

HUMAN TRAFFICKING AND TRANSNATIONAL ORGANIZED CRIME: ASSESSING TRENDS AND COMBAT STRATEGIES

HEARING BEFORE THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE ONE HUNDRED TWELFTH CONGRESS FIRST SESSION

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November 3, 2011

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC

The hearing was held at 10 a.m. in room B-318, Rayburn House Office Building, Washington, DC, Hon. Marco Rubio, Commissioner, Commission on Security and Cooperation in Europe, presiding.

Commissioners present: Hon. Christopher H. Smith, Chairman, Commission on Security and Cooperation in Europe; Hon. Marco Rubio, Commissioner, Commission on Security and Cooperation in Europe; and Hon. Steve Cohen, Commissioner, Commission on Security and Cooperation in Europe.

Witnesses present: Greg Andres, Deputy Assistant Attorney General for the Criminal Division, U.S. Department of Justice; Piero Bonadeo, Deputy Representative to the United Nations Office on Drugs and Crime, New York; and Martina Vandenberg, Pro Bono Counsel, The Freedom Network.

HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

The Commission will come to order, and good morning to everybody. Thank you for being here for this hearing on the Commission on Security and Cooperation in Europe—human trafficking and transnational organized crime, assessing trends and combat strategies. This morning we'll be talking about human trafficking, as we have done so often in the past on this Commission. In 1998, some of you may know, I introduced the Trafficking Victims Protection Act, and not long after that chaired this Commission's first hearing on human trafficking.

At that time, the idea that human trafficking even existed was—and was widespread—was met with a wall of skepticism and opposition. People, whether in government or not, thought the bold new strategy of the TVPA, although we had a different name for it then—we finally added that name near the end of the process—but they thought that sheltering, asylum and other protections for victims, long jail sentence and asset confiscation for the traffickers, and tough sanctions for governments that fail to meet minimum standards, were merely a solution in search of a problem.

Today, few would deny that the scourge of human trafficking, though often hidden, is in fact very widespread. Back in the 1990s, the term “trafficking” was applied almost exclusively to illicit drugs or weapons. Reports of vulnerable persons, especially woman and children, being reduced to objects for sale were met with surprise, incredulity or indifference. It took two years to educate people, especially in the U.S. House and Senate, to muster the votes for passage of the legislation.

Today as we explore the links between transnational organized crime and trafficking, I’d like to start by pointing out that there is a new frontier in the fight against human trafficking. Years ago human traffickers were not highly organized and were not typically connected to gangs. They were involved in other kinds of organized crime. This is less and less true today, and we need to consider how methods of fighting human trafficking need to adapt. We know that human trafficking, or modern-day slavery, is the third-most lucrative criminal activity in the world. According to the International Labor Organization, ILO, human traffickers made profits in excess of \$31 billion a year. And so it is not surprising that more and more organized criminal groups are engaging in modern-day slavery. And, of course, while drug and arms traffickers have a commodity that can be sold only once, human traffickers can purchase a slave and continually exploit that individual until he makes his money back and then some. And obviously, it is very, very lucrative.

This is a complex subject. It is marked by the growing ingenuity of organized criminal groups, the difficulty of knowing what or who passes over increasingly porous borders, and the gangs’ use of modern technologies. All this has obscured the activities of many syndicates, and made learning about fighting their activities very difficult. Yet, it is not impossible and simply has to be done, because so many vulnerable people—so many lives are at stake.

I’d like to conclude with one very important point: the premise that must shape how we approach the fight against transnational organized crime as it diversifies its operations into human trafficking. Human beings are more important than drugs and guns, of course. Our allocation of effort and resources which investigate, and our prosecutorial strategies, need to reflect this. This needs to be the highest possible priority.

Today we are joined by a panel of experts on transnational organized crime and human trafficking who will shed light on current patterns and countermeasures. Their combined expertise should paint a clear picture of organized crime’s involvement in human trafficking, and what can be done to help to stop it.

With us today is Mr. Greg Andres, the current deputy assistant attorney general in the crime division, where he supervises the organized crime section at the Department of Justice. Mr. Andres comes to us with over a decade of experience working on organized crime issues. We will then be joined by Mr. Piero Bonadeo, deputy representative for the U.N. Office on Drugs and Crime in New York. Mr. Bonadeo’s testimony will bring the UNODC’s years of experience in combating transnational organized crime.

And finally, we will have Ms. Martina Vandenberg, a seasoned attorney with years of experience combating trafficking in persons

as well as in broader human rights context of Bosnia and Herzegovina, Kosovo and the Russian Federation and Uzbekistan—all of which have significant human trafficking histories and problems and are of great interest to our Commission. Mr. Greg Andres, I would like to now turn this over to you for your comments.

**GREG ANDRES, DEPUTY ASSISTANT ATTORNEY GENERAL FOR
THE CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE**

Mr. ANDRES. Thank you. Thank you, Chairman Smith. Thank you for inviting me to speak with you this morning about the threat posed by human trafficking and transnational organized crime, the efforts of the Department of Justice is taking to address those threats, and the steps that Congress can take that will assist us in those efforts.

The fight against transnational organized crime is one of the highest enforcement priorities of the Department of Justice. Together with the United States Attorneys' Office and our many partners in law enforcement, the Criminal Division investigates and prosecutes cases involving transnational organized crime all over the country, indeed, all over the world. The threats posed by these groups are significant and growing.

Mr. SMITH. Mr. Andres, if you could just suspend for one—and I apologize for the rudeness of the intervention—but would—there's a markup in the Foreign Affairs Committee that I must be at—two bills are going to be voted on right now. Thankfully, Senator Mark Rubio is here and will take the chair. And when you conclude this statement, he will give his statement. And I do thank you for your understanding.

**HON. MARCO RUBIO, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE**

Mr. RUBIO. Thank you, Chairman. Welcome. I don't get to chair a lot of things around here, so—people continue. Thank you.

Mr. ANDRES. Good morning, Commissioner Rubio.

In recognition of the issues with respect to transnational organized crime, in July the administration released its strategy to combat transnational organized crime, which sets forth a whole-of-government response to the threat. At the Department of Justice, we are committed to the fight against transnational organized crime and human trafficking, and we have enjoyed certain successes to date as to both.

In the area of human trafficking, the department last month secured the racketeering convictions of two brothers who ran a human trafficking scheme. That scheme involved smuggling young Ukrainian immigrants into the United States and forcing them to work without pay through threats and assault, sexual abuse and debt-bondage. Roughly six months earlier, in May of this year in a separate case, a Uzbek national was sentenced to 12 years in prison after he pled guilty to racketeering conspiracy, which charged a scheme to recruit and exploit dozens of workers from Jamaica, the Dominican Republic, the Philippines and elsewhere, and force those individuals to work in hospitality jobs in at least 14 states through threats of deportation and financial penalties.

Many of our human trafficking cases involve loosely affiliated networks of individuals engaged in the exploitation of human trafficking victims. These criminals tend to utilize smuggling pipelines and money-laundering conduits operated by other criminal groups, and whose services the traffickers procure for their own purposes. On occasion, human traffickers themselves belong to a larger organized crime group or enterprise. In some cases, criminals may operate transnationally, recruiting victims overseas with false promises—good jobs in the United States—and threatening retaliation against their overseas families if they try to escape once they realize their true predicament.

To the extent that these networks or groups are committing portions of their crimes abroad, our investigations and prosecutions of these organizations and crimes must overcome significant obstacles. At a minimum, pursuing an investigation abroad is often time-consuming and delays can be significant. These delays can undermine our investigations. Tracking down criminals abroad often requires the cooperation of foreign law enforcement agencies.

Furthermore, even if we locate our targets, many of the investigative tools for gathering evidence are not available in the international context. In many countries we cannot employ Title III-type wiretaps against perpetrators, or secure routine surveillance. Nor can we, in most cases, send an undercover agent to gather incriminating statements. Sometimes the country's law enforcement agencies may not have the level of training or the technology to implement the necessary investigative steps, even if they were authorized to do so.

Arresting lower-level members of the organization and persuading them to cooperate against higher-level bosses is also extremely difficult, and may require the approval and cooperation of foreign authorities. Finally, many countries have laws which ban the extradition of their own citizens to foreign countries for prosecution. There are important steps that we can take to better address extraterritorial threats and the increasing global reach of transnational criminal organizations.

The Department of Justice, together with our partners, have developed a package of legislative proposals to ensure that federal laws keep us up with the rapid evolution of organized criminal activity.

We need to change our existing money laundering, asset forfeiture, narcotics and racketeering laws. Additional proposals recognize that an increasingly global law enforcement environment, witness security and the protection of foreign witnesses must also be available. This last provision may be of particular help in situations where a foreign government is helping us to prosecute an international human trafficking ring, but is unable to protect its witnesses.

I'm happy to discuss these proposals and to answer any questions. Thank you very much.

Mr. RUBIO. Thank you. Thank you very much. And I'll couch my question in the form of the opening statement.

First—to thank you for being here, and all those who are here to testify and be a part of this hearing on this important issue. I'm grateful to the chairman and the co-chairman for allowing us to

hold these hearings and—on what I think is a shocking issue that I was not fully aware of before I got here—although I’d heard about it. And I think many Americans are unaware of the extent to which this issue impacts the country in the world that—we tend to think of slavery as something that happened 150 years ago or 200 years ago or in other places. But we don’t realize that even here, today, in the United States, there are people that are being held against their will.

Obviously, we will talk a little bit about sexual exploitation, but there’s also all kinds of other elements to this including forced labor and domestic servitude. And we’ve seen those stories and the kind of the parameters that are pretty broad in terms of what qualifies as human slavery that exist to this day. I appreciate the work that you guys do on these issues. This is a cutting-edge issue that I think we have an opportunity to create awareness on, because—and I think in our questions we’ll get to some of that. I think awareness of the existence of this will help us identify domestic victims.

And I think internationally, our country has taken the lead in terms of the role we’ve played in classifying countries to compliance, and the tier system has taken the lead in terms of calling attention to this human rights issue. And one of the things that always adds to our nation is when we are strong spokespersons on behalf of human rights all over the world. And I can think of no issue that has a higher priority—or should have a higher priority than the issue of trafficking persons and human slavery.

So with that, let me—a couple questions that I have. I think the first is—you talked a little bit about the—obviously the Department of Justice has a long history of prosecuting organized crime cases. This human trafficking element is a relatively new component of how we are approaching these organized crime organizations. How has that forced you to—and I think you talked about it a little bit in your statement—but how has that forced you to alter how you strategize with regard to interacting with these groups? What new dynamics does it present from the traditional activities that organized crime has largely been linked to—in trafficking in drugs, et cetera.

And second of all, is the law caught up with the realities of what it takes to prosecute, whether it’s how hard it is to get witnesses or reliable information, those sorts of things? I mean, I guess my—the basic question I have is: This is kind of a new problem that you’re facing as you confront these organized crime operations. And organized crime itself has changed as well. Are our laws up to date with the 21st-century realities of prosecuting organized crime—in particular when it comes to the trafficking of people?

Mr. ANDRES. Thank you, Commissioner Rubio. One thing that’s certainly clear about organized crime—and organized crime, even traditional Cosa Nostra domestic organized crime organizations have traditionally evolved, rather significantly, over the last decades. The abiding principle of organized crime groups is they exist for the purpose of making money—period.

And the fact that human trafficking is an opportunity to generate additional revenues certainly makes it alluring to organized crime groups, both here in the United States and internationally.

So even as we've seen when we've prosecuted domestically the mob, we've seen they've changed from tactics like murder and extortion to now being involved in white-collar crimes or Wall Street. So we're certainly used to the changing nature of organized crime, and the fact that it adapts as we adapt our law enforcement strategies.

There is an international component here. It's not the only component, but there is an international component here. And our laws do need to be updated to address those international concerns. When you talk about investigating cases internationally, you have to start with cooperation by foreign governments. That's essential. In some of these countries where there is trafficking and organized crime influence, we don't always have the cooperation of those governments. There's corruption in many of those places, and so there are difficulties with respect to that issue.

On the legislative front, and briefly, we need to update our racketeering laws so that international organized crime groups that are operating abroad and don't have as many physical touches to the United States, but that are affecting the United States—the organizations but also their money and their use of the United States financial system to launder their money. We need to update our witness protection provisions, which allow us to secure witnesses who may be involved in prosecutions abroad and that are helping foreign governments convict and prosecute these enterprises abroad. So we do need to update our laws.

Let me just finish by saying, we have had successes and we have been concentrating on this issue. I think the administration's strategy on transnational organized crime is another effort to highlight the problem of human trafficking. But you should be confident that the prosecutors in the Department of Justice, primarily in the Civil Rights Division, have taken an active role in prosecuting these cases.

And if I could just give you one example as it relates to Mexico. Since 2009, our prosecutors have been working—along with the agents in the FBI and ICE—have been working collaboratively with Mexican law enforcement officials on arrests, convictions both here in the United States and Mexico. We've helped to rescue victims as part of this bilateral cooperation; reunify U.S. victims with their families, returning them from Mexico.

We've had success with prosecutions here in the United States, both in Atlanta—in the United States versus Ruggiero—and also in Miami in United States versus Cortez-Castro. So we do have working relationships with foreign governments. That is a vital part of this strategy because so much of the evidence, as it related to international organized crime, exists abroad.

Mr. RUBIO. In terms of the witnesses, the victims, is the current structure and nature of our immigration system make it easier for these crimes to happen? In essence how is the existing immigration structure, complicated visa process, what have you, the existing lack thereof or existence of a for lack of a better term the guest-worker program.

It's not really a guest-worker program but that's how it really functions as. The way our system, our visa program, is currently structured today, does it make it harder to prosecute these cases?

And more importantly, have the traffickers actually figured out how to use the system to their benefit?

Mr. ANDRES. I think the latter is important here, that is, traffickers have used that to exploit the system and to lure people, basically, here to the United States. So through use of the Internet or other means to publicize this, those who are interested in committing the crime of human trafficking—

Mr. RUBIO. Explain to me briefly how they use the system as it's currently structured today. How do they use the current visa system to get people in the country and then kind of trap them here, right?

Mr. ANDRES. Sure, they lure them here with—under the guise of getting a guest-worker visa or some other type visa that they may apply for. And once they get here, they then exploit those individuals. Obviously, a lot of the human trafficking problem preys on the vulnerability of people here in the United States, whether it's a vulnerability because they're not from the United States—they don't have families and relatives here. They don't know the system; they don't know the laws.

So traffickers are able to lure them here to the United States, and then basically enslave them to do a variety of different things, whether it's involved in the sex trade or it's involved as laborers. They basically lure them here and then entrap them once they have them here and are able to control their lives.

Mr. RUBIO. Their visas are linked to a specific employer, right? Basically that—whoever it is they brought them in to work for?

