

AMERICAN BAR ASSOCIATION
TASK FORCE ON INTERNATIONAL RULE OF LAW SYMPOSIA
SECTION OF HEALTH LAW
COMMISSION ON WOMEN IN THE PROFESSION
RULE OF LAW INITIATIVE

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association urges Congress to pass legislation that
2 strengthens protection and assistance for victims of trafficking in persons, both citizens
3 and non-citizens, including measures to:

- 4
- 5 1. Provide emergency assistance to child victims of trafficking;
- 6 2. Encompass both direct victims of trafficking (victims who are present in the
7 United States as a result of being trafficked) and victims who have not been
8 directly trafficked but who are indirectly affected by either being summoned to
9 the United States to testify against traffickers or by instituting civil claims against
10 traffickers in U.S. courts;
- 11 3. Ensure that all trafficking victims who are willing to cooperate with law
12 enforcement promptly receive a certification/endorsement from law enforcement
13 such that they can be immediately eligible for protection and assistance;
- 14 4. Modify current visa conditions for trafficking victims to exclude requirements
15 imposed on applicants to cooperate with law enforcement and to show “extreme
16 hardship” upon removal from the United States;
- 17 5. Modify current permanent resident status conditions by providing an exception to
18 the “good moral character” requirement for victims of trafficking and their family
19 members when the applicant’s conduct at issue is incident to or relates to the
20 trafficking and allowing them to apply for permanent residence as soon as they
21 are granted T-visas;
- 22 6. Mandate that victims and their family members receive adequate protection from
23 traffickers and deem them eligible for state and federal witness protection and
24 other means of protection;
- 25 7. Encourage federal, state, territorial, local, and tribal laws and policies that support
26 funding for legal assistance for trafficking victims in criminal, civil, and
27 immigration cases; and
- 28 8. Increase resources for the investigation and prosecution of traffickers, as well as
29 for protection and assistance for victims.
- 30

31 FURTHER RESOLVED, That the American Bar Association encourages efforts by state,
32 local, territorial, tribal, specialty, and foreign bar associations to engage members of the
33 legal profession in raising awareness of trafficking in persons in their communities and in
34 providing pro bono legal services to victims of trafficking.

REPORT

Introduction

Trafficking in persons is one of the most prevalent crimes today involving severe human rights violations. The international community identifies trafficking as a contemporary form of slavery and has initiated a campaign to encourage states to criminalize trafficking in persons, protect victims, and develop measures to prevent this phenomenon. Traffickers may be individuals, organized crime groups, or public officials who exploit people as commodities, buying and selling them for profit transnationally or within a country's borders. Their victims are women, men, and children of various ages and backgrounds who share a common characteristic: they are vulnerable to exploitation due to poverty, lack of education, discrimination, and other socio-economic factors. Although trafficking is a crime and a human rights violation regardless of the victim's gender or age, the problem has had a disproportionate impact on women and girls.¹

It is difficult to pinpoint exact statistics reflecting the number of victims trafficked worldwide. The U.S. Department of State addresses this issue in its 2006 Trafficking in Persons Report, estimating that approximately 600,000 to 800,000 people are trafficked annually across international borders. However, the report stresses that "[a] wide range of estimates exists on the scope and magnitude of modern-day slavery, both internal and transnational." It cites statistics from the International Labor Organization indicating that 12.3 million people are subjugated to forced labor, bonded labor, forced child labor, and sexual servitude, and also cites other estimates that range from four to 27 million.²

Definition of Trafficking in Persons

The most widely accepted legal definition of trafficking in persons is set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol) that supplements the United Nations Convention Against Transnational Organized Crime. Article 3(a) of the Protocol states:

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or

¹ RULE OF LAW INITIATIVE, AMERICAN BAR ASSOCIATION, AN INTRODUCTION TO THE HUMAN TRAFFICKING ASSESSMENT TOOL 1 (2005), *available at* http://www.abanet.org/ceeli/publications/htat/htat_manual_intro.pdf [hereinafter HUMAN TRAFFICKING ASSESSMENT TOOL].

² U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 6 (2006), *available at* <http://www.state.gov/g/tip/rls/tiprpt/2006/> [hereinafter 2006 TIP REPORT].

services, slavery or practices similar to slavery, servitude or the removal of organs.³

Countries are encouraged to adopt this definition by signing and ratifying the UN Trafficking Protocol and the main convention.⁴ The elements enumerated above should be incorporated in national anti-trafficking laws defining the offense of trafficking in persons *at a minimum*. The UN Trafficking Protocol represents a “floor” not a “ceiling” for standards that are to be legally codified in order for nations to be able to combat trafficking in a comprehensive manner.⁵ Thus, countries should define the offense of trafficking in persons as the Protocol indicates, but can, if necessary, include other elements that would enable them to address particular aspects of the trafficking phenomenon that is occurring within and across their borders.

The UN Trafficking Protocol also makes irrelevant a defense asserting that a victim consented to the crime when a trafficker employed any of the coercive means listed in Article 3(a) (such as threat or use of force, etc.).⁶ Furthermore, in trafficking scenarios where the victims are persons under the age of 18, it is not necessary to prove any coercive means when prosecuting the trafficker.⁷

The Three P’s Approach

When drafting the UN Trafficking Protocol, the international community agreed to hold governments accountable and to undertake a three pronged approach to trafficking: prevention, protection, and prosecution. The “three P’s” delineate what governments, in cooperation with civil society, should do in order to address the problem of trafficking in persons in a comprehensive manner.

Preventive anti-trafficking measures include:

³ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, art. 3(a), G.A. Res. 55/25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/55/383 (Jan. 8, 2001), available at http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf [hereinafter UN Trafficking Protocol].

⁴ The United Nations Convention Against Transnational Organized Crime entered into force on September 29, 2003 and the Trafficking Protocol entered into force on December 25, 2003. As of May 2007, there were 133 States Parties to the Convention and 111 States Parties to the Trafficking Protocol. The United States deposited its instrument of ratification to both the Convention and the Trafficking Protocol on November 03, 2005. See Signatories to the UN Convention Against Transnational Organized Crime and its Protocols, at http://www.unodc.org/unodc/en/crime_cicp_signatures.html.

⁵ See James Puleo, Senior Advisor on Migration Policies and Migration Management, Address at the MDSA Workshop on Extra-Regional Irregular Migration and Migrant Smuggling To, Through, and From the SADC Region in Johannesburg, South Africa (June 25-27 2003), cited in Preliminary Report and Recommendations of the MDSA Workshop on Extra-Regional Irregular Migration and Migrant Smuggling To, Through, and From the SADC Region, available at <http://www.sarpn.org.za/documents/d0000735/index.php>.

⁶ UN Trafficking Protocol, *supra* note 3, art. 3(b).

⁷ *Id.* art. 3(c)-(d).

- awareness raising and information campaigns for potential victims and their families
- the development of long-term strategies that aim at improving the economic and social position of groups that are vulnerable to being trafficked
- reform of immigration laws and policies in destination countries so that they do not contribute to the growth of irregular migration and trafficking in persons
- increased opportunities for individuals to migrate legally for work and vocational training.⁸

Protecting victims of trafficking involves the following:

- properly identifying victims of trafficking
- defining trafficked persons as “victims” according to national legislation
- ensuring that acts of trafficked persons committed in connection with having been trafficked are not criminalized
- providing medical care, safe accommodations, and psychological and legal counseling to victims; supporting them in their role as witnesses in criminal investigations and prosecutions
- regularizing victims’ residence status for a certain period of time
- providing victims with access to employment and education
- conducting information campaigns regarding the rights of victims, including the right to compensation, other civil remedies, and the right to a fair trial if victims are subjected to criminal prosecution.⁹

Such protection and assistance measures contribute to the psychological and physical stabilization of trafficked victims and avoid re-traumatization. Victims thus will be better able to regain control of their own lives and to decide whether they wish to testify against their traffickers.

Measures to effectively prosecute traffickers include:

- clearly defining trafficking as a separate crime in legislation
- establishing criminal sanctions comparable to the gravity of the offense of trafficking
- providing for the criminal liability of legal persons that are used by traffickers as a front for their illicit activities
- criminalizing all activities related to trafficking (i.e. lesser-included offenses)
- establishing other offenses related to trafficking
- creating specialized investigation units focused on trafficking
- developing the means to exercise extraterritorial jurisdiction since trafficking often extends beyond national borders
- implementing extradition agreements and proceedings, as well as mutual legal assistance protocols.¹⁰

⁸ HUMAN TRAFFICKING ASSESSMENT TOOL, *supra* note 1, at 26.

⁹ *Id.* at 27-28.

¹⁰ *Id.* at 26-27.

U.S. Responses

In response to an increasing number of trafficking cases into the United States, Congress passed the Trafficking Victims Protection Act of 2000 (“TVPA”), which defines the offense of trafficking domestically.¹¹ The TVPA also incorporates measures to prevent trafficking in persons, protect and assist trafficked victims, and strengthen the prosecution and punishment of traffickers.¹² In addition to other benefits and services, certain victims are entitled to apply for T-visas which can be a preliminary step towards permanent residence status in the United States.¹³ The TVPA also provides for financial assistance to other countries in order to help them better combat trafficking.¹⁴ In 2003, Congress reauthorized funding for the TVPA and amended the legislation, *inter alia*, to allow victims to sue their traffickers for damages in U.S. courts.¹⁵ In 2005, the TVPA was reauthorized for an additional two-year period, with Congress placing an emphasis on reducing the demand for trafficking in persons and addressing the issue of trafficking within U.S. post-conflict and humanitarian emergency assistance programs.¹⁶

In 2005, the U.S. government spent approximately \$25 million to boost domestic efforts to combat trafficking in persons.¹⁷ These efforts included:

- increased prosecutions -- the Department of Justice issued 116 trafficking charges which resulted in 45 convictions
- a significant number of victim identifications -- the Department of Health and Human Services (HHS) certified 230 victims of trafficking
- the issuance of 112 T-visas to victims of trafficking
- the implementation of an anti-trafficking public awareness campaign by HHS in ten U.S. cities
- the launching of an anti-trafficking public awareness campaign by the Department of Defense (DOD) targeting U.S. troops involved in peacekeeping

¹¹ Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 103(8), 114 Stat. 1464, 1470 (codified as amended at 22 U.S.C. § 7102(8) (2000)), *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ386.106.pdf [hereinafter TVPA 2000].

¹² TVPA 2000 §§ 106-107, 112; 22 U.S.C. §§ 7104-7105, 7109.

¹³ TVPA 2000 § 107(e)(1), *amending* 8 U.S.C. 1101(a)(15).

¹⁴ TVPA 2000 § 109; 22 U.S.C. § 2152d.

¹⁵ Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, §4(a)(4), 117 Stat. 2875, 2878 (codified as amended at 18 U.S.C. §1595 (2003)), *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ193.108.pdf [hereinafter TVPRA 2003].

¹⁶ Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 §§ 101, 201, 119 Stat. 3558, 3560, 3567 (codified as amended at 22 U.S.C. §§ 7104, 14044 (2006)), *available at* http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ164.109.pdf [hereinafter TVPRA 2005].

¹⁷ 2006 TIP REPORT, *supra* note 2, at 53.

missions and the criminalization of the act of “patronizing a prostitute” in the Uniform Code of Military Justice (UCMJ).¹⁸

Legislative Reform

The ABA should support legislative changes to the TVPA (as amended) and other applicable provisions of law in order to improve protection and assistance for victims of trafficking in the United States. The following are several recommendations for legislative reform:¹⁹

- *The law enforcement cooperation requirement for T Nonimmigrant status should be eliminated. All survivors of trafficking who have demonstrated that they are victims of severe forms of trafficking (under the TVPA) and are present in the United States should be permitted to remain in the United States. Currently, to be eligible for a T visa, victims must comply with reasonable requests from law enforcement among other requirements.²⁰ The vast majority of victims of trafficking will comply with law enforcement requests. However, in limited circumstances, trafficking victims are unable to cooperate because they are emotionally or physically unable or in fear for their safety or the safety of their family members. These individuals should not be required to cooperate. In keeping with the humanitarian goals of the TVPA (as amended), if victims of trafficking have proven that they have escaped from slavery and are present in the United States on account of the slavery, they should be permitted to remain in the United States without being compelled to comply with law enforcement requests. Accordingly, the Immigration and Nationality Act should be amended to permit trafficking victims to be eligible for T-visas without being required to comply with reasonable law enforcement requests.*
- *The law should clearly state that law enforcement officials are required to provide a “law enforcement agency” endorsement to a trafficked person when that person exhibits willingness to cooperate by offering information on a trafficking situation. In many cases, trafficking victims are willing to give information to law enforcement officials to pursue a criminal case against the trafficker. At that point, the trafficked person has shown a willingness to cooperate with law enforcement and therefore has met his or her requirement*

¹⁸ *Id.*

¹⁹ The following recommendations were derived from legislative changes proposed by the Freedom Network USA. Freedom Network USA, Recommendations for Legislation to Further Protect the Rights of Trafficked Persons (May 2004).

²⁰ To be eligible for a T visa, one has to:

- be, or have been, the victim of a severe form of trafficking in persons;
- be physically present in the United States on account of trafficking;
- comply with reasonable requests from federal, state, and local law enforcement for assistance in the investigation or prosecution of the trafficking, unless the victim is under the age of 18; and
- demonstrate that one would suffer extreme hardship involving unusual and severe harm upon removal.

See TVPA 2000, *supra* note 11, § 107(e)(1)(C), amending 8 U.S.C. 1101(a)(15)(T).

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under the TVPA (as amended).²¹ The law should be amended to clearly state that law enforcement officials should not unnecessarily withhold the endorsement until some later date or case milestone, or because the government does not wish to pursue an investigation or prosecution at that point in time.

- *All trafficked persons who come forward to cooperate with law enforcement should have the express right to legal counsel (at the government's expense if necessary).* Such representation is critical because many trafficking survivors fear self-incrimination, prosecution, and deportation, and counsel is in the best position to assert the rights of a trafficked person. Furthermore, it takes tremendous courage for trafficking victims to come forward and they should not be re-traumatized by the criminal legal process. Allowing trafficking victims to be represented by their own legal counsel minimizes re-traumatization and should be clearly provided for in the TVPA (as amended).
- *Trafficking victims, family members, and witnesses to trafficking cases who participate in investigations or prosecutions should benefit from state and federal witness protection.* Trafficked individuals, their family members, and other witnesses place their lives in danger by working with law enforcement or testifying against traffickers in court. For the most part, NGOs assist such individuals to relocate within the United States and find safety. However, this is done on an *ad hoc* basis without a real system in place for adequate protection. Consequently, the law should be amended to allow cooperating victims, family members, and witnesses to enter state and federal witness protection programs.
- *Family members of trafficking victims should be paroled into the U.S. under a derivative status.* Trafficking victims are often more concerned about their family's lives than they are about their own and need to know that their families are safe in order to effectively participate in the criminal prosecution of their traffickers. As it is extremely difficult, if not impossible, to protect victims' family members abroad, family members should be paroled into the United States to be adequately protected from traffickers. Paroling family members into the United States will not only lead to more victims being able to report their crimes, but it will also make current victims much more effective witnesses.
- *Trafficking victims should be granted immediate eligibility for adjustment of status to permanent residence upon approval of the T-visa.* Trafficking victims should not have to wait until the criminal proceedings against their traffickers have concluded or for three years, as it is currently mandated by the TVPA,²² to apply for legal permanent resident status and to fully integrate into life in the United States. The granting of a T-visa sufficiently establishes the trafficking victims' need to access the protection and benefits of residence in the United States. Requiring victims to wait until the criminal proceedings against their

²¹ See TVPRA 2003 (as amended), *supra* note 15, §4(a)(3); 22 U.S.C. 7105(b)(1)(E)(iv).

²² TVPA 2000, *supra* note 11, § 107(f), *amending* 8 U.S.C.1255(1)(1)(A).

traffickers have concluded or an additional three years serves only to increase their instability and fear and does not promote stable communities.

- *The “extreme hardship” requirement for victims of trafficking should be removed.* Currently, the TVPA requires *inter alia* all T-visa applicants to demonstrate that they will suffer extreme hardship upon removal to their home country from the United States.²³ Given the manner in which most victims have been trafficked and their vulnerability as victims, the extreme hardship requirement for T Nonimmigrant status should be eliminated for all victims. Victims should be afforded the protection of the United States on humanitarian grounds alone and without being required to prove the extreme hardship involving severe and unusual harm.
- *The TVPA should be amended to include a good moral character exception for T Non-immigrants applying for permanent resident status.* Trafficking victims and their family members may not be able to meet the good moral character requirement²⁴ to adjust to permanent resident status because of incidents that occurred as a result of trafficking. The TVPA should be amended to provide a good moral character exception for acts incident or related to trafficking that make them unable to establish good moral character for adjustment purposes.
- *The law should provide emergency assistance to child victims of trafficking.* The TVPA and related legislation should be amended to entitle child victims of trafficking to emergency benefits and to assign HHS the exclusive authority to certify minors as victims who are eligible for assistance. Such assistance would include appointing a guardian *ad litem* within five business days from the point of identification.
- *The TVPA should be amended to cover trafficking victims who arrive in the United States for the purpose of aiding in the investigation or prosecution of a trafficker on U.S. territory or who seek to bring a civil suit to recover compensation and damages from trafficking assets found in the United States.* According to the TVPA, victims can receive T-visas and benefits if they are “physically present” in the United States because they were trafficked.²⁵ Victims who enter the United States to aid with investigations or prosecutions, but who were not directly trafficked into the United States are not eligible to apply for T-visas or to receive federal benefits under the TVPA. The same applies to victims who sue their traffickers in civil suit remotely and attempt to reach their assets that are in the United States.

²³ TVPA 2000, *supra* note 11, § 107(e)(1)(C), amending 8 U.S.C. 1101(a)(15)(T)(i)(IV); *see also supra* text accompanying note 20.

²⁴ TVPA 2000, *supra* note 11, § 107(f), amending 8 U.S.C. 1255(l)(1)(B).

²⁵ TVPA 2000, *supra* note 11, §107(e)(1)(C) amending 8 U.S.C. 1101(a)(15)(T)(i)(II); *see also supra* text accompanying note 20.

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Engaging the Legal Profession to Respond to Trafficking in Persons

The ABA should call on lawyers to provide pro bono legal services to victims of trafficking in persons. It should facilitate pro bono representation by designing and providing training programs for lawyers both in the United States and in the countries where it operates rule of law programs around the world. Such training programs would educate lawyers about the dynamics of trafficking, the needs of victims, the relevant laws, and strategic considerations in representing victims in various types of proceedings. By providing training that equips lawyers with the knowledge and skills necessary to provide pro bono legal representation in trafficking cases, the ABA can be a leader in the legal profession on this issue. Its efforts will serve to encourage U.S. state, local, and specialty bar associations as well as bar associations in other countries to develop and implement training programs for pro bono lawyers. This effort is consistent with and can be a part of the ABA's Second Season of Service initiative and can also encompass frontline legal aid attorneys.

Pro bono and legal aid lawyers can assist victims of trafficking in several ways:

- *Assistance in criminal cases*: provide legal advice to victims who are cooperating with law enforcement during the investigation phase of a criminal prosecution and who are providing testimony at trial.
- *Restitution in criminal cases*: when restitution is ordered for victims in a criminal prosecution, provide assistance in collecting on the order. In the United States, for example, the Justice Department has lacked sufficient resources to pursue these often difficult to collect remedies in criminal cases. Pro bono lawyers could assist in ensuring that justice is done and victims receive court ordered restitution.
- *Immigration relief and other benefits*: represent victims in seeking immigration relief and assist them in obtaining other benefits, such as medical assistance or disability benefits, for which they may be eligible under the TVPA (as amended)²⁶ in the United States or under the pertinent domestic legislation of other countries.
- *Civil claims against traffickers*: represent victims in bringing a wide variety of civil claims under U.S. state and federal law as well as the laws of other countries against those involved in the many tiers of a trafficking scheme.

Respectfully submitted,

Robert A. Stein, Co-Chair
DiAnna P. Kempe, Co-Chair
Task Force on International Rule of Law Symposia

August 2007

²⁶ See TVPA 2000, *supra* note 11, §§ 107(b)(1)(A), 107(e)(4); 22 U.S.C. 7105(b)(1)(A), 8 U.S.C. 1101(i).

GENERAL INFORMATION FORM

To Be Appended to Reports with Recommendations
(Please refer to instructions for completing this form.)

Submitting Entity: Task Force on International Rule of Law Symposia

Submitted By: Robert A. Stein, Co-Chair, Task Force on International Rule of Law Symposia
DiAnna P. Kempe, Co-Chair, Task Force on International Rule of Law Symposia

1. Summary of Recommendation(s).

Through this recommendation, the American Bar Association urges Congress to pass legislation that strengthens protection and assistance for victims of trafficking in persons, both citizens and non-citizens, and encourages state, local, territorial, tribal, specialty, and foreign bar associations to engage members of the legal profession in raising awareness of trafficking in persons in their communities and in providing pro bono legal services to victims of trafficking.

2. Approval by Submitting Entity.

In May 2007 the Task Force on International Rule of Law Symposia voted by email to approve this recommendation and report.

3. Has this or a similar recommendation been submitted to the ABA House of Delegates or Board of Governors previously?

During the 2006 ABA Midyear Meeting, the Commission on Immigration submitted a recommendation delineating support avenues for lawful immigration status, employment authorization, and public benefits for victims of trafficking in persons and other crimes (including rape, torture, domestic violence, sexual assault, and sexual exploitation) described in 101(a)(15)(U)(iii) of the Immigration and Nationality Act. The recommendation further supported the use of Legal Services Corporation funding to provide services to such victims. The recommendation opposed the apprehension of victims of domestic violence, trafficking, and others crimes, for immigration violations, at shelters, crisis centers, or courts where they are seeking protection orders. Finally, the recommendation opposed placing such victims in removal proceedings or in immigration detention if they are eligible for immigration relief.

The recommendation was adopted by the House of Delegates.

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4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

The above policy (mentioned in #3) would be complemented by the specific requests delineated in the proposed recommendation. The above policy generally supports the framework for trafficking victim support and assistance in the United States while the proposed recommendation addresses specific provisions in legislation affecting a trafficking victim's legal status, access to various protection measures, and right to counsel. The proposed recommendation urges the extension of protective means to derivative family members (not just to victims). The proposed recommendation also addresses the provision of emergency assistance to child victims of trafficking. Lastly, the proposed recommendation places an emphasis on engaging members of the legal profession to raise awareness of trafficking in persons in their communities and to provide pro bono legal services to victims.

5. What urgency exists which requires action at this meeting of the House?

The ongoing Rule of Law efforts of the ABA and the planned ABA World Justice Forum Project in 2008 will be enhanced by adoption of this recommendation.

6. Status of Legislation. (If applicable.)

Congress passed the Trafficking Victims Protection Act of 2000 ("TVPA"), which defines the offense of trafficking in persons and provides for measures of prevention, victim protection, and prosecution of traffickers. The TVPA amended (in part) the Immigration and Nationality Act for the purposes of introducing the T-visa. In 2003, Congress reauthorized funding for the TVPA and passed