

Exchange Mail

DATE-TIME 9/22/99 9:11:09 PM

FROM Naplan, Steven J. (MULTI)

CLASSIFICATION UNCLASSIFIED

SUBJECT RE: REMINDER: Freedom House Summary for ES. Thank you!
[UNCLASSIFIED]

TO Kale, Dora A. (MULTI)

CARBON_COPY Schwartz, Eric P. (MULTI)
Busby, Scott W. (MULTI)
Naplan, Steven J. (MULTI)

TEXT_BODY Eric: Dora asked me to pass the Freedom House Exec Summary to you for writing test purposes for Busby replacement candidates.

Problem is that the Exec Summ of the Freedom House "Freedom in the World" report is just 5 paragraphs of "thank yous" and acknowledgements.

perhaps you'd like the Exec Summary of the 1998 State Country Reports on HR. attached.

-----Original Message-----
From: Kale, Dora A. (MULTI)
Sent: Wednesday, September 22, 1999 4:29 PM
To: Naplan, Steven J. (MULTI)
Cc: Kale, Dora A. (MULTI); Schwartz, Eric P. (MULTI); Busby, Scott W. (MULTI)
Subject: REMINDER: Freedom House Summary for ES. Thank you! [UNCLASSIFIED]

TRANSLATED_ATTACHMENT HR 1998.doc
U.S. Department of State
Overview to Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor,
February 26, 1999.

INTRODUCTION TO THE 1998 HUMAN RIGHTS REPORT

I. The Right To Democracy

More than 50 years have passed since the Universal Declaration of Human Rights proclaimed that all human beings are "free and equal in dignity and rights." Yet for too long, the world's dictatorships have sought to undermine one of its most fundamental precepts: the right to democracy. Although Article 21 of the Declaration provides that "the will of the people shall be the basis of the authority of government . . . expressed in periodic and genuine elections," many governments continue to deny their citizens the right to choose their own government. In too many countries, leaders speak of democracy even as they rig elections, suppress dissent, and shackle the press. Since the founding of the Republic, Americans have recognized that constitutional democracy provides the best protection for the full range of human rights. Our democratic system has empowered Americans to challenge their own government and to secure fundamental political change. From the Civil War to the civil rights movement, Americans have demanded that their government adhere to the principles of self-government and civil liberties upon which this country was founded, thereby securing the blessings of equality, liberty, and justice. The right to democratic governance is both a means and an end in the struggle for human rights. Freedom of conscience, expression, religion, and association are all bolstered where democratic rights are guaranteed. Rights to a fair trial and to personal security are enhanced in genuine democracies. Elected leaders gain legitimacy through the democratic process, allowing them to build popular support, even for economic and political reforms that may entail temporary hardships for their people. Democracy and genuine respect for human rights remain the best paths for

sustainable economic growth. In contrast, an authoritarian development model may generate prosperity for a time, but cannot sustain it in the face of corruption, cronyism, and the continued denial of citizens' rights. When severe economic downturns occur, authoritarian regimes cannot respond flexibly or effectively to economic problems. Without genuine democratic mechanisms to channel popular displeasure, the government must often choose greater repression to avoid a popular uprising.

Contrast Indonesia, where last year a Soeharto regime lacking both accountability and transparency saw an economic downturn quickly deteriorate into a political crisis, with the Republic of Korea, where genuinely democratic elections gave new President Kim Dae Jung - a former political prisoner - the popular support he needed to implement austerity measures and economic reforms. These events confirmed that nothing about "Asian values" precludes respect for democracy, human rights, and the rule of law, even in times of economic crisis. To be sure, democratization is a long and complex struggle that does not come easily. Government "of the people" cannot be imposed from the outside. Rather, countries must come to democracy by their own path. As Secretary Albright has noted, "[D]emocracy must emerge from the desire of individuals to participate in the decisions that shape their lives Unlike dictatorship, democracy is never an imposition; it is always a choice."

Moreover, 1998 again confirmed that democracy must be more than just elections. The slow development of democracy in some newly independent states demonstrated that elections should be regarded not as an end in themselves, but as the means to establish a political system that fosters the growth and self-fulfillment of its citizens by promoting and protecting their political and civil rights. Genuine democracy thus requires not just elections, but respect for human rights, including the right to political dissent; a robust civil society; the rule of

law, characterized by vibrant political institutions, constitutionalism, and an independent judiciary; open and competitive economic structures; an independent media capable of engaging an informed citizenry; freedom of religion and belief; mechanisms to safeguard minorities from oppressive rule by the majority; and full respect for women's and workers' rights. These principles - combined with free and fair elections - form the basis for a culture of democracy. As my predecessor, John Shattuck, has noted, building such a culture is never easy, but the rewards - stability, prosperity, and the enrichment of the human spirit - make the effort profoundly worthwhile. The United States supports democracy for the long haul. We foster the growth of democratic culture wherever it has a chance of taking hold. We focus particularly on providing support for countries in transition, defending democracies under attack, and strengthening the network of established democracies. Each year, we invest over \$1 billion in these efforts. We do so not just because it is right, but because it is necessary. Our own security as a nation depends upon the expansion of democracy worldwide, without which repression, corruption, and instability would almost inevitably engulf countries and even regions. Democracy holds its leaders accountable to the people. It provides breathing room for civil society. It opens channels for the free flow of information and ideas and for the development of diverse and vibrant economic activity. History shows that democracies are less likely to fight one another and more likely to cooperate on security issues, economic matters, environmental concerns, and legal initiatives. Where democracy flourishes, so too do peace, prosperity, and the rule of law.

II. The Year in Review

This year's commemoration of the 50th anniversary of the Universal Declaration of Human Rights provided an opportunity to assess our progress in promoting human rights. As President Clinton noted in his White House address on

Human Rights Day

1998, the Declaration has served both as a "Magna Carta for humanity" and as an important reminder that the struggle for human rights continues today.

In that

spirit, the President took numerous steps to ensure that the United States

fulfills its responsibility to promote human rights abroad, including increased

U.S. support for the United Nations Torture Victims Fund; the establishment of a

new atrocities early warning center at the Department of State; greater

assistance to genocide survivors in Bosnia, Rwanda, and Cambodia and increased

awareness of the plight of women and girls suffering under the Taliban regime in

Afghanistan; and a new program to help nongovernmental organizations respond

rapidly to human rights emergencies.

The President also took measures to ensure that the United States embraces at

home what it advocates abroad. He signed an executive order that strengthens the

U.S. Government's ability to implement those human rights treaties that past

Presidents have signed and the U.S. Senate has ratified - including the International Covenant on Civil and Political Rights, the Convention on Torture,

and the Convention on the Elimination of All Forms of Racial Discrimination. He

instructed the Department of Justice to develop new measures to address the

problem of illegal aliens who suffer abuses at the hands of smugglers and

sweatshop owners.

At the same time that the United States moves to strengthen its own commitment to

human rights, it continues to monitor closely developments elsewhere.

Despite

significant gains in freedom around the world, the past year saw a number of

authoritarian governments maintain their authority through the systematic

repression of the human rights of their citizens. The sections that follow review

key developments in human rights, democracy, and labor.

Developments in Human Rights

1. The Right to Democratic Dissent. Some traditionally repressive governments

have granted their citizens greater individual authority over economic decision-making, but without an accompanying relaxation of controls over peaceful political activity. These actions show that economic freedom cannot compensate for the lack of political freedom. The right to democracy necessarily includes a right to democratic dissent, namely the right to participate in political life and advocate the change of government by peaceful means. A case in point is Serbia, where the human rights situation deteriorated sharply in 1998. The regime of Yugoslav Federal President Slobodan Milosevic used the military, police, judiciary, and state-controlled media to strangle dissent throughout Serbia and to promote support for a brutal crackdown on civilians and separatist insurgents in Kosovo. By year's end, the violence in Kosovo had left about 2,000 persons dead - the vast majority of whom were unarmed ethnic Albanian civilians, displaced close to 180,000 individuals, and triggered the worst regional political and military crisis in Europe since the end of the conflict in Bosnia-Herzegovina. Parts of Asia suffered a similar fate. In Burma, the military junta similarly continued its highly repressive policies, targeting all forms of dissent and intensifying its restriction of free assembly and association. In North Korea, famine and economic disaster did not prevent the Government from maintaining brutally repressive measures to silence dissent. In China, the Government's human rights record deteriorated sharply at the end of 1998 with a crackdown against organized political opposition. China's sharp limits on freedom of expression and association were evident, as dozens of political activists were detained for attempts to register a political party, and three leaders were given harsh sentences in closed trials that flagrantly violated due process. These developments overshadowed an earlier loosening of restrictions on political debate and the Government's October signature of the

International Covenant on Civil and Political Rights (ICCPR). Despite the Pope's visit early in 1998, the Cuban Government of Fidel Castro continued to exercise control over all aspects of Cuban life and to suppress ruthlessly all forms of political dissent. Authorities routinely engaged in the arbitrary detention of human rights advocates and independent journalists, subjecting them to interrogations, threats, and degrading treatment. Nineteen months have passed since the Cuban government imprisoned the four founders of the Internal Dissidents' Working Group - economist Marta Beatriz Roque Cabello, professor Felix Bonne Carcasses, lawyer Rene Gomez Manzano, and social democratic activist Vladimiro Roca Antunes - for nonviolently exercising their rights to freedom of expression and association. Only in September 1998 did the Government finally charge them with "sedition," recommending sentences of 5 to 6 years' imprisonment, and at year's end they still had not been brought to trial.

