

WHAT SEXUAL ASSAULT AND DOMESTIC VIOLENCE SERVICE PROVIDERS NEED TO KNOW ABOUT SEX TRAFFICKING



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Chinese women are being trafficked into the United States for brothels in New York and North Carolina. They are held in \$40,000 debt bondage. (Chinese Women “forced into prostitution in US”, BBC, 3 March 1998). (Fact scenarios excerpted from Factbook on Global Sexual Exploitation)

What is sex trafficking?

Sex Trafficking is not new on international agendas. It generated considerable attention at the end of the nineteenth and early twentieth centuries, resulting in five international conventions, the last in 1949. There are a number of reasons why trafficking in women for sexual exploitation has re-emerged as an international policy concern. One of the most potent is that all forms of trafficking in human beings have increased globally, and are continuing to do so. Trafficking in women reflects these shifts (Konig, 1997; International Movement Against All Forms of Discrimination and Racism, 1999). A number of potential contributory factors have been suggested, including:

- the growth of the sex industry internationally, the International Labor Organization has proposed recognition of the “sex sector” as a significant component of many economies (Lim, 1998);
- globalization making the movements of people, capital and business easier and faster than previously;
- transformations within and between nation states, which have exacerbated the differentials (for example, in the Central and Eastern European states) between rich and poor (IOM, 1999);
- the feminization of poverty, which has in turn fed into the feminization of migration globally (Skrobanek, 1996);
- the increased involvement and growth of organized crime in trafficking in persons (Konig, 1997, IOM, 1999);
- emergence of new borders between and within former countries.

It is also evident that traffickers are adept at reading local, regional and international politics, targeting women whose lives and possibilities have been disrupted and diminished by economic, political and social dislocation. Hence the increased involvement of women from regions marked by war and conflict, and those where economic change has had negative impacts on women’s opportunities to earn a living (Kelly and Regan, forthcoming; IOM, 1999).

Internationally, as Anita Gradin, Mary Robinson and Hilary Clinton have all highlighted in speeches, trafficking people is a less risky activity for criminals than trafficking in drugs or weaponry. (Anita Gradin, EU Summit, Vienna, September 1st 1999; Mary Robinson address UN High Commission on Human Rights 121st June 1999; Hilary Clinton speech on International Women’s Day, March 8th 1999.) The maximum sentences in most jurisdictions are far less for people than other illegal activities (although there are now proposals to address this, including from the European Union). Trafficking for sexual exploitation adds additional layers of profit, since the receivers pay a fee to traffickers and then make considerable profits from prostituting the woman, who is in a condition of debt bondage. The lower potential costs and higher profits have acted

as powerful incentives to organized crime, smaller networks and “enterprising” individuals.

Many countries across the globe are implicated in trafficking, as sending, transit and/or destination countries. Some are all three, with indigenous women being trafficked outwards, parts of the country being used as transit routes between two other countries, and women being trafficked in from still other countries. Most countries, however, sit either side of the origin/destination divide, with the former being characterized by poverty and the latter by relative affluence (IOM, 1996b; Skrobanek 1996; Konig, 1997; Escaler 1998; Kalayaan, 1999).

Strong “outflows” of women are directly linked to an increase in women’s poverty, limited employment opportunities, an increasing marginalization of women economically, and poverty more broadly. War, internal conflict, economic instability, decline and destruction with its associated losses of sufficient income for economic survival, and as a consequence reduction in family support, contribute to the marginalization of some members of society. These major social factors heighten the vulnerability of women and girls to illegal trafficking and economic exploitation (Kalayaan, 1999; Kelly and Regan, forthcoming).

The trafficking of women and girls is the largest single category of illegal migration into European Union countries (IOM 1999). Many women trafficked into European Union countries may not be aware that they are being sent for the purposes of prostitution, but rather are led to believe that they are being recruited for legitimate jobs. Occasionally they may have been taken abroad forcibly, thus absolutely violating their fundamental human rights. They may find themselves in a foreign country without passports or identification documents, with no economic resources or independence. They may be forced by traffickers to provide sexual services through threats of violence or intimidation against themselves and/or their families (Kelly and Regan, forthcoming). These are all human rights violations. The induced vulnerability of trafficked women and girls is often exacerbated by inadequacies in the delivery of services to those who have been trafficked both in sending and receiving countries.

In mid-1997 in Queens New York police were informed of more than 60 Mexican immigrants including 12 children ranging in age from 6 months to 6 years, held in “involuntary servitude”. (Deborah Sontag, “Deaf Mexicans are Found in Forced Labor.” New York Times, 29 June 1997).

How big a problem is sex trafficking?

The exact number of women trafficked are, of course, difficult to obtain. It is a criminal activity carried on across international borders in many different languages. But in September 2000, the United Nations estimated that four million women and girls are bought and sold into slavery, marriage, and prostitution every year. Two million girls

between the ages of 5-15 are introduced into the sex industry every year. Eighty percent of the victims are female.

The United Nations also estimates that the profit from trafficking is 3.5 billion dollars a year. An individual can earn 1-8 million in 1-6 years. A sex trafficker can make four times the amount of money that same person can make trafficking drugs. Trafficking today is the third most lucrative international criminal activity, after drugs and arms trafficking. They often use the same routes and personnel. Interpol data, sketchy as it is, indicates that: 39% are from Central Europe, 22% are from Eastern Europe, and 17% are from the Balkans. The two most pressing problems facing the women in those countries are poverty and economic depression.

The Immigration and Naturalization Service (INS) estimates there are between 2,000-5,000 mail-order bride marriages in the U.S. annually. For 1997, 21% of all immigrants were spouses of U.S. citizens, a substantial number were women. It is estimated that 40,000 people, primarily women and children, are trafficked to the U.S. annually. (Victims of Trafficking and Violence Protection Act of 2000, Trafficking in Persons Report, July 2001)

In February 1998, there was a raid of brothels in rural south Florida where Mexican girls, some as young as 13, were forced to have sex with dozens of men a day. The evidence of beatings, drug addiction, and forced abortions prompted one federal judge to call this trafficking case “one of the most base, most vile, most despicable, most reprehensible crimes” he had ever encountered. (Of Human Bondage: Kate O’Beirne, National Review, March 18, 2002)

What is the federal government doing about trafficking?

In the U.S. as of January 2002, two people had been convicted under the human-trafficking law and 91 cases were under investigation. Four cases were in prosecution in February 2002. In 2001, 33 defendants were prosecuted under different statutes. In Chicago, the situation is so grave that a task force of police, INS, prosecutors and human rights advocates formed a task force that met every other month. (Team battles modern slavery, Frank Main, 25 February 2002, <http://www.suntimes.com/output/news/cst-nws-slave25.html>) On February 15, 2002, the president signed Executive Order 13257 to establish the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons. The U.S. government has created the Trafficking in Persons and Worker Exploitation Task Force to prevent, investigate and prosecute. More information can be found at <http://www.usdoj.gov/crt/crim/tpwetf.htm>.

On February 14, 2002, police raided a Chinatown storefront and made four prostitution-related arrests. One woman gave Goodyear, Arizona as her address. The women would not speak to law enforcement because often they come from countries where there is well-grounded a fear of law enforcement. On February 13, 2002, a Russian

man was sentenced to nine years for visa fraud after he lured five Latvian women to Chicago and forced them to work as strippers. A U.S. District Court in Alaska sentenced a Russian national to 30 months in prison for his role in a scheme to traffic women and girls from Russia to Alaska to perform in erotic dance clubs. He was charged with immigration fraud and transporting minors. Many advocates were outraged that he received such a light sentence, especially given that juveniles were involved. In December 2001, a Silver Spring, MD couple was found guilty of involuntary servitude, conspiracy to bring an illegal alien into the country, and harboring an alien for financial gain. The woman was also found guilty of passport and marriage fraud for arranging marriages between American men and Cameroonian women. The previous year a Gaithersburg man who had kept a Brazilian woman in his home for nearly 20 years was sentenced to 2 ½ years in prison. One of the largest landlords in Berkeley, CA pleaded guilty to trafficking women and girls. He was sentenced to 97 months incarceration and ordered to pay \$2 million in restitution to four of his victims. Fifteen defendants were charged with involuntary servitude and other federal violations for recruiting juvenile females to work as prostitutes in Atlanta, Georgia and elsewhere. Under the new law, those convicted can be imprisoned for 20 years.

To report suspected instances of trafficking or worker exploitation, contact the Federal Bureau of Investigation (FBI) field office nearest you or the

**Trafficking in Persons and Worker Exploitation Task Force Complaint Line
at 1-888-428-7581 (weekdays 9am – 5 pm EST).**

The Complaint Line offers foreign language translation services in most languages. After hours, the line has a message service in English, Spanish, Russian and Mandarin. The hotline is also for victims to find out about referrals to services such as health care and legal assistance and for anyone to find out more about trafficking.

In November 2001, the **Office to Monitor and Combat Trafficking in Persons** was opened in Washington. The contact information is Department of State, 1800 G Street, Washington, DC 20223, 202- 312-9639.

Almost 85% of the victims were pushed into searching for work because of poverty and lack of job prospects. Some 72% were lured abroad under false promises of a job and almost 9% were kidnapped. In almost 50% of the cases, the recruiter was a woman and in 44% of cases, the victim knew the person who tricked them into accepting a phoney job abroad. (Kosovo Anti-Trafficking Report, IOM, 4 September 2001)

What is the definition of trafficking?

An international Protocol defining sex trafficking has been developed in conjunction with the United Nations Convention on Transnational Organized Crime. In the recent two-year debate over the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, (Protocol) some protagonists, including the U.S. Presidents Interagency Council on Women, attempted to make a distinction between prostitution and “forced” prostitution. Fortunately, the U.S. position lost on the international stage, though they won domestically with the passage of the Victims of Trafficking and Violence Protection Act of 2000 (Trafficking Act).

We know from rape laws that if women have to prove they did not consent to male sexual attention, women lose. If it's his word against hers whether she agreed to travel to the Netherlands or the U.S. to be a prostitute, she will lose. With a supreme effort from the international Coalition Against Trafficking in Women, and help from France and Belgium, a compromise was reached in October 2000 which defines trafficking as:

The recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception of the abuse of power or of a position of vulnerability (1) or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation (2) forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The consent of the victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) shall be irrelevant where any of the means set forth in subparagraph (a) have been used.

In a footnote, it is explained that “abuse of a position of vulnerability” is to refer to any situation in which a person involved has no real and acceptable alternative but to submit to the abuse involved. The “consent is irrelevant” language comes from the 1949 Convention for the Suppression of Traffic in Persons and the Exploitation of Prostitution, which approximately half of the world's countries have signed.

In the same month, Congress passed the Trafficking Act which not only creates a distinction between victims who are “forced” and those who are not, but limits assistance

and services solely to minors or those the government wants to use for prosecution purposes. There are some positives to the bill, statistics gathering, database, cooperation, training, and limitation of funding to countries who don't meet minimum standards (and they are very minimum). But the separation of women into "good" victims and "bad" victims, the bad ones being prostitutes and the good ones innocent girls who were kidnapped, neither of whom are eligible for services unless law enforcement needs them makes a clear statement about what our Congress thinks about women who are prostituted.

The women are often misled by believing that they are coming to work in a certain type of job, the most common being:

- waitress,
- nannie,
- model,
- factory,
- dancers

but when they arrive, they are forced into prostitution.

The types of agencies most likely to be serving as covers for this traffic are:

- employment,
- matchmaking – marriage,
- model,
- travel,
- beauty contests,
- internet,
- language schools,
- shipping companies.

Once a woman escapes from the traffickers, she is in great danger if she returns to her country of origin, especially if she was trafficked from a small town. If she wants to stay in the new country, there are three ways women commonly stay:

- They simply over stay a legal visa. It is the most difficult to catch. Frequently these are students, a fiancé, or an entertainer.
- Sometimes they obtain false documents through bribery or corruption showing they are eligible to stay.
- Last there are those who came with no documents and simply stay in constant fear of being caught.

Trafficking in Women plagues the United States as much as it does underdeveloped nations. Organized prostitution networks have migrated from metropolitan areas to small cities and suburbs. Women trafficked to the United States have been forced to have sex with 400-500 men to pay off \$40,000 in debt for their passage. (Avita Ramdas, President of the Global Fund for Women sponsoring a prostitution conference, Brad Knickerbocker, "Prostitution's Pernicious Reach Grows in the US", Christian Science Monitor, 23 October 1996.)

What are some of the issues and problems?

Ideological differences

Some countries have legalized prostitution, some have decriminalized, and some have made prostitution criminal. Some countries punish only prostitutes, some punish only customers, and some punish both. In the U.S., with the exception of one county in Nevada, prostitution is criminal. Some states punish only the prostitutes and some punish both. "Aside from a few counties in Nevada, only 10% of people arrested for prostitution related crimes are the male buyers. (Brad Knickerbocker, "Prostitution's Pernicious Reach Grows in the US," Christian Science Monitor, 23 October 1996.)

Police issues

The police often complain they cannot tell trafficked women from those who came under their own volition. In fact, by looking at the definition, both international and U.S., any woman brought from one place to another for the purpose of sexual activity has been trafficked. Consent is not an issue. Under the U.S. law, other factors determine what services the victim can obtain.

There is also a difference between trafficking and smuggling. Smuggling is when there is an intermediary, borders are crossed illegally, the person goes voluntarily, the profit is from the transportation, and it is a one-time relationship. Trafficking is when there is an intermediary, borders are crossed legally or illegally, the profit is from the transportation, but more profit is from the long-term exploitation of the person when the location is reached, and there is an on-going relationship.

Discrimination

Some police and some service providers don't see violence and abuse of prostitutes as crimes because they think it's part of the "job", or that somehow the woman deserves it because she "asked for it". These attitudes are not much different than those surrounding rape or domestic violence. The victimized woman is made out to be the problem, not the abuser.

The last one to buy me was a very cruel man. He was violent and aggressive. He said he had already killed eight men, and he told me, "I can shoot you any time I want if you don't do what I say." Then he would abuse me. If you were a weak person, you'd go mad. If you make trouble when they move you from place to place they kill you.

Human life means nothing to them. They take you away and shoot you. ("Alina", Eastern European women being sold into sex business, 8 August 2001, Newsknight)

Forced v. consent

One of the biggest issues of contention regarding the international protocol was the issue of defining trafficking as "forced" or "consensual". Some countries and groups wanted to define it as "forced" to ensure that women who "chose" to go from one country to another to work as a prostitute could do so without being punished. The majority of countries and groups opposed that concept for very many reasons including definitional problems, the unlikelihood of prosecution if women had to prove they did not "consent" (rape is the least prosecuted crime because of the issue of alleged "consent"), the lack of ability to freely "consent", the fact that under existing U.N. Conventions related to trafficking and sex slavery, consent is irrelevant, and the practical and philosophical message about women's equality if sex trafficking is seen as acceptable.

What is the definition of "forced"? Is someone forced into prostitution only by physical violence? What about threats? What if her boyfriend asks her just to get them through a rough economic time? What if she is first hooked on drugs? What if she is desperate for money to support children back home with her parents? What if her family pressures her to marry especially in cultures where an unmarried woman is a burden on the family and has nowhere to live when her parents die? What if she is the only adult able to earn money in the family? What if she's sold to the priests for some misdeed of the family generations ago? What if she's "given" to a family as payment for a violent act by another member of her family or traded for a cow or payment of a debt? What if she's been beaten at 10 and raped at 13? What if there is gender apartheid? Would someone actually argue that these circumstances could not or did not force her into prostitution? Was it her free choice?

The argument that women "choose" to be in the relationship has been made against women who are beaten or raped to blame the victim. Fortunately, we have seen past that. But yet we remain blinded to the dynamics of violence and victimization of women who are prostituted and exhibit a collective inability to apply the same analysis and understanding to prostitution as we have done to rape and battering.

What is the definition of consent? If the man says she agreed and the woman says she didn't, as in date rape, there will be no prosecution. In the U.S. now, only 5% of all rape cases are successfully prosecuted because women are not believed. Especially with prostitution, many people believe she has consented to each and every sexual encounter. Historically, a wife had permanently given consent to each and every sexual encounter her husband sought. Today almost all states have some form of spousal rape law indicating our understanding that women's consent given once is not permanent. Likewise, the alleged consent of the prostituted woman given once is not permanent. Even for those who look upon prostitution as legitimate "work", in what other kind of work is consent permanent? Does a lawyer agree to take every client who comes to her door? Does a doctor take every patient? Does a bank take every loan applicant? In what other "work" is the worker not protected from abuse? If the client punches out the lawyer, does the lawyer simply say it's part of the job? If the patient steals drugs from the doctor, does the doctor overlook it? If the loan applicant doesn't pay the money, does

the bank have a remedy? Yet some still argue that a prostituted woman has no remedy because her “consent” is permanent, irrevocable and covers all acts.

The International Human Rights Network, which consists of over 100 organizations, argued for the following definition in the Protocol:

“with or without the victims consent or knowledge through legal or illegal means”

They argued that the focus should be on exploitation, which should be the basis of the definition because:

1. it protects the largest number of women
2. it is grounded in a human rights approach - no distinction between good and bad victims
3. it prevents traffickers from using consent defense to escape prosecution
4. it takes the burden of proof off the victim and places it on the perpetrator
5. it gives the strongest support to international efforts because it is clear, unambiguous, and offers no loopholes

The European Women’s Lobby issued the following statement:

“Prostitution and trafficking in women constitute a fundamental violation of women’s human rights. Prostitution and trafficking should not be associated with the terms forced or free. It should be recognized that free choice is a relative factor, situated at the intersection of economic, social, cultural and political options of women in a given society. Inequality severely restricts freedom of choice.”

At the same time, arguments are made by several organizations that prostitution should be viewed as “sex work”, prostitution and pornography should be viewed as the “sex industry” and absorbed into the regular work force with unions, fair labor standards, equal pay act and the rest. In the book, Pornography: The Production and Consumption of Inequality, Dines, Jensen, Ruse (1998) point out that the existence of pornography is by itself not only an indication of women’s subordination, but a tool for its continuation. So is prostitution.

After Holland decriminalized pornography, some argued that sex crimes fell dramatically. Such “facts” were highlighted as arguments for pornography. However, a closer look at those statistics revealed a different story. The reason sex crimes fell was because of the decriminalization of homosexuality. In fact rape, a crime of assault primarily against women, increased along with the increase in pornography. Thus, whenever statistics are paraded out to support prostitution or pornography, look with a feminist eye at disaggregated data to find the true impact on women. There is no “universal he”.

Many people refer to prostitution as the “oldest profession” which is one of the myths continuing to hamper discussion. It isn’t the oldest by any means. Agriculture is. Further, societies existed prior to recorded male history in which women were not in a

subordinate position and in which prostitution was unknown. Prostitution also isn't a "profession" as a profession requires some advanced knowledge or skills which prostitution does not.

Those arguing to normalize "sex work" argue that there is a distinction between prostitution and "forced" prostitution. That position was just rejected on the international stage, because there is no "free choice" to volunteer to be a prostitute. Yet the oft-mentioned International Labor Organization (ILO) report says, "some women go into prostitution as a matter of free personal choice or the right to sexual liberation." In a patriarchy, which this world undeniably is, "free choice" for women does not exist. All choices open to women are circumscribed by the oppression under which we live.

That does not mean women are eternal victims or incapable of agency. It simply means that every choice we make must be contextualized. For example, a person can choose to be an attorney working on issues of violence against women. But if there truly were a choice, one might not have chosen this profession or this topic, because there would be no violence against women, and the work would not be needed. Given the context in which we live, a patriarchy where violence against women is the norm and the tool to maintain women's subordination, this job is chosen. Is that a "free choice" or a choice between existing options, all of them bad and none of them ours?

Likewise, women do not have free choice when there is massive poverty. The ILO report admits that most women "choose" prostitution for economic reasons. Surely no one can argue that this is "free choice" any more than the heifer in the squeeze chute made a choice to go to her death.

If women enter prostitution for "sexual liberation", what is it they need to be liberated from? Are they seeking liberation from a male imposed double standard of sexuality? Are they seeking liberation from their own moral or religious qualms, preached by male priests and ministers? What are they seeking liberation to? To do what they want when they want it – or when someone else does? If women were truly free, we would not need to be "liberated" from anything. The reason women need liberation at all is because patriarchy imprisons us. To seek escape from a prison cell is liberation, but when women are living in global patriarchy, we can never escape the cell.

Another common argument is that if it's all right for women to "give" sex away, then it's all right for them to sell it. If the attitude attached to being a prostitute was a positive one, we would not be having this argument. The Trafficking Act with its refusal of services to all adult women who were sexually exploited makes clear the negative public policy toward women who were prostituted. But, some say, we are trying to change that attitude to a positive one. Let's suppose that happened. Then women who "sold" themselves to men for men's sexual fulfillment are positive, and women who refuse to sell or give themselves to men for men's sexual fulfillment (lesbians, nuns, or celibate women) are negative – which is true in most of the world today. Then it becomes crystal clear that once again, we are valuing women in terms of what men want

them to be and do. Does that sound like “free choice”? Does that sound like “liberation”?

A recent paper published in *Women and Criminal Justice* (Vol II #4) by Drs. Melissa Farley and Vanessa Kelly reports that prostitutes are the most raped women in the world.

- In Minnesota, 85% of the prostituted had been raped,
- In South Africa, Thailand, Turkey, the U.S. and Zambia, 62% had been raped.
- Seventy-five percent of these same women had been physically assaulted.
- In Oregon, prostitutes are raped on average once a week.
- Those who are HIV positive range from 74% in Kenya to 58% in West Africa to between 12-57% in the U.S.

The average age of entry into prostitution is 14. At 14, girls can't get a drivers license, sign a contract, work without a permit, or quit school. But somehow, they have made a “voluntary choice” to enter prostitution as their life's career path. Ninety-two percent of prostitutes want to get out but feel they have no other options. Is this “free choice”? Is this “liberation”?

The difference between “giving” and “selling” is not just semantic. The eroticization of women's bodies creates secondary meaning more powerful than the original. In some cultures, a bare breast does not invoke sexual imagery. In America in particular, breasts have been so eroticized that an entire industry has grown up around it. Likewise, women's legs, buttocks, and lips have been so eroticized that putting these “items” into the stream of commerce has a different meaning than putting widgets into the stream of commerce. So long as we continue to live in a society where men define women, any such “selling” of women's parts will continue to have a secondary meaning negative to women.

Secondly, there are many things we allow people to do for free but not for pay. We can “give” our baby away for adoption, but we cannot sell her. We can “give” our kidney in a transplant, but we cannot sell it. Why? Because society has made a value judgment that certain things will not be allowed because of the impact they have on the greater society. Babies are humans, not commodities for sale. Organs are parts of the body of humans, not commodities for sale. The fear of making babies and organs commodities is the coarsening of the human race, devolving if you will. Of course both babies and organs are sold illegally. But is that a reason to legalize it? Is anyone arguing we should? If it's not all right to sell babies, and it's not all right to sell organs, why is it all right to sell women's bodies?

The same argument swirls around surrogate motherhood and cloning. Women were, in fact, once commodities in the stream of commerce owned by their fathers and then their husbands and counted as his property just like his horses and pigs. She could be sold or killed if he liked with no recourse. In some countries today, she still can be or she can be traded for a cow or to pay a debt. Likewise today, with sexual trafficking of up to one million women a year by United Nations estimates, women are treated as

commodities in the stream of commerce. A woman from Transparency International spoke at a trafficking conference in Bratislava, Slovakia in April 2000. She referred to women as “quality products” saying that if prostitution is regulated, “customers don’t have to spend a lot of time to find good quality products. The change (in France) reduced quality of the product and made it more complex for the client to get information. Quality information became more expensive.” Thus she supported regulation of prostitution to help men find better products and keep their prices down. A human rights movement, especially a feminist one, should be seeking to evolve away from “women as products” not return to it.

However, the retort is raised, prostitutes do not “sell” their bodies, only their sexual services and use of the body for a short time like an attorney gives the use of her brain or a bricklayer, the use of her body for a short time for money to clients. But legal services and brick laying are not eroticized nor is it intimate activity. It does not have any secondary negative meaning, as does prostitution. Further, by diverting attention to “services” and not the women who provide the services, women themselves disappear from the equation; they become “products”. The fact that the activities have a negative impact on those women in particular and all women in general is lost.

Further, there are “services” we allow and those we don’t. Employers are not allowed to use the services of their employees beyond reasonable time limits. Attorneys are not allowed to use their services to help clients commit crimes. Doctors are not allowed to use their services to do sex-selected abortions. Sure these rules are violated. But why do we have rules? Society has made a value judgment. That is what the law is about – drawing lines. When I’m 17, I’m not mature enough to go into a bar and drink. One day later, when I’m 18, I am. Not much happened to me over that 24-hour period. It’s an arbitrary line. Likewise, we say a 17-year-old is a victim of prostitution, but 24 hours later, she has “freely chosen” that “occupation”. It’s an arbitrary line – a distinction with no difference.

In some areas of Australia, the government legalized brothels while keeping street prostitution illegal. While the motives were allegedly to keep women safer, what is the underlying message? Prostitution, the sale or use of women’s bodies, is all right when done by the government, which is primarily run by men, but not all right when women do it themselves. Thus, so long as the State benefits from the sale of women’s bodies, i.e. taxes, license fees, sex tourism, it is acceptable. If only women benefit, it’s not acceptable. The underlying message of women’s subordination to a male dominated State could not be clearer.

