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Transnational Crime Issues: Human Trafficking

Introduction

Trafficking in persons, or human trafficking, is a domestic and international phenomenon that refers to the subjection of men, women, and children to exploitative conditions that may be tantamount to slavery. In 2000, Congress defined “severe forms of trafficking in persons” to mean

- 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
- 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.

Legislative Responses

Both U.S. policy and international law (e.g., the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) view anti-trafficking responses to encompass efforts to protect victims, prosecute traffickers, and prevent opportunities for traffickers to exploit. The Trafficking Victims Protection Act of 2000 (TVPA, Division A of P.L. 106-386), as amended, and its reauthorizations are the cornerstone legislative vehicles for current U.S. policy to combat international human trafficking (the TVPA and other legislation also address domestic human trafficking responses, not discussed here).

Title XII of the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) reauthorized the TVPA through FY2017. In addition, other anti-trafficking provisions have been enacted in stand-alone legislation, as well as other authorization and appropriation acts. In the 114th Congress, legislation that addressed international dimensions of human trafficking included the

- Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Title I of P.L. 114-26),
- Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125), and
- International Megan’s Law to Prevent Child Exploitation and Other Sexual Crimes Through Advanced Notification of Traveling Sex Offenders (P.L. 114-119).

Although the End Modern Slavery Initiative Act of 2015 (S. 553) was not passed in the 114th Congress, aspects of the bill, which envisioned an expanded public-private partnership in leveraging anti-trafficking funds, were authorized in the National Defense Authorization Act for FY2017 (NDAA; P.L. 114-328) and funded in the Consolidated Appropriations Act, 2016 (P.L. 114-113).

Legislation in the 115th Congress

The 115th Congress is considering proposals to reauthorize the TVPA as well as change aspects of existing anti-trafficking policies. Among reauthorization proposals, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2017 (H.R. 2200) passed the House in July 2017, and the Trafficking Victims Protection Act of 2017 (S. 1312) passed the Senate in September 2017. The Consolidated Appropriations Act, 2018 (P.L. 115-141), contained a provision to include severe forms of human trafficking among the transnational crimes targeted by the State Department’s rewards program (codified at 22 U.S.C. 2708).

The State Department’s Role

The U.S. Department of State leads federal efforts to combat human trafficking. The Secretary of State chairs the President’s Interagency Task Force (PITF) on Trafficking in Persons; the PITF last convened in October 2016 and included representatives of 19 departments, agencies, and offices involved in anti-trafficking efforts domestically and internationally. Although the PITF is statutorily required, the frequency of meetings is not specified by law.

The Director of the State Department’s Office to Monitor and Combat Trafficking in Persons (J/TIP) chairs the Senior Policy Operating Group (SPOG), a working-level interagency entity that coordinates the U.S. government’s response to human trafficking. Congress mandated the establishment of J/TIP in the TVPA of 2000. On July 3, 2018, President Trump nominated John Cotton Richmond, founder of the nongovernmental Human Trafficking Institute, to be the next J/TIP Director with the rank of Ambassador at Large. J/TIP also administers an international anti-trafficking grants program and annually prepares, with department-wide input, the congressionally mandated *TIP Report*. Other bureaus and offices within the State Department also address issues related to international human trafficking.

The Trafficking in Persons (TIP) Report

Pursuant to the TVPA, as amended, the State Department has annually reported on government responses to human trafficking in its *TIP Report* since 2001. Countries covered in the *TIP Report*, including the United States, receive one of four possible ranking designations: Tier 1 (best), Tier 2, Tier 2 Watch List, and Tier 3 (worst). Only Tier 1 countries are fully compliant with the TVPA’s minimum standards for eliminating trafficking, while the rest are noncompliant and vary in terms of the level of effort to improve. An additional unranked category of “special cases” includes

countries that could not be assigned a tier ranking because of ongoing instability.

Also published in conjunction with the annual *TIP Report* is a list of countries involved in recruiting and using child soldiers. Countries designated as Tier 3 or identified as recruiting or using child soldiers may, in turn, be subject to restrictions on certain types of U.S. foreign assistance. The annual *TIP Report* is due each year to Congress by June 1. TVPA also requires that the State Department transmit to Congress an interim assessment on progress made by Tier 2 Watch List countries and countries that had been upgraded in the most recent *TIP Report*.

