trafficking or trafficking in persons. Instead, Section 103(8) of the TVPA defines "severe forms of trafficking in persons" to mean:

> (A) 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; or
>
> (B) the recruitment, harboring, transportation, provision or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

This term, rather than the U.N. TIP definition of trafficking in persons, is applied in the context of U.S. anti-trafficking policies and programs—including in the State Department annual *Trafficking in Persons* Report (TIP Report), which measures and ranks foreign countries' progress to eliminate severe forms of trafficking in persons. Furthermore, a country's failure to achieve minimum standards of progress in combating severe forms of trafficking in persons has the potential to trigger restrictions that prohibit poor-performing countries from receiving certain types of U.S. foreign assistance.[4]

Several of the key terms used in the definition of severe forms of trafficking in persons are additionally defined or described by the TVPA, as amended, including the terms "coercion," "commercial sex act," "debt bondage," "involuntary servitude," and "sex trafficking."

- **Coercion:** "(A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe

[3] The *travaux préparatoires* note that "the removal of organs from children with the consent of a parent or guardian for legitimate medical or therapeutic reasons should not be considered exploitation." U.N. General Assembly, Report of the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime on the Work of its First to Eleventh Sessions, Addendum, "Interpretive Notes for the Official Record (*travaux préparatoires*) of the Negotiation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime," A/55, 383/Add.1, November 3, 2000.

[4] Additionally, pursuant to Section 106(g) of the TVPA, as amended, the President may terminate federally funded grants, contracts, or cooperative agreements, without penalty, if a grantee or contractor or any subgrantee or subcontractor is found to have engaged in "severe forms of trafficking in persons" while the grants, contracts, or agreements are in effect. Other specified rationales for terminating such grants, contracts, or agreements include the procurement of commercial sex acts while the grant, contract, or agreement is ongoing, and the use of forced labor in the performance of work products or services for the U.S. government.

that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of the legal process."[5]

- **Commercial Sex Act:** "any sex act on account of which anything of value is given to or received by any person."[6]
- **Debt Bondage:**[7] "the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined."[8]
- **Involuntary Servitude:** "(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or (B) the abuse or threatened abuse of the legal process."[9]
- **Sex Trafficking:** "the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act."[10]

The TVPA's terminology is similar to the U.N. Protocol's, as both identify force, fraud, and coercion as prohibited means or methods for obtaining the services of another person and both do not require movement of persons across national borders as a necessary precondition for identifying human trafficking. The U.S. and U.N. definitions appear to differ somewhat with respect to the concept of exploitation.[11] Notably, one of the specified examples of exploitation listed by the U.N. definition, the removal of organs, is not present in the U.S. definition of severe forms of human trafficking. Distinctions also exist between human trafficking and human smuggling. Human smuggling typically involves the provision of a service, generally procurement or transport, to people who knowingly consent to that service in order to gain illegal entry into a foreign country. In some instances, an individual who appears to have consented to being smuggled may actually be trafficked if, for example, force, fraud, or coercion are found to have played a role.

Forced or Compulsory Labor

"Forced or compulsory labor" is defined by International Labor Organization (ILO) Convention No. 29 as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."[12]

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[5] Sections 103(2) and 112(a)(2) of the TVPA.

[6] Sections 103(3) and 112(a)(2) of the TVPA.

[7] This is also the definition of debt bondage used in the 1957 U.N. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (see article 1(a)).

[8] Section 103(4) of the TVPA.

[9] Section 103(5) of the TVPA.

[10] Section 103(9) of the TPVA.

[11] On the one hand, the U.N. definition uses the term "exploitation" expansively, providing some illustrative, but not comprehensive examples of exploitation, or purposes for trafficking acts. In contrast, the U.S. definition does not use the term exploitation, but identifies, in the context of describing labor trafficking, four specific purposes for inducing another person's labor or services: (1) involuntary servitude, (2) peonage, (3) debt bondage, and (4) slavery.

[12] Article 2 further specifies certain types of labor that are excluded from the term forced or compulsory labor, including compulsory military service, normal citizen civic obligations, state-run prison labor, mandatory support in an emergency or crisis situation, and minor community service. The ILO has clarified in other documents that the

The ILO definition is used in the context of some U.S. laws. The Trade Act of 1974, as amended (19 U.S.C. 2467), for example, identifies forced or compulsory labor, as defined by the ILO, as one of five "internationally recognized worker rights," which also include the right of association, the right to organize and bargain collectively, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Separately, Section 222 of the TVPA of 2008 (P.L. 110-457) amends Section 1589 of the *U.S. Criminal Code* (Title 18) to describe the means by which forced labor occurs:

> (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
>
> (2) by means of serious harm or threats of serious harm to that person or another person;
>
> (3) by means of abuse or threatened abuse of law or legal process; or
>
> (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint[.][13]

Section 103(5) of the TVPA also defines "involuntary servitude" (see above), a term often used to describe forced labor in the U.S. context of human trafficking. The State Department also describes forced labor as a key form of human trafficking, which factors into its country assessments in the annual TIP Report.[14]

Child Soldiers

Section 402 of the Child Soldiers Protection Act (CSPA) of 2008 (Title IV of P.L. 110-457) defines "child soldier" to mean:

> (i) any person under 18 years of age who takes direct part in hostilities as a member of the armed forces;
>
> (ii) any person under 18 years of age who has been compulsorily recruited into governmental armed forces;
>
> (iii) any person under 15 years of age who has been voluntarily recruited into governmental armed forces; or
>
> (iv) any person under 18 years of age who has been recruited or used in hostilities by armed forces distinct from the armed forces of a state[.]

The CSPA of 2008 further specifies that the term child soldier applies to those described above who provide support roles to the armed forces, including child cooks, porters, messengers,

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definition of forced labor is not to be directly equated with low wages, poor working conditions, or unsatisfying, demeaning, or hazardous jobs accepted out of economic necessity. See for example, ILO, Report of the Director-General, *The Cost of Coercion*, Global Report Under the Follow-Up to the ILO Declaration on Fundamental Principles and Rights at Work, 2009.

[13] Pursuant to Section 222 of the TVPRA of 2008 (18 U.S.C. 1589), the term "serious harm" is defined as "any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or continue performing labor or services in order to avoid incurring that harm." The term "abuse or threatened abuse of law or legal process" is defined as "the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action."

[14] See also U.S. Department of State and the Broadcasting Board of Governors (BBG), Office of Inspector General (OIG), *Inspection of the Office to Monitor and Combat Trafficking in Persons*, Report No. ISP-I-12-37, June 2012.

medics, guards, and sex slaves. At the international level, there is a U.N. treaty that addresses the recruitment and use of child soldiers, called the U.N. Option Protocol to the Convention on the Rights of the Child in Armed Conflict. This U.N. Optional Protocol, however, does not define child soldiering, aside from specifying that children are to include persons under the age of 18 and noting that, according to the Statute of the International Criminal Court, the conscription or enlisting of children under the age of 15 years or using them to participate actively in hostilities constitutes a war crime.

Scope of the Global TIP Problem

International human trafficking is widely considered to be a leading law enforcement challenge as well as a pervasive and widespread manifestation of modern-day violations of human rights. Observers have also emphasized how TIP can impact economic development and public health.[15] The following sections provide an overview of the scope of the international TIP problem and ongoing challenges in combating the phenomenon.

Traffickers and Recruitment Methods

A diverse range of organized criminal groups are reportedly involved in international human trafficking. Such criminal entities vary in terms of their leadership structure, level of organizational sophistication, transnational reach, membership size, ethnic and social composition, dependence on human trafficking as a primary source of profit, use of violence, and level of cooperation with other organized crime groups. Human trafficking operations often require the participation of unscrupulous recruiters and employment agency managers and corrupt immigration and consular officials. According to the United Nations, human trafficking can be closely integrated into legal businesses, including the tourism industry, agriculture, hotel and airline operations, and leisure and entertainment businesses.[16] Related crimes associated with human trafficking operations have reportedly included fraud, extortion, racketeering, money laundering, bribery, drug trafficking, arms trafficking, car theft, migrant smuggling, kidnapping, document forgery, and gambling.[17] Women in particular have been found to play a prominent role in human trafficking, compared to other violent and organized crimes, which are primarily perpetrated by men.[18]

Reports suggest that traffickers exploit a range of tactics, techniques, and procedures for recruiting and forcibly maintaining victims in situations of human trafficking. According to the UNODC, Balkan-based groups commonly recruit victims through deceptive promises of employment, participation in beauty contests, modeling opportunities, affordable vacations, study

[15] Economic costs associated with human trafficking have at times been described in terms of lost labor productivity, human resources, taxable revenues, and migrant remittances, as well as unlawfully redistributed wealth and heightened law enforcement and public health costs. See U.N. Global Initiative to Fight Human Trafficking (U.N. GIFT) and U.N. Office on Drugs and Crime (UNODC), *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, Background Paper, 2008; and U.S. Department of State, *Trafficking in Persons*, June 2007.

[16] U.N. GIFT and UNODC, *An Introduction to Human Trafficking*, 2008.

[17] Ibid; UNODC, *Trafficking in Persons: Global Patterns*, April 2006; and U.S. Department of State, *Trafficking in Persons*, June 2003.

[18] U.N. GIFT and UNODC, *Global Report on Trafficking in Persons*, February 2009; UNODC, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment*, 2010; and U.S. Department of State, *Trafficking in Persons*, June 2008.

abroad programs, and marriage services.[19] Similar methods are reportedly used by traffickers in Latin America.[20]

In cases of forced labor trafficking, contract fraud and contract switching is prevalent. According to the State Department, migrants may accept jobs abroad with a verbal agreement, only to find that the type of work and the working conditions are drastically different upon arrival at the work location. Sometimes employers may force their employees to sign new contracts upon arrival; others may alter the contract terms without notifying employees, while others may deny employees a copy of their signed contract or provide a copy of the contract in a language not understood by the employees.[21] Traffickers, including in particular Nigerian and Chinese groups, have been known to use debt bondage schemes on individuals who desire to be smuggled across international borders. Such irregular migrants thus become TIP victims as traffickers force them to pay back exaggerated smuggling fees.[22]

Other recruitment schemes include using family members, friends, and individuals of the same nationality or gender as potential victims; such individuals may be better positioned to gain a victim's trust and, ultimately, recruit such victims through deception.[23] In order to maintain a victim in circumstances of human trafficking, perpetrators may manipulate a victim's perception of the amount of credit and debt owed, keep victims in extreme social and community isolation, facilitate alcohol and drug addictions, threaten victims with physical violence, and instill in victims a fear of local authorities and the possibility of arrest or deportation.

Global Estimates

Estimates on the prevalence of human trafficking worldwide have varied widely (see discussion on data limitations, below). Overall, however, reports suggest that TIP is a global phenomenon, victimizing millions of people each year and contributing to a multi-billion dollar criminal industry. Among U.S. government sources, one estimate in 1997 gave an annual figure of some 700,000 women and children trafficked across international borders.[24] A later U.S. government estimate cited approximately 600,000 to 800,000 people trafficked across global borders each year—and if trafficking within countries were to be included in the total world figures, approximately 2 million to 4 million people were trafficked annually.[25]

International organizations have also conducted research on the global scope of TIP, including the ILO and United Nations. In 2005, for example, the ILO estimated that, at a minimum, some 2.45 million individuals worldwide were in conditions of forced labor as a result of human trafficking.[26] Using a revised methodology, the ILO issued a new estimate in June 2012 on the

[19] UNODC, *The Globalization of Crime*, 2010.

[20] Ibid.

[21] U.S. Department of State, *Trafficking in Persons*, June 2010.

[22] UNODC, *The Globalization of Crime*, 2010.

[23] Ibid.

[24] Clinton Administration, *International Crime Threat Assessment*, December 2000.

[25] Most recently cited in U.S. Department of State, *Trafficking in Persons*, June 2010. Note, however, that the U.S. Government Accountability Office (GAO) released a report in 2006 casting doubt on the methodology and reliability of official U.S. government figures. It concluded that the "U.S. government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking related data that resides within various government agencies." See GAO, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825, July 2006.

[26] Patrick Belser, Michaëlle de Cock, and Farhad Mehran, *ILO Minimum Estimate of Forced Labour in the World*, ILO,

number of victims of forced labor worldwide, concluding that some 20.9 million individuals were likely subjected to forced labor, including labor and sex trafficking as well as state-imposed forms of forced labor.[27] According to a December 2012 UNODC report, governments worldwide identified TIP victims originating in 136 countries and exploited in 118 countries between 2007 and 2010.[28]

Several other researchers, academics, and non-governmental organizations (NGOs) have conducted studies to estimate the scope of TIP internationally. For example, the NGO Free the Slaves estimated that some 27 million people may be enslaved worldwide.[29]

Analysts often emphasize several limitations in human trafficking data, which contribute to persistent questions about the true scope and severity of TIP. Limitations include differences in national definitions and political emphasis on TIP, as well as the varying nature of national criminal justice systems and the extent to which countries engage in bilateral, regional, and multilateral cooperation.[30] Some forms of TIP may not be tracked by national data if laws against such acts are not in existence. If definitions change over time as new laws are enacted, comparing data over multiple years may be challenging. The availability and quality of national structures for victim identification, referral, assistance, and repatriation also vary. Some countries lack a centralized database system for human trafficking and various domestic agencies, including the police and prosecutors, may collect and provide discrepant figures for the same measure of anti-trafficking enforcement.

Sex and Labor Trafficking

Two common TIP manifestations include forcible or otherwise coerced participation in the commercial sex trade and labor trafficking, which often involves forced work in low-skill, labor-intensive activities in the mining, agriculture, construction, manufacturing, and hospitality industries. Of the multiple forms of TIP, observers indicate that trafficking for the purpose of forced labor is likely to be most prevalent. However, trafficking for the purpose of sexual exploitation has historically been the most commonly reported—and prosecuted—form of human trafficking globally.

Based on national criminal justice and victim assistance data collected by UNODC, between 2007 and 2010, an estimated 58% of all trafficking cases involved sex trafficking, while 36% involved labor trafficking.[31] Such conclusions are likely to reflect a bias in reporting, which is believed to

April 2005. In 2005, the ILO also estimated that forced labor traffickers generated about $31.7 billion annually in illicit profits. And in 2009, the ILO further assessed that forced labor trafficking also resulted in a tangible global opportunity cost of approximately $21 billion—lost licit earning potential due to the underpayment of wages and the payment of recruitment fees. See ILO, *A Global Alliance Against Forced Labour*, Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2005; and ILO, *The Cost of Coercion*, 2009.

[27] ILO, *ILO Global Estimate of Forced Labour: Results and Methodology*, June 2012. ILO estimates the range of victims to be between 19.5 million and 22.3 million, with a 68% level of confidence.

[28] UNODC, *Global Report on Trafficking in Persons*, December 2012. Earlier, in 2010, UNODC reported that some 140,000 sex trafficking victims are likely exploited in Europe at any given moment, enduring such abuses for, on average, two years, and generating approximately $3 billion. See UNODC, "Chapter 2: Trafficking in Persons," in *The Globalization of Crime*, 2010.

[29] See most recently U.S. Department of State, *Trafficking in Persons*, June 2013.

[30] Examples summarized from U.N. GIFT and UNODC, *Global Report on Trafficking in Persons*, February 2009; and UNODC, *Trafficking in Persons: Global Patterns*, April 2006.

[31] UNODC, *Global Report on Trafficking in Persons*, December 2012; and U.N. GIFT and UNODC, *Global Report on Trafficking in Persons*, February 2009.

result in the over-reporting of sex trafficking and the under-reporting of labor trafficking. The ILO, in contrast, estimated that approximately 22% of all forced labor trafficking cases globally in 2012 (4.5 million out of an estimated total of 20.9 million victims) involved trafficking for commercial sexual exploitation.[32] Reports also suggest that female victims were more common than male victims for both labor trafficking in general and sex trafficking in particular.[33]

Child Trafficking

Children are particularly vulnerable as potential victims of human trafficking. According to the UNODC, between 2007 and 2010, an estimated 27% of all trafficking victims detected globally were children.[34] Examples of TIP involving children include the exploitation of children in the commercial sex industry, including for child sex tourism, forced child begging, domestic servitude, and the use of children in armed conflicts as soldiers, porters, cooks, messengers, and sex slaves. As part of such schemes, traffickers may employ various forms of physical and psychological deception and coercion, including threats or use of violence and manipulation through drug and alcohol dependencies.

Estimates of the prevalence of children trafficked for sexual exploitation and forced labor, including conscription or forced recruitment to serve in armed conflicts, vary. Many estimates may also be outdated. In 2003, the United Nations reported an estimated 1.2 million children were trafficked.[35] The ILO estimated that some 5.5 million children were victims of forced labor in 2012.[36] A 2001 estimate by UNICEF and ECPAT suggests that as many as 2 million children may be exploited for commercial sex at any given time.[37] The U.N. Secretary-General reported in May 2013 that as many as 50 state and non-state entities "recruit or use children" in situations of armed conflict.[38] The locations where such acts have taken place reportedly span Afghanistan, Burma (Myanmar), Central African Republic (CAR), Chad, Colombia, the Democratic Republic of Congo (DRC), Iraq, the Philippines, Somalia, South Sudan, Sudan, and Yemen.

Continuing Global Challenges

Although public commitments against slavery and other forms of human exploitation have long existed at the local, national, regional, and global levels, efforts to galvanize an international culture against human trafficking were reinvigorated in the late 1990s and early 2000s. Today, many countries have laws and authorities in place to combat human trafficking; yet, challenges persist in achieving the goal of reducing and ultimately eradicating the practice of human trafficking. In general, human trafficking feeds on structural vulnerabilities within a society, such

[32] ILO, *ILO Global Estimate of Forced Labour: Results and Methodology*, June 2012.

[33] See, for example, UNODC, *Global Report on Trafficking in Persons*, December 2012.

[34] UNODC, *Global Report on Trafficking in Persons*, December 2012.

[35] U.N. GIFT, *Human Trafficking: The Facts*, http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/HUMAN_TRAFFICKING_-_THE_FACTS_-_final.pdf.

[36] ILO, *ILO Global Estimate of Forced Labour*, June 2012.

[37] See for example, Nicole Ives, 2nd World Congress Against Commercial Sexual Exploitation of Children, Background Paper for the North American Regional Consultation on the Commercial Sexual Exploitation of Children, December 2-3, 2001, http://www.unicef.org/events/yokohama/regional-philadelphia.html. According to ECPAT, the 2 million children estimate is not based on any specific study; instead it is an estimate that many observers suggest is a representative number, based on anecdotal information and small scale studies worldwide. ECPAT response to CRS, December 30, 2011.

[38] U.N. General Assembly, Report of the Secretary-General to the Security Council, *Children and Armed Conflict*, A/67/845-S/2013/245, May 15, 2013, Annex I and II.

as poverty, political instability, social upheaval, and crisis.[39] Socially isolated and culturally excluded, disempowered, disenfranchised, and marginalized groups can be particularly susceptible to human trafficking. Vulnerable groups may become marginalized for reasons related to ethnic, linguistic, and religious dynamics, gender discrimination, age or youth.[40] Globalization has also contributed to an increase in the movement of people across borders, legally and illegally, especially from poorer to wealthier countries; international organized crime, including human traffickers, has taken advantage of this freer flow of people, money, goods, and services to extend its own transnational reach.[41]

Limitations in the implementation and enforcement of anti-trafficking policies also contribute to the challenges in combating human trafficking, resulting in a perception that human traffickers are at low risk of detection by law enforcement and are rarely punished for their illicit activities in many parts of the world.[42] Observers often point to the apparent discrepancy between the global magnitude of the human trafficking problem—estimated currently to be in the millions—and the total number of prosecutions, convictions, and victims identified.[43] Ongoing demand for cheap, labor-intensive and low-skilled work, including for commercial sex, may also drive the markets for both domestic and international human trafficking.

Overview of U.S. Foreign Policy Responses

The U.S. government has a number of strategies, policies, and laws in place to combat the international dimensions of human trafficking. Congress, in particular, has played an active role in establishing the overall structure of the U.S. foreign policy approach, as well as providing appropriations for combating human trafficking and conducting periodic oversight of the implementation of anti-TIP programs by various executive branch departments and agencies. Key elements of the U.S. foreign policy framework to address TIP include the National Security Presidential Directive 22 on Combating Trafficking in Persons (NSPD-22) and the Trafficking Victims Protection Act of 2000 (TVPA), as amended and reauthorized in 2003, 2005, 2008, and 2013 (TVPRAs).[44] Several mechanisms are in place to facilitate interagency coordination and

[39] Political and economic turmoil, conflict, man-made crises, and natural disasters can disrupt existing social, political, and economic institutions or exacerbate existing fissures and vulnerabilities. In such scenarios, traffickers may exploit gaps in a government's ability or willingness to protect vulnerable populations. Such instability can generate new populations of vulnerable people, including refugees, internally displaced persons, and asylum seekers. U.N. GIFT and UNODC, *An Introduction to Human Trafficking*, 2008.