In the Middle East, equally harsh patterns were visible. In Iraq, the regime of Saddam Hussein continued its brutal campaign of executing perceived political opponents and leaders in the Shia religious community. Syria used its vast security apparatus to quash effectively all organized political opposition or dissent. Libya's Colonel Mu'ammar Al-Qadhafi employed extrajudicial executions and summary judicial proceedings to suppress human rights. In Iran, factional struggle and occasionally violent tactics by hard-line elements opposed to change hampered the movement toward greater openness. Africa also saw governments use violence to quash dissent. In Equatorial Guinea, the Government continued to maintain power through intimidation, coercion, and fraud, committing serious and systematic human rights abuses. The Government in Sudan suppressed all forms of political and religious dissent, utilizing extrajudicial execution, disappearances, torture, beatings, harassment, and arbitrary arrest and detention.

In some of the Newly Independent States of the former Soviet Union, governments used violence to suppress dissent. In Belarus, the Government's human rights record again worsened, as President Aleksandr Lukashenko continued to neutralize all opposition to his return to Soviet-era authoritarian practices.

Turkmenistan, a one-party state dominated by President Saparmurad Niyazov, made only modest progress in moving from a Soviet-era authoritarian style of government to a democratic system by releasing most political prisoners. In Uzbekistan, police and security forces regularly applied torture, harassment, illegal searches, and wiretaps, arbitrarily detaining or arresting opposition activists and other citizens on false charges and frequently planting narcotics, weapons, and other false evidence on them.

2. Human Rights in Countries in Conflict. The past year also saw a disturbing trend toward the widespread abuse of civilians trapped in conflict, particularly in countries facing internal insurgencies or civil war. Insurgent movements and government forces worldwide resorted to murder, rape, and other human rights abuses and crimes against humanity. Tens of thousands of men, women, and children died not only because of conflict, but also from premeditated campaigns designed to wreak havoc and inflict terror on civilian populations. This pattern emerged most clearly in Sierra Leone, where rebel forces killed and maimed with extraordinary cruelty. While retreating from Freetown to the interior, the rebels left behind a bloody trail of murder, mutilation, rape, abduction, and destruction. The insurgents decapitated, burned alive, and inflicted bullet and machete wounds. Particularly appalling were the hacking off of ears, noses, hands, arms, and legs of civilians - including small children and the elderly- and the abduction, torture, and conscription of young children into rebel forces, where they were forced to participate in rebel atrocities. To the south, in the Democratic Republic of Congo, government and

rebel forces -
as well as troops of the governments supporting each side - similarly
committed
extrajudicial executions, torture, beatings, and rape. Security forces
(and at
times incensed civilian crowds egged on by hate radio) murdered
ethnic Tutsi and
other suspected rebels. There are reports that rebel forces massacred
an
undetermined number of Catholic clerics and lay workers in South
Kivu in August
and murdered hundreds of civilians in Makobola at year's end.
Angola's recovery from 24 years of civil war was stymied by
UNITA's failure to
fulfill its obligations under the Lusaka Protocol and renewed
hostilities between
the Government and UNITA forces, with both sides responsible for a
wide variety
of human rights abuses. In Sudan in northeastern Africa, an extended
civil war,
widespread famine, and innumerable violations of human rights and
the laws of war
have conspired in the deaths of nearly 2 million individuals in the past
16
years.
The year witnessed similar atrocities elsewhere in the world.
Afghanistan
continued to experience civil war and large-scale political instability.
Armed
units, local commanders, and rogue individuals committed political
killings,
torture, rape, arbitrary detention, looting, abductions, and kidnappings
for
ransom. Both Taliban and anti-Taliban forces indiscriminately
bombed civilian
areas. In August, there were credible reports that the Taliban
massacred hundreds
of persons as they captured Mazar-I Sharif. In Algeria, fighting
continued
between Government forces and armed Islamist groups, leading to
extrajudicial
killings, disappearances, kidnappings, torture, rape, and other abuses
by both
sides.
In Colombia, the Government continued to face a serious challenge to
its control
over the national territory, as longstanding and widespread internal
armed
conflict and rampant violence - both criminal and political - persisted.
The

principal participants were government security forces, paramilitary groups, guerrillas, and narcotics traffickers.

3. Religious Freedom. Article 18 of the Universal Declaration protects everyone's

"right to freedom of thought, conscience, and religion; this right includes

freedom . . . to manifest his religion or belief in teaching, practice, worship

and observance." By so saying, the Declaration recognizes that religious freedom

is both a universally recognized human right and an essential component of democratic culture.

Nearly all states claim to respect the principle of religious freedom.

But in too

many, governments refuse to respect this fundamental right, discriminating

against, restricting, persecuting, or even killing those whose faith differs from

that of the majority population. In Sudan, a bloody civil war fueled by the

regime's intolerance of animists, Christians, and some Muslims continued

unabated. Assaults on religious freedom extended into systematic oppression, as

the regime imposed its harsh rule on Muslims and non-Muslims alike, adopting a

strict interpretation of Shari'a (Islamic) Law. The Government subjected animists

and Christians in the south to kidnapping and sale into slavery, forced conversion to Islam, and a government-imposed food shortage that put millions at

risk of starvation.

To the north in Egypt, approximately 6 million Coptic Christians face both

occasional violent assaults by extremists and legal and societal discrimination.

In 1998, extremists killed at least eight Christians, and there were credible

reports of violence against Coptic businesses and churches and government laxity

in preventing attacks on Christians. The violence violates Koranic strictures on

principles of tolerance in Islam and comes at the expense of historically strong

relations between the Coptic and Muslim communities. Christians also face job

discrimination in universities and throughout Egypt's police, armed forces, and

government agencies. Anti-Semitic articles and cartoons are commonplace. In Saudi Arabia, the Shi'a Muslim community, which makes up about 10 percent of the population, continues to face widespread government discrimination, including unequal access to social services, education, and government jobs. In Iran, the Zoroastrian, Christian, Jewish, and Baha'i minorities suffered varying degrees of officially sanctioned discrimination, particularly in the areas of employment and education. In 1998, Sunni Muslims encountered religious discrimination at the local level, and reports of discrimination against practitioners of the Sufi tradition surfaced as well. Baha'is were particular targets of coordinated government repression. The Government executed at least 1 Baha'i for the practice of his faith and at year's end continued to detain 14 others, including 6 on death row. Baha'i places of worship remained in government hands, and the confiscation and desecration of Baha'i graveyards remained an ongoing concern. Government agents mounted a nationwide crackdown on an informal university system established by the Baha'i community. Religious violence in 1998 was hardly confined to the Middle East. In India, controversy between Hindus and Muslims continued with regard to three mosques built centuries ago on sites where temples are believed to have stood previously. In addition, violence against Christians increased significantly, linked to extremist groups with ties to the governing Bharatiya Janata Party. In Pakistan, sectarian violence between Shia and Sunni groups claimed 75 lives. Religious minorities face violence and harassment, and police often refuse to charge persons who commit such acts. Militant Sunni mullahs targeted minority Ahmadis as "heretics," and one even called for the Ahmadis' "massacre." Even rumors that someone may be an Ahmadi or may have Ahmadi relatives can stifle opportunities for employment or promotion. Other religious minority groups also face discrimination and persecution. Christians in particular face

harassment and intimidation, and a general atmosphere of religious intolerance led to trumped-up charges of blasphemy and acts of violence. In Uzbekistan, the Government increased pressure against independent Muslims, using a new religion law to close independent mosques. It also used arrests under false pretenses, harassment, disappearances, and expulsion of students from public educational institutions for Islamic attire or grooming.

Problems in East Asia were no less daunting. In Indonesia, attacks ranging from minor vandalism to arson targeted churches, temples, mosques, and other religious facilities. Although the number of churches targeted was significantly lower in 1998 than in previous years, members of minority religions continued to report inadequate responses by officials to protect their property or to arrest those responsible for the destruction. Intercommunal violence became more common as the year progressed. Allegations that unidentified provocateurs were fanning sectarian conflict contributed to widespread tensions but remained unproven.

In Vietnam, the Government severely restricted religious activities other than those by officially sanctioned groups. The Government continued not to recognize the United Buddhist Church of Vietnam, and imprisoned a number of its monks (although some were released during the year). Religious organizations needed permission to conduct most activities, and Pentecostal house churches continued to meet in the face of government restrictions on proselytizing.

In China, the Government attempted to restrict religious practice to officially sanctioned organizations and registered places of worship. Unapproved religious groups, including Protestants, Catholics, Tibetan Buddhists, and Muslims, continued to experience degrees of official interference and repression that varied from region to region and locality to locality. In some areas, authorities guided by national policy made strong efforts to control the activities

of unapproved churches; religious services were broken up, and church leaders or adherents were detained and, at times, reportedly beaten. At year's end, some remained in prison because of their religious activities. In other regions, registered and unregistered churches were treated similarly. The number of Catholic and Protestant adherents, in both registered and unregistered churches, continued to grow rapidly. In Tibet, the Chinese Government maintained tight controls on religious practices and moved to suppress religious manifestations that advocate Tibetan independence or any expression of separatism. The Government renewed its rhetorical campaign against the Dalai Lama and intensified a reeducation campaign aimed at monks and nuns. There were reports of imprisonment and abuse or torture of monks and nuns, the death of prisoners, and the closure of several monasteries. Despite repeated international expressions of concern about the welfare and whereabouts of Gendun Choeyki Nyima, the boy designated by the Dalai Lama as the Panchen Lama, the Government refused access to him by international observers. Even among countries that claimed to respect religious freedom, abuses continued. Over the past year, Russia's restrictive 1997 law on religion was cited by some local officials as they limited citizens' religious freedom. Ostensibly targeting dangerous religious cults, the law could discriminate against members of foreign and less well-established religions by making it difficult for them to manifest their beliefs through organized religious institutions. The law's most controversial provisions limit the rights, activities, and status of religious groups that have existed in Russia for less than 15 years. Despite their commitment to the principle of religious freedom, several European countries have similarly begun to respond to a perceived fear of "sects" with actions that discriminate unfairly against new or minority religious beliefs.