An Australian woman wrote that she, and others, had benefited from prostitution because they used the money they earned to get a tertiary degree. That may be so. But the fact that someone benefits from an oppressive system, even when that someone is a member of the oppressed group, does not mean the oppressive system is therefore permissible. Some Africans benefited from selling their brothers and sisters into slavery. Some madams benefit from selling their sisters into sexual slavery. It is estimated that 50% of the bottom level traffickers are women – women who prefer recruiting and selling

other women into prostitution rather than being prostitutes themselves. Is that their “free choice”? Does that suggest that being a prostitute is a worthy career choice?

The fact that some of the oppressed group benefits from the system does not negate the oppressive system. Rather, that is a strategy of the oppressor to keep the oppressed group divided – benefit them unequally and they will keep fighting each other rather than turn their combined force on the real enemy. Why do Australian women have to prostitute to get enough money for a tertiary degree? Why aren’t the resources provided by the State – low tuition, loans, scholarships, inexpensive housing, etc? Why isn’t that the goal? Why does the Australian state provide prostitution as a “career choice” for women while curtailing other career choices by providing inadequate education?

The ILO report says the “sex sector has strong economic and social basis that are too large, powerful, well-organized and entrenched to ignore, and that an approach that focuses only on the women and children from a purely human rights or moral perspective is not likely to lead to an effective solution.” In South Africa, apartheid was not “entrenched” in the economy; it was the economy. Likewise in the American South, before the Civil War, slavery was the economy. In South Africa, there were many strong incentives to maintain apartheid not only for South Africans whites, but also for those other nations who traded with them, getting items at less cost because of an exploited system of labor. Many vested interests derived profits from slavery in the American South. Likewise, there were strong economic reasons why South African Blacks continued to work for white concerns and the white government, just as there are strong economic reasons why women continue to work in prostitution and pornography. In South Africa, macroeconomic developments contributed to the continuation of white rule, the Cold War for example. Finally, the world expressed its disapproval of apartheid with not only high-sounding words and resolutions, but also an economic boycott that helped to bring the South African government down.

Those who oppose prostitution are well aware of the facts. It was feminists after all who exposed and objected to the massive legal and illegal profits by private organizations and governments in the first place. Many opponents have been physically threatened, attacked and sued for exposing pornography and prostitution. Those who oppose it are not naïve. In fact, the huge economic profits and the entrenchment of such economic activity in national economies by national governments is precisely the point – women are becoming commodities for sale, not only by private business but by the State as well. The legitimization of sex as work results in increased profits to everyone but the woman and less work for women in the rest of the economic sector – after all, they can always be prostitutes. Legitimization only strengthens the economic and social basis. Granted, moral and human rights perspectives alone will not lead to the most effective solutions, but they are a part of the solution and cannot be jettisoned for solely economic reasons. Economic concerns should be buffered by human rights, not the other way around.

Still others, often women, claim that opposing prostitution is having a too narrow view and not considering all women who might have different ideas. But that is exactly what we are doing – considering the negative impact of prostitution on all women. All women become viewed not as human beings with an equal right of political discourse, but as commodities. At the same time, we insist that the individual prostitute cannot be ignored and must not be criminalized or blamed. Some women at the Bratislava conference argued that “sexual services” could be separated from “women”. They are sadly wrong. The ILO report agrees that, “Prostitution is also deeply rooted in a double standard of morality for men and women.” Maintaining prostitution maintains that double standard and maintains that inequality. That is why legitimizing prostitution as “sex work” is wrong.

Traffickers in Miami were receiving Asian children who were being trafficked through Europe by Japanese and Chinese criminal gangs. In one month, at least 15 children were smuggled into the United States for prostitution. ("Pedophilia ring uncovered in Italy," USA Today, Nov. 1997)

What services can or should a shelter or program provide?

The survivor of trafficking is entitled to:

- Be housed in a safe place, not in detention
- Medical services
- Counseling services
- HIV testing
- Protection from traffickers
- Confidentiality
- Assistance with a protection order
- Victims rights information
- Legal services
- Translation services
- Public benefits
- INS applications

Victim or survivor?

The first service your program can do for a woman who has been prostituted is accept her and not stereotype her. Sexual assault counselors must address issues of rape and sexual exploitation since these are inevitable for the woman who is prostituted. Domestic violence counselors must address the issues of routine violence used against the women to enforce the rule of the pimp. The majority of the women will have been victims of childhood sexual assault and physical violence much like other women victims. The same techniques and support should be used.

Just like other women, including counselors, prostituted women dissociate from the violence to survive. That must be recognized. Like battered women, these women will often use drugs or alcohol to self-medicate and many will have PTSD symptoms.

Like other women who come to shelter, the women often blame themselves, claim they "chose" prostitution, and do not define what happened to them as male violence. She may describe her boyfriend as supportive when in fact he is the one pimping her. Counselors need to do careful questioning to uncover the truth. The women may suffer from severe health consequences from injuries caused by the repeated violence and from diseases contracted while being prostituted. She must be referred to a supportive medical person.

The women will need to be treated like any victim of violence, with cultural sensitivity and compassion. Victims of trafficking are kept prisoner by taking away

documents such as passports and birth certificates, debt bondage or keeping their salary, physical abuse, and emotional and psychological abuse. These are tactics very familiar to those who work with domestic violence. The responses are no different. “Women in prostitution in Arizona are routinely subjected to repeated beatings from their pimp, and have likely been coerced into pornography, topless dancing and/or prostitution in order to support him or his drug habit. ...Every woman who has been in the Dignity House jail program stated she has been raped, robbed, kicked and beaten with fists, knives, guns, coat hangers, baseball bats and boards – either by a trick or her pimp. Each girl knew someone who had been murdered while working in prostitution. ... The process of recovery for a woman leaving prostitution takes two years of very supportive intervention. Women who are trying to leave the sex industry have the same needs that traditionally battered women have. Many are fleeing with the clothes on their backs with no money and no place to go. This is compounded by the isolation known to all battered women and the stigma that is unique to prostitutes.” (Developing Individual Growth and New Independence Through Yourself, Dignity House, Phoenix, AZ.)

Discrimination exists against prostituted women in the courts as well as the public. In Erie, PA a judge sentenced a woman to two years in prison, even though he acknowledged that she was defending herself from an attack. A man sexually assaulted a topless dancer in a club, then followed her outside and down the street, where he attacked her again. She kicked him in the head, breaking his jaw. She was found guilty of assault and must pay him \$13,000 for his medical bills. (Rachael Graves, “Judge imprisons woman but says she is innocent,” Philadelphia Inquirer, 30 August 1997.)

Relation to law enforcement

The victim of sex trafficking will most likely end up in your program when the police bring her. Unless she speaks English, she will have a difficult time finding you on her own. But if the police do a sting or break up a trafficking ring, they will have numerous victims on their hands. Under the U.S. law, alternatives to formal detention of victims should be considered in every case (28 CFR 1100.31). Even the shelters do not meet these statutory requirement, but are used because of lack of other facilities. Since most police know about the sexual assault and domestic violence programs in their cities, they will bring the women there. If the victim is held in formal detention, she is still entitled to all the services including HIV testing, counseling, medical services, etc.

Under the Trafficking Act and 42 USC 10607(c)(2) federal law enforcement should arrange for victims and their family members to receive reasonable protection from traffickers. This includes no public release of their names, assisting them with orders of protection, and other measures depending on the seriousness of the threat. Victims should also be given information, equivalent to the federal victims rights legislation, about their rights to legal services, benefits, victim service organizations, protections, privacy and confidentiality, victim compensation and assistance, immigration benefits and programs, restitution, notification of case status, translation and medical services. This is the responsibility of law enforcement. The regulations specifically state

that law enforcement should give victims information about sexual assault and domestic violence programs. The national telephone number is 1-888-428-7581 (voice and tty).

Another problem will be the women's lack of trust in the police or other governmental systems and their lack of faith in the efficacy of an NGO. In many of their countries, corruption is rife and the police and other officials are themselves involved in trafficking and profiting from it. The same occurs here. In New York City, 19 police officers were accused of having sex with prostitutes in return for allowing a brothel to stay open in their precinct. (Associated Press, July 18, 1998). Nine officers including the former chief of police in West New York, NJ, was indicted for accepting bribes to overlook prostitution. (UPI, 13 January 1998) Even the United Nations peacekeeping forces have been accused of enslavement of Eastern European women in Bosnian brothels. (U.N. Halted Probe of Officers' Alleged Role in Sex Trafficking Lack of Support from Above, in Field Impeded Investigators, Colum Lynch, The Washington Post, 27 December 2001, Page A 17).

Even working with law enforcement can be problematic because of lack of training and sensitivity. "The police in Phoenix, AZ are not trained to work with women in prostitution. Just as with abused women, police assume women 'must like it' to stay." (Developing Individual Growth and New Independence Through Yourself, Dignity House, Phoenix, AZ.)

Many women will be afraid to speak to law enforcement because they come from countries where police are feared. The advocate will have to assist the woman in cooperating with the police to bring criminal or civil prosecutions. The advocate will have to explain why it is essential to work with the police and ensure the victim feels safe when talking to police. This may require programs to develop relationships with federal law enforcement and prosecutors, which most shelters do not now have. This could be positive because the crimes under VAWA and child abduction are interstate and therefore might involve federal law enforcement. So building that relationship can have other positive results.

Eligibility for benefits

As of November 27, 2001, the Department of Health and Human Services has certified 200 adult victims of severe forms of trafficking as eligible for benefits and services such as medical care, food stamps, and cash assistance. Once a trafficking victim gets her certification from the T visa, she can use that in lieu of immigration documents to receive benefits from an agency. To find out more about obtaining benefits, see <http://www.acf.dhhs.gov/programs/orr/sl01-13.htm>.

Language

The first problem of course will be language. The National Domestic Violence Hotline has the ability to access over 100 languages on the phone. Call them at 1-800-799-SAFE. The Worker Exploitation Hotline also has language services available

weekdays 9-5 EST at 1-888-428-7581. After hours it only has English, Spanish, Russian and Mandarin.

Safety concerns

Because trafficking is an international criminal activity, increased dangers exist for the victim and those who assist her. Confidentiality and secrecy of both shelter location and the victim's identification is extremely important. For safety purposes, shelters will need to work closely with law enforcement especially if the victim is a witness in an upcoming prosecution. While it might seem normal to refer the victim to the local ethnic community, that is ill advised because the traffickers will most likely also have contacts in that community. One Russian victim of trafficking who was taken to Israel testified in Congress that the traffickers, from Russia to Israel, were all Russians living in Israel. Therefore she felt she could not go to the Russian community there because it would lead her right back to the traffickers.

Role of the advocate

An advocate can assist the woman in documenting her injuries for an INS application and potential civil suit by asking her about and documenting:

- Payment of exorbitant fees to facilitate their journey
- Work as prostitutes usually with no pay
- Illegal confinement
- Physical and psychological violence, including rape
- Threats of reprisals against family members or relatives
- Inability to choose clients or to use safe-sex methods to prevent STD or AIDS
- Lack of access to medical treatment and social assistance
- Forced illegal migration, often through the use of false documents
- Confiscation of passports
- Discrimination, prosecution, illegal detention, and deportation

Information you can give the woman to help in the future is:

- Always keep passport and visa
- Know contact information of alleged employer
- Leave that information with local friends/family
- Leave copies of passport and other documents at home with friends/family
- Create a warning signal for friends/family to let them know:
 - That the phone is tapped
 - That you are in danger
 - That they are in danger
- Call the embassy of country you are going to and ask about visa and work requirements.

Traffickers will tell the woman she can work without a visa or that visa's are available for the type of job she is allegedly going to do. In fact there are no visa's for waitress or exotic dancers. When she knows this, she will know the trafficker has other "work" in mind.

What Immigration Visa's is she eligible for?

Since the woman is in the U.S. there are several avenues she has to stay here:

1. She can ask for a T visa under the U.S. Trafficking Act. Three years is the maximum time period but she can work during that time. To obtain the visa, she must be willing to cooperate in prosecution.

As of January 24, 2002, the T Nonimmigrant Application Process has been established. The Form I-914 serves as a self-petition application. A complete application package includes a fee, fingerprint fee (if applicable), signature, evidence to support the claim of trafficking, three photographs of the applicant, and answering all questions on the form. The fee is \$200 plus \$50 for each immediate family member filed concurrently to a maximum of \$400. The fingerprint fee is \$50 and required for all applicants between ages of 14-79. Fingerprints must be done at an Application Support Center. Forms can be downloaded from <http://www.ins.gov/graphics/formsfee/forms/i-914.htm> or by calling 1-800-870-3676. The application package should be sent to USINS, Vermont Service Center, 75 Lower Weldon St., St. Albans, VT 05479-0001. The applicant is eligible to adjust her status after three years.

The advocate can assist the woman by helping her obtain evidence to show the nature and extent of her abuse and the psychological consequences, the need for access to U.S. courts for protection orders, criminal investigations and prosecutions, the need for social, medical and mental health or other services available in the U.S. but not reasonably available in her home country, laws, mores and customs in her country that would ostracize her upon her return, the abuser's ability to follow her to her homeland or meet her there and the failure of that country to protect her, the likelihood that the abuser's family, friends or others involved in the trafficking would harm her if she returned.

2. She can ask for a U visa contained in section 1513 of the Battered Immigrant Women Protection Act of 2000, which is Title V of Division B of the Victims of Trafficking and Violence Protection Act 2000, Public Law 106-386. The U is for noncitizens crime victims who have suffered substantial physical or mental abuse flowing from criminal activity and who cooperate with government officials investigating or prosecuting such criminal activity. She must show that she suffered "substantial physical or mental abuse" as the result of crime, that she possesses information concerning the crime, and can provide certification that she has information that would be useful in prosecution.

The applicant should show that she is a victim of or has information about one of these crimes: trafficking, prostitution, hostage, slavery, kidnapping, torture, female genital mutilation, rape, incest, domestic violence, blackmail, extortion, manslaughter, murder, witness tampering, obstruction of justice, perjury, conspiracy, or sexual assault. She needs a letter of certification from a law enforcement personnel, which includes a local, state or federal judge, prosecutor, or police officer but not necessarily the one investigating the case, that she has been the victim of or has information about one of the

listed crimes. The certification must say she was/is/or is likely to be helpful in the investigation. There does not need to be a current on-going case. Any credible evidence is the evidentiary standard. Family members can be included. There are waivers for most inadmissibility problems except terrorism. The application also goes to the Vermont Service Center. The applicant can get public benefits when approved.

3. She can ask for an S visa under the Code of Federal Regulations 22-41.83 that has a section that allows witnesses and informants to stay. That means the attorney general is using her as a witness. But with this visa, she can't work.

4. She can ask for deferred action until the case is over

5. She can request the status of parolee in the public interest for example to file a civil action under Alien Tort Claims Act against the traffickers.

6. She can ask for suspension of deportation if deportation has already started.

7. She can ask for asylum – As of December 8, 2000 a proposed INS rule change would include victims of domestic violence as a “social group” facing persecution and eligible for asylum in the U.S. It would recognize that women sometimes face persecution because of their gender. The proposed rule was prompted by the Rodi Alvarado Pena case, a Guatemalan woman long brutalized by her husband, a former soldier. Her application for asylum was denied but the case was stayed and put under review by Attorney General Janet Reno. In March, 2001 the 9th Circuit Federal Court (San Francisco) upheld an asylum appeal based on the domestic abuse a Mexican teenager suffered at the hands of her father. The argument was based on her membership in a particular social group - her family. Claims of asylum by women facing genital mutilation were recognized in 1996.

An applicant for asylum needs to show one or more of the following factors:

- The government in her home country tolerates or condones violence against women, especially women who have been victims of sex trafficking
- Her abuser, pimp, or trafficker abused her while in the home country or will abuse her there if she returns.

Women from countries with coercive population control (China) are eligible. In the summer of 2001, a federal judge blocked the deportation of a 4-year-old AIDS-stricken Thai boy who was used by smugglers but who had been denied asylum.

Women should be referred to an immigration law expert, not the INS.

The Trafficking Act provides a generous waiver for all grounds of inadmissibility so the fact that she participated in prostitution should not disbar her. Confiscating or altering passports and other documents is a crime but does not apply against the victim of severe forms of trafficking so she should not be charged with that. If a court case is

ongoing, the court shall order restitution. Punishment can include forfeiture of property. Any violation of the U.S. trafficking law shall be considered organized criminal activity. Thus the victim is eligible for the witness protection act.

25 distinct Russian organized crime groups are operating in the United States in the areas of prostitution, fraud, money laundering, murder, extortion, and drug trafficking and the Federal Bureau of Investigation has approximately 250 pending investigations targeting Russians gangs in 27 states. (Barbara Starr, "Former Soviet Union a playground for organized crime: A gangster's paradise," ABA News 14 September 1998)

What if she's being sent back to her home country?

If the woman is going to be sent back to her country of origin, 92% of victims will have major problems returning to normal life. (Misery Continues for Women who Escape Trafficking, Sex Slavery, Richard Allen Green, RFE/RL, 25 February 2002) The first problem is arriving home safely. Traffickers have been known to kidnap returning victims or kill them. Unfortunately law enforcement and even consulates cannot always be trusted. Contact the local women's groups in the country to find out what the situation there is for victims, what services they can offer, if someone can meet her when she arrives, if there is a safe place for her to stay, etc. Check with the local women's groups before contacting consulates or law enforcement. They can tell you if it is safe or if organized crime and corruption has reached that level. See list in appendix.

Only a few countries have adequate laws against trafficking so the possibility that she can find legal redress in her own country is slim. See the Protection Project website (in appendix) to find out what her countries laws might be.

What about trafficking of American women within the United States?

From 300,000-600,000 children are in prostitution in the U.S. (Factbook on Global Sexual Exploitation, USA, Coalition Against Trafficking in Women.) From 1996-1998, a cursory review of newspaper clippings lists 253 cases of sex trafficking in 13 states (CA, NY, FL, ARK, PA, IL, WA, TX, MA, NH, MD, DE, LA) which involved over 5000 people including 43 Americans all of whom were under 18. Shelters have reported that girls and women from the Midwest are being trafficked to New York.

The Trafficking Act may include U.S. citizens or lawful permanent residents (Rules and Regulations, Department of State, Department of Justice, 28 CFR part 1100, July 24, 2001). Thus all of the services stated above that are available for victims of trafficking are also available if that person is a U.S. citizen or lawful permanent resident. In addition, the U.S. has the Mann Act that applies to any movement of a woman across state lines for the purpose of sexual activity. It reads:

Whoever knowingly transports any individual in interstate or foreign commerce... with intent that such individual engage in prostitution, or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years or both. (18 USC s. 2421)

The person who persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce ... to engage in prostitution, or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 10 years or both.
Or if that person uses the mail or any facility or means of interstate or foreign commerce including maritime and territorial jurisdiction of the US and who persuades, induces, entices, or coerces any person under 18 ... (18 USC s. 2422)

A person who knowingly transports a person not yet 18 with intent that the person engage in prostitution etc. or attempt to, shall be fined or imprisoned up to 15 years.

A person who travels with that juvenile, or conspires to, with the intent of engaging in sexual activity with that person shall be imprisoned up to 15 years. (18 USC s. 2423)

Whoever keeps, maintains, controls, supports, or harbors in any house or place for prostitution or other immoral purpose, any individual, knowing or in reckless disregard of the fact that the individual is an alien, shall file with the INS a statement in writing with the name of the person, place and all facts as to entry. (18 USC s.. 2424)

They have five days to file the statement. If they don't do it, they can be imprisoned for up to 10 years and fine or both.

Whoever uses the mail or other interstate method of commerce to transmit information about a person not yet 16 with the intent to entice, encourage, offer, or solicit any person

to engage in any offense, or attempts to do so, shall be fined and jail up to 5 years. (18 USCS s. 2425) Repeat offenders can get double. (18 USC s. 2426)
Child pornography is included as a sexual offense under this chapter. (18 USC s. 2427)

This section of the law has been exhaustively litigated. The decisions are plain. The woman who is transported is the victim not an accomplice and not a criminal. “Her activities did not subject her to federal charges because a woman transported in violation of the Mann Act is considered a victim rather than an accomplice” (p. 1025) but she was charged with state charges of prostitution and that was allowed. She could invoke the 5th Amendment however to prevent that. Patterson v. US, 8th Cir 1966, 361 F 2d 632, US v. Love Ca 8, ND 1979, 592 F 2d 1022

The woman cannot be punished for violating a law that protects her. The victim refused to answer questions in trial and invoked the 5th Amendment. (p. 494) “... whatever her answers might have been, they could not have tended to show a violation of (The Mann Act). That act does not punish a woman for transporting herself.” Miller v. US CA 9 (Or), 1938 95 F 2d 492

The issue of consent, as in the international Protocol on trafficking, **has been addressed** by U.S. judges under this law. The results are very different. If a woman simply consented or acquiesced, there is no violation of the law by her. Dodson v. US Ca 6 (KY), 1954, 215 F 2d 196 Consent (of the victim) is no defense to the crime. US v. Jones Ca. 7, Ill 1986, 808 F 2d 561, cert den. 107 S Ct. 1630, 481 72 1006, 95 L. Ed 2d 203, Hattaway v. US Ca5 (Fla) 1968, 399 F 2d 431

Thus any transportation of a woman in the U.S. across state lines for the purposes of sexual activity is a federal crime. It should be reported to the FBI or the U.S. attorney. The victim should never be charged with a crime herself.

Referrals should be offered to agencies such as Council for Prostitution Alternatives (Portland), You are Never Alone (Baltimore), Promise for Women Escaping Prostitution (San Francisco), SAGE (San Francisco), Dignity House (Phoenix), Breaking Free (Minneapolis). The Coalition to Abolish Slavery and Trafficking (CAST) is a three-year-old organization in Los Angeles. They have served over 76 trafficked persons from more than 15 countries through case management, referrals, outreach, trainings, and information assistance. They can be reached at 1-213-473-1625. Or visit their website at <http://www.trafficked-women.org>.

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Trafficking Victims Protection Act of 2000 H.R. 3244

The U.S. is one of the first countries to pass a law against trafficking. It is called The Trafficking Victims Protection Act of 2000 and was enacted along with VAWA II. The purpose of the Act is to combat trafficking, which is a modern form of slavery. The practice ties in with organized crime and corruption. A litany of its horrors is recited.

The definition of “coercion” under the U.S. law includes threats of physical harm, physical restraint, or what the person would perceive to be threats, or the abuse or threatened abuse of the legal process. The inclusion of the abuse of the legal process could be construed to mean if the trafficker tells her she will be arrested and jailed for her participation in sexual activity (which is true), or tells her that the immigration service will arrest, mistreat, and deport her (which is possible), that is abuse or threatened abuse of the legal process. Both of these are potential ways to get more women covered under the bill.

The most important definition is that in Section 107(c), “severe forms of trafficking in persons” which requires force, fraud, or coercion AND in which the person is less than 18 OR who has been certified as needed by authorities. This limits severely the number of victims who will be able to get assistance under this law.

Prevention of Trafficking

Economic initiatives shall be taken to help women such as micro credit, training, keeping girls in school, and improving the equality of women in their home countries. A public awareness campaign shall be undertaken. For both these activities, the President shall consult with NGO’s. Secretary of State and USAID shall establish programs in foreign countries to assist in the reintegration of women there.

Protection and Assistance for Victims of Trafficking

In the U.S., only a victim of a severe form of trafficking is eligible for assistance the same as other aliens under our current welfare program. In nonentitlement programs, such as legal aid, victims of severe trafficking are entitled to services without regard to their immigration status to the availability of appropriations.

For purposes of services, a “victim of a severe form of trafficking in persons” means ONLY a person who has been described in section 103 which requires force, fraud, or coercion AND who has not attained the age of 18 OR who is certified under paragraph E. (107(a)(1)(C)). Thus without certification, the only victim who can get services of any kind, is a minor.

Certification is done by the Secretary of Health and Human Services after consultation with the Attorney General. To be certified, the victim must: 1) be willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons, 2) have made a bona fide application for a T visa and not be

denied, or 3) a person whose presence in the U.S. the Attorney General (AG) is ensuring in order to effectuate prosecution of traffickers.

The T visas may not exceed 5,000 in any one year. A person should not be denied a T visa, if the activities which would make them inadmissible (prostitution), were caused by or incident to the trafficking.

The certification is effective only so long as the Attorney General needs the witness. Investigation and prosecution means identifying the person who has committed severe forms of trafficking, the location and apprehension of such persons, and testimony at proceedings against such persons. Those victims who are “in the custody of the federal government” to assist in prosecution shall not be held in inappropriate facilities, shall receive medical and other assistance, shall be provided protection, which includes family members, if her safety is at risk or there is danger of recapture. Confidentiality of names shall be maintained.

The Attorney General shall refer the victim to someone who can help her with the T visa. She can be employed with a T visa.

It is clear that the government will not attempt to prosecute any trafficking but what it defines as the “severe form”. The woman will have to have gone through the often arduous process of applying for a visa. To do that, she will need help, especially if she doesn’t speak the language. The Attorney General is to refer her for help with her T visa, which directly contradicts the earlier section that she is not eligible for services until she gets the certification. No one can give her help under the benefits section until after she is certified. But she needs the visa application to be certified. Catch 22. The Attorney General can videotape her testimony and deport her and no doubt will unless there is a very high profile, sure win case on the horizon.