[40] Many such marginalized and vulnerable groups may also have limited access to education, employment opportunities, and social and public services, including health care, legal assistance, and public safety and security. They may in turn lack awareness of their legal rights, the ability to negotiate fair treatment, or the physical capacity to protect themselves. U.N. GIFT and UNODC, *An Introduction to Human Trafficking*, 2008; ILO, *The Cost of Coercion*, 2009; and U.S. Department of State, *Trafficking in Persons*, June 2011.

[41] The allure of improved economic and social prospects in other countries can also drive potential migrants to make risky decisions that may in turn increase their susceptibility to exploitation and victimization. U.N. GIFT and UNODC, *An Introduction to Human Trafficking*, 2008; U.S. Department of State, *Trafficking in Persons*, June 2011; and UNODC, *The Globalization of Crime*, 2010.

[42] The State Department's 2012 TIP Report stated that a total of 155,470 victims have been identified worldwide from 2008 through 2011. See also UNODC, *The Globalization of Crime*, 2010; and U.S. Department of State, *Trafficking in Persons*, June 2011.

[43] U.S. Department of State, *Trafficking in Persons*, June 2011.

[44] Other relevant statutes and authorities that address international human trafficking issues, at least in part, include, in chronological order: Section 307 of the Tariff Act of 1930, which prohibits the U.S. import of certain foreign goods involving convict or forced or indentured labor; a presidential memorandum from March 1998 on Steps to Combat Violence Against Women and Trafficking in Women and Girls; Executive Order 13126 from 1999 on the Prohibition

international cooperation. The TVPA, as amended and reauthorized, established two interagency entities to facilitate coordination on anti-trafficking policy across U.S. government offices: the Senior Policy Operating Group (SPOG) and the President's Interagency Task Force (PITF).[45] The TVPA also mandated the establishment of the Office to Monitor and Combat Trafficking in Persons at the State Department as a central policy office to coordinate international anti-trafficking efforts, annually produce the TIP Report, and administer an international anti-TIP grants program, among other priorities.

The following sections provide a brief summary of U.S. foreign policy responses to human trafficking. For further analysis of the various foreign policy responses, see CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Rosen.

Foreign Country Reporting and Product Blacklisting

Congress has mandated several periodic reports on TIP-related issues to be issued by the executive branch. Chief among these reports includes the State Department's annual report on *Trafficking in Persons* (TIP Report), as required by the TVPA, as amended and reauthorized. The TIP Report assesses the yearly progress foreign countries have taken in achieving specified minimum requirements for combating severe forms of trafficking in persons. In this report, countries receive one of four possible ranking designations: Tier 1 (best), Tier 2, Tier 2 Watch List, and Tier 3 (worst). Only Tier 1 countries are fully compliant with the TVPA's minimum standards, while the rest are non-compliant and vary in terms of their level of effort to improve. Also included in the annual TIP Report is a legislatively mandated list of countries involved in recruiting and using child soldiers. Other major U.S. government reports on TIP-related issues include the State Department's *Country Reports on Human Rights Practices* and the Department of Labor's *Findings on the Worst Forms of Child Labor*.

In addition to country reporting requirements, the Departments of Labor, State, and Homeland Security are required to maintain lists of foreign products that have been produced by forced labor, child labor, indentured labor, forced or indentured child labor, and convict labor. Certain specified goods and products are banned from import into the United States if produced, mined, or manufactured with the use of convict, forced, or indentured labor.[46] Other specified goods and products are barred from being used by U.S. federal contractors because they are likely to have been mined, produced, or manufactured by forced or indentured child labor.[47] Such restrictions

of Acquisition of Products Produced by Forced or Indentured Child Labor; the Child Soldiers Prevention Act of 2008; a series of "trade preference programs" that authorize certain countries to receive duty-free access to U.S. markets on condition that such countries commit to prohibiting forced labor and eliminating the "worst forms of child labor," among other measures; and Executive Order 13627 from September 2012 on Strengthening Protections Against Trafficking in Persons in Federal Contracts.

[45] See President George W. Bush, "President's Interagency Task Force to Monitor and Combat Trafficking in Persons," Executive Order 13257 of February 13, 2002, *Federal Register*, Vol. 67, No. 33, February 19, 2002, pp. 7259-7260; and President George W. Bush, "Amending Executive Order 13257 to Implement the Trafficking Victims Protection Reauthorization Act of 2003," Executive Order 13333 of March 18, 2004, *Federal Register*, Vol. 69, No. 56, March 23, 2004, pp. 13455-13456.

[46] Banned products include specified furniture, clothes hampers, and palm leaf bags from a state penitentiary in Tamaulipas, Mexico, as well as specified diesel engines, machine presses, sheepskin and leather products, and malleable iron pipe fittings from a combination of factories and prisons in Yunnan, Xuzhou, Qinghai, and Tianjin, China. U.S. Department of Homeland Security, Customs and Border Protection, *Convict, Forced, or Indentured Labor Product Importations*, December 10, 2009.

[47] U.S. Department of Labor, Bureau of International Labor Affairs, "Current List of Products and Countries on EO

may help to prevent or at least reduce the role of the United States as a consumer market for goods produced, at least in part, with trafficked labor.

Foreign Aid and International Anti-trafficking Projects

Congress has authorized and appropriated foreign assistance funds specifically to combat human trafficking through the TPVA, as amended and reauthorized, and annual State, Foreign Operations appropriations legislation.[48] The goal of such aid is to build the capacity and capability of other countries to prevent trafficking, protect victims, and prosecute traffickers (commonly referred to as the three Ps). For each fiscal year from FY2008 through FY2011, the TVPRA of 2008 authorized a total of $63.8 million in foreign assistance to the State Department and to the President for combating trafficking in persons.[49] For FY2014 through FY2017, however, Congress authorized a total of $46 million for the same purposes.[50] The State Department budgeted $38.4 million for anti-human trafficking aid in FY2009, $34.6 million in FY2010, $34.1 million in FY2011, $39.9 million in FY2012, and $41.1 million in FY2013.

Foreign Aid Restrictions

Congress has enacted two provisions through which to deny certain types of foreign aid to countries that are not advancing U.S. and international community anti-TIP goals. One of these provisions, pursuant to the TVPA, seeks to restrict non-humanitarian, nontrade-related foreign aid from certain governments that do not show progress in eliminating severe forms of TIP. Under this provision, countries that receive a Tier 3 ranking, the worst-performing category of countries, in the TIP Report are ineligible to receive non-humanitarian, nontrade-related aid in the following fiscal year. The second provision, which first went into effect in 2010 pursuant to the Child Soldiers Prevention Act of 2008, seeks to restrict certain U.S. military assistance to countries known to recruit or use child soldiers in their armed forces, or that host non-government armed forces that recruit or use child soldiers. For both provisions, the President may reserve the option of waiving aid sanctions in cases where the continuation of aid would promote U.S. national interests that supersede anti-trafficking policy goals.

Conditions on Country Beneficiary Status for Trade Preference Programs

For decades, the U.S. government has implemented a variety of unilateral trade preference programs designed to promote exports among selected developing countries. Through such trade preference programs, designated beneficiary countries are provided duty-free entry for specified products into the United States. Beneficiary countries may be designated (or removed) based on eligibility criteria specified in the relevant authorizing legislation. Trade preference programs and a country's beneficiary status is relevant in an anti-human trafficking policy context because

13126 List (updated on July 23, 2013), http://www.dol.gov/ILAB/regs/eo13126/main.htm.

[48] Separately, the Labor Department receives additional funds to implement assistance programs overseas to eliminate the worst forms of child labor. At least some portion of such programs contributes to international anti-TIP goals.

[49] P.L. 110-457; not included in this total are additional funds authorized to the President for research ($2 million, pursuant to Section 113(e)(3) of the TVPA) and to the State Department for the interagency task force, additional personnel, and official reception and representation expenses (approximately $7 million, pursuant to Section 113(a) of the TVPA).

[50] P.L. 113-4; not included in this total are additional funds authorized to the State Department for the interagency task force (approximately $2 million, pursuant to Section 113(a) of the TVPA).

eligibility criteria include commitments to "internationally recognized worker rights," such as prohibiting the "use of any form of forced or compulsory labor," as well as commitments to eliminate the "worst forms of child labor," such as child trafficking. In theory, conditioning preferential trade status on foreign policy anti-trafficking goals may serve to encourage country compliance with international efforts to combat human trafficking.

Preventing U.S. Government Participation in Trafficking Overseas

In recent decades, news reports have unearthed a range of international sex and labor trafficking schemes that have allegedly involved U.S. government representatives overseas as the traffickers, exploiters, and end-user consumers of services provided by trafficking victims. Several recent trafficking cases identified by the media have centered on foreign recruitment agencies and subcontractors that provide low-skill, labor-intensive services for U.S. contingency operations overseas. Several laws, regulations, awareness trainings, and contracts enforcement mechanisms already exist to combat trafficking related to U.S. government activities overseas.[51] In the 112th Congress, for example, the National Defense Authorization Act for Fiscal Year 2013 amended the TVPA[52] to require the President to authorize federal agencies and departments to terminate, without penalty, grants, contracts, and cooperative agreements if the grantee, subgrantee, contractor, or subcontractor engages in or uses labor recruiters, brokers, or other agents who engage in (1) severe forms of trafficking in persons; (2) the procurement of a commercial sex act while the grant, contract, or cooperative agreement is in effect; (3) the use of forced labor in the performance of the grant, contract, or cooperative agreement; or (4) one of several specified acts that directly support or advance trafficking in persons.[53] The legislative provisions complemented an Executive Order (EO) issued by President Obama on September 25, 2012 (EO 13627).[54] (For a discussion of the laws that amended the TVPA, see **Appendix A**.)

Also pursuant to the TVPA, actions to enforce the U.S. government's zero-tolerance policy against human trafficking in contracts are reported in an annual report to Congress prepared by the Attorney General. Additional U.S. government reports have addressed this issue, including in the State Department's annual TIP Report as well as in periodic audits and investigations conducted by departmental inspectors general offices.

[51] For a full discussion of these mechanisms, see CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Rosen.

[52] On January 2, 2013, the bill was signed by the President (P.L. 112-239). H.R. 4310 incorporated elements of other bills introduced in the 112th Congress, including S. 3254, the National Defense Authorization Act for Fiscal Year 2013; H.R. 4259 and S. 2234, the End Trafficking in Government Contracting Act of 2012; and S. 3286 and S. 2139, the Comprehensive Contingency Contracting Reform Act of 2012.

[53] Such specified acts include the withholding employee identity or immigration documents; refusing to provide or pay for return transportation for foreign national employees, if requested, under certain circumstances; soliciting prospective employees by means of materially false or fraudulent pretenses; charging recruited employees unreasonable placement or recruitment fees; and providing housing that fails to meet host country housing and safety standards.

[54] "Strengthening Protections Against Trafficking in Persons in Federal Contracts," Executive Order 13627 of September 25, 2012, *Federal Register*, Vol. 77, No. 191, October 2, 2012, pp. 60029-60033.

Human Trafficking in Global Supply Chains: Recent Cases and Responses

Public attention has centered on the prevalence of labor trafficking within global supply chains. In one example, according to news reports and a New Zealand ministerial inquiry from early 2012, Indonesian laborers were recruited to work on Korean-owned fishing vessels operating in New Zealand's Exclusive Economic Zone.[55] The migrant workers experienced under- or non-payment of wages, harsh and isolating living conditions, and in some cases physical abuse and sexual harassment.[56] Investigative news reports indicate that seafood caught under these labor conditions may be purchased by major multinational food distributors that, in turn, supply seafood to companies such as Costco, P.F. Chang's China Bistro, Sam's Club, Whole Foods, Safeway, and others.

Another example that has garnered international attention involves the cocoa industry in West Africa, which has long been mired by allegations of forced child labor and bonded labor. On June 29, 2012, the multinational confectionery company Nestle, in conjunction with the civil society organization Fair Labor Association, released a report that mapped the company's cocoa supply chain in Cote d'Ivoire.[57] The report confirmed ongoing hiring and compensation practices that increase the risk of child and bonded labor trafficking and documented the hazards experienced by children working in cocoa fields, including machete injuries from breaking cocoa pods, long work hours, and the hauling of excessively heavy materials. The report also identified gaps and vulnerabilities in the company's internal monitoring system and other socio-political factors that contribute to an environment where child trafficking can occur with impunity. Supply chains within the United States also are reportedly susceptible to labor trafficking.[58]

In response to allegations of labor trafficking such as these, a variety of policy solutions have been advocated and implemented over the years. These include public-private partnership efforts for specific agricultural sectors, such as the so-called Harkin-Engel Protocol of 2001, formally the Protocol for the Growing and Processing of Cocoa Beans and Their Derivative Products in a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor. Separately, a "consultative group," representing public and private interests, has been tasked with recommending a set of guidelines for eliminating child and forced labor in agricultural supply chains, pursuant to Section 3205 of the Food, Conservation, and Energy Act of 2008 (P.L. 110-246). On April 12, 2011, the consultative group published its recommended guidelines in the Federal Register for public comment.[59]

Internationally, the private sector adopted in 2006 a set of commitments to combat human trafficking called the Athens Ethical Principles, and in 2010 business leaders reconvened to establish a plan to implement the Athens Ethical Principles, called the Luxor Implementation Guidelines. Domestically within the United States, at the state level, a new California law went into effect on January 1, 2012, called the California Transparency in Supply Chains Act of 2010. This state law requires certain firms that do business in California to disclose their efforts to combat human trafficking within their supply chains.

Trafficking in the United States

The United States is a source, transit, and destination country for men, women, and children subject to trafficking in persons.[60] Human trafficking happens in the United States to both U.S.

[55] Ministry of Agriculture and Forestry (New Zealand), *Report of the Ministerial Inquiry into the Use and Operation of Foreign Charter Vessels*, February 2012.

[56] E. Benjamin Skinner, "The Fishing Industry's Cruelest Catch," *Businessweek*, February 23, 2012.

[57] Fair Labor Association, *Sustainable Management of Nestle's Cocoa Supply Chain in the Ivory Coast—Focus on Labor Standards*, June 2012.

[58] See, for example, U.S. Department of Justice, "Six People Charged in Human Trafficking Conspiracy for Exploiting 400 Thai Farm Workers," press release, September 2, 2010; U.S. Department of Justice, "Three Defendants Plead Guilty in Honolulu in Connection with Human Trafficking Scheme That Exploited 600 Thai Workers," press release, June 15, 2011; Jennifer Sinco Kelleher, "Feds Dismiss Largest US Human Trafficking Case, *Associated Press*, July 20, 2012; and U.S. Equal Opportunity Commission, "EEOC Files Its Largest Farm Worker Human Trafficking Suit Against Global Horizons, Farms," press release, April 20, 2011.

[59] U.S. Department of Agriculture, Foreign Agricultural Service, "Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products," *Federal Register*, Vol. 76, No. 70, April 12, 2011.

[60] U.S. Department of State, *Trafficking in Persons Report*, June 2013, p. 381.

citizens and noncitizens, and occurs in every state.[61] According to the most recent U.S. government estimates, in 2004 as many as 17,500 people were trafficked into the United States annually.[62] The trafficking of individuals within U.S. borders is commonly referred to as domestic or "internal" human trafficking. Domestic human trafficking occurs primarily for labor and most commonly in domestic servitude, agriculture, manufacturing, janitorial services, hotel services, construction, health and elder care, hair and nail salons, and strip club dancing. However, more investigations and prosecutions have taken place for sex trafficking offenses than for labor trafficking offenses.[63]

Noncitizens are more susceptible than U.S. citizens to labor trafficking,[64] and more foreign victims[65] are found in labor trafficking than in sex trafficking. Conversely, although labor trafficking can happen to U.S. citizens, more adult and child U.S. citizens are found in sex trafficking than in labor trafficking.[66] Research indicates that most of the victims of sex trafficking into and within the United States are women and children. In addition, migrant labor camps tend to be common settings for labor exploitation and domestic trafficking.[67]

Sex Trafficking of Children in the United States

Domestic sex trafficking of children is sex trafficking within the United States involving a commercial sex act in which the person induced to perform such act has not attained 18 years of age.[68] Most of the victims are U.S. citizens and Lawful Permanent Residents (LPRs).[69] There appears to be a consensus that prostitution by minors fits the definition of "severe forms of human trafficking" as defined under the TVPA.

Estimates of Human Trafficking in the United States

Due to the nature of human trafficking, it is difficult to estimate the number of trafficking victims in the United States.[70] U.S. governmental estimates of trafficking victims focus on the number of

[61] Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, Washington, DC, December 2008.

[62] For more on these estimates see the section of this report entitled, "Official Estimates of Human Trafficking into the United States." Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, June 2004, p. 4.

[63] U.S. Department of State, *Trafficking in Persons Report*, June 2012, p. 360.

[64] Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, Washington, DC, December 2008, pp. 3-6.

[65] Foreign victims do not include Lawful Permanent Residents (LPRs). A lawful permanent resident (LPR) is a foreign national who lives permanently in the United States. LPRs are also called immigrants. For the purposes of discussing trafficking victims in the United States, LPRs are grouped with U.S. citizens.

[66] U.S. Department of State, *Trafficking in Persons Report*, June 2010, p. 338.

[67] Internal human trafficking of migrant labor is primarily occurring in the Southeast and Central regions of the United States, although such conduct has been identified in other places. Human Smuggling and Trafficking Center, *Domestic Human Trafficking: An Internal Issue*, Washington, DC, December 2008, pp. 3-6.

[68] For more information on sex trafficking of children in the United States, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

[69] Linda A. Smith, Samantha Headly Vardaman, and Mellissa A. Snow, *The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children*, Shared Hope International, Arlington, VA, May 2009.

[70] Despite mandates in the TVPA, it appears that data for trafficking crimes or number of victims by federal, state, and local law enforcement agencies is not uniformly collected. In 2012, the FBI began developing software to capture all

foreign victims who are trafficked into the United States, while two nongovernmental studies have focused on the number of minor victims of sex trafficking or foreign victims in specific geographic areas.

Estimates Into the United States

For FY2005, the Department of Justice (DOJ) estimated that there were between 14,500 and 17,500 victims trafficked into the United States each year.[71] As of January 2014, this remains the most recent U.S. government estimate of trafficking victims.[72] This estimate of 14,500 to 17,500 victims first appeared in the 2004 report, *Assessment of U.S. Government Activities to Combat Trafficking in Persons*,[73] and subsequent reports have not included estimates of the number of trafficking victims.[74] The *Attorney General's Report on U.S. Government Activities to Combat Trafficking in Persons Fiscal Year 2006*[75] stated that this estimate may be "overstated," and asserted that "[f]urther research is underway to determine a more accurate figure based on more advanced methodologies and more complete understanding of the nature of trafficking."

Notably, previous reports by the Central Intelligence Agency's Center for the Study of Intelligence and the Department of Justice produced higher estimates of the number of trafficking victims in the United States. In November 1999, a report issued by the Center for the Study of Intelligence estimated that 45,000 to 50,000 women and children are trafficked annually to the United States.[76] In addition, the August 2003 version of the report, *Assessment of U.S. Government Activities to Combat Trafficking in Persons*, estimated that between 18,000 and 20,000 people are trafficked into the United States annually. Some researchers contend that the government estimates of human trafficking do not provide a full description of the data and methodologies used to arrive at the estimates. As a result, they argue that the lack of methodological information makes it difficult, if not impossible, to recreate, assess the validity of, or improve upon the estimates.[77]

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human trafficking cases and to ensure uniform reporting at the federal and state levels. U.S. Department of State, *Trafficking in Persons Report*, June 2013, pp. 381-382.

[71] Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005*, June 2006. (Hereinafter DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005*.)

[72] The number of U.S. citizen trafficking victims in the United States is unknown. In addition, there does not seem to be a clear definition of what it means to be a U.S. citizen trafficked within the United States. For example, some would argue that all prostitutes who have pimps are victims of trafficking. In addition, Dr. Louise Shelly, the Director of the Terrorism, Transnational Crime, and Corruption Center at George Mason University, argues that the largest number of trafficking victims in the United States are U.S. citizen children, and estimates the number of these victims to be between 100,000 and 300,000. Conference, *The Profits of Pimping: Abolishing Sex Trafficking in the United States*, at the Hudson Institute, Washington D.C., July 10, 2008.

[73] Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, June 2004, p. 4.

[74] Notably, the Attorney General's Report for FY2008, released in June 2009, does not contain an estimate of the number of victims trafficked into the United States annually. Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2008*, June 2009.

[75] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2005*.

[76] Amy O'Neill Richard, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime*, Center for the Study of Intelligence, November 1999, p. iii.

[77] Free the Slaves and the Human Rights Center, *Hidden Slaves: Forced Labor in the United States*, September 2004.

Estimates of Sex Trafficking of Children in the United States

Comprehensive research on the number of children in the United States who are victims of sex trafficking does not exist, but there have been a few studies that attempt to measure the problem in specific geographic areas.[78] For example, a study of Ohio estimated that in 2009, there were 1,078 victims of sex trafficking.[79] For a discussion of different estimates of child sex trafficking in the United States, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

Response to Trafficking within the United States

The response to human trafficking within the United States has focused on (1) assistance to victims of trafficking—such as temporary housing, medical care, counseling; (2) efforts to increase public awareness about human trafficking; and (3) law enforcement efforts to arrest and prosecute traffickers, and identify victims.