France and Germany were among those European countries that sought to use laws to restrict groups such as the Church of Scientology. In 1998, the Clinton Administration, Congress, NGOs and religious organizations completed a 2-year national dialogue on how to place religious freedom squarely in the mainstream of U.S. foreign policy. Secretary Albright appointed Robert Seiple as Special Representative of the Secretary of State for International Religious Freedom, and established an Office of International Religious Freedom in the Bureau of Democracy, Human Rights, and Labor. The Secretary's Advisory Committee on Religious Freedom Abroad facilitated direct representation of views and concerns from a broad spectrum of American citizens of various faith traditions. The Administration worked diligently with Congress to codify many of these measures through passage of the International Religious Freedom Act, which the President signed into law in October. The Act assists the President and Secretary of State's continuing efforts to advance religious freedom around the world. It requires the President to choose from a menu of options, ranging from diplomatic measures to economic sanctions, in responding to violations of religious freedom. Under the Act, such measures would not affect the provision of food, medicine, and humanitarian assistance. The President can take into account prior actions by the United States (that are still in effect) against a country in considering how best to respond to violations of religious freedom by that country. Because the Act also contains waiver authority, these tools are designed to allow the President sufficient flexibility to tailor the appropriate U.S. response to abuses of religious liberty in each particular situation. The Act also establishes a U.S. Commission on Religious Freedom to advise on policy matters concerning religious persecution abroad. It instructs the Department of State to publish specific country reports that evaluate international religious freedom worldwide beginning in

September

1999, a task that the Bureau of Democracy, Human Rights and Labor will coordinate.

4. Press Freedom and the Information Revolution. Democracy depends not just on unfettered minds, but also on an informed electorate. Only free media - whether

print, broadcast, or electronic - can ensure that citizens have access to the

information that they need to make political decisions. If a government can

control information or limit press freedom, it can usually preordain elections,

stunt civil society, and manipulate the judiciary. Throughout the world,

journalists risk harassment, arrest, imprisonment, and even death to get the

story told. It is hardly surprising that, according to the Committee to Protect

Journalists, homicide is the leading cause of death on the job among journalists

worldwide.

Moreover, the free flow of information supports not just democracy but economic

growth. As Vice President Gore said in his speech to the APEC Forum in Malaysia,

"If governments try to suppress the creative potential of their people by denying

them access to information, they will undercut their own efforts to build their

economies. Any government that suppresses information, suppresses [its own]

economic potential."

With the information revolution, the struggle to control information has moved

well beyond the realm of traditional media. From Singapore to Syria, governments

have sought to limit or prohibit access to the Internet and purchases of

computers, modems, fax machines, pagers, cell phones, and television satellite

dishes. Such devices can only facilitate the growth of freedom around the world

by directly bypassing the central government to channel information directly to

citizen-consumers.

Even as new channels of information were created, governments found new ways to

limit access. In many of the countries where radio is the most

important medium of mass communication, governments monopolized domestic broadcasts and often jammed international services ranging from the BBC to Radio Free Asia. In more developed societies emerging from authoritarian rule, governments sought similar control over television and limited opposition access to the airways. In West and Central Africa and the Newly Independent States of the former Soviet Union, some governments exploited poorly written criminal libel laws to restrict freedom of the press. In China, authorities continue to exert control over print and broadcast media. For most of the year, the press was able to expand the range of issues it covered, and President Clinton's June visit witnessed unprecedented live broadcasts of Presidents Clinton and Jiang's joint press conference and President Clinton's speech at Beijing University. However, by late fall the Government took steps to strengthen control over both print and broadcast media as the political atmosphere became increasingly tight. Authorities shut down an influential book publisher and several popular newspapers, increased monitoring of the Internet, fired some editors and writers, and warned other newspapers about the permissible content of articles and editorials. A parallel pattern emerged in Cuba, where the Castro regime subjected independent journalists to internal travel bans, arbitrary and periodic detentions, acts of repudiation, harassment of family members, the seizure of equipment, and repeated threats of prolonged imprisonment. The Government rigorously monitored other forms of expression and often arrested persons for the crime of disseminating "enemy propaganda and false news." When, in October, NATO threatened to intervene in Serbia over the Belgrade regime's crackdown in Kosovo, the Milosevic Government used a new draconian Information Act to shut down independent print, radio, and television outlets

throughout Serbia and to harass Albanian-language newspapers in Kosovo. In contrast, the Government of President Djukanovic in Montenegro, the Federal Republic of Yugoslavia's other remaining republic, allowed independent media outlets closed down by Serb authorities to publish and disseminate their material. In Belarus, the Lukashenko regime banned the dissemination of official information to independent media outlets, restricted access to printing presses and distribution systems, pressured advertisers, evicted newspapers from their offices, and sought to silence several journalists by securing criminal convictions on trumpedup charges. In Turkey, the Government used a variety of laws to detain and arrest scores of journalists on the grounds that their words or ideas threatened the country's unity or national security. Africa also exhibited signs of this disturbing trend. In Ethiopia, the Government used provisions of the Press Law concerning publishing false information, inciting ethnic hatred, and libel to justify the arrest of journalists. In Eritrea, the arrest in March 1997 and ongoing detention without trial through December 1998 of a correspondent for reporting remarks made by President Isaias raised continued doubts about press freedom. In Nigeria, the first half of the year saw the Abacha regime continue its suppression of the press, with one human rights group estimating that more than 30 journalists were in prison prior to Abacha's death. However, after General Abdoulsalami Abubakar succeeded Abacha in June, the Government significantly relaxed its restrictions on freedom of the press and demonstrated increasing respect for these rights in practice.

5. Women. The situation facing women in Afghanistan represented perhaps the most severe abuse of women's human rights in the world. The Taliban's blatant abuse of women included public beatings for failure to wear the all-enveloping burqa and for not being accompanied by a close male relative. In 1998, credible reports detailed the Taliban's devastating disregard for the physical and psychological

health of women and girls. The Taliban drastically limited access to medical services and hospitals and continued to cut back severely access to education as a result of the closure in Kabul of private home-based schools for girls. Women cannot work outside the home, except in extremely limited circumstances in the medical field. These problems were further exacerbated by the fierce civil war, which left many women as their family's sole breadwinner and forced many to beg on the streets to feed their children.

As First Lady Hillary Rodham Clinton noted in her remarks during the White House Commemoration of the Universal Declaration, "We cannot allow these terrible crimes against women and girls - and truly, against all of humanity - to continue with impunity. We must all make it unmistakably clear that this terrible suffering inflicted on the women and girls of Afghanistan is not cultural, it is criminal. And we must do everything we can in our power to stop it."

In Indonesia, a joint government and nongovernmental organization fact-finding team commissioned by the Indonesian Government reported 85 incidents of sexual violence targeted primarily against Chinese women and girls during the riots in May. Intimidation and threats against investigators and witnesses, together with criticism of the investigation by government officials, contributed to difficulties in documenting all the initially reported incidents. At year's end, the Indonesian Government had not yet compensated victims or proceeded with further investigation of the military as recommended by the fact-finding team.

In 1998, women throughout the world continued to be trafficked for forced labor or services, including forced sexual slavery, domestic servitude, coerced sweatshop labor, or other slavery-like treatment. As a thriving, multibillion-dollar, multinational industry, trafficking constituted a global phenomenon involving countries of origin, transit, and destination. All too often, the women and girls caught in its web were treated as perpetrators rather than victims.

In response women all over the world took actions in 1998 to promote and protect more effectively their human rights. At the U.S.-cosponsored Vital Voices conferences in Belfast and Montevideo, women leaders met to explore ways to strengthen the role of women as democracy-builders through workshops in law and leadership, politics and public life, economics, and business. In addressing the Belfast conference, First Lady Hillary Rodham Clinton noted that "Economic progress depends on women's progress. Democratic progress depends on women's progress. Human rights are women's rights and women's rights are human rights. And this Conference is part of an ongoing, global initiative that is making these points over and over again and in the process transforming women's lives and societies."

The past year saw significant global advances for women's rights as human rights. Several governments passed new legislation that helped engender positive change. The Government of Yemen waived tuition fees and uniform requirements for elementary school girls to encourage more girls to go to school. The Parliament in Turkey passed the Family Protection Law in January 1998 making spousal abuse illegal. Cote d'Ivoire and Togo passed statutes banning the practice of female genital mutilation. Uganda and Malawi passed legislation granting women property and inheritance rights, and Nigerian women celebrated a landmark court ruling - won after 39 years of legal wrangling - that invalidated the customary practice of denying inheritance rights to widows. The International Criminal Tribunal for the Former Yugoslavia set a precedent for prosecuting the aiding and abetting of rape as a war crime.

Despite these advances, numerous challenges remain. In 1998, domestic violence and sexual harassment remained endemic. Women in Saudi Arabia continue to face institutionalized discrimination affecting their freedom of movement and

association and their right to equality in employment and education.

In Pakistan

the misapplication of rape laws resulted in victims bearing the brunt of the

crime. In Algeria militants continued to target women for systematic rape,

kidnapping, and forced prostitution.

Continuing violations of women's rights could be seen in worldwide practices. In

some Latin American countries, for example, a rapist was not prosecuted if he

offered to marry the victim and she accepted his proposal. In China, coercion in

family planning practices, including instances of forced abortion and sterilization, continued. Throughout South Asia, dowry-related

violence remained

a serious problem.

Female genital mutilation, which has negative, life-long physical and psychological health consequences for women and girls, continues to

be practiced

in much of Sub-Saharan Africa, as well as in varying degrees in Egypt, Oman,

Yemen, and a few other countries in the Middle East. Less obvious but also

challenging are the problems facing women in societies where they received equal

pay for equal work but did not have the same professional opportunities given to

men and often had to work in more menial, low-skill, or low-paying jobs.

6. Protection of Minorities. Democracy does not mean the tyranny of the majority.

Genuine democracy requires that a government protect the rights of all of its

citizens, particularly in states with substantial minorities.

