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DOCUMENTATION

United States House of Representatives
Committee on Foreign Affairs

INTERNATIONAL TRAFFICKING IN PERSONS: SUGGESTED RESPONSES TO A SCOURGE OF HUMANKIND

Statement presented by

REV. MONSIGNOR FRANKLYN M. CASALE
President, St. Thomas University, Miami, Florida

October 18, 2007

“Trafficking is one of the greatest problems that I’ve met all over the world. We must do everything we can to set the record straight and to overcome this pernicious misuse of human beings, this terrible violation of the dignity of the human person.”¹

His Eminence Cardinal Theodore McCarrick
Former Archbishop of Washington, D.C.

Chairman Lantos,
Ranking Member Ros-Lehtinen,
Distinguished Members of the House Committee on Foreign Affairs:

I want to thank you for the opportunity and honor to testify today on the issue of international trafficking in persons. It is one of the worst affronts to human dignity, a problem which our national conscience and our commitment to freedom summons us to combat with all our might.

¹ His Eminence Cardinal Theodore McCarrick, *Villanova Lecture*, St. Thomas University, October 11, 2007.

I. The Problem

Human trafficking is not a new phenomenon. Since a decade or so, however, this appalling practice has reached epidemic proportions. Listed as one of the three most profitable organized crimes alongside the trafficking of weapons and drugs and intrinsically related to them, human trafficking is part of the dark side of reality virtually everywhere. The U.S. State Department's 2007 report on human trafficking estimates that 800,000 people are being trafficked across borders each year, with 80% of the victims being women and children, and up to 50% minors.² This number does not include people sold within national borders. If we include this category, according to Free the Slaves, the numbers add up to 27 million people living in slavery today.³ Additionally, a recent study by the International Labor Organization (ILO) reveals that at least 2.45 million persons across the globe are subject to trafficking. Out of this number, 1.2 million are children.⁴ These figures relate a staggering toll in human suffering. The majority of transnational victims were trafficked into commercial sexual exploitation,⁵ although forced labor on farms, in restaurants, bars, nursing homes, construction sites or factories, or as household or cleaning help are also prevalent methods of abuse. Additionally, mail order or foreign bride schemes, the drug trade, guided begging, petty crime and even forced gang activity may be inextricably connected to the horrendous crime of trafficking in persons.

The United States is not immune from this cruel assault on human dignity. The State Department estimates that between 18,000 and 20,000 victims are trafficked into the U.S. each year;⁶ the CIA

² U.S. State Department, *Trafficking in Persons Report*, Released by the Office to Monitor and Combat Trafficking in Persons, June 12, 2007, Introduction, at <http://www.state.gov/g/tip/rls/tiprpt/2007/82799.htm>.

³ Free the Slaves, *Slavery Today*, with reference to Kevin Bales' book *DISPOSABLE PEOPLE*, at <http://www.freetheslaves.net/NETCOMMUNITY/Page.aspx?pid=301&srcid=348>.

⁴ ILO, *Trafficking in human beings, with a particular focus on children: new trends and responses*, Turin, 18-22 September 2006, at http://training.itcilo.it/ils_trafficking/training_activities/2006/A900613/A900613_flyer.pdf.

⁵ U.S. State Department, *supra* note 2.

⁶ *Ibid.*

puts that number at 14,500 to 17,500 people.⁷ Due to the victims' circumstances of fear and illegality, these figures may well represent a significant undercount. We cannot but call this shocking phenomenon the modern-day slave trade -- a trade where a human being "costs an average of [only] \$90."⁸

In our own backyard, in South Florida,⁹ reports, investigations and prosecutions tell horrific stories:

- The Cadena smuggling ring trafficked women, some as young as 14, from Mexico to Florida. The victims were forced to prostitute themselves with as many as 130 men per week in a trailer park. Of the \$25 charged the "Johns," the women received only \$3. The Cadena members kept the women hostage through threats and physical abuse. One woman was kept in a closet for 15 days for trying to escape. Some were beaten and forced to have abortions (the cost of which was added to their debt). The women worked until they paid off their debts of \$2,000 to \$3,000.

- In North Fort Myers, Fernando Pascual Francisco, was sentenced to 10 years for having bought in Guatemala an 11-year old girl and smuggled her to Cape Coral, where she was raped, beaten and forced to work and serve as Francisco's sex slave. He received what Chief Assistant U.S. Attorney Doug Molloy called a "lenient sentence" for pleading guilty and in exchange for the victim not

⁷ Jerry Markon, *Human Trafficking Evokes Outrage, Little Evidence*, WASHINGTON POST, Sept. 23, 2007, at A01.

⁸ Free the Slaves, *supra* note 3.