Immigration Relief for Trafficking Victims

Some of the trafficking victims in the United States are aliens (noncitizens) who are illegally present (i.e., unauthorized/illegal aliens). Some of these aliens entered legally, but overstayed their length of legal admittance. Other aliens were smuggled into or illegally entered the United States, and then became trafficking victims. In addition, some aliens have had their immigration documents confiscated by the traffickers as a form of control. The lack of immigration status may prevent victims from seeking help, and may interfere with the ability of the victim to provide testimony during a criminal trial. As such, under law, there are certain protections from removal (deportation) available to noncitizen victims of trafficking.

T Nonimmigrant Status

The Victims of Trafficking and Violence Protection Act of 2000 (TVPA) created a new nonimmigrant category, known as T status or T-visa, for aliens who are victims of severe forms of TIP.[80] Aliens who received T status are eligible to remain in the United States for four years and

[78] P.L. 109-164 (§201) requires biennial reporting on human trafficking, using available data from state and local authorities. In response to this requirement, DOJ funded the creation of the Human Trafficking Reporting System (HTRS). The data in the HTRS come from investigations opened by federally funded human trafficking task forces and do not represent all incidences of human trafficking nationwide. In January 2008, the task forces began entering data into HTRS. Between January 1, 2007, and September 30, 2008, the approximately 42 task forces reported 34 confirmed cases of sex trafficking of children in the United States and 341 cases where a determination was pending or there was not enough information to confirm the trafficking. Tracey Kyckelhahn, Allen J. Beck, and Thomas Cohen, *Characteristics of Suspected Human Trafficking Incidents, 2007-08*, Department of Justice, Office of Justice Programs, Bureau of Justice Statistics Special Report, Washington, DC, January 2009, pp. 1-2.

[79] Celia Williamson, Sharvari Karandikar-Chheda, and Jeff Barrows, et al., *Report on the Prevalence of Human Trafficking in Ohio To Attorney General Richard Cordray*, Ohio Trafficking in Persons Study Commission, Research and Analysis Sub-Committee, Toledo, OH, February 10, 2010.

[80] Section 107 of Division A of P.L. 106-386. "T" refers to the letter denoting the subsection of the Immigration and Nationality Act (INA) that provides the authority for the alien's admission into the United States (i.e., INA §101(a)(15)(T)). Although T nonimmigrant status is often referred to as the T-visa, it is not technically a visa if it is given to aliens present in the United States because status is conferred by the Department of Homeland Security (DHS) who does not have the authority to issue visas. Only the Department of State (DOS) though consular offices may issue visas. Thus, only aliens present outside of the United States can receive T visas while aliens present in the United States

may apply for lawful permanent residence status (LPR) after being continually present in the United States for three years.

To qualify for the "T" category, in addition to being a victim of a severe form of TIP,[81] the alien must

- be physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or a U.S. port of entry because of such trafficking, or to participate in investigative or judicial processes associated with such trafficking;[82]
- have complied with any reasonable request for assistance to law enforcement[83] in the investigation or prosecution of acts of trafficking unless unable to do so due to physical or psychological trauma,[84] or be under the age of 18;[85] and
- be likely to suffer extreme hardship involving unusual and severe harm upon removal.

To receive T status, the alien must also be admissible to the United States or obtain a waiver of inadmissibility. A waiver of inadmissibility is available for health related grounds, public charge grounds, or criminal grounds if the activities rendering the alien inadmissible were caused by or were incident to the alien's victimization.[86] Waivers are not automatically granted, and there is no appeal if the inadmissibility waiver is denied. This waiver is especially important for those involved in sexual trafficking since prostitution is one of the grounds of inadmissibility specified in the Immigration and Nationality Act (INA).[87] Additionally, aliens who are present without being admitted or paroled[88] into the United States are inadmissible and would need to obtain a

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receive T status. For more information on nonimmigrant visa issuance see CRS Report RL31381, *U.S. Immigration Policy on Temporary Admissions*, by Ruth Ellen Wasem.

[81] As discussed previously, TVPA defines a ``severe form of trafficking in persons'' as either: (1) 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, or (2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. It is the applicant's responsibility to demonstrate both elements of a severe form of trafficking in persons.

[82] Prior to the TVPRA 2008 (P.L. 110-457) this was interpreted in the regulations to apply to those aliens who (1) are present because they are being held in some sort of severe form of trafficking situation; (2) were recently liberated from a severe form of trafficking; or (3) were subject to a severe form of trafficking in the past and remain present in the United States for reasons directly related to the original trafficking. P.L. 110-457 expanded the definition of physical presence to include trafficking victims admitted to the United States for trafficking investigations and legal proceedings.

[83] Applicants for T status may submit a Law Enforcement Agency (LEA) endorsement to prove that they are complying with the investigation. The regulations require that the LEA endorsement come from a federal law enforcement agency since severe forms of trafficking in person are federal crimes under TVPA; however, the TVPRA of 2003 amended the law to allow state and local law enforcement to certify that the trafficking victim is aiding law enforcement.

[84] Although to be eligible for T status, most aliens must comply with reasonable requests for assistance from law enforcement, it is not necessary for the alien to be sponsored for status from a law enforcement agency as is required by those applying for S nonimmigrant status for alien witnesses and informants.

[85] Children under the age of 18 at the time that the application for T status is filed, are exempt from the requirement to comply with law enforcement requests for assistance. In the original law (TVPA of 2000) the age of mandatory compliance was under 15 years, but the TVPRA of 2003 increased the age of mandatory compliance to 18 years.

[86] INA §212(d)(13).

[87] INA §212(a)(2)(D).

[88] "Parole" is a term in immigration law which means that the alien has been granted temporary permission to be in the United States. Parole does not constitute formal admission to the United States and parolees are required to leave when

waiver to be eligible for T status. For example, an alien who paid a smuggler to enter the country illegally and then was held in servitude would need to get an inadmissibility waiver to be eligible for T status.

T status is limited to 5,000 principal aliens each fiscal year. Additionally, the spouse, children, or parents of an alien under age 21, in order to avoid extreme hardship, may be given derivative T status which is not counted against the numerical limit.[89] Individuals who are eligible for T status may be granted work authorization.[90] T status is valid for four years, and may be extended if a federal, state, or local law enforcement official, prosecutor, judge, or other authority investigating or prosecuting activity relating to human trafficking certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of TIP.[91]

Under law, aliens who have bona fide T applications[92] are eligible to receive certain public benefits to the same extent as refugees.[93] Aliens who receive derivative T status (i.e., the family members of trafficking victims) are also eligible for benefits. In addition, regulations require that federal officials provide trafficking victims with specific information regarding their rights and services such as

- immigration benefits;
- federal and state benefits and services (e.g., certification by the Department of Health and Human Services [HHS] and assistance through HHS's Office of Refugee Resettlement [ORR]);
- medical services;
- pro-bono and low cost legal services;
- victim service organizations;
- victims compensation (trafficked aliens are often eligible for compensation from state and federal crime victims programs);[94]
- the right to restitution; and

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the parole expires, or if eligible, to be admitted in a lawful status.

[89] In some cases, immediate family members of trafficking victims may receive a T visa to join the victim in the United States. This may be necessary if the traffickers are threatening the victim's family.

[90] From the perspective of trafficking victims' advocates, work authorization is viewed as an important tool in helping the victims become self-sufficient and retake control of their lives.

[91] The four year period of validity for T-visas was codified by The Violence Against Women and Department of Justice Reauthorization Act of 2006 (P.L. 109-162, §821). Prior to P.L. 109-162, the validity period was three years and was specified, not by statute, but by regulation (8 *C.F.R.* 214.11).

[92] Bona fide application means an application for T status which after initial review has been determined that the application is complete; there is no evidence of fraud, and presents prima facie evidence of eligibility for T status including admissibility.

[93] Refugees are generally eligible for federal, state and local public benefits. In addition, refugees are eligible for Food Stamps and Supplemental Security Income (SSI) for seven years after entry, and for Medicaid and Temporary Assistance for Needy Families for seven years after entrance and then at state option. CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

[94] Victims may also be repatriated to their home country if they desire with assistance from the Department of State, government of their country of origin, or nongovernmental organizations. The United States Conference of Catholic Bishops *et al*., *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking*, prepared with a grant from the Department of Health and Human Services, Office of Refugee Resettlement, November 2004, p. Appendix 1-3. (Hereinafter cited as Catholic Bishops, *A Guide for Legal Advocates Providing Services to Victims of Human Trafficking*.) U.S. Department of State, *Trafficking in Persons Report*, June 2012, p. 361.

- the rights of privacy and confidentiality.[95]

T Visas Issued

As **Table 1** shows, between FY2002 and FY2013, there were 6,001 applications for T-1 status (i.e., trafficking victims), and 4,117 of these applications were approved. During the same period, there were 5,222 applications for derivative T status (i.e., family members of trafficking victims), and 4,277 applications were approved. Over the time period, of the adjudicated applications for T-1 status, 73% were approved. In addition, of the adjudicated applications for derivative T status, 85% were approved.

Table 1. T-visas Issued

FY2002 through FY2013

	Principal Aliens (Victims)			Derivative Aliens (Family)		
	Applied	**Approved**	**Denied**	**Applied**	**Approved**	**Denied**
FY2002	163	17	12	234	9	4
FY2003	587	285	72	456	268	56
FY2004	352	156	303	359	271	58
FY2005	229	112	213	124	114	18
FY2006	346	182	46	301	106	39
FY2007	230	279	70	149	261	52
FY2008	394	247	64	290	171	19
FY2009	475	313	77	235	273	54
FY2010	574	447	138	463	349	105
FY2011	967	557	223	795	722	137
FY2012	885	674	194	795	758	117
FY2013	799	848	104	1021	975	91
Total	**6,001**	**4,117**	**1,516**	**5,222**	**4,277**	**750**

Source: Department of Homeland Security U.S. Citizenship and Immigration (USCIS) data provided to CRS.

Notes: At the end of FY2013, there were 421 applications pending for principal and 546 applications pending for derivative T status. Some approvals are from prior fiscal year(s) filings. Also, some applicants were denied more than once (e.g., filed once, denied, and filed again). For FY2004 and FY2005, 170 of the denials stemmed from one case where the applicants did not qualify as victims of trafficking under TVPA.

Between FY2007 and FY2011, the number of applications for T-1 status increased, and in FY2011 there was a historically high number of applicants (967). The number of applications for T-1 status decreased each year between FY2011 and FY2013, but the number of approved applications increased each year.

Adjustment to Lawful Permanent Residence

T status, which is generally valid for four years, is not renewable after the alien's presence in the United States is not necessary to assist in the investigation or prosecution of TIP. Nonetheless,

[95] 28 C.F.R. §1100.3-§1100.33.

after three years, aliens with T status may petition for lawful permanent residence (LPR) status (i.e., green card or immigrant status). To adjust to LPR status an alien must

- be admissible (i.e., that the alien is not ineligible for a visa or status adjustment under the so-called "grounds for inadmissibility" of the INA, which include having a criminal history, being a terrorist, and being a security risk to the United States);[96]
- have been physically present in the United States for either (1) a continuous period of at least three years since the date of admission under T status, or (2) a continuous period during the investigation or prosecution of the acts of trafficking, provided that the Attorney General has certified that the investigation or prosecution is complete;
- since being granted T status, has been a person of good moral character; and
- establish that (1) they have complied with reasonable requests of assistance in the investigation or prosecution of acts of trafficking, or (2) that they would suffer extreme hardship upon removal from the United States.[97]

The regulations concerning adjustment to LPR status from T status were released on December 12, 2008, and became effective on January 12, 2009.[98] Under statute, 5,000 aliens in T-1 status can adjust to LPR status in a fiscal year. The cap does not apply to family members (e.g., T-2 visa holders).

Continued Presence

Federal law enforcement officials who encounter victims of severe forms of TIP that are potential witnesses to that trafficking may request that DHS grant the continued presence of the alien in the United States. Historically, the Attorney General has had the discretionary authority to use a variety of statutory and administrative mechanisms to ensure the alien's continued presence.[99] The TVPA gave the Secretary of Homeland Security the authority and prescribed some circumstances under which trafficking victims can be granted continued presence.[100] In most cases, victims granted continued presence are eligible for work authorization.[101] Requests for continued presence are handled by the Law Enforcement Parole Branch of DHS's Immigration and Customs Enforcement (ICE).

In some cases, law enforcement prefers giving the alien continued presence rather than T status to prevent the appearance during the prosecution of the traffickers that the alien's testimony was

[96] For more on the grounds on inadmissibility, see CRS Report R41104, *Immigration Visa Issuances and Grounds for Exclusion: Policy and Trends*, by Ruth Ellen Wasem.

[97] INA §245(l).

[98] Department of Homeland Security, "Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status," 73 *Federal Register* 75540-75564, December 12, 2008.

[99] 28 C.F.R. Part 1000.35. The mechanisms for continued presence may include parole, voluntary departure, stay of final removal orders, or any other authorized form of continued presence in the United States, including adjustment to an applicable nonimmigrant status. Most of the statutory and administrative mechanisms for continued presence require that the alien depart from the United States once her presence for the criminal investigation or prosecution is no longer required. Some of these authorities were transferred to the Secretary of DHS in the Homeland Security Act of 2002 (P.L. 107-296). Others remain with or are shared by the Attorney General.

[100] 22 U.S.C. §7105(c)(3).

[101] Viet D. Dinh, Department of Justice. Testimony before the Senate Subcommittee on Near Eastern and South Asian Affairs concerning Monitoring and Combating Trafficking in Persons: How Are We Doing?, March 7, 2002.

"bought." In FY2012, continued presence was granted to 199 trafficking victims, a decrease of 86 from FY2011. Nonetheless, for the past five years, there has not been a specific trend in grants of continued presence.[102] (See **Table 2**.)

Table 2. Continued Presence Granted to Trafficking Victims

FY2008-FY2012

FY2008	FY2009	FY2010	FY2011	FY2012
225	299	186	285	199

Source: Department of State, *Trafficking in Persons Report,* multiple years; and Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons,* multiple years.

U Nonimmigrant Status

Some victims of trafficking are eligible for U nonimmigrant status. The Violence Against Women Act of 2000, Division B of TVPA, created the U nonimmigrant status, often called the U-visa, for victims of physical or mental abuse.[103] To qualify for U status, the alien must file a petition and establish that

- he/she suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activities;[104]
- as certified by a law enforcement or immigration official, he/she (or if the alien is a child under age 16, the child's parent, guardian or friend) possesses information about the criminal activity involved;
- he/she has been, is being or is likely to be helpful in the investigation and prosecution of the criminal activity by federal, state or local law enforcement authorities; and
- the criminal activity violated the laws of the United States or occurred in the United States.

The U category is limited to 10,000 principal aliens per fiscal year.[105] After three years, those in U status may apply for LPR status.[106] The number of aliens granted U status because of trafficking is unknown. Unlike aliens with T status, those with U status are not eligible for assistance through the Office of Refugee Resettlement or for federal public benefits. Those who receive U status may be eligible for programs to assist crime victims though the Department of Justice's Office for Victims of Crime.

[102] Department of State, *Trafficking in Persons Report*, multiple years; and Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons*, multiple years.

[103] INA 101(a)(15)(U).

[104] Certain criminal activity refers to one or more of the following or any similar activity in violation of federal or state criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter, murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

[105] INA §214(o)(2). Although the interim final regulations on U status were released in September 2007, prior to that aliens who met the criteria for U status were given immigration benefits similar to U status. In 2005, for example, 287 aliens were given "quasi-U" status. Unpublished data from DHS.

[106] Department of Homeland Security, "Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status," 73 *Federal Register* 75540-75564, December 12, 2008.

Table 3. U Visas Issued FY2009-FY2013

Fiscal Year	Principal Aliens (Victims)			Derivative Aliens (Family)		
	Applied	Approved	Denied	Applied	Approved	Denied
2009	6,835	5,825	688	4,102	2,838	158
2010	10,742	10,073	4,347	6,418	9,315	2,576
2011	16,768	10,088	2,929	10,033	7,602	1,645
2012	24,768	10,122	2,866	15,126	7,421	1,465
2013	25,432	10,030	1,829	18,263	8,198	1,440
Total	**84,545**	**46,138**	**9,733**	**53,942**	**35,374**	**7,284**

Source: CRS presentation of data from Department of Homeland Security U.S. Citizenship and Immigration (USCIS).

Notes: At the end of FY2013, there were 33,540 applications pending for U-1 status and 24,956 applications pending for derivative U status. Some approvals are from prior fiscal year(s) filings. Also, some applicants were denied more than once (e.g., filed once, denied, and filed again).

From FY2009 through FY2013, there were 84,545 applications for U-1 status, and 46,138 were approved. During the same time period, there were 53,942 applications for derivative U status, and 35,374 were approved. Of the adjudicated applications for U status, approximately 83% were approved.

The 10,000 Cap for U Status

As discussed, the U category is statutorily limited to 10,000 principal aliens per fiscal year. The statutory cap of 10,000 has been reached before the end of the fiscal year every year since FY2010.[107] Although the statutory cap is reached, USCIS continues to accept and process new petitions for U status and issues a Notice of Conditional Approval to petitioners who are found eligible for but are unable to receive U status because the cap has been reached.[108]

Aid Available to Victims of Trafficking in the United States

Under the TVPA, the Departments of Justice (DOJ), Health and Human Services (HHS), and Labor (DOL) have programs or administer grants to other entities to provide services to trafficking victims. In addition, the Legal Services Corporation[109] has instructed its lawyers to provide legal assistance to trafficking victims.[110]

[107] The cap for FY2014 was reached on December 11, 2013. U.S. Citizenship and Immigration Services, "USCIS Reaches Milestone for Fifth Straight Fiscal Year," press release, December 11, 2013.

[108] U.S. Citizenship and Immigration Services, "USCIS Reaches Milestone for Third Straight Year: 10,000 U Visas Approved in Fiscal Year 2012," press release, August 21, 2012; U.S. Citizenship and Immigration Services, "Questions and Answers, USCIS Reaches Milestone: 10,000 U Visas Approved in Fiscal Year 2010," press release, July 15, 2010; and U.S. Citizenship and Immigration Services, "Relief Provided to Thousands of Victims of Crimes, USCIS Achieves Significant Milestone—Approves 10,000 U-Visa Petitions for Second Straight Year," press release. September 19, 2011.

[109] The Legal Services Corporation (LSC), established by Congress, is a private, nonprofit, federally funded corporation that helps provide legal assistance to low-income people in civil (i.e., non-criminal) matters.

[110] In FY2010, nine LSC grantees assisted 115 trafficking victims. DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons: FY2010*, p.48.

There is confusion over whether U.S. citizens, as well as noncitizens, are eligible for services under all the anti-trafficking grant programs in TVPA, and whether Congress has provided funding for programs that target U.S. citizen and LPR victims.[111] The *FY2009 Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons* stated that, "the funds provided under the TVPA by the federal government for direct services to victims are dedicated to assist non-U.S. citizen victims and may not currently be used to assist U.S. citizen victims."[112] However, the FY2012 *Trafficking in Persons* report notes that, "a policy change at [DOJ] allowed federal funding for victim services to support U.S. citizen victims of human trafficking as well as foreign national victims."[113] Indeed, the program areas listed as permissible for DOJ victims services grant funding includes the provision of services to U.S. citizen victims.[114]

In addition, each year since FY2008, Congress has appropriated monies to HHS to "carry out the Trafficking Victims Protection Act of 2000."[115] Thus, it appears possible that HHS funding could also be available for benefits and programs specifically for U.S. citizens that were authorized under the reauthorization acts.

Regardless of funding, there seems to be disagreement over whether U.S. citizen and noncitizen victims of trafficking are eligible for each of the programs discussed in this section. Certification by HHS appears to be a necessary condition of receiving trafficking victims' services from HHS, DOL, and the Legal Services Corporation, under the programs created in the Victims of Trafficking and Violence Protection Act.[116] Certification is a process that enables noncitizen trafficking victims to be classified as such, and therefore become eligible for services.[117] U.S.

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[111] Under the TVPA, "noncitizen victims" refer to victims of human trafficking in the United States who are either on temporary visas or are illegally present (i.e., unauthorized aliens). It does not include LPRs, i.e., aliens who are in the United States permanently, often referred to as immigrants. References to U.S. citizen trafficking victims include LPR victims.

[112] Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009,* July 2010: p. 75. (Hereinafter DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*.)

[113] Department of State, *Trafficking in Persons Report: FY2012,* June 2013, p. 381.

[114] Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011,* January 2013: p. 45. (Hereinafter, DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*.)

[115] P.L. 111-117, P.L. 111-8, P.L. 110-161. For FY2005 through FY2007, money was appropriated to "carry out the Trafficking Victims Protection Act of 2003 (P.L. 108-193)." P.L. 110-5, P.L. 109-149, P.L. 108-447.