Governments that

choose to ignore or repress the rights of individuals because of their race, sex,

religion, disability, language, or social status not only undermine the principle

of democracy but also risk violence and separatism.

In too many states, majorities in power chose to repress or persecute those not

like themselves. In Serbia, the Milosevic's regime's brutal policies in Kosovo

helped bolster the popularity of separatist insurgents and stimulated the

expansion of the Kosovo Liberation Army at the expense of nonviolent ethnic

Albanian political leaders. The crisis in Kosovo escalated dramatically

in late February after Serbian police killed scores of civilians in the process of trying to eliminate what the regime alleged was a "terrorist" cell. When further violence followed and with NATO air raids looming, Milosevic reached an agreement with U.S. special envoy Richard Holbrooke, which, for a time, mitigated the humanitarian disaster unfolding in the province. Throughout the year, Serbian police and military forces committed widespread abuses against Kosovo's ethnic Albanian population, including massacres of unarmed civilians, the torching and looting of homes, arbitrary arrests, and torture and brutal beatings in detention. Albanian insurgents in the Kosovo Liberation Army also committed abuses against Serbs, who, while a majority in Serbia, represent a minority in the southern Serbian province of Kosovo.

In Indonesia, minority populations in East Timor and Irian Jaya expressed their opposition to repressive acts by the Government more freely, although security forces at times continued to intervene with excessive force in order to prevent demonstrations and arrest protesters and political opponents. Throughout Indonesia, members of regional or ethnic minorities argued for greater local self-government and control over resources. They also sought accountability for past and continuing abuses, including extrajudicial killings and illegal detentions. In East Timor, insurgent activity in support of separatism continued, and President Habibie made a surprise announcement in early 1999 to permit East Timor to choose autonomy or release from Indonesian control, a decision whose political import remains unclear at this writing.

In China, minority groups, particularly Buddhists in Tibet and Muslims in Xinjiang, came under increasing pressure as the Government intensified restrictions on religion and fundamental freedoms. In Tibet, repressive social and political controls continued to limit the fundamental freedoms of ethnic Tibetans and undermined Tibet's unique cultural, religious, and

linguistic heritage. In Xinjiang, authorities cracked down harshly on suspected Uyghur nationalists and independent Muslim religious leaders as the number of anti-Chinese Government demonstrations grew and a series of bomb explosions and related incidents occurred.

7. The Holocaust: Completing the Historical Record. The world cannot forget the vast scale of death and human suffering visited upon European Jews and other peoples during the Holocaust. Only in the past few years, however, has a long-hidden dimension of that unique tragedy come into view: the extent to which families and communities were systematically robbed of their material possessions and financial resources. History's greatest genocide was almost certainly also its largest organized robbery.

In 1998, a remarkable combination of governments and NGOs achieved important progress both in completing the Holocaust's historical record and in securing justice for its victims. Many of the historical commissions established by 17 separate governments to examine these issues (and in some cases, their countries' broader relationship to the Holocaust and the Second World War) completed their work. The United Kingdom, the United States, and France closed out the Tripartite Gold Commission and established the Nazi Persecutee Relief Fund, to which 17 governments have pledged over \$61 million. A landmark \$1.25 billion settlement was reached with major Swiss banks in August. Upon taking office in October, the new German Government of Chancellor Gerhard Schroeder began working with German industry to develop a fund structure that would at last benefit former slave and forced laborers.

The Washington Conference on Holocaust-Era Assets, cosponsored by the State Department and the U.S. Holocaust Memorial Museum, brought together 44 governments, 13 NGOs and scores of other experts to give unprecedented attention

to Nazi-confiscated art works, insurance policies, and Jewish communal property. Conference participants reached consensus on a set of principles guiding the restitution of Nazi-confiscated art. Other major steps included the passage of new restitution laws by several Central European governments, the establishment of a database on confiscated art by major French museums, and the efforts of a broad-based commission of insurance regulators, companies, and Jewish groups headed by former U.S. Secretary of State Lawrence Eagleburger. It is essential that these efforts move forward while the past is still a living memory and the victims who can gain some comfort from a measure of justice remain alive. The international community not only has the responsibility to complete this long overdue work but must take advantage of this opportunity to establish new, higher standards for restitution of assets and property confiscated during conflict.

B. Developments in Democracy

1. Free and Fair Elections. In 1998, the right to democracy was not merely honored in the breach. A number of countries enjoyed free and fair elections in 1998. According to Freedom House, at the end of 1998 there were 117 electoral democracies, making up roughly 55 percent of the world's population. Several countries made important strides toward democracy, and significantly, in 1998, no country saw a reversal from democracy to dictatorship. However, a number of democratic states faced significant challenges, and several nondemocratic states failed to conduct successful free and fair elections. In Nigeria, after the June death of General Sani Abacha and his succession by General Abubakar, the Government launched a program to restore democracy by May 1999. Over the second half of the year, the Government released political prisoners, allowed independent political parties to form and permitted independent journalists greater freedom. In August, the Government scheduled a series of elections - for local government officials, state legislators and

governors, national legislators, and president - to be held between early December 1998 and late February 1999. Although marred by scattered violence and local irregularities, the December elections for local government officials were generally free, fair, and open. In Asia, Indonesia's authoritarian political system came under sustained challenge, resulting in President Soeharto's departure from office and offering the first opportunity in years for meaningful political and economic reforms. In response to demands for early elections, new President B.J. Habibie pledged to advance parliamentary elections by 3 years, revise electoral laws, and complete the selection of a new president by the end of 1999. Although Indonesia's future remains cloudy at this writing, the Government allowed new political parties to form, released some but not all political prisoners, and adopted a more

responsive attitude toward groups demanding improved protections for human rights. In Cambodia, after a campaign marked by voter intimidation and lack of opposition access to the media, the July elections proved relatively free of fraud. After 3 months of contentious negotiation, the same leaders who dominated politics before the 1997 violence finally formed a new Government. Elsewhere, less promising trends emerged. In Russia, the killing of pro-democratic parliamentarian Galina Staravoiatova symbolized both the risks facing democratic activists and the tenuous nature of Russian democracy. Although Russian political structures are constitutionally well defined and democratic in conception, democratic institution-building continues to face serious challenges, often due to significant limitations on the State's financial resources. In Kazakhstan, the regime of President Nursultan Nazarbayev engineered the scheduling of early presidential elections for January 1999, blocked opposition leaders from running, controlled access to the media, and coerced popular

support. In December, the OSCE announced that it would not send an election observer mission, and the subsequent election was badly compromised. In Azerbaijan, the October presidential election, while an improvement over an earlier election in 1995, involved incidents of ballot stuffing and other

irregularities that led international and domestic observers to conclude that it failed to meet international standards. When the opposition continued to assert that President Aliyev had not received the two-thirds vote necessary to avoid a run-off election, the Government responded by cracking down on the opposition and the press.

2. Civil Society. Free and fair elections represent a necessary but not sufficient condition for democracy. Democracy's continued healthy functioning requires the full flowering of civil society - the broad array of political

parties, labor unions, NGOs, societies, and clubs that, along with the independent media (see Section II.A.4.), encourage political and social participation. These organizations help individuals connect with the broader body politic, in the process reinforcing democratic institutions, and serve as an important conduit by which individuals may express their dissatisfaction with politics as usual.

It is precisely because of the power of civil society that so many governments seek to limit or quash the influence of these private institutions. In the months leading to the resignation of President Soeharto in Indonesia, for example, security forces abducted and detained student and NGO activists, some of whom reported torture while in detention. After Soeharto resigned, only nine of those kidnapped had been released from captivity; roughly one dozen others remain "disappeared" and are presumed dead. In Malaysia, Prime Minister Mahatir Mohammed and other government officials made numerous harsh statements ascribing seditious or treasonous motives to NGOs. In China, the Government began in the fall to crack down on

organized political dissent. Dozens of dissidents were arrested, and some were sentenced to lengthy jail terms. Authorities also banned a popular but politically sensitive book series; shut down a political discussion group; prevented attempts to organize workers; and promulgated new restrictive regulations on social organizations. Similarly, in Cuba, the Government tightly circumscribed artistic, literary, political, and academic freedoms, and repeatedly harassed, detained, and imprisoned those who expressed dissent. The law punished any unauthorized assembly of more than three persons, including those for private religious services in a private home. The authorities selectively enforced this prohibition and often used it as a legal pretext to harass and imprison human rights advocates. Europe witnessed parallel trends. In Serbia, the regime's assault on free speech was the most pronounced since Milosevic came to power over a decade ago. Parliament's adoption in May of a new Universities Act severely curtailed academic freedom by allowing the Government to appoint deans with the power to fire independent professors and to replace them with regime loyalists. In Kosovo, authorities cracked down on peaceful demonstrators throughout the year. In Sandzak, the regime banned all outdoor rallies, even for election campaigning. In Turkey, government officials continued to intimidate, indict, and imprison independent voices for the ideas they expressed in public forums. Security forces harassed, detained, and otherwise limited the work of some political party activists, nonviolent leaders of human rights groups, some devout politicians in mainline conservative parties, religiously observant Muslim businessmen, and lawyers and doctors involved in documenting human rights violations. A campaign against Islamists and pro-Kurdish activists continued throughout the year. The

military publicly identified "reactionaries" (Islamists) and "separatists" (pro-Kurdish activists) as the principal threats to Turkey's national security.

In the Middle East, a number of governments, including those in Libya, Iraq, Syria, and Saudi Arabia, tightly proscribe civil society. In other countries

where nongovernmental activism is permitted, governments placed limits on certain

types of NGOs. In Egypt, for example, many local and international human rights

activists have concluded that government restrictions on the activities of NGOs

have inhibited reporting on human rights abuses. In December, authorities jailed

Hafez Abu Se'da, Secretary General of the Egyptian Organization for Human Rights

(EOHR) for several days after the EOHR released a report critical of police

conduct in a murder investigation.