Mr. ANDRES. I believe that's true. But I don't know that specifically. But we certainly could look into that, Senator, and get back to you.

Mr. RUBIO. Now, in terms of once you find a victim, or a witness, or both, how hard is it to get them to cooperate if—for example depending on their status in the country, their fear of family abroad, and what kind of measures have you looked at? Because one of the things I've read about is once you identify a victim, the victim is probably very insecure about their own status, their own ability—kind of where they stand on this whole thing and where it's going to lead them.

What's your sense of how hard has it been to get victims to become witnesses, how—and to become reliable witnesses and to—cooperative ones as a result of two things—number one is their status or their fear and number two is maybe their family abroad?

Mr. ANDRES. So, let me say two things: One distinction with respect to dealing with victims in human trafficking cases are—they certainly have different status; that is, having gone through the ordeal of being a victim in those cases, there are additional challenges that we have to deal with. I think our law enforcement partners in the FBI and ICE and other agencies have developed an expertise in dealing with those victims.

As for cooperating, again, that's not new to us. That's not a new struggle for people who've been involved in prosecuting organized crime cases. Obviously when we've done it domestically, whether it's an MS-13 gang or the Gambino family, there are always individuals who are afraid of retaliation by those organized crime groups. That's why things like the witness protection program have

been a vital part of our fight against organized crime, and there is a new proposal that will extend that internationally. So we can use some of the tools that we already have and have been using to fight organized crime in the context of human trafficking, to provide a safe and secure location for people so that they can have the confidence to go into court and testify against those involved in these crimes.

Mr. RUBIO. I think my last question is, with regards to the groups that are actually conducting this, obviously we—the transnational—the big groups with the brand names, are the ones we know a lot about. But there's some emerging evidence of some smaller scale groups, for lack of a better term mom-and-pop, family-run operations that are a handful of family—I mean, I've read anecdotally; maybe I'm wrong—but I've read anecdotally there's a number of smaller scale operations where it's really three or four people.

How—do they present a different challenge in prosecuting and identifying, number one? And number two, is there a specific kind of trafficking that they're more involved in than, say, the bigger transnational groups?

Mr. ANDRES. There is no question that there is a change in organized crime both domestically and internationally, that there are emerging groups, that are smaller groups. They don't necessarily have household names.

Luckily under our racketeering laws, you don't have to have a name or be a recognized group to be charged under racketeering because we can charge you with being an association in fact. So, if there are a group of individuals, even if it's a family organization or a family group, we can charge them together as an enterprise. Some of the legislative proposals that we have add state law crimes as slavery and other related human trafficking offenses as RICO predicates. So we're able to attack them with our racketeering laws.

So the updates in the law will address that and, again, I'm not sure that the challenge—there are some different challenges, but to the extent that we can use our racketeering laws, that's helpful and, again, we have had some success in doing that. Our civil rights prosecutors have been working with our organized crime prosecutors to bring RICO cases. There was recently a series of brothers who were charged in Philadelphia with importing victims, and we were able to charge what was basically a family-run operation with importing victims for the purposes of human trafficking.

So, again, we do need to update our laws, but some of the past strategies that we've used for organized crime, we're able to adapt those, together with the new legislation, we believe we'll be able to be successful in prosecuting these groups.

Mr. RUBIO. Thank you very much for your time today and your testimony. We appreciate it. Thank you.

Mr. ANDRES. Thank you.

Mr. RUBIO. I guess our next witness is a Mr. Piero Bonadeo.

How are you? Give you a few minutes to set up. Thank you for coming today.

PIERO BONADEO, DEPUTY REPRESENTATIVE TO THE UNITED NATIONS OFFICE ON DRUGS AND CRIME, NEW YORK

Mr. BONADEO. Thank you. Thank you for inviting the UNODC and for allowing us to bring some international perspective to this important discussion.

On behalf of the United Nations Office on Drugs and Crime, a sincere thanks to the Commission on Security and Cooperation in Europe for inviting me to speak. The cooperation spirit of the Commission as well as the one of the Organization for Security and Cooperation in Europe has often supported the United Nations Office on Drugs and Crime and the United Nations Global Initiative to Fight Human Trafficking.

Human trafficking is a truly global phenomenon and a crime which affects nearly every part of the world, whether as a source, transit or destination country. According to the United Nations Office on Drugs and Crime Human Trafficking Report, released in 2009, victims from at least 127 countries have been identified, and this is estimated that the more than 2.4 million people are being exploited by criminals at any given time.

More than a decade after the adoption of the protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime, the Palermo Convention, the largest majority of countries have criminalized most forms of human trafficking in their legislation. Nevertheless, the use of such laws to prosecute and convict traffickers remains limited. In 2009 "Global Report on Trafficking Persons," for instance, two out of every five countries covered in the report had never recorded a single conviction for human trafficking offenses.

The demand of trafficking victims, especially those related to sexual exploitation, remains high, particularly in Europe. According to the United Nations Office on Drugs and Crime Organized Crime Threat Assessment, the majority of the victims detected in Europe come from the Balkans and the former Soviet Union, including countries such as Romania, Bulgaria, Ukraine, the Russian Federation and the Republic of Moldova. With regard to victims originating in South America, mostly from Brazil, they are being sent to destinations such as Spain, Italy, Portugal, France, the Netherlands, Germany, Austria, and Switzerland. African victims are sourced mainly in West Africa although North African victims seems to be increasing. Finally, Asian victims are mainly originating in Thailand; mostly recently Chinese, Vietnamese and Cambodian victims are also increasing.

Traffickers remain using deception and coercion as the main instrument to recruit victims. As recent trend, women seem notably only involved in recruiting other women, but also playing the role of guardians in the countries of destination of victims. Another crime is that, in the case of Europe, the perpetrators are frequently not nationals of the country where they operate, but often national of the same countries as their victims.

Distinguished Commissioner, cooperation is fundamental to combat the exploitation of women, children and men by human traffickers. With the outcome of our own efforts to gather information from member states, trafficking in persons for forced labor is the

second most reported form of exploitation. But we share with all of you a concern that this form of trafficking is less frequently detected and reported than trafficking in persons for sexual exploitation. Labor traffic just until recently was started to be taken into consideration by the world community. Prosecution and criminalization of this particular type of trafficking also needs to be set in practice.

UNODC is helping to shine a powerful light on this crime. Working with others, in particular the Organization for Security and Cooperation in Europe, we are developing clear strategies to meet government and civil society concerns. In doing so, UNODC brings a unique criminal justice approach. As the guardian of the United Nations Convention against Transnational Organized Crime, we have ready-made legal framework for international cooperation and the prevention of human trafficking. Thanks to the convention, police no longer have to stop at frontiers while criminals cross them frequently.

We should also not forget how human trafficking is related to instability. When social and political upheaval exists, as in North Africa at present, our work is even more important in such turbulent and disordered regions.

Trafficking in human beings is one of the most lucrative forms of organized crime, estimated to generate 32 billion U.S. dollars in gross proceeds each year. Criminal assets arising from this grave violation of human rights and fundamental freedoms may be invested in legitimate and criminal activities, challenging economic security and fueling corruption and undermining the rule of law.

In a bid to answer these questions, UNODC has developed a database of human trafficking case law to provide immediate public access to officially documented instances of this crime. The database contains details of the nationalities of victims and perpetrators, trafficking routes, verdicts and other information related to prosecuted cases around the world. As such, it provides not only statistics on the number of prosecutions and convictions, but also the real-life stories of trafficked persons as documented in the courts.

A little over a year ago the General Assembly passed by consensus the United Nations Global Plan of Action to Combat Trafficking in Persons; promoted universal ratification of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as other relevant international instruments that address trafficking in persons and reinforce the implementation of existing instruments against trafficking in persons and building on the relevant subregional, regional and cross-regional mechanisms and initiatives.

An important operationalization of the global plan of action and another mechanism promoting the right to an effective remedy for victims of trafficking is the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children, launched last November in New York. The fund, managed by UNODC, provides humanitarian, legal and financial aid to victims of trafficking in persons through established channels of assistance,

such as governments, nongovernmental organizations and international organizations.

I would like to conclude the statement by thanking the U.S. government in supporting not only the actions of the United Nations Office of Drugs and Crime, but the international community at large. We have an excellent cooperation with the office of the Ambassador Louis C. de Baca, especially on human trafficking.

Thank you.

Mr. RUBIO. Thank you for your testimony, and I actually read it before today as well.

Mr. BONADEO. OK.

Mr. RUBIO. Thanks for the audience and for repeating it to me.

A few quick questions just on the role of the United States: How big a role does the United States play with the office, in particular with your operation? In terms of the funding and personnel and et cetera, how would you characterize the U.S.'s role today, and how important is it?

Mr. BONADEO. Well, in general, the U.S. government is one of the largest contributors to UNODC. Of course, it's contributing to support and implement projects that are addressing transnational organized crime in general; so I cannot tell you now how much of this money is going to projects related to human trafficking.

Of course, the fact that there is a trust fund now. It's managed by UNODC, but is a U.N. trust fund that is basically supporting nations—mainly implemented by nongovernmental organizations around the world as a way of increasing the U.S. support to this kind of problem at multilateral level. So it's a relevant contribution, as I said, and is addressing transnational organized crime in general.

Mr. RUBIO. Now, when these organizations look to recruit, for lack of a better term, victims, what are the conditions—what are the underlying conditions that create fertile ground for that? What are the markers of a society that tell you that they're vulnerable to this sort of activity?

Mr. BONADEO. Well, in the U.N.—United Nations Global Plan of Action Against Human Trafficking [sic], there are somehow recognition of the basic elements that are somehow fostering human trafficking and those are, of course, underdevelopment, poverty. And most recently we have been seeing that in countries that are also affected by instability due to— political instability due to transnational organized-crime type of activities, in particular drug trafficking, also human trafficking is somehow increasing.

I'm thinking about West Africa, for instance, as a region that is under attack by drug traffickers, and we have been seeing how there is an increase of smuggling of migrants and human trafficking coming from that region. So, to the traditional issues of underdevelopment and poverty, there is this new element of instability that organized crime organization are also exploiting for increasing their human trafficking activity.

Mr. RUBIO. So, when we look at source countries or source areas for victims, what you're basically looking at is a combination of the society where people don't see economic opportunities, deep poverty and despair, combined with a government that's either unwilling or

unable to stop these predators from coming in and taking advantage of that?

Mr. BONADEO. Correct.

Mr. RUBIO. And then—so on that question of governments that are unwilling or unable to take care of it, how many of them—and you can identify them if you want to—but how big a problem do we have of nations that don't want to do anything about this because the transnational entities have corrupted the government and have basically allowed them to—or gotten them to look the other way?

Mr. BONADEO. Well, as I said, the protocol to the Palermo Convention is the most powerful tool that the international community has available for pushing those governments that are not responsive or are not doing enough to do something. A hundred and forty-six countries are parties to the protocol, but of course, being party doesn't mean that the protocol is fully implemented and the countries that are somehow trying to cooperate on this issue could also take advantage of the protocol itself. For instance, mutual legal assistance is one of the elements included in the protocol and is always helping in cooperation—making it possible—cooperation amongst countries on criminal justice aspect of human trafficking.

Mr. RUBIO. What I'm trying to figure out—

Mr. BONADEO. Yeah.

Mr. RUBIO. —and you, because of your global view on this, is how many—obviously I think we know that there are countries that would like—we have that tier system that our State Department uses—I think there are countries that would want to improve if they had the resources to do it, and obviously there are mechanisms in place to help them. Is there any evidence of a significant number of either national governments or local governments in these places that are in essence cooperating with the traffickers and with these organizations because they've been corrupted, because they're being paid off, because of some mutually beneficial arrangement? I mean, is that a significant part of the problem?

Mr. BONADEO. Is there—well, we are going to release a new human trafficking report in 2012. The office is precisely working on this—on this study, so all those elements will be highlighted in the new study, and we are also working on the new UNODC global threat assessment, which is trying to highlight how organized crime in all its forms are somehow affecting the stability of countries.

Of course, there is a link between instability, corruption and the inability of countries and governments to properly address this issue. Corruption is not only fueling human trafficking and activities of the international organized crime organizations; it is also fueling instability and, as I said, I'm always referring to West Africa because it's the most evident example of how corruption—and generated by transnational organized crime—is really basically failing governments of the countries.

Mr. RUBIO. And this is probably another question for some other advocates as well, but what I would ask is, are there any jurisdictions in the world—cities or countries—that are basically known—that we know are tolerating this or maybe even encouraging it? In essence, they're sending out the message that this is the place to

come to find victims? Or this is the place to come to participate in these acts—and as particularly when it comes to sexual exploitation? Are there any countries in the world who are generally regarded as places where this is tolerated and maybe even encouraged as either a source or as a destination?

Mr. BONADEO. There are, but I—

Mr. RUBIO. —find them? Like who would—and maybe you don't want to tell me, but how do I—

Mr. BONADEO. Maybe if you re-read the report of the U.S. government on this issue, you can find some—

Mr. RUBIO. OK.

Mr. BONADEO. But, as the U.N., we are not really pointing the finger at over one country or another; we are looking more at the regional level—this phenomenon from the regional point of view and the route of traffickers. So there are.

Mr. RUBIO. The last question is, I would imagine that awareness is a big—if most people knew that what they were being recruited in—not most people, but if anyone knew that they were being recruited into slavery via forced labor, sexual exploitation, they wouldn't go. So obviously, they're being deceived.

In addition, as a society, if everyone knew the signs of this, people would understand it, would recognize it and call it out. And I think that's true for some governments, that if they had the ability to recognize this stuff or were sensitive to it—a lot of this is just an issue of awareness. It's hard to believe that this is happening. It's hard for people to accept that.

Well, how much of a challenge is that awareness aspect of it around the world? Clearly, in a society like the one that you live in or I live in with massive number of communications operations, news 24 hours, multiple newspapers, more news than you ever want or need, it's one way to create awareness for these issues, but I would imagine, especially in many of these source countries, the fact that this even exists is hard to disseminate and hard to explain to people. I mean, is that an accurate assessment? And what strategies are there in place to overcome that?

Mr. BONADEO. At multilateral level? Well, first of all, awareness is essential. And raising visibility around this issue is even more important, especially in countries of source. At multilateral level, we are running a global campaign called the Blue Heart Campaign, which is somehow raising visibility and also bringing to the potential victims what are their rights and how they can somehow avoid a certain situation or detect in advance being in certain situation that are then leading them to be victims of human trafficking.

So in any of the UNODC projects that are addressing the human trafficking around the world, there is also a component on awareness, especially in the country of Africa and especially for projects implemented in Southeast Asia. So it's there, the message sometimes is well received; sometimes it's not received. So there is a huge, huge effort that this—should still be done on this issue.