[116] "[in] the case of nonentitlement programs, subject to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States,… without regard to the immigration status of such victims….For the purposes of this paragraph, the term ''victim of a severe form of trafficking in persons'' means only a person—(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and (ii)(I) who has not attained 18 years of age; or (II) who is the subject of a certification…. [C]ertification… is a certification by the Secretary of Health and Human Services…that the person…(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons or is unable to cooperate with such a request due to physical or psychological trauma; and (II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act… that has not been denied; or (bb) is a person whose continued presence in the United States the Secretary of Homeland Security is ensuring in order to effectuate prosecution of traffickers in persons." (P.L. 106-386, §107(b)(1), 22 U.S.C. §7105(b)(1)).

[117] The programs in TVPA for noncitizen victims were created in part because under the law noncitizen victims are statutorily ineligible for many public benefits (e.g., Medicaid, housing assistance). For a discussion of noncitizen eligibility for public benefits, see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

citizen and LPR trafficking victims are not required to be certified by HHS, and indeed would not meet the criteria to be certified because certification applies only to foreign nationals who need an immigration status (e.g., T status or continued presence) to remain in the United States. Nonetheless, a 2007 report by the Senior Policy Operating Group on Trafficking in Persons (SPOG) states that "there are not many differences in trafficking victims' eligibility for the services we reviewed when one looks at the relevant statutes." However, the report does note that U.S. citizen victims may have less intensive case management services compared to noncitizens.[118] In addition, only noncitizen trafficking victims who receive T status are eligible for refugee-specific programs.[119]

Health and Human Services Grants

The TVPA required HHS to expand benefits and services to victims of severe forms of trafficking in the United States, without regard to the immigration status of such victims.[120] Under the law, to receive these benefits and services, victims of severe forms of trafficking who are at least 18 years of age must be certified by the Secretary of Health and Human Services, after consultation with the Secretary of Homeland Security,[121] as willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking, having made a bona fide application for a T-visa that has not been denied, and being granted continued presence in the United States by the Secretary of Homeland Security to effectuate the prosecution of traffickers in persons.[122] Under the law, trafficking victims under the age of 18 do not have to be certified to receive benefits and services, but it is HHS policy to issue eligibility letters to such victims.[123] Although the law does not differentiate between U.S. citizen and noncitizen trafficking victims, according to HHS, U.S. citizen trafficking victims also do not have to be certified to receive services.[124] HHS's Office of Refugee Resettlement (ORR) provides certification and eligibility letters for victims.

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[118] Senior Policy Operating Group on Trafficking in Persons: Subcommittee on Domestic Trafficking, *Final Report and Recommendations*, Washington, DC, August 2007.

[119] Personal conversation with the Department of Health and Human Services, Administration for Children and Families, Congressional Affairs, April 2, 2007.

[120] TVPA §107(b)(1)(B); 22 U.S.C. §7105(b)(1)(B). The act also created a grant program in DOJ for state, local, tribal governments, and nonprofit victims' service organizations to develop, strengthen, or expand service programs for trafficking victims. (22 U.S.C. §7105(b)(2)).

[121] The Homeland Security Act of 2002 (HSA; P.L. 107-296) abolished the Immigration and Naturalization Service (INS) and transferred most of its functions to various bureaus in the new Department of Homeland Security (DHS) effective March 1, 2003. In addition, due to HSA, much of the Attorney General's authority in immigration law is currently vested in or shared with the Secretary of Homeland Security. For more information on the role of the Attorney General and Secretary of Homeland Security over immigration law, see CRS Report RL31997, *Authority to Enforce the Immigration and Nationality Act (INA) in the Wake of the Homeland Security Act: Legal Issues*.

[122] If the alien pursues long-term immigration relief other than T status, services under the HHS programs are discontinued. TVPA §107(b)(1)(E); 22 U.S.C. §7105(b)(1)(E). U.S. Department of State, *Trafficking in Persons Report*, June 2011, p. 375.

[123] HHS has the exclusive authority to determine if a child is eligible on an interim basis (up to 120 days) for assistance. During the interim period, the Secretary of HHS consults with the AG, Secretary of HHS and NGOs to determine the child's eligibility for long-term assistance.. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, pp. 18-19.

[124] Personal conversation with the Department of Health and Human Services, Administration for Children and Families, Congressional Affairs, April 2, 2007.

In FY2012, there were 366 adult victims who received certifications,[125] and 103 children who received eligibility letters.[126] Of the 564 letters issued in FY2011, 45% of the victims were male and 55% were female. In addition, 75% were victims of labor trafficking, 19% were victims of sex trafficking, and 6% were victims of labor and sex trafficking.[127]

ORR funds and facilitates a variety of programs to help refugees "economic and social self-sufficiency in their new homes in the United States," and noncitizen victims of severe forms of trafficking are eligible for these programs.[128] ORR-funded activities include cash and medical assistance, social services to help refugees become socially and economically self-sufficient, and targeted assistance for impacted areas. Special refugee cash assistance (RCA) and refugee medical assistance (RMA) are the heart of the refugee program. RCA and RMA, which are administered by the states, are intended to help needy refugees who are ineligible to receive benefits from mainstream federal assistance programs. In addition, minor noncitizen victims can participate in DHS's Unaccompanied Refugee Minor Program.[129] TVPA and the subsequent reauthorization acts, authorize funds for ORR to provide similar assistance to trafficking victims. While both U.S. citizen and noncitizen trafficking victims are eligible for the general federal public benefits, only noncitizen trafficking victims are eligible for the benefits specifically designed for refugees.[130]

ORR also provides grants to organizations that render assistance specific to the needs of victims of trafficking, such as temporary housing, independent living skills, cultural orientation, transportation needs, access to appropriate educational programs, and legal assistance and referrals. It is unclear whether these services could be available to U.S. citizen trafficking victims. ORR may also supply trafficking victims with intensive case management programs to help the victim find housing and employment, and provide mental health counseling and specialized foster care programs for children. ORR performs outreach to inform victims of services and educate the public about trafficking.[131]

In addition, HHS conducts outreach to inform victims of services and to educate the public about trafficking. HHS has established the Rescue and Restore Victims of Human Trafficking public awareness campaign, which promotes public awareness about trafficking and the protections available for trafficking victims. The goal of the campaign is to help communities identify and serve victims of trafficking, supporting them in coming forward to receive services and aid law

[125] Certification letters are for adult victims, while minor victims receive eligibility letters since, under law, they do not have to be certified as trafficking victims for services.

[126] From FY2001 through FY2011, HHS certified 3,181 people; 405 (12.7%) of the victims were minors. U.S. Department of State, *Trafficking in Persons Report*, June 2013, p. 384; and DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*, pp. 33-34.

[127] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*: p. 34.

[128] P.L. 106-386, §107(b)(1)(A). The eligibility of noncitizens for public assistance programs is based on a complex set of rules that are determined largely by the type of noncitizen in question and the nature of services being offered. For example, refugees are eligible for Medicaid for five years after entry/grant of status, then made ineligible (unless they became citizens or qualified under another status). For a discussion of the eligibility of trafficking victims for state and federal means tested benefits see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

[129] P.L. 110-457, §235(b)(2).

[130] For additional information on programs for refugees see CRS Report R41570, *U.S. Refugee Resettlement Assistance*, by Andorra Bruno.

[131] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*.

enforcement. In addition to promoting public awareness about trafficking, HHS through the Rescue and Restore campaign has established anti-trafficking coalitions.[132] Another component of the campaign is the creation of a toll-free National Human Trafficking Resource Center available for advice 24 hours a day.[133] (For a discussion of authorizations and appropriations for the HHS grant program, see **Table B-3** in **Appendix B**.)

Department of Justice, Office for Victims of Crime

The TVPA created a grant program administered by the Attorney General to provide grants to states, Indian tribes, local governments, and nonprofit victims services organizations to develop, expand, or strengthen victims service programs for trafficking victims.[134] This grant program is administered through DOJ's Office for Victims of Crime (OVC) and provides emergency services, including temporary housing, medical care, crisis counseling, and legal assistance, to victims as soon as they have been encountered. Prior to FY2010, services provided under this program supported victims until certification by HHS; however, grantees may now provide on-going case management and legal assistance for certified victims.[135] The program also provides grants to build community capacity in addressing the needs of trafficking victims by enhancing interagency collaboration and supporting coordinated victim responses.[136] According to DOJ, OVC awards grants to non-governmental organizations to provide trafficking victims with comprehensive or specialized services, and training and technical assistance to grantees for program support and enhancement.[137] (For a discussion of authorizations and appropriations for this program, see **Table B-3** in **Appendix B**.)

Department of Labor

DOL's Employment and Training Administration (ETA) One-Stop Career Centers[138] provide job search assistance, career counseling, and occupational skills training to trafficking victims.[139] These services are provided directly by state and local grantees to trafficking victims. The ETA does not collect information on the extent to which such services are used by trafficking victims.[140]

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[132] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011,* p. 95.

[133] Department of Health and Human Services, "About Human Trafficking," available at http://www.acf.hhs.gov/trafficking/about/index.html#wwd.

[134] P.L. 106-386, §107(b)(2).

[135] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011,* p. 46.

[136] According to DOJ, the expansion is intended to help close gaps in the provision of limited case management services, and of legal assistance that is not provided by HHS funding. Ibid.

[137] DOJ, *Assessment of U.S. Activities to Combat Trafficking in Persons: FY2008,* p.6.

[138] For more information on One-Stop Career Centers, see CRS Report RL34251, *Federal Programs Available to Unemployed Workers*, coordinated by Katelin P. Isaacs.

[139] These services are provided in accordance with the Training and Employment Guidance Letter No. 19-01, change 1, which was reissued by DOL's Employment and Training Administration (ETA) in 2008. In addition to informing the state and local workforce systems about federal resources for victims of trafficking, the guidance letter notes that services may not be denied to victims of severe forms of trafficking because of their immigration status. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, p. 32.

[140] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in*

In addition, victims between the ages of 16 and 24—both U.S. citizen victims and noncitizen victims who have work authorization—may be eligible to participate in Job Corps.[141] Job Corps does not collect information on the extent to which these services are offered to or utilized by trafficking victims.[142] (For program authorizations, see **Table B-3** in **Appendix B**.)

Domestic Investigations of Trafficking Offenses

In addition to providing victims services, and educational outreach, U.S. domestic anti-TIP efforts include the investigation and prosecution of trafficking offenses by law enforcement. Human trafficking investigations are often complicated by language and humanitarian issues (e.g., the victim has been traumatized and is unable to aid in the investigation), as well as logistical challenges and difficulties (e.g., transporting, housing, and processing the victims, especially alien victims). In addition, certain types of investigative techniques, such as controlled delivery operations,[143] cannot be used. Moreover, unlike drug trafficking cases where the contraband itself is proof of the illegal activity, the successful prosecution of trafficking cases relies on the availability of witnesses who may refuse to testify because of fear of retribution against themselves or their families.[144]

Within the United States, there are several agencies that investigate incidents of trafficking, but DOJ and DHS are the ones with the primary responsibility for investigating and prosecuting traffickers.[145] The majority of the cases are investigated by agents in DOJ's Federal Bureau of Investigation (FBI) and DHS's U.S. Immigration and Customs Enforcement (ICE),[146] who coordinate as appropriate,[147] and are prosecuted by DOJ.[148] Agents in the FBI's Civil Rights Unit

Persons: Fiscal Year 2009, pp. 32-33.

[141] The Job Corps program is carried out by the Office of Job Corps within the Office of the DOL Secretary, and consists of residential centers throughout the country. The purpose of the program is to provide disadvantaged youth with the skills needed to obtain and hold a job, enter the Armed Forces, or enroll in advanced training or higher education. In addition to receiving academic and employment training, youth also engage in social and other services to promote their overall well-being. For more information on Job Corps, see CRS Report R40929, *Vulnerable Youth: Employment and Job Training Programs*, by Adrienne L. Fernandes-Alcantara.

[142] Catholic Bishops, A Guide for Legal Advocates Providing Services to Victims of Human Trafficking, p. Appendix 1-6. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, p. 33.

[143] Controlled delivery is an investigative technique in which law enforcement knowingly allows a shipment to travel to its destination so that law enforcement can learn more about a criminal enterprise and the people involved.

[144] U.S. Government Accountability Office, *Combating Alien Smuggling, Opportunities Exist to Improve the Federal Response*, GAO-05-305, May 2005, p. 10. (Hereinafter cited as GAO, *Combating Alien Smuggling, Opportunities Exist to Improve the Federal Response*.)

[145] Other agencies involved in trafficking investigations include the Department of State Diplomatic Security Service (DSS), the Department of Defense, and the Department of Labor. This section is based on the information in DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*, and U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2012*, June 2013.

[146] Both agencies also provide training to federal and state law enforcement on trafficking victim identification. U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2012*.

[147] The division of responsibilities between these two agencies is not clearly delineated which may lead to a lack of coordination between the agencies as well as possibly some duplicative efforts.

[148] The cases are prosecuted by the U.S. Attorney's Offices, as well as by two specialized units—the Civil Rights Division's Human Trafficking Prosecution Unit (HTPU), which oversees prosecutions involving labor trafficking and sex trafficking of adults, and the Criminal Division's Child Exploitation and Obscenity Section (CEOS), which specializes in prosecuting child sex trafficking and child sex tourism. U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2012*, p. 382.

(CRU) investigate trafficking in the United States. In addition, under the FBI's Human Trafficking Initiative, FBI field offices use threat assessment to determine the existence and scope of trafficking in their region, participate in the anti-trafficking task force, conduct investigations, and report significant case developments to the CRU. In FY2011, DOJ charged 263 individuals, and obtained 151 convictions in 125 human trafficking prosecutions.[149]

In addition, DOJ funds anti-trafficking task forces nationwide. As of the end of FY2012, there were approximately 16 task forces, a decrease from 40 in the beginning of FY2011.[150] Thirteen of the 16 taskforces were Enhanced Collaborative Model Task Forces, which aim to improve the cooperation of law enforcement agencies and victim service organizations. These task forces are composed of federal, state, and local law enforcement investigators and prosecutors, labor enforcement, and non-governmental organizations victims' service providers. These task forces coordinate cases as well as conduct law enforcement training on the identification, investigation, and prosecution of human trafficking cases. Reportedly, research has shown that locales with task forces are more likely to identify and prosecute trafficking cases.[151] These taskforces reported 753 trafficking investigations during FY2012.[152] In addition, the FY2013 Appropriations Act for the Department of Justice required each U.S. Attorney to establish or participate in a U.S. Attorney-led taskforce on human trafficking.[153]

ICE uses a global enforcement strategy to disrupt and dismantle domestic and international criminal organizations that engage in human trafficking. In FY2011, ICE reported investigating 722 cases with a nexus to human trafficking.[154] In addition, DOS is involved in cases regarding human trafficking involving foreign diplomats and the Department of Defense is involved in cases involving U.S. military personnel. Likewise, DOL is involved in cases of trafficking through enforcement of labor standards laws such as the Fair Labor Standards Act[155] and the Migrant and Seasonal Agricultural Worker Protection Act.[156]

In July 2011, DHS, DOJ, and DOL started a pilot program, creating Anti-trafficking Coordination Teams (ACTeams) in six districts around the United States. ACTeams bring together federal agents and investigators from the FBI, ICE HSI, DOL's Wage and Hour Division (WHD), and DOL's Office of the Inspector General with federal prosecutors from United States Attorneys'

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[149] Of the cases filed, 24 were for labor trafficking and 101 were for sex trafficking. Note that these numbers do not reflect cases involving the commercial sexual exploitation of children that were brought under states other than TVPA's sex trafficking provisions. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*, p. 65.

[150] U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2011*, p. 361; and U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2012*, p. 383.

[151] The number of investigations and prosecutions among the task forces varies widely. More investigations are for sex trafficking than labor trafficking, which may be a result of law enforcement being able to rely upon pre-existing vice units devoted to prosecution enforcement. There are no comparable preexisting structures for involuntary servitude in the labor sector. Reportedly, DOJ is aware of these critiques and has implemented measures to address them. U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2009*, p. 340; and U.S. Department of State, *Trafficking in Persons Report Fiscal Year 2009*, p. 373.

[152] U.S. Department of State, *Trafficking in Persons Report*, June 2012, p. 361.

[153] The act withheld $10 million of the appropriated amount for the U.S. Attorneys Office until the AG certified each U.S. Attorney is participating in such a taskforce (P.L. 113-6, Title II). The FY2014 Consolidated Appropriations Act included similar language but did not withhold any money (P.L. 113-76).

[154] Ibid.

[155] 29 U.S.C. §§201-219.

[156] 29 U.S.C. Chapter 20.

Offices (USAOs) to implement a coordinated plan to develop significant federal human trafficking investigations and prosecutions.[157]

Human Smuggling and Trafficking Center

In July 2004, the Secretaries of DOS and DHS and the Attorney General signed a charter to establish the Human Smuggling and Trafficking Center (HSTC), and The Intelligence Reform and Terrorism Protection Act of 2004 (P.L. 108-458, §7202), signed into law on December 17, 2004, formalized the HSTC. The HSTC severs as the federal government's information clearinghouse and intelligence fusion center for all federal agencies addressing human smuggling, human trafficking, and the potential use of smuggling routes by terrorists. Specifically, the HSTC is tasked with

- serving as the focal point for interagency efforts to address terrorist travel;
- serving as a clearinghouse with respect to all relevant information from all federal agencies in support of the United States strategy to prevent clandestine terrorist travel, migrant smuggling, and trafficking of persons;
- ensuring cooperation among all relevant policy, law enforcement, diplomatic, and intelligence agencies of the federal government to improve effectiveness and to convert all information relating to clandestine terrorist travel, the facilitation of migrant smuggling, and trafficking of persons into tactical, operational, and strategic intelligence that can be used to combat such illegal activities; and
- submitting to Congress, on an annual basis, a strategic assessment regarding vulnerabilities that may be exploited by international terrorists, human smugglers, and traffickers.

The HSTC has had issues with cooperation between the different agencies and departments, related to funding, staffing, and information sharing.[158] In The Implementing the 9/11 Commission Recommendations Act of 2007, Congress attempted to address these issues.[159]

Policy Issues

A broad consensus appears to be shared in Congress and the policy community on the need for decisive action to curb human trafficking. However, there are some fundamental questions related to how broadly human trafficking should be defined. In addition, questions have been raised about the effective implementation of anti-trafficking programs. The following sections provide an overview of long-standing policy challenges that continue to confront human trafficking responses both domestically and internationally. For more detailed analysis of foreign policy-related human trafficking issues, see CRS Report R42497, *Trafficking in Persons: International Dimensions and Foreign Policy Issues for Congress*, by Liana Rosen. For a more in depth analysis of the issues surround the sex trafficking of children in the United States, see CRS

[157] The six districts selected to participate in the pilot are Northern District of Georgia/Homeland Security Investigations (HSI) Atlanta, Central District of California/HSI Los Angeles, Southern District of Florida/HSI Miami, Western District of Missouri/HSI Kansas City, Western District of Tennessee/HSI Memphis, and Western District of Texas/HSI El Paso. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011,* p. 76.

[158] U.S. Congress, House Committee on Homeland Security, Subcommittee on Management, Integration, and Oversight, *9/11 Reform Act: Examining the Implementation of the Human Smuggling and Trafficking Center,* hearings, 109th Cong., 2nd sess., March 8, 2006.

[159] P.L. 110-53, discussed in **Appendix A**.

Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

TIP Awareness Among U.S. Diplomats

Many observers consider human trafficking a high profile foreign policy concern for the United States. It is the subject of long-standing and ongoing executive and legislative branch policy guidance (see **Appendix A** on Anti-trafficking Administrative Directives and Legislation). Yet, a June 2012 report by the State Department's Office of Inspector General (OIG) revealed that human trafficking issues and the requirements of the TVPA remain "poorly understood" among "rank-and-file diplomats" serving in the U.S. foreign service—raising questions regarding the perceived policy priority of human trafficking within the State Department.[160] Additionally, the OIG report states that "Washington briefings for chiefs of missions and their deputies do not always include TIP issues, even though all countries are now covered in the annual TIP report." The OIG report suggests that one reason for the lack of human trafficking awareness might be due to outdated Washington guidance to U.S. diplomatic posts overseas on TVPA implementation, which was issued in 2007. Diplomatic training on TIP issues is also reportedly encouraged, but not required, including among consular personnel. Others have suggested that human trafficking could be elevated as a foreign policy issue if the Office to Monitor and Combat Trafficking in Persons were elevated to a status equivalent to a bureau within the State Department.[161]

Credibility of TIP Rankings

Many analysts have asserted that the overall impact of the TIP report as a diplomatic tool to raise international human trafficking awareness depends upon the credibility of the State Department's annual country assessments. As discussed earlier, countries receive one of four possible ranking designations in the TIP report: Tier 1 (best), Tier 2, Tier 2 Watch List, and Tier 3 (worst). The annual publication of the TIP report often garners significant media attention and its country assessments have variously spurred international action against human trafficking while also generating diplomatic resentment and bilateral tensions with certain poorly ranked countries. With time, many agree that the TIP reports have improved each year. A June 2012 report by the State Department's Office of Inspector General concluded that "[a]fter 10 years of publication, the TIP report has gained wide credibility for its thoroughness and is recognized as the definitive work by the antitrafficking community on the status of antitrafficking efforts and a catalyst for change globally."[162] Some nevertheless argue that "inconsistent application of the minimum standards [mandated by TVPA] and superficial country assessments have compromised their credibility."[163] Some have also argued that it is difficult to determine what standards make a country eligible for Tier 1. They assert that the Tier 2 and Tier 2 Watch List have become "catch-all" categories that include countries which should really be placed on Tier 3. According to the GAO, in addition to a lack of clarity in the tier ranking process, the TIP report's "incomplete

[160] U.S. Department of State and the BBG, OIG, *Inspection of the Office to Monitor and Combat Trafficking in Persons*, Report No. ISP-I-12-37, June 2012.