3. The Rule of Law. Democratic institutions and officials are guided by and

constrained by the law - that is to say, a government accountable to, not above

the law. Governments that respect individual rights apply a body of laws that are

transparent, predictable, based on popular sovereignty, and fairly and equitably

applied. They have a fair and efficient legal system led by an independent and

professionally competent judiciary that acts as final arbiter of the law.

A

strong rule of law helps to assure sustainable economic development, to combat

corruption, to support social stability and peace, and to carve out necessary

space for individual political and economic activity. It also provides the

average citizen with confidence that he or she has access to a mechanism to hold

leaders and institutions accountable - in both the public and private sectors.

Absent an independent judiciary and the rule of law, democracies simply lack

mechanisms to ensure that laws and procedures protect universal human rights.

Many governments confuse the existence of laws with the rule of law.

In too many

countries - Belarus, Burma, Cuba, Iraq, Libya, North Korea, Sudan,

and Syria, to name only a few - the rule of law has been warped to fit the whims of a tiny ruling elite. In others, well-intentioned laws have become paper fictions, providing cover for corrupt politicians and criminals. Some governments legislate restrictions on free speech, free press, and other key rights in the name of the rule of law. For the rule of law to be truly effective, a country's legal system must be independent and in conformity with universal human rights principles. Unfortunately, too many governments ignored this fundamental precept in 1998. In Malaysia, government action, constitutional amendments, and legislation restricting judicial review undermined judicial independence and strengthened executive influence over the judiciary. During the ongoing trial of former Deputy Prime Minister Anwar Ibrahim, the judge repeatedly failed to protect the defense from transparent abuses by the police, including raids on the defense attorney's office and the harassment of defense witnesses. Several other high-profile cases continued to cast doubt on judicial impartiality and independence and to raise questions of arbitrary verdicts and selective prosecution. In China, the Government launched new efforts to reform the legal system and widely disseminated information about new legislation. However, authorities violated due process in politically sensitive trials involving "state security." A number of laws passed in recent years have the potential to enhance citizens' rights, but even if fully implemented, these reforms still would fall short, in many respects, of international standards. In Pakistan, corruption, crime, political violence, and fundamental disagreements over the nature of the legal system all posed continuing serious problems. Despite attempts at legal reform, police persisted in numerous abuses, including extrajudicial killings, torture, physical abuse, and rape. The judiciary, especially the lower courts, remained subject to executive influence and suffered

from inadequate resources, inefficiency, and corruption. In November, the Prime Minister announced martial law in Sindh province and the establishment of military courts in Karachi to try terrorists. In Russia and Ukraine, the pervasiveness of corruption, connections between government officials and organized crime, and the political activities of organized crime figures allowed criminals to act outside the law to influence politicians, police investigations, and court decisions. Politicians, businessmen, campaign managers, and journalists were victimized by sometimes fatal attacks. Criminal elements routinely intimidated victims and witnesses into withdrawing or changing testimony. In Russia, the celebrated case of Aleksandr Nikitin, in which the noted environmentalist and former navy officer faced a third year of prosecution for publication of information on the Russian Northern Fleet's environmental record, continued to demonstrate that country's difficulties ensuring due process. There are credible charges that the case against him was politically motivated. In Peru, the judicial system continued to be inefficient, often corrupt, and easily manipulated by the executive branch. President Alberto Fujimori used provisional and temporary appointments to create a corps of judges largely beholden to him for the ongoing occupation of their offices. The 1997 decision by the Fujimori-dominated Congress to fire three Constitutional Court judges left that court without the necessary quorum to address constitutional questions. Proceedings in civilian terrorism trials and particularly in military treason trials continued to fall significantly short of internationally accepted standards of openness, fairness, or due process. In Colombia, the number of outstanding arrest warrants stood at 150,000 in August, while the civilian judiciary suffered from a backlog of 3.5 million cases as of October. The suborning or intimidation of judges, witnesses, and prosecutors by those indicted or involved in crimes was common.

C. Developments in Labor

Worker Rights. At the annual June conference of the International Labor Organization (ILO) in Geneva, member nations took an important step in the struggle to secure worker rights around the world by adopting a "Declaration on Fundamental Principles and Rights at Work." The Declaration reaffirmed the obligation of all ILO members to promote and respect core labor standards, including freedom of association, the right to organize and bargain collectively, freedom from forced or compulsory labor, freedom from abusive child labor, and nondiscrimination in employment. To further promote adherence to these principles and rights, the Declaration mandated the establishment of a follow-up mechanism for monitoring progress even in those countries that have not ratified the relevant ILO conventions.

Despite this important achievement, 1998 saw many countries ignore or violate these core standards. As a result, trade unions faced harassment and closure, discrimination against workers remained commonplace, and child, bonded, and slave labor remained endemic in many parts of the world. In response to the growing outrage over these practices, the Administration worked actively with corporations, trade unions, Congress, and NGOs to secure adherence to core labor standards. President Clinton and Congress worked together to secure a tenfold increase in the U.S. contribution to the ILO's International Program on the Elimination of Child Labor (IPEC).

Several countries saw their labor situations improve in 1998. Indonesia ratified ILO Convention 87 on Freedom of Association, released opposition trade union leader Muchtar Pakpahan, and permitted trade union pluralism. Nigeria released imprisoned labor leaders and repealed two anti-trade union decrees, thereby opening the way to free elections in the Nigerian Labour Congress. In Swaziland, government, labor, and business leaders worked with representatives of the ILO to

draft new labor laws that take into account provisions of ILO Convention 87 on Freedom of Association and ILO Convention 98 on the Right to Organize and Bargain Collectively. In Pakistan, child labor remained endemic, but carpet manufacturers began to work with ILO/IPEC to establish a Rugmark program to eliminate child labor from the industry through monitoring and rehabilitation. However, other countries did not see progress or experienced significant reversals. The economic developments that so damaged many economies and exchange rates in 1997 - particularly in Asia - continued to pose serious problems in 1998. Millions of those who benefited from the "economic miracle" of the past decade found themselves out of work and bereft of hard-earned savings, increasing labor strife in such countries such as Indonesia, Korea, and Russia. Child labor remained endemic in 1998. According to the ILO, as many as 250 million children under the age of 15 were employed full or part time around the world. Child workers often were denied the opportunity to obtain education, and frequently worked in dangerous conditions. Economic turmoil only further exacerbated the problem. Thanks to the work of IPEC, the year did see some progress toward the reduction of some of the more abusive forms of child labor, such as that found in the carpet and garment industries in South Asia and elsewhere. At its June 1999 Conference, the ILO is expected to adopt a new convention on the elimination of the worst forms of child labor. Compulsory labor was a part of China's penal system in 1998, but since 1990 the export of prison-produced goods has been illegal under Chinese law. In addition to prisons, the Government also maintained a network of reform-through-labor and reeducation-through-labor camps, whose inmates usually were required to work as well. Most anecdotal reports concluded that work conditions in the penal system's light manufacturing facilities were similar to those in other factories, but conditions on penal farms and in mines could be quite harsh. In 1992,

the United States signed a Memorandum of Understanding (MOU) with China to facilitate investigation of prison-labor produced exports. Chinese cooperation under the MOU has varied over time, and overall has been unsatisfactory. The protection of workers in Cambodia remained in its infancy. The 1997 labor law provided workers with internationally recognized worker rights, but the Government's enforcement of these rights was uneven. Workers had little concept of their rights, and little collective bargaining took place. A number of strikes protesting pay and working conditions in the burgeoning garment industry resulted in some satisfaction of worker grievances. In Thailand, worker rights protections as well as trade unions remained weak. The military government of 1991 withdrew the right of public sector and enterprise workers to form unions, and, despite legislative efforts by successive civilian governments, this right has yet to be restored. The economic crisis caused widespread job losses, and the lack of an adequate social safety net resulted in dislocation and increased poverty. In Haiti, the worker rights situation was heavily influenced by the weak economic situation. High unemployment remained a major obstacle to union organizing efforts. Collective bargaining was largely nonexistent, and employers usually set wages unilaterally. Female workers, particularly in the assembly sector, reported sexual harassment and discrimination in the workplace. Although there was little child labor in the formal sector, many children were forced to work as unpaid domestics. Haiti is not the only country where the mistreatment and abuse of domestic servants was a problem. In much of the Middle East and parts of the developed world, labor laws do little to protect vulnerable workers who travel from developing nations to work as domestic servants in order to support families at home. Many of these individuals face extraordinarily long work days,

poor living conditions, unpaid wages, and sexual violence. Isolated from their families, desperate to make a living, and afraid of their employers, few of these victims seek help from law enforcement authorities. In some countries such as Saudi Arabia, authorities often return runaways to their employers against the employees' wishes.

III. Conclusion

The Universal Declaration promised a world where "all human beings are born free and equal in dignity and rights." Yet half a century later, the world still has a long way to go before it fulfills this promise. The past year confirmed that the best path to accomplishing that goal remains the establishment of democratic governments. The right to democracy thus stands both as a part of, and an essential means to, ensure universal human rights principles. In the past 10 years alone, the number of electoral democracies has almost doubled, in good measure because democratic institutions offer the best assurance of respect for human rights as well as the best chance to improve the lives of average citizens. The contrast between the brittle economies of most authoritarian states and the relatively resilient economies of most democratic states demonstrates the centrality of democratic participation to public

confidence in economic growth. As Vice President Gore noted in his November speech at the APEC summit in Malaysia, "History has taught us that freedom - economic, political, and religious freedom - unlocks a higher fraction of the human potential than any other way of organizing society." The past year confirmed that democratic governance, human rights, and religious and labor freedom remain inextricably intertwined with our prosperity and security.