⁹ Similar cases occur elsewhere in the U.S., including women and children who were trafficked from Honduras to Dallas and Ft. Worth, Texas; from Latvia to Chicago; from Korea to Michigan; from Japan to Hawaii; from Cameroon to Maryland; from Taiwan to Seattle; from India to California; and from Vietnam to Atlanta. In Fresno, California Hmong gang members kidnapped girls between the ages of 11 and 14 and forced them into prostitution. The gang members beat and raped them into submission. These girls were trafficked within the United States and traded between other Hmong communities. See Global Issues, at <http://www.globalissues.net/Projects/Webguide/GuideArticle.asp?ID=1430>.

having to testify because she was traumatized by the abuse she had been experiencing for two years.¹⁰

- In 2007, Guatemalan radio stations aired in two of Guatemala's indigenous languages as well as in Spanish told the stories of three Guatemalan women, victims of human trafficking, who were raped and exploited by the "coyotes" (slang for the men transporting them), in Southwest Florida. They were 12 to 15 years old at the time they arrived in the U.S. Parents were warned that their daughters could become human trafficking victims.¹¹

- In 2004, Ramiro Ramos was sentenced on charges related to human trafficking. Ramos' sentence includes 15 years in prison, forfeiture of property worth over \$3 million, as well as deportation. Ramiro Ramos and his brother had supplied undocumented Mexican agricultural workers to citrus growers in Florida and forced the workers to pay off debts related to their "transit fees." The defendants used threats and physical violence to prevent workers from escaping.¹² In Immokalee, human traffickers similarly use smuggling debt and threats to keep migrant workers in servitude.¹³

¹⁰ Nicholas P. Alajakis, *Man gets 10 years in prison for harboring sex slave*, NAPLES DAILY NEWS, Aug. 2, 2006, http://www.naplesnews.com/news/2006/08/02/man_gets_10_years_prison_harboring_sex_slave/.

¹¹ Tracy X. Miguel, *Human trafficking horror stories shared at program*, NAPLES DAILY NEWS, March 1, 2007, http://www.naplesnews.com/news/2007/mar/01/human_trafficking_horror_stories_shared_program/.

¹² Trafficking Watch, International Rescue Committee Issue No. 4, Spring 2004, at <http://www.theirc.org/resources/Issue-20No-204.pdf>.

¹³ Once workers cross into the United States and into places such as Arizona, traffickers offer them rides to Immokalee to find work, mostly as tomato pickers. Crew leaders in past cases "bought" workers from drivers and forced migrants to work off those "debts." Some crew leaders have skimmed "debts" from workers' checks. Many companies cut checks in the workers' names and send representatives to dole out the checks. Crew leaders keep "clean" records so abuse is difficult to detect unless someone comes forward. Janine Zeitlin, *Group: Farmworkers can be trafficking target*, NAPLES DAILY NEWS, Sept. 26, 2006, at http://www.naplesnews.com/news/2006/sep/26/group_farmworkers_can_be_trafficking_target/. See also Report: *Modern-day slavery alive and well in Florida*, CNN, Feb. 25, 2004, at <http://us.cnn.com/2004/US/South/02/25/human.trafficking.ap/>, and Dan Moffett, *Slavery? In Florida? In 2003? Yes*, PALM BEACH POST, Nov. 23, 2003.

- In 2004, Willie and Marie Pompee were indicted by a federal grand jury in Ft. Lauderdale, Florida for smuggling and harboring a young Haitian girl and using her as a household servant. The young girl was concealed from 1996 until 1999 in the Pompees' home, when at the age of 12 local police removed her. Willie Pompee fled the country in 1999; Marie pleaded guilty to the harboring charge.¹⁴

- In other cases in the Naples area, human trafficking victims entered the United States legally via a J-1 visa (an exchange training/student visa) or an H-2 visa (a temporary work visa). The promise of high paying jobs, with \$15 to \$25 an hour salaries, along with no fees for room and board, is what hooks the victims. They are brought into the U.S. by employment agencies, many run by U.S. citizens, subcontracted by hotels and hospitals for cheap labor. The job seekers end up with debt, most of it trumped-up fees charged by the trafficker, and find themselves unwitting recruits of the slave trade, living 20 people in two-bedroom apartments, and being paid nothing as a result of the deduction of so-called "loans" and so-called "fees."¹⁵

Besides the human misery it engenders, human trafficking also extracts a heavy economic toll on the nation. Due to its illegality, it hurts the functioning of the legitimate sector of the economy and endangers the development of sound economic systems.¹⁶ Profits from this activity range from Interpol's 2001 estimate of \$19 billion¹⁷ to a business group's finding of over \$31

¹⁴ Center for Women Policy Studies, *Federal Prosecutions: United States v. Pompee & Pompee*, at http://www.centerwomenpolicy.org/programs/trafficking/map/map_display.cfm?state=FL.

¹⁵ Elysa Batista, *Modern day slaves work among us: Many victims of human trafficking working in plain sight*, NAPLES DAILY NEWS, Sept. 12, 2007, at http://www.naplesnews.com/news/2007/sep/12/modern_day_slaves_work_among_us/.

¹⁶ SMWIPM, *The Business Community against Human Trafficking*, at <http://www.endhumantraffickingnow.com/public/structure/2.html>.

¹⁷ Nico A. Gemmill, *Human Trafficking. The Effects of Modern-day Slavery on the Global Economy*, at <http://www8.georgetown.edu/centers/cndls/applications/posterTool/index.cfm?fuseaction=poster.display&posterID=1752>.

billion a year.¹⁸ Benefiting from low costs, human trafficking has thus become one of the most profitable illicit industries worldwide; it also thrives in an atmosphere of corruption enhanced by money laundering.¹⁹ On the other hand, the world economy appears to rely on trafficking's negligible labor costs to keep the price of major commodities such as food and clothing low.²⁰ According to this study, operating in a majority barter market, "[i]nternational criminal organizations use human slaves as commodities to trade for toxic waste, drugs and arms. The human trade leaves no paper trail for the authorities to follow, no bank account transactions to use as evidence of human trafficking, no tax evasion suspicions."²¹