[161] See for example testimony by Holly Burkhalter before the Senate Foreign Relations Committee, *The Next Ten Years in the Fight Against Human Trafficking: Attacking the Problem with the Right Tools*, hearing, July 17, 2012.

[162] U.S. Department of State and the BBG, OIG, *Inspection of the Office to Monitor and Combat Trafficking in Persons*, Report No. ISP-I-12-37, June 2012.

[163] Janie Chuang, "The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking," *Michigan Journal of International Law*, Vol. 27, 2006, pp. 437-494.

narratives reduce the report's utility." The State Department, while acknowledging the need to continue to increase the comprehensiveness of the report, has stated that "keeping the report concise is paramount."[164]

U.S. Aid Restrictions: A Useful Tool?

Most agree that extensive international cooperation is required in order to stop international trafficking and that both "carrots" and "sticks" may be needed to influence the policies of other governments, including the provision of financial and technical assistance, as well as the threat of withholding certain forms of assistance. Some assert that unilateral aid restrictions, when designed in accordance with international norms, can incite countries to internalize those norms.[165] Sanctions seem to be most effective when they are clearly defined and evenly applied, criteria which some say U.S. trafficking aid restrictions have not yet met.[166] Some argue that aid cuts are often only applied to countries already subject to other diplomatic restrictions and that threatening other countries with sanctions may actually encourage them to become less open to working with the United States. Others argue that while that may be true in a few cases, most countries depend on good political and economic relations with the United States and fear the public humiliation that comes with a Tier 3 designation as much as actual aid restrictions. In 2008, Congress added a new requirement to the TIP country rankings process, in which Tier 2 Watch List countries would become at risk of being automatically downgraded to the Tier 3 category after two consecutive years on the Tier 2 Watch List. Some have raised concerns that bilateral relationships may be negatively affected as more countries are listed as Tier 3 and thus subject to aid restrictions.[167]

Responses to Child Soldiers

On September 30, 2013, President Obama called for the complete or partial waiver of military aid restrictions in FY2014 against 5 of 10 countries described by the State Department's TIP report as harboring, recruiting, or supporting the use of child soldiers.[168] The presidential waivers were issued pursuant to the Child Soldiers Prevention Act of 2008 (CSPA, Title IV of P.L. 110-457) and granted full waivers to Chad, South Sudan, and Yemen, while issuing partial waivers to the Democratic Republic of Congo and Somalia. The five other countries that did not receive waivers, some of which had received U.S. military aid in prior years, included Burma, Central African Republic, Rwanda, Sudan, and Syria.

The practice of issuing waivers to countries implicated in using children in armed conflict has been criticized by human rights groups as potentially contradictory to the image of the United States as a champion against the exploitation of children and for combating trafficking in persons,

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[164] GAO, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825, July 2006.

[165] Sarah H. Cleveland, "Norm Internationalization and U.S. Economic Sanctions," *Yale Journal of International Law*, Vol. 26, No. 1, 2001, pp. 1-102.

[166] Janie Chuang, "The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking," *Michigan Journal of International Law*, Vol. 27, 2006, pp. 437-494.

[167] U.S. Department of State and the Broadcasting Board of Governors, Office of Inspector General, *Office of Inspections, Inspection of the Office to Monitor and Combat Trafficking in Persons*, Report No. ISP-I-12-37, June 2012.

[168] President Barack Obama, *Determination with Respect to the Child Soldiers Prevention Act of 2008*, Presidential Determination 2013-17, September 30, 2013.

generally.[169] Although waivers are reserved only for those instances in which a critical U.S. national interest is at stake, some nevertheless argue that the waivers, particularly the blanket waivers, limit the scope of options available to the United States to urge offending countries to stop using child soldiers. According to one U.N. report that criticized the U.S. government's use of CSPA waivers, the U.N. Committee on the Rights of the Child recommended revising the CSPA to remove the provision that allows for presidential waivers.[170] On the other hand, countries subject to the CSPA military aid sanctions have also been critical of the President's decisions. Rwanda, for example, which President Obama did not exempt from military aid restrictions pursuant to the CSPA, publicly criticized the decision and stated that the absence of U.S. support to Rwanda will serve to benefit and strengthen armed opposition groups.[171]

Debates Regarding Prostitution and Sex Trafficking

The current U.N. definition of TIP assumes that there are at least two different types of prostitution, one of which is the result of free choice to participate in the prostitution business while the other is the result of coercion, vulnerability, deception, or other pressures. Of these, only the latter type is considered TIP under the U.N. definition. Based on the TVPA, as amended, sex trafficking is not considered a "severe form of TIP" unless it is associated with commercial sex acts induced by force, fraud, or coercion, or in which the person induced to perform such acts is a minor.[172]

Several groups in the United States have sought to redefine TIP to include all prostitution, but many countries have thus far rejected those attempts. Proponents of this broader definition of TIP argue that prostitution is "not 'sex work;' it is violence against women [that] exists because ... men are given social, moral and legal permission to buy women on demand."[173] Countries such as Germany, the Netherlands, Austria, France, and Italy, which have legal or government-regulated prostitution, reject such a definitional change and argue that this broader definition would impede the capacity of the international community to achieve consensus and work together to combat trafficking.[174]

The U.S. State Department asserts that prostitution and TIP are inextricably linked. In the 2008 TIP report to Congress, for example, the State Department states that "sex trafficking would not exist without the demand for commercial sex flourishing around the world" and that prostitution and any related activities "should not be regulated as a legitimate form of work for any human being."[175] The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193) restricts anti-trafficking funds to groups that oppose prostitution. Critics have argued that this policy excludes the people who are most able to report and combat abuses within the sex industry—

[169] Josh Rogin, "U.N. Committee Tells Obama to Stop Waiving Sanctions on Countries that Use Child Soldiers," *The Cable*, February 5, 2013.

[170] United Nations Committee on the Rights of the Child, Optional Protocol on the Involvement of Children in Armed Conflict, Concluding Observations on the Second Report of the United States of America, Adopted by the Committee at its Sixty-Second Session (14 January-5 February 2013), CRS/C/OPAC/USA/CO2, January 28, 2013, advance unedited version.

[171] "Rwanda Assails Sanctions by U.S.," *Agence France Presse*, October 4, 2013.

[172] §103 (8-9) of P.L. 106-386, as amended.

[173] Janice G. Raymond, "Sex Trafficking is Not 'Sex Work,'" *Conscience*, Spring 2005.

[174] Notably, some European countries, including Sweden, Norway, and Iceland, have sought to address this policy debate by criminalizing the purchase of sex, while leaving prostitution as legal. See for example, "Norway Set to Make Buying Sex Illegal," *The Guardian*, April 23, 2007.

[175] U.S. Department of State, *Trafficking in Persons*, 2008.

prostitutes themselves—and may hinder the success of well-established anti-TIP programs. They believe that giving prostitutes some measure of legitimacy short of legalization reduces the risk that they will be exposed to the dangers of trafficking.[176]

Distinctions Between Trafficking and Alien Smuggling

The concept of and responses to TIP are often confused with those of alien or human smuggling, irregular migration, and the movement of asylum seekers. In 2000, the United Nations drafted two protocols, known as the Palermo Protocols, to address TIP and human smuggling.[177] According to the U.N. Trafficking Protocol, people who have been *trafficked* are considered "victims" and are entitled to government protection and a broad range of social services. In contrast, the U.N. Protocol against the Smuggling of Migrants by Land, Sea, and Air considers people who have been *smuggled* as willing participants in a criminal activity who should be given "humane treatment and full protection of their rights" while being returned to their country of origin.[178]

Some observers contend that smuggling is a "crime against the state" and that smuggled migrants should be immediately deported, while trafficking is a "crime against a person" whose victims deserve to be given government assistance and protection.[179] Others maintain that there are few clear-cut distinctions between trafficking and smuggling and that many people who are considered "smuggled" should actually be viewed as trafficking victims, and, at times, vice versa. Some argue that as immigration and border restrictions have tightened, smuggling costs have increased and migration routes have become more dangerous, putting migrants at a high risk of trafficking. In some cases, smugglers have sold undocumented migrants into situations of forced labor or prostitution in order to recover their costs or obtain greater profits.[180] Despite the U.N. protocols on trafficking and smuggling, many countries in practice conflate the two differing, but sometimes overlapping, phenomena. As a result, some observers argue that TIP policies can directly or indirectly shape migration (and vice versa) in both countries of origin and destination.[181]

How to Measure the Effectiveness of Global Anti-TIP Programs

It is often difficult to evaluate the impact of U.S. anti-trafficking efforts on curbing TIP. So far, few reliable indicators have been identified. For example, the current estimates of numbers of trafficking victims in the United States seem considerably lower than some of the previous high-end estimates. Whether these figures reflect the success of U.S. policies and programs or more accurate data gathering is unclear. Hard evidence with regard to the results of the more vigorous international campaign against trafficking is also lacking. Information is often anecdotal.

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[176] For an example of this argument, see David A. Feingold, "Human Trafficking," *Foreign Policy*, September/October 2005.

[177] The U.N. Convention Against Transnational Organized Crime and Its Protocols.

[178] Ibid.

[179] Statement by Claire Antonelli of Global Rights, Center for Strategic and International Studies Event on Human Trafficking in Latin America, July 9, 2004.

[180] Kinsey Aldan Dinan, "Globalization and National Sovereignty: From Migration to Trafficking," in *Trafficking in Humans: Social, Cultural, and Political Dimensions*, Sally Cameron and Edward Newman, eds. (New York: U.N. University Press, 2008); and "Mexico-U.S.-Caribbean: Tighter Borders Spur People Traffickers," *Latin America Weekly Report*, April 11, 2006.

[181] UNODC and U.N. GIFT, *An Introduction to Human Trafficking: Vulnerability, Impact, and Action*, 2008, p. 88.

Worldwide estimates of the numbers of victims seemingly have not changed much, when cross-border trafficking and trafficking within countries are taken together. A 2006 GAO study questioned the adequacy of any of the estimates.[182]

Addressing Labor Trafficking in Federal Supply Chains

On September 26, 2013, the Department of Defense, General Services Administration, and National Aeronautics and Space Administration published new proposed rules to strengthen protections against trafficking in persons in federal supply chains.[183] The proposed rules would update subpart 22.17 of the Federal Acquisition Regulations (FAR) on "Combating Trafficking in Persons," Defense Federal Acquisition Regulation Supplement (DFARS) subpart 222.17, and the corresponding contract clauses based on EO 13627 and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239). Although stakeholders and observers have universally recognized the importance of strengthening efforts to prevent trafficking in persons from tarnishing federal supply chains, many have raised concerns regarding the specifics of the proposed updates. Key concerns include when the final rule will be adopted, how soon will companies need to update their compliance policies to be consistent with the new provisions, and whether the Federal Acquisition Regulation Council intends to issue additional guidance for interpreting the scope of compliance obligations and liabilities that contractors and subcontractors face under the new requirements. While some groups would like to see the revised FAR provisions on human trafficking interpreted less broadly, others have proposed that the final rule be expanded to cover more than what is required pursuant to EO 13627 and P.L. 112-239.[184]

As debates regarding the final FAR and DFARS rules continue, federal government supply chain transparency has continued to feature prominently in the news—particularly following several high-profile incidents in the Bangladesh garment industry, including a fire in November 2012 at the Tazreen Fashions factory that killed at least 112 people and the Rana Plaza factory collapse in which more than 1,100 workers were killed. Although the factory disasters in Bangladesh have not been linked to substantiated allegations of human trafficking, some American and European retailers were reportedly unaware that some of their products were being manufactured in these factories. Subsequent news reporting found that order forms for apparel with U.S. Marine Corps logos had been discovered at Tazreen after the fire, raising concerns regarding the scope of U.S. government procurement practices.

Issues Concerning Immigration Relief for Trafficking Victims

Although there was debate in 2000 about whether the T status should be created,[185] in general, most are supportive of the T status. Nonetheless, the trafficking victims' advocacy community

[182] GAO, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*, GAO-06-825, July 2006.

[183] Department of Defense, General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Ending Trafficking in Persons," *Federal Register*, Vol. 78, No. 187, September 26, 2013, pp. 59317-59325; Department of Defense, "Defense Federal Acquisition Regulation Supplement: Further Implementation of Trafficking in Persons Policy," *Federal Register*, Vol. 78, No. 187, September 26, 2013, pp. 59325-59328.

[184] See description of public feedback in Department of Defense, General Services Administration, and National Aeronautics and Space Administration, "Federal Acquisition Regulation; Ending Trafficking in Persons," *Federal Register*, Vol. 78, No. 187, September 26, 2013, pp. 59317-59325.

[185] The opponents to the creation of the T status contend that the status would reward criminal behavior. Immigrant benefits are scarce and some argued that there are more meritorious people who deserve the benefits such as those who

and groups working to end trafficking have raised concerns about aspects of the application process that may impede victims from applying for T status or create difficulties for the victims to meet the standards of T status.[186] Some have questioned whether the T status protects the victims or is primarily a tool for law enforcement.[187]

As shown in **Table 1**, between FY2002 and FY2012, DHS approved 3,269 applications for T-1 status, while it has been estimated that at least 14,500 aliens are trafficked into the United States each year. The comparatively small number of T visas issued relative to the estimates of individuals trafficked into the United States raises some questions. Is the number of noncitizen trafficking victims in the United States overestimated? Is the United States government doing a poor job locating and identifying victims?[188]

Stringency of T Determination

The regulations state that "In view of the annual limit imposed by Congress for T-1 status, and the standard of extreme hardship involving unusual and severe harm, [DHS] acknowledges that the T-1 status will not be an appropriate response with respect to many cases involving aliens who are victims of severe forms of trafficking."[189] Some contend that the extreme hardship threshold makes it difficult for victims to receive T status.[190] Nonetheless, some in law enforcement have raised concerns that advocacy organizations are able to ask ICE headquarters without the input of the local ICE agents to have an alien certified as a trafficking victim, contending that some of these aliens are not truly trafficking victims.[191]

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have been waiting to come into the country though legal methods. Some argued that there is a need to protect the victims, but that they are being given more access to public benefits than are relatives of United States citizens. Additionally, others expressed concern about the possibility of abuse of T status. For example, some aliens who had knowingly and willfully violated the law may claim that they were coerced after they were arrested by DHS. See, U.S. Congress, House Committee on the Judiciary, *Trafficking Victims Protection Act of 2000*, Report to accompany H.R. 3244, 106th Cong., 2nd sess., April 13, 2000, H.Rept. 106-487.

[186] April Rieger, "Missing the Mark: Why The Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States," *Harvard Journal of Law & Gender*, vol. 30, no. 1 (Winter, 2007), p. 248. (Hereinafter, Rieger, "Missing the Mark: Why The Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States.") Some of these concerns were also raised in the minority views expressed in the House Judiciary Committee Report on H.R. 3244 which became the TVPA. See, U.S. Congress, House Committee on the Judiciary, *Trafficking Victims Protection Act of 2000*, Report to accompany H.R. 3244, 106th Cong., 2nd sess., April 13, 2000, H.Rept. 106-487.

[187] Ibid, and Erin Bistricer, "'U' Stands for Underutilization: The U Visa's Vulnerability for Underuse in the Sex Trafficking Context," *Cardozo Journal of Law & Gender*, vol. 18, no.1 (Winter, 2012), pp. 458-459. (Hereinafter, Bistricer, "'U' Stands for Underutilization: The U Visa's Vulnerability for Underuse in the Sex Trafficking Context.")

[188] These issues are discussed in detail in: Jerry Markon, "Human Trafficking Evokes Outrage, Little Evidence; U.S. Estimates Thousands of Victims, But Efforts to Find Them Fall Short," *Washington Post*, September 23, 2007. In addition, DOS's FY2009 *Trafficking in Persons* report stated: "[v]ictim identification, given the amount of resources put into the effort, is considered to be low." U.S. Department of State, *Trafficking in Persons Report*, June 2010, p. 338.

[189] *Federal Register* vol. 67, no. 21: p. 4785. January 31, 2002.

[190] Testimony of Derek J. Marsh, Co-Director Orange County Human Trafficking Task Force, in U.S. Congress, House Committee on Homeland Security, *Crossing the Border: Immigrants in Detention and Victims of Trafficking, Part II*, 110th Cong., 1 sess., March 20, 2007; and Rieger, "Missing the Mark: Why The Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States." p. 250.

[191] Personal communication with ICE special agents in Los Angeles, California, August 16, 2005.

Tool of Law Enforcement or Aid to Victims

According to the policy memorandum on T status, "the T classification provides an immigration mechanism for cooperating victims to remain temporarily in the United States to assist in investigations and prosecutions and provide humanitarian protection to the victims." Some are concerned that the emphasis on aiding law enforcement is more important than aiding the victims, and note that a controversial aspect of the continued presence provision is that federal agents may supersede a victim's wishes and require the victim to remain in the United States, if the victim's "departure is deemed prejudicial to the interests of the United States."[192] NGOs have reported isolated incidents of law enforcement officers telling victims that they risk losing their benefits if they do not cooperate, and note that it is challenging getting law enforcement to recognize reluctant victims for protection purposes.[193] Others argue, however, that the only mechanism for ending trafficking is by encouraging the victims' cooperation in the prosecution and investigation.

Victims' Safety

Some victims' service providers who aid trafficking victims have also expressed concerns that outside of federal protective custody, there are few safe housing options for victims of trafficking. Shelters in many areas are full or inaccessible, and domestic violence shelters are ill-equipped to meet the safety needs of trafficking victims.[194] In addition, according to the DOS report, law officials are sometimes untrained or unwilling to undertake victim protection measures.[195] Other advocacy groups such as the Collation to Abolish Slavery and Trafficking (CAST) contend that forcing victims to aid in the investigation and prosecution of traffickers may endanger the victims' families who remain in the home country especially when the trafficker is deported back to the country. They argue that there needs to be some mechanism to either ensure the victims' families' safety in their home country or reunite the families with the victims in the United States.[196] Dianne Post, an attorney for the Arizona Coalition Against Domestic Violence, argues that the TVPA may create problems for victims, because victims cannot receive services and benefits until they apply for T status, and if they do not speak English, they cannot fill out the application without help. Often they will need to turn to the local immigrant community, and the traffickers may have ties in the same community.[197]

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[192] Lisa Raffonelli. "INS Final Rule to Assist Victims of Trafficking." *Refugee Reports*, vol. 23, no. 3 (April 2002): p.9. (Hereinafter referred to as Raffonelli, "INS Final Rule to Assist Victims of Trafficking.") Rieger, "Missing the Mark: Why The Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States," p. 248. Erin Bistricer, "'U' Stands for Underutilization: The U Visa's Vulnerability for Underuse in the Sex Trafficking Context," *Cardozo Journal of Law & Gender*, vol. 18, pp. 458-459.

[193] U.S. Department of State, *Trafficking in Persons Report*, June 2011, p. 375.

[194] Raffonelli, "INS Final Rule to Assist Victims of Trafficking." p.4. U.S. Department of State, *Trafficking in Persons Report*, June 2010, p. 340.

[195] U.S. Department of State, *Trafficking in Persons Report*, June 2010, p. 338.

[196] Testimony of Cho. Testimony of Wendy Patten, U.S. Advocacy Director, Human Rights Watch, in U.S. Congress, Senate Committee on Judiciary, Subcommittee on Constitution, Civil Rights and Property Rights, *Examining U.S. Efforts to Combat Human Trafficking and Slavery*, hearings, 108th Cong., 2nd sess., (July 7, 2004). (Hereinafter, Testimony Wendy Patten.)

[197] Raffonelli, "INS Final Rule to Assist Victims of Trafficking." p. 9. These issues are also discussed in Rieger, "Missing the Mark: Why The Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States."