2018 *TIP Report* Outcomes

On June 28, 2018, the Department of State released its 2018 *TIP Report*. It categorized 187 countries based on their respective governments' level of effort to address human trafficking. As required by law, Tier 3 countries are subjected to selected foreign assistance restrictions, unless the President determines that continuing to provide such aid is in the U.S. national interest. In 2018, 22 countries were identified as Tier 3 (see below). The President is required to issue a determination regarding potential foreign assistance restrictions (applicable to FY2019) for these countries within 90 days of the *TIP Report's* release. Previously, for the 23 Tier 3 countries identified in the 2017 *TIP Report*, President Trump issued a determination to fully or partially waive FY2018 restrictions for every applicable country but Iran and North Korea.

2018 *TIP Report*: Tier 3 Countries

Belarus, Belize, Bolivia, Burma, Burundi, China, Comoros, Democratic Republic of Congo, Republic of Congo, Equatorial Guinea, Eritrea, Gabon, Iran, Laos, Mauritania, North Korea, Papua New Guinea, Russia, South Sudan, Syria, Turkmenistan, Venezuela

Child Soldiers

Pursuant to the Child Soldiers Prevention Act of 2008 (CSPA of 2008, Title IV of P.L. 110-457), the State Department has since 2010 annually published in the *TIP Report* a list of countries that recruit or use child soldiers in their armed forces, or that harbor government-supported armed forces that recruit or use child soldiers. The State Department identified 11 such countries in the 2018 report.

2018 *TIP Report*: Child Soldiers Countries

Burma, Democratic Republic of the Congo, Iran, Iraq, Mali, Niger, Nigeria, Somalia, South Sudan, Syria, and Yemen.

As required by law, CSPA listed countries are subjected to selected security assistance restrictions, unless a determination is made that such aid is in the U.S. national interest. President Trump has not yet issued a determination for the 2018 CSPA countries, which would apply to FY2019 assistance. Previously, President Trump fully or partially waived FY2018 restrictions for five of the eight 2017 CSPA countries.

Recent Funding

The Consolidated Appropriations Act, 2018 (P.L. 115-141) provided not less than \$78.8 million in State Department and foreign assistance efforts to combat human trafficking internationally. This amount included \$13.8 million to support J/TIP personnel and administrative costs out of the Diplomatic and Consular Programs (D&CP) account. This also included \$65 million in foreign assistance funding to address human trafficking out of the Development Assistance (DA) account, the Economic Support Fund (ESF) account, the Assistance for Europe, Eurasia and Central Asia (AEECA) account, and the International Narcotics Control and Law Enforcement (INCLE) account (not less than \$40 million). Of this, \$6 million was directed to be made available for DNA forensic technology programs to combat human trafficking in Central America and Mexico. The joint explanatory statement also specified up to \$5 million to support "child protection compacts" (multiyear bilateral commitments to address child trafficking), \$2 million for "West Africa anti-slavery programs," and an additional \$25 million in INCLE funds (separate from the \$40 million mentioned above) to be made available for programs to "end modern slavery" as previously authorized in the FY2017 NDAA.

For FY2019, the President's international affairs budget requests a total of \$52.8 million to support J/TIP personnel and administrative costs (\$13.2 million), J/TIP-managed grant programs (\$17 million), and additional bilateral and regional anti-trafficking programs (\$22.6 million).

Congressional Oversight

Since enactment of the TVPA, Congress has sustained interest in U.S. efforts to address human trafficking internationally. Attention has often focused on country ranking outcomes in the *TIP Report*. In December 2016, the U.S. Government Accountability Office (GAO) issued a report with recommendations on how to improve the *TIP Report* and assess its effectiveness. The FY2017 NDAA requires GAO to prepare additional reports, due in September 2018 and 2020, on the effectiveness of international programs to combat human trafficking that are conducted by the Departments of State, Labor, Defense, the Treasury, and the U.S. Agency for International Development.

Ongoing issues of concern to the 115th Congress may include monitoring the use of anti-trafficking funds by the executive branch, examining links between human trafficking with other transnational issues, including labor and procurement practices, and considering legislation to reauthorize the TVPA.

For additional background, see CRS Report R44953, *The State Department's Trafficking in Persons Report: Scope, Aid Restrictions, and Methodology*. Research Associate Ana Sorrentino contributed to this report.

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