Some very good work has been done to address this problem. Your efforts, in particular, have to be commended. Thanks to a bipartisan consensus, in 2000, the Congress enacted the Trafficking Victims Protection Act (TVPA), which was reauthorized in 2003 and 2005.²² According to the GAO, the FBI's Civil Rights Unit opened a total of 751 trafficking in persons cases between fiscal year 2001 and April 5, 2007. ICE reported opening a total of 899 trafficking in persons cases, for fiscal year 2005 through May 31, 2007. Also, as part of the Innocence Lost National Initiative, the FBI's Crimes Against Children Unit reported 327 cases opened on trafficking of U.S. children for commercial sex between fiscal year 2004 and June 5, 2007. The DOJ's Bureau of Justice Assistance (BJA) has established 42 state and local human trafficking law enforcement task forces. One such task force operates also in Miami Dade County. Such investigations are not easy; they are complex and they take time. For example, one landmark trafficking case involving over 250 victims needed the collaboration of numerous federal agencies and NGOs to be resolved.²³

¹⁸ SMWIPM, *supra* note 16.

¹⁹ *Ibid.*

²⁰ Nico A. Gemmill, *supra* note 17.

²¹ *Ibid.*

²² Trafficking Victims Protection Act of 2000, codified as amended at 22 U.S.C. §§ 7101-7110 (2000).

²³ *Human Trafficking*, GAO Report 07-915, July 2007, at <http://www.gao.gov/new.items/d07915.pdf>.

This year, the TVPA is up for re-authorization. In this context, some skeptics have raised the issue of whether the numbers related are accurate, and whether trafficking is a major U.S. issue. A recent WASHINGTON POST article noted that more than \$150 million were allocated “all to find and help the estimated hundreds of thousands of victims of forced prostitution or labor in the United States,” and then concludes that “the government couldn't find them. Not in this country.”²⁴ Sharing the concern about the wide range of differences in figures, I cannot but bring to the fore the fact that out of all victim-related crimes, human trafficking is the crime whose victims, in the overwhelming majority of cases, are scared to death to even ever think of challenging the perpetrator, let alone contacting the authorities. Let me illustrate this with one example of first hand experience: one of our law school experts on human trafficking, Roza Pati, originally from Albania, served as an elected official in local government, a member of the national parliament, and also a member of the Cabinet, as the Secretary of State for Youth and Women. As many of you might have read or heard, Albania is known to be a country of origin for trafficked victims. Most of such victims are trafficked to Italy and other Western European countries.

This is what Roza states:

I was finding it hard to believe that the figures and stories that were making headlines in Italian newspapers about Albanian girls exploited as prostitutes were true. I was convinced those figures were exaggerated, and I considered them at the most half-truths, sometimes sheer propaganda -- fueled by the justified opposition to illegal Albanian migration to Italy. Being a local politician and an elected government leader, and knowing the moral code that reigns in my district and my nation from times immemorial, I could not perceive, and neither could I accept, that Albanian girls or women would prostitute themselves in the streets of Europe. However, I was unconsciously closing my eyes. I was caught in the minor detail of national pride and I was missing the critical point:

²⁴ Markon, *supra* note 7.

those girls and women were not prostituting themselves voluntarily, they were cheated, lied to, promised a better life and an honest lucrative job, then trafficked, threatened, violated, forced to prostitute themselves at gunpoint: they were coerced to live the earthly hell of slavery, the utmost human indignity.

I was brought to my senses by Don Antonio Sharra, an Italian priest who had come to serve the Catholic community in my district. He first led me to the homes of missing girls in my own district, to experience the pain of listening to the broken hearts of their families, and then to the streets of Rome, Turin and Milan to see with my own eyes and to talk to the very Albanian girls who were scared to death of their “pimps” who I saw wandering around in their cars like vultures ready to prey on their victims. These poor girls could not even dare tell me the truth of their infernal fate. I never forgot the petrified look in their faces nor the nervousness reflected in all of their being. In their silence, they were crying for help. I realized that we, the society, the government had abandoned them, and I made a resolution that I would try my best to do my share in bringing an end to this brutal and utter violation of human dignity. I started by accepting reality and calling it by its real name: slavery. I accepted that this crime was shaming me and my very own home country.

Today, in the U.S., we are in the very same position. Illegal immigration with its multi-faceted implications has interwoven human trafficking into a blind alley, where numbers look more like illegible scribbles, because it is virtually impossible for the victims to come forward. In most cases, the victims are victimized by people they know and who know their families. Fear²⁵ for their life, fear for

²⁵ For an informative account of the effects of constant fear, see Elizabeth Hopper & José Hidalgo, *Invisible Chains: Psychological Coercion of Human Trafficking Victims*, 1 *INTERCULTURAL HUM. RTS. L. REV.* 185, 209 (2006): “Human traffickers systematically isolate their victims, creating a sense of disconnection from others. Traffickers utilize verbal abuse and humiliation to impact their victims’ sense of

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the life of their family, fear of being alone and illegal in a foreign country, fear of the shame and contempt, additional hardships, retribution, or alienation if sent back to their country paralyze them and stop them from coming out in the open even if they have a chance to do so. Death appears to be the only escape. In any event, in most cases, they do not even have a chance: they are locked, tied up, beaten and many times killed. From a victims' perspective, that is why we cannot get the numbers straight. But there are more reasons for this.