Funding and Authority to Assist U.S. Citizen and LPR Victims of Trafficking

An overriding issue is the extent to which the agencies can provide services to U.S. citizen and LPR trafficking victims who do not receive certification.[198] As discussed, a 2007 report by the Senior Policy Operating Group on Trafficking in Persons (SPOG) states that "there are not many differences in trafficking victims' eligibility for the services we reviewed when one looks at the relevant statutes." However, the report does note that U.S. citizen victims may have less intensive case management services compared to noncitizens.[199] Conversely, the AG's FY2009 report on anti-trafficking efforts states, "the funds provided under the TVPA by the federal government for direct services to victims are dedicated to assist non-U.S. citizen victims and may not currently be used to assist U.S. citizen victims."[200] ORR, however, has stated that they do not provide services to U.S. citizen trafficking victims.[201] Nonetheless, the language in the appropriation acts may give the HHS the authority to provide some services to U.S. citizen trafficking victims. The appropriation acts since FY2008 state that the money appropriated to HHS is to "carry out the Trafficking Victims Protection Act of 2000."[202]

In addition, between FY2009 and FY2012, OVC funded a grant, Services for Domestic Minor Victims of Human Trafficking, that included U.S. citizen and LPR victims.[203] According to DOJ, this grant is authorized under 22 U.S.C Section 7105(b)(2)(A), which was included in the TVPA as enacted in 2000.[204] The authorizing language of this grant program does not appear to differentiate between U.S. citizen and noncitizen victims. 22 U.S.C Section 7105(b)(2)(A) states:

> IN GENERAL.—Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.[205]

Additionally, in 2010, DOJ provided grant funding to six NGO service providers to assist U.S. citizen and lawful permanent resident victims, and DOJ published a notice of a funding opportunity that included a focus on adult U.S. citizen victims, including Native Americans.[206]

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[198] Recommendation in the FY2009 *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons* include "examine and enhance the efficacy and parity of services provided to U.S. citizen, LPR, and foreign national victims of trafficking." DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009,* p. 15.

[199] Senior Policy Operating Group on Trafficking in Persons: Subcommittee on Domestic Trafficking, *Final Report and Recommendations*, Washington, DC, August 2007.

[200] DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009,* p. 17.

[201] Personal Communication with U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Director, Anti-Trafficking in Persons Division, April 14, 2010.

[202] P.L. 111-117, P.L. 111-8, P.L. 110-161.

[203] The grant is authorized under 22 U.S.C 7105(b)(2)(A), pertaining to grants made by the Attorney General to develop, expand or strengthen victim service programs for victims of trafficking in the United States. It is a program that was in TVPA as enacted in 2000. U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, "Announcing the Awardees from OVC's Services for Domestic Minor Victims," press release, 2009.

[204] The funding for this grant was also awarded using funding from the American Recovery and Reinvestment Act of 2009 (P.L. 111-5). DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009,* p. 7.

[205] 22 U.S.C §7105(b)(2)(A).

[206] U.S. Department of State, *Trafficking in Persons Report*, June 2011, p. 375.

The funding of these grants appears to be inconsistent with the statement in the FY2009 AG's report that the funds appropriated under TVPA can be used only for noncitizen victims. In addition, the DOS 2012 TIP report states that a policy change in DOJ during 2012 allowed federal funding for victims services to be used for U.S. citizen as well as foreign national victims.[207] Indeed, the program areas listed as permissible for DOJ victims services grant funding includes providing services to U.S. citizen victims.[208] Thus, it appears that there is ongoing confusion over the authority and funding available under TVPA to provide services to U.S. citizen trafficking victims.

Resources for Trafficking Victims' Services

A corollary issue is the overall amount of funding for victims services, especially as the focus on sex trafficking is broadening to include minor sex trafficking victims in the United States who are U.S. citizens. In FY2014, Congress appropriated approximately $28 million for services to trafficking victims. Between FY2002 and FY2013, Congress appropriated approximately $20 million each year for victims services. (See **Table B-3**.) Between FY2009 and FY2013, HHS used all of its appropriated money on services for trafficking victims before the end of the fiscal year. Notably, the DOS TIP report recommends increasing funding for relevant agencies to provide victims services.[209] In addition, there is no targeted federal funding to support state child welfare agencies anti-trafficking efforts.[210] NGOs report a critical need for an increase in the overall funding for comprehensive services.[211]

The last U.S. government estimate on trafficking victims stated that there were approximately 14,500 noncitizens trafficked into the United States each year.[212] Some have estimated that the number of minor sex trafficking victims could be in the hundreds of thousands.[213] This raises several questions: Are the resources for trafficking victims, both citizen and noncitizens, adequate? If funds were allocated based on estimated citizen populations and noncitizen populations, would certain victims have more trouble getting services? To what extent are the needs of U.S. citizen and noncitizen victims similar and to what extent do they differ? For example, are noncitizen victims more likely than U.S. citizen victims to identify themselves as victims?[214] Are there other public benefit entitlement programs that noncitizen victims are ineligible for that could serve the needs of U.S. citizen trafficking victims?[215]

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[207] U.S. Department of State, *Trafficking in Persons Report*, June 2013, p. 381.

[208] Department of Justice, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*, January 2013: p. 45. (Hereinafter DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2011*.)

[209] U.S. Department of State, *Trafficking in Persons Report*, June 2013, p. 382.

[210] U.S. Department of State, *Trafficking in Persons Report*, June 2011, p. 375.

[211] U.S. Department of State, *Trafficking in Persons Report*, June 2013, p. 381.

[212] Department of Justice, Department of Health and Human Services, Department of State, Department of Labor, Department of Homeland Security, and U.S. Agency of International Development, *Assessment of U.S. Government Efforts to Combat Trafficking in Persons*, June 2004, p. 4.

[213] For a full discussion of these estimates, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

[214] Victims of domestic sex trafficking often do not self-identify as victims due to fear of the physical and psychological abuse inflicted by the trafficker, or due to the trauma bonds developed through the victimization process. Smith, Vardaman, and Snow, *Domestic Minor Sex Trafficking: America's Prostituted Children*, p. 41.

[215] The programs in TVPA for noncitizen victims were created in part because under the law noncitizen victims are statutorily ineligible for many public benefits (e.g., Medicaid, housing assistance). Nonetheless, while U.S. citizen victims are eligible for federal crime victims benefits and public benefit entitlement programs, there is little data to

Oversight of Domestic Grants

In the current economic situation, Congress has been actively questioning whether there is effective and efficient management of the grants under TVPA.[216] Notably, one of the roles of the Senior Policy Operating Group (SPOG, discussed above) is to coordinate the work of multiple agencies to make sure that there is not a duplication of efforts. There has been one published report, a 2008 report from the DOJ Inspector General (IG), that provides oversight of DOJ's victims service and anti-trafficking task-forces grant recipients. The report found systemic weakness in DOJ's grant implementation,[217] and noted that while the agency has built significant capacities to serve victims, they had not been effective at identifying and serving a significant number of victims.[218]

Moreover, a 2011 IG report that examined general grant management by DOJ noted that since 2007 the agency had made significant improvement in the monitoring and oversight of grant recipients.[219] However, this report did not specifically examine grants awarded under the TVPA.

Enacted Legislation in the 113th Congress: The TVPA Reauthorization

On February 28, 2013, Congress passed the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4).[220] Title XII of P.L. 113-4, entitled Trafficking Victims Protection, reauthorizes the TVPA through FY2017, and makes other changes to the act.[221]

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assess the extent to which U.S. citizen trafficking victims are accessing these benefits. DOJ, *Attorney General's Annual Report to Congress on U.S. Government Activities to Combat Trafficking in Persons: Fiscal Year 2009*, pp. 17-18. For a discussion of noncitizen eligibility for public benefits, see CRS Report RL33809, *Noncitizen Eligibility for Federal Public Assistance: Policy Overview and Trends*, by Ruth Ellen Wasem.

[216] At a 2011 hearing on the TVPA reauthorization, the ranking member of the Senate Judiciary Committee, Senator Charles Grassley stated: *"[I] feel that the bill ought to be reauthorized. But I make a point of saying that we have a terrible budget situation and it requires that we take a close look at how some of this money is spent…"* U.S. Congress, Senate Committee on the Judiciary, *The Trafficking Victims Protection Reauthorization Act: Renewing the Commitment to Victims of Human Trafficking*, 112th Cong., 1st sess., September 14, 2011.

[217] The audits found weaknesses in the areas of the established goals and accomplishments for grantees, grant reporting, fund drawdowns, local matching funds, expenditures, indirect costs, and monitoring of subrecipients. Department of Justice, Office of the Inspector General, *Management of the Office of Justice Programs' Grant Programs for Trafficking Victims*, Audit Report 08-26, Washington, DC, July 2008, http://www.justice.gov/oig/reports/OJP/a0826/final.pdf.

[218] Ibid.

[219] This report did not specifically examine the grants under TVPA, but concluded that OJP's management of grants in general had improved. Department of Justice, Office of the Inspector General, *Audit of the Office of Justice Programs' Monitoring and Oversight of Recovery Act and Non-Recovery Act Grants*, Audit Report 11-19, Washington, DC, March 2011, http://www.justice.gov/oig/reports/OJP/a1119.pdf.

[220] The bill was signed into law on March 7, 2013.

[221] During Senate-floor debate of S. 47, Senator Patrick Leahy offered an amendment (S.Amdt. 21) to reauthorize the TVPA through FY2017, and make other changes to the act. The amendment was passed by a vote of 93 to 5. S.Amdt. 21 became Title XII of S. 47, and the title is almost identical to S. 1301, as reported by the Senate Judiciary Committee in the 112th Congress.

Trafficking Provisions Not in Title XII of P.L. 113-4

There are several provisions in P.L. 113-4 that are not part of Title XII but that deal with anti-trafficking efforts.[222] Section 3 of P.L. 113-4 defines "sex trafficking" for the purpose of grants under the Violence Against Women Act (VAWA) of 1994[223] as any conduct proscribed by Section 1591 of Title 18, United States Code, whether or not the conduct occurs in interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States. The act clarifies that victims' services and legal assistance under VAWA include services and assistance to victims of domestic violence, dating violence, sexual assault, or stalking *who are also victims of severe forms of trafficking in persons*. Section 302 of the act expands the purpose of certain grants to enhance the safety of youth and children to include those who are victims of or have been exposed to sex trafficking.[224]

Section 802 of P.L. 113-4 requires an annual report to the House and Senate Judiciary Committees on the issuances of T and U status, and continued presence,[225] including the average time to process the applications. The act also clarifies that physical presence in the Commonwealth of the Northern Mariana Islands (CNMI) counts as physical presence in the United States for the purpose of qualifying for T or U status (§809).

In addition, the act amends the purpose area for grants to tribal governments to combat violence against women to include sex trafficking, and creates a new purpose area to provide services to address the needs of youth who are victims of domestic violence, dating violence, sexual assault, sex trafficking, or stalking (§901). Section 902 creates a new grant for tribal coalitions. The grants are administered by DOJ for several purposes including (1) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence, including sex trafficking; and (2) assisting Indian tribes in developing and promoting state, local, and tribal legislation and policies that enhance best practices for responding to violent crimes against Indian women, including sex trafficking.[226]

Title XII of P.L. 113-4: The TVPA Reauthorization

Subtitle A in Title XII, addresses efforts to combat trafficking in persons internationally, and among certain noncitizens coming to the United States

Section 1201 requires regional bureaus within the State Department to develop annually a list of anti-trafficking goals and objectives for each country within its geographic area of responsibility. The act also mandates the State Department to forge and sustain partnerships to combat human trafficking among private and non-governmental entities (§1202). Section 1202 authorizes the creation of an anti-trafficking fund to support foreign governments in emergencies as well as the

[222] For more information on immigration-related provisions in VAWA, see CRS Report R42477, *Immigration Provisions of the Violence Against Women Act (VAWA)*, by William A. Kandel.

[223] 42 U.S.C. 13925(a).

[224] For more on these grants, see CRS Report R42499, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, by Lisa N. Sacco.

[225] As discussed in the section entitled, "Immigration Relief for Trafficking Victims," continued presence is not an immigration status, it is the term used for the discretionary authority under a variety of statutory and administrative mechanisms to ensure the alien's continued presence in the United States.

[226] For more on these grants, see CRS Report R42499, *The Violence Against Women Act: Overview, Legislation, and Federal Funding*, by Lisa N. Sacco.

provision of anti-trafficking assistance through child protection compacts. It also directs the interagency task force against human trafficking to increase its efforts to publicize the National Human Trafficking Resource Center Hotline and brief Congress annually on its activities (§1203). Section 1204 enhances and expands the criteria for determining whether governments have achieved serious and sustained efforts to eliminate severe forms of human trafficking. The act also requires the State Department's TIP report to include a section on best practices in the eradication of human trafficking (§1205).

Section 1206 requires that a video be shown in consular waiting rooms to provide information on the rights and responsibilities of employees under U.S. immigration, labor, and employment law. The video is to be developed and available within one year after enactment. The act also requires the Secretary of State to develop a multi-year, multi-sectoral strategy to prevent child marriage, and the Secretary of State is required to report on countries where child marriage is prevalent (§1207). Section 1208 prohibits, except in certain circumstances, foreign assistance from the peacekeeping operations account to countries that the Secretary of State annually designates as conscripting or harboring child soldiers in armed conflict.

Subtitle B in Title XII, contains provisions to address trafficking in person within the United States

P.L. 113-4 (§1211) makes it a criminal offense to knowingly destroy, or for a period of more than 48 hours, conceal, remove, confiscate, or possess another person's passport, or immigration or personal identification documents in the course of committing or attempting to commit the offense of fraud in foreign labor contracting or alien smuggling. It is also a criminal offense to destroy, conceal, remove, confiscate, or possess such documents in order to unlawfully maintain, prevent, or restrict the labor or services of the individual. Violators are subject to a fine and/or imprisonment of not more than one year. Moreover, the act allows for civil remedies for personal injuries caused during the commission of most criminal trafficking offenses (§1212).

Section 1221 of P.L. 113-4 makes the adult or minor children of a beneficiary of derivative T eligible for T status if it is determined that such a person faces a present danger of retaliation as a result of the trafficking victim's cooperation with law enforcement. The act also adds "fraud in foreign labor contracting"[227] as a criminal activity that would make alien victims of that crime eligible for a U visa (§1222).[228] The act requires that additional information be included in the Attorney General's report on anti-trafficking activities, such as information on the number of persons who have applied for, been granted, and been denied T and U status; the mean time it takes to adjudicate an application; efforts being taken to reduce adjudication time; activities taken by federal agencies to train state, tribal, and local governments and law enforcement officials to identify trafficking victims and prosecute trafficking offenses, including the number of victims; and activities taken by DOJ and HHS to meet the needs of minor victims of domestic trafficking (§1231).[229]

[227] 18 U.S.C. §1351

[228] Section 801 adds stalking as an offense for which a victim would be eligible for a U visa. In addition, §805 protects children applying for derivative U status from "ageing out." Previously, if the unmarried child of a parent who was granted U status turned 21 while their application was pending, the child would have no longer been eligible for a U visa. The act allows such aliens who parents petitioned for them their 21st birthday but whose applications were still pending after the aliens turned 21 to remain eligible for a U visa.

[229] Section 802 is similar to §1231 in that bill in that both provisions require similar information about the issuances of T and U status, and continued presence.[229] However, whereas §1231 requires that the information is included in the Attorney General's annual report on anti-trafficking activities, §802 require that the Secretary of Homeland Security

Section 1232 requires the Secretary of Labor to report to Congress biennially about goods from countries that the Bureau of International Labor Affairs has reason to believe are produced by forced labor or child labor in violation of international standards. The act also requires the Secretary of State to provide the Secretary of Labor with information on the use of child and forced labor in the production of goods (§1233). P.L. 113-4 requires training on the identification of trafficking victims for appropriate personnel at the Department of Labor.[230] The act also requires GAO to produce a report on the use of foreign labor contractors and abuses by such contractors (§1235).

Section 1226 requires that all DOJ grants awarded under the TVPA be subject to audits, and bars grantees from receiving grants for two years if violations were found. The act also specifies in awarding grants that priority should be given to eligible applicants that did not have an unresolved audit funding[231] during the previous three fiscal years. The DOJ Inspector General is tasked with determining the number of grants to be audited each year. The act also set procedures related to using grant monies for conferences that cost more than $20,000.

Section 1241 replaces the HHS grant program for states, Indian tribes, units of local government, and nonprofit, non-governmental victims' service organizations to provide assistance programs for U.S. citizens or LPR trafficking victims created in P.L. 109-164 (§202) with a new grant program for child sex trafficking victims. The new grant program authorizes the Assistant Attorney General for DOJ's Office of Justice Programs, in consultation with the Assistant Secretary for Children and Families in HHS, to award one-year grants to six grantees to combat sex trafficking of children in the United States. Each grant can range from $2 million to $2.5 million. Of the grant amounts, at least 67% has to be allocated to non-governmental organizations (NGOs) to provide counseling, legal services, shelter, clothing, and other social services to victims, while not less than 10% has to be allocated provide services to victims or training for service providers on sex trafficking of children. Funds can also be used for training for law enforcement; investigative and prosecution expenses; case management; salaries for law enforcement officers and state and local prosecutors; and outreach, education, and treatment programs.[232] The act authorizes $8 million each year from FY2014 through FY2017 for this program.

In addition, P.L. 113-4 amends the grant program for state and local law enforcement's anti-trafficking programs that focus on U.S. citizen victims,[233] so that the grants can be used for anti-trafficking programs for noncitizen victims. The grant program was also modified so that funding is available for victim identification training and prioritizing cases involving minor victims of sex trafficking (§1242).

The act also specifies that the model state anti-trafficking laws created by the AG should include safe harbor provisions that treat an individual under 18 years of age who has been arrested for prostitution as a victim of a severe form of trafficking, prohibit the prosecution of such as person, and refer them to the service providers who provide assistance to victims of commercial sexual exploitation (§1243).

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submit the report annually to the House and Senate Judiciary Committees.

[230] Previously, the TVPA only required training of appropriate personnel from DHS, HHS, and DOJ.

[231] "Unresolved audit finding" is defined as a finding in the final audit report of the DOJ Inspector General that the audited grantee utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 12 months from the date when the final audit report is issued.

[232] The proposed grant program is identical to S. 596 in the 112th Congress, and S. 2925 in the 111th Congress.

[233] This grant program was created in P.L. 109-164, §204 (42 U.S.C. 14044c(d)).

Subtitle C in Title XII, reauthorizes appropriations for the TVPA

P.L. 113-4 reauthorizes appropriations for the Trafficking Victims Protection Act of 2000 for FY2014 through FY2017, decreasing some authorization levels and increasing others.[234] (See **Table B-1** for a detailed list of authorization levels.)

Subtitle D in Title XII, contains provisions dealing with the care and custody of unaccompanied alien children

Section 1261 specifies that the DHS Secretary should release or place in the least restrictive setting any unaccompanied alien child who turns 18 while in custody. P.L. 113-4 (§1262) requires that the DHS Secretary create a pilot program in three states to provide independent child advocates at immigration detention sites for child trafficking victims and other vulnerable unaccompanied alien children.[235] In addition, P.L. 113-4 specifies that children who receive U status and are in the custody of HHS are eligible for programs and services to the same extent as refugees, and the federal government will reimburse states for foster care provided to these children (§1263). The act also requires GAO to do a study on the effectiveness of CBP screening of children to determine if they are, or are at risk for becoming, victims of trafficking (§1264).

Conclusion

The United States has created a system to combat human trafficking that combines prosecution, protection, and prevention within the United States with help and encouragement to other governments to do the same. Nonetheless, as with combating most criminal activities, it is difficult to understand the extent of the problem, and as a corollary evaluate how policies are working to combat the issue. The number of trafficking victims in the United States and throughout the world is elusive, and as such it is difficult to evaluate whether the number of prosecutions for human trafficking and the number of victims rescued illustrate a successful strategy.

In addition, given limited resources, there are tensions between whether equal attention is being given to all types of TIP (e.g., sex trafficking vs. labor trafficking), and all victims (e.g., noncitizen victims vs. U.S. citizen victims). Internationally, the effectiveness of the TIP report and sanctions as a tool to combat human trafficking continues to be divisive. Human trafficking by U.S. contractors overseas is also an area of focus to the United States. Domestically, the complexity of trafficking investigations and difficulties locating victims raise questions concerning the allocation of resources to trafficking investigations. Furthermore, policies relating to assistance to victims try to ensure that the needed services are available for all victims, and that the resources exist as well as the programs (e.g., shelters for minor victims of sex trafficking) that can help the victims recover and reintegrate into society. As with all criminal activity, it is unlikely that human trafficking will be totally eradicated worldwide, but Congress has been active in trying to reduce the prevalence of this crime, and will likely continue to do so.

[234] The authorization levels were reduced for three grant programs that have yet to receive funding: HHS grants for U.S. citizen and LPR victims; grants for a pilot program for residential treatment for juvenile trafficking victims; and grants to local/state law enforcement for anti-trafficking activities.

[235] Unaccompanied minors are aliens who are in the United States without a parent or guardian.

Appendix A. Anti-trafficking Administrative Directives and Legislation

The human trafficking problem has gained increased attention in the United States and worldwide since the late 1990s. It has been addressed as a priority by Congress, as well as the Clinton, George W. Bush, and Obama Administrations. As part of former President Clinton's announced International Crime Control Strategy, an interagency working group was set up to address international crime implications of trafficking. On March 11, 1998, President Clinton issued a directive establishing a government-wide anti-trafficking strategy of (1) prevention, (2) protection and support for victims, and (3) prosecution of traffickers.[236]

The strategy, as announced, had strong domestic and international policy components. On the domestic side, a Workers' Exploitation Task Force, chaired by DOJ's Civil Rights Division and the Solicitor's Office in the Department of Labor (DOL), was charged with investigating and prosecuting cases of exploitation and trafficking. In addition, DOJ reviewed existing U.S. criminal laws and their enforcement to see if they adequately dealt with the crime of trafficking. On the international front, the State Department sponsored the creation of a database on U.S. and international legislation on trafficking. An Interagency Council on Women formed by the Clinton Administration established a senior governmental working group on trafficking. The Administration urged the enactment of legislation to encourage and support strong action by foreign governments and help the work of non-governmental organizations (NGOs) in this area.