Mr. RUBIO. Thank you very much for your work and for your testimony.

Mr. BONADEO. Thank you.

Mr. RUBIO. We appreciate it. Thank you.

Mr. BONADEO. Thank you so much. Thank you so much.

Mr. RUBIO. And I think our last witness today is Ms. Martina Vandenberg, who is the counsel for Freedom Network USA.

MARTINA VANDENBERG, PRO BONO COUNSEL, THE FREEDOM NETWORK USA

Ms. VANDENBERG. Thank you very much, Senator Rubio. It's an honor to appear before you today. I would like to start by thanking you for your leadership in this area in human trafficking, particularly your work on the Trafficking Victims Protection Reauthorization Act. It's an honor to appear this morning before the Helsinki Commission, and I appreciate this invitation today to testify.

You and Chairman Smith have been particularly strong in your fight against all forms of human trafficking, not just trafficking for forced prostitution, and that is very, very much appreciated by the organizations in the advocacy community. I was particularly heartened to see the hearing before this committee in May on forced labor.

Over the years, the Helsinki Commission has steadfastly fought to keep the view, to keep the focus on the victims of human trafficking. And it's that perspective that I hope to bring to bring to you today.

I lived in Russia for four years in the fight against violence, against women and trafficking, and my favorite word that I learned in Russia was "konkretenosti," so I'll be very concrete today. I've spent 17 years in the fight against human trafficking, both as an activist and as an attorney. I currently serve as pro bono counsel to the Freedom Network USA, which is a coalition of 31 nongovernmental organizations and leaders providing services to and advocating for the rights of trafficking survivors here in the United States. The Freedom Network was created in 2001, immediately following the enactment of the Trafficking Victims Protection Act.

I've submitted lengthy testimony for this hearing, and I'd ask that that lengthy testimony be placed in the record, but I've changed my comments to fit the time allotted this morning. And I'd just like to highlight three organized crime trends that have been identified by advocates in the field, and also three strategies for combating this grave human rights violation. And then, finally, I'll provide some concrete recommendations to the Commission.

So trend number one that I'd like to focus on is that human trafficking is not only organized crime, it's what we might call disorganized crime. Often today, in the United States, we see human trafficking conducted by small groups operating independently. In the words of Florrie Burke, a Freedom Network leader and one of the leading experts on human trafficking in the United States, quote, we are seeing more family-run operations and small criminal networks. It is not the old definition of organized crime, but it is just as dangerous.

Take the Carreto case, for example. In 2008, a diminutive grandmother from Mexico pled guilty to sex trafficking for her role in a family-run gang based in Tenancingo, Mexico. According to the indictment, two of Ms. Carreto's sons and an associate used, quote, physical violence, sexual assault, threats of harm, deception, false promises and coercion to force the women into forced prostitution in the United States.

The traffickers brought impoverished women from Mexico, women and girls. They did so for more than a decade before they were stopped by the Department of Justice. And in some cases, the traffickers approached the young women in their villages and claimed that they had fallen in love with them, tricked the women, in some cases, impregnated them, and then held the children back in Mexico as essentially hostages.

These organized groups are small and opportunistic and they can be incredibly brutal. But that said, they don't have to rely on extreme violence. Often, the threat of arrest, detention and deportation by U.S. law enforcement is enough to hold victims in servitude. Threats to family members and especially to children in the country of origin often compel the victims' compliance.

So let me move to the second trend that we've seen in the field, trend two: Where are the prosecutions?

According to the State Department's Trafficking in Persons Report, in 2010, there were just 6,017 prosecutions and 3,619 convictions. Those aren't statistics for the United States; those are statistics for the entire world. In the United States, in the same year, 2010, there were just 103 federal prosecutions of 181 defendants, with 141 convictions. Now, in light of the State Department's own estimate, that there are between 14,500 and 17,500 trafficking victims brought into the United States for forced labor and forced prostitution every year, 103 prosecutions is appallingly low. In Europe, in 2010, there were 2,803 prosecutions resulting in 1,850 convictions.

Again, these numbers should give us pause, because they indicate that traffickers, whether they are members of international criminal enterprises or syndicates, or solo practitioners like so many of the traffickers I have sued as a pro bono attorney here in the United States—families, husbands, wives, diplomats who have brought individuals into the United States and held them in forced labor—these individuals enjoy near-complete impunity, and only a tiny fraction of the prosecutions and convictions that have taken place have been for forced labor.

Prosecutors are focusing on low-hanging fruit. They're bringing prosecutions for sex trafficking. In Europe, for example, of that enormous number, 2,803 prosecutions, only 47 were for forced labor. The rest were for forced prostitution, trafficking for forced prostitution.

So let me turn now to trend number three, which is, organized crime feeds on corruption.

Corruption is absolutely essential to traffickers' success. I have testified before this Commission in the past about the concrete cases of corruption that my colleagues and I at Human Rights Watch documented in Bosnia and Herzegovina.

As reported in the Human Rights Watch publication, "Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia & Herzegovina for Forced Prostitution," corrupt police officers participated directly in trafficking. Some of the police officers moonlighted as guards in brothels holding trafficked women, helping to enforce their enslavement. Traffickers provided pay-offs to local police in the form of cash and free sexual services from the trafficked women themselves. This was all in exchange for protection from raids.

Every time there was going to be a raid, the brothel owner would get a call and a warning. The International Police Task Force would arrive on the scene, and the women would all be holding their passports. They had been instructed on exactly what to say. All of this was made possible through official corruption.

Corruption and organized crime and, indeed, those organized criminals engaged in trafficking have a symbiotic relationship. And yet corruption is one of the most under-reported elements of human trafficking.

But for the victims, it is one of the most fundamental elements because corruption is the backdrop to all of the trafficking-related exploitation that they experience in the United States. The women and children and men who are trafficked into the United States fear that police officers are simply in cahoots, in business with the traffickers, that judges can easily be bought off and that prosecutors would never zealously prosecute a trafficker. These beliefs are common among the victims that we confront every day at the Freedom Network, at the member organizations. Many of the people we deal with, many of the victims come from countries where corruption is utterly rife. And they assume that the United States is no different. Indeed, that's what the traffickers have told them.

The traffickers have told them time and time again that once they are captured by U.S. law enforcement, they'll be detained, they will be prosecuted, they will be deported. Some have been told that they will disappear. For many of our clients, a so-called rescue by Immigration and Customs Enforcement is not a rescue. For them, it is the culmination of all the horror stories that they have been told by the traffickers. It is in their eyes an arrest. Victims from countries where justice is bought and sold on a daily basis see little hope of escape; they see little hope of justice; they see little hope of prosecution. The traffickers stoke and exploit these fears, telling them that the police are actually on their side, that the police will help the traffickers. This corruption silences the victims and it guarantees impunity.

So let's turn now to the strategies. The second portion of the hearing is, strategies for combating human trafficking.

So strategy one, and this is essential: Protect the victims and the witnesses. Trafficked men, women and children arrive on the Freedom Network member organizations' doorsteps in very different ways. Some have come through good Samaritans; some have come through law enforcement; others find our organizations through faith-based communities. But no matter how they find the Freedom Network member organizations, these victims have several things in common. First, they are highly traumatized. Second, they are utterly terrified. And third, they are concerned most about their family members back home in the country of origin, particularly their children. A victim of trafficking who is not safe cannot cooperate. In the face of threats from the traffickers, she cannot testify against the trafficker.

Now, the Trafficking Victims Protection Act provides tools to protect the victims, but these tools are grossly, grossly underused. One of the key building blocks here in the United States is called continued presence. It's a temporary form of immigration relief available only through an application by federal enforcement officer.

Continued presence, or CP, permits victims of trafficking to remain in the United States during a criminal investigation without fear of deportation. But the number of victims receiving continued presence in the United States has utterly plummeted. According to the State Department Trafficking in Persons Report in June 2011, 299 victims received this very basic form of protection in 2009. But in 2010, that number dropped to 186.

It is not only victims of trafficking who need protection; it is, indeed, their families. In the Carreto case, the forced prostitution case that I mentioned earlier, the traffickers and, in fact, the grandmothers—the mothers of the actual traffickers operating in the United States—held the victims' children hostage. According to Suzanne Tomatore, an attorney and co-chair of the Freedom Network, Russian traffickers currently operating in New York routinely terrify their victims by bragging about links to organized crime back in the Russian Federation. Family members, these women are told, will not be safe unless they continue to work in strip clubs, they continue surrendering all of their earnings.

So these cases, I think, speak very poignantly to the need to protect not just victims in the United States where, I would argue, we are falling down on the job, but also their family members abroad. Family members should be paroled into the United States. The categories for derivative status—because, again, trafficking victims can get special visas known as T visas, and their relatives, their very close relatives, can get T-derivative—T-derivative visas—those lists, those categories of individuals who are able to get T-derivative visas should be expanded.

Now, strategy number two—and this has been raised, I think, in the prior testimony: Watch not just the illegal immigration streams but the legal immigration streams, and in particular, watch the foreign labor recruiting organizations. Traffickers are enormously clever. They are very what the Russians would call “gibka,” which is flexible. They can adapt quickly.

Consider the case of Askarkhodjaev, an Uzbek national. Now, Mr. Andres has already told you a bit about this case, so let me just fill in a few of the details. This Uzbek citizen and his co-conspirators lived in Kansas City. According to the 90-page indictment in this first case as a RICO criminal case against a foreign labor recruiter, according to the 90-page indictment, the traffickers charged their victims between 3,000 [dollars] to \$5,000 to obtain temporary H-2B visas, employment visas to work temporarily in the United States. The victims and their families borrowed heavily to pay these enormous fees. They were told, however, by the traffickers, that if they left the exploitative labor conditions that they were held in in 14 states in the United States and if they returned home, their families would have to pay an additional \$5,000. The traffickers not only did not pay them wages, did not pay them overtime, but put them in apartment buildings, told them they had to live there, charged them astronomical rents, and when the victims actually did occasionally get a paycheck, sometimes that paycheck was for negative earnings because they owed the traffickers so much money.

Now, in that case, there was a guilty plea, which brings me to the next point, another strategy for fighting human trafficking: Grab the money.

Under U.S. law, restitution for trafficking victims is mandatory. That's 18 USC 1593, part of the TVPA. That's the law. But the reality that the advocates see in the field is quite different.

In the experience of Freedom Network members, restitution orders are rarely collected. In some cases, the seized assets go directly to government coffers. In other cases, the U.S. Attorney's Office does not enforce the restitution orders aggressively. Restitution orders must be enforced. And in the first instance, it is the federal government's responsibility to do so.

Now, why? Why does restitution matter? As we've all heard today, human trafficking is highly, highly lucrative. And seizing criminals' assets, to some extent, will deter their crime. Enforcing restitutions renders trafficking slightly less lucrative. And second, trafficking victims are owed these funds. This is money that was stolen from them. When asked several years ago how much restitution was actually ever distributed to the victims, the Department of Justice just responded that they didn't collect these statistics. The Department of Justice should track the amounts of restitution not just ordered by the courts but the actual amount of restitution that's collected. There is no higher use for organized crimes' ill-gotten gains than the restoration of the victims. So we need a scorecard: how much was ordered, how much collected.

I have a host of recommendations, but I will just highlight a few this morning.

First is increase the use of continued presence. The Trafficking Victims Protection Reauthorization Act had a section on lowering the standard slightly for continued presence. It is important to do so, so that law enforcement will use this tool to protect victims.

Again, increase the categories available for T visa derivative status to permit more family members to come in the United States.

Ensure that trafficking victims are not held in immigration detention, because some are.

Increase the attention in the State Department's Trafficking in Persons Report to the role of corruption in human trafficking. This should include trafficking by state officials, including a focus on diplomats trafficking domestic workers for forced labor to the United States and around the world.

Include fraud in foreign labor contracting as a RICO predicate act. As you've heard today, we see much fraud in foreign labor recruiting, and that is one of the main, main methods used today by traffickers.

And then finally, request a Government Accountability Office study on the collection of criminal restitution orders in human trafficking cases.

So I will leave it at that. I appreciate your concern and your focus on this issue. And I'm happy to entertain any questions.

Mr. RUBIO. Thank you. And what I want to focus today on my questions with you on is mostly the U.S. aspect of it. And here's why—not because the global one isn't—it's very important. I think in order for us to have credibility on this issue globally as policy-makers, as a government, as members of this Commission, we have

to say that we ourselves are employing the best practices. You have to hold yourself up to that standard, and you have to lead by example. And I think we should never underestimate what an example America can be.

So what I want to explore with you a little bit is when you talked about the legal immigration streams. My guess is that—and really, let's explore the forced labor aspect of it—not that the sex trafficking is not egregious and outrageous; it is, and we should focus on that as well, and it's probably coming through some of the same streams. But I think the one that—correct me if I'm wrong, but the one that probably gets less attention but is a big problem nonetheless is the forced labor one, because it can get nebulous. So my first question—walk me through a little bit of what a typical—I would imagine the majority of these people that are in forced labor actually enter legally through one of these foreign worker programs. Walk me through what that experience is like for the trafficked person. You are in a society where somehow someone reaches out to you and says: There's jobs available in the United States. This is how much they will pay. I mean, walk us through how that works and how they navigate the existing legal immigration process to bring people here.

Ms. VANDENBERG. I can give you two examples. One is here—right here in Washington, D.C. It's a case that I brought against a Tanzanian diplomat here.

Mr. RUBIO. And it's a typical—

Ms. VANDENBERG. It's typical—

Mr. RUBIO. Except for the diplomat part, is that pretty prevalent? The diplomat—

Ms. VANDENBERG. No, in Washington, D.C. and surrounds we see a large number of cases of trafficking by diplomats. So in this particular case the diplomat in Tanzania recruited a young woman to come to the United States and serve as a nanny. Got her a visa—an A-3 visa—a visa reserved for diplomats to bring over domestic workers to the United States. When she arrived in the United States, according to the complaint that we filed and according to testimony that she actually gave before the House Foreign Affairs Committee, he refused to pay her.

He took her passport away and forced her to work 17 hours a day for free. She was not allowed to leave the house. She was cut off from her family entirely. Because her visa—that A-3 visa—was completely bound to her employer, the moment she walked out the employer's door she was out of status. That is one of the things in all of these visa schemes that makes it so frightening for the victims. They understand that if they leave the trafficker they are immediately in undocumented status.

Now, the other case I want to highlight is, again, this Uzbek trafficking case. We call it the Giant Labor Solutions case. In this particular case—and again the defendant Askarkhodjaev pled guilty in this case and was sentenced to 12 years—the scheme there, according to the criminal indictment, was to find individuals already in the country with legal visas, whether they be J-1s or other—B-1, B-2—other visa status—and tell them, OK, we can get you an H-2B visa.