Harold Hongju Koh

Assistant Secretary of State

Bureau of Democracy, Human Rights, and Labor

February 26, 1999

[end of document]

Exchange Mail

DATE-TIME 10/7/99 6:09:21 PM
FROM Busby, Scott W. (MULTI)
CLASSIFICATION UNCLASSIFIED
SUBJECT Trafficking legislative proposal [UNCLASSIFIED]
TO Shapiro, Daniel B. (LEGIS)
 Krass, Caroline D. (LEGAL)
 Wechsler, William F. (TNT)

CARBON_COPY Allen, Charles A. (LEGAL)
 Baker, James E. (LEGAL)
 DeRosa, Mary B. (LEGAL)
 Hunerwadel, Joan S. (LEGAL)
 Krass, Caroline D. (LEGAL)
 Burrell, Christina L. (LEGIS)
 Lackey, Miles M. (LEGIS)
 Shapiro, Daniel B. (LEGIS)
 Tavlarides, Mark J. (LEGIS)
 Busby, Scott W. (MULTI)
 Feldman, Daniel F. (MULTI)
 Guarnieri, Valerie N. (MULTI)
 Hill, Roseanne M. (MULTI)
 Kale, Dora A. (MULTI)
 Naplan, Steven J. (MULTI)
 Schwartz, Eric P. (MULTI)
 Stromseth, Jane E. (MULTI)
 Vaccaro, Jonathan M. (Matt) (MULTI)
 Rosa, Frederick M. (TNT)

TEXT_BODY Caroline, Dan, Will --

Please clear by 10 a.m. tomorrow morning
 (Friday).

Sandy/Jim --

As discussed in a recent e-mail to you,
 we have been developing with agencies a legislative proposal to beef
 up our efforts against trafficking in persons (especially women and
 children). That proposal has now been cleared by all relevant agencies
 and is attached.

The proposal focuses on what Secretary Albright

terms the three Ps: prevention of trafficking, protection of its victims, and prosecution of traffickers. Among other things, it calls for:

- * establishment of mechanisms to evaluate domestic and international progress in the fight against trafficking;
- * creation of economic alternatives for those at risk of becoming trafficking victims;
- * greater public information efforts about the evils of trafficking;
- * enhanced data collection on trafficking;
- * greater access to services for trafficking victims both domestically and internationally;
- * a new nonimmigrant visa category for trafficking victims in the U.S.;
- * new U.S. crimes relating to the trafficking and criminal exploitation of workers and the possession of documents used in furtherance of trafficking;
- * tougher sentences for those convicted in the U.S. of trafficking or related crimes; and
- * expansion of State's annual human rights reports to include a section on trafficking for each country.

Although the provisions in the bill relating to our efforts internationally are by and large hortatory, the provisions relating to our own criminal and immigration laws represent significant improvements with real consequences. They will also help to demonstrate internationally our seriousness in combatting this important problem.

As noted in our last e-mail on this subject, it's unusual for us to relay a bill to the Hill that calls on us to do things we could do administratively. But the interagency consensus is that this is necessary to make the proposal a viable alternative to other bills under active consideration (e.g., Chris Smith's), which we don't like. Given this form, however, we would propose not to transmit the

legislation
officially but to share it with Rep. Gejdenson and other Democrats
who would then consider introducing it as their own.

Recommendation:

That you authorize us to share the attached legislative proposal
with Gejdenson and other Democrats interested in this issue.

Agree

____ Let's discuss.

TRANSLATED_ATTACHMENT trafficking legislation.doc
A BILL

To provide a comprehensive program to combat trafficking in persons
(especially
women and children) and to protect and assist victims of trafficking.

Be it enacted by the Senate and House of Representatives of the
United States of
America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**-- This Act may be cited as the "Comprehensive
Anti-Trafficking
in Persons Act of 1999".

(b) **TABLE OF CONTENTS.**-- The table of contents for this Act is as
follows:

Sec. 1. Short Title; Table of Contents.

Sec. 2. Purposes and Findings.

Sec. 3. Definitions.

Sec. 4. Mechanisms to Evaluate Progress in Combating Trafficking.

Sec. 5. Prevention of Trafficking.

Sec. 6. Protection and Assistance for Trafficking Victims.

Sec. 7. Humanitarian/Material Witness Visa.

Sec. 8. Strengthening Prosecution and Punishment of Traffickers.

Sec. 9. Monitoring International Progress to Eradicate Trafficking in
Persons.

Sec. 10. Authorization of Appropriations.

Sec. 2. PURPOSES AND FINDINGS.

(a) **PURPOSES.**-- The purposes of this Act are: to combat the evil of
trafficking
in persons (especially women and children) - a contemporary

manifestation of slavery - in all of its coercive forms, both domestically and internationally, through prevention, prosecution of and enforcement against traffickers; and to protect and assist victims of this fundamental violation of human rights.

(b) FINDINGS.-- The Congress finds that:

(1) Trafficking of persons, predominantly women and children, is an insidious and growing global transnational crime and human rights problem which manifests itself in forms of modern-day slavery.

(2) Trafficking schemes generally involve traffickers facilitating the victims' movement from their home communities to an unfamiliar destination, away from family and friends, religious institutions and other sources of protection and support, making the victims more vulnerable.

(3) Trafficking victims may suffer physical abuse and threats, including rape and other forms of sexual abuse, torture, starvation, imprisonment, physical brutality, and death, and they may encounter mental and psychological abuse and coercion.

(4) Women and children trafficked into the sex industry are exposed to deadly diseases, including HIV and AIDS.

(5) Trafficking is perpetrated increasingly by organized and sophisticated criminal enterprises. Worldwide, it is viewed as the fastest growing source of profits for organized criminal enterprises and the third largest overall (behind only drugs and firearms). Increasingly, profits from trafficking in persons are laundered and underpin the growth and strengthening of organized criminal activity throughout the world, including the United States. Often aided by official corruption, this activity threatens the rule of law.

(6) It is estimated that over one million persons, primarily women and children, are trafficked around the world each year. Approximately 50,000 of these women and children are trafficked into the United States each year. Trafficking also

occurs within countries, including the United States.

(7) Trafficking contributes to the further destabilization of economically depressed or impoverished communities. It is in those areas that traffickers regularly purchase and remove young women and girls from their homes, combing villages for children to harvest for the sex industry and slave labor. In some countries trafficking is a major part of the underground economy. These activities add to the instability of already fragile regions.

(8) Trafficking victims are moved, bought, and sold as just another commodity in interstate and foreign commerce. The lifeblood of the traffickers' trade is their "inventory" of human beings. Trafficking negatively affects interstate and foreign commerce, thwarting the free flow of resources and the liberty and labor of persons in the stream of commerce.

(9) Trafficking networks primarily target women and children who have been marginalized through poverty, poor education or lack of access to education, chronic unemployment, discrimination, and the lack of viable economic opportunities at home. Traffickers exploit these conditions of economic and social deprivation to ensnare their victims. Traffickers lure women and girls into their networks through false promises of good working conditions at relatively high pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models. Traffickers also exploit the poverty of families by buying daughters and selling them to brothels, into domestic servitude, or into many types of bonded labor.

(10) Victims may be forced to perform labor or services -- including but not limited to prostitution and sexual servitude, domestic servitude, bonded sweatshop labor, or other work or services -- which are obtained or maintained by the existence of force, threats of force, or legal coercion, or through the use of mental or psychological coercion.

(11) It is the intent of Congress that proof of involuntary servitude or peonage, as it is used in prosecutions under 18 United States Code sections 241, 1581, 1583, 1584, and newly-created section 1589, not be limited to labor or services compelled by the use, or threatened use, of force or legal coercion. Rather, violations of these sections may also be established by proof that the labor or service of a person was obtained or maintained through representations to the victim that physical harm may occur to him or her, or to another, which are made in an effort to obtain wrongfully or maintain the labor or services of the victim. In such situations, a victim of trafficking or involuntary servitude may be warned that a dire fate may befall him or her - including violence, rape, starvation, destitution, or another form of physical harm - should he or she attempt to leave the condition of involuntary servitude. While such representations may not constitute specific threats of harm by the defendant or by any specific individual acting at the behest of the defendant, they may nonetheless have an equally coercive effect on the victim: forcing the victim to enter or remain in a condition of peonage or involuntary servitude. Violations of 18 United States Code sections 241, 1581, 1583, 1584, and newly-created section 1589 may also be created by the use of fraud, deceit, or misrepresentation toward any person in an effort to wrongfully obtain or maintain the labor or services of that person, where the person is a minor, an immigrant, one who is mentally disabled, or one who is otherwise particularly susceptible to coercion.

(12) Sentencing guidelines for criminal violations of newly enacted or amended trafficking statutes should reflect the seriousness of the crimes covered by these statutes, such as involuntary servitude, slave trade offenses, peonage, transportation for coerced or illegal sexual activities, and immigration laws.

(13) With regard to the enactment of section 1589 of title 18, United States Code, Congress finds that the trafficking in persons substantially affects interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, or criminally exploitative labor has an impact on the nationwide employment network and labor market. Within the context of slavery, coerced labor or services, trafficking victims may be subjected to a range of violations that include dangerous work and living environments, isolation and restriction of movement, and denial of pay. It is, therefore, an appropriate exercise of the legislative power to eradicate the substantial burdens on commerce that result from these activities and to prevent the channels of commerce from being used for an immoral and injurious purpose. The purpose of this statute is also to prohibit the shipment of goods in interstate and foreign commerce which are produced under conditions of slavery and coercion. Such commerce is detrimental to the free flow of goods and services and to trafficked victim's health and safety. This statute attempts to eradicate the evils attendant to criminally coerced labor and services, including compelling persons to work as prostitutes or in other illegal activities, that have a substantial negative effect on the operations of interstate and foreign commerce.

(14) Trafficking is condemned by the United States and the international community and, at its core, represents a violation of fundamental human rights.