Free the Slaves notes that there are about 17,000 homicides per year in the U.S., roughly equal to the U.S. Government's estimated number of trafficking victims. According to this organization, each of the 18,760 police departments in the U.S. has a dedicated homicide unit or officer, while the number of dedicated anti-trafficking officers in the U.S. can be counted on one hand. And human trafficking is not a simple crime. It includes exceptionally severe offences: kidnapping, rape, involuntary servitude, document and financial fraud, as well as immigration violations.

This campaign, however, should not be abandoned just because it is difficult. All we see now is the tip of the iceberg: we do not yet know the depth of the massive problem. Therefore, our efforts to get to the bottom of this horrendous crime should not be reduced, but redoubled. What the U.S. does with respect to this problem sends strong signals to the world community. The House Foreign Affairs Western Hemisphere Subcommittee has considered the question of labor trafficking, as part of a hearing on US-Brazilian relations. Witnesses voiced concern about the use of slave labor in the production of charcoal used to make pig iron. As a Bloomberg Markets report has shown, Brazil's pig iron is used in the production of steel consumed by major U.S. manufacturers. Without realizing it,

self. They create an environment of fear through threats of harm to victims or their families. This chronic fear activation can lead to physiological changes that impair the ability of victims to mobilize the physical and psychological resources needed to escape. Their natural survival mechanisms break down, and their own bodies betray them. This physical and psychological erosion becomes the tie that binds victims into slavery.”

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Americans consume products that are tainted with slavery.²⁶ The same can be said for the *Hanes* label for Wal-Mart and the *Athletech* label for Kmart that are produced in the *Cotton Craft Garment* in Amman, Jordan, where Bangladeshi and Sri Lankan workers toil in slave-like conditions: their passports have been confiscated, no residency permits have been given to them; they are kept without food, water and electricity.²⁷

Even high-ranking government officials are part of the problem: As reported by NPR, “many diplomats assigned to America bring their domestic workers with them. Some servants have accused employers of withholding their passports, restricting their freedom of movement and burdening them with long work days for extremely low pay. Sometimes, allegations of physical abuse also come into play. But because the accused have diplomatic immunity, U.S. authorities can do little against them.”²⁸

We owe it to the victims to restore their liberty, human dignity, and human rights. We do have to care up to the moment we know there is not a single person living in this agony any more. This is a global problem that requires a global solution. The criminals are profiting while satisfying consumer demand. We should work to curb this demand so as to end this perverse commercialization of humankind.

²⁶ Free the Slaves, FTS' response to WASHINGTON POST article, Sept. 23, 2007, at <http://www.freetheslaves.net/NETCOMMUNITY/Page.aspx?pid=401&srcid=392>.

²⁷ *Crisis at 'Cotton Craft' Factory*, STOP TRAFFICKING! ANTI-HUMAN TRAFFICKING NEWSLETTER, October 2007, Vol. 5 No.10, sponsored by the Sisters of the Divine Savior. Note also how a slave addresses the issue of our consumption of the goods he produced: “They enjoy something I suffered to make,” Amadou says about the millions who eat the chocolate made from the cocoa that grows in plantations like the one in Ivory Coast where he was trapped for over five years. ‘I worked hard for them, but saw no benefit. They are eating my flesh.’ Sandip Roy, *Freeing the slaves around the world is only half the problem*, SAN FRANCISCO CHRONICLE, Sept. 30, 2007.

²⁸ Libby Lewis, *Diplomatic Abuse of Servants Hard to Prosecute*, NPR, All Things Considered, March 1, 2007, at <http://www.npr.org/templates/story/story.php?storyId=7672967>.

But there is also a need to address the root causes of the vulnerability of the victims. The United Nations Office on Drugs and Crime (UNODC) describes victims as “young girls sold by their families; children drugged and forced to fight as soldiers; men bonded/chained in labor on mines and farms; women enslaved in quarries and households; women and girls trapped in the sex trade; boys forced to fish in dangerous waters—all of them people, human beings, coerced to do what others would never freely do, paid virtually nothing for their pains.”²⁹ Aiming at raising awareness, reducing the vulnerability of potential victims, examining the human impact of this crime and taking action to stop it, the UNODC has set in motion a Global Initiative to Fight Human Trafficking (UN.GIFT) to be implemented in 2007-2008.

I am happy to see the awareness of this evil that exists in the world today. But our job is not done. This scourge of humankind flourishes. The perpetrators have become ever more sophisticated in the routes and means they use, and they are ever more difficult to catch. In the meantime, the victims rise in numbers, and we hear of very few victims rehabilitated and even fewer cases of prosecution. We are grappling with numbers. That tells us that we are missing out on something important: the education of our communities to identify the victims, and to ensure prevention, and also on the coordination of the work of governmental (legislative and executive), non-governmental (academic, and service oriented) as well as intergovernmental institutions. We once brought an end to transatlantic slavery. We must do it again with more energy: we have to find the exit out of 21st century slavery once and for all.