And then they would file false statements to the Department of Labor to try and get a certification, because in order to bring someone in on an H-2B visa, you don't necessarily need a name—you don't need the name of the immigrant. What you need are a number of slots. And you need a labor certification stating that you can't find U.S. domestic workers willing to fill those slots.

And so the indictment actually covered the failure to—first fraudulent submissions made to the Department of Labor indicating that there were companies that needed these slots, and then also the indictment covered the traffickers switching, if you will—when the individuals came in on these H-2—H-2B visas or when they received H-2B visas, they were not put in the slots. They were not put in the jobs that had been certified by the Department of Labor. They were moved all around the country and put in different billets.

So from the perspective of the victim—and I've seen this in many of the pro bono cases that we have brought on behalf of victims—from the perspective of the victim, he or she believes that he or she is coming to the United States legally. He or she will make significant amounts of money, certainly enough to pay off the labor recruiter, or to pay off all the debts that they've incurred at home and that the family has incurred at home. And they believe that they will have a normal job—that they will be able to leave during the day after work, that they will still have their passport, that they'll earn a salary.

And so the shock when they come here is that they are bound to the employer, many times the employer takes their passport. They are held in squalid conditions. I had one case where a trafficking victim was forced to sleep on a kitchen floor like a dog. And they realize that if they leave they risk being undocumented. And they risk deportation. And they are terrified, particularly in this immigration environment in the United States.

Mr. RUBIO. Most of these victims are cut off from all information? I mean, do they have access to television? Do they have any time, typically do they have any access to any news or information?

Ms. VANDENBERG. They have two things. One, if they have come in in the last few years, since the 2008 reauthorization, the Department of States consular officials now give a brochure to every single individual coming to the United States on a work visa. And that brochure is a—

Mr. RUBIO. In their native language?

Ms. VANDENBERG. They—it's not always in their native language.

Mr. RUBIO. OK.

Ms. VANDENBERG. It's been translated by the Department of State into about 11 languages. That brochure, however, which I think is the product of one of the finest public-private partnerships I've seen under the Obama administration—the Department of State cooperated with the nongovernmental organizations and together created this pamphlet. The pamphlet has the phone number on it for the national hotline and—so that National Human Trafficking Resource Center hotline is listed on the brochure. And there have been literally thousands of calls that have been prompted by people having the brochure.

Now, in my experience, with the trafficking victims that I have represented in pro bono civil suits and from the cases that we've seen with Freedom Network members, the victims may be able to watch television to some extent, although in my experience—particularly with domestic workers—the moment they sit down to watch television they're told to get up and start working. You know, go iron the curtains. I mean, there's always some work that is created for them so that they don't have the opportunity to sit down.

Their access to telephones is very limited. They're not generally allowed to call anyone. They're not generally allowed to have cell phones. And so that isolation makes it very difficult as well.

I have seen cases where trafficking victims have come to the United States and have gone into, you know, debt to their employers, who refuse to pay them and then charge them all sorts of fees. And literally, those folks have contacted their relatives in the country of origin to ask those relatives to send money to them in the United States. The entire point of migration by people who become trafficking victims is to come to the United States to earn money so that they remit it home to their families and children.

Mr. RUBIO. This hotline that you have, has there been any effort to create public service announcements on news outlets that may reach migrant communities?

Ms. VANDENBERG. There has. And Mary Ellison, who's from the Polaris Project, which actually runs the hotline, is here today. There is, I think, a provision in the current draft of the TVPRA to increase the amount of publicity for the hotline. And the hotline is now posted quite significantly around the country. So there have been a large number and a growing number of calls.

Mr. RUBIO. I get—and well, who is it that runs the hotline?

Ms. VANDENBERG. Mary Ellison. Mary—

Ms. ELLISON. Yes.

Mr. RUBIO. Hi. Just a followup that I would have is, I think one of the things we could and should explore is whether some of the national networks and local affiliates that—particularly broadcast—whether they're local stations, or broadcast, say, the Spanish networks or that broadcast to migrant communities would be willing to run public service announcements highlighting this issue. And in particular—you're right. I mean, there are certain things that are not legal. If these things are happening to you, it's not normal, it's not legal, and this is a number you can call. Obviously it leads us to the—

Ms. VANDENBERG. The Department of Homeland Security has actually created two public service announcements, that are done both in English and I think they're also available in Spanish, that they're planning to blast across the country.

Mr. RUBIO. OK.

Ms. VANDENBERG. The one thing I would say about public service announcements is that it's very important to involve the non-governmental organizations in the creation and vetting of those public service announcements. We recently sent a letter to the Department of Homeland Security with exactly that point, because the nongovernmental organizations have by far the greatest experi-

ence with victims of trafficking, and a much better sense, I think, of what will bring the message home to them.

Mr. RUBIO. Because I think you're dealing with this a lot, our existing visa programs—and obviously not to wade too far into another debate, which is politically problematic for a lot of people—but our existing visa programs, in and of itself, are bureaucratic, complicated, burdensome, difficult to navigate.

To what extent is that utilized by traffickers? To what extent they figured out how to maximize it? And to what extent would reforms to those programs be devastating? In essence, are there specific reforms to those programs that we should explore, and what are they, to help make it harder for these trafficking operations to function?

Ms. VANDENBERG. Ironically, it is the difficulty of getting into the United States—it is the difficulty of getting a U.S. visa that traffickers exploit, because you need someone to help you. People sometimes will go to individuals they think are smugglers to help smuggle them into the United States because of, again, the very fierce immigration regime that the United States has, only to learn that those smugglers aren't actually smugglers. Those smugglers are actually traffickers.

But let me give you an example of how traffickers are so incredibly nuanced and subtle in their crimes. I recently met with Paul Fishman, who's the U.S. attorney for New Jersey. And that office—the U.S. Attorney's Office in New Jersey brought a very important case out of Newark. It was a case of 20 or so young girls brought from Togo and Ghana—brought to Newark, forced to work in hair-braiding salons. They would spend 16, 17 hours a day braiding hair. They got to keep none of the money that they earned. They were abused, again, held in conditions of squalor by the traffickers.

In that case, the question is, how did those young girls get here from Togo? How did they get here from Africa? The trafficker, who was actually a very well-respected businesswoman, realized that people who had won the green card lottery in Africa couldn't necessarily come to the United States because even once you win the lottery it costs quite a lot of money to facilitate all of the paperwork that you have to do.

So she, a very experienced businesswoman, said I will pay all those fees. I will help you with all the paperwork. All you have to do is bring in this young girl as your daughter. And so she paid off a number of individuals to bring in these children. The children were then turned over to the traffickers in the United States—part of the same network. And in this case, again, it was a family network—a wife, a husband and her son—who ran the entire network, which over time earned about \$4 million in proceeds.

And when those children arrived in the United States they were handed over to the network, and they were put in these hair-braiding salons.

Mr. RUBIO. Basically, the complexity and expense associated with it creates an environment conducive for middlemen. And oftentimes, the middlemen are traffickers who help you because they can front the money and help you navigate the complicated process, but once you're here you're at their mercy.

Ms. VANDENBERG. That's exactly right. And once you're here you may owe them money. And once you're here you are—you are constantly under the threat of deportation. Yeah.

Mr. RUBIO. You talked about how the CP process is not being used as often. Is there any reason that you've been told why that's the case? Or do we know why—I'm sure there's an explanation. I don't know what it is, but—

Ms. VANDENBERG. Yeah, we have racked our brains on this one. And the NGOs have asked precisely this question, because as a representative, as an advocate and an attorney for trafficking survivors, whenever I go to the Department of Justice and my client submits to an interview with the FBI or ICE or the Department of Justice, we always ask for continued presence. It's always sort of one of the very first things on our agenda, so that the client is safe and can continue to cooperate.

My feeling is that the problem is threefold. One, the standard is too high. Right now the law enforcement authorities have to certify that someone is a victim of a severe form of trafficking. After one interview with the victim, it is very hard for a law enforcement officer to sign a declaration saying this person is a victim of human trafficking. And they're afraid to do so.

The second is I think that law enforcement personnel still need more training. I think they are still convinced, many of them, that trafficking requires snarling dogs, barbed wire, being chained to a radiator and high levels of physical violence. And what we saw, and what we see now with human trafficking is that that level of violence is unnecessary.

Indeed, the entire creation of the forced labor statute in the 2000 TVPA, if you go back and look at the legislative history—the entire purpose for passing that statute was to, in a sense, go past *Kosminski*, the lead Supreme Court case on involuntary servitude, and to show that a far lesser degree—far more subtle forms of coercion, far more subtle threats, threats against third parties—that all of those things are enough. The problem, I think, is that law enforcement is still looking for rapes, sexual assaults, and snarling dogs. And those things are not always present. I think the third problem is there's a conflation of two different standards. There's the standard for CP, and the standard for CP should be available even after just one interview with the victim—

Hello.

Mr. COHEN. Steve Cohen of Memphis.

Ms. VANDENBERG. Hi, Commissioner Cohen. Welcome. Thank you.

But the second standard is for T visas. When you file for a T visa, if you are lucky—and it doesn't happen very often—if you are lucky, you get what's called a Sup B—an I-914 Sup B, which is a certification by law enforcement that this is indeed a trafficking case. And I fear that law enforcement has confused these two standards. The standard for CP is much lower. It should be just that we have an investigation going on. The standard for a T visa is, this is a human trafficking case, and I certify that it is a crime. I fear that those are getting muddled.

Mr. RUBIO. And my last question is, the trafficking cases like the one you outline from Ghana and other places—they have to have

markers. There has to be certain markers to a typical case that raise a red flag. I would imagine two things; you correct me if I'm wrong. Number one is, there are certain markers that you would see in a trafficking case that you wouldn't see in another clear-cut case, right? If someone's coming in to work at an elementary initial level, an ability to differentiate between those that clearly look legitimate and those that have some markers to it.

And the other is, there's got to be some best practices. There's got to be organizations out there that we know are not traffickers and are involved in the process of recruiting foreign workers, and—as opposed to those we've never heard of before or are new to the marketplace or et cetera.

So for lack of a better term, we know what the routes are. We know where the places are that people are coming through. We know what some of the markers are. Isn't there something to be said again, for lack of a better term, profiling some of these cases, flagging them, understanding cases that bring three or four elements that, at a minimum, require an additional level of scrutiny? You talked about the diplomat case, for example. I imagine there are legitimate diplomats that are bringing people in and are really working and doing OK, and then there are others that maybe we had bad experiences with.

Is there a role for that in the initial process, in the initial visa process of trying to—I don't know if the word is profile, but certainly identify cases that raise certain red flags and maybe, at the front end, would provide more scrutiny and follow-up? And I know a lot of that is a matter of resources.

Ms. VANDENBERG. So let me start with the diplomats. There are diplomats who are what I would call repeat offenders. These are diplomats who bring in domestic worker after domestic worker after domestic worker. And what happened to all of the other domestic workers before who ran away or who went home without warning is a mystery. So I think that the State Department should definitely be looking for what I would call serial domestic worker visas.

Mr. RUBIO. How do we find who they are? How do I get the name of those people?

Ms. VANDENBERG. Oh. Call me.

Mr. RUBIO. OK.

Ms. VANDENBERG. But I think the State Department legal office actually, I think, has a sense. And because of the changes that you made in the 2008 TVPRA, that reauthorization, they are now required to track these things. And they are supposed to—at least to put red flags in the system so that individuals who are accused of exploitation on numerous occasions cannot get more visas, which is a good sign.

In terms of the red flag and what we need to watch, I think you really put your finger on it when you said our immigration scheme is complex and difficult, and you need a middleman. We need to be looking at the middlemen. We really need to be focusing on labor recruiters. And one of the things that has recently happened—and a representative from the Department of Labor who appeared before this Commission in the May forced labor hearing talked about this a little bit—there are now regulations on the H-2A visas that

indicate that you cannot, as a foreign labor recruiter, demand fees from the actual employees that you're bringing to the United States. Senator Cardin at that hearing asked a very important question, which is, how do you enforce that? How are you enforcing that?

And so the nongovernmental organizations and the Freedom Network advocates and others put forward a proposal for enhanced regulation of foreign labor recruiters. Again, the nongovernmental organizations also put forward a proposal to make fraud and foreign labor recruiting a RICO predicate act so that criminal cases can be brought in these cases.

It is highly troubling that there are labor recruiting agencies who are able to bring over not just hundreds, but thousands of individuals who then find themselves in situations of exploitation in the United States. And let's be fair: Not all of those situations of exploitation rise to the level of human trafficking, which is a high bar, but labor exploitation in the United States is rife.

What I can say is that what I see, even with my clients, even with the victims of human trafficking I've represented pro bono, even with those individuals after they get T visas and everything in the United States is supposed to be terrific, I have seen, time and time again, those victims end up with exploitative employers who do not pay the minimum wage, who do not pay them overtime when they work overtime. And that level of labor exploitation that occurs in the grey economy, even for people with legal visa status, is very, very problematic.

So the NGOs, the nongovernmental organizations have called for greater involvement by the Department of Labor and greater enforcement of labor exploitation laws generally because that will change the playing field. If labor exploitation is focused upon, then trafficking will be also more difficult to commit, or at least noticed more frequently.

HON. STEVE COHEN, COMMISSIONER, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

Mr. COHEN. Thank you. I appreciate the work you do, and you do most of it pro bono, and you're to be commended and thanked by this Commission and by our government. But let me ask you about the labor exploitation. In what fields is that mostly taking place in?

Ms. VANDENBERG. It's a wide variety of fields. And if you look at the cases that the Department of Justice has prosecuted and should get tremendous credit for prosecuting, they run the gamut from, as I mentioned, hair-braiding salons in Newark, New Jersey, to nail salons all up and down the Eastern Seaboard, to agricultural labor in Florida, harvesting of beans; hotel work, hospitality work. There was one particularly egregious in South Dakota that was prosecuted by the Department of Justice where a husband-and-wife team brought in a group of workers from the Philippines, some of them with master's degrees in hospitality, and told them that they would be sort of running a hotel, and when they arrived, they were basically forced to work around the clock, many of them doing housekeeping services in the hotel rooms. So it really runs the gamut.

Most of the people that I represent in civil cases, including a RICO civil case that we brought in the Eastern District of Wisconsin against what we called a family criminal enterprise, most of the people I've represented are domestic workers.

Mr. COHEN. Is there any particular corporation that we might know about that has some dirty little secret that uses labor exploitation that you would like to reveal at this time?

Ms. VANDENBERG. I'm going to take the UNODC approach to this and not name any names. But I would say that the organizations that are doing labor recruiting, and they are certainly known to the Department of State and to the Department of Homeland Security, those organizations need to be monitored to make sure that the visa applications and the Department of Labor certifications that they are submitting are accurate and not fraudulent.