Sec. 3. DEFINITIONS. -

(a) For the purposes of this Act (other than section 8) and except as provided in subsection (b) --

(1) The term "trafficking" means recruiting or abducting, facilitating, transferring, harboring or transporting a person, by the threat or use of force, coercion, fraud or deception, or by the purchase, sale, trade, transfer or receipt of a person, for the purpose of subjecting that person to

involuntary
 servitude, peonage, slavery, slavery-like practices, forced or bonded
 labor or
 services, or other criminal exploitation of workers.

(2) The term "victim of trafficking" generally means any person
 subjected to
 the actions set forth in paragraph (1).

(b) The definition of "trafficking" set forth in subsection (a) may be
 modified

by the Secretary of State and the Attorney General to make it
 consistent with the

definition of trafficking in persons or any other substantially similar
 term in

any international treaty or convention to which the United States is a
 party,

subsequent to the date of enactment of this Act, provided that any
 such

modifications are consistent with the purposes of this Act.

Sec. 4. MECHANISMS TO EVALUATE PROGRESS IN COMBATING TRAFFICKING.

(a) INTERNATIONAL.-- In order to maximize the effectiveness of
 the United

States' anti-trafficking programs, the Secretary of State, to the extent
 that

resources permit, should establish mechanisms to measure and
 evaluate global

progress in reducing trafficking. These mechanisms should set goals
 and permit

evaluation of progress on -

(1) Prevention, including economic and public awareness
 components;

(2) Protection and assistance for victims of trafficking; and

(3) Prosecution of and enforcement against traffickers, including the
 role of

public corruption in facilitating trafficking.

(b) DOMESTIC. - In order to maximize the effectiveness of United
 States

anti-trafficking programs, the Secretaries of Health and Human
 Services and Labor

and the Attorney General should, to the extent that resources permit,
 establish

mechanisms for their respective Departments that set goals and permit
 measurement

and evaluation of United States progress concerning protection and
 assistance for

trafficking victims.

Sec. 5. PREVENTION OF TRAFFICKING

(a) ECONOMIC ALTERNATIVES TO PREVENT AND DETER
 TRAFFICKING.--

(1) To assist the United States in advancing its international prevention goals established under section 4, by enhancing economic opportunity and alternatives

for potential victims of trafficking, the President shall promote -

(A) Economic alternatives and opportunities for women, including micro-credit,

training in business development, skills training, and job counseling;

(B) Programs that promote women's participation in economic decision-making;

(C) Programs to keep children, especially girls, in elementary and secondary schools;

(D) Development of educational curricula about the dangers of trafficking; and

(E) Grants to non-governmental organizations to accelerate the empowerment of women in local and regional, political, economic, social, and educational roles in their countries.

(2) The Administrator of the U.S. Agency for International Development should include in existing reports to Congress information about the Agency's programs

for increasing economic alternatives and education for those at risk of trafficking and the Agency's efforts to reduce trafficking, consistent with the

goals established under subsection (a) of this section.

(3) Non-governmental organizations should be consulted in the development of

programs undertaken pursuant to this subsection.

(b) PUBLIC AWARENESS AND INFORMATION.--

(1) The Secretaries of State, Health and Human Services, and Labor, the Attorney

General, and other appropriate agencies should, to the extent resources permit

and in a manner consistent with authority that is otherwise available, establish

or expand initiatives and programs, domestic and international, to increase the

public's understanding -- particularly targeted to potential victims -- of the

dangers of trafficking and the protections that are available for victims of

trafficking. These initiatives and programs should include projects that address

demands that may contribute to growth in trafficking.

(2) Non-governmental Organizations.-- In implementing paragraph (1) of this

subsection, the Secretaries of State, Health and Human Services, and Labor and the Attorney General should consult with non-governmental organizations.

(3) To carry out the purposes of this subsection, there are authorized to be appropriated to the Secretary of State, Health and Human Services, and Labor, and the Attorney General such sums as may be necessary.

(c) IMPROVING UNDERSTANDING OF TRAFFICKING.--

(1) The President should establish or expand interagency procedures to collect and organize data, including significant research and resource information on domestic and international trafficking in persons (especially women and children).

(2) Any data collection procedures established under this subsection shall

respect the confidentiality of victims of trafficking.

Sec. 6. PROTECTION AND ASSISTANCE FOR VICTIMS OF TRAFFICKING.

(a) VICTIMS IN OTHER COUNTRIES.-- The Secretary of State and the Administrator of

the U.S. Agency for International Development, are authorized to establish

programs and initiatives abroad to assist victims of trafficking and their

children, including mental and physical health services, shelter, legal assistance, and safe reintegration efforts. In carrying out this subsection, the

Secretary and the Administrator should consult with the Attorney General,

non-governmental organizations, and other experts on trafficking, seek to enhance

cooperative efforts with the countries of origin of victims of trafficking to

facilitate protections for victims of trafficking who are reintegrated into their

countries of origin, and assist in the appropriate reintegration of stateless

victims of trafficking.

(b) VICTIMS IN THE UNITED STATES.--

(1) Notwithstanding title IV of the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996, the Attorney General, the Secretaries of Health and

Human Services and Labor, and the Board of Directors of the Legal

Services

Corporation are authorized to provide assistance to victims of trafficking, without regard to the immigration status of such victims. This assistance may include physical and mental health services, social and legal services, or any other related programs or services.

(2) Notwithstanding any other provision of law, victims of trafficking in the United States are eligible, without regard to their immigration status, for any benefits that are otherwise available under the Crime Victims Fund, established under the Victims of Crime Act of 1984, including victims' services, compensation, and assistance.

(3) The Attorney General may make grants to States, territories, and possessions of the United States (including the Commonwealths of Puerto Rico and the Northern Mariana Islands), Indian tribes, units of local government, or non-profit, non-governmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking.

(A) To receive a grant under paragraph (3) of this subsection, an eligible government or organization shall certify that its laws, policies, and practices, as appropriate, do not punish or deny services to victims of trafficking on account of the nature of their employment or services performed in connection with their having been trafficked, including but not limited to prostitution.

(B) Of amounts made available for grants under paragraph (3) of this subsection, there shall be set aside: three percent for research, evaluation and statistics; two percent for training and technical assistance; and one percent for management and administration.

(C) The Federal share of a grant made under paragraph (3) may not exceed 75 percent of the total costs of the projects described in the application submitted.

(D) For purposes of this paragraph, "victim of trafficking" has the meaning set forth in section 3(a) of this Act.

(4) An individual who is a victim of a violation of section 1589 of title 18, United States Code, regarding trafficking and criminal exploitation of workers may bring a civil action in United States district court. The court may award actual damages, punitive damages, reasonable attorneys' fees, and other litigation costs reasonably incurred.

(5) While in the custody or control of the Federal government, a victim of trafficking should, to the extent practicable -
(A) be housed in appropriate shelter as quickly as possible;
(B) receive prompt medical care, food, 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.

(6) No claim against the United States is created by paragraph (5) of this subsection.

(7) If federal law enforcement operations or investigations reveal reasonable indicia of the offenses set out in this Act, in Chapters 77 and 117 of Title 18 U.S. Code, or situations of abuse or severe exploitation of a foreign national, a prompt assessment should be made as to whether the individual may be a victim of, or material witness to, trafficking, peonage, or involuntary servitude, or a criminally exploitative labor condition. When it is concluded that such person is in fact a trafficking victim or witness, law enforcement personnel should act, to the extent permitted and in a manner that is consistent with existing law and the purposes of this Act, to ensure the alien victim's continued presence in the United States in order to effectuate prosecution of those responsible and to further the humanitarian interests of the United States.

(c) SPECIALIZED TRAFFICKING TRAINING FOR ENFORCEMENT OFFICIALS. - The Secretary of State and the Attorney General may initiate or expand training of appropriate personnel of the Department of State and the Department of Justice, respectively, in identifying victims of trafficking and providing for the protection of such

victims. The Secretary and the Attorney General may apply funds to the extent resources permit for the purposes of this subsection. Training under this subsection should include, but not be limited to, methods for achieving anti-trafficking objectives through the nondiscriminatory application of the immigration and other related laws.

**Sec. 7. HUMANITARIAN/MATERIAL WITNESS
NONIMMIGRANT VISA.**

(a) **PURPOSE.**-- 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 trafficking of persons, while

offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. Creating a new nonimmigrant visa classification will facilitate the reporting of violations to law enforcement officials by trafficked and exploited persons who are not in a lawful immigration status. It also gives law enforcement officials a means to regularize the status of

cooperating individuals during investigations, prosecutions, and civil law enforcement proceedings. By providing temporary legal status to those who have been severely victimized by trafficking or similar egregious offenses, it also reflects the humanitarian interests of the United States. Finally, the provision gives the Attorney General discretion to convert nonimmigrants under this section to permanent status when it is justified on humanitarian grounds or is otherwise in the national interest.

(b) **ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION.** - Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)) is amended-

- (1) by striking "or" at the end of subparagraph (R);
- (2) by striking the period at the end of subparagraph (S) and inserting ";or";
- and
- (3) by adding at the end the following new subparagraph:

"(T) subject to 214(m), an alien (and the spouse, children, and parents of the alien if accompanying or following to join the alien) who the Attorney General determines -

"(i) possesses material information concerning criminal or other unlawful activity;

"(ii) is willing to supply or has supplied such information to Federal or State law enforcement officials;

"(iii) would be helpful, were the alien to remain in the United States, to a

properly authorized Federal or State investigation or prosecution of the criminal

or other unlawful activity; and

"(iv) has suffered significant physical or mental abuse as a result of the criminal or other unlawful activity."

(c) NUMERICAL LIMITATIONS; PERIOD OF ADMISSIONS.--

Section 214 of the Immigration and Nationality Act (8 U.S.C. § 1184) is amended by adding at the end the following new subsection:

"(m)(1) The number of aliens who may be provided a visa under section

101(a)(15)(T) in any fiscal year may not exceed 1,000.

"(2) No alien may be admitted into the United States as such a nonimmigrant more than five years after the date of enactment of this section.

"(3) The period of admission of an alien as such a nonimmigrant may not exceed three years. Such period may not be extended by the Attorney General.

"(4) As a condition for admission, and continued stay in lawful status of such a nonimmigrant, the nonimmigrant -

"(A) May not be convicted of any criminal offense punishable by a term of

imprisonment of one year or more after the date of such admission;

"(B) Must have executed a form that waives the non-immigrant's right to contest,

other than on the basis of an application for withholding of deportation or

removal, any action for deportation of the alien instituted before the alien

obtains lawful permanent resident status; and

"(C) Shall abide by any other condition, limitation, or restriction imposed by

the Attorney General."

(d) PROHIBITION OF CHANGE OF STATUS. Section 248l of the Immigration and

Nationality Act (8 U.S.C. § 1258(l)) is amended by striking "or (S)" and

inserting "(S) or

(T)" in lieu thereof.

(e) ADJUSTMENT TO PERMANENT RESIDENT STATUS.

Section 245 of the Immigration and

Nationality Act (8 U.S.C. § 1245) is amended by adding at the end thereof the

following new subsection:

"(l)(1) The Attorney General may adjust the status of an alien admitted into the

United States under section 101(a)(15)(T) (and the spouse, children, and parents

of the alien if admitted under that section) to that of an alien admitted for

lawful permanent residence if: in the opinion of the Attorney General, the

alien's continued presence in the United States is justified on humanitarian

grounds or is otherwise in the national interest; and the alien is not described

in section 212(a)(3)(A)(i)(I), (3)(A)(ii), (3)(A)(iii), (3)(C), or 3(E).

"(2) 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, and the Secretary of State shall reduce by one the

number of visas authorized to be issued under sections 201(d) and 203(b)(4) for

the fiscal year then current."

(f) EXCLUSIVE MEANS OF ADJUSTMENT.-- Section 245(c)(5) of the Immigration and

Nationality Act (8 U.S.C. § 1255(c)(5)) is amended by striking "section

105(a)(15)(S);" and inserting "section 105(a)(15)(S) or (T);" in lieu thereof.

SEC. 8. STRENGTHENING PROSECUTION AND PUNISHMENT OF TRAFFICKERS.

(a) CRIMINAL PROVISIONS.-- Chapter 77 of title 18, United States Code, is

amended, as follows:

(1) In section 1581 by deleting at the end of subsection (a) "shall be fined

under this title or imprisoned not more than 10 years, or both" and inserting in

lieu thereof "shall be fined under this title or imprisoned not more than 20 years, or both; and if, in addition to the foregoing elements, death results from an act committed in violation of this section, or if such act includes kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or life, or both.";

(2) In section 1583 by deleting "shall be fined under this title or imprisoned not more than ten years, or both" and inserting in lieu thereof "shall be fined under this title or imprisoned not more than 20 years, or both; and if, in addition to the foregoing elements, death results from an act committed in violation of this section, or if such act includes kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or life, or both.";

(3) In section 1584 by deleting "shall be fined under this title or imprisoned not more than ten years, or both" and inserting in lieu thereof "shall be fined under this title or imprisoned not more than 20 years, or both; and if in addition to the foregoing elements, death results from an act committed in violation of this section, or if such act includes kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or life, or both.";

(4) By adding at the end thereof the following four new sections:
 "§ 1589. TRAFFICKING AND CRIMINAL EXPLOITATION OF WORKERS.

"(a) Whoever -

"(1) recruits, harbors, provides, transports, employs, purchases, sells or secures, by any means, any person, knowing or having reason to know

that person
is or will be subjected to involuntary servitude or peonage or to
unlawfully
exploitative labor conditions as described in subsection (b) of this
section,
shall be fined under this title or imprisoned not more than 20 years, or
both;
and if, in addition to the foregoing elements, death results from an act
committed in violation of this section, or if such act includes
kidnaping or an
attempt to kidnap, aggravated sexual abuse or the attempt to commit
aggravated
sexual abuse, or an attempt to kill, shall be fined under this title or
imprisoned for any term of years or life, or both."; or
"(2) in any way, financially or otherwise, knowingly benefits from, or
makes use
of, the labor or services of a person held to a condition of involuntary
servitude or peonage, shall be fined under this title or imprisoned not
more than
10 years, or both.
"(b) As used in this section, 'unlawfully exploitative labor conditions'
means
that the labor or services of a person, which are in or affecting
interstate
commerce or foreign commerce, are obtained or maintained through
any scheme or
artifice to defraud, or by means of any plan or pattern, including but
not
limited to false and fraudulent pretenses and misrepresentations, such
that the
person reasonably believes that he has no viable alternative but to
perform the
labor or services.
"(c) This section does not apply to labor performed as a punishment
for a crime
whereof the party shall have been duly convicted.
"(d) Criminal Forfeiture --

"(1) The court, in imposing sentence on any person convicted of a
violation of
this section, shall order, in addition to any other sentence imposed and

irrespective of any provision of State law, that such person forfeit to
the
United States --
"(A) 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

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

"(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any administrative or judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

"(e) Civil Forfeiture -- (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 section; and

"(B) any property, real or personal, which constitutes or is derived from

proceeds traceable to any violation of this section.

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

§ 1590. UNLAWFUL POSSESSION OF DOCUMENTS IN FURTHERANCE

OF TRAFFICKING, CRIMINAL WORKER EXPLOITATION, INVOLUNTARY SERVITUDE, OR PEONAGE.

"(a) Whoever destroys, conceals, removes, confiscates or possesses any

identification, passport or other immigration documents, or any other documentation of another person -

"(1) in the course of, or under circumstances which facilitate -

"(A) a violation of section 1581, 1583, or 1589 or a conspiracy or attempt to

commit such a violation;

"(B) the unlawful entry or attempted unlawful entry of the person into the United

States;

"(2) to prevent or restrict, without lawful authority, the person's liberty to

move or travel in interstate or foreign commerce; or

"(3) to conceal or impair the investigation or prosecution of a violation of

Federal criminal law, shall be fined under this title or imprisoned for not more

than five years, or both.

"§ 1591. MANDATORY RESTITUTION.

"(a) In general.-- Notwithstanding sections 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) SCOPE AND NATURE OF ORDER.--

"(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) For purposes of 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) For purposes of 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, 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.

"§ 1592. GENERAL PROVISIONS.

"(a) In a prosecution under sections 1581, 1583, 1584, or 1589, a condition of involuntary servitude or peonage may be established by proof that the defendant obtained or maintained the labor or service of any person -

"(1) by the use, or threatened use, of force, violence, physical restraint or physical injury, or by the use or threatened use of coercion through

law or the legal process;

"(2) through representations made to any person that physical harm may occur to that person, or to another, in an effort to wrongfully obtain or maintain the labor or services of that person; or

"(3) by the use of fraud, deceit, or misrepresentation toward any person in an effort to wrongfully obtain or maintain the labor or services of that person, where the person is a minor, an immigrant, one who is mentally disabled, or one who is otherwise particularly susceptible to coercion.

"(b) An attempt to violate sections 1581, 1583, 1584, or 1589 shall be punishable in the same manner as a completed violation of each of these sections, respectively."; and

(5) By amending the sectional table for chapter 77 to include the following additional items:

"§ 1589. Trafficking and criminal exploitation of workers.

"§ 1590. Unlawful possession of documents in furtherance of trafficking, worker exploitation, involuntary servitude, or peonage.

"§ 1591. Mandatory restitution.

"§ 1592. 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, coercive worker exploitation, and possession, transfer or sale of false immigration documents to further exploitation of workers, and the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.

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

(A) ensure that the sentencing guidelines and policy statements applicable to the offenses described in paragraph (1) of this subsection are sufficiently

stringent

to deter such offenses and adequately reflect the heinous nature of such

offenses;

(B) consider conforming the sentencing guidelines applicable to offenses

involving worker exploitation 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. 9. MONITORING INTERNATIONAL PROGRESS TO ERADICATE TRAFFICKING IN PERSONS.

(a) MULTILATERAL EVALUATION AND ACTION TO GAIN INTERNATIONAL COOPERATION. - To

ensure action to eradicate trafficking by any recalcitrant country, it is the

sense of Congress that the Secretary of State should undertake the following

actions:

(1) expand existing cooperative policies and programs consistent with the

purposes of this Act;

(2) gauge progress toward the goal of eliminating trafficking in individual

countries and around the globe; and

(3) urge the international community to identify, engage, and take strong

multilateral action to gain the cooperation of any country demonstrating

resistance to reflecting official condemnation of trafficking in persons through

policies and actions, including making serious and sustained efforts to:

(A) vigorously prosecute and punish traffickers at a level commensurate with the

severity of the crime;

(B) investigate and prosecute official corruption that contributes to

trafficking; and

(C) protect trafficking victims, including working cooperatively with international and non-governmental organizations.

(B) EXPANSION OF TREATMENT IN HUMAN RIGHTS

REPORT.-- The Secretary of State, through the Assistant Secretary of Democracy, Human Rights and Labor shall expand

her reporting to Congress as part of the annual Country Report on Human Rights

Practices to address the status of international trafficking in persons (especially women and children), including -

(1) A description of the nature and extent of trafficking in persons in each

country;

(2) A description and assessment of the efforts of countries to combat trafficking through prevention, protection, and assistance for victims and

prosecution and enforcement against traffickers; and

(3) The role of official corruption and official cooperation or complicity

trafficking.

Trafficking in persons shall receive separate treatment within the reporting on

each country.

(c) COOPERATION WITH NON-GOVERNMENTAL

ORGANIZATIONS.-- In compiling and providing the information required by subsection (b) of this section, the Secretary shall

foster contacts with human rights and other non-governmental organizations,

including receiving reports and updates from such organizations.

Sec. 10. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act there are authorized to be appropriated to

the Secretaries of State, Health and Human Services, and Labor, the Attorney

General, and the Administrator of the U.S. Agency for International Development

such sums as may be necessary.

28

29