With this in mind, we at St. Thomas University in Miami decided to do what academia does best: provide a neutral ground for everyone to bring to the fore his or her individual expertise and to take a serious, comprehensive and searching look at the social problem described and solutions offered, as we forged a consensus

²⁹ UN Global Initiative to Fight Human Trafficking, *Information about Human Trafficking*, at www.ungift.org/ungift/en/what-is-human_trafficking.html.

on what is now known world-wide as *The Miami Declaration of Principles on Human Trafficking*.³⁰

*II. St. Thomas University and Its Contributions to the Struggle:
Its Human Rights Programs and The Miami Declaration of
Principles on Human Trafficking*

This was not an isolated event. St. Thomas University has always been committed to the respect for, and protection of, human dignity. This is in line with its mission and the principles of Catholic social teaching. As His Eminence Cardinal Theodore McCarrick explained in his visit to St. Thomas one week ago, the social doctrine of the Church is one of its most hidden secrets.

As the Pontifical Council for Justice and Peace, under the leadership of Cardinal Renato Martino, stated in its 2004 *Compendium of the Social Doctrine of the Church*, a just society “can become a reality only when it is based on the respect of the transcendent dignity of the human person. The person represents the ultimate end of society, by which it is ordered to the person: ‘Hence, the social order and its development must invariably work to the benefit of the human person, since the order of things is to be subordinate to the order of persons, and not the other way around.’³¹ Every political, economic, social, scientific and cultural programme must be inspired by the awareness of the primacy of each human being over society.”³²

³⁰ Graduate Program in Intercultural Human Rights, THE MIAMI DECLARATION OF PRINCIPLES ON HUMAN TRAFFICKING, drafted by Intergovernmental, Governmental, Non-Governmental and Academic Experts at Interdisciplinary Symposium in Miami, Florida, February 10, 2005, 1 *INTERCULTURAL HUM. RTS. L. REV.* 11 (2006), available at <http://www1.umn.edu/humanrts/instree/miami-declaration2006.html>.

³¹ PONTIFICAL COUNCIL FOR JUSTICE AND PEACE, *COMPENDIUM OF THE SOCIAL DOCTRINE OF THE CHURCH*, Vatican City, 2 April 2004, at http://www.vatican.va/roman_curia/pontifical_councils/justpeace/documents/rc_pc_justpeace_doc_20060526_compendio-dott-soc_en.html, ¶ 132, citing to Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et Spes*, 26: AAS 58 (1966), 1046-1047.

³² *Id.*, referring to *CATECHISM OF THE CATHOLIC CHURCH*, 2235.

Thus, the Catholic Church has been a stalwart proponent for human rights, especially as enumerated in the 1948 Universal Declaration of Human Rights. The Church, “aware that her essentially religious mission includes the defence and promotion of human rights,”³³ “holds in high esteem the dynamic approach of today which is everywhere fostering these rights.”³⁴ This religiously-based commitment is “open to ecumenical cooperation, to dialogue with other religions, to all appropriate contacts with other organizations, governmental and non-governmental, at the national and international levels.”³⁵

The Church also recognizes that “[t]he solemn proclamation of human rights is contradicted by a painful reality of violations, wars and violence of every kind, in the first place, genocides and mass deportations, the spreading on a virtual worldwide dimension of ever new forms of slavery such as trafficking in human beings, child soldiers, the exploitation of workers, illegal drug trafficking, prostitution. ‘Even in countries with democratic forms of government, these rights are not always fully respected.’”³⁶

To address these and other atrocities, St. Thomas University has taken a leadership role in South Florida and beyond. In its various missions – research, education, service to the community, and advocacy --, it has focused like a laser beam on the protection of human dignity, and, in particular, the struggle against trafficking in persons.

In 1992, St. Thomas University founded its Human Rights Institute to more specifically tend to the needs of most vulnerable communities, minorities, and migrants to South Florida, in particular, from Cuba and Haiti. In 1994, the Law School organized its first symposium addressing claims of indigenous peoples, often victims of human trafficking. Six such global gatherings followed; their

³³ *Id.* ¶ 159, referring to John Paul II, Encyclical Letter *Centesimus Annus*, 54: AAS 83 (1991), 859-860.

³⁴ *Id.*, citing Second Vatican Ecumenical Council, Pastoral Constitution *Gaudium et Spes*, 41: AAS 58 (1966), 1060.

³⁵ *Id.*

³⁶ *Id.* ¶ 158, citing John Paul II, Encyclical Letter *Centesimus Annus*, 47: AAS 83 (1991), 852.

record, in the form of lectures and articles, is documented in the pages of the *St. Thomas Law Review*.

Our Law School 's Graduate Program in Intercultural Human Rights, developed by Professor Siegfried Wiessner, noted expert in international and constitutional law, has become a major center of training and research in the advancement of legal thought and the furtherance of human dignity. Its unique Master of Laws (LL.M.) degree program in Intercultural Human Rights featuring global experts and scholars as well as students from all over the world started in 2001; its Doctor of the Science of Law (J.S.D.) program was added in 2005. Several of our LL.M. students are writing their thesis on issues of human trafficking, sharing their experiences factual insights from all over the world. Doctoral students are writing dissertations on how to identify victims of human trafficking and how to conceive of the protection of victims as a new paradigm of international law. The 2006 inaugural issue of our annual *Intercultural Human Rights Law Review* has been dedicated in its totality to "Trafficking in Human Beings: A Global Concern."

We have designed a new project, the Center for Global Justice and Dialogue. It consists of two components, an Intercultural Research Center and a Center for Law and Public Service. The Intercultural Research Center, in particular, is designed to conduct rigorous interdisciplinary research providing in-depth analysis of, and developing solutions to, problems of planetary as well as local reach, using the framework of policy-oriented jurisprudence developed at the Yale Law School. This think tank will be guided by leading scholars in the field.