I will say that there are number of companies that are now facing civil lawsuits. The Southern Poverty Law Center has brought a lawsuit on behalf—it's actually, I think, now been certified as a class action—brought on behalf of workers brought into the United States from India, including high-skilled workers like welders and other skilled builders in the wake of Hurricane Katrina. And so the Southern Poverty Law Center is now pursuing a lawsuit that's been written up in The New York Times on a number of occasions for allegations of trafficking those workers to work in Mississippi and the Gulf states.

Mr. COHEN. When people hear about human trafficking, I think they normally think of sexual exploitation and bringing in from Eastern Europe or wherever. What percentage of the problem is indeed in that capacity, as distinguished from ordinary labor?

Ms. VANDENBERG. You know, it's a very difficult question to answer, and the statistics on this are very problematic. But I would say that the best statistics on this are the International Labor Organization's statistics. And the International Labor Organization has said that there are approximately 12.3 million people around the world who are held in forced labor. Now, the ILO's understanding of that is that of that, some subset, 2.4 million, are held in conditions that they would consider trafficking.

Now, when the International Labor Organization sort of breaks that down in terms of forced labor as opposed to forced prostitution as opposed to sexual exploitation of children, I think the numbers get a little bit murkier there. And part of the reason is because in many of the forced labor cases that we have seen with the Freedom Network members, particularly forced labor cases involving children, it is not just forced labor; many of the children are also sexually violated. So many of the children are raped and sexually abused when they're in situations of forced labor.

So it's a difficult question to answer, but I think Congressman Smith has said in the past, as have many others, that forced labor is actually the majority of trafficking that we see around the world, number one. Number two, it is what I always call the caboos of the human trafficking train, because it's the most forgotten, the most ignored, the least discussed. And third, it is the least prosecuted. I mentioned some statistics, then: You know, of the 2,803 prosecutions in Europe, 47 of them were for forced labor.

And so there is this danger, I think, in law enforcement, to go after the easy stuff. The easy stuff, in a sense, is forced prostitution and street prostitution. It's very easy to go after those cases. It's fairly obvious. It's our traditional view of forced—of—it's our traditional view of trafficking. As you say, it's the kind of trafficking that we read about in the newspaper. Forced labor is harder to find. It takes far more effort to find forced labor. And unfortunately, that kind of effort is not being expanded.

Mr. COHEN. I did not have the opportunity to hear your opening statement, which I wish I could have, and I don't think it's in our books. So you may have answered this already, but are there recommendations that you have for laws that need to be tweaked in our country?

Ms. VANDENBERG. I included in my remarks 12 recommendations, so a host of—

Mr. COHEN. Oh, OK. Keep me busy.

Ms. VANDENBERG. —a host of recommendations. They're not all legislative.

What I would say is, the Freedom Network members have been making the rounds in meeting with many, many members, both of the House and the Senate, including Senator Rubio's staff, to talk about the Trafficking Victims Protection Reauthorization that is up this year. And the members of the nongovernmental organization communities really feel that this reauthorization is enormously important.

So the current legislative ball that we have our eye on is the TVPRA and the importance of passing the TVPRA, which has some elements that we asked for and some elements that we did not—that we requested and did not get. So, for example, the CP changes to protect victims, those are in the House version; they're not in the Senate version. The foreign labor recruiting provisions that had been requested were in the House bill but now have been stripped out. The Senate bill includes a request for a GAO study to look at foreign labor recruiting. So at a minimum, I think the GAO study should go forward. But I think the NGO community feels very, very strongly that the TVPRA is sort of the most important piece of legislation that could pass in the near future.

Mr. COHEN. Thank you very much for your time and for your work, and I appreciate it. And Senator Rubio, thank you for your time. I yield back.

Mr. RUBIO. Thank you for your testimony. Thank you all for being here. And the Commission is adjourned.

[Whereupon, at 11:30 a.m., the hearing was adjourned.]

APPENDICES

PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN, COMMISSION ON SECURITY AND COOPERATION IN EUROPE

I'd like to welcome everybody today to the Helsinki Commission hearing on human trafficking and transnational organized crime. This hearing is part of the Commissions long standing efforts at examining this modern day scourge in all its facets. I'd like to thank my esteemed colleagues here with me at this hearing, especially Senator Rubio as a new Commissioner in his first Commission hearing.

In 1998, I first introduced the Trafficking Victims Protection Act. One year later, as Chair of this Commission I held its first hearing on human trafficking. Today, I am proud to say that it has been 11 years since the original TVPA was passed—the most comprehensive and significant piece of anti-trafficking legislation the United States has. Soon, both the House and Senate will be debating its fourth reauthorization since it originally passed back in 2000 and each time I have worked to strengthen its protection for victims and punishment for traffickers.

Our efforts are often informed by the combined work of governments, international organizations and civil society, all of which are represented at this hearing, in combating modern-day slavery. Through their outstanding work we have made it a point to continually draw attention to this issue, and we will not stop until slavery becomes a thing of the past.

Unfortunately, human trafficking and organized crime have co-existed for centuries. But whereas the slave in the 1800's would have to be traded under perilous conditions for the modern day equivalent of thousands of dollars, today with just the click of a button you can purchase somebody's life for just a couple of hundred, maybe less.

Modern technology and a collapsing world economy have doubled the amount of people in bondage throughout the world as were taken from Africa 350 years ago. As scores of people search for a beacon of hope in developed societies, organized criminals from the "under and upper" world stand by to seize the moment, enslave the weak and turn a profit. This multi-billion dollar industry presents a threat to human security at all levels.

Not only do countless men, women and children suffer at the hands of traffickers, but the enormous amount of profits made in this industry serve to corrupt officials at all levels. Former and current members of the security sector, including law enforcement and the military can be found in key roles in many trafficking rings. From corrupt police, to dishonest prosecutors, judges, and politicians, efforts are made to undermine the fight to end modern day slavery worldwide.

Even as we've looked to discourage traffickers by adding provisions to our laws that promote long jail sentences, asset confiscation and sanctions to governments who fail to meet the minimum standards, the sheer profit gained by the exploitation of human beings now rivals that of the drug trade.

Whereas drug traffickers must engage in extreme violence by murdering informants and engaging in war with criminal rivals to remain in control of their networks, human traffickers need only threaten their victims or their families with violent reprisals to remain in control of their slaves.

Whereas drug traffickers have a commodity that can only be sold once, a human trafficker can purchase a slave and continually exploit them until he's made his money back. And after that it's all profit.

With such high profits to be made and relative low risk, it is no wonder why more and more organized criminal groups are engaging in human trafficking.

The growing ingenuity of organized criminal groups; a borderless world for crime; and the use of modern technologies, have made it increasingly difficult for law enforcement to gather data on the extent that transnationally organized criminals are involved in human trafficking.

But we know enough to know that something has to be done before it's too late. We hope that our distinguished panel of experts can shed some light on this problem.

Today we are joined by a panel of experts on transnational organized crime and human trafficking. Their combined expertise should paint us a clearer picture of organized crime's involvement in human trafficking and what we can do to help stop it. With us is Mr. Greg Andres the current Deputy Assistant Attorney General in the Crime Division where he supervises the Organized Crime Section at the Department of Justice. Mr. Andres comes to us with over a decade of experience working on organized crime issues.

We are also joined by Mr. Piero Bonadeo, Deputy Representative for the United Nations Office on Drugs and Crime in New York. Mr. Bonadeo's testimony will bring the UNODC's years of expertise in combating Transnational Organized Crime. Finally we have, Ms. Martina Vandenberg. Ms. Vandenberg is a seasoned attorney with years of experience combating trafficking in persons, as well as human rights reporting in Bosnia and Herzegovina, the Russian Federation, Uzbekistan and Kosovo. All of which are countries of great interest to our Helsinki Commission.

We look forward to your testimonies.

PREPARED STATEMENT OF HON. BENJAMIN L. CARDIN, CO-CHAIRMAN, COMMISSION
ON SECURITY AND COOPERATION IN EUROPE

I would like to extend my thanks to the distinguished panel of experts present today at this hearing. There is no timelier topic than trafficking in persons, as Congress will soon debate the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2011 (TVPRA).

The Helsinki Commission has been devoted to the fight against trafficking in human beings in the United States and internationally for more than 20 years. Now more than ever, as the world struggles through economic turmoil and traffickers take advantage of the impoverished and vulnerable, we must remain committed to this fight. In my capacity as Chairman and now Co-Chairman of the Helsinki Commission I contributed to the 2008 TVPRA. Additionally, I convened several hearings to galvanize U.S. government contributions to the Organization for Security and Co-operation in Europe (OSCE) in its efforts to combat this trend. The OSCE remains a leader among multilateral organizations in facilitating international coordination to end trafficking and we must better utilize its unique competencies.

Today, millions of people want to escape their impoverished situation in search for a better life for themselves and their families. Unfortunately, traffickers know this and exploit their vulnerabilities. It's a sad reality when human life has been transformed into a marketable commodity to which unscrupulous criminals have turned to and yet receive lesser sentences than those who traffic drugs. This fact is most evident when you look at prisons throughout the world filled with drug traffickers in contrast to the few and declining number in international convictions for human trafficking, making trafficking in human beings a high-profit low-risk crime.

Even as we build momentum and awareness to combat trafficking in persons, criminals have not slowed down their operations. They are finding new ways to avoid law enforcement, adapting their operations to the effects of globalization and exploiting modern technology to broaden the scope of their illicit enterprises. Without a doubt, the new age slave trade is a transnational crime that bears resemblance to its tumultuous history, yet finds new sophisticated ways to maintain its grip besides our most guided efforts.

Whether it's major international and highly structured criminal organizations like the Russian or Albanian Crime Syndicates or loosely connected networks of specialized criminal entrepreneurs, trafficking in human beings is mostly the business of organized crime. The diversity in actors engaged in human trafficking demonstrates the complexity and danger of this heinous crime. It also demonstrates how many vile people out there are willing to enslave others for personal profit.

Trafficking networks often run alongside other forms of organized crimes like migrant and drug smuggling, money laundering, fraud and corruption. Porous borders, corrupt officials and high unemployment rates are among the many factors that fuel this grievous crime.

Our own backyards have been polluted by this scourge, as organized criminal gangs are engaging in prostitution rings using the internet to recruit and exploit women and children into a life of sexual slavery. High profile cases of labor trafficking have also demonstrated how complex this crime can really be. Labor trafficking rings have brought hundreds of legal migrants into our country under what seem like legitimate businesses. These criminal truly operate transnationally in such an organized matter, that they enslave their employees in front of our very eyes and we do not see it.

Last month, the OSCE Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings organized an expert seminar on leveraging anti-money laundering regimes to combat human trafficking. At this event experts and scholars alike, including some from United Nations Office of Drugs and Crime (UNODC), came together to ponder the emerging challenges of this transnational crime. Innovative efforts like this to increase our comprehensive response to trafficking and identification capacity are vital.

The U.S. Government as well as the many multilateral organizations like the OSCE and the United Nations recognizes trafficking for sexual and labor exploitation as a threat to security and peace keeping efforts. The United Nations Convention against Transnational Crime and its Protocols and the recently released White House Strategy to Combat Transnational Organized Crime have both recognized this fact. It is essential that we enhance our political commitments in these venues to match the evolving trends of exploitation and counter the increasing sophistication of organized trafficking networks.

I thank our accomplished witnesses for joining us today to help us formulate more effective strategies to address these new challenges. I look forward to their contributions.

PREPARED STATEMENT OF HON. MARCO RUBIO, COMMISSIONER, COMMISSION ON
SECURITY AND COOPERATION IN EUROPE

The Helsinki Commission has chosen to hold a hearing entitled "Human Trafficking and Transnational Organized Crime," to address the growing problem of human trafficking as part of organized crime in the United States and abroad.

The United States is plagued by the issue of human trafficking with an estimated 17,000 new victims each year and with a global estimate of 700,000–800,000 new victims. My home state of Florida is one of the top destinations in the United States for victims to be trafficked. While this modern slavery comes in many shapes and sizes, there has been an emergence of transnational organized crime groups engaging in this horrendous trade.

Groups which have traditionally specialized in the drugs trafficking, arms trafficking, money laundering and fraud have expanded their operations to include slavery due to the lucrative nature of this industry. Human trafficking is estimated to create \$32 billion profits annually, making it the second largest crime industry. Transnational organized crime groups recognize that unlike drugs or arms, human beings can be exploited, over and over again which results in larger profits.

Since the original Trafficking Victims Protection Authorization of 2000, the United States has been the global leader in combatting this modern day slavery. Each year the State Department releases their Trafficking in Persons Report that ranks countries all over the world by their efforts to fight trafficking in all forms. The report forces countries to take the battle against modern day slavery seriously and brings this crime to the international spotlight. I have joined 28 of my colleagues in cosponsoring the current human trafficking legislation, § 1301 The Trafficking Victims Protection Reauthorization.

While key to the government's efforts to fight modern day slavery is the structure provided by § 1301, the fight against transnational organized crime groups who engage in human trafficking is not an easy one. There is no typical transnational organized group. Groups vary in size from complicated networks to loosely tied cells. Some of these groups may engage in numerous illicit activities while others specialize in human trafficking. This variety makes the battle to combat this issue even tougher.

We face numerous challenges when combatting transnational organized crime including the lack of comprehensive law enforcement, poor international cooperation, lack of data, and lack of awareness on the subject matter. In particular, the crime of human trafficking is often difficult to prove and even harder to prosecute. Law enforcement officials must have special training to pursue these cases correctly. Today, the Helsinki Commission addresses the issues faced by the international community with fighting transnational organized crime groups who engage in human trafficking. The United States and other Operations and Security and Cooperation in Europe countries need to continue to be vigilant against in the fight against human trafficking and transnational organized crime.

PREPARED STATEMENT OF GREG D. ANDRES, DEPUTY ASSISTANT ATTORNEY GENERAL
FOR THE CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE

INTRODUCTION

Mr. Chairman, Mr. Co-Chairman, and distinguished Members of the Committee: Thank you for inviting me to speak with you this morning about the threat posed by human trafficking and transnational organized crime, the efforts of the Department of Justice to address the threat, and steps Congress can take that will assist in these efforts. I am honored to appear before you on behalf of the Department of Justice.

The fight against transnational organized crime is one of the highest enforcement priorities of the Department of Justice and the Administration. Together with the United States Attorneys' Offices and our many law enforcement partners, the Criminal Division investigates and prosecutes cases involving transnational organized crime all over the country, indeed, all over the world.

Transnational organized crime refers to self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, or commercial gains, wholly or in part by illegal means. These organizations promote and protect their activities through a pattern of violence and corruption, including by insinuating themselves into the political process and becoming alternate providers of governance, security, and livelihoods to win popular support. In the process, transnational organized criminals are often assisted by willing facilitators, including lawyers, bankers, and business owners, who exploit their professional legitimacy to perpetuate and disguise illegal activity and profits.