On December 16, 2002, President George W. Bush issued National Security Presidential Directive 22 (NSPD-22), which establishes as U.S. government-wide policy the goal "to attack vigorously the worldwide problem of trafficking in persons, using law enforcement efforts, diplomacy, and all other appropriate tools."[237] As part of its plan of action, NSPD-22 required that federal departments and agencies be fully trained to carry out their specific responsibilities with respect to combating human trafficking and established a "zero tolerance" policy against U.S. government employees and contractors representing the United States abroad who engage in trafficking in persons. NSPD-22 also encouraged the development of federal cooperation with state and local law enforcement in the United States, U.S. support to strengthen regional and international organization efforts to combat human trafficking, and improved coordination of U.S. foreign assistance and grant programs to combat human trafficking.

Expanding on NSPD-22's zero tolerance policy, President Barack Obama issued Executive Order (EO) 13657 on September 25, 2012, to strengthen protections against trafficking in persons in federal contracts. This executive order mandated that the Federal Acquisition Regulatory (FAR) Council revise existing contractor guidelines for preventing human trafficking to include prohibitions on misleading or fraudulent recruitment practices; charging employees recruitment fees; and destroying or confiscating employee identity documents, such as passports and driver's licenses. Among other provisions, it also required certain contractors and subcontractors

[236] For a discussion of this directive, see Department of State, Office of the Historian, *History of the Department of State During the Clinton Presidency (1993-2001),* available at http://www.state.gov/r/pa/ho/pubs/8523.htm.

[237] President George W. Bush, National Security Presidential Directive 22 (NSPD-22), *Combating Trafficking in Persons*, December 16, 2002, partially declassified for publication as "Appendix C" in U.S. Department of Defense (DOD), Office of the Inspector General (OIG), *Inspections and Evaluations: Evaluation of DOD Efforts to Combat Trafficking in Persons*, Report No. IE-2007-002, November 21, 2006.

performing services abroad to establish compliance plans to prevent trafficking-related activities.[238]

Victims of Trafficking and Violence Protection Act of 2000

Several bills were introduced in the 106th Congress on human trafficking. In conference, the bills were combined with the Violence against Women Act of 2000 and repackaged as the Victims of Trafficking and Violence Protection Act of 2000, along with miscellaneous anti-crime and anti-terrorism provisions. President Clinton signed the bill into law on October 28, 2000 (P.L. 106-386). The act's key provisions on human trafficking:

- Directed the Secretary of State to provide an annual report by June 1, listing countries that do and do not comply with minimum standards for the elimination of trafficking, and to provide information on the nature and extent of severe forms of trafficking in persons (TIP) in each country and an assessment of the efforts by each government to combat trafficking in the State Department's annual human rights report;
- Called for establishing an Interagency Task Force to Monitor and Combat Trafficking, chaired by the Secretary of State, and authorized the Secretary to establish within the Department of State an Office to Monitor and Combat Trafficking to assist the Task Force;
- Called for measures to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking, to increase public awareness, particularly among potential victims, of the dangers of trafficking and the protections that are available for victims, and for the government to work with NGOs to combat trafficking;
- Established programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement of victims of trafficking and their children, as well as programs to provide assistance to victims of severe forms of TIP within the United States, without regard to such victims' immigration status and to make such victims eligible for any benefits that are otherwise available under the Crime Victims Fund;[239]
- Provided protection and assistance for victims of severe forms of trafficking while in the United States;
- Amended the Federal Criminal code to make funds derived from the sale of assets seized from and forfeited by traffickers available for victims assistance programs under this act;
- Amended the Immigration and Nationality Act (INA) to allow the Attorney General to grant up to 5,000 nonimmigrant visas (T visas) per year to certain victims of severe forms of trafficking who are in the United States and who would face unusual and severe harm if they were removed from the United States. In addition, amended the INA to allow up to 5,000 T visas holders per year to adjust to lawful permanent resident status if the aliens have been in the United States continuously for three years since admission, have remained of

[238] President Barack Obama, "Executive Order 13627 of September 25, 2012: Strengthening Protections Against Trafficking in Persons in Federal Contracts," *Federal Register*, Vol. 77, No. 191, October 2, 2012, pp. 60029-60033.

[239] For more information on the Crime Victims Fund, see CRS Report RL32579, *Victims of Crime Compensation and Assistance: Background and Funding*, by Celinda Franco (available to congressional clients upon request).

good moral character, have not unreasonably refused to assist in trafficking investigations or prosecutions, and would suffer extreme hardship if removed from the United States;

- Established minimum standards to combat human trafficking applicable to countries that have a significant trafficking problem. Urged such countries to prohibit severe forms of TIP, to punish such acts, and to make serious and sustained efforts to eliminate such trafficking;
- Provided for assistance to foreign countries for programs and activities designed to meet the minimum international standards for the elimination of trafficking;
- Called for the United States to withhold non-humanitarian assistance and instructed the U.S. executive director of each multilateral development bank and the International Monetary Fund to vote against non-humanitarian assistance to such countries that do not meet minimum standards against trafficking and are not making efforts to meet minimum standards, unless continued assistance is deemed to be in the U.S. national interest;
- Encouraged the President to compile and publish a list of foreign persons who play a significant role in a severe form of TIP. Also encouraged the President to impose sanctions under the International Emergency Economic Powers Act, including the freezing of assets located in the United States, and to exclude significant traffickers, and those who knowingly assist them, from entry into the United States; and
- Amended the Federal Criminal Code (18 U.S.C.) to double the current maximum penalties for peonage, enticement into slavery, and sale into involuntary servitude from 10 years to 20 years imprisonment and to add the possibility of life imprisonment for such violations resulting in death or involving kidnapping, aggravated sexual abuse, or an attempt to kill.

The George W. Bush Administration, as well as Congress, continued the anti-trafficking effort. Then-Attorney General John Ashcroft announced in March 2001 that the fight against trafficking would be a top priority for the Administration and that U.S. law enforcement agencies, including the Federal Bureau of Investigation (FBI), the former Immigration and Naturalization Service, and the Justice Department's Civil Rights Division would cooperate closely to upgrade their efforts to combat trafficking. The Justice Department also announced new guidelines for federal prosecutors to pursue trafficking cases.[240] The State Department issued its first congressionally mandated report on worldwide trafficking in July 2001.

On January 24, 2002, then-Attorney General John Ashcroft announced the implementation of a special "T" visa, as called for in P.L. 106-386, for victims of trafficking in the United States who cooperate with law enforcement officials. Under the statute, victims who cooperate with law enforcement against their traffickers and would be likely to suffer severe harm if returned to their home countries may be granted permission to stay in the United States. After three years in T status, the victims are eligible to apply for permanent residency and for non-immigrant status for their spouses and children.[241]

On February 13, 2002, President George W. Bush signed an Executive Order establishing an Interagency Task Force to Monitor and Combat TIP. The Task Force, mandated by the Trafficking Victims Protection Act of 2000 (P.L. 106-386), includes the Secretary of State, the Attorney

[240] Attorney General John Ashcroft's news conference on March 27, 2001.

[241] U.S. Department of State, Washington File, January 24, 2002.

General, the Secretary of Labor, the Secretary of Health and Human Services (HHS), the Director of the Central Intelligence Agency, the Administrator of the Agency for International Development, the Director of the Office of Management and Budget, and Office of the National Security Advisor. The Task Force is charged with strengthening coordination among key agencies by identifying what more needs to be done to protect potential victims, to punish traffickers, and to prevent future trafficking. The State Department Office to Monitor and Combat Trafficking in Persons (G-TIP) was tasked with assisting the Interagency Task Force in implementing P.L. 106-386 and Task Force initiatives.

The Foreign Relations Authorization Act of 2003

In 2002, Congress amended the Victims of Trafficking and Violence Protection Act of 2000 in Section 682 of the Foreign Relations Authorization Act, FY2003 (P.L. 107-228) to provide

- support for local in-country nongovernmental organization to operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organizational networks and databases on trafficking;
- support for nongovernmental organizations and advocates to provide legal, social, and other services and assistance to trafficked individuals, particularly those individuals in detention;
- education and training for trafficked women and girls;
- the safe integration or reintegration of trafficked individuals into an appropriate community or family, while respecting the wishes, dignity, and safety of the trafficked individual; and
- support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members.

The amendment also authorized an increase in appropriations for FY2003 to fund such programs.

Trafficking Victims Protection Reauthorization Act of 2003

In 2003, Congress approved the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2003. The President signed the act into law on December 19, 2003 (P.L. 108-193). The act authorized substantial increases in funding for anti-trafficking programs in FY2004 and FY2005 (over $100 million for each fiscal year). P.L. 108-193 refined and expanded the Minimum standards for the elimination of trafficking that governments must meet and placed on such governments the responsibility to provide the information and data by which their compliance with the standards could be judged. The legislation created a “special watch list” of countries that the Secretary of State determined were to get special scrutiny in the coming year. The list was to include countries where (1) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; (2) there is a failure to provide evidence of increasing efforts to combat severe forms of TIP from the previous year; or (3) the determination that a country is making significant efforts to bring itself into compliance with minimum standards is based on its commitments to take additional steps over the next year. In the case of such countries, not later than February 1 of each year, the Secretary of State is to provide to the appropriate congressional committees an assessment of the progress that the country had made since the last annual report.

Intelligence Reform and Terrorism Protection Act of 2004

In December 2004, Congress approved the Intelligence Reform and Terrorism Protection Act of 2004, signed into law on December 17, 2004 (P.L. 108-458). The law established a Human Smuggling and Trafficking Center (HSTC) to be jointly operated by the Department of Homeland Security (DHS), the State Department, and DOJ. It required that the Center serve as a clearinghouse for Federal agency information in support of U.S. efforts to combat terrorist travel, migrant smuggling, and human trafficking.

Trafficking Victims Protection Reauthorization Act of 2005

On February 17, 2005, Representative Christopher Smith and nine co-sponsors introduced the Trafficking Victims Protection Reauthorization Act of 2005 to authorize appropriations for FY2006 and FY2007 and close loopholes in previous anti-trafficking legislation. The bill was signed into law by the President on January 10, 2006 (P.L. 109-164). Among other things, the legislation had provisions to increase U.S. assistance to foreign trafficking victims in the United States, including access to legal counsel and better information on programs to aid victims. It attempted to address the special needs of child victims, as well as the plight of Americans trafficked within the United States. It directed relevant U.S. government agencies to develop anti-trafficking strategies for post-conflict situations and humanitarian emergencies abroad. It sought to extend U.S. criminal jurisdiction over government personnel and contractors who are involved in acts of trafficking abroad while doing work for the government. It addressed the problem of peacekeepers and aid workers who are complicit in trafficking.

The Implementing the 9/11 Commission Recommendations Act of 2007

The Implementing the 9/11 Commission Recommendations Act of 2007, P.L. 110-53 (H.R. 1), signed into law on August 3, 2007, directs the Secretary of Homeland Security (Secretary of DHS) to provide specified funding and administrative support to strengthen the HSTC. The act directs the Secretary of DHS to nominate a U.S. government employee to direct the HSTC, and specifics that the HSTC be staffed by at least 40 full-time staff, including detailees.[242] In addition, the act mandates the hiring of not less than 40 full-time equivalent staff for the HSTC, and would specify the agencies and departments from which the personnel should be detailed (e.g., Transportation and Security Administration, U.S. Coast Guard, ICE, Central Intelligence Agency), and their areas of expertise (e.g., consular affairs, counter terrorism). It also directs the Secretary of DHS to provide the administrative support and funding for the HSTC.

[242] The act specifies a number of agencies from which, as appropriate, staff may be detailed to the HSTC, including but not limited to U.S. Customs and Border Protection, Transportation Security Administration, Coast Guard, Central Intelligence Agency, National Security Agency, and the Departments of Defense, Justice, and State. The act also specifies that the detailees include an adequate number with specified expertise, and that agencies shall create policies and incentives for the detailees to serve terms of at least two years.

William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008, P.L. 110-457; H.R. 7311) was signed into law on December 23, 2008.[243] The act authorizes appropriations for FY2008 through FY2011 for the TVPA as amended and establishes a system to monitor and evaluate all assistance under the act. P.L. 110-457 requires the establishment of an integrated database to be used by U.S. government departments and agencies to collect data for analysis on TIP. In addition, the act creates a presidential award for extraordinary efforts to combat TIP.

Measures to Address Human Trafficking in Foreign Countries

P.L. 110-457 increases the technical assistance and other support to help foreign governments inspect locations where forced labor occurs, register vulnerable populations, and provide more protection to foreign migrant workers. The act requires that specific actions be taken against governments of countries that have been on the Tier 2 Watch-List for two consecutive years. P.L. 110-457 also requires U.S. Department of State to translate the TIP report into the principal languages of as many countries as possible. In addition, among other measures to address the issue of child soldiers, the act prohibits military assistance to foreign governments that recruit and use child soldiers.

Preventing Trafficking to the United States

TVPRA 2008 requires pamphlets on the rights and responsibilities of the employee to be produced and given to employment-based and educational-based nonimmigrants,[244] P.L. 110-457 also requires consular officers to make sure that certain aliens interviewing for nonimmigrant visas have received, read, and understood the pamphlet. During the interview, the consular officer is also required to discuss the alien's legal rights under U.S. immigration, labor and employment law. The act contains several provisions aimed to protect A-3 and G-5 visas holders[245] including

[243] The House and the Senate had each taken up their own versions of the 2008 reauthorization bill. H.R. 3887, The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007 (Lantos), was passed by the House under suspension of the rules on December 4, 2007. The vote was 405-2. S. 3061, The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Biden/Brownback), was reported by the Senate Judiciary Committee on September 8, 2008. H.R. 3887 and S. 3061 included many identical provisions, and most of the differences between the two bills were from provisions that existed in only one of the bills rather than substantial differences between similar provisions in both bills. For a more detailed discussion of the differences between the two bills, see CRS Congressional Distribution Memorandum, *Select Differences Between S. 3061 as Reported, and H.R. 3887 as Passed by the House*, by Alison Siskin and Clare Ribando Seelke, available to congressional clients from the authors.

[244] Nonimmigrant visas are commonly referred to by the letter and numeral that denotes their subsection in the Immigration and Nationality Act (INA) §101(a)(15). Nonimmigrant visas are commonly referred to by the letter and numeral that denotes their subsection in the Immigration and Nationality Act (INA) §101(a)(15). Under the act, employment-based and educational-based visas refer to: A-3 visa holders (admitted under INA §101(a)(15)(A)(iii)), who are the attendants, servants or personal employees of Ambassadors, public ministers, career diplomats, consuls, other foreign government officials and employees or the immediate family of such workers; G-5 visa holders (admitted under INA §101(a)(15)(G)(v)) are the attendants, servants, or personal employees and their immediate family of foreign government representatives or foreign employees of international organizations; H visa holders (admitted under INA §101(a)(15)(H)) which is the main category for different types of temporary workers; and J visa holders (admitted under INA §101(a)(15)(J)) which are foreign exchange visitors and include diverse occupations as au pairs, foreign physicians, camp counselors, professors and teachers.

[245] A-3 visa holders refer to workers admitted under INA §101(a)(15)(A)(iii), who are the attendants, servants or personal employees of Ambassadors, public ministers, career diplomats, consuls, other foreign government officials

directing the Secretary of State to deny A-3 and G-5 visas to aliens who would be working at a diplomatic mission or international institution where an alien had been subject to trafficking or exploitation at the mission or institution. In addition, the Secretary of State has maintained records on the presence of A-3 and G-5 visa holders in the United States, including information regarding any allegations of abuse.

Measures to Address Trafficking in the United States

P.L. 110-457 amends the requirements for the T visa, so that an alien would be eligible for a T visa if the alien was unable to comply with requests for assistance in the investigation and prosecution of acts of trafficking due to physical or psychological trauma. TVPRA 2008 also requires when determining whether the alien meets the extreme hardship requirement for T status that the Secretary of DHS consider whether the country to which the alien would be removed can adequately address the alien's security and mental and physical health needs. In addition, P.L. 110-457 amends the requirements for the T visa so that an alien would be eligible if she was present in the United States after being allowed entry to aid in the prosecution of traffickers. The act also broadens the requirements for an alien to receive continued presence in the United States, and makes it easier for families of trafficking victims to be paroled into the United States. In addition, P.L. 110-457 amends the law to allow the Secretary of DHS to waive the good moral character requirement for those adjusting from T to LPR status, and allows the Secretary of DHS to provide a stay of removal for aliens with pending T applications (with a prima facie case for approval), until the application has been adjudicated. The act also makes aliens with pending applications for T status eligible for public benefits, and makes T visa holders, including derivatives, eligible for public benefits.[246] Furthermore, P.L. 110-457 requires the Secretary of HHS to make a prompt determination of eligibility for assistance for child trafficking victims.

TVPRA 2008 has provisions relating to enhancing protections for child victims of trafficking. Among these provision include requiring the United States to enter into agreements with contiguous countries regarding the return of unaccompanied minors designed to protect children from severe forms of TIP,[247] and specifying screening procedures for children suspected of being trafficking victims. In addition, the act directs the Secretary of HHS to the extent possible to provide legal counsel and appoint child advocates to child trafficking victims and other vulnerable unaccompanied alien children.

Moreover, P.L. 110-457 creates new grant programs for U.S. citizen victims of severe forms of trafficking and authorizes appropriations for such programs. The act also requires the Secretary of HHS and the Attorney General, within one year of enactment, to submit a report to Congress identifying any gaps between services provided to U.S. citizen and noncitizen victims of trafficking. It also prohibits DOS from issuing passports to those convicted of sex tourism until the person has completed their sentence. Furthermore, the act creates new criminal offenses related to human trafficking, including criminalizing retaliation in foreign labor contracting. P.L.

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and employees or the immediate family of such workers. G-5 visa holders (admitted under INA §101(a)(15)(G)(v)) are the attendants, servants, or personal employees and their immediate family of foreign government representatives or foreign employees of international organizations.

[246] Previously, T visa holders and their derivative were eligible for public benefits because of a provision in Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386) stating for the purpose of benefits T visa holders are eligible to receive certain public benefits to the same extent as refugees. TVPRA 2008 amends the Personal Responsibility and Work Opportunity Act (P.L. 104-193, PWORA also known as Welfare Reform) to make T visa holders and their derivatives "qualified aliens" (i.e., eligible for public benefits under PWORA).

[247] Unaccompanied minors are aliens who are in the United States without a parent or guardian.

110-457 creates additional jurisdiction in U.S. courts for trafficking offenses occurring in other countries if the alleged offender is present in the United States.

National Defense Authorization Act for Fiscal Year 2013

Title XVII of P.L. 112-239, Ending Trafficking in Government Contracting, amends Section 106(g) of the TVPA to authorize federal agencies and departments to terminate, without penalty, grants, contracts, and cooperative agreements if the grantee, subgrantee, contractor, or subcontractor engages in or uses labor recruiters, brokers, or other agents who engage in (1) severe forms of trafficking in persons; (2) the procurement of a commercial sex act while the grant, contract, or cooperative agreement is in effect; (3) the use of forced labor in the performance of the grant, contract, or cooperative agreement; or (4) one of several specified acts that directly support or advance trafficking in persons. Such specified acts include the withholding employee identity or immigration documents; refusing to provide or pay for return transportation for foreign national employees, if requested, under certain circumstances; soliciting prospective employees by means of materially false or fraudulent pretenses; charging recruited employees unreasonable placement or recruitment fees; and providing housing that fails to meet host country housing and safety standards. The provisions of P.L. 112-239 specify a range of heightened compliance and certification requirements to ensure that grants, contracts, and cooperative agreements are performed free of human trafficking. P.L. 112-239 also enhances federal monitoring and investigation of by inspectors general agencies and expands the criminal penalties for fraud in foreign labor contracting to include attempted fraud and work outside the United States.

Appendix B. Domestic and International TIP Funding

U.S. anti-trafficking activities are primarily authorized by the TVPA, as amended, and separately appropriated to several departments and agencies that manage program implementation both domestically and internationally. The following appendix summarizes key sources of anti-trafficking funding and budget data, including TVPA authorizations and appropriations, domestic and overseas obligated funds, appropriations for grant programs for domestic TIP victims, foreign aid budget estimates, and international anti-TIP obligations.

TVPA Authorizations and Appropriations

Table B-1 lists trafficking authorization levels for FY2008-FY2017. Those authorizations are for TIP operations and programs.