Former Archbishop of Washington, Cardinal Theodore McCarrick commented that the Intercultural Research Center and the Intercultural Human Rights Program are "an ideal setting for research work in social justice," and they will "produce an extraordinary gift to knowledge." He stated that the "work you are doing in this crucial area of human trafficking in the Miami Principles on Human Trafficking" is "an enormous factor," and a model for the analysis of a global problem and the elaboration of consensus solutions in the Intercultural Research Center.

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In 2004 we took the lead in organizing the first international conference on human trafficking: *Invisible Chains: Breaking the Ties of Trafficking in Humans*, in a powerful partnership with CBS 4, The Miami Herald and the NIAF. The victims addressed the audience, sometimes behind curtains, and experts explained the extent and intensity of this extreme violation of human rights. The response was amazing, and it encouraged us to take the next step: develop policy and law recommendations. That's how the 2005 *Miami Declaration of Principles on Human Trafficking* came into being. It was elaborated over a number of months via symposia and workshops by eminent experts and decision makers from around the planet.

The objectives of the Miami Declaration were:

1. To build a consensus among the major stakeholders in the debate on human trafficking regarding the analysis of the problem and how to best tackle it;
2. To take advantage of the high profile of the topic at this time in history and to influence decision making at various legislative and executive levels both domestically and internationally.

To accomplish our consensus objective, we invited representatives of a broad variety of groups, organizations and institutions interested in and affected by the problem. These participants included:

1. *Victims* (we heard from Francis Bok, a former slave from Sudan, and, behind screens, from "Esperanza," a survivor of the sex trade in Miami)
2. *Victims' support and rehabilitation organizations* (Free the Slaves, Coalition Against Trafficking in Women (CATW), Project REACH, Coalition to Abolish Slavery & Trafficking (CAST), etc.)
3. *Government representatives and Organizations*, such as
 - a) the then U.S. Ambassador to the Holy See, The Hon. Jim Nicholson

b) the U.S. State Department Office to Monitor and Combat Trafficking in Persons, represented by its Director, Ambassador John Miller

b) the U.S. Department of Health and Human Services

c) Immigration and Customs Enforcement

d) Law Enforcement (prosecutors from the U.S. Attorney's Office, the FBI, the Human Trafficking Task Force, state police, etc.)

4. *Inter-Governmental Organizations*, such as the Organization for Security and Cooperation in Europe (OSCE) and its Special Representative on Combating Trafficking in Human Beings, Dr. Helga Konrad

5. *Immigration Lawyers* from NGOs such as FIAC's LUCHA: A Woman's Legal Project

6. *Religious Groups*, such as the United States Conference of Catholic Bishops, represented by Dr. Julianne Duncan, and the Italian Union of Major Superiors

7. *Media*, such as CBS 4 - WFOR TV, The Miami Herald

8. *The Academic Community* -- Johns Hopkins University School of Advanced International Studies' Protection Project; Florida State University Center for the Advancement of Human Rights; University of Surrey, Roehampton in London; St. Thomas University School of Law Graduate Program in Intercultural Human Rights

9. *The Community at large*, including students.

As everyone well knows, it is not easy to build consensus amongst different strata of government and non-governmental entities. For several months, we exchanged ideas with experts, gathered information, and organized workshops, working groups and plenary sessions. Of course, not everything ran smoothly. Certain

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controversial aspects had to be discussed carefully. One issue was to what extent an alien victim of human trafficking would or should be required to cooperate with law enforcement in order to gain immigration relief in order to remain in the country. Another issue was whether prostitution itself should be criminalized or not, and discussions were held with respect to the difference between the U.S. and European stands towards this issue. It was clear that trafficking into prostitution was considered to be a major criminal offence. At the end, consensus was reached on all of these issues following our urgent appeal to the conference experts of different political or religious beliefs to transcend their institutional interests and personal biases and focus single-mindedly on the plight of the victim. The document thus takes a markedly victim-centered approach.

In the definition of trafficking, the group agreed to largely follow the 2000 Palermo Protocol.³⁷ It also suggested considering human trafficking a discrete international crime, which means that it ranks at the same level as crimes against humanity or genocide. While the 2000 Palermo Protocol focuses almost exclusively on how law enforcement best confronts this plight by the prosecution of the perpetrators, the real novelty of this declaration is its focus on the rehabilitation of the victims and the restoration of the societal contexts that were disrupted by the scourge of trafficking, such as the deeply impacted victim's families and communities. The society has to be brought back to good order and heal. To this end, various recommendations were made in paragraphs 25-42 of the *Miami Declaration of Principles on Human Trafficking*.

The best way to confront the issue of human trafficking, however, is its prevention: the primary goal must be to prevent it from materializing in the first place -- through education of communities mostly in the countries of origin, but also in the places of transit and destination. Above all, we need to provide alternative sources of income or opportunities so that the potential victims and

³⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001), *entered into force* Sept. 9, 2003.

at-risk groups do not feel the need for emigration as the final way out of their misery.