The convergence of threats posed by these groups is significant and growing. In July of this year, the Administration released its Strategy to Combat Transnational Organized Crime ("TOC Strategy"), which enumerated the threats posed by transnational organized crime to United States national security, including the following:

1. *Penetration of State Institutions.* Transnational organized crime's penetration of governments is subverting the rule of law, democratic institutions, and transparent business practices. The growing reach of transnational organized criminal networks is pushing them to seek strategic alliances with state leaders and foreign intelligence services, threatening stability and undermining free markets.
2. *Threat to the U.S. and World Economy.* Transnational organized crime is increasing its subversion of legitimate financial and commercial markets, threatening U.S. economic interests and raising the risk of significant damage to the world financial system.
3. *Growing Cybercrime Threat.* Transnational organized criminal networks are becoming increasingly involved in cybercrime, which costs consumers billions of dollars annually, creates risks to sensitive corporate and government computer networks, and undermines worldwide confidence in the international financial system.
4. *Threatening Crime-Terror Nexus.* Terrorists and insurgents are increasingly turning to crime to generate funding and acquire logistical support.
5. *Expansion of Drug Trafficking.* Despite demonstrable counterdrug successes in recent years, illicit drugs remain a serious threat to the health, safety, security, and financial well-being of U.S. citizens.

The TOC Strategy also identified Trafficking in Persons as a threat posed by transnational organized crime to the United States, noting that human traffickers target the trafficked person as an object of criminal exploitation, often for labor or sexual exploitation purposes, and that trafficking victims are frequently physically and psychologically abused. The Strategy noted that human trafficking can take place within as well as between countries.

At the announcement of the TOC Strategy, Attorney General Eric Holder noted:

Today's criminal organizations are increasingly sophisticated. They know no borders. They threaten the stability of our financial system and the promise of a competitive marketplace. And their operations are putting far too many American businesses, government institutions, consumers, and citizens at risk.

The TOC Strategy sets forth a whole-of-government response to these threats. It outlines several strategic objectives at the heart of the Administration's efforts to address this threat:

- the protection of Americans from the harm, violence, and exploitation of transnational criminal networks;

- breaking the economic power of transnational criminal networks and protecting strategic markets and the U.S. financial system from penetration and abuse by transnational criminal organizations; and
- defeating transnational criminal networks that pose the greatest threat to national security by targeting their infrastructures, depriving them of their enabling means, and preventing the criminal facilitation of terrorist activities.

The Department of Justice is committed to the fight against transnational organized crime and we have enjoyed certain successes to date. Serious challenges remain and additional tools are needed. As part of the TOC Strategy, the Administration has proposed a number of important legislative improvements, which the Department believes could assist us in meeting these challenges and addressing the identified threats.

II. CURRENT SUCCESSES IN TRANSNATIONAL ORGANIZED CRIME

The Department has made great strides in attacking transnational organized crime groups, particularly those with some physical presence or foothold in the United States. We have prosecuted groups involved in narcotics and narco-terrorism, kidnapping and extortion, and health care and other identity fraud crimes alike. Below are several key examples:

- **Joint Colombian-United States Drug Trafficking Investigation:** On September 2, 2011, the U.S. Attorney's Office for the Southern District of Florida announced that 34 individuals were charged in five separate indictments in an operation that targeted a Drug Trafficking Organization based in Bogota, Colombia that utilized U.S. registered aircraft to transport thousands of kilograms of cocaine from South America, to clandestine airstrips in Central America and the Caribbean region. The drug trafficking organization purchased U.S. registered aircraft using nominees, who in turn submitted false documentation to the Federal Aviation Administration to hide the identities of the South American drug traffickers who were purchasing the planes. The Colombian-based organization, which arranged for the aircraft to depart from South America, had ties to drug trafficking organizations in Mexico. During the course of the investigation, law enforcement seized 1300 kilograms of cocaine, \$1.6 million in U.S. currency, and eight U.S. registered aircraft. The case is being prosecuted by a special unit within the Southern District of Florida that was established in February 2011, to prosecute the violent *Bandas Criminales* drug trafficking groups in Colombia.
- **Armenian Health Care Fraud:** In October 2010, the Department announced charges against 73 members and associates of an Armenian-American organized crime group, with ties abroad, in five states (California, Georgia, New Mexico, New York and Ohio) for various health care fraud-related crimes involving more than \$163 million in fraudulent billing. The defendants were charged with engaging in numerous frauds, including sophisticated schemes to defraud Medicare and insurance companies by submitting fraudulent bills for medically unnecessary treatments or treatments that were never performed. As part of this prosecution, the defendant Armen Kazarian became the first "Vor" or "Thief-in-Law," convicted of racketeering in the United States.
- **International Computer Hacking:** In November 2009, charges were filed based on a successful FBI investigation into a sophisticated international computer hacking ring involving defendants from Estonia, Russia, and Moldova. Various defendants were charged in the Northern District of Georgia with hacking into a computer network operated by a credit card processing company and using sophisticated techniques to compromise the data encryption used to protect customer data on payroll debit cards. Ultimately, counterfeit devices were employed to withdraw over \$9 million from more than 2,100 ATMs in at least 280 cities worldwide, including cities in the United States, Russia, Ukraine, Estonia, Italy, Hong Kong, Japan, and Canada. Remarkably, this loss occurred within a span of less than 12 hours. Through this investigation, the FBI uncovered a previously undetected hacking technique that compromised the bank's encryption system. This information was disseminated throughout the banking sector to prevent further losses. Five Estonian defendants have been arrested and charged in Estonia. One of those defendants was extradited to the United States. Additionally, one defendant in the United States and two defendants residing in Hong Kong were arrested for their involvement in this criminal enterprise.
- **Armenian Power Takedown:** In February 2011, federal prosecutors from the United States Attorney's Office for the Central District of California, the Southern District of Florida and the Criminal Division announced charges against more than 100 members and associates of Eurasian organized crime groups, in

six indictments, in four cities. The arrests included more than 80 defendants from the Armenian Power group, who were charged with a wide variety of violent and fraud-related crimes. The alleged crimes included kidnapping, extortion, assault, witness intimidation, bank fraud, credit card fraud and drug distribution. AP's membership consists primarily of individuals whose heritage goes back to Armenia and other Eastern Bloc countries. AP is an international organized crime group that started as a street gang in East Hollywood, California in the 1980s.

- **Operation Whirling Dervish:** In July 2011, the Department announced charges resulting from a DEA narco-terrorism undercover operation, charging three defendants with conspiring to provide various forms of support to Hizballah, the PKK, and Pejak. Two defendants were arrested in Bucharest, Romania, where they were detained pending extradition to the United States; the third was arrested in the Republic of the Maldives. This investigation was supported by Romanian authorities who identified Kurdish PKK members that were selling heroin to support their terrorist organization. It also identified Iranian Pejak elements that were utilizing the drug trade to finance operations and Hizballah elements that were attempting to purchase military-grade weaponry. This investigation is continuing.
- **Eastern European Money Laundering:** In June 2011, a joint prosecution between the Criminal Division's Computer Crime and Intellectual Property Section and the U.S. Attorney's Offices in Chicago and Washington, D.C., resulted in a Romanian man being sentenced to 48 months imprisonment in the United States for his role in an international money-laundering scheme involving the creation of fraudulent online auctions. In a similar case handled by the Criminal Division's Organized Crime and Gang Section, a Bulgarian man was sentenced this September to 64 months imprisonment for his role in an auction scheme, which appears to have been orchestrated by a transnational criminal group based in Eastern Europe. Another individual, a Romanian citizen, was sentenced to 24 months imprisonment for his role in the same conspiracy, also in September 2011. According to court documents, in less than one year, the scheme netted more than \$1.4 million for U.S. victims.
- **Joint U.S.-Italian Mob Takedown:** In March 2010 prosecutors in Sicily and the U.S. Attorney's Offices for the Eastern District of New York and the Southern District of Florida arrested over twenty individuals on charges of obstruction of justice, extortion, concealment of assets, money laundering, drug trafficking, attempted homicide and other crimes arising from their affiliation with Santa Maria di Gesu, a Sicilian mafia family. The U.S. defendants subsequently pled guilty, with one defendant receiving a sentence of 48 months and another receiving a sentence of 36 months.

The Department has also achieved successes in the fight against human trafficking using the racketeering laws, as shown by these examples:

- **Ukrainian Human Trafficking Ring:** In October 2011, the Department secured convictions against two brothers for a racketeering conspiracy in connection with a human trafficking scheme that exploited young Ukrainian migrants. The defendants smuggled the victims into the U.S. through Mexico. The brothers confiscated their immigration documents and forced them through threats, assaults, sexual abuse, and debt bondage to work on cleaning crews in homes, stores, and offices without pay.
- **Transnational Human Trafficking Enterprise:** In May 2011 an Uzbek national was sentenced to 12 years in prison for racketeering conspiracy involving the recruitment and exploitation of dozens of workers from Jamaica, the Dominican Republic, the Philippines and elsewhere, many of whom were recruited with false promises concerning the terms, conditions and nature of their employment and then compelled through threats of deportation and financial penalties to work in hospitality jobs in at least 14 states. Eight other defendants, including Uzbek, Moldovan, and U.S. national, were convicted in connection with the scheme.

As is clear from many of the examples cited above, a key component of our transnational organized crime strategy has been forging successful and strategic partnerships with foreign law enforcement authorities. The example of Romania is instructive. A significant number of so-called "phishing" attacks targeting United States citizens originate in Romania and we have worked closely with authorities there to identify and prosecute those involved.² As an important first step, several law enforcement agencies, including the Federal Bureau of Investigation, the United States Secret Service and the Drug Enforcement Administration, have employees stationed in Romania, who work side by side with Romanian law enforcement in an

effort to target cyber-criminals and other organized crime. The results have been significant. Earlier this year, joint United States-Romanian investigations resulted in the arrest of over 100 organized crime related cyber-criminals in our two countries. Those arrests involved various schemes involving the fake sales of merchandise, including cars and boats, over the Internet to thousands of victims in the United States and elsewhere.

Another important innovation critical to our efforts has been the development of the International Organized Crime Intelligence and Operations Center, or IOC-2, here in the Department of Justice. Building on our successful counter-narcotics work, IOC-2 brings together nine federal law enforcement agencies in a powerful center to share data and intelligence, both domestically and internationally, on organized crime investigations. IOC-2 greatly expands our abilities to spot patterns and coordinate investigations against transnational organized crime networks. IOC-2 also aids our attempts to identify forfeitable assets associated with international criminal activities and promote seizure and forfeiture judgments.

III. CHALLENGES TO GREATER SUCCESS

Our work on transnational organized crime enforcement is far from over. While the threat is clear, the obstacles to successfully investigating, prosecuting and dismantling these networks are numerous. Transnational organized crime groups and the offenses they commit present significant challenges. As a point of comparison, it has been well documented that domestic organized crime syndicates employ tactics that create many roadblocks for law enforcement: layers of secrecy, corruption of officials, and fear and intimidation that silence witnesses. Despite these challenges, over the years, Congress and the Department of Justice have developed methods of attacking domestic organized crime to the point where our record of achievements is one of the federal government's great success stories. Transnational organized crime poses an additional dimension of challenges: while the effects are felt here in the United States, the perpetrators, witnesses and evidence reside abroad, often in jurisdictions unable or unwilling to cooperate with our investigative efforts.

Take a few simple examples. Organized cyber criminals direct cyber intrusions from abroad that target United States citizens and steal their identities for the purpose of raiding bank accounts or placing fraudulent credit card purchases. Other organized criminals commit crimes abroad and launder and maintain funds in the United States, without ever traveling to our shores, and sometimes through the use of U.S. shell corporations.

In each instance, the investigation and prosecutions of these organizations and crimes pose significant challenges. At a minimum, pursuing an investigation abroad is often time consuming and delays can be significant and undermine an investigation. Tracking down criminals abroad often requires the cooperation of foreign law enforcement agencies and even if we locate our targets, many of the investigative tools for gathering evidence are not available to us in an international context. In some countries, we cannot employ Title III wiretaps against the perpetrators, nor can we, in many cases, send an undercover agent to gather incriminating statements. The country's law enforcement agencies may not have the level of training or the necessary technology to implement the investigative steps, even if they are authorized.

Arresting lower level members of the organization and persuading them to cooperate against higher level bosses is also extremely difficult and may require the approval and cooperation of foreign authorities, as well as navigating various domestic immigration and other laws. Other countries have domestic laws which ban the extradition of their own citizens to foreign countries for prosecution. In such instances, the only option may be for the foreign government to prosecute the target under their domestic laws, and convictions often result in lenient sentences. Still other targeted organized crime groups may have so penetrated the country's law enforcement entities or political leadership that the country will refuse to answer our request for assistance.

These concerns are not hypothetical. The prosecution, or the attempted prosecution, of Semion Mogilevich makes this clear. Mogilevich is a powerful Russian organized crime figure and the head of an international criminal enterprise engaged in activities designed to penetrate and corrupt strategic sectors world-wide. He and his co-conspirators were indicted by the U.S. Attorney's Office for the Eastern District of Pennsylvania in 2003 on racketeering, securities fraud and money laundering charges, yet remain at liberty. At the heart of the charged crimes was a sophisticated multi-million dollar scheme responsible for defrauding thousands of investors in the United States, Canada and abroad in the stock of a public company that was headquartered in the United States. The indictment alleges that, while residing in

Eastern Europe, Mogilevich funded and controlled a criminal enterprise, comprised of individuals and companies in over twenty countries throughout the world, including corrupt accountants and auditors, and numerous United States shell companies which were used to conceal their involvement and to launder proceeds from the scheme. Despite committing crimes here, Mogilevich remains outside our reach and is believed to currently be residing in Moscow, Russia. He is currently on the FBI's Ten Most Wanted Fugitives List.

The ability of transnational criminal organizations to generate vast sums of money is both their strength and a weakness. Criminal organizations are businesses, and like any business profit is their primary motivation. The wealth generated by today's drug cartels and other international criminal networks enable some of the worst criminal elements to operate with impunity while wreaking havoc on individuals and institutions around the world. Generating proceeds often is only the first step -criminals then launder their proceeds, often using our financial system to move or hide their assets and often with the help of third parties located in the United States. Indeed, international criminal organizations increasingly rely on these third parties and on the use of domestic shell corporations to mask crimes and launder proceeds under the guise of a seemingly legitimate corporate structure. We can use our asset forfeiture laws to take the assets away from the criminal organizations and dismantle their financial infrastructures but, as discussed below, the existing law needs to be modernized.