Since many U.S. government agencies do not include a line item in their budget requests for trafficking programs and/or TIP-related operations, it is often difficult to calculate the exact level of funding that Congress appropriated for trafficking activities (programs and operations, including law enforcement activities) by agency. Despite the challenges, the Office of Management and Budget (OMB) tracks estimated TIP appropriations levels by gathering agency estimations of TIP-related spending for each fiscal year. See **Table B-2** for TIP authorizations versus appropriations. According to OMB, funding for TVPA programs comes from appropriations to a number of U.S. departments and agencies, including the Department of State; the Department of Justice (DOJ); the Department of Labor (DOL); the Department of Health and Human Services (HHS); and the Department of Homeland Security (DHS).

Table B-1. Current Authorizations to Implement TVPA, as amended

(in current U.S. $ millions)

Authorized Programs	Original Authorizing Source	FY08	FY09	FY10	FY11	FY14-FY17
International Programs						
U.S. Agency for International Development (USAID)						
USAID: Pilot Program for Rehabilitation Facilities	P.L. 109-164, §102(b)(7)	$2.5	$2.5	$2.5	$2.5	Struck
U.S. Department of State (DOS)						
DOS: Interagency Task Force	P.L. 106-386, §§104, 105(e), 105(f), 110	$5.5	$5.5	$5.5	$5.5	$2
DOS: Interagency Task Force: Reception Expenses	P.L. 109-164, §301	$.003	$.003	$.003	$.003	Struck
DOS: Interagency Task Force: Additional Personnel	P.L. 110-457, §301(1)(B)(i)	$1.5	$1.5	$1.5	$1.5	N.A.
DOS: Prevention	P.L. 106-386 §106	$10.0	$10.0	$10.0	$10.0	$10.0
DOS: Protection	P.L. 106-386 §107(a)	$10.0	$10.0	$10.0	$10.0	$10.0
DOS: Prosecution and Meeting Minimum Standards	P.L. 106-386 §§108-109	$10.0	$10.0	$10.0	$10.0	$10.0

Authorized Programs	Original Authorizing Source	FY08	FY09	FY10	FY11	FY14-FY17
DOS: Refugees and Internally Displaced Persons	P.L. 110-457, §104	$1.0	$1.0	$1.0	$1.0	$1.0
President						
President: Foreign Assistance for Law Enforcement Training	P.L. 106-386, §109	$.25	$.25	$.25	$.25	N.A.
President: Foreign Victim Assistance	P.L. 106-386, §106	$15.0	$15.0	$15.0	$15.0	$7.5
President: Foreign Assistance to Meet Minimum Standards	P.L. 106-386, §109	$15.0	$15.0	$15.0	$15.0	$7.5
President: Research	P.L. 108-193, §7(5)(B)	$2.0	$2.0	$2.0	$2.0	N.A.
Domestic Programs						
Department of Health and Human Services (HHS)						
HHS: Victims' assistance	P.L. 106-386, §107(b)(1)	$12.5	$12.5	$12.5	$12.5	$14.5
HHS: Grants for assistance to U.S. citizen and LPR victims of sex trafficking within U.S.	P.L. 109-164, §202	$8.0	$8.0	$8.0	$8.0	[a]
HHS: Pilot program residential treatment facilities juvenile victims in U.S.	P.L. 109-164, §203	$5.0	$5.0	$5.0	$5.0	N.A.
HHS: Victims assistance for U.S. citizens and Lawful Permanent Residents (LPRs)	P.L. 110-457, §213	$2.5	$5.0	$7.0	$7.0	$8.0
HHS: Child Advocates for Unaccompanied Minors	P.L. 113-4, §1262	—	—	—	—	$1.0
Department of Homeland Security (DHS)						
DHS (Immigration and Customs Enforcement): trafficking investigations	P.L. 109-164, §301(h)	$18.0	$18.0	$18.0	$18.0	$10.0
DHS: Human Smuggling and Trafficking Center	P.L. 110-457, §108(a)(2)	$2.0	$2.0	$2.0	$2.0	$1.0
Department of Justice (DOJ)						
DOJ: Grants to strengthen victims services	P.L. 106-386, §107(b)(2)	$10.0	$10.0	$10.0	$10.0	$11
DOJ: Study on severe forms of trafficking in persons in U.S.	P.L. 109-164, §201(a)(1)(B)(i)	$1.5	$1.5	$1.5	$1.5	N.A.
DOJ: Study on sex trafficking in U.S.	P.L. 109-164, §201(a)(1)(B)(ii)	$1.5	$1.5	$1.5	$1.5	N.A.
DOJ: Annual trafficking conference	P.L. 109-164, §201(a)(2)	$1.0	$1.0	$1.0	$1.0	$0.25
DOJ: grants to state and local law enforcement for anti-trafficking programs	P.L. 109-164, §204	$20.0	$20.0	$20.0	$20.0	$10.0

Authorized Programs	Original Authorizing Source	FY08	FY09	FY10	FY11	FY14-FY17
DOJ Federal Bureau of Investigation: trafficking investigations	P.L. 109-164, §301(h)	$15.0	$15.0	$15.0	$15.0	N.A.
DOJ: Victims assistance for U.S. citizens and Lawful Permanent Residents (LPRs)	P.L. 110-457, §213	$2.5	$5.0	$7.0	$7.0	$11.0
DOJ: Grants to Combat Child Sex Trafficking	P.L. 109-164, §202 as amended by P.L. 113-4, §202	[b]	[b]	[b]	[b]	$8.0
Department of Labor (DOL)						
DOL: Expand services to trafficking victims	P.L. 106-386, §107(b)(1)(B)	$10.0	$10.0	$10.0	$10.0	$5.0

Source: CRS analysis of P.L. 106-386, P.L. 108-193, P.L. 109-164, P.L. 110-457, and P.L. 113-4.

Note: N.A. = Authorized program not referenced in P.L. 113-4. Struck = the program was struck from law by P.L. 113-4. The TVPA and its subsequent reauthorizations include several additional provisions without specific funding amounts. Such provisions include §107A(f) of P.L. 106-386, as amended, which authorizes not more than 5% of the amounts made available to carry out the TVPA, as amended, in each fiscal year 2008 through 2011 to the President to evaluate anti-trafficking programs and projects. §112B of P.L. 106-386, as amended, authorizes such sums as may be necessary for each fiscal year 2008 through 2011 to the President to provide an award for "Extraordinary Efforts to Combat Trafficking in Persons." §114(c)(2) of P.L. 106-386, as amended, also authorizes such sums as may be necessary for each fiscal year 2008 through 2011 to the Department of State for the preparation of congressionally mandated human rights reports with reference to human trafficking issues. Note also that additional funding outside the scope of the TVPA and its reauthorizations has been authorized in separate legislative vehicles. See for example, §111 of P.L. 109-162, which authorizes $10 million for each fiscal year 2008 through 2011 to the Department of Justice for state and local law enforcement grants for human trafficking victim identification.

a. This program was amended in P.L. 113-4, and moved to DOJ.

b. P.L. 113-4 replaced the HHS grant program for states, Indian tribes, units of local government, and nonprofit, non-governmental victims' service organizations to provide assistance programs for U.S. citizens or LPR trafficking victims created in P.L. 109-164 (§202) with a new grant program for child sex trafficking victims.

Table B-2. Trafficking Victims Protection Act (TVPA) of 2000, as Amended, Authorizations and Appropriations, FY2001-FY2014

(in current U.S. $ millions)

Fiscal Year	Authorizing Public Law	Title	Authorizations (Millions $)	Appropriations (Millions $)
2001	P.L. 106-386 (Part A)	Victims of Trafficking and Violence Protection Act of 2000	$31.8	N/A
2002	P.L. 106-386 (Part A)	Victims of Trafficking and Violence Protection Act of 2000	$63.3	N/A
2003	P.L. 106-386 (Part A)[a]	Victims of Trafficking and Violence Protection Act of 2000	$48.3	N/A
2004	P.L. 108-193	Trafficking Victims Protection Reauthorization Act of 2003	$105.6	$109.8
2005			$105.6	$109.6
2006	P.L. 109-164	Trafficking Victims Protection Reauthorization Act of 2005	$177.3	$152.4
2007			$162.3	$153.1

Fiscal Year	Authorizing Public Law	Title	Authorizations (Millions $)	Appropriations (Millions $)
2008	P.L. 110-457	William Wilberforce Trafficking Victims Reauthorization Act of 2008	$182.3	$167.4
2009			$187.3	$182.7
2010			$191.3	$162.2
2011			$191.3	$172.4
2012	N/A	N/A	N/A	$177.1
2013	N/A	N/A	N/A	$215.3
2014	P.L. 113-4	Violence Against Women Reauthorization Act of 2013	$127.8	N/A

Source: Estimated appropriations levels as calculated by the Office of Management and Budget (multiple responses to CRS, most recently on January 17, 2014). Estimates not collected prior to FY2004. Authorizations estimates are rounded to the first decimal and do not include provisions without specific dollar amounts authorized.

a. As amended by Section 682 of the Foreign Assistance Act for FY2003 (P.L. 107-228).

Domestic and Overseas Obligated Funds

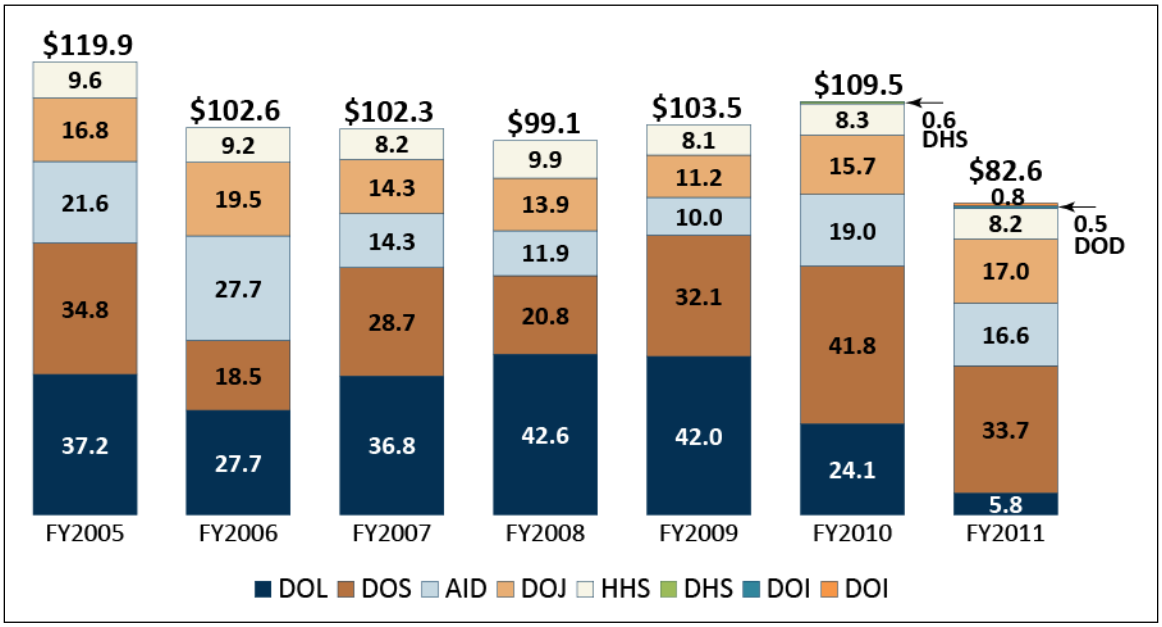
Overall, between FY2001 and FY2011, U.S. agencies have obligated an estimated $853.5 million on domestic and international anti-TIP assistance.[248] FY2012 and FY2013 obligations by agency are not yet available for all agencies. In FY2011, the U.S. government obligated an estimated $56.5 million for international anti-trafficking assistance programs.[249] In FY2011, the U.S. government obligated roughly $26 million for domestic anti-TIP programs, an increase from $24.2 million obligated in FY2010. The total for domestic obligations does not include the costs of administering TIP operations or TIP-related law enforcement investigations.

[248] For FY2001 through FY2005, GAO, "Human Trafficking: Monitoring and Evaluation of International Projects Are Limited, but Experts Suggest Improvements," GAO-07-1034, July 2007; for FY2006 through FY2010, U.S. Department of State, responses to CRS requests. For FY2011, U.S. Department of Justice, *Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons*, FY2011, January 2013. Due to the methodological difficulties involved in calculating TIP appropriations and the fact that TIP programs are supported by foreign aid accounts that can be appropriated to remain available for two years, the State Department calculates TIP program obligations by agency per fiscal year. According to the Office to Monitor and Combat Trafficking in Persons (J/TIP), this generates the best estimate of the amount of funding spent on TIP programs by agency for each fiscal year.

[249] This includes $10.4 million for State Department programs for education and cultural exchanges, fellowships, and conferences; U.S. Department of Labor programs for combating the worst forms of child labor; and U.S. Department of Defense programs for in-house personnel training and public service announcements.

Figure B-1. Anti-TIP Obligations by Agency: FY2005-FY2011

(in current U.S. $ millions)



Source: CRS presentation of data from the U.S. Department of State, Office to Monitor and Combat Trafficking in Persons and U.S. Department of Justice, *Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons,* FY2011, January 2013.

Note: Numbers may not total due to rounding. Domestic obligations, which are included in this chart, do not include the costs of administering TIP operations or TIP-related law enforcement investigations. DOL's projects primarily address trafficking as one of the worst forms of child labor. Such projects include standalone TIP projects, but many include multi-faceted projects to address other worst forms of child labor in addition to trafficking. Prior to FY2011, the funds were not disaggregated. For FY2011, DOL provided a placeholder estimate for what it expects to have spent on its multiyear projects to provide services to child trafficking victims. Listed totals for DOS do not include some programs funded through Migration and Refugee Assistance because the counter-trafficking components of some projects are inseparable from migration-related activities that address the protection environment for vulnerable migrants.

Appropriations for Grant Programs for Domestic TIP Victims

Domestic anti-TIP activities include both services to victims, as well as law enforcement operations. Investigations into human trafficking are complex and as a result often require significant resources. See **Table B-3** for authorizations and appropriations for grant programs to assist trafficking victims in the United States for FY2001-FY2014.

Table B-3. Authorizations and Appropriations for Grant Programs to Assist Victims of Trafficking in the United States: FY2001-FY2014

(U.S. $ in millions)

Fiscal Year	Victims Services/Taskforces—DOJ		Office of Refugee Resettlement[a]	
	Authorized	Appropriated	Authorized	Appropriated
FY2001	$5	$0	$5	$5
FY2002	$10	$10	$10	$10
FY2003	N.A.	$10	N.A.	$9.9

Fiscal Year	Victims Services/Taskforces—DOJ		Office of Refugee Resettlement[a]	
	Authorized	Appropriated	Authorized	Appropriated
FY2004	$15	$10	$15	$9.9
FY2005	$15	$10	$15	$9.9
FY2006	$15	$9.9	$15	$9.8
FY2007	$15	$9.9	$15	$9.8
FY2008	$10[b]	$9.4[c]	$12.5[b]	$10[d]
FY2009	$10	$10	$12.5	$9.8[d]
FY2010	$10	$12.5[c]	$12.5	$9.8[d]
FY2011	$10	$10.4[ce]	$12.5	$9.8[d]
FY2012	N.A.	$10.5	N.A.	$9.8
FY2013	N.A.	$13.5[f]	N.A.	$9.9[f]
FY2014	$11	$14.3	$14.5	$13.8[g]

Sources: P.L. 106-386, P.L. 108-193, P.L. 109-164, P.L. 107-77, P.L. 107-116, P.L. 108-7, P.L. 108-90, P.L. 108-199, P.L. 108-334, P.L. 108-447, P.L. 109-90, P.L. 109-149, P.L. 109-164, P.L. 110-5, P.L. 110-161, P.L. 110-457, P.L. 111-8, P.L. 111-117, P.L. 112-10, P.L. 113-4, P.L. 113-6, and P.L. 113-76.

a. This only includes authorizations for the HHS grant program, authorized originally in P.L. 106-386, to provide assistance to victims. Three other HHS victims service programs have been authorized but according to HHS none have received appropriations. For a listing of these programs, see **Table B-1**.

b. Authorizations for FY2008 were enacted during FY2009.

c. This includes funding for victims services programs under The Victims of Trafficking Act of 2000 (P.L. 106-386) and DOJ programs authorized under Trafficking Victims Protection Reauthorization Act of 2005 (P.L. 109-164).

d. The language in act states that the money should be available to carry out The Victims of Trafficking Act of 2000.

e. On April 15, 2011, President Obama signed into law the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (P.L. 112-10). P.L. 112-10 required a reduction in funding to be applied proportionately to each program funded under the account which contains this appropriation in FY2010. Thus, CRS calculates that each grant program funded under this account will be reduced 17.0% and from that amount the 0.2% across-the-board rescission is applied. For more on this reduction, see CRS Report R41161, *Commerce, Justice, Science, and Related Agencies: FY2011 Appropriations*, coordinated by Nathan James, Oscar R. Gonzales, and Jennifer D. Williams.

f. Congress did not enact any of the regular appropriations bills prior to the start of FY2013. Instead, during the first seven months of FY2013 funding for programs was provided by a government-wide continuing resolution (CR). The CR (P.L. 112-175) was signed into law on September 28, 2012, and generally maintained funding for discretionary programs at their FY2012 rates, plus 0.612%. P.L. 113-6, signed into law on March 28, 2013, included a CR for the Department of Health and Human Services, and the Department of Justice Appropriations Act of 2013.

g. The explanatory statement for the FY2014 Omnibus appropriations Act (p. 58) states the "Secretary is directed to dedicate a significant amount of the increase for the Victims of Trafficking program to improve services for foreign national trafficking victims."

Foreign Aid Budget Estimates

Although current anti-TIP funding breakdowns are not available for all agencies, international anti-TIP foreign assistance data appropriated through the combined Foreign Operations budget for the Department of State and USAID are available by country and region. According to the

State Department, approximately $41 million was provided for anti-TIP efforts through the Foreign Operations budget in FY2013, up from $40 million in FY2012. (see **Table B-4**).

Table B-4. Anti-TIP Assistance through the Foreign Operations Budget

(in current U.S. $ thousands)

	FY2012 Actual	FY2013 Actual
Africa	1,500	1,598
East Asia and Pacific	5,450	5,360
Europe and Eurasia	6,093	4,615
South and Central Asia	5,338	6,407
Western Hemisphere	1,030	500
USAID's Bureau for Economic Growth, Agriculture, and Trade		
USAID's Bureau for Democracy, Conflict, and Humanitarian Assistance	1,800	1,433
State Department's Office to Monitor and Combat Trafficking in Persons	18,720	20,723
State Department's Bureau for International Narcotics and Law Enforcement Affairs		425
TOTAL	39,931	41,061

Source: U.S. Department of State, Response to CRS Request, January 17, 2014.

The bulk of U.S. anti-trafficking assistance programs abroad are administered by the U.S. Department of State, USAID, and DOL. With regard to foreign assistance administered by the State Department and USAID, anti-TIP aid has been disbursed through four program accounts: Development Assistance (DA); Economic Support Fund (ESF); and International Narcotics Control and Law Enforcement (INCLE).

With funding budgeted for Foreign Operations, the Office to Monitor and Combat Trafficking in Persons (J/TIP) administers an international grants program. For FY2013, U.S. and foreign non-profit, non-governmental, and academic institutions, as well as for-profit organizations in select circumstances, may compete for J/TIP grants to conduct anti-trafficking projects in 14 selected priority countries, including Afghanistan, Bangladesh, Cambodia, Costa Rica, Dominican Republic, Honduras, Jordan, Kenya, Malaysia, Mexico, Senegal, Sierra Leone, South Sudan, and Uganda.[250] According to the State Department, J/TIP has funded more than 700 projects worth approximately $183.5 million over the past 10 years.[251]

Within the State Department, multiple bureaus and offices address various aspects of human trafficking issues, including J/TIP; Bureau of Population, Refugees, and Migration (PRM); Bureau of Democracy, Human Rights and Labor (DRL); Bureau of Diplomatic Security (DS); Office of Global Women's Issues (S/GWI); and Bureau of Education and Cultural Exchanges

[250] U.S. Department of State, *Request for Statements of Interest: J/TIP FY 2013 International Program to Combat Trafficking in Persons*, December 18, 2012.

[251] U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *Fact Sheet: Funding Innovation and Forging Partnerships*, June 1, 2013.

(ECA). Regional bureaus, such as the Bureau of Europe and Eurasian Affairs (EUR), are also involved in human trafficking issues.

DOL's Bureau of International Labor Affairs (ILAB), particularly its Office of Child Labor, Forced Labor, and Human Trafficking (OCFT), supports programs that focus on providing assistance to child victims of trafficking and preventing trafficking and forced labor through policy and legislative reform, public awareness campaigns, and capacity-building for governments and service providers. Separately, USAID funds international anti-trafficking programs with emphasis on victim protection and trafficking prevention, as well as some training for police and criminal justice personnel. DHS and the DOJ's International Criminal Training Assistance Program (ICITAP) also provide some anti-TIP training to law enforcement and judicial officials overseas. Some U.S. funding supports the anti-TIP efforts of the United Nations and other international organizations.

Author Information

Alison Siskin
Specialist in Immigration Policy

Liana Rosen
Analyst in International Crime and Narcotics

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