We are proud to note that our leading role has borne fruit. The *Miami Declaration of Principles on Human Trafficking* has been well received globally, and has already had its distinct impact in the fight against human trafficking. We had the chance to present the Declaration in an intergovernmental OSCE meeting of all major actors convened to combat human trafficking; universities have set up teaching modules referring to it; scholars and law reviews have made reference to it; several NGO websites, electronic libraries and blogs link to the Declaration; numerous newsletters have published it; and a number of governments have expressed interest in the Declaration as they develop their anti-trafficking laws and policies. The head of the pertinent bicameral committee of the Congress of Argentina, Hon. Stella Maris Córdoba, for example, visited Miami to seek advice on this topic from our Graduate Program in Intercultural Human Rights.³⁸ On November 7, 2006, the Executive Director of the Program, Professor Roza Pati returned that visit with a lecture on “Combating Human Trafficking: The Role of Civil Society” in an International Seminar on “Human Trafficking: Fighting Modern Slavery,” organized by the Congressional committee in Buenos Aires.

The U.S. State Department has sent delegations from the Kingdom of Jordan as well as Mexico and Venezuela to St. Thomas to discuss issues relating to human trafficking with our experts. We have been asked for input into the State of Florida legislative process amending its human trafficking law; diplomatic and library research centers refer to it; and so on and so forth. In September 2007, at the invitation of the Florida State Department of Children and Families, Roza Pati addressed the Florida's Dependency Summit for Florida's child protection communities.

We will continue to address the global affront against human dignity that human trafficking represents. We hope to be of service

³⁸ Honorable Congreso de la Nación, CBI Activities 2006, Second Parliamentary Mission to the United States, available at <http://www.cbi.gov.ar/eng/novedades/>.

in this struggle, one which now has a historical window of opportunity to be acted upon.

III. The Next Steps

This window exists because there is a wide consensus, globally and domestically, across ideological and party lines, on considering the fight against human trafficking an issue of the highest priority. As with respect to other issues, the leadership of U.S. is a key factor to this battle's global success: global monitoring and assessment of countries' responses, link to economic aid; financial assistance to countries' efforts to curb human trafficking.

As in any war, we need to summon the energies of the entire nation, including the Congress and the Executive Branch, law enforcement, lawyers, NGOs, academia, and other relevant sectors of civil society. Starting-point for designing further appropriate measures in this war against human trafficking is the TVPA's broad criminalization of trafficking in persons via the punishment of perpetrators, the forfeiture of their assets, etc.

Present and earlier legislative action against trafficking represents primarily a criminal justice response via the suppression of trafficking through crime and immigration control. While such measures are much needed, we also have to direct our focus on the victims' legal status, their compensation and treatment. Up to now, few T-Visas have been issued. Overly lengthy procedures are often determined by law enforcement's perception of cooperation by the victim. There are significant and sometimes seemingly insuperable obstacles to cooperation. For one, witness protection programs are often inaccessible or insufficient. It is difficult to see, for example, how the U.S. government could afford protection to a victim's family abroad. Also, much needed psychological treatment is often missing or inaccessible. A life lived in perpetual fear has scarred the victims emotionally and physically; they need long-term rehabilitation and restoration of their physical and emotional health.

As stated, however, both the executive and legislative leadership are fully committed to addressing this issue more effectively. The U.S. State Department Office on Human Trafficking is performing global research and takes pertinent action, benefiting from international cooperation on both policy and enforcement levels. There also is growing awareness, knowledge and practical experience regarding human trafficking around the world -- in civil society, the media and the community at large. This opening is supported by domestic legislation and the creation and implementation of an international legal framework.

Our recommendations, based mainly on the Miami Declaration's consensus principles, are as follows:

a) International Legal Policies:

- *The U.S. should urge countries not yet parties to the 2000 Palermo Protocol on Human Trafficking to ratify this instrument as well as work to improve implementation and monitoring of compliance by existing states parties.*

The U.S. is a state party to the 2000 Palermo Protocol on Human Trafficking. As such, we committed ourselves to criminalizing human trafficking as defined, to protect and assist victims of human trafficking, and to prevent this activity – obligations we implemented through domestic legislation. We should try to help make this a comprehensive global treaty, and ensure that the agreement is also turned into national laws and practice by existing states parties by assisting those in need and improving the monitoring of compliance.

- *The U.S. should work on the international level to remove the immunity of diplomatic personnel from prosecutions in the host country for the crime of trafficking in persons.*

Diplomatic immunity in the host state is presently absolute unless waived by the sending state. This privilege has been abused, particularly in cases of virtual enslavement of household help from

the home country of the diplomat.³⁹ Efforts should be undertaken to negotiate a Protocol to the Vienna Convention on Diplomatic Relations which would exempt international crimes, including trafficking in persons, from the reach of diplomatic immunity.

b) Legal Sanctions and Enforcement Strategies

- *The TVPA should be reauthorized. The introduction of universal jurisdiction for the crime of trafficking in persons should be considered. Such an amendment would make this offense punishable in the U.S. regardless of where it is committed and what nationality its perpetrators or victims are.*

This recommendation is based on the nature of human trafficking as a crime which shocks the conscience of humankind. The heinousness of the crime underlay the characterization of genocide, crimes against humanity and war crimes as “international crimes” in the Statute of the International Military Tribunal in Nuremberg. Similarly heinous, human trafficking should be treated the same. Human trafficking also resembles international crimes that can be committed by private actors such as piracy, enslavement, and torture. An international crime triggers universal jurisdiction, i.e. the authority of legislatures and courts to criminalize and sanction such conduct even if it occurs overseas without any territorial or nationality link to the country proscribing it. In a number of states, such universal jurisdiction over human trafficking has already been asserted.⁴⁰