Personnel from the Dept of State and Dept of Justice shall be trained to identify victims of severe forms of trafficking and providing protection for them IF as above, they are in the custody of the federal government. But there is no training component for investigation of the cases, for law enforcement prevention or intervention, tracking, monitoring etc.

There are additional protections from deportation for victims of severe trafficking who have complied with reasonable requests for assistance OR who are 14 or younger, AND who would suffer extreme hardship involving unusual and severe harm. The delineation of both “extreme hardship” and “involving unusual and severe harm upon removal” indicates that those who will be granted this additional protection are few indeed. Usually the statutes say “extreme hardship”. To add “unusual and severe harm” indicates additional restrictions. Since violence against women is not in the least unusual, does that mean it doesn’t count as a hardship?

The Attorney General can change the person's status to permanent resident at a later date if all the previous conditions are met. The maximum number of persons who can get permanent residence is 5,000 per fiscal year.

A person may not be admitted to the U.S. if there is substantial reason to believe that person committed a severe form of trafficking in persons.

Other Options under the Trafficking Act

Since few women will fit under the strict U.S. definition, the definition of involuntary servitude might be a woman's best opportunity because it requires only a condition of servitude and her belief that she or another would suffer harm if she didn't do as told. Cases under the U.S. statute have been limited to those in which the person was under threat of physical or legal coercion. However, if she doesn't fit under the Trafficking Act, this is at least another avenue to try.

Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor is defined as "Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If other serious crimes result, the person can get fined, imprisoned for any term, or both. An adult victim should seriously consider using this section because she does not have to prove force, fraud or coercion. However, the Attorney General still has to be the one to bring the criminal action but s/he should be apprised of the possibility of using this section. The present Code of Federal Regulations 22-41.83, Witnesses and Informants, already exists which gives a victim of any crime a visa if she is a witness or informant. The restrictions under that section are not as onerous as the ones under this Act so she should consider using that instead.

H.R.3244 Text, PDF
Sponsor: Rep Smith, Christopher H.(introduced 11/8/1999)
Related Bills: H.RES.613, H.R.894, H.R.1248, H.R.2031, H.R.3485,
S.CON.RES.149, S.577
Latest Major Action: 10/28/2000 Became Public Law No: 106-386.
Title: To combat trafficking of persons, especially into the sex trade, slavery, and
slavery-like conditions in the United States and countries around the world through
prevention, through prosecution and enforcement against traffickers, and through
protection and assistance to victims of trafficking.
publ386.106]

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2000 VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF

[[Page 114 STAT. 1464]]

Public Law 106-386
106th Congress

An Act

To combat trafficking in persons, especially into the sex trade,
slavery, and involuntary servitude, to reauthorize certain Federal
programs to prevent violence against women, and for other
purposes. <<NOTE: Oct. 28, 2000 - [H.R. 3244]>>

Be it enacted by the Senate and House of Representatives of the
United States of America <<NOTE: Victims of Trafficking and Violence
Protection Act of 2000.>> in Congress assembled,

SECTION 1. <<NOTE: 22 USC 7101 note.>> SHORT TITLE.

This Act may be cited as the ``Victims of Trafficking and Violence
Protection Act of 2000".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF
CONTENTS.

(a) Divisions.--This Act is organized into three divisions, as
follows:

- (1) Division a.--Trafficking Victims Protection Act of 2000.
- (2) Division b.--Violence Against Women Act of 2000.

(3) Division c.--Miscellaneous Provisions.

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec.1.Short title.

Sec.2.Organization of Act into divisions; table of contents.

DIVISION A--TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Sec.101.Short title.

Sec.102.Purposes and findings.

Sec.103.Definitions.

Sec.104.Annual Country Reports on Human Rights Practices.

Sec.105.Interagency Task Force To Monitor and Combat Trafficking.

Sec.106.Prevention of trafficking.

Sec.107.Protection and assistance for victims of trafficking.

Sec.108.Minimum standards for the elimination of trafficking.

Sec.109.Assistance to foreign countries to meet minimum standards.

Sec.110.Actions against governments failing to meet minimum standards.

Sec.111.Actions against significant traffickers in persons.

Sec.112.Strengthening prosecution and punishment of traffickers.

Sec.113.Authorizations of appropriations.

DIVISION B--VIOLENCE AGAINST WOMEN ACT OF 2000

Sec.1001.Short title.

Sec.1002.Definitions.

Sec.1003.Accountability and oversight.

TITLE I--STRENGTHENING LAW ENFORCEMENT TO REDUCE
VIOLENCE AGAINST WOMEN

Sec.1101.Full faith and credit enforcement of protection orders.

Sec.1102.Role of courts.

Sec.1103.Reauthorization of STOP grants.

Sec.1104.Reauthorization of grants to encourage arrest policies.

Sec.1105.Reauthorization of rural domestic violence and child abuse
enforcement grants.

Sec.1106.National stalker and domestic violence reduction.

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Sec.1107.Amendments to domestic violence and stalking offenses.

Sec.1108.School and campus security.

Sec.1109.Dating violence.

TITLE II--STRENGTHENING SERVICES TO VICTIMS OF VIOLENCE

- Sec.1201.Legal assistance for victims.
- Sec.1202.Shelter services for battered women and children.
- Sec.1203.Transitional housing assistance for victims of domestic violence.
- Sec.1204.National domestic violence hotline.
- Sec.1205.Federal victims counselors.
- Sec.1206.Study of State laws regarding insurance discrimination against victims of violence against women.
- Sec.1207.Study of workplace effects from violence against women.
- Sec.1208.Study of unemployment compensation for victims of violence against women.
- Sec.1209.Enhancing protections for older and disabled women from domestic violence and sexual assault.

TITLE III--LIMITING THE EFFECTS OF VIOLENCE ON CHILDREN

- Sec.1301.Safe havens for children pilot program.
- Sec.1302.Reauthorization of victims of child abuse programs.
- Sec.1303.Report on effects of parental kidnapping laws in domestic violence cases.

TITLE IV--STRENGTHENING EDUCATION AND TRAINING TO COMBAT VIOLENCE AGAINST WOMEN

- Sec.1401.Rape prevention and education.
- Sec.1402.Education and training to end violence against and abuse of women with disabilities.
- Sec.1403.Community initiatives.
- Sec.1404.Development of research agenda identified by the Violence Against Women Act of 1994.
- Sec.1405.Standards, practice, and training for sexual assault forensic examinations.
- Sec.1406.Education and training for judges and court personnel.
- Sec.1407.Domestic Violence Task Force.

TITLE V--BATTERED IMMIGRANT WOMEN

- Sec.1501.Short title.
- Sec.1502.Findings and purposes.
- Sec.1503.Improved access to immigration protections of the Violence Against Women Act of 1994 for battered immigrant women.

- Sec.1504.Improved access to cancellation of removal and suspension of deportation under the Violence Against Women Act of 1994.
- Sec.1505.Offering equal access to immigration protections of the Violence Against Women Act of 1994 for all qualified battered immigrant self-petitioners.
- Sec.1506.Restoring immigration protections under the Violence Against Women Act of 1994.
- Sec.1507.Remedying problems with implementation of the immigration provisions of the Violence Against Women Act of 1994.
- Sec.1508.Technical correction to qualified alien definition for battered immigrants.
- Sec.1509.Access to Cuban Adjustment Act for battered immigrant spouses and children.
- Sec.1510.Access to the Nicaraguan Adjustment and Central American Relief Act for battered spouses and children.
- Sec.1511.Access to the Haitian Refugee Fairness Act of 1998 for battered spouses and children.
- Sec.1512.Access to services and legal representation for battered immigrants.
- Sec.1513.Protection for certain crime victims including victims of crimes against women.

TITLE VI--MISCELLANEOUS

- Sec.1601.Notice requirements for sexually violent offenders.
- Sec.1602.Teen suicide prevention study.
- Sec.1603.Decade of pain control and research.

DIVISION C--MISCELLANEOUS PROVISIONS

- Sec.2001.Aimee's law.
- Sec.2002.Payment of anti-terrorism judgments.
- Sec.2003.Aid to victims of terrorism.
- Sec.2004.Twenty-first amendment enforcement.

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DIVISION <<NOTE: Trafficking Victims Protection Act of 2000.>> A-- TRAFFICKING VICTIMS PROTECTION ACT OF 2000

SEC. 101. <<NOTE: 22 USC 7101 note.>> SHORT TITLE.

This division may be cited as the ``Trafficking Victims Protection Act of 2000".

SEC. 102. <<NOTE: 22 USC 7101.>> PURPOSES AND FINDINGS.

(a) Purposes.--The purposes of this division are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.

(b) Findings.--Congress finds that:

(1) As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

(2) Many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

(3) Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide.

(4) Traffickers primarily target women and girls, who are disproportionately affected by poverty, the lack of access to education, chronic unemployment, discrimination, and the lack of economic opportunities in countries of origin. Traffickers lure women and girls into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also buy children from poor families and sell them into prostitution or into various types of forced or bonded labor.

(5) Traffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.

(6) Victims are often forced through physical violence to engage in sex acts or perform slavery-like labor. Such force includes rape and other forms of sexual abuse, torture, starvation, imprisonment, threats, psychological abuse, and coercion.

(7) Traffickers often make representations to their victims that physical harm may occur to them or others should the victim escape or attempt to escape. Such representations can

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have the same coercive effects on victims as direct threats to inflict such harm.

(8) Trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide. Trafficking in persons is often aided by official corruption in countries of origin, transit, and destination, thereby threatening the rule of law.

(9) Trafficking includes all the elements of the crime of forcible rape when it involves the involuntary participation of another person in sex acts by means of fraud, force, or coercion.

(10) Trafficking also involves violations of other laws, including labor and immigration codes and laws against kidnapping, slavery, false imprisonment, assault, battery, pandering, fraud, and extortion.

(11) Trafficking exposes victims to serious health risks. Women and children trafficked in the sex industry are exposed to deadly diseases, including HIV and AIDS. Trafficking victims are sometimes worked or physically brutalized to death.

(12) Trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market. Within the context of slavery, servitude, and labor or services which are obtained or maintained through coercive conduct that amounts to a condition of servitude, victims are subjected to a range of violations.

(13) Involuntary servitude statutes are intended to reach cases in which persons are held in a condition of servitude through nonviolent coercion. In *United States v. Kozminski*, 487 U.S. 931 (1988), the Supreme Court found that section 1584 of title 18, United States Code, should be narrowly interpreted, absent a definition of involuntary servitude by Congress. As a result, that section was interpreted to criminalize only servitude that is brought about through use or threatened use of physical or legal coercion, and to exclude other conduct that can have the same purpose and effect.

(14) Existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and bring traffickers to justice, failing to reflect the gravity of the offenses involved. No comprehensive law exists in the United States that penalizes the range of offenses involved in the trafficking scheme. Instead, even the most brutal instances of trafficking in the sex industry are often punished under laws that also apply to lesser offenses, so that traffickers typically escape deserved punishment.

(15) In the United States, the seriousness of this crime and its components is not reflected in current sentencing guidelines, resulting in weak penalties for convicted traffickers.

(16) In some countries, enforcement against traffickers is also hindered by official indifference, by corruption, and sometimes even by official participation in trafficking.

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(17) Existing laws often fail to protect victims of trafficking, and because victims are often illegal immigrants in the destination country, they are repeatedly punished more harshly than the traffickers themselves.

(18) Additionally, adequate services and facilities do not exist to meet victims' needs regarding health care, housing, education, and legal assistance, which safely reintegrate trafficking victims into their home countries.

(19) Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation.

(20) Because victims of trafficking are frequently unfamiliar with the laws, cultures, and languages of the countries into which they have been trafficked, because they are often subjected to coercion and intimidation including physical detention and debt bondage, and because they often fear retribution and forcible removal to countries in which they will face retribution or other hardship, these victims often find it difficult or impossible to report the crimes committed against them or to assist in the investigation and prosecution of such crimes.

(21) Trafficking of persons is an evil requiring concerted and vigorous action by countries of origin, transit or destination, and by international organizations.

(22) One of the founding documents of the United States, the

Declaration of Independence, recognizes the inherent dignity and worth of all people. It states that all men are created equal and that they are endowed by their Creator with certain unalienable rights. The right to be free from slavery and involuntary servitude is among those unalienable rights. Acknowledging this fact, the United States outlawed slavery and involuntary servitude in 1865, recognizing them as evil institutions that must be abolished. Current practices of sexual slavery and trafficking of women and children are similarly abhorrent to the principles upon which the United States was founded.

(23) The United States and the international community agree that trafficking in persons involves grave violations of human rights and is a matter of pressing international concern. The international community has repeatedly condemned slavery and involuntary servitude, violence against women, and other elements of trafficking, through declarations, treaties, and United Nations resolutions and reports, including the Universal Declaration of Human Rights; the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the 1948 American Declaration on the Rights and Duties of Man; the 1957 Abolition of Forced Labor Convention; the International Covenant on Civil and Political Rights; the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; United Nations General Assembly Resolutions 50/167, 51/66, and 52/98; the Final Report of the World Congress against Sexual Exploitation of Children (Stockholm, 1996); the Fourth World Conference on Women (Beijing, 1995); and the 1991 Moscow Document of the Organization for Security and Cooperation in Europe.

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(24) Trafficking in persons is a transnational crime with national implications. To deter international trafficking and bring its perpetrators to justice, nations including the United States must recognize that trafficking is a serious offense. This is done by prescribing appropriate punishment, giving priority to the prosecution of trafficking offenses, and protecting rather than punishing the victims of such offenses. The United States must work bilaterally and multilaterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes. The United States must also urge the international community to take strong action in multilateral

fora to engage recalcitrant countries in serious and sustained efforts to eliminate trafficking and protect trafficking victims.

SEC. 103. <<NOTE: 22 USC 7102.>> DEFINITIONS.

In this division:

(1) Appropriate congressional committees.--The term ``appropriate congressional committees" means the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on International Relations and the Committee on the Judiciary of the House of Representatives.

(2) Coercion.--The term ``coercion" means--

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.

(3) Commercial sex act.--The term ``commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

(4) Debt bondage.--The term ``debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(5) Involuntary servitude.--The term ``involuntary servitude" includes a condition of servitude induced by means of--

(A) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or

(B) the abuse or threatened abuse of the legal process.

(6) Minimum standards for the elimination of trafficking.--The term ``minimum standards for the elimination of trafficking" means the standards set forth in section 108.

(7) Nonhumanitarian, nontrade-related foreign assistance.--The term ``nonhumanitarian, nontrade-related foreign

assistance" means--

(A) any assistance under the Foreign Assistance Act of 1961, other than--

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(i) assistance under chapter 4 of part II of that Act that is made available for any program, project, or activity eligible for assistance under chapter 1 of part I of that Act;

(ii) assistance under chapter 8 of part I of that Act;

(iii) any other narcotics-related assistance under part I of that Act or under chapter 4 or 5 part II of that Act, but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of that Act;

(iv) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(v) antiterrorism assistance under chapter 8 of part II of that Act;

(vi) assistance for refugees;

(vii) humanitarian and other development assistance in support of programs of nongovernmental organizations under chapters 1 and 10 of that Act;

(viii) programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation; and

(ix) other programs involving trade-related or humanitarian assistance; and

(B) sales, or financing on any terms, under the Arms Export Control Act, other than sales or financing provided for narcotics-related purposes following notification in accordance with the prior notification procedures applicable to reprogrammings pursuant to section 634A of the Foreign Assistance Act of 1961.

(8) Severe forms of trafficking in persons.--The term ``severe forms of trafficking in persons" means--

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation,

provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) Sex trafficking.--The term ``sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(10) State.--The term ``State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and territories and possessions of the United States.

(11) Task force.--The term ``Task Force" means the Interagency Task Force to Monitor and Combat Trafficking established under section 105.

(12) United states.--The term ``United States" means the fifty States of the United States, the District of Columbia,

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the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

(13) Victim of a severe form of trafficking.--The term ``victim of a severe form of trafficking" means a person subject to an act or practice described in paragraph (8).

(14) Victim of trafficking.--The term ``victim of trafficking" means a person subjected to an act or practice described in paragraph (8) or (9).

SEC. 104. <<NOTE: 22 USC 2151n.>> ANNUAL COUNTRY REPORTS ON
HUMAN RIGHTS
PRACTICES.

(a) Countries Receiving Economic Assistance.--Section 116(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151(f)) is amended to read as follows:

``(f)(1) The report required by subsection (d) shall include the following:

``(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

``(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the

government of that country to combat such trafficking. The assessment shall address the following:

“(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

“(ii) Which government authorities in that country are involved in activities to combat such trafficking.

“(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

“(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

“(v) What steps the government of that country has taken to assist victims of such trafficking, including efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

“(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

“(vii) Whether the government of that country is assisting in international investigations of transnational

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trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

“(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been

trafficked, and refrains from other discriminatory treatment of such victims.

“(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

“(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”.

(b) Countries Receiving Security Assistance.--Section 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2304) is amended by adding at the end the following new subsection:

“(h)(1) The report required by subsection (b) shall include the following:

“(A) A description of the nature and extent of severe forms of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, in each foreign country.

“(B) With respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by the government of that country to combat such trafficking. The assessment shall address the following:

“(i) Whether government authorities in that country participate in, facilitate, or condone such trafficking.

“(ii) Which government authorities in that country are involved in activities to combat such trafficking.

“(iii) What steps the government of that country has taken to prohibit government officials from participating in, facilitating, or condoning such trafficking, including the investigation, prosecution, and conviction of such officials.

“(iv) What steps the government of that country has taken to prohibit other individuals from participating in such trafficking, including the investigation, prosecution, and conviction of individuals involved in severe forms of trafficking in persons, the criminal and civil penalties for such trafficking, and the efficacy of those penalties in eliminating or reducing such trafficking.

“(v) What steps the government of that country has taken to assist victims of such trafficking, including

efforts to prevent victims from being further victimized by traffickers, government officials, or others, grants of relief from deportation, and provision of humanitarian relief, including provision of mental and physical health care and shelter.

“(vi) Whether the government of that country is cooperating with governments of other countries to extradite traffickers when requested, or, to the extent that such cooperation would be inconsistent with the laws of such country or with extradition treaties to which such country is a party, whether the government of that country is taking

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all appropriate measures to modify or replace such laws and treaties so as to permit such cooperation.

“(vii) Whether the government of that country is assisting in international investigations of transnational trafficking networks and in other cooperative efforts to combat severe forms of trafficking in persons.

“(viii) Whether the government of that country refrains from prosecuting victims of severe forms of trafficking in persons due to such victims having been trafficked, and refrains from other discriminatory treatment of such victims.

“(ix) Whether the government of that country recognizes the rights of victims of severe forms of trafficking in persons and ensures their access to justice.

“(C) Such other information relating to trafficking in persons as the Secretary of State considers appropriate.

“(2) In compiling data and making assessments for the purposes of paragraph (1), United States diplomatic mission personnel shall consult with human rights organizations and other appropriate nongovernmental organizations.”.

SEC. 105. <<NOTE: 22 USC 7103.>> INTERAGENCY TASK FORCE TO
MONITOR AND
COMBAT TRAFFICKING.

(a) Establishment.--The <<NOTE: President.>> President shall establish an Interagency Task Force to Monitor and Combat Trafficking.

(b) Appointment.--The President shall appoint the members of the Task Force, which shall include the Secretary of State, the Administrator of the United States Agency for International Development, the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, and such other officials as may be designated by the President.

(c) Chairman.--The Task Force shall be chaired by the Secretary of State.

(d) Activities of the Task Force.--The Task Force shall carry out the following activities:

(1) Coordinate the implementation of this division.

(2) Measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking, and prosecution and enforcement against traffickers, including the role of public corruption in facilitating trafficking. The Task Force shall have primary responsibility for assisting the Secretary of State in the preparation of the reports described in section 110.

(3) Expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking. Any data collection procedures established under this subsection shall respect the confidentiality of victims of trafficking.

(4) Engage in efforts to facilitate cooperation among countries of origin, transit, and destination. Such efforts shall aim to strengthen local and regional capacities to prevent trafficking, prosecute traffickers and assist trafficking victims, and shall include initiatives to enhance cooperative efforts between destination countries and countries of origin and assist in the appropriate reintegration of stateless victims of trafficking.

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(5) Examine the role of the international ``sex tourism" industry in the trafficking of persons and in the sexual exploitation of women and children around the world.

(6) Engage in consultation and advocacy with governmental and nongovernmental organizations, among other entities, to advance the purposes of this division.

(e) Support for the Task Force.--The Secretary of State is authorized to establish within the Department of State an Office to Monitor and Combat Trafficking, which shall provide assistance to the Task Force. Any such Office shall be headed by a Director. The Director

shall have the primary responsibility for assisting the Secretary of State in carrying out the purposes of this division and may have additional responsibilities as determined by the Secretary. The Director shall consult with nongovernmental organizations and multilateral organizations, and with trafficking victims or other affected persons. The Director shall have the authority to take evidence in public hearings or by other means. The agencies represented on the Task Force are authorized to provide staff to the Office on a nonreimbursable basis.

SEC. 106. <<NOTE: 22 USC 7104.>> PREVENTION OF TRAFFICKING.

(a) Economic Alternatives To Prevent and Deter Trafficking.--The President shall establish and carry out international initiatives to enhance economic opportunity for potential victims of trafficking as a method to deter trafficking. Such initiatives may include--

- (1) microcredit lending programs, training in business development, skills training, and job counseling;
- (2) programs to promote women's participation in economic decisionmaking;
- (3) programs to keep children, especially girls, in elementary and secondary schools, and to educate persons who have been victims of trafficking;
- (4) development of educational curricula regarding the dangers of trafficking; and
- (5) grants to nongovernmental organizations to accelerate and advance the political, economic, social, and educational roles and capacities of women in their countries.

(b) Public Awareness and Information.--The President, acting through the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, and the Secretary of State, shall establish and carry out programs to increase public awareness, particularly among potential victims of trafficking, of the dangers of trafficking and the protections that are available for victims of trafficking.

(c) Consultation Requirement.--The President shall consult with appropriate nongovernmental organizations with respect to the establishment and conduct of initiatives described in subsections (a) and (b).

SEC. 107. <<NOTE: 22 USC 7105.>> PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) Assistance for Victims in Other Countries.--

- (1) In general.--The Secretary of State and the

Administrator of the United States Agency for International Development, in consultation with appropriate nongovernmental organizations, shall establish and carry out programs and initiatives in foreign countries to assist in the safe integration,

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reintegration, or resettlement, as appropriate, of victims of trafficking. Such programs and initiatives shall be designed to meet the appropriate assistance needs of such persons and their children, as identified by the Task Force.

(2) Additional requirement.--In establishing and conducting programs and initiatives described in paragraph (1), the Secretary of State and the Administrator of the United States Agency for International Development shall take all appropriate steps to enhance cooperative efforts among foreign countries, including countries of origin of victims of trafficking, to assist in the integration, reintegration, or resettlement, as appropriate, of victims of trafficking, including stateless victims.

(b) Victims in the United States.--

(1) Assistance.--

(A) Eligibility for benefits and services.--

Notwithstanding title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, an alien who is a victim of a severe form of trafficking in persons shall be eligible for benefits and services under any Federal or State program or activity funded or administered by any official or agency described in subparagraph (B) to the same extent as an alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act.

(B) Requirement to expand benefits and services.--

Subject to subparagraph (C) and, in the case of nonentitlement programs, to the availability of appropriations, the Secretary of Health and Human Services, the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other Federal agencies shall expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.

(C) Definition of victim of a severe form of trafficking in persons.--For the purposes of this

paragraph, the term ``victim of a severe form of trafficking in persons" means only a person--

(i) who has been subjected to an act or practice described in section 103(8) as in effect on the date of the enactment of this Act; and

(ii)(I) who has not attained 18 years of age; or

(II) who is the subject of a certification under subparagraph (E).

(D) Annual report.--Not <<NOTE: Deadline.>> later than December 31 of each year, the Secretary of Health and Human Services, in consultation with the Secretary of Labor, the Board of Directors of the Legal Services Corporation, and the heads of other appropriate Federal agencies shall submit a report, which includes information on the number of persons who received benefits or other services under this paragraph in connection with programs or activities funded or administered by such agencies or officials during the preceding fiscal year, to the Committee on Ways and Means, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives and the Committee on Finance, the Committee on Foreign

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Relations, and the Committee on the Judiciary of the Senate.

(E) Certification.--

(i) In general.--Subject to clause (ii), the certification referred to in subparagraph (C) is a certification by the Secretary of Health and Human Services, after consultation with the Attorney General, that the person referred to in subparagraph (C)(ii)(II)--

(I) is willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and

(II)(aa) has made a bona fide application for a visa under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), that has not been denied; or

(bb) is a person whose continued

presence in the United States the Attorney General is ensuring in order to effectuate prosecution of traffickers in persons.

(ii) Period of effectiveness.--A certification referred to in subparagraph (C), with respect to a person described in clause (i)(II)(bb), shall be effective only for so long as the Attorney General determines that the continued presence of such person is necessary to effectuate prosecution of traffickers in persons.

(iii) Investigation and prosecution defined.--For the purpose of a certification under this subparagraph, the term "investigation and prosecution" includes--

(I) identification of a person or persons who have committed severe forms of trafficking in persons;

(II) location and apprehension of such persons; and

(III) testimony at proceedings against such persons.