When we turn our attention to the specific problem of human trafficking, we see these same challenges. Many of our human trafficking cases involve loosely affiliated networks of individuals engaged in the exploitation of human trafficking victims. These criminals tend to utilize smuggling pipelines and money laundering conduits operated by other criminal groups and whose services the traffickers procure for their own purposes. On occasion the human traffickers themselves belong to a larger organized crime group, as in the two examples I mentioned above. Either way, we face the same challenges in extending our investigation across borders and seeking cooperation from law enforcement authorities in other countries as in our other types of transnational organized crime cases.

IV. LEGISLATION

There are important steps we can take to better address extraterritorial threats and the increasingly global reach of transnational criminal organizations. The Department of Justice together with our partners have developed a package of legislative proposals to ensure that federal law keeps up with the rapid evolution of organized criminal activity, including human trafficking. We need changes to our existing money laundering, asset forfeiture, narcotics and racketeering laws. Additional proposals recognize that in an increasingly global law enforcement environment, witness security and protection for foreign witnesses must also be available. One proposal in particular, extending criminal jurisdiction to vessels or aircraft owned by U.S. citizens or registered in the United States, would bring the U.S. into compliance with the Trafficking in Persons Protocol to the United Nations Convention Against Transnational Organized Crime. These proposals are outlined below.

A. Anti-Money Laundering and Forfeiture Laws

The TOC Strategy recognizes that criminals who commit their crimes overseas often launder and maintain their assets in the United States. Accordingly, a focal point of the Strategy is the Proceeds of Crime Act (POCA) a comprehensive money laundering and forfeiture proposal designed to address gaps in our current legal authority. Money laundering and forfeiture laws strike at the very core of transnational criminal organizations by preventing them from using our financial system to move and hide their money, and by depriving them of the profit and capital needed to operate their enterprises.

POCA would update and clarify the current list of specified unlawful activities that are predicates for money laundering to include all domestic felonies except those specifically exempted, state felonies and federal misdemeanors that are included in the existing racketeering predicates, and any foreign crimes that would be felonies in the United States. The changes sought would also increase the scope and effect of anti-money laundering provisions in promotional money laundering, bulk cash smuggling, tax evasion, and money laundering through informal value transfer systems, and would clarify the application of the law to commingled funds and aggregated transactions. Finally, the proposal also extends wiretap authority for money laundering offenses, and it extends the extraterritorial provision for money laundering to non-United States citizens where their extraterritorial acts in violation of 18 U.S.C. § 1956 cause an effect in the United States. These changes would fill in numerous gaps and omissions in our decades-old anti-money laundering

laws and improve the ability to prosecute money launderers and to forfeit criminal proceeds and facilitating property.

POCA also seeks to update our civil forfeiture capabilities. Civil forfeiture is a particularly effective tool in this regard as it enables prosecutors to forfeit the proceeds of crime even when criminal prosecutions of those involved are not possible. Thus fugitives, drug kingpins, and corrupt foreign officials not present in the United States cannot elude the reach of our enforcement entirely.

POCA would enhance the government's civil forfeiture authority in a number of important ways. It seeks to expand the scope of civil forfeiture authority to include "facilitating property," or property that enables crime to occur, for all money laundering predicates and broadens the categories of facilitating property that can be civilly forfeited in connection to drug offenses and alien smuggling and harboring. To better attack the financial infrastructures of these organizations through more effective financial investigations, the proposal provides increased civil forfeiture, administrative, and foreign bank record subpoena authority. It also would enable the use of classified information in civil forfeiture cases, which is critical in going after transnational criminal organizations that threaten our national security.

Taken together, the changes will make our investigations and prosecutions against the financial operations of transnational organized crime groups much more effective. By taking their money, we take away these groups' reason to exist and ability to operate. We are committed to working with Congress to combat the use of shell companies to generate and move illicit money by requiring that those who form entities in the United States disclose beneficial owner information.

B. Racketeering Provisions

Second, the Administration proposes to modernize our most powerful anti-organized crime statutes: the Racketeer Influenced and Corrupt Organizations Act, or RICO, and the Violent Crimes in Aid of Racketeering statute, or VICAR. The proposed amendments to the RICO statute, 18 U.S.C. § 1961, et seq., would clarify that RICO has extraterritorial application in cases where criminal enterprises operate at least in part in the United States, or where they commit any predicate acts in the United States, or where the charged pattern includes offenses that apply extraterritorially. Criminal organizations have expanded their activities to increase their power, influence, and wealth, availing themselves of new opportunities. The proposed legislation, therefore, expands the list of racketeering predicate crimes to include offenses that are prevalent in an increasingly interconnected world and engaged in by transnational organized crime groups, including economic espionage, computer fraud, aggravated identity theft, violations of the Foreign Corrupt Practices Act, health care fraud, illegal firearms trafficking, as well as a limited number of violations of foreign law.

Specific to the issue of human trafficking, the proposed changes expand the list of RICO predicates to include state crimes of peonage, forced labor, slavery, and trafficking in persons, and adds section 1594, relating to attempts and conspiracies involving peonage, slavery, and trafficking in persons.

These proposed changes are important to address a number of recurring issues in organized crime prosecutions. In a number of instances, the government has been unable to charge the members or associates of a criminal enterprise with RICO because the underlying criminal activities were not listed as predicates. The new predicates are intended to fill these gaps. Amendments to the Violent Crimes in Aid of Racketeering (VICAR) statute, 18 U.S.C. § 1959, are also recommended, including a provision which would provide for extraterritorial application in certain situations such as when the underlying statute criminalizing the violent act in question applies extraterritorially or when any part of the violation occurs within the jurisdiction of the United States.

C. Witness Protection

The Administration is also proposing legislation that fosters international cooperation regarding the relocation of witnesses giving testimony in criminal cases, and relatives and other persons close to them. Relocation is sometimes the only way to protect the security of such persons, and enhancing our ability to cooperate with foreign governments in these situations will greatly improve our ability to mount multinational operations against high-priority transnational organized crime targets.

D. Extraterritorial Jurisdiction

The Administration proposes criminalizing conduct occurring on vessels or aircraft owned by the United States or a United States citizen, vessels registered under U.S. or state law, and aircraft registered under United States law if such vessels or aircraft are outside the jurisdiction of any particular state. In the absence of such ex-

panded jurisdiction, the United States would, for example, lack federal jurisdiction over a sex-trafficking offense committed on board a United States-registered vessel or aircraft located between two foreign countries. Our proposal would bring the United States into full compliance with the 2000 Transnational Organized Crime Convention, and in particular the Trafficking in Persons Protocol.

E. Narcotics

The Administration proposes to expand conspiracy liability when controlled substances are destined to the United States from a foreign country. Under our proposal, members of any conspiracy to distribute controlled substances will be subject to United States jurisdiction when at least one member of the conspiracy intends or knows that the drugs will be unlawfully imported into the United States. We are also recommending changes to sentencing policy for violations of the Narcotics Kingpin Designation Act. Such violations currently carry statutory penalties of up to 30 years' imprisonment and/or fines up to \$5,000,000. Sentencing guidelines for these violations, however, do not yet exist. The Administration is recommending a congressional directive to the United States Sentencing Commission, proposed statutory language, and a proposed sentencing guideline to yield a sentencing range of 37–46 months for a first offender, absent adjustments or departures.

V. CONCLUSION

Transnational organized crime and human trafficking present many new challenges for United States law enforcement. The investigations and prosecutions of transnational organized criminals groups are among the most difficult and complex cases in the Department. Even as we develop our cases and push the envelope of what our agents and prosecutors have tried in the past, the criminals continue to evolve rapidly, deploying new techniques and strategies to evade our nets and continue their illegal activities. It is important to ensure that federal agents and prosecutors are fully armed with the most comprehensive and up to date legislative and investigative tools to carry this fight across the globe and attack the criminals where they live. Only in this way can we protect our citizens, corporations, and property from those who would take them from us.

PREPARED STATEMENT OF PIERO BONADEO, DEPUTY REPRESENTATIVE TO THE UNITED NATIONS OFFICE ON DRUGS AND CRIME, NEW YORK

On behalf of the United Nations Office on Drugs and Crime, my sincere thanks to the Commission on Security and Cooperation in Europe for inviting me to speak. The cooperative spirit of the Commission as well as the one of the Organization for Security and Cooperation in Europe (OSCE) has often supported the United Nations Office on Drugs and Crime and the United Nations Global Initiative to Fight Human Trafficking.

Human trafficking is a truly global phenomenon and a crime which affects nearly every part of the world, whether as a source, transit or destination country. According to the (UNODC), victims from at least 127 countries have been identified, and it is estimated that more than 2.4 million people are being exploited by criminals at any given time.

More than a decade after the adoption of the Protocol to Prevent Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime the largest majority of countries have criminalized most forms of human trafficking in their legislation. Nevertheless, the use of such laws to prosecute and convict traffickers remains limited. In the 2009 Global Report on Trafficking in persons, for instance, two out of every five countries covered in the report had never recorded a single conviction for trafficking offenses.

The demand of trafficking victims, especially those related to sexual exploitation, remains high, particularly in Europe. According to the UNODC Organized Crime Threat Assessment, the majority of the victims detected in Europe come from the Balkans and the former Soviet Union, including countries such as Romania, Bulgaria, Ukraine, the Russian Federation, and the Republic of Moldova.

With regard to the victims originated in South America, mostly Brazil, they are being sent to destinations such as Spain, Italy, Portugal, France, the Netherlands, Germany, Austria, and Switzerland. African victims are mainly in West Africa, although North African victims seem to be increasing. Finally, Asian victims are mainly originated in Thailand. Most recently, Chinese, Vietnamese, and Cambodian victims are increasing.

Traffickers remain using deception and coercion as their main instruments to recruit victims. As a recent trend, women seem not to be only involved in recruiting other women, but also playing the role of guardians in the countries of destination of victims. Another trend is that in the case of Europe, the perpetrators are frequently not nationals of the country where they operate, but often nationals of the same country as their victims.

The International Labour Organization estimated that the minimum number of victims trafficked for all purposes in Europe and North America was 279,000 in 2005. Considering this, UNODC estimated that the number of trafficking victims in Europe would be around 140,000 if about one victim in 20 were detected. Following this figure and assuming that these victims could produce an estimate of 50 million sexual services, at EUR 50 per client, the market would be worth approximately US\$3 billion.

Distinguished Commissioners, cooperation is fundamental to combat the exploitation of women, children and men by human traffickers. Let us start with the outcome of our own efforts to gather information from Member States: trafficking in persons for forced labour is the second most reported form of exploitation. But, we share with all of you a concern that this form of trafficking is less frequently detected and reported than trafficking in persons for sexual exploitation. Labour trafficking, just until recently, was started to be taken into consideration by the world community. Prosecution and criminalization for this particular type of trafficking also needs to be set in practice.

We must also challenge the lack of visibility of trafficking in persons for forced labour. Too often, forced labour is hidden from public view. This may happen because the instances in which labour trafficking occurs, may not bring a direct physical or psychological damage to the person. A victim of labour trafficking can be someone who is made to work long shifts, being paid less than what was promised in their contracts, or with less or no benefits than the ones migrant workers are usually entitled to. Victims are often convinced by their foreign employers that those are the conditions they are legally entitled to, being deceived by them. Therefore, they do not often report this situation, unless their working conditions become unbearable.

UNODC is helping to shine a powerful light on this crime. Working with others in particular the Organization for Security and Cooperation in Europe (OSCE), we are developing clear strategies to meet government and civil society concerns.

In doing so, UNODC brings a unique criminal justice approach. As the guardian of the United Nations Convention against Transnational Organized Crime, we have a ready made legal framework for international cooperation and the prevention of human trafficking. Thanks to the convention, through cooperation, police no longer have to stop at frontiers, while criminals cross them freely.

We should also not forget how human trafficking is related to instability. When social and political upheaval exists, as in North Africa at present, our work is even more important in such turbulent and disordered regions.

If we are able to address human trafficking in these conditions, development and security are fundamental. For this reason, we should join forces and integrate our efforts into the wider agenda of multilateralism on development and stability. In this context UNODC is working with the policy committee to mainstream transnational organized crime into the wider agenda of the UN.

Trafficking in human beings is one of the most lucrative forms of organized crime, estimated to generated 32 billion US dollar in gross proceeds each year. Criminal assets arising from this grave violation of human rights and fundamental freedoms may be invested in legitimate and criminal activities, challenging economic security, fueling corruption and undermining the rule of law.

OSCE and UNODC have joint their forces for leveraging their efforts to fight human trafficking through clamping down on money laundering. In the framework of the Alliance against Trafficking in Persons OSCE, participating States and Partners for Cooperation are harmonizing their actions and using the same decision-making aids. UNODC wholeheartedly endorses this approach and is proud to have joined the Alliance.

An added issue behind the legal aspects of human trafficking is a lack of knowledge and understanding at the global level. In those cases in which prosecutions have been undertaken, very little is currently known about them internationally. This often leaves open questions as to how practitioners use the respective laws and what, if any, the characteristics of successful prosecutions are.

In a bid to answer these questions, UNODC has developed a database of Human Trafficking case law to provide immediate, public access to officially documented instances of this crime. The database contains details on the nationalities of victims and perpetrators, trafficking routes, verdicts and other information related to prosecuted cases around the world. As such, it provides not only statistics on the number of prosecutions and convictions, but also the real-life stories of trafficked persons as documented by the courts.

The database is aimed at assisting judges, prosecutors, policymakers, media researchers and other interested parties by making available details of real cases with examples of how the respective national laws in the place can be used to prosecute human trafficking.

At the time of the launch of the database, more than 150 selected cases from over 30 countries and two regional courts had been uploaded, with an additional 100 cases from over a dozen states to be added in the coming months.

A little over a year ago the General Assembly passed by consensus the UN Global Plan of Action to Combat Trafficking in Persons. Promoted universal ratification of the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as other relevant international instruments that address trafficking in persons, and reinforced the implementation of existing instruments against trafficking in persons and building on the relevant sub regional, regional and cross-regional mechanisms and initiatives.

In particular, Article 32 of the plan calls upon member states to Provide assistance and services for the physical psychological and social recovery and rehabilitation of trafficked persons.

An important operationalization of the Global plan of action, and another mechanism promoting the right to an effective remedy for victims of trafficking is the "UN Voluntary Trust Fund for Victims of Trafficking in Persons, especially Women and Children" launched last November pursuant to Article 38 of the global plan of action. The fund managed by UNODC, provides humanitarian, legal and financial aid victims of the trafficking in persons through established channels of assistance, such as governments, Non Governmental Organizations and International Organizations.

The Fund operates with the advice of a five member board of trustees appointed by the Secretary General. Last week, the Fund released its first tranches of funding for frontline organizations working with trafficking survivors, with close to \$300,000 being disbursed under a Small Grants Facility to organizations that are at the forefront of providing services to victims.

The 12 selected projects for the first year of the Small Grants Facility cover all major regions of the world. Funded projects are set to be rolled out in Albania, Cam-

bodia, Costa Rica, the Czech Republic, France, India, Israel, Kenya, Nepal, Nigeria, Moldova and the US.

With projects running from ten months to three years, the funding assists in several areas, with the ultimate aim of empowering trafficking victims to regain their lives. These services include legal support to allow victims to seek justice against those who enslave them; facilities to register their identities and to return home; and much needed counselling, training and support to ensure they are in a position to rebuild their lives.

To date about 1 million dollars has been pledged to this trust fund.

The realization of the right to an effective remedy hinges upon a variety of inter-related factors. Accurate identification of trafficked persons is a pre-requisite for trafficked persons to be able to exercise the right to an effective remedy. More prosecution is needed not only to remove offenders from further criminality, but to also allow for the confiscation of assets so that such resources can be enforcers in identifying, tracing, freezing and confiscating assets, as well as drafting legislation to allow such assets to be used for compensation, is therefore also key to an effective right to a remedy.

And pursuant to article 60 of the Global Plan of Action, in late 2012 UNODC will issue its first biennial report on patterns and flows of trafficking in persons at the national, regional and international levels in comprehensive manner, sharing best practices and lessons learned from various initiatives and mechanisms. This strengthening of information collection and reporting is also part of a comprehensive and holistic response aimed at the right to an effective remedy.

Distinguished Commissioners, Sixty three years ago, the General Assembly adopted the Universal Declaration of Human Rights. In doing so they proclaimed that all humans are born free, that no one shall be held in slavery or servitude, and that slavery and the slave shall be prohibited in all their forms.

Yet today, millions of people, the majority of them children and women, are victims of human modern day slavery. As we go about our work to end this scourge, may we be guided by the wisdom of the survivors as to what type of redress is most meaningful, and to be able to find creative ways to make this happen. We have come very far in the past 10 years; thanks to the support of MS and civil society we have an important protocol, and a promising global plan, as well as increased awareness. However, the traffickers are a clever and adaptable bunch - - in the end it is a battle of the wills: theirs or ours. Until we seriously address the root causes of trafficking such as [art 9] poverty, underdevelopment and lack of equal opportunity, traffickers will always have the upper hand.

Thank you.

PREPARED STATEMENT OF MS. MARTINA E. VANDENBERG, PRO BONO COUNSEL, THE
FREEDOM NETWORK USA

Chairman Smith, Chairman Cardin, and Helsinki Commission Members,

Thank you for inviting me to testify before you today. It is an honor to have this opportunity to speak to you about the problem of human trafficking and transnational organized crime. I would particularly like to thank Congressman Smith for his dedication to the fight against all forms of human trafficking, including trafficking for forced labor and involuntary servitude.

Over the years, under Chairman Smith's leadership, the Helsinki Commission has steadfastly fought to ensure that we never lose sight of the victims of human trafficking. It is that perspective that I hope to bring to your attention this morning.

I serve as pro bono counsel to the Freedom Network (USA), a coalition of thirty-one nongovernmental organizations and individuals providing services to—and advocating for the rights of—trafficking survivors in the United States. The Freedom Network was founded in 2001, immediately following the enactment of the Trafficking Victims Protection Act of 2000 (TVPA). Our members have served the majority of individuals certified by the Department of Health and Human Services (HHS) as victims of a severe form of trafficking in persons. We use a rights-based framework in providing those services. The Freedom Network's advocacy draws directly from the experiences of trafficking survivors we have worked with in the field.

Organized crime brings to mind stereotypical gangsters, heavily armed and laden with cash. Human trafficking certainly encompasses traditional organized crime. But more often, human trafficking is conducted by “disorganized crime:” small groups operating independently. The United Nations Convention Against Transnational Organized Crime defines an “organized criminal group” as a “structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences..” Using this definition, consider the following cases:

- *Mondragon*: In 2006, Oscar Mondragon pleaded guilty to conspiring with his two brothers to lure young women from Central America to the United States with promises of good jobs. When the women arrived, Mondragon and his co-conspirators held the women in forced labor in Houston-area bars and cantinas selling high-priced drinks to male customers.
- *Carreto*: In 2008, a diminutive grandmother pled guilty to sex trafficking for her role in a family-run gang based in Tenancingo, Mexico. According to the indictment, two of Ms. Carreto's sons and an associate used “physical violence, sexual assault, threats of harm, deception, false promises and coercion” to force the women into prostitution in the United States.
- *Calimlim*: Two physicians in Wisconsin were convicted in 2006 of trafficking a young woman and holding her in their home for nineteen years as a domestic servant. The physicians threatened the victim with deportation and imprisonment if she disobeyed their orders. After the criminal convictions, pro bono attorneys filed a civil Racketeer Influenced and Corrupt Organizations Act (RICO) action against the physicians and their three adult children.
- *Askarkhodjaev*: Askarkhodjaev: An Uzbek citizen, Abrorkhodja Askarkhodjaev, was sentenced to 12 years in prison in the first forced labor trafficking case charged as part of a criminal RICO conspiracy. Askarkhodjaev and his co-conspirators trafficked foreign laborers holding various visa statuses into the United States through three corporations for forced labor in hotels. According to the 90-page indictment, the traffickers charged their victims between \$3,000 to \$5,000 to obtain temporary employment visas known as H-2Bs. The victims and their families borrowed heavily to pay these fees.

As these examples illustrate, this is organized crime 2.0. It is global. It preys on the vulnerability of migrants seeking a better life in the United States. In many cases, it relies on labor recruiters and middlemen to bring victims into the United States legally. It can be violent, but is not necessarily so. Debt bondage and threats of deportation are often enough to immobilize victims. But there is one feature the traditional gangsters and the new organized criminals share: they are laden with cash.

In the words of Florrie Burke, a Freedom Network leader and one of the leading experts on human trafficking in the United States, “We are seeing more family-run operations and small-criminal networks. It is not the old definition of organized crime. But it is just as dangerous.”

With these cases in mind, I'd like to focus on three main areas:

1. The need for victim and witness protection;
2. The role of corruption in human trafficking; and

3. The role of restitution in the fight against human trafficking.

At the end of my remarks, I will suggest some recommendations and remedies that may help in our joint mission: the eradication of human trafficking.

Victim and Witness Protection

In the United States, and throughout the OSCE region, victims look to non-governmental organizations and civil society for support. Trafficked men, women, and children arrive on the Freedom Network members' doorsteps in very different ways. Some escape from their traffickers and find the NGOs. Others are identified in raids by law enforcement and referred to service providers. Still others find help through Good Samaritans or faith-based communities. But no matter how they find these organizations, the victims have several things in common. First, they are highly traumatized. Second, they are utterly terrified. And third, they are concerned about family members, particularly children, back in their country of origin.

The Freedom Network has advocated forcefully over the past eight months for improvements in protections for victims of human trafficking. The key building block for protection in the United States is continued presence, a temporary form of immigration relief available only through federal law enforcement. Continued presence (CP) permits victims of trafficking to remain in the United States during a criminal investigation, without fear of deportation. CP also allows the victims to obtain a work permit and minimal benefits. The concept, embedded in the TVPA, is that victims able to stabilize their lives and their status will be able to cooperate in a criminal investigation.

But the numbers of victims receiving continued presence has plummeted. According to the State Department Trafficking in Persons Report for June 2011, 299 victims received this very basic form of protection in 2009. In 2010, only 186 did.

The failure to protect victims of human trafficking—in part so that they may serve as witnesses in criminal cases against their traffickers—is one explanation for the abysmally low number of prosecutions in the United States and around the world.

How low is that number? In 2010, there were just 103 federal prosecutions of 181 defendants, with 141 convictions in the United States. In the entire world, there were just 6,017 prosecutions and 3,619 convictions. And in Europe, there were 2,803 prosecutions, resulting in just 1,850 convictions.

Victims who do not feel safe will not come forward to testify against their traffickers. Victims with family members remaining in the country of origin, particularly children, are often too terrified to cooperate. In some forced labor cases, relatives may work for the traffickers back in the home country, placing them at risk. In the *Carreto* case, the forced prostitution case highlighted above, the traffickers held the victims' children hostage back in Mexico. According to Suzanne Tomatore, an attorney and co-chair of the Freedom Network, Russian traffickers operating in New York routinely terrified their victims by bragging about links to organized crime back in Russia. Family members at home would not be safe unless the victims continued working in strip clubs, surrendering all of their earnings.

These cases speak poignantly to the need to protect not just the victims in the United States, but also their family members abroad. Family members should be paroled into the United States. The categories for derivative status—that is family members of victims receiving T-derivative visas—should be expanded. And prosecutors in U.S. Attorneys offices need additional training. The AUSAs must not only understand human trafficking, they must also appreciate the risks that victims take in coming forward. In a recent case, an Assistant U.S. Attorney responded to a victim who had expressed fear of her trafficker. The AUSA told the victim, who spoke only limited English, that she should “Call 911.” Victims must be treated with sensitivity and care by law enforcement. Only then will we see victims willing to come forward to prosecute the perpetrators.

Corruption and Human Trafficking

Corruption is fundamental to traffickers' success. I have testified before the Commission in the past about concrete cases of corruption I documented in post-conflict Bosnia & Herzegovina. There, as reported in the Human Rights Watch publication, *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia & Herzegovina for Forced Prostitution*, corrupt police officers participated directly in trafficking. Some local police officers moonlighted as guards in brothels holding trafficked women and girls from the former Soviet Union. Traffickers provided pay-offs to local police in the form of cash and free sexual services in exchange for protection from raids.

At every step along the trafficking chain, there is an opportunity for bribery. In one case reported by La Strada, a well-respected anti-trafficking network in the

OSCE region, a trafficker transported women by train across a border within the former Soviet Union. The trafficker held the passports for all of his victims, paying a customs agent a bribe for each woman traveling without a passport.

Does corruption matter in the United States? True, we do have the rule of law. Corruption is far less prevalent than in many other OSCE countries. But it is not non-existent. Take, for example, the case of an ICE agent from Florida. He pled guilty to soliciting kickbacks from a confidential informant working on a trafficking investigation. The ICE agent also demanded and received \$12,000 from an individual in Ecuador smuggling migrants into the United States. In 2006, federal authorities indicted two NYPD officers for accepting bribes from traffickers operating a string of brothels on the Eastern seaboard. The traffickers, who forced women from Korea into prostitution, paid an undercover detective investigating these crimes more than \$125,000 in cash.

Corruption and organized crime have a symbiotic relationship. But corruption is one of the most under-reported elements of human trafficking. And for victims, one of the most fundamental.

Whether the bribes occur here or abroad, corruption plays a fundamental role in the lives of trafficking victims in the United States. It is the backdrop. Many of the trafficking victims the Freedom Network members have encountered over the years come from countries where corruption is rampant. These victims bring an expectation of corruption. They believe that the police have been bribed. Many are convinced that the judge can be bought. Their traffickers have told them time and time again that once captured by U.S. law enforcement, they will be detained, prosecuted, and deported. For many of our clients, a “rescue” by Immigration and Customs Enforcement (ICE) agents is not a rescue. It is the culmination of all the horror stories told by traffickers. It is - in the victims’ eyes - an arrest. Victims from countries where justice is bought and sold see little hope for escape. And the traffickers stoke and exploit these fears. Corruption silences victims. It guarantees impunity.

Restitution and Human Trafficking

Under U.S. law, restitution for trafficking victims is mandatory. 18 U.S.C. § 1593. That is the law. The reality looks quite different. In the experience of the Freedom Network members, restitution orders are almost never collected. In some cases, the seized assets go to government coffers. In other cases, the U.S. Attorney’s Office does not follow up on the restitution order aggressively. Restitution orders must be enforced. In the first instance, it is the federal government’s responsibility to do so.

Why does restitution matter? First, seizing criminals’ assets deters crime. Trafficking is lucrative. Enforced restitution orders render it slightly less so. Second, trafficking victims are owed these funds. Restitution orders cover back wages and earnings stolen from them.

There is an enormous difference in the lives of trafficking survivors who receive their restitution orders and those who do not. Those who do can move out of economic crisis and secure a toe hold into normal life. Those who do not often continue to struggle, trapped in low wage jobs and exploited by unscrupulous employers.

Mandatory restitution offers the promise that victims can move on with their lives. But mandatory restitution is broken in the United States. Several years ago, Senator Durbin sent questions to the Department of Justice requesting data on the amount of restitution collected for victims, compared to the amount of restitution ordered. The Department of Justice responded that the government did not track these statistics. That is a mistake. Prosecutors should be trained: a case does not end with a criminal conviction. It ends with payment in full of the criminal restitution order. The Department of Justice should track the amounts of restitution collected and incorporate this into the performance evaluation metrics for federal prosecutors.

But that is not enough. The small number of victims who do receive restitution checks are horrified to learn that their back wages and restitution payments are taxable as federal income tax in the year received. That means that a victim who collects ten years’ worth of salary in one year will have to pay taxes in the highest income tax bracket. It is the traffickers - not the victims - who have committed tax fraud and evasion. Just as the Feds nailed Al Capone on tax evasion, traffickers should be forced to pay these taxes. Restitution orders must be increased to cover the taxes. Alternatively, trafficking victims should be given a tax waiver, much like that provided to Holocaust survivors who recover for crimes committed against them during World War II.

Restitution orders serve another purpose. With assets, trafficking victims can bring their family members to the United States. They can afford safe housing and transportation. And they can relocate for their own protection. There is no higher use for organized crime’s ill-gotten gains.

Recommendations:

1. Increase the use of continued presence to protect victims of human trafficking;
2. Parole relatives of trafficking victims into the United States to permit victims to cooperate with law enforcement fully - and without fear of retaliation against family members in the country of origin;
3. Increase the categories available for T-derivative visa status to permit trafficking victims to relocate close family members to the United States;
4. Ensure that trafficking victims are not held in immigration detention;
5. Improve the Department of Homeland Security's efforts to screen individuals to identify trafficking victims;
6. Increase the attention in the State Department's Trafficking in Persons Report to the role of corruption in human trafficking. This should include trafficking by state officials, with a particular focus on diplomats trafficking domestic workers for forced labor;
7. Train law enforcement authorities in the United States: 1) to anticipate trafficking victims' unwillingness to cooperate after a "rescue"; and 2) to understand the role of corruption in countries of origin;
8. Include fraud in foreign labor contracting as a RICO predicate act;
9. Train prosecutors to engage in enforcement of restitution orders;
10. Reward prosecutors for cases where restitution orders are paid through positive performance review metrics;
11. Make restitution orders tax-free in the United States; and
12. Request a Government Accountability Office study on collection of criminal restitution orders in human trafficking cases.

These recommendations return our focus to where it should be: on the human rights of trafficking victims. Again, I thank you for this opportunity to speak with you. I would be happy to answer any questions.



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