³⁹ Libby Lewis, *supra* note 28. Former Director of the State Department Office to Monitor and Combat Trafficking in Persons, Ambassador John Miller, agrees that diplomatic immunity should be redefined and, beyond that, suggests that the special class of visas created for personal servants of foreign diplomats should be rescinded. *Id.*

⁴⁰ REDRESS, UNIVERSAL JURISDICTION IN THE EUROPEAN UNION - COUNTRY STUDIES i (2003), available at <http://www.redress.org/conferences/country%20studies.pdf>: “Universal jurisdiction has been used in numerous European countries to ensure that perpetrators of serious crimes under international law, including war crimes, crimes against humanity, genocide, torture, terrorism, human trafficking and others, do not evade justice. This type of jurisdiction has been put

Similar legislation in the U.S. would allow combating this globally interconnected criminal activity at its inception -- in the source countries and the countries of transit as well as in foreign places of destination. Such an exercise of universal jurisdiction via federal statute could reach significant trafficking gang activity overseas, which has not yet had, or cannot yet be proven to have had, an effect on U.S. soil or does not yet involve U.S. citizen perpetrators or victims. This amendment would be a forward-looking measure designed to attack the problem before it reaches our shores, and it would close the gap of impunity.

- *In addition, the importation of goods made by victims of human trafficking should be prohibited.*

As the President of Free the Slaves, Kevin Bales, states, “[t]o bring this crime to an end requires strict interdiction of not only the trade in human beings, but the products of enslavement as well.”⁴¹ Such prohibition would also remove a major incentive for forced labor abroad.

- *Members of the clergy and medical personnel, just as law enforcement officials, should be trained in detecting cases of human trafficking.*

Doctors and members of the clergy are often at the frontline of the struggle against trafficking, as they are likely the first trusted outside contacts of trafficking victims. They should also be trained in identifying pertinent cases.

to use outside of Europe as well, such as in the Israeli case against Adolf Eichmann, in Senegalese legal proceedings against former Chadian President Hissène Habré, and in numerous civil suits in the United States against foreign torturers.”

⁴¹ Kevin Bales & Becky Cornell, *The Next Step in the Fight against Human Trafficking: Outlawing the Trade in Slave-Made Goods*, 1 *INTERCULTURAL HUM. RTS. L. REV.* 211, 247 (2006).

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- *Independent and reliable research centers specialized in the field of human trafficking should be supported and asked to undertake in-depth analyses of the scope and nature of human trafficking as well as the identification of global trafficking trends in order to assess the severity of the problem.*

Such research could increase the reliability of figures in trafficking statistics and help gather intelligence about the structure and functioning of global trafficking networks, laying the ground for devising effective counter-trafficking strategies.

c) Immigration Policies

- *Victims of human trafficking should receive a realistic and effective protected status under the U.S. immigration laws.*

- *This status should not be made unreasonably contingent upon cooperation with the prosecution of their traffickers.⁴²*

- *Victims should have a choice between repatriation and ultimate integration via safe legal status in the U.S.*

d) Prevention

- *Prevention strategies should be prioritized. To that end, the following action in source countries should be taken, via measures supported by U.S. government funding:*

- *Root causes should be alleviated through programs empowering potential victims, esp. women and vulnerable groups, via economic development.*

- *Corruption should be reduced.*

⁴² For details, see Charles Song & Suzy Lee, *Between a Sharp Rock and a Very Hard Place: The Trafficking Victims Protection Act and the Unintended Consequences of the Law Enforcement Cooperation Requirement*, 1 INTERCULTURAL HUM. RTS. L. REV. 133 (2006).

○ *Education and public awareness campaigns* on the reality of human trafficking should be initiated and intensified.

• In the *U.S. as a country of destination*, we suggest these measures:

○ *Demand for prostitution* and other commercial sexual services, *cheap labor* and other factors fostering human trafficking *should be reduced*.

e) *Protection and Reintegration of Victims*

• *What is urgently needed is an effective system of protection for the victim and, possibly, the family of victim*. This includes safety planning, secure housing, possibly witness protection, health services, and legal services.

• The reintegration of the victim should include *physical rehabilitation*, if needed; culturally appropriate *mental health services*; and stabilization of legal status. NGOs in the field should be supported through private-public partnerships, etc.

These would be the next key steps in fighting this global scourge. I humbly submit them for your consideration.

I would like to conclude my presentation with a prayer⁴³ a leader in this global struggle, Sister Eugenia Bonetti, has said at the funeral of Tina Motoc, a 21-year old Romanian girl who was forced into prostitution and brutally killed on the street in Italy.

⁴³ Sr. Eugenia Bonetti, *Putting Lives Back Together: Women Helping Women. The Italian Experience of Women Religious*, 1 INTERCULTURAL HUM. RTS. L. REV. 43, 52-53 (2006).

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Dearest Tina:

In this last salute, I would like to speak on behalf of many people that are both present and absent. Together we would like to ask your forgiveness for our personal and collective responsibilities. ...

I ask your forgiveness, Tina, even in the name of the killer who mutilated your young body in a barbarous way. But he is not the only one responsible for your death; in fact, before you were struck, you were already dead. How many people had already killed the dreams and expectations of your twenty-one years of life? We are all guilty and co-responsible for your death and for this we invoke the mercy of God.

May God bless your work in the vineyard of justice for these innocent victims, so we may get closer to an order of human dignity on Earth.

I thank you for your kind attention.