(2) Grants.--

(A) In general.--Subject to the availability of appropriations, the Attorney General may make grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(B) Allocation of grant funds.--Of amounts made available for grants under this paragraph, there shall be set aside--

(i) three percent for research, evaluation, and statistics;

(ii) two percent for training and technical assistance; and

(iii) one percent for management and administration.

(C) Limitation on federal share.--The Federal share of a grant made under this paragraph may not exceed 75 percent of the total costs of the projects described in the application submitted.

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(c) Trafficking Victim Regulations.--Not <<NOTE: Deadline.>> later

than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of State shall promulgate regulations for law enforcement personnel, immigration officials, and Department of State officials to implement the following:

(1) Protections while in custody.--Victims of severe forms of trafficking, while in the custody of the Federal Government and to the extent practicable, shall--

(A) not be detained in facilities inappropriate to their status as crime victims;

(B) receive necessary medical care and other assistance; and

(C) be provided protection if a victim's safety is at risk or if there is danger of additional harm by recapture of the victim by a trafficker, including--

(i) taking measures to protect trafficked persons and their family members from intimidation and threats of reprisals and reprisals from traffickers and their associates; and

(ii) ensuring that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

(2) Access to information.--Victims of severe forms of trafficking shall have access to information about their rights and translation services.

(3) Authority to permit continued presence in the United States.--Federal law enforcement officials may permit an alien individual's continued presence in the United States, if after an assessment, it is determined that such individual is a victim of a severe form of trafficking and a potential witness to such trafficking, in order to effectuate prosecution of those responsible, and such officials in investigating and prosecuting traffickers shall protect the safety of trafficking victims, including taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates.

(4) Training of government personnel.--Appropriate personnel of the Department of State and the Department of Justice shall be trained in identifying victims of severe forms of trafficking and providing for the protection of such victims.

(d) Construction.--Nothing in subsection (c) shall be construed as creating any private cause of action against the United States or its officers or employees.

(e) Protection From Removal for Certain Crime Victims.--

(1) In general.--Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended--

(A) by striking ``or" at the end of subparagraph (R);

(B) by striking the period at the end of subparagraph (S) and inserting ``; or"; and

(C) by adding at the end the following new subparagraph:

``(T)(i) subject to section 214(n), an alien who the Attorney General determines--

``(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

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``(II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking,

``(III)(aa) has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

``(bb) has not attained 15 years of age, and

``(IV) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

``(ii) if the Attorney General considers it necessary to avoid extreme hardship--

``(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, and parents of such alien; and

``(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien,

if accompanying, or following to join, the alien described in clause (i)."

(2) Conditions of nonimmigrant status.--Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended--

(A) by redesignating the subsection (l) added by section 625(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-1820) as subsection (m); and

(B) by adding at the end the following:

``(n)(1) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is substantial reason to

believe that the alien has committed an act of a severe form of trafficking in persons (as defined in section 103 of the Trafficking Victims Protection Act of 2000).

“(2) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year under section 101(a)(15)(T) may not exceed 5,000.

“(3) The numerical limitation of paragraph (2) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.”.

(3) Waiver of grounds for ineligibility for admission.--
Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following:

“(13)(A) The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T).

“(B) In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of--

“(i) paragraphs (1) and (4) of subsection (a); and
“(ii) any other provision of such subsection (excluding paragraphs (3), (10)(C), and (10(E))) if the activities rendering the alien inadmissible under the provision were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I).”.

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(4) Duties of the attorney general with respect to “t” visa nonimmigrants.--Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end the following new subsection:

“(i) With respect to each nonimmigrant alien described in subsection (a)(15)(T)(i)--

“(1) the Attorney General and other Government officials, where appropriate, shall provide the alien with a referral to a nongovernmental organization that would advise the alien regarding the alien's options while in the United States and the resources available to the alien; and

“(2) the Attorney General shall, during the period the alien is in lawful temporary resident status under that subsection, grant the alien authorization to engage in employment in the United States and provide the alien with an

'employment authorized' endorsement or other appropriate work permit."

(5) Statutory construction.--Nothing in this section, or in the amendments made by this section, shall be construed as prohibiting the Attorney General from instituting removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) against an alien admitted as a nonimmigrant under section 101(a)(15)(T)(i) of that Act, as added by subsection (e), for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under such section 101(a)(15)(T)(i).

(f) Adjustment to Permanent Resident Status.--Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

“(l)(1) If, in the opinion of the Attorney General, a nonimmigrant admitted into the United States under section 101(a)(15)(T)(i)--

“(A) has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under section 101(a)(15)(T)(i),

“(B) has, throughout such period, been a person of good moral character, and

“(C)(i) has, during such period, complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking, or

“(ii) the alien would suffer extreme hardship involving unusual and severe harm upon removal from the United States,

the Attorney General may adjust the status of the alien (and any person admitted under that section as the spouse, parent, or child of the alien) to that of an alien lawfully admitted for permanent residence.

“(2) Paragraph (1) shall not apply to an alien admitted under section 101(a)(15)(T) who is inadmissible to the United States by reason of a ground that has not been waived under section 212, except that, if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of--

“(A) paragraphs (1) and (4) of section 212(a); and

“(B) any other provision of such section (excluding paragraphs (3), (10)(C), and (10)(E)), if the activities rendering the alien inadmissible under the provision were caused by, or were

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incident to, the victimization described in section 101(a)(15)(T)(i)(I).

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

“(3)(A) The total number of aliens whose status may be adjusted under paragraph (1) during any fiscal year may not exceed 5,000.

“(B) The numerical limitation of subparagraph (A) shall only apply to principal aliens and not to the spouses, sons, daughters, or parents of such aliens.

“(4) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval.”.

(g) Annual Reports.--On or before October 31 of each year, the Attorney General shall submit a report to the appropriate congressional committees setting forth, with respect to the preceding fiscal year, the number, if any, of otherwise eligible applicants who did not receive visas under section 101(a)(15)(T) of the Immigration and Nationality Act, as added by subsection (e), or who were unable to adjust their status under section 245(l) of such Act, solely on account of the unavailability of visas due to a limitation imposed by section 214(n)(1) or 245(l)(4)(A) of such Act.

SEC. 108. <<NOTE: 22 USC 7106.>> MINIMUM STANDARDS FOR THE
ELIMINATION
OF TRAFFICKING.

(a) Minimum Standards.--For purposes of this division, the minimum standards for the elimination of trafficking applicable to the government of a country of origin, transit, or destination for a significant number of victims of severe forms of trafficking are the following:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

(b) Criteria.--In determinations under subsection (a)(4), the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking

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in persons that take place wholly or partly within the territory of the country.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies

of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates and prosecutes public officials who participate in or facilitate severe forms of trafficking in persons, and takes all appropriate measures against officials who condone such trafficking.

SEC. 109. ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

``SEC. 134. <<NOTE: 22 USC 2152d.>> ASSISTANCE TO FOREIGN COUNTRIES TO MEET MINIMUM STANDARDS FOR THE ELIMINATION OF TRAFFICKING.

``(a) Authorization.--The President is authorized to provide assistance to foreign countries directly, or through nongovernmental and multilateral organizations, for programs, projects, and activities designed to meet the minimum standards for the elimination of trafficking (as defined in section 103 of the Trafficking Victims Protection Act of 2000), including--

``(1) the drafting of laws to prohibit and punish acts of trafficking;

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``(2) the investigation and prosecution of traffickers;

``(3) the creation and maintenance of facilities, programs, projects, and activities for the protection of victims; and

``(4) the expansion of exchange programs and international visitor programs for governmental and nongovernmental personnel to combat trafficking.

``(b) Funding.--Amounts made available to carry out the other provisions of this part (including chapter 4 of part II of this Act) and the Support for East European Democracy (SEED) Act of 1989 shall be made available to carry out this section."

SEC. 110. <<NOTE: 22 USC 7107.>> ACTIONS AGAINST GOVERNMENTS
FAILING TO
MEET MINIMUM STANDARDS.

(a) Statement of Policy.--It is the policy of the United States not to provide nonhumanitarian, nontrade-related foreign assistance to any government that--

(1) does not comply with minimum standards for the elimination of trafficking; and

(2) is not making significant efforts to bring itself into compliance with such standards.

(b) Reports to Congress.--

(1) Annual report.--Not <<NOTE: Deadline.>> later than June 1 of each year, the Secretary of State shall submit to the appropriate congressional committees a report with respect to the status of severe forms of trafficking in persons that shall include--

(A) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments fully comply with such standards;

(B) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not yet fully comply with such standards but are making significant efforts to bring themselves into compliance; and

(C) a list of those countries, if any, to which the minimum standards for the elimination of trafficking are applicable and whose governments do not fully comply with such standards and are not making significant efforts to bring themselves into compliance.

(2) Interim reports.--In addition to the annual report under paragraph (1), the Secretary of State may submit to the appropriate congressional committees at any time one or more interim reports with respect to the status of severe forms of trafficking in persons, including information about countries whose governments--

(A) have come into or out of compliance with the minimum standards for the elimination of trafficking; or

(B) have begun or ceased to make significant efforts to bring themselves into compliance,

since the transmission of the last annual report.

(3) Significant efforts.--In determinations under paragraph (1) or (2) as to whether the government of a country is making significant efforts to bring itself into compliance with the

minimum standards for the elimination of trafficking, the Secretary of State shall consider--

(A) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking;

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(B) the extent of noncompliance with the minimum standards by the government and, particularly, the extent to which officials or employees of the government have participated in, facilitated, condoned, or are otherwise complicit in severe forms of trafficking; and

(C) what measures are reasonable to bring the government into compliance with the minimum standards in light of the resources and capabilities of the government.

(c) Notification.--Not <<NOTE: Deadline.>> less than 45 days or more than 90 days after the submission, on or after January 1, 2003, of an annual report under subsection (b)(1), or an interim report under subsection (b)(2), the President shall submit to the appropriate congressional committees a notification of one of the determinations listed in subsection (d) with respect to each foreign country whose government, according to such report--

(A) does not comply with the minimum standards for the elimination of trafficking; and

(B) is not making significant efforts to bring itself into compliance, as described in subsection (b)(1)(C).

(d) Presidential Determinations.--The determinations referred to in subsection (c) are the following:

(1) Withholding of nonhumanitarian, nontrade-related assistance.--The <<NOTE: President.>> President has determined that--

(A)(i) the United States will not provide nonhumanitarian, nontrade-related foreign assistance to the government of the country for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; or

(ii) in the case of a country whose government received no nonhumanitarian, nontrade-related foreign assistance from the United States during the previous fiscal year, the United States will not provide funding for participation by officials or employees of such

governments in educational and cultural exchange programs for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance; and

(B) the President will instruct the United States Executive Director of each multilateral development bank and of the International Monetary Fund to vote against, and to use the Executive Director's best efforts to deny, any loan or other utilization of the funds of the respective institution to that country (other than for humanitarian assistance, for trade-related assistance, or for development assistance which directly addresses basic human needs, is not administered by the government of the sanctioned country, and confers no benefit to that government) for the subsequent fiscal year until such government complies with the minimum standards or makes significant efforts to bring itself into compliance.

(2) Ongoing, multiple, broad-based restrictions on assistance in response to human rights violations.--The President has determined that such country is already subject to multiple, broad-based restrictions on assistance imposed in significant part in response to human rights abuses and such restrictions are ongoing and are comparable to the restrictions

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provided in paragraph (1). Such determination shall be accompanied by a description of the specific restriction or restrictions that were the basis for making such determination.

(3) Subsequent compliance.--The Secretary of State has determined that the government of the country has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

(4) Continuation of assistance in the national interest.--Notwithstanding the failure of the government of the country to comply with minimum standards for the elimination of trafficking and to make significant efforts to bring itself into compliance, the President has determined that the provision to the country of nonhumanitarian, nontrade-related foreign assistance, or the multilateral assistance described in paragraph (1)(B), or both, would promote the purposes of this division or is otherwise in the national interest of the United States.

(5) Exercise of waiver authority.--

(A) In general.--The President may exercise the authority under paragraph (4) with respect to--

- (i) all nonhumanitarian, nontrade-related foreign assistance to a country;
- (ii) all multilateral assistance described in paragraph (1)(B) to a country; or
- (iii) one or more programs, projects, or activities of such assistance.

(B) Avoidance of significant adverse effects.--

The <<NOTE: President.>> President shall exercise the authority under paragraph (4) when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

(6) Definition of multilateral development bank.--In this subsection, the term ``multilateral development bank" refers to any of the following institutions: the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, the African Development Fund, the European Bank for Reconstruction and Development, and the Multilateral Investment Guaranty Agency.

(e) Certification.--Together <<NOTE: President.>> with any notification under subsection (c), the President shall provide a certification by the Secretary of State that, with respect to any assistance described in clause (ii), (iii), or (v) of section 103(7)(A), or with respect to any assistance described in section 103(7)(B), no assistance is intended to be received or used by any agency or official who has participated in, facilitated, or condoned a severe form of trafficking in persons.

SEC. 111. <<NOTE: 22 USC 7108.>> ACTIONS AGAINST SIGNIFICANT TRAFFICKERS
IN PERSONS.

(a) Authority To Sanction Significant Traffickers in Persons.--

(1) In general.--The President may exercise the authorities set forth in section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701) without regard to section 202 of that Act (50 U.S.C. 1701) in the case of any of the following persons:

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(A) Any foreign person that plays a significant role in a severe form of trafficking in persons, directly or

indirectly in the United States.

(B) Foreign persons that materially assist in, or provide financial or technological support for or to, or provide goods or services in support of, activities of a significant foreign trafficker in persons identified pursuant to subparagraph (A).

(C) Foreign persons that are owned, controlled, or directed by, or acting for or on behalf of, a significant foreign trafficker identified pursuant to subparagraph (A).

(2) Penalties.--The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(b) Report to Congress on Identification and Sanctioning of Significant Traffickers in Persons.--

(1) In general.--Upon <<NOTE: President.>> exercising the authority of subsection (a), the President shall report to the appropriate congressional committees--

(A) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this section and the basis for such determination; and

(B) detailing publicly the sanctions imposed pursuant to this section.

(2) Removal of sanctions.--

Upon <<NOTE: President.>> suspending or terminating any action imposed under the authority of subsection (a), the President shall report to the committees described in paragraph (1) on such suspension or termination.

(3) Submission of classified information.--Reports submitted under this subsection may include an annex with classified information regarding the basis for the determination made by the President under paragraph (1)(A).

(c) Law Enforcement and Intelligence Activities Not Affected.--Nothing in this section prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(d) Exclusion of Persons Who Have Benefited From Illicit Activities of Traffickers in Persons.--Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by inserting at the end the following new subparagraph:

``(H) Significant traffickers in persons.--

``(i) In general.--Any alien who is listed in

a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assister, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in the section 103 of such Act, is inadmissible.

“(ii) Beneficiaries of trafficking.--Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien

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inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

“(iii) Exception for certain sons and daughters.--Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.”.

(e) Implementation.--

(1) Delegation of authority.--The President may delegate any authority granted by this section, including the authority to designate foreign persons under paragraphs (1)(B) and (1)(C) of subsection (a).

(2) Promulgation of rules and regulations.--The head of any agency, including the Secretary of Treasury, is authorized to take such actions as may be necessary to carry out any authority delegated by the President pursuant to paragraph (1), including promulgating rules and regulations.

(3) Opportunity for review.--Such rules and regulations shall include procedures affording an opportunity for a person to be heard in an expeditious manner, either in person or through a representative, for the purpose of seeking changes to or termination of any determination, order, designation or other action associated with the exercise of the authority in subsection (a).

(f) Definition of Foreign Persons.--In this section, the term

“foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, including a foreign government official, but does not include a foreign state.

(g) Construction.--Nothing in this section shall be construed as precluding judicial review of the exercise of the authority described in subsection (a).

AND
SEC. 112. <<NOTE: 22 USC 7109.>> STRENGTHENING PROSECUTION
PUNISHMENT OF TRAFFICKERS.

(a) Title 18 Amendments.--Chapter 77 of title 18, United States Code, is amended--

(1) in each of sections 1581(a), 1583, and 1584--

(A) by striking “10 years” and inserting “20 years”; and

(B) by adding at the end the following: “If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.”;

(2) by inserting at the end the following:

“Sec. 1589. Forced labor

“Whoever knowingly provides or obtains the labor or services of a person--

“(1) by threats of serious harm to, or physical restraint against, that person or another person;

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“(2) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

“(3) by means of the abuse or threatened abuse of law or the legal process,

shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for

any term of years or life, or both.

``Sec. 1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor

``Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

``Sec. 1591. Sex trafficking of children or by force, fraud or coercion

``(a) Whoever knowingly--

``(1) in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or

``(2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1),

knowing that force, fraud, or coercion described in subsection (c)(2) will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act, shall be punished as provided in subsection (b).

``(b) The punishment for an offense under subsection (a) is--

``(1) if the offense was effected by force, fraud, or coercion or if the person transported had not attained the age of 14 years at the time of such offense, by a fine under this title or imprisonment for any term of years or for life, or both; or

``(2) if the offense was not so effected, and the person transported had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title or imprisonment for not more than 20 years, or both.

``(c) In this section:

``(1) The term 'commercial sex act' means any sex act, on account of which anything of value is given to or received by any person.

``(2) The term 'coercion' means--

“(A) threats of serious harm to or physical restraint against any person;

“(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

“(C) the abuse or threatened abuse of law or the legal process.

“(3) The term ‘venture’ means any group of two or more individuals associated in fact, whether or not a legal entity.

“Sec. 1592. Unlawful conduct with respect to documents in furtherance of trafficking, peonage, slavery, involuntary servitude, or forced labor

“(a) Whoever knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person--

“(1) in the course of a violation of section 1581, 1583, 1584, 1589, 1590, 1591, or 1594(a);

“(2) with intent to violate section 1581, 1583, 1584, 1589, 1590, or 1591; or

“(3) to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000,

shall be fined under this title or imprisoned for not more than 5 years, or both.

“(b) Subsection (a) does not apply to the conduct of a person who is or has been a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Protection Act of 2000, if that conduct is caused by, or incident to, that trafficking.

“Sec. 1593. Mandatory restitution

“(a) Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalties authorized by law, the court shall order restitution for any offense under this chapter.

“(b)(1) The order of restitution under this section shall direct

the defendant to pay the victim (through the appropriate court mechanism) the full amount of the victim's losses, as determined by the court under paragraph (3) of this subsection.

“(2) An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

“(3) As used in this subsection, the term ‘full amount of the victim's losses’ has the same meaning as provided in section 2259(b)(3) and shall in addition include the greater of the gross income or value to the defendant of the victim's services or labor or the value of the victim's labor as guaranteed under the minimum wage and overtime guarantees of the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

“(c) As used in this section, the term ‘victim’ means the individual harmed as a result of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent,

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incapacitated, or deceased, the legal guardian of the victim or a representative of the victim's estate, or another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named such representative or guardian.

“Sec. 1594. General provisions

“(a) Whoever attempts to violate section 1581, 1583, 1584, 1589, 1590, or 1591 shall be punishable in the same manner as a completed violation of that section.

“(b) The court, in imposing sentence on any person convicted of a violation of this chapter, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person shall forfeit to the United States--

“(1) such person's interest in any property, real or personal, that was used or intended to be used to commit or to facilitate the commission of such violation; and

“(2) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

“(c)(1) The following shall be subject to forfeiture to the United States and no property right shall exist in them:

“(A) Any property, real or personal, used or intended to be used to commit or to facilitate the commission of any violation of this chapter.

“(B) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this

chapter.

((2) The provisions of chapter 46 of this title relating to civil forfeitures shall extend to any seizure or civil forfeiture under this subsection.

((d) Witness Protection.--Any violation of this chapter shall be considered an organized criminal activity or other serious offense for the purposes of application of chapter 224 (relating to witness protection)."; and

(3) by amending the table of sections at the beginning of chapter 77 by adding at the end the following new items:

((1589. Forced labor.

((1590. Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor.

((1591. Sex trafficking of children or by force, fraud, or coercion.

((1592. Unlawful conduct with respect to documents in furtherance of trafficking,
peonage, slavery, involuntary servitude, or forced labor.

((1593. Mandatory restitution.

((1594. General provisions."

(b) Amendment to the Sentencing Guidelines.--

(1) Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of offenses involving the trafficking of persons including component or related crimes of peonage, involuntary servitude, slave trade offenses, and possession, transfer or sale of false immigration documents in furtherance of trafficking, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

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(2) In carrying out this subsection, the Sentencing Commission shall--

(A) take all appropriate measures to ensure that these sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently stringent to deter and adequately reflect the heinous nature of such offenses;

(B) consider conforming the sentencing guidelines applicable to offenses involving trafficking in persons to the guidelines applicable to peonage, involuntary

servitude, and slave trade offenses; and

(C) consider providing sentencing enhancements for those convicted of the offenses described in paragraph (1) of this subsection that--

- (i) involve a large number of victims;
- (ii) involve a pattern of continued and flagrant violations;
- (iii) involve the use or threatened use of a dangerous weapon; or
- (iv) result in the death or bodily injury of any person.

(3) The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

SEC. 113. <<NOTE: 22 USC 7110.>> AUTHORIZATIONS OF APPROPRIATIONS.

(a) Authorization of Appropriations in Support of the Task Force.-- To carry out the purposes of sections 104, 105, and 110, there are authorized to be appropriated to the Secretary of State \$1,500,000 for fiscal year 2001 and \$3,000,000 for fiscal year 2002.

(b) Authorization of Appropriations to the Secretary of Health and Human Services.--To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Health and Human Services \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(c) Authorization of Appropriations to the Secretary of State.--

(1) Assistance for victims in other countries.--To carry out the purposes of section 107(a), there are authorized to be appropriated to the Secretary of State \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) Voluntary contributions to osce.--To carry out the purposes of section 109, there are authorized to be appropriated to the Secretary of State \$300,000 for voluntary contributions to advance projects aimed at preventing trafficking, promoting respect for human rights of trafficking victims, and assisting the Organization for Security and Cooperation in Europe participating states in related legal reform for fiscal year 2001.

(3) Preparation of annual country reports on human rights.-- To carry out the purposes of section 104, there are authorized to be appropriated to the Secretary of State such sums as may be necessary to include the additional information required by that section in the annual Country Reports on Human Rights Practices,

including the preparation and publication of the list described in subsection (a)(1) of that section.

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(d) Authorization of Appropriations to Attorney General.--To carry out the purposes of section 107(b), there are authorized to be appropriated to the Attorney General \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(e) Authorization of Appropriations to President.--

(1) Foreign victim assistance.--To carry out the purposes of section 106, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(2) Assistance to foreign countries to meet minimum standards.--To carry out the purposes of section 109, there are authorized to be appropriated to the President \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

(f) Authorization of Appropriations to the Secretary of Labor.--To carry out the purposes of section 107(b), there are authorized to be appropriated to the Secretary of Labor \$5,000,000 for fiscal year 2001 and \$10,000,000 for fiscal year 2002.

DIVISION <<NOTE: Violence Against Women Act of 2000.>> B--
VIOLENCE
AGAINST WOMEN ACT OF 2000

SEC. 1001. <<NOTE: 42 USC 13701 note.>> SHORT TITLE.

This division may be cited as the ``Violence Against Women Act of 2000".

SEC. 1002. <<NOTE: 42 USC 3796gg-2 note.>> DEFINITIONS.

In this division--

(1) the term ``domestic violence" has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

(2) the term ``sexual assault" has the meaning given the term in section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

SEC. 1003. <<NOTE: 42 USC 3789p.>> ACCOUNTABILITY AND OVERSIGHT.

(a) Report by Grant Recipients.--The Attorney General or Secretary of Health and Human Services, as applicable, shall require grantees under any program authorized or reauthorized by this division or an amendment made by this division to report on the effectiveness of the activities carried out with amounts made available to carry out that program, including number of persons served, if applicable, numbers of persons seeking services who could not be served and such other information as the Attorney General or Secretary may prescribe.

(b) Report to Congress.--The Attorney General or Secretary of Health and Human Services, as applicable, shall report biennially to the Committees on the Judiciary of the House of Representatives and the Senate on the grant programs described in subsection (a), including the information contained in any report under that subsection.

SEC. 1407. DOMESTIC VIOLENCE TASK FORCE

The Violence Against Women Act of 1994 (108 Stat. 1902 et seq.) (as amended by section 1209(a) of this division) is amended by adding at the end the following:

``Subtitle I--Domestic Violence Task Force

``SEC. 40901. <<NOTE: 42 USC 14042.>> TASK FORCE.

``(a) Establish.--The Attorney General, in consultation with national nonprofit, nongovernmental organizations whose primary expertise is in domestic violence, shall establish a task force to coordinate research on domestic violence and to report to Congress on any overlapping or duplication of efforts on domestic violence issues. The task force shall be comprised of representatives from all Federal agencies that fund such research.

``(b) Uses of Funds.--Funds appropriated under this section shall be used to--

``(1) develop a coordinated strategy to strengthen research focused on domestic violence education, prevention, and intervention strategies;

``(2) track and report all Federal research and expenditures on domestic violence; and

``(3) identify gaps and duplication of efforts in domestic violence research and governmental expenditures on domestic violence issues.

``(c) Report.--The Task Force shall report to Congress annually on its work under subsection (b).

``(d) Definition.--For purposes of this section, the term `domestic violence' has the meaning given such term by section 2003 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2(1)).

``(e) Authorization of Appropriations.--There is authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2001 through 2004."

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TITLE <<NOTE: Battered Immigrant Women Protection Act of 2000.>> V-- BATTERED IMMIGRANT WOMEN

SEC. 1501. <<NOTE: 8 USC 1101 note.>> SHORT TITLE.

This title may be cited as the ``Battered Immigrant Women Protection

Act of 2000".

SEC. 1502. <<NOTE: 8 USC 1101 note.>> FINDINGS AND PURPOSES.

(a) Findings.--Congress finds that--

(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children without fearing that the abuser will retaliate by withdrawing or threatening withdrawal of access to an immigration benefit under the abuser's control; and

(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994 which means that their abusers are virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

(b) Purposes.--The purposes of this title are--

(1) to remove barriers to criminal prosecutions of persons who commit acts of battery or extreme cruelty against immigrant women and children; and

(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State and tribal protection orders, domestic violence, and family law statutes.

SEC. 1503. IMPROVED ACCESS TO IMMIGRATION PROTECTIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994 FOR BATTERED IMMIGRANT WOMEN.

(a) Intended Spouse Defined.--Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(50) The term ‘intended spouse’ means any alien who meets the criteria set forth in section 204(a)(1)(A)(iii)(II)(aa)(BB),

204(a)(1)(B)(ii)(II)(aa)(BB), or 240A(b)(2)(A)(i)(III).".

(b) Immediate Relative Status for Self-Petitioners Married to U.S. Citizens.--

(1) Self-petitioning spouses.--

(A) Battery or cruelty to alien or alien's child.--

Section 204(a)(1)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iii)) is amended to read as follows:

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“(iii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if the alien demonstrates to the Attorney General that--

“(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

“(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

“(II) For purposes of subclause (I), an alien described in this subclause is an alien--

“(aa)(AA) who is the spouse of a citizen of the United States;

“(BB) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States; or

“(CC) who was a bona fide spouse of a United States citizen within the past 2 years and--

“(aaa) whose spouse died within the past 2 years;

“(bbb) whose spouse lost or renounced citizenship status within the past 2 years related to an incident of domestic violence; or

“(ccc) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse;

“(bb) who is a person of good moral character;

“(cc) who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i) or who would have been so classified but for the bigamy of the citizen of the United

States that the alien intended to marry; and

“(dd) who has resided with the alien's spouse or intended spouse.”.

(2) Self-petitioning children.--Section 204(a)(1)(A)(iv) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(iv)) is amended to read as follows:

“(iv) An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 201(b)(2)(A)(i), and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent. For purposes of this clause, residence includes any period of visitation.”.

(3) Filing of petitions.--Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) is amended by adding at the end the following:

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“(v) An alien who--

“(I) is the spouse, intended spouse, or child living abroad of a citizen who--

“(aa) is an employee of the United States Government;

“(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

“(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

“(II) is eligible to file a petition under clause (iii) or (iv),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (iii) or (iv), as applicable.”.

(c) Second Preference Immigration Status for Self-Petitioners Married to Lawful Permanent Residents.--

(1) Self-petitioning spouses.--Section 204(a)(1)(B)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)(ii)) is amended to read as follows:

“(ii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if such a child has not been classified under clause (iii) of section 203(a)(2)(A) and if the alien demonstrates to the Attorney General that--

“(aa) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

“(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

“(II) For purposes of subclause (I), an alien described in this paragraph is an alien--

“(aa)(AA) who is the spouse of a lawful permanent resident of the United States; or

“(BB) who believed that he or she had married a lawful permanent resident of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this Act to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States; or

“(CC) who was a bona fide spouse of a lawful permanent resident within the past 2 years and--

“(aaa) whose spouse lost status within the past 2 years due to an incident of domestic violence; or

“(bbb) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the lawful permanent resident spouse;

“(bb) who is a person of good moral character;

“(cc) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 203(a)(2)(A) or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

“(dd) who has resided with the alien's spouse or intended spouse.”.

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(2) Self-petitioning children.--Section 204(a)(1)(B)(iii) of the Immigration and Nationality Act (8 U.S.C.

1154(a)(1)(B)(iii)) is amended to read as follows:

“(iii) An alien who is the child of an alien lawfully admitted for permanent residence, or who was the child of a lawful permanent resident who within the past 2 years lost lawful permanent resident status due to an incident of domestic violence, and who is a person of good moral character, who is eligible for classification under section 203(a)(2)(A), and who resides, or has resided in the past, with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent.”.

(3) Filing of petitions.--Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) is amended by adding at the end the following:

“(iv) An alien who--

“(I) is the spouse, intended spouse, or child living abroad of a lawful permanent resident who--

“(aa) is an employee of the United States Government;

“(bb) is a member of the uniformed services (as defined in section 101(a) of title 10, United States Code); or

“(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

“(II) is eligible to file a petition under clause (ii) or (iii),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (ii) or (iii), as applicable.”.

(d) Good Moral Character Determinations for Self-Petitioners and Treatment of Child Self-Petitioners and Petitions Including Derivative Children Attaining 21 Years of Age.--Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended--

(1) by redesignating subparagraphs (C) through (H) as subparagraphs (E) through (J), respectively;

(2) by inserting after subparagraph (B) the following:

“(C) Notwithstanding section 101(f), an act or conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under section 212(a) or deportability under section 237(a) shall not bar the Attorney General from finding the

petitioner to be of good moral character under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty.

“(D)(i)(I) Any child who attains 21 years of age who has filed a petition under clause (iv) of section 204(a)(1)(A) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under clause (iv) of section 204(a)(1)(A). No new petition shall be required to be filed.

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“(II) Any individual described in subclause (I) is eligible for deferred action and work authorization.

“(III) Any derivative child who attains 21 years of age who is included in a petition described in clause (ii) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable, with the same priority date as that assigned to the petitioner in any petition described in clause (ii). No new petition shall be required to be filed.

“(IV) Any individual described in subclause (III) and any derivative child of a petition described in clause (ii) is eligible for deferred action and work authorization.

“(ii) The petition referred to in clause (i)(III) is a petition filed by an alien under subparagraph (A)(iii), (A)(iv), (B)(ii) or (B)(iii) in which the child is included as a derivative beneficiary.”; and

(3) in subparagraph (J) (as so redesignated), by inserting “or in making determinations under subparagraphs (C) and (D),” after “subparagraph (B),”.

(e) Access to Naturalization for Divorced Victims of Abuse.--Section 319(a) of the Immigration and Nationality Act (8 U.S.C. 1430(a)) is amended--

(1) by inserting “, or any person who obtained status as a lawful permanent resident by reason of his or her status as a spouse or child of a United States citizen who battered him or her or subjected him or her to extreme cruelty,” after “United States” the first place such term appears; and

(2) by inserting "(except in the case of a person who has been battered or subjected to extreme cruelty by a United States citizen spouse or parent)" after "has been living in marital union with the citizen spouse".

SEC. 1504. IMPROVED ACCESS TO CANCELLATION OF REMOVAL AND
SUSPENSION OF
DEPORTATION UNDER THE VIOLENCE AGAINST WOMEN ACT
OF 1994.

(a) Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents.--Section 240A(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(2)) is amended to read as follows:

"(2) Special rule for battered spouse or child.--

"(A) Authority.--The Attorney General may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that--

"(i)(I) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a United States citizen (or is the parent of a child of a United States citizen and the child has been battered or subjected to extreme cruelty by such citizen parent);

"(II) the alien has been battered or subjected to extreme cruelty by a spouse or parent who is or was a lawful permanent resident (or is the parent of a

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child of an alien who is or was a lawful permanent resident and the child has been battered or subjected to extreme cruelty by such permanent resident parent); or

"(III) the alien has been battered or subjected to extreme cruelty by a United States citizen or lawful permanent resident whom the alien intended to marry, but whose marriage is not legitimate because of that United States citizen's or lawful permanent resident's bigamy;

"(ii) the alien has been physically present in the United States for a continuous period of not less than 3 years immediately preceding the date of such application, and the issuance of a

charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States;

“(iii) the alien has been a person of good moral character during such period, subject to the provisions of subparagraph (C);

“(iv) the alien is not inadmissible under paragraph (2) or (3) of section 212(a), is not deportable under paragraphs (1)(G) or (2) through (4) of section 237(a) (except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver), and has not been convicted of an aggravated felony; and

“(v) the removal would result in extreme hardship to the alien, the alien's child, or the alien's parent.

“(B) Physical presence.--Notwithstanding subsection (d)(2), for purposes of subparagraph (A)(i)(II) or for purposes of section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence if the alien demonstrates a connection between the absence and the battering or extreme cruelty perpetrated against the alien. No absence or portion of an absence connected to the battering or extreme cruelty shall count toward the 90-day or 180-day limits established in subsection (d)(2). If any absence or aggregate absences exceed 180 days, the absences or portions of the absences will not be considered to break the period of continuous presence. Any such period of time excluded from the 180-day limit shall be excluded in computing the time during which the alien has been physically present for purposes of the 3-year requirement set forth in section 240A(b)(2)(B) and section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

“(C) Good moral character.--Notwithstanding section 101(f), an act or conviction that does not bar the Attorney General from granting relief under this paragraph by reason of subparagraph (A)(iv) shall not bar the Attorney General from finding the alien to be of good moral character under subparagraph (A)(i)(III) or section 244(a)(3) (as in effect before the title III-A

effective date in section 309

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of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty and determines that a waiver is otherwise warranted.

“(D) Credible evidence considered.--In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.”.

(b) Children of Battered Aliens and Parents of Battered Alien Children.--Section 240A(b) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)) is amended by adding at the end the following:

“(4) Children of battered aliens and parents of battered alien children.--

“(A) In general.--The Attorney General shall grant parole under section 212(d)(5) to any alien who is a--

“(i) child of an alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996); or

“(ii) parent of a child alien granted relief under section 240A(b)(2) or 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).

“(B) Duration of parole.--The grant of parole shall extend from the time of the grant of relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to the time the application for adjustment of status filed by aliens covered under this paragraph has been finally adjudicated. Applications for adjustment of status filed by aliens covered under this paragraph shall be treated as if they were applications filed under section 204(a)(1)

(A)(iii), (A)(iv), (B)(ii), or (B)(iii) for purposes of section 245 (a) and (c). Failure by the alien granted relief under section 240A(b)(2) or section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) to exercise due diligence in filing a visa petition on behalf of an alien described in clause (i) or (ii) may result in revocation of parole."

(c) Effective Date.--Any <<NOTE: 8 USC 1229b note.>> individual who becomes eligible for relief by reason of the enactment of the amendments made by subsections (a) and (b), shall be eligible to file a motion to reopen pursuant to section 240(c)(6)(C)(iv). The amendments made by subsections (a) and (b) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587). Such portions of the amendments made by subsection (b) that relate to section 244(a)(3) (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and

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Immigrant Responsibility Act of 1996) shall take effect as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

SEC. 1505. OFFERING EQUAL ACCESS TO IMMIGRATION
PROTECTIONS OF THE
VIOLENCE AGAINST WOMEN ACT OF 1994 FOR ALL QUALIFIED
BATTERED IMMIGRANT SELF-PETITIONERS.

(a) Battered Immigrant Waiver.--Section 212(a)(9)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(C)(ii)) is amended by adding at the end the following: ``The Attorney General in the Attorney General's discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a connection between--

``(1) the alien's having been battered or subjected to extreme cruelty; and

``(2) the alien's--

``(A) removal;

``(B) departure from the United States;

“(C) reentry or reentries into the United States;
or
“(D) attempted reentry into the United States.”.

(b) Domestic Violence Victim Waiver.--

(1) Waiver for victims of domestic violence.--Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended by inserting at the end the following:

“(7) Waiver for victims of domestic violence.--

“(A) In general.--The Attorney General is not limited by the criminal court record and may waive the application of paragraph (2)(E)(i) (with respect to crimes of domestic violence and crimes of stalking) and (ii) in the case of an alien who has been battered or subjected to extreme cruelty and who is not and was not the primary perpetrator of violence in the relationship--

“(i) upon a determination that--

“(I) the alien was acting in self-defense;

“(II) the alien was found to have violated a protection order intended to protect the alien; or

“(III) the alien committed, was arrested for, was convicted of, or pled guilty to committing a crime--

“(aa) that did not result in serious bodily injury; and

“(bb) where there was a connection between the crime and the alien's having been battered or subjected to extreme cruelty.

“(B) Credible evidence considered.--In acting on applications under this paragraph, the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.”.

(2) Conforming amendment.--Section 240A(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1229b(b)(1)(C)) is

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amended by inserting “(except in a case described in section 237(a)(7) where the Attorney General exercises discretion to

grant a waiver)" after ``237(a)(3)".

(c) Misrepresentation Waivers for Battered Spouses of United States Citizens and Lawful Permanent Residents.--

(1) Waiver of inadmissibility.--Section 212(i)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(i)(1)) is amended by inserting before the period at the end the following: ``or, in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's United States citizen, lawful permanent resident, or qualified alien parent or child".

(2) Waiver of deportability.--Section 237(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(H)) is amended--

- (A) in clause (i), by inserting ``(I)" after ``(i)";
- (B) by redesignating clause (ii) as subclause (II);
- and
- (C) by adding after clause (i) the following:
 - ``(ii) is an alien who qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B)."

(d) Battered Immigrant Waiver.--Section 212(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(g)(1)) is amended--

- (1) in subparagraph (A), by striking ``or" at the end;
- (2) in subparagraph (B), by adding ``or" at the end; and
- (3) by inserting after subparagraph (B) the following:
 - ``(C) qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B);".

(e) Waivers for VAWA Eligible Battered Immigrants.--Section 212(h)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(h)(1)) is amended--

- (1) in subparagraph (B), by striking ``and" and inserting ``or"; and
- (2) by adding at the end the following:
 - ``(C) the alien qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B); and".

(f) Public Charge.--Section 212 of the Immigration and Nationality

Act (8 U.S.C. 1182) is amended by adding at the end the following:

“(p) In determining whether an alien described in subsection (a)(4)(C)(i) is inadmissible under subsection (a)(4) or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident by reason of subsection (a)(4), the consular officer or the Attorney General shall not consider any benefits the alien may have received that were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c)).”.

(g) Report.--Not <<NOTE: Deadline.>> later than 6 months after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives covering, with respect to fiscal year 1997 and each fiscal year thereafter--

(1) the policy and procedures of the Immigration and Naturalization Service under which an alien who has been battered

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or subjected to extreme cruelty who is eligible for suspension of deportation or cancellation of removal can request to be placed, and be placed, in deportation or removal proceedings so that such alien may apply for suspension of deportation or cancellation of removal;

(2) the number of requests filed at each district office under this policy;

(3) the number of these requests granted reported separately for each district; and

(4) the average length of time at each Immigration and Naturalization office between the date that an alien who has been subject to battering or extreme cruelty eligible for suspension of deportation or cancellation of removal requests to be placed in deportation or removal proceedings and the date that the immigrant appears before an immigration judge to file an application for suspension of deportation or cancellation of removal.

SEC. 1506. RESTORING IMMIGRATION PROTECTIONS UNDER THE
VIOLENCE AGAINST
WOMEN ACT OF 1994.

(a) Removing Barriers to Adjustment of Status for Victims of Domestic Violence.--

(1) Immigration amendments.--Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended--

(A) in subsection (a), by inserting ``or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) or" after ``into the United States."; and

(B) in subsection (c), by striking ``Subsection (a) shall not be applicable to" and inserting the following: ``Other than an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of section 204(a)(1), subsection (a) shall not be applicable to".

(2) Effective date.--The <<NOTE: 8 USC 1255 note.>> amendments made by paragraph (1) shall apply to applications for adjustment of status pending on or made on or after January 14, 1998.

(b) Removing Barriers to Cancellation of Removal and Suspension of Deportation for Victims of Domestic Violence.--

(1) Not treating service of notice as terminating continuous period.--Section 240A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by striking ``when the alien is served a notice to appear under section 239(a) or" and inserting ``(A) except in the case of an alien who applies for cancellation of removal under subsection (b)(2), when the alien is served a notice to appear under section 239(a), or (B)".

(2) Effective date.--The <<NOTE: 8 USC 1229b note.>> amendment made by paragraph (1) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 587).

(3) Modification of certain transition rules for battered spouse or child.--Section 309(c)(5)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended--

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(A) by striking the subparagraph heading and inserting the following:

``(C) Special rule for certain aliens granted temporary protection from deportation and for battered spouses and children.--"; and

(B) in clause (i)--

(i) in subclause (IV), by striking ``or" at the end;

(ii) in subclause (V), by striking the period at the end and inserting ``; or"; and

(iii) by adding at the end the following:

``(VI) is an alien who was issued an order to show cause or was in deportation proceedings before April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).".

(4) Effective date.--The <<NOTE: 8 USC 1101 note.>> amendments made by paragraph (3) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note).

(c) Eliminating Time Limitations on Motions To Reopen Removal and Deportation Proceedings for Victims of Domestic Violence.--

(1) Removal proceedings.--

(A) In general.--Section 240(c)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)(C)) is amended by adding at the end the following:

``(iv) Special rule for battered spouses and children.--The deadline specified in subsection (b)(5)(C) for filing a motion to reopen does not apply--

``(I) if the basis for the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A), clause (ii) or (iii) of section 204(a)(1)(B), or section 240A(b)(2);

``(II) if the motion is accompanied by a cancellation of removal application to be filed with the Attorney General or by a copy of the self-petition that has been or will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen; and

``(III) if the motion to reopen is filed within 1 year of the entry of the final order of removal, except that the Attorney General may, in the Attorney General's discretion, waive this time

limitation in the case of an alien who demonstrates extraordinary circumstances or extreme hardship to the alien's child."

(B) Effective date.--The <<NOTE: 8 USC 1229a note.>> amendment made by subparagraph (A) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1229-1229c).

(2) Deportation <<NOTE: 8 USC 1229a note.>> proceedings.--

(A) In general.--Notwithstanding any limitation imposed by law on motions to reopen or rescind deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section

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309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)), there is no time limit on the filing of a motion to reopen such proceedings, and the deadline specified in section 242B(c)(3) of the Immigration and Nationality Act (as so in effect) (8 U.S.C. 1252b(c)(3)) does not apply--

(i) if the basis of the motion is to apply for relief under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as so in effect) (8 U.S.C. 1254(a)(3)); and

(ii) if the motion is accompanied by a suspension of deportation application to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(B) Applicability.--Subparagraph (A) shall apply to motions filed by aliens who--

(i) are, or were, in deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(ii) have become eligible to apply for relief

under clause (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)), clause (ii) or (iii) of section 204(a)(1)(B) of such Act (8 U.S.C. 1154(a)(1)(B)), or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by--

- (I) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or
- (II) this title.

SEC. 1507. REMEDYING PROBLEMS WITH IMPLEMENTATION OF THE
IMMIGRATION
PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT OF 1994.

(a) Effect of Changes in Abusers' Citizenship Status on Self-Petition.--

(1) Reclassification.--Section 204(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)) (as amended by section 1503(b)(3) of this title) is amended by adding at the end the following:

“(vi) For the purposes of any petition filed under clause (iii) or (iv), the denaturalization, loss or renunciation of citizenship, death of the abuser, divorce, or changes to the abuser's citizenship status after filing of the petition shall not adversely affect the approval of the petition, and for approved petitions shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative or affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on the approved self-petition under such clauses.”.

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(2) Loss of status.--Section 204(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(B)) (as amended by section 1503(c)(3) of this title) is amended by adding at the end the following:

“(v)(I) For the purposes of any petition filed or approved under

clause (ii) or (iii), divorce, or the loss of lawful permanent resident status by a spouse or parent after the filing of a petition under that clause shall not adversely affect approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under subsections (a) and (c) of section 245 or obtain status as a lawful permanent resident based on an approved self-petition under clause (ii) or (iii).

“(II) Upon the lawful permanent resident spouse or parent becoming or establishing the existence of United States citizenship through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under clause (ii) or (iii) on behalf of an alien who has been battered or subjected to extreme cruelty shall be deemed reclassified as a petition filed under subparagraph (A) even if the acquisition of citizenship occurs after divorce or termination of parental rights.”.

(3) Definition <<NOTE: 8 USC 1151.>> of immediate relatives.--Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1154(b)(2)(A)(i)) is amended by adding at the end the following: “For purposes of this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) of this Act remains an immediate relative in the event that the United States citizen spouse or parent loses United States citizenship on account of the abuse.”.

(b) Allowing Remarriage of Battered Immigrants.--Section 204(h) of the Immigration and Nationality Act (8 U.S.C. 1154(h)) is amended by adding at the end the following: “Remarriage of an alien whose petition was approved under section 204(a)(1)(B)(ii) or 204(a)(1)(A)(iii) or marriage of an alien described in clause (iv) or (vi) of section 204(a)(1)(A) or in section 204(a)(1)(B)(iii) shall not be the basis for revocation of a petition approval under section 205.”.

SEC. 1508. TECHNICAL CORRECTION TO QUALIFIED ALIEN DEFINITION FOR BATTERED IMMIGRANTS.

Section 431(c)(1)(B)(iii) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641(c)(1)(B)(iii)) is amended to read as follows:

“(iii) suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996).”.

SEC. 1509. ACCESS TO CUBAN ADJUSTMENT ACT FOR BATTERED
IMMIGRANT SPOUSES
AND CHILDREN.

(a) In General.--The last sentence of the first section of Public Law 89-732 (November 2, 1966; 8 U.S.C. 1255 note) is amended by striking the period at the end and inserting the following: `` , except that such spouse or child who has been battered or subjected to extreme cruelty may adjust to permanent resident status under this Act without demonstrating that he or she is residing with the Cuban spouse or parent in the United States. In acting on

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applications under this section with respect to spouses or children who have been battered or subjected to extreme cruelty, the Attorney General shall apply the provisions of section 204(a)(1)(H)."

(b) Effective Date.--The <<NOTE: 8 USC 1255 note.>> amendment made by subsection (a) shall be effective as if included in subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.).

SEC. 1510. ACCESS TO THE NICARAGUAN ADJUSTMENT AND
CENTRAL AMERICAN
RELIEF ACT FOR BATTERED SPOUSES AND CHILDREN.

(a) Adjustment of Status of Certain Nicaraguan and Cuban Battered Spouses.--Section 202(d) of the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended) is amended--

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

``(B) the alien--

``(i) is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for adjustment under this subsection is filed; or

``(ii) was, at the time at which an alien

filed for adjustment under subsection (a), the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien that filed for adjustment under subsection (a);"; and

(2) by adding at the end the following:

“(3) Procedure.--In acting on an application under this section with respect to a spouse or child who has been battered or subjected to extreme cruelty, the Attorney General shall apply section 204(a)(1)(H).”.

(b) Cancellation of Removal and Suspension of Deportation Transition Rules for Certain Battered Spouses.--Section 309(c)(5)(C) of the Illegal Immigration and Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1101 note) (as amended by section 1506(b)(3) of this title) is amended--

(1) in clause (i)--

(A) by striking the period at the end of subclause (VI) (as added by section 1506(b)(3) of this title) and inserting “; or”; and

(B) by adding at the end the following:

“(VII)(aa) was the spouse or child of an alien described in subclause (I), (II), or (V)--

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“(AA) at the time at which a decision is rendered to suspend the deportation or cancel the removal of the alien;

“(BB) at the time at which the alien filed an application for suspension of deportation or cancellation of removal; or

“(CC) at the time at which the alien registered for benefits under the settlement agreement in American Baptist Churches, et. al. v. Thornburgh (ABC), applied for temporary protected status, or applied for asylum; and

“(bb) the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien described in subclause (I), (II), or (V).”; and

(2) by adding at the end the following:

“(iii) Consideration of petitions.--In acting on a petition filed under subclause (VII) of clause (i) the provisions set forth in section 204(a)(1)(H) shall apply.

“(iv) Residence with spouse or parent not required.--For purposes of the application of clause (i)(VII), a spouse or child shall not be required to demonstrate that he or she is residing with the spouse or parent in the United States.”.

(c) Effective Date.--The <<NOTE: 8 USC 1101 note.>> amendments made by subsections (a) and (b) shall be effective as if included in the Nicaraguan Adjustment and Central American Relief Act (8 U.S.C. 1255 note; Public Law 105-100, as amended).

SEC. 1511. <<NOTE: 8 USC 1255 note.>> ACCESS TO THE HAITIAN REFUGEE FAIRNESS ACT OF 1998 FOR BATTERED SPOUSES AND CHILDREN.

(a) In General.--Section 902(d)(1)(B) of the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538) is amended to read as follows:

“(B)(i) the alien is the spouse, child, or unmarried son or daughter of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that, in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that the son or daughter has been physically present in the United States for a continuous period beginning not later than December 1, 1995, and ending not earlier than the date on which the application for such adjustment is filed;

“(ii) at the time of filing of the application for adjustment under subsection (a), the alien is the spouse or child of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a) and the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty

by the individual described in subsection (a); and
``(iii) in acting on applications under this section
with respect to spouses or children who have been
battered or subjected to extreme cruelty, the Attorney
General shall apply the provisions of section
204(a)(1)(H).".

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(b) Effective Date.--The amendment made by subsection (a) shall be effective as if included in the Haitian Refugee Immigration Fairness Act of 1998 (division A of section 101(h) of Public Law 105-277; 112 Stat. 2681-538).

SEC. 1512. ACCESS TO SERVICES AND LEGAL REPRESENTATION FOR BATTERED IMMIGRANTS.

(a) Law Enforcement and Prosecution Grants.--Section 2001(b) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg(b)) (as amended by section 1209(c) of this division) is amended by adding at the end the following:

``(11) providing assistance to victims of domestic violence
and sexual assault in immigration matters.".

(b) Grants To Encourage Arrests.--Section 2101(b)(5) of part U of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796hh(b)(5)) is amended by inserting before the period the following: ``, including strengthening assistance to such victims in immigration matters".

(c) Rural Domestic Violence and Child Abuse Enforcement Grants.--Section 40295(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953; 42 U.S.C. 13971(a)(2)) is amended to read as follows:

``(2) to provide treatment, counseling, and assistance to
victims of domestic violence and child abuse, including in
immigration matters; and".

(d) Campus Domestic Violence Grants.--Section 826(b)(5) of the Higher Education Amendments of 1998 (Public Law 105-244; 20 U.S.C. 1152) is amended by inserting before the period at the end the following: ``, including assistance to victims in immigration matters".

SEC. 1513. PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING VICTIMS OF CRIMES AGAINST WOMEN.

(a) Findings <<NOTE: 8 USC 1101 note.>> and Purpose.--

(1) Findings.--Congress makes the following findings:

(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnaping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.

(B) All women and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.

(2) Purpose.--

(A) The purpose of this section is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage

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law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.

(B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

(C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants

to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.

(b) Establishment of Humanitarian/Material Witness Nonimmigrant Classification.--Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) (as amended by section 107 of this Act) is amended--

- (1) by striking ``or" at the end of subparagraph (S);
- (2) by striking the period at the end of subparagraph (T) and inserting ``; or"; and
- (3) by adding at the end the following new subparagraph:
 - ``(U)(i) subject to section 214(o), an alien who files a petition for status under this subparagraph, if the Attorney General determines that--
 - ``(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);
 - ``(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);
 - ``(III) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and
 - ``(IV) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;
 - ``(ii) if the Attorney General considers it necessary to avoid extreme hardship to the spouse, the child, or, in the case of an alien child, the parent of the alien described in clause (i), the Attorney General may also grant status under this paragraph based upon certification of a government official listed in clause

(i)(III) that an investigation or prosecution would be harmed without the

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assistance of the spouse, the child, or, in the case of an alien child, the parent of the alien; and

“(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.”.

(c) Conditions for Admission and Duties of the Attorney General.--
Section 214 of such Act (8 U.S.C. 1184) (as amended by section 107 of this Act) is amended by adding at the end the following new subsection:

“(o) Requirements Applicable to Section 101(a)(15)(U) Visas.--

“(1) Petitioning procedures for section 101(a)(15)(u) visas.--The petition filed by an alien under section 101(a)(15)(U)(i) shall contain a certification from a Federal, State, or local law enforcement official, prosecutor, judge, or other Federal, State, or local authority investigating criminal activity described in section 101(a)(15)(U)(iii). This certification may also be provided by an official of the Service whose ability to provide such certification is not limited to information concerning immigration violations. This certification shall state that the alien “has been helpful, is being helpful, or is likely to be helpful” in the investigation or prosecution of criminal activity described in section 101(a)(15)(U)(iii).

“(2) Numerical limitations.--

“(A) The number of aliens who may be issued visas or otherwise provided status as nonimmigrants under section 101(a)(15)(U) in any fiscal year shall not exceed 10,000.

“(B) The numerical limitations in subparagraph (A) shall only apply to principal aliens described in

section 101(a)(15)(U)(i), and not to spouses, children, or, in the case of alien children, the alien parents of such children.

“(3) Duties of the attorney general with respect to ‘u’ visa nonimmigrants.--With respect to nonimmigrant aliens described in subsection (a)(15)(U)--

“(A) the Attorney General and other government officials, where appropriate, shall provide those aliens with referrals to nongovernmental organizations to advise the aliens regarding their options while in the United States and the resources available to them; and

“(B) the Attorney General shall, during the period those aliens are in lawful temporary resident status under that subsection, provide the aliens with employment authorization.

“(4) Credible evidence considered.--In acting on any petition filed under this subsection, the consular officer or the Attorney General, as appropriate, shall consider any credible evidence relevant to the petition.

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“(5) Nonexclusive relief.--Nothing in this subsection limits the ability of aliens who qualify for status under section 101(a)(15)(U) to seek any other immigration benefit or status for which the alien may be eligible.”.

(d) Prohibition <<NOTE: 8 USC 1367.>> on Adverse Determinations of Admissibility or Deportability.--Section 384(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended--

(1) by striking “or” at the end of paragraph (1)(C);

(2) by striking the comma at the end of paragraph (1)(D) and inserting “, or”; and

(3) by inserting after paragraph (1)(D) the following new subparagraph:

“(E) in the case of an alien applying for status under section 101(a)(15)(U) of the Immigration and Nationality Act, the perpetrator of the substantial physical or mental abuse and the criminal activity,”; and

(4) in paragraph (2), by inserting “section 101(a)(15)(U),” after “section 216(c)(4)(C),”.

(e) Waiver of Grounds of Ineligibility for Admission.--Section 212(d) of the Immigration and Nationality Act (8 U.S.C. 1182(d)) is amended by adding at the end the following new paragraph:

“(13) The Attorney General shall determine whether a ground of inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(U). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(U), if the Attorney General considers it to be in the public or national interest to do so.”.

(f) Adjustment to Permanent Resident Status.--Section 245 of such Act (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

“(l)(1) The Attorney General may adjust the status of an alien admitted into the United States (or otherwise provided nonimmigrant status) under section 101(a)(15)(U) to that of an alien lawfully admitted for permanent residence if the alien is not described in section 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence that the alien unreasonably refused to provide assistance in a criminal investigation or prosecution, if--

“(A) the alien has been physically present in the United States for a continuous period of at least 3 years since the date of admission as a nonimmigrant under clause (i) or (ii) of section 101(a)(15)(U); and

“(B) in the opinion of the Attorney General, the alien's continued presence in the United States is justified on humanitarian grounds, to ensure family unity, or is otherwise in the public interest.

“(2) An alien shall be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(A) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days unless the absence is in order to assist in the investigation or prosecution or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified.

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“(3) Upon approval of adjustment of status under paragraph (1) of an alien described in section 101(a)(15)(U)(i) the Attorney General may adjust the status of or issue an immigrant visa to a spouse, a child, or, in the case of an alien child, a parent who did not receive a nonimmigrant visa under section 101(a)(15)(U)(ii) if the Attorney General considers the grant of such status or visa necessary to avoid extreme hardship.

“(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval.”.

Contact Information for Women's Groups in Other Countries

* means the person speaks English.

Russia

*Angel Coalition Against Trafficking, jengel@miramed.com
 *Larisa, Women's Association, Chelyabinsk plaste@chel.surnet.ru
 *Larisa, Center for Gender Studies, Petrozavodsk gender@onego.ru
 *St Petersburg Crisis Center Natasha@women.spb.su
 *Albina, Yaroslavl, Moscow alba@psychol.ras.ru
 *Irina, Moscow smicher@cityline.ru
 21st Century Women, Elena Tonchy krmymcons@krymsk.krintel.ru
 Krymsk Children's Legal Advisor, Natalia Pavlova npavlova@karelia.ru Petrozavodsk
 *Alexandria laslarisa@mail.admiral.ru St Petersburg
 Women's Alliance, Natalia Sereda women@barrt.ru Barnaul
 *Center ANNA akareva@hotmail.com Moscow
 *Syostri Tanya@glasnet.ru Moscow
 *Ural NGO Support Centre ngoural@gmx.net Perm
 *Women in Conversion swallow@cityline.ru Moscow
 *Tatiana Dimitrieva pzamsupr@gorod.tomsk.su Tomsk
 *Elena Popkova popkova@ssu.samara.ru Samara
 *Gender Issues, Center for pcgi@mail.dux.ru, St Petersburg
 *Center for Gender Studies gender@onego.ru Petrozavodsk
 *Moscow Center for Gender Studies mccgs@glas.apc.org
 Aida Gorbanova, aida@org.vrn.ru Voronezh
 ICIWF iciwf@glasnet.ru Moscow
 Anna Ilyina, lawyer root@anna.chel.su, Chelyabinsk
 Maria Novokova, maria@pomorsu.ru Arkangelsk
 Sudarnyna, sudaryna@pbox.ttn.ru Taganrog
 Center, Lubov Mikhailovna forkalug@kaluga.ru Kaluga,
 Irina Mardar, aksinya@novoch.ru Rostov on Don
 Irina, Crisis Center irina@womkongr.murmansk.su Murmansk
 Elena Objezdchikova, women@world.nnov.ru Nizny Novgorod
 Crisis Services, maja@onego.ru Petrozavodsk
 *Elena Potopova, Center ANNA flash@com2com.ru, Moscow
 *Yuri Puchko, Miramed, Angel Coalition puchko@dol.ru, Moscow, anti-trafficking
 organization
 *Nina Kurasova, Afina, afina@jeo.ru Rostov on Don
 Tatiana, Women's League, tnk@intsar.com Saratov
 Information Center, children@sci.smolensk.ru Smolensk
 Tamara Lopatena, liga@tula.net Tula
 Crisis Center, Oktyrina Cheremovskaya mna@tvcom.ru, Tver
 Valentina, apmuseum@aprec.ru Apatity
 Alexandra Pyatakova, Truth, Hope, Love vnl@novoch.ru, Novochirkaask
 *Svetlana Chubakova, Svetlana@sunse.jinr.ru Dubna

Regional Women,
Ludmila Zalkind,
*Zoya,

depint@uniyar.ac.ru Yaroslavl
mila@iep.kolasc.net.ru Apatity
zoya@co.ru Moscow

France

European Women's Lobby -
Colette De Tray
Coordinator of the EWL Policy Action Centre on Violence Against Women
Tel (32.2) 217, 90, 20
Email - centre-violence@womenlobby.org

Additional Contact Information

Sandra Ljubinković
AWIN
Majke Jevrosime 39
11000 Belgrade
FR Yugoslavia
Tel: 381 11 3345762
sandra_wubinkovic@hotmail.com

Dusica Popadic
Incest Trauma Center
Leonarda da Vincija 17
11060 Beograd, Serbia
Tel: 011/ 3243 963
itcentar@eunet.yu

Nataša Novaković
Helsinki Committee for Human
Rights in Serbia
Zmaj Jovina 7/1
1100 Belgrade
Yugoslavia
Tel: 681 11 637 542, 637 116, 637
294
nnnato@eunet.yu

Ljilja Bogovac
Incest Trauma Center
Leonarda da Vincija 17
11060 Beograd, Serbia
Tel: 011/ 3243 963
itcentar@eunet.yu

Tamera Durutovic
Center for Protection of Rights of
Women and Children
adv.vuk-dur@cg.yu

Ljerka Mezga Ćurčin
Autonomous Women's
Tiršova 5a
11000 Beograd, Serbia
Tel: 011/ 687 190, 645 328
Fax: 011/ 687 190
awcasv@eunet.yu

Vera Kecic

The women's Forum
Trg Kralja Nikole 8,
81 000 Podgorica, Montenegro
Tel: 081/ 267 161
womenforum@cg.yu

Diana Miladinovic

Justicia
Kneza Milosa 25
11000 Beograd, Serbia
Tel: 011/ 641 542
mdiana@eunet.yu

Mara Tadie, SOS Niksi

Vuka Karadzica 97,
81 400 Niksic, Montenegro
Tel: 083/ 217 766
sosnk@cg.yu

Tatjana Labus

Justicia
Kneza Milosa 25
11000 Beograd, Serbia
Tel: 011/ 641 542
mdiana@eunet.yu

Ms. Marija Gelevska

Program coordinator of the Legal
Education and Action Program of
ESE
Maksim Gorki 20/1-4,
1000 Skopje, Macedonia
Tel: 389 2 211 453; 117 866
Fax: 389 2 211 453
esem@unet.com.mk

Jelena Djordjevic

Majke Jevrosime 39
11000 Beograd, Serbia
Tel: 011/ 3224 691
Fax: 011/ 33 45 762
astranet@sezampro.yu

Ms. Drita Selmani

General Secretary of the union of
Albanian Women of Macedonia
Boris Kidric 1/6, Tetovo
Macedonia
Tel: 389 44 24 163
Fax: 389 44 24 163

Viktorija Balint

Novi Sad women's Center
Pop Pavla 19
21 000 Novi Sad, Serbia
Tel: 021/ 618 985
ncz2000@ptt.yu

Sanja Copic

Victimology Society of Serbia
Kolarceva 4/III
11000 Beograd, Serbia
Tel: 011/ 328 2294
Fax: 011/ 328 22 94
scopic@eunet.yu

Biljana Silazi

Novi Sad women's Center
Pop Pavla 19
21 000 Novi Sad, Serbia
Tel: 021/ 618 985
ncz2000@ptt.yu

Vesna Nikolic
Victimology Society of Serbia
Kolarceva 4/III
11000 Beograd, Serbia
Tel: 011/ 328 22 94

Ana Zorbic
Women's Space
Ivana Milutinovica 18
18000 Nis, Serbia
Tel: 018/ 366 222
Fax: 018/366 222
catz@bankerinter.net

Ivana Stevanovic
Victimology Society of Serbia
Kolarceva 4/III
11000 Beograd, Serbia
Tel: 011/ 328 22 94
Fax: 011/ 328 28 51
ivana@cpd.org.yu

Nadja Centre
nadja@mbox.cit.bg;
anonus@mbox.cit.bg

Marina Bogdanović
Center for Gender Studies
Srpskih Vladara 34/ 1
11000 Belgrade, Serbia
Tel: 011/ 637 808
Fax: 011/ 3613 916
zenskestudie@sezampro.yu;
marinabg@eunet.yu

Lada Protic
SOS Hotline
Tirsova 5a
11000 Beograd, Serbia
Tel: 011/ 645 798
Fax: 011/ 645 798
sosbgd@drenik.net

Marija Lukic
Center for Gender Studies
Srpskih Vladara 34/ 1
11000 Belgrade, Serbia
Tel: 011/ 657 808
Fax: 011/ 3613 916
zenskestudie@sezampro.yu;
glas.razlike@sezampro.yu

Svetlana Mladenovic
SOS Hotline
Tirsova 5a
11000 Beograd, Serbia
Tel: 011/ 645 798
Fax: 011/ 645 798
sosbgd@drenik.net

Albania

Sonila Aliaj:

Albanian Helsinki Committee
Rr. Mina Peza, P244, Sh.1, Ap. 10
Tirana, Albania
Phone:
Fax: [355] 42 28 433
E-mail: helsinki@ngo.org.al

Roza Dedja:

Albania Helsinki Committee
Rr. "Ali Visha" P. BOVILL shk. 2/12
Tirana, Albania
Phone: [355] 42 40 891
Fax: [355] 42 33 671
E-mail: helsinki@ngo.org.al

Merita Malile:

Association of Women Lawyers
Rr. Sami Frasheri, 3/15
Tirana, Albania
Phone: [355] 42 28 069
Fax: [355] 42 28 649
E-mail: mmalile@icc.ol.eu.org

Armenia

Gegetsik Grigorian:

Association of Women with University Education
79 Sheram St. Apt. #36
Yerevan, Armenia
Phone: [374] 530501
Fax:
E-mail: beauty@arminco.com

Armine Mikayelyan:

Women for Development
NDNSSP, Leningradyan St. 5a
Gyumri 377500, Armenia
Phone: [374] (69) 32909, 31580
Fax: [374] (69) 31580
E-mail: armine@shirak.am

Mariam Ohanian:

Youth Center for Gender Studies
St. Hanrapetutian 49, App. 10
Yerevan 375010, Armenia
Phone: [374] (2) 555574
Fax:

E-mail: mariam@arminco.com

Susanna Vardanyan:

Women's Rights Center

Babayan St. 36/23

Yerevan 375037, Armenia

Phone: [374] (2) 520280, 542828

Fax: [374] (2) 520280

E-mail: wrcarm@arminco.com

Azerbaijan

Irada Alieva:

Association for Protection of Women's rights

Nizamy Street 103. Apt 10

Baku 370000, Azerbaijan

Phone:

Fax:

E-mail: irada.n@artel.net.az

Aytakin Huseynova:

Azerbaijan Secular-Patriotic Youth Organization

Sh. Badalbayly str. 41.

Baku 370000, Azerbaijan

Phone: [994 12] 319012, 954459

Fax: [994 12] 954459

E-mail: aytakin@artel.net.az

ayten-h@hotmail.com

Sabina Iskenderly:

Azerbaijan National Committee Helsinki Citizen's Assembly

Pushkin Street 5, Apt. 35

Baku, Azerbaijan

Phone: [994 12] 974245

Fax: [994 12] 973359

E-mail: iskenderlyss@artel.net.az

Afag Iskenderova:

Azerbaijan Govt. Musical School

Nizami Str. 14-5

Baku, Azerbaijan

Phone: [994 12] 921644

Fax:

E-mail: afag22@hotmail.com

Sabina Masimova:

ISAR-Azerbaijan

M. Mamedov Str. 5, Apt. 12

Baku 370008, Azerbaijan

Phone: [994 12] 953037

Fax: [994 12] 407439

E-mail: sabina@artel.net.az

smasimova@hotmail.com

Belarus

Vitalia Isaenko

Discussion Women's Club
V. Khoruzhey St. 33-20
Minsk 220002, Belarus
Phone: [375] 17 2645009
Fax: [375] 17 2308054
E-mail: vita_i@belsonet.net

Irina Kuchvalskaya

Belorussian Association of Women-lawyers
Flat 123, October pr. 48a
Gomel 246746, Belarus
Phone: [375] 8 1232 481187
Fax: [375] 8 1232 487598
E-mail: iragomel@yahoo.com

Lyudmila Petina

Center of Women's Education and Consulting
6-5, Raduzhnaya Str.,
Minsk 220020, Belarus
Phone: [375] 172 722098
Fax: [375] 172 503168, 722098
E-mail: wcdmb@user.unibel.by

Bosnia & Herzegovina

Berjana Ackar

Center of Legal Assistance for Women
M. Tarabara 15
Zenica 72000, Bosnia & Herzegovina
Phone: [387] 72 417296
Fax: [387] 72 413196
E-mail: laiberma@bih.net.ba

Klelija Balta

Amica Educa
Marsala Tita 151
Tuzla 75000, Bosnia & Herzegovina
Phone: [387] 75 283148
Fax:
E-mail: giftz@bih.net.ba

Jasminka Dzumuhur

Center of Legal Assistance for Women
M. Tarabara 15
Zenica 72000, Bosnia & Herzegovina
Phone: [387] 72 412476
Fax: [387] 72 22049
E-mail: cenppz@miz.ba
jasnadz@bih.net.ba

Amira Krehic
Center of Legal Assistance for Women
M. Tarabara 15
Zenica 72000, Bosnia & Herzegovina
Phone: [387] 72 21019
Fax: [387] 72 22049
E-mail: krehic_a@bih.net.ba

Jasmina Tica
H.O. "BOSPO"
Ul. Zmaja od Bosne bb (I sprat)
Crkvice 14/b
Zenica 72000, Bosnia & Herzegovina
Phone: [387] 72 24816
Fax: [387] 72 24816
E-mail: tica_jad@bih.net.ba

Bulgaria

Anna Bojidarova
SOS-Families in Disgrace
Slivniza 36
Varna, Bulgaria
Phone: [359] (52) 222220
Fax:
E-mail: annabva@mt-link.bg

Pavlina Filipova
Women's Alliance for Development
52 Neofit Rilski Street
Sofia 1000, Bulgaria
Phone: [359] (2) 9805532
Fax: [359] (2) 9805920
E-mail: wad@infotel.bg
poly_fil@yahoo.com

Roumiana Ilieva
Mladost 1, bl.78, apt.94
Sofia 1784, Bulgaria
Phone:
E-mail: roumyanai@delbg.com

Fax:

Eugenia Kiranova
Women for Dignity Union
JK "Mladost" 3 Bl. 316 vh. A
Sofia 1712, Bulgaria
Phone: [359] (2) 744022
Fax: [359] (2) 744022
E-mail: jeny@online.bg

Jivka Marinova
Bulgarian Gender Research Foundation

Mladost 1, bl.34, Apt.12
Sofia 1784, Bulgaria
Phone: [359] (2) 897308
Fax: [359] (2) 897308
E-mail: marinova@mbox.cit.bg
bgrf_jiv@inet.bg

Radka Valkova
Liulin, Bl.413/B, ap.65.
Sofia 1359, Bulgaria
Phone:
Fax:
E-mail: harmony@mail.bol.bg

Diane Videva
Association Against Domestic Violence
27 K. Fotinov Street
Bourgas 8000, Bulgaria
Phone: [359] (56) 21025; 21368
Fax:
E-mail: dvideva@unacs.bg

Maria Zagorska
Rural Women's Clubs
11, Tcherni Lom Street
Sofia 1233, Bulgaria
Phone: [359] (2) 310936
Fax: [359] (2) 310936
E-mail: mzagorska@usa.net

Croatia

Maja Dublevic
Zenska Infoteka
Varsavska 16
Zagreb 10000, Croatia
Phone: [385] 1 483 0557
Fax: [385] 1 483 0552
E-mail: maja.dublevic@zamir.net

Gordana Lukac-Koritnik
Domagejova 15.
Zagreb, Croatia
Phone: [385] 1 4841068
Fax: [385] 1 4841068
E-mail: buba@zamir.net

Lovorka Marinovic
Institute for Transition to Democracy
Nova cesta 68
Zagreb 10000, Croatia
Phone: [385] 1 4816882
Fax: [385] 1 3771857

E-mail: lovorkam@iom.int

Gordana Obradovic Dragisic
Center for Education and Counseling of Women
Raciceva 9
Zagreb 10000, Croatia
Phone: [385] 2332416
Fax: [385] 2332416
E-mail: gordanao@zamir.net

Irina Stajic
Doverska 18
Split 21000, Croatia
Phone:
Fax:
E-mail: irinastajic@yahoo.com

Czech Republic

Petra Ledvinkova
Nadace Rosa
Lipova 595
Hostivice 25301, Czech Republic
Phone: [420] (2) 222 30164/66
Fax: [420] (2) 209 82035
E-mail: akjanko@gts.cz
petra.peliroja@post.cz

Darina Lisuchova
Office of the Government of Czech Republic
Jasminova 2666
Prague 10 10600, Czech Republic
Phone: [420] (2) 961 53457
Fax: [420] (2) 961 53262
E-mail: darina_lisuchova@hotmail.com

Georgia

Marina Meskhi:
Georgian Young Lawyers' Association (GYLA)
Erekle II Lane 7
Tbilisi 380005, Georgia
Phone: [995] (32) 936 101
Fax: [995] (32) 995 076
E-mail: meskh1@hotmail.com

Tsovinar Nazarova:
People's Harmonious Development Society
Muhiani, I-5-40
Tbilisi 380072, Georgia
Phone: [995] (32) 635 589
Fax:
E-mail: tsovinar@ip.osgf.ge

Lia Sanikidze:

NGO "Women for Future"
Vasha-Pashavela Ave 67, ap.67
Tbilisi 380086, Georgia
Phone: [995] (32) 999 987
Fax: [995] (32) 939 178
E-mail: Lsanikidze@hotmail.com

Nato Shavlakadze:

Women's Club "Peoni"
Abastumani ul, 2-6
Tbilisi 380078, Georgia
Phone: [995] (32) 533 303
Fax:
E-mail: nato_sh@ip.osgf.ge

Iatamze Verulashvili:

Women's Center
Chavchavadze Ave., 15
Tbilisi 380079, Georgia
Phone: [995] (32) 536 940
Fax: [995] (32) 536 940
E-mail: grc@access.sanet.ge

Kazakhstan

Raushan Amanzhanova:

Association of Business Women of Kazakhstan
Kazakfilm 20-54
Almaty-67, 480067 Kazakhstan
Phone:
Fax:
E-mail:

Adilya Irisbekova:

Business Women's Association of Kazakhstan
89 Gorkiy Lane
Taraz 484022, Kazakhstan
Phone:
Fax: [7] (32622) 48 336
E-mail: adilya-tz@nursat.kz

Yeovgenia Kozyreva:

Feminist League
PO Box 521
Almaty 480091, Kazakhstan
Phone: [7] (3272) 630 242
Fax:
E-mail: feminist@online.ru

Kyrgyzstan

Rosetta Aitmatova:
Republican NGO "Women Support Center"
Prospekt Mira 80 - 14
Bishkek 720044, Kyrgyzstan
Phone: [7] (996 3312) 542527
Fax: [7] (996 3312) 546614
E-mail: wsc@wsc.cango.net.kg
roza@users.kyrnet.kg

Zura Chikeeva
Diamond Association
Sholohova ul, 34-22
Bishkek 720021, Kyrgyzstan
Phone: [7] (966 3312) 292 3
Fax: [7] (966-312) 663 188
E-mail: root@diamond.freenet.bishkek.su

Mirgul Kazakova
The Meerim Intl. Charitable Foundation for the Support of Childhood and Maternity
11 mcr. 18 ap. 61
Bishkek 720040, Kyrgyzstan
Phone: [8] (3312) 663107, 460875
Fax :
E-mail: mey10@meyerim.bishkek.su

Janna Saralaeva:
Association Women`s Leaders of Jalai-Abad
Energetikov 4-21
Jalai-Abad 733722, Kyrgyzstan
Phone: [7] (337 22) 21478
Fax: [7] (337 22) 21478
E-mail: janna@users.kyrnet.kg
dpsuzak@elcat2.bishkek.su

Sveta Saykbaeva:
Women's NGO "Tengdesh"
Kyrgyz Street 31-5
Naryn 722600,
Phone: [7] (335 22) 21855; 23871
Fax: [7] (335 22) 50270
E-mail: sveta@users.kyrnet.kg
sayakbaevas@mail.ru

Lithuania

Patricija Droblyte:
Centre for Critical Projects
Pilies Str. 4-5
Vilnius 2001, Lithuania
Phone: [370] 2620930
Fax: [370] 2312831
E-mail: dpatric@taide.lt

Ringaila Jundiene:
Vievis Care Center
Liepu Str. 42,
Vievis LT-4220, Lithuania
Phone: [370] 3827322
Fax: [370] 2628543
E-mail: weinc@takas.lt

Olga Katkalova:
Social Innovation Fund
Savanoriu 1
Kaunas 3000, Lithuania
Phone: [370] 7740627
Fax: [370] 7206575
E-mail: weinc@takas.lt

Monika Kosterinaite:
Women Employment Information Center
Savanoriu 1
Kaunas 3000, Lithuania
Phone: [370] 7200392
Fax: [370] 7321662
E-mail: weinc@takas.lt

Jurate Puidiene:
Women Employment Information Center
Savanoriu 1
Kaunas 3000, Lithuania
Phone: [370] 7200392
Fax: [370] 7321662
E-mail: weinc@takas.lt

Macedonia

Jagoda Gligorovska
Svetozar Marcovic, 42
Kumanovo, Macedonia
Phone: [389] (901) 27314
Fax: [389] (901) 21247
E-mail: jagodamm@soros.org.mk

Venera Lazarova
Organization of Women- Skopje
"Partizanski Odredi" 149 B4-1/1
Skopje, Macedonia
Phone: [389] 91 234815
Fax: [389] 91 234815
E-mail: venera@soros.org.mk
sozm@mt.net.mk

Silvana Petrevska
Union of Women's Organization of Macedonia
Bul Vidoe Smilevski, Bato nr 19/4/9

Skopje, Macedonia
Phone: [389] 91 134390
Fax: [389] 91 344390
E-mail: silvanap@soros.org.mk
silvana@mt.net.mk

Mongolia

Terbish Amgalan:

Women's Information and Research Center
Montel Co Building, 4th Floor
Ulaanbaatar-46, Mongolia
Phone: [976] 1325627
Fax: [976] 1325627
E-mail: wirc@magicnet.mn
amgaa@mongol.net

Munbish Gerelzul:

"Women & Justice" Association of Mongolia
Central Post Office Box 912, Mongolia
Phone: [976] 1328202
Fax: [976] 1324705
E-mail: gerel8@yahoo.com
wjam@mongol.net

Batchuluun Khishigsaihan:

Women for Social Progress
National History Museum, Room 4, POB 20A
Ulaanbaatar-11, Mongolia
Phone: [976] 1322340, 1312171
Fax: [976] 1322340
E-mail: khishgee@mongol.net
khishgee@hotmail.com

Solongo Sharkhuu:

National Center against Violence
Ulaanbaatar-46, Mongolia
Phone: [976] 1318087, 1318086
Fax: [976] 1318087
E-mail: sogeenoo@hotmail.com
mongolcav@magicnet.mn

Pureviin Tsetsgee:

Mongolian Women Lawyer's Association
Phone: [976] 1328109
Fax: [976] 1322212, 1322044
E-mail: mwla@magicnet.mn
tsetsgee@mongol.net

Poland

Katarzyna Bojanczyk

Polish Association of Legal Education

Ul. Puszczyka 2 m. 34,
02-785 Warsaw, Poland
Phone:
Fax:
E-mail: psep@free.ngo.pl
kb96@plearn.edu.pl

Dorota Kupper
Women's Rights Center-Gdansk
1 Kujawska, 81-862
Sopot, Poland
Phone: [48] 58 5513830
Fax:
E-mail: stanczyk@box43.gnet.pl

Magdalena Wezik
Woman's Rights Center in Czestahowe
Ul. Lesmiana 7-25
Czestochowa 42-200, Poland
Phone: [48] 34 3655126
Fax: [48] 34 3653686
E-mail: taak@zeto.czyst.pl

Beata Zaduminska
Women's Rights Center
Centrum Praw Kobiet, ul. Wilcze 60 m 19
Werszeve 00-679, Poland
Phone: [48] 22 6520117
Fax: [48] 22 6213537
E-mail: temide@medianet.com.pl

Agata Zakrzewska
Women's Rights Center-Lódz
91-142 Lodz ul.
Rojna 3 m 12, Poland
Phone: [48] 42 6333411
Fax: [48] 42 6333411
E-mail: cpl_lodz@free.ngo.pl
azakrz@zrodla.most.org.pl

Romania

Nicoletta Bitu
Broniwoja 6 m 30
02655 Warsaw, Poland
Phone: [48] 22 8433097
Fax:
E-mail: nicoletabitu@wamm.com.pl

Russia

Tatiana Altinova:

Moscow Sexual Assault Recovery Center
36-30 korp. 3, Krilatskie Holmi Street
Moscow 121614, Russia
Phone: [7] 095 9010201
Fax: [7] 095 9010201
E-mail: syostri@cityline.ru
altinova@glasnet.ru

Elena Ballaeva:
Moscow Center for Gender Studies
Apt. 55, House 20, Gorodok 17
Odintsovo
Moscow 143 051, Russia
Phone: [7] 095 1291001
Fax: [7] 095 1291001
E-mail: bal@zr.ru

Evgenia Barazgova:
Scientific Center Women of Russia
Ul. 8 Marta 2-63
Ekaterinburg 620077, Russia
Phone: [7] 343 2557368
Fax: [7] 343 2557381
E-mail:

Tatyana Brookina:
Women from ZATO
Snezhinsk
Chelyabinsk Region 456770, Russia
Phone: [7] 351 7233186
Fax: [7] 351 7225500
E-mail: women@pop.snz.ru

Svetlana Chudova:
OTKLIK
Yurina Str., 305-178, Barnaul
Altai Region 656060, Russia
Phone: [7] 385 2222114
Fax: [7] 385 2222114
E-mail: choudova@ab.ru

Elena Diachkova:
League of Women Voters of St. Petersburg
h. 37, b.1. Apt. 127, St. Korablestroiteley
Saint-Petersburg 199 397, Russia
Phone: [7] 812 3112120, 3117662
Fax: [7] 812 3112120
E-mail:

Irene Gourina:
Initiative
Apt. 5 Komsomolsky Av., 7/2
Arzamas 607220, Russia
Phone: [7] 831 4733690

Fax:
E-mail:

Elena Mashkova:

Femina
Ul 40-Let Pobedy, 57 A, Apt. 182
Naberezhnye Chelny 423815, Russia
Phone: [7] 855 2536265
Fax: [7] 855 2536265
E-mail: elena@femina.kazan.su

Valentina Tcherevatenko:

Women of the Don Region
Ul. Kalinina 88
Novochercassk 346404,
Rostov Region, Russia
Phone: [7] 863 5231936
Fax: [7] 863 5231936
E-mail: donwomen@novoch.ru

Tatiana Troinova:

Women's Information Network
PO Box 65
Moscow 121019, Russia
Phone: [7] 095 2912274
Fax: [7] 095 2912274
E-mail: womnet@glasnet.ru

Tajikistan

Muhabbat Mahramova

Committee of Women and Family by the Government of Tajikistan
Ispechak 2 u. 26, 2-8
Dushanbe, Tajikistan
Phone: [7] 3772 240820
Fax: [7] 3772 240820, 213471
E-mail: mukhabat@makhram.td.silk.org

Saodat Murminova

"Sitara" NGO
K. Marx St. 4 1 proezd.
Dushanbe 734003, Tajikistan
Phone:
Fax: [7] 3772 247496
E-mail: saodat@muminova.td.silk.org

Turkmenistan

Gulshat Amandurdieva

UNFPA
Gaudan "A" H. 19, Apt. 7
Ashgabat, Turkmenistan
Phone: [7] 99312 424143

Fax: [7] 99312 424142
E-mail: ekoltm@online.ru

Sona Chuli-Kuli

Arkadag
Room 366, Atabaeba Str. 20
Ashgabad, Turkmenistan
Phone: [7] 3632 357005; 357120
Fax: [7] 3632 357005; 357120
E-mail: dagdan@sibnet.tm

Alexandra Hazbulaeva

ANNA
District 30, 11/16
Askhabad, Turkmenistan
Phone: [7] 347763
Fax: [7] 357005; 35712
E-mail: alexa@sibnet.tm

Bahar Shihkuliyeve

Business Women of Turkmenistan
Apt. 7, h. 17, Agaberdiyeva Str.,
Ashgabat, Turkmenistan
Phone: [7] 340611
Fax:
E-mail: bahash@online.tm

Ukraine

Nataliya Biletska

Kharkiv Women's Community
34 Danilevski Street, Apt.1
Kharkiv 310058, Ukraine
Phone: [380] 572 437370
Fax: [380] 572 437370
E-mail: biletska@lincom.kharkov.ua

Svetlana Efimenko

"Our Town is Our Home"
Str. Zaporozhskaya str., 9-a, #136
Zaporizhzhie 3330095, Ukraine
Phone: [380] 612 623382
Fax: [380] 612 637621
E-mail: efsa@efsa.zssm.zp.ua

Olga Griva

Nadia and Maybutne
Avtomagistralnaya, 51-2
Simferopol 333034, Ukraine
Phone: [380] 654 363097
Fax: [380] 654 232310
E-mail: griva@ccssu.crimea.ua

Olexandra Rudneva
Kharkiv Centre for Women's Studies
Bulvar Mira 4, apt.51
Kharkiv 310108, Ukraine
Phone: [380] 572 405285
Fax: [380] 572 121015
E-mail: Rudneva@women.kharkov.ua

Olena Suslova
Women's Information Consultative Center
Kyiv-33, 12a Saksaganskogo str., apt.11
Kiev 252033, Ukraine
Phone: [380] 44 2209750
Fax: [380] 44 2270704
E-mail: olena@wicc.kiev.ua

Uzbekistan

Inobat Avezmuratova:
Winrock International Institute for Agricultural Development
Uzbekistan Ave., 98, 2nd Floor #26,42
Tashkent 700 000, Uzbekistan
Phone: [7] (3712) 455961
Fax: [7] (3712) 459265
E-mail: win@win.tashkent.su

Galina Paramonova:
AZIZA
Schevtchenko Street, 6-39
Tashkent 700100, Uzbekistan
Phone: [998] 712 565904
Fax: [998] 712 547654
E-mail: Galina.Paramonova@asia.uznet.net

Marina Sereda:
Raskova Str., 6A, apt. 4
Tashkent 700100, Uzbekistan
Phone:
Fax:
E-mail: center@it.org.uz

Mavluda Shirinova:
"SABR" Crisis Center, Uzbekistan
Ul. Ahunbabaeva, 68
Samarkand 703000, Uzbekistan
Phone: [998] 662 336666
Fax: [998] 662 337690
E-mail: sabr@samuni.silk.org

Yulduz Yarkubova:
"Sabo"
Shirshova Street 11
Tashkent 700000, Uzbekistan

Phone: [998] 712 672937
Fax: [998] 712 673234
E-mail:

Yugoslavia

Mirjana Dokmanovic
"Women's Studies and Creativity"
Cara Lazara 19/A
Subotica 24000, Yugoslavia
Phone: [381] 24 552200
Fax: [381] 24 551902
E-mail: mirjana_d@iname.com
mirad@eunet.yu

Marija Lukic
Group for Women's Rights of European Movement
Nehruova 120/3
Novi Beograd 11070, Yugoslavia
Phone: [381] 11 630281
Fax: [381] 11 630281
E-mail: majlukic@eunet.yu

Biljana Maletin
Nova 61/11, Padinska Skela
Belgrade 11213, Yugoslavia
Phone: [381] 11 687190
Fax: [381] 11 687190
E-mail: maletin@eunet.yu

Jasna Trifunovic
Agency for Women's Resources Development
Rifata Burdzevica 61
Belgrade, Yugoslavia
Phone: [381] 11 3281949
Fax: [381] 11 3281890
E-mail: jjasnaa@eunet.yu

Anda Valla
Center for Protection of Women and Children
Robert Gajdiku 62
Prishtina-Kosova 38000, Yugoslavia
Phone: [381] 637 40749, 637 15421
Fax:
E-mail: avalla@hotmail.com

Where to file a complaint

If a victim is being treated improperly in the U.S. or her own country and has no means of complaint, she or you can file a complaint and send information to the United Nations.

Committee on the Status of Women and Committee on the Elimination of all forms of Discrimination Against Women

Division for the Advancement of Women
United Nations
New York, New York 10017

212-963-6841
212-963-6914/2819 fax

There have been 5,000 Filipina mail order brides entering the United States Every Year since 1986, a total of 55,000 as of 1997. (Gabriela, Statistics and the State of the Philippines, 24 July 1997).

Mail Order Brides

*by Natalie Collins
UCLA*

The internet creates a catalogue of women by displaying their most marketable characteristics to male viewers. These characteristics are age, physical attributes, domesticity and submissivity. The women are often grouped in age categories. For example, the photo below of Candace is part of the age 18-19 category. Candace's virginity, age, body measurements, and child like appearance are her most marketable attributes. Candace has two pictures of herself, rather than one which is typical of most advertised brides. Providing two pictures in this advertisement displays her child like appearance and innocence.



328 Candice Filipina, 17 yrs old, 5 ft. - 2 " tall, 90 lbs., Measurements: 32-24-34, Religion: Christian, Single, never married, and no children. She is a virgin. She is a high school graduate. "I am the type of person who loves to be with my friends. I'm understanding toward others. I like sports such as tennis, basketball, and table tennis. I appreciate sporty guys because they're mentally and physically active. They also look very masculine. I don't like men who smoke or those who take drugs. I desire a man over 30. (<http://www.cebunusa.com/cebu5.html>)

Only superficial characteristics of Filipina women are displayed in mail order bride advertisements and they often repeat the same traits. The women are on display and their ads reflect very little about their personal uniqueness or their own expectations for men. The application below is from an 18 year old who seeks a pen pal who is at least 45 years old. (<http://www.asianflower.com/oct1.htm>)

**ASIAN FLOWER FRIENDSHIP CLUB'S
FILIPINA DREAM GIRLS
PLEASE PRINT CLEARLY**

NAME: Jessamine M. Salvo
first middle family name

AGE: 18 DATE OF BIRTH: June 17, 1981

HEIGHT 5'2 WEIGHT 95 lbs COMPLEXION white

DID YOU GRADUATE FROM HIGH SCHOOL? yes

HAVE YOU ATTENDED COLLEGE? not yet

HOW LONG? not yet DID YOU GRADUATE? not yet

ARE YOU PRESENTLY IN COLLEGE? YES NO

WHAT WAS / IS YOUR MAJOR STUDY IN COLLEGE?
Associate Computer Secretarial

WHAT IS YOUR RELIGION? Roman Catholic

WOULD YOU ALLOW A ROMANTIC RELATIONSHIP TO DEVELOPED BETWEEN YOU AND YOUR PEN-PAL IF HE WAS OF A DIFFERENT RELIGION THAN YOU? yes

HAVE YOU EVER BEEN MARRIED? YES NO ARE YOU DIVORCED? YES NO HAVE CHILDREN no

ARE YOU EMPLOYED? YES NO WHAT OCCUPATION Student


DESCRIBE YOURSELF: I'm a happy girl, I have a long hair, my complexion is white, I'm a understanding, caring, loving and loyal.

WHAT ARE YOUR HOBBIES AND INTERESTS? cooking, dancing, singing, reading pocket book.

DESCRIBE WHAT YOU SEEK IN A PEN PAL: Honestful, loving, understanding, caring-kind and loyal. Age: 45 - above

IF UNDER 21, DO YOU HAVE YOUR PARENTS BLESSING TO CORRESPOND WITH A FOREIGNER? yes

HAVE YOU READ, UNDERSTAND AND SIGNED THE DISCLOSURE ON THE REVERSE SIDE OF THIS FORM PERTAINING TO U.S.I.N.S. PUBLIC LAW 104-652, SECTION 652, SUB SECTION "B", PARAGRAPH 1? yes



Another objective in the advertising of mail order brides is the reinforcement of male superiority. As the target customer is a white, fairly well off man over 40, many of the ads suggest the undying attractiveness and virility of men. The ads address the issue of age difference and reinforce masculine sexuality. In most ads it is reiterated that Filipina women are attracted to older men and that men within their culture and age bracket mistreat them.

ADVERTISEMENT

Why Pacific Island Ladies? Pacific Island Ladies are known for their beauty, femininity, traditional values, loyalty, and loving disposition. And age is not as much a barrier to them. They will often marry a man 10 to 30 years older. Basically what they are seeking is a decent fellow who can provide them with a secure future and a happy home life. They are taught from childhood

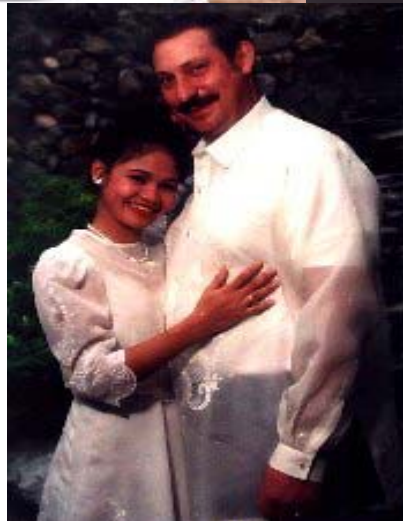
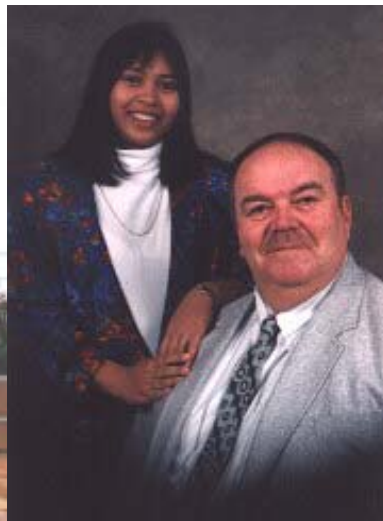
that marriage and family is most important and they will give you a loving relationship that will last for the rest of your life!!!!

[\(http://www.pacisl.com/\)](http://www.pacisl.com/)

ADVERTISEMENT

Lets suppose you have a real "way with women". How much time, and how much emotional and financial strain will it take you to convince ten or twelve attractive women to sleep with you so that you can find someone who will keep you from wanting more?

<http://www.baregirls.com/sex-tours/intro-frame.html>





The following ads located at the same address (<http://www.pacisl.com/>) show the commodification of women on the internet. These pictures are of young woman in tight fitting clothes and provocative positions. Selling points such as their measurements as well as their homemaking pastimes (i.e. cooking and reading,) are placed in the ads.



2A ANITA

(10/8/77) 5'2, 100 lbs. Phils. College grad. (34A-24-34) Catholic. Enjoys cook, read. Seeks nice man, age 30 or up.

3A CHERRY

(6/29/79) 5'5, 110 lbs. Phils. Employee. (33-26-34) Likes cook, dancing, nature, walk. Seeks honest, loving, responsible, romantic, 20up.

The following letter and photo show the age difference between a Filipina bride and western man. In his letter, the man states that he narrowed his decision of perspective brides to the nicest and most sincere. The letter implies that of all the women to choose from, the man was able to pick the most sincere, nicest, and youngest.



Dear P.I.C.,

My name is William Wheeler. I am writing to let you know that I found and married my dream girl thanks to your magazine. Her name is Grace and I almost passed her by because she was so young. However after writing and talking to her I chose her over several others because of her honesty and sincerity. I still can't believe how lucky I am. We were married on April 26, 1996 in Cebu City while on an Asian Rose Tour. I highly recommend Asian Rose. They are honest and efficient. Keep up the good work.

Sincerely,

William & Grace(<http://www.pacisl.com/>)

Back to the [Mail Order Bride and Sex Tour Information Page](#)

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TED Case Studies

Case 487: Russian Mail Order Brides



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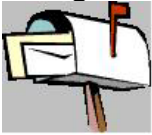
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Identification

1. The Issue:

With the spread of the Internet and the collapse of the Soviet Union, there is a new twist in the age-old marriage custom of the mail-order bride. Increasingly, western men are turning to marriage agencies or introduction services to find spouses from the former Soviet Union. In an industry that was traditionally dominated by agencies in the Pacific Rim, this new breed of Russian Internet marriage agencies is rapidly expanding and overtaking the market. The author has found at least 200 different agencies on the Internet that focus on Russia and other Soviet Republics. The popularity of these companies is due to various factors that include culture and economics. However, there is an element of risk for either marriage partner undertaking these ventures. The bride is isolated in a new foreign country, usually unable to speak the language, and often is more vulnerable to abuse. The groom takes the risk that his new wife is just using him for permanent residency status. The whole concept of mail-order brides raises questions itself. Can two people fall in love enough to marry without ever having met? This case proposes to examine this new player in a very old industry, its impact on this market and the legalities involved.



2. Description

1. ["Match-maker, Match-maker make me a match"](#)
2. [Mother Russia](#)
3. [The New Soviet Woman](#)
4. ["Bring me a ring for I am longing to be the envy of all I can see"](#)
5. ["...find me a find, catch me a catch."](#)
6. ["Match-maker, Match-maker, I'll bring the veil, you bring the groom, slender and pale."](#)
7. ["The Love Boat soon will be making another run..."](#)
8. ["Yente: Did you think you'd get a prince?..."](#)
9. [Caveat Emptor](#)
10. ["I Want to be in America..."](#)

"Match-maker, Match-maker make me a match..."

The concept of arranged marriages is almost as old as the institute of marriage itself. Various cultures around the world have at one time or another advocated the arrangement of marriage between two individuals through the medium of a match-maker or other third party. It is within the last century that the "mail-order bride" became a part of the American lexicon. Settlers were moving west, where traditionally men outnumbered the women in the population. Men would correspond with marriage-minded women "back East," become engaged and either marry their brides by proxy or marry immediately upon the bride's arrival to her new home. It is within the last twenty-five years that this

practice revived, mainly in Asian nations¹. It is with the collapse of the Soviet Empire that a new market has opened up to Western men. There are many reasons that Russian women are seeking husbands, and why Western men seem to desire Russian wives.

Mother Russia

A Russian woman's lot in life is not the easiest. Brutal economic conditions weigh down even the strongest of people. However, Russian women



copyright Valerie Chittenden 2000. The Griboedeva Canal in St Petersburg

are at a distinct disadvantage. To some they are treated as second-class citizens and are the victims out-moded patriarchal stereotypes. Even Russian feminists, those who are supposed to be the champions of women and equality, can be seen describing housework as unfitting for men.²

The ideal Russian woman is described as possessing "gentleness, sensitivity, maternal instincts and the capacity to love."³ With the Russian Revolution of 1917, one would think women's roles would change, as Marx himself called for the integration of women into productive labor in order to emancipate them.⁴ However, the main factor that drew women into the workforce was the exceptionally low wages paid by the state.⁵ There was no way a single working parent could afford to provide a minimum living standard for a family. Therefore both parents were forced to work in order to make ends meet.⁶ However, this did not change the status of women. Even though 90% of women were employed, and made up 52% of the national labor force,⁷ women still occupied very low places of prominence in Russian life.

The New Soviet Woman

Soviet propagandists have always highlighted the fact that 80% of its teachers and doctors are women.⁸ Westerners are ignorant of the fact that in Russia these jobs are among the least prestigious. As a former teacher, the author earned 450,000 rubles a month in 1996 while a street sweeper (another position dominated by women) earned almost 1 million rubles a month. Employment and the government today still favors male workers even though they might be less qualified or reliable.⁹ As a result, women earn

only 43% of men's salaries.¹⁰ Due to this favoritism, women are more likely to be laid off; resulting in the fact that 75% of all unemployed in Russia are women.¹¹ Russian women are forced to work full-time and then face the full-burden of domestic work at home.¹² Is it any wonder that Russian women see mail-order bride agencies as an opportunity to finally have a better life? With an American husband, Russian women not only gain the much-sought after goal of securing a husband but now also have the added bonus of an improved life.

"Bring me a ring for I am longing to be the envy of all I can see"

Another cause of the plethora of available Russian brides is that a major part of Russian culture for women is marriage. From the earliest times, marriage was seen as the most important point in a woman's life.¹³

Conventional wisdom considers any women over the age of twenty-two an old maid.¹⁴ Russian women also face statistical barriers. There are 3,361,255 more women than men aged 15-64.¹⁵ Due to the deteriorating health system and the high rate of heart disease, the average life expectancy for men is 58 years while the life expectancy for women is 71.¹⁶

As a result, women have been under immense pressure to marry. Marriage and

motherhood are major cornerstones in Russian culture. With this in mind, the government has traditionally supported this through special economic aid to couples, especially new parents. Special economic aid has resulted in a decrease in the average age of first marriages for women. Eighteen is now a normal age to marry. As teacher of the 11th grade, the author was shocked to see how many young women in my class were engaged at the age of 17 and planning their weddings after graduation. Unlike other developing nations, this does not result in a decrease in education. On the contrary, a large number of Russian women continue their education after marriage. However the result is paradoxical - an educated woman married at 18, that still maintains subordinate female gender roles.



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My 11th grade class in 1996 Note how the girls outnumber the boys- This is the norm rather than the exception.

"...find me a find, catch me a catch."

Russian women want something better. A large number of Russian women prefer American men. "Our [Russian] men treat women like objects... They drink, they smoke,

they have bad hygiene and care only about themselves. These Americans don't smoke or drink. They really seem to want to settle down and take care of their family."¹⁷ But what about these "dream men"? What draws successful Western men towards mail-order bride agencies? The majority of men who participate in these services are white, educated, around 37 years old, and are ideologically conservative.¹⁸ These men are tired of "career-obsessed" women and see Russian women as less materialistic and more appreciative of men.¹⁹ Many men are just frustrated by the American dating scene. One potential groom describes his searches through bars, clubs coffee-houses, laundry mats and grocery stores with no success.²⁰ Russian women are seen as ideal over other nationalities as they "'have a European face but the patience of an Asian."²¹ Russian women are seen as more feminine and more traditional; while Russian women see American men as more considerate, more ambitious, and less inclined to drunkenness.²² Western men see Russian women as more mature and usually more educated than their Asian counterparts.²³ From the author's own observations, Russian culture puts emphasis in women looking feminine and well-groomed at all times. Is it any wonder then that American men are attracted to the idea of finding an educated, good-looking wife who will appreciate the simpler things in life?

"Match-maker, Match maker, I'll bring the veil, you bring the groom, slender and pale."

The process for finding a mail-order bride can be relatively simple and accessible but not inexpensive. According to some sources, there are over 600 agencies on the internet that provide "introduction services" or match-making for the former Soviet Union.²⁴ One website, (www.rwguide.com) offers some advice in choosing an agency. Its criteria include

- That the agency should screen the criminal background of its ladies
- That the operation have offices in either the US or Western Europe as well as Russia
- That it accepts credit cards
- That offer support services and video offers be either free or at a nominal fee

(Source:www.rwguide.com).

Some agencies will have up to 25,000 Russian women applying for their services annually.²⁵ Each agency has its criteria for choosing women. For the most part, they have to be at least 18 years old²⁶ and can range well up into middle age. Once an agency has been selected, the prospective groom has several options depending on the agency. Some agencies will post photographs of their ladies or the groom can fill his "shopping cart" according to his specifications. The groom then is charged for the address of the ladies and/or additional services such as letter translation (since most brides do not speak English well) or conference call interpreting starting around \$5.75 per minute). The addresses range in price from \$10 for the first two (www.russiandream.com) to \$15 for two (www.womenfromrussia.com). However, the best "value for your money" is the catalogue. For an annual fee, such as \$120 US (www.russiandream.com) the groom can then receive the catalogue of complete brides and their information either annually or

quarterly. According to some estimates, about 50,000 to 60,000 catalogues are sent out annually for Russian brides.²⁷ Grooms will then begin to correspond or call the ladies of their choice in order to learn more about them.

"The Love Boat soon will be making another run. The Love Boat promises something for everyone. Set a course for adventure, your mind on a new romance..."

The next step of the process is trying to meet one's prospective choices. The majority agencies offer special "romance" or "love tours" to Russia. For about \$3000 - \$5000, a hopeful man can expect

- Round-trip airfare
 - Transportation to and from the airport
 - 13 night stay at a 4 star hotel
 - One 4 hour guided tour of the city
 - One Intimate Social
 - 3 Large Socials
 - 24 hour hospitality service
 - On-going introductions
 - Full buffet brunch daily
 - Free 3 month platinum membership and EZ-DO-IT Fiancee Visa Kit
 - "New Applicants Interview" sessions
- (Source: [A Foreign Affair](#)).

Upon arrival, the hopeful men will go to "social events." At these events, men can meet women

in person, talk with them (usually through an interpreter), and try to get to know them. However this is more challenging than one would think since there are usually about 60 men and up to 1,000 women at these socials.²⁸ Both the grooms and the brides find this stressful. Many women will spend a large portion of their meager salary to travel to these socials, and on clothes for the "right look" on the chance that one man might notice them out of hundreds. Grooms have said that it is too hectic-trying to meet the perfect woman in 14 days or less.²⁹ However, at least one meeting is necessary to satisfy INS requirements for fiancée visas. Some men will go to meet women they have already been corresponding with and others will go to meet first and then begin correspondence. Both sides hope to meet that special someone who will be a partner for



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Innocent Tourists or Mail Order Bride and Groom?

life.

"Yente: Did you think you'd get a prince? Well I do the best I can. With no money no dowry no family background, be glad you got a man!"

So once the champagne has been drunk and the rice tossed out, the newlyweds now must face the daunting task of building a marriage between two virtual strangers. Cultural differences alone can be frustrating. In one example, the new husband wanted his new bride to spend more time with his mother and learn to cook American food as he did not like her Russian cooking.³⁰ Most of these women speak very little English; making communication often difficult. Many of these Russian women also bring children from previous relationships into these marriages. On one hand, the new groom has an instant family. On the other, he now has to deal with a child or children who have now been uprooted from their country and also speak little English.

Caveat Emptor

Both parties are in extremely vulnerable situations. Russian women are now in a new country initially at the mercy of their husbands. Lack of knowledge of immigration and local law leaves these women vulnerable to domestic abuse. In one case, the wife was told that her husband would beat her or her child if she did not obey his orders.³¹ They were told that if they tried to complain, he would have them deported. Thanks to recent legislation, this is not the case.³² ([see below](#)) Additionally, the new groom is also exposed to risk-both financially and emotionally. At the end of the courtship, most men will have paid for several addresses or annual subscriptions, translation and/or interpreting services, a tour and then all the expenses for the wedding and bringing their new spouse to the US. When the author posted a request for satisfied grooms on a bulletin board ([Planet Love](#)), I received one reply detailing this man's heartbreaking experience. He had met his bride and brought her to the US to marry her. Thirteen days after the marriage, there was a "family emergency" in Russia and his wife had to rush home (along with \$700 from her husband and his \$1800 engagement ring). She never returned, and every time he called the phone was hung up on him. After eighteen months, she contacted him again and begged for forgiveness. He took her back and they remained together for almost two years (which is coincidentally the minimum amount of time you must remain married to an American in order to remove the conditionality of your visa³³ - [INS](#)) when he returned home and found his wife gone. Another more sinister case involves one Texan who is believed to have been murdered by his new Ukrainian wife.³⁴ She was called home for a family emergency and he followed. There he died from "a fall" and his American children suspect foul play. The case is still under investigation.



3. Related Cases

[Traffic-The Sexual Trafficking of Russian women](#)

[Russex-The Increase of Prostitution in Russia](#)

[Thaitour-Sex Tours to Thailand](#)

[Myansex-Trafficking of Burmese Women and Children into Thailand](#)

[Nepalsex-The Increase in Prostitution in Nepal](#)

[Thaiaids-The Spread of Aids in Thailand](#)

[Adopt-The Rising Trade in Chinese Adoptions](#)

Environmental reasons to leave Russia

[Komi-The Russian Arctic Oil Spill](#)

[Mercury-Mercury Poisoning in Russia](#)

[Russair-Air Pollution in Russia](#)

[Sibnuke-Siberian Nuclear Waste](#)

[Ural-Nuclear Contamination of the Ural Mountains](#)

4. Draft Author:

Valerie J. Chittenden, April 2000



II. Legal Clusters

"I Want to be in America..."

Despite all of the potential for disaster, thousands still proceed to look for and marry brides through mail-order bride agencies. You would think that finding a bride would be the most difficult aspect. Instead, it would appear that navigating the maze of INS regulations and procedure can often be more daunting (In fact, some agencies offer their own legal counsel). There are two methods of bringing a mail-order bride to the US. The first is simply marrying her and then applying for a "Petition for an Alien Relative"³⁵. ([Please see this INS web site for more detailed information of the process](#)). Your bride then has to apply for an Immigrant Visa as well. However this is a conditional visa and the couple must remain together for at least 2 years before they can apply to have conditionality removed.³⁶ The happy couple is then subject to whatever investigations the INS deems appropriate. The other method and the one that allows the potential new brides more freedom is the Fiance Visa. Under this regulation, the couple must marry in the US. The husband must file a petition with the INS.³⁷ ([Click Here For Fiance Visa](#)

[Info](#)). The couple must have met in person at least once in the last two years before filing. The bride and her children may then travel to the US and has 90 days to marry. If the couple has not married in 90 days, then the bride (and any children) must return to their home. If she wishes to return to the US, she has to reapply for a completely new visa. The Fiancee Visa gives the couple the freedom to cancel at the last minute. If they decide they do not suit each other, then they can easily call things off without having to resort to a potentially messy or damaging divorce. This is not as unusual as it sounds. Some Russian brides have arrived in the US and changed their minds after spending more time with their fiancé.³⁸



5. Discourse and Status: Agreement and Complete

In 1996, Congress passed the Illegal Immigration Reform and Responsibility Act. This was in response to a growing awareness of the vulnerability of mail-order brides as demonstrated in 1995, when a mail-order bride from the Philippines was shot to death by her abusive husband in a Seattle courthouse³⁹. Section 652 of this legislation specifically addresses the mail-order bride industry. It addresses the fact that there are a large number of agencies active in the US who seem to be generating "substantial profits."⁴⁰ Despite well over 2,000 mail-order marriages a year, there is no information on the amount of mail-order brides entering the US. The purpose of this law is two-fold: to protect the safety of mail-order brides and to prevent fraud. Most mail-order brides are ignorant of US immigration law and believe that they must remain in abusive situations or else be deported. This is not the case thanks to 1994 Violence Against Women Act. Under this law passed in 1994, spouses of US citizens or their children have the right to petition for permanent residency when they meet the following criteria:

- Must be legally married to the US citizen or lawful permanent resident batterer
- Must reside in the United States.
- Must have resided with the US citizen or lawful permanent resident spouse in the United States.
- Must have been battered or subjected to extreme cruelty during the marriage, or is the parent of a child who was battered or subjected to extreme cruelty by the U.S. citizen or lawful permanent resident spouse during the marriage.
- Is required to be a person of good moral character.
- Needs to demonstrate that removal from the United States would result in extreme hardship to the self-petitioner or the self-petitioner's child.
- Must have entered into the marriage in good faith, not solely for the purpose of obtaining immigration benefits.
- (Source [INS](#))

They can apply without their spouse's knowledge and the INS urges immediate contact with the National Domestic Abuse Hotline (1-800-799-7233) for help.

Under this legislation, "each international matchmaking organization doing business in the United States"⁴¹ must provide information, in the prospective bride's native language of immigration and naturalization information, including the battered spouse waiver, the penalties of marriage fraud, and a warning of the unregulated nature of international matchmaking organizations.⁴² The penalty for organizations violating this regulation can be a fine up to \$20,000.

Finally this legislation also required that the Attorney General and the INS compile a report examining the number of mail-order bride marriage, the extent of marriage fraud, the usage of the battered spouse waiver, the extent of abuse in mail-order marriages and the need for expanded regulation.

[Please follow this link to read the INS report in its entirety.](#)

[Appendix A](#)

[Appendix B](#)

Data for this industry is very difficult to obtain especially when dealing with companies that operate in different countries. The INS does not ask those applying for visas for fiances or spouses how they met.⁴³ This industry is extremely unregulated. There are no central guidelines that determine how a matchmaking agency functions. There is no legislation that I could discover where agencies are obligated to publish the amount of "successful" matches or divorces. Only when agencies violate US immigration law or federal fraud legislation are they penalized. Marriage agencies that promote marriage for immigration purposes are strictly prohibited. Marriage agencies are obligated to provide immigration law information to their brides and the INS has provided this information to its consuls abroad for dissemination.⁴⁴ The Violence Against Women Act has given mail-order brides the ability to flee abusive relationships without being deported. The report concludes with the statement that more monitoring is required and that the INS continue to gather data on mail-order marriages.

6. Forum and Scope:US-Russia and Bilateral

While international mail-order brides appeal to men everywhere, the vast majority of mail-order bride agencies seem to gear their markets towards the US. The internet sites are primarily in English and offer assistance with the INS and visa processing. In fact, the mail-order bride industry has drastically increased with the advent of the Internet. With the revolution of the Information Age, time has shrunk. Previously, this industry was completely at the mercy of mail order and the limitations of the postal system. Customers had to wait for their catalogues to arrive in the mail, then wait for responses to letters and photographs. Teleconferencing with interpreters helps break down the language barrier. With the click of a mouse, a customer can view biographies and photos of brides, make their choices, add them to their shopping cart and pay via credit card. They can begin to correspond or call the woman of their choice immediately. Potential grooms can exchange videos with their brides. It is no longer cost prohibitive to visit Russia and meet their bride in person (all of this can of course be arranged through most of these agencies). The accessibility of the Internet has directly contributed to the spread of these agencies, and while they may target their products for US men, there is no restriction on anyone with a computer and basic knowledge of English from accessing these sights.

7. Decision Breadth: 2

8. Legal Standing: LAW

At the moment, the only country that has legislation against mail-order brides is the Philippines where the mail-order bride industry has been outlawed.⁴⁵ This was due to the extremely active sex-trade and trafficking of women. The only US legislation is the US Illegal Immigrant Reform and Immigrant Responsibility Act described above ([see above](#)). At this juncture, the Department of Justice and the INS advocate further study and research of the industry. There are no regulations restricting the operation of mail-order bride agencies in the US, as long as agencies:

- Abide by the Illegal Immigrant Reform and Immigrant Responsibility Act,
- Are not committing fraud
- Are not involved in alien smuggling
- Are not involved in the importation of aliens for immoral purposes
- Are not establishing a commercial enterprise for the purpose of evading immigration laws
- Are not involved with involuntary servitude
- Are not involved in transporting people in interstate or foreign commerce or foreign commerce for the purpose of prostitution ([INS report](#))

Another area agencies must be careful in is when they offer visa assistance. According to INS regulations, a visa consultant or any other person who is not a licensed attorney may only assist someone with completing INS forms and applications for a nominal fee and cannot state that they are qualified expert in immigration laws.⁴⁶ There are no other restrictions, regulations or quality control measures in place at this date.



III. Geographic Clusters

9. Geographic Locations

a. Geographic Domain: Europe

b. Geographic Site: East Europe

c. Geographic Impact: US

10. Sub-National Factors: No

11. Type of Habitat: Cool



IV. Trade Clusters

12. Type of Measure: Import Standard

As stated previously, there is very little data available on the number of Russian mail-order bride marriages that occur annually or how many of them last. The INS estimates that 2,000 to 5,000 mail order marriages occur annually.⁴⁶ According to my calculations, that is an average of 3500 marriages a year. For 1997, 21% of all immigrants were spouses of US citizens. A substantial majority of these immigrants were women. Since

there is little official data available, the INS, using the figure of 2000-5000 marriages a year, calculates that 1.5% to 2.7% of the 132,000 female spouses entering the US are mail-order brides.⁴⁷

The biggest trend in the mail-order bride market has been the explosion of agencies that provide introductions to women in the former Soviet Union. According to the INS report, 51% of mail order agencies in 1998 were for women in the former Soviet Union. The INS performed a small survey on mail-order brides and found that of that group, 46% were from the former USSR. Therefore Soviet mail-order brides appear to be dominating this industry.

13. Direct v. Indirect Impacts: Direct

14. Relation of Trade Measure to Environmental Impact

a. Directly Related to Product: Yes, Brides

b. Indirectly Related to Product: No

c. Not Related to Product: No

Related to Process: Yes, Rights

The concept of the mail-order bride raises a host of issues regarding the definitions of love, marriage, modern femininity, women's rights and economics. Can two strangers really fall in love and make a lasting commitment based on correspondence and a few meetings- especially when all of this occurs through the medium of an interpreter? Romantic literature would say yes literature would say yes especially with the medieval tradition of courtly love from afar. How viable is a marriage when one of the partner's main desires is to flee poverty? Are American men just lonely or are these men looking for someone to dominate and assume conventional female roles? Is there something really wrong with American women? Are Russian women sincerely looking for love or for a provider to support them and their children- a provider that they will cause lasting emotional harm when they desert them as soon as INS regulations allow? Both parties leave themselves extremely vulnerable in this process. Yes, there are happy endings and glowing testimonials; but there are also the battered wives and abandoned men. Is the mail-order bride industry just exploiting the hopes and dreams of lonely people, or are they honestly concerned with compatibility and bringing two people together? The human heart can be fragile. It is difficult to reconcile abstract concepts such as desire for love and happiness with a monetary amount that can be set arbitrarily by agencies.

15. Trade Product Identification: Bride

16. Economic Data

There are over 600 Russian mail-order bride agencies operating on the Internet. The main sources of revenue for mail-order bride agencies are the subscriptions, support services (translation, teleconferencing, legal support, etc.) and the tours. Again, there is very little information available as to how much agencies net for these services. With hundreds of

agencies and tours costing from \$3000 to \$5000 US, one would think that the profits would be substantial.

With the lack of regulation for mail-order bride agencies, there is little financial data available on the success of various agencies. However by looking at various agencies and using the INS data, I have performed some preliminary calculations. The most popular and supposedly cost-efficient method of finding ones spouse is to pay the annual subscription that allows the subscriber access to the agency's entire catalogue of photos and addresses of prospective brides. The groom then corresponds with the women of his choice (usually through an interpreter, which incurs additional fees). The hopeful groom will then usually take part in a "Romance Tour" to either meet the woman of his choice or meet other prospective brides. In order to obtain a Fiancee Visa from the INS, the couple has to have met in person at least once in two years. This Romance Tour can meet that criteria.⁴⁸

Average Catalogue Subscription Price	Average Number of Catalogues Issued Annually ⁴⁹	Approximate Revenue From Catalogue Subscriptions	
\$120	55,000	\$6.6 Million	

Approximate Number of Romance Tours in 2000 ⁵⁰	Average Number of Men on Each Trip ⁵¹	Average Cost Per Person ⁵²	Approximate Total Revenue from Trips
56	40	\$4000	\$8.9 Million US

The author made these calculations using information available. Again this does not include the costs for the bride's airfare to the US, the cost of the wedding or translation costs. The amount this industry earns is not known persently but must be substantial juding by the success of these agencies.

17. Impact of Trade Restriction: High

In theory, legislation can end this industry by banning mail-order agencies all together as in the case of the Philippines. However this might not be effective. In the US there are thousands of dating services or agencies dedicated to just introducing people to each other (no mention is necessarily made of marriage). Existing agencies could alter their format and just market themselves as pen-pal clubs (which many of them already do) or dating services. Despite changes, there is little chance that ingrained Russian cultural ideas concerning the roles of women and marriage will change quickly. Russian women will still want husbands and American men will still want wives. The INS cannot discriminate how a couple meets – it can only look for fraud or abuse. However it and the federal government can make it cost prohibitive to marry a mail-order bride and cause a decrease in the industry.

18. Industry Sector: Services

19. Exporters and Importers: Russia and USA

These sights offered very detailed descriptions of their services and costs, and offered advice:

- [A Foreign Affair](#)
- [Anastasia](#)
- [European Connections](#)
- [Orwell Maritime Introduction and Marriage Network](#)
- [Volga Girl](#)

These 2 sites are general information sites. They offer useful information on selecting an agency, message boards to speak to other prospective grooms and have links to hundreds of other agencies:

- [The Russian Women's Guide](#)
- [The Mail-Order Bride Guide](#)



V. Environment Clusters

- 20. Environmental Problem Type: Rights
- 21. Name, Type, and Diversity of Species
- 22. Resource Impact and Effect: Structure and Low
- 23. Urgency and Lifetime: medium and 70 years
- 24. Substitutes:

Yes, there are alternative substitutes to mail-order bride agencies. Men and women can look for spouses in their respective countries through conventional means. Through the internet, men and women from different nations can correspond through chat rooms, bulletin boards and newsgroups. If they still feel the need to have someone help them, friends, family and the time-honored community yente are usually more than happy to arrange introductions without monetary compensation.



VI. Other Factors

- 25. Culture: Yes

[See above.](#) Russian culture puts a great deal of emphasis on the role of marriage. Women are expected to marry and marry young. A Russian woman is seen as an old-maid and a spinster if she is not married by twenty-five.

- 26. Trans-Boundary Issues: No
- 27. Rights: Yes

As stated previously, the potential bride and groom are vulnerable in this process. Yes there are cases that end happily. However the bride is vulnerable to abuse when arriving in her new country and while dependent on her new husband. The groom is

vulnerable to financial ruin and emotional trauma if his bride abandons him or sues him for divorce. There are no guidelines governing the behavior of agencies or compensation for unsatisfied customers.

28. Relevant Literature

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⁴Goscilo, 8.

⁵Vitalina Koval, "Women and Work in Russia," *Women in Contemporary Russia*, ed. V. Koval, (Providence: Berghan Books, 1995), 19.

⁶*Ibid*

⁷Goscilo, 8.

⁸Goscilo, 9.

⁹Goscilo, 11.

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¹²Goscilo, 8.

¹³Natalia Pushkareva, *Women in Russian History: From the Tenth to the Twentieth Century*, trans. and ed. Eve Levin, (New York: M.E. Sharp, 1997), 29.

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¹⁵"Russia," in the 1999 CIA Factbook, [Internet], available at <http://www.odci.gov/cia/publications/factbook/rs.html>, accessed March 15, 2000.

¹⁶ *ibid*

¹⁷ Alessandra Stanley, "Video Valentines to Russia, Seeking Patient Brides," *The New York Times*, 14 February 1997, sec A, page 3.

¹⁸ Scholes, 1999.

¹⁹ Sullivan, 1994.

²⁰ Investigative Reports, "*To Russia For Love: Mail Order Brides*," (New York: A&E Television Network, 1999).

²¹ Stanley, 1997.

²² *Ibid.*

²³ Investigative Reports, 1999.

²⁴ *Ibid*

²⁵ *Ibid*

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ *Ibid*

²⁹ *Ibid*

³⁰ *Ibid*

³¹ *Ibid*

³² Elliot Grossman, "Immigrant Brides; Beware *New Law Tries to Warn Women Who Meet Men Through Ads There is a Potential For Abuse," *The Morning Call*, 10 August, 1997, Section B page 1.

³³ "How Do I Remove the Conditions on Permanent Residence Based on Marriage?" From The Immigration and Naturalization Web Site, (accessed March 31, 2000) Internet, available at <http://www.ins.usdoj.gov/graphics/howdoi/remCond.htm>.

³⁴ Investigative Reports, 1999.

³⁵ "How do I Bring a Relative to Live in the United States," from the Immigration and Naturalization Web site, (accessed March 31, 2000) Internet, available at www.ins.usdoj.gov/graphics/howdoi/spouseliv.htm.

³⁶>"How Do I Remove the Conditions on Permanent Residence Based on Marriage?"

³⁷"How Do I Bring My Fiance to Live in the United States?" The Immigration and Naturalization Services Web Site,(accessed March 31, 2000) Internet, available at www.ins.doj.gov/graphics/howdoi/fiance.htm.

³⁸Investigative Reports, 1999.

³⁹"International Matchmaking Organizations: A Report to Congress," Immigration and Naturalization Web site,[report on line],(accessed March 3, 2000), available at www.ins.usdoj.gov/graphics/aboutins/repstudies/mobrept.htm.

⁴⁰Illegal Immigration Reform and Immigrant Responsibility Act, Sec. 652, (1996).

⁴¹*Ibid*

⁴²*Ibid*

⁴³"International Matchmaking Organizations: A Report to Congress,"

⁴⁴*Ibid*

⁴⁵Hughes, 1999.

⁴⁶"International Matchmaking Organizations: A Report to Congress,"

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⁵⁰Investigative Reports, 1999.

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⁵³*Ibid*

Canada – Ukraine Immigration Bridges

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КАНАДО-УКРАИНСКОЕ СП





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Text on picture of small child:

**Papa!
You don't have any work?
Go to America.**

Go to United States

Attention: Learn how you can get a green card.

List of Human Trafficking-Related Websites

American University's Transnational Crime and Corruption Center, Washington, D.C.

www.american.edu/transcrime

Amnesty International

www.amnesty.org

Anti-Slavery International

www.antislavery.orgselection.htm

Coalition to Abolish Slavery and Trafficking, Los Angeles, CA

www.trafficked-women.org

East-West Women's Network, Washington, D.C.

www.neww.org

Global Alliance Against Trafficking in Women

www.inet.co.th/orgigaatw

Human Rights Watch, Washington, D.C.

www.hrw.org

Initiative Against Sexual Trafficking, Washington, D.C.

www.iaast.net

Int'l. Justice Mission

www.ljm.org

Int'l. Org. for Migration

www.iom.int

Interpol

www.interpol.com

La Strada (Ukraine NGO)

www.brama.corn/lastrada

Minnesota Advocates for Human Rights

www.rnnadvocates.org

OSCE-ODIHR

www.osce.org/odihr

President's Interagency Council on Women, Washington, D.C.

www.secretary.state.gov/www/picw

Protection Project, Johns Hopkins SAIS project, Washington, D.C.

www.protectionproject.org

USAID

www.usaid.org

USDOJ

www.usdoj.org

USDOS

www.state.gov

Winrock International, Washington, D.C.

www.winrock.org

List of Available Videos

UN Human Trafficking, Public Service Announcement (PSA), 2001

Global Survival Network, Expose of Human Trafficking

U.S. Department of Justice, Office for Victims of Crime, Informational Training Video,
"Victims of Trafficking: Far From Home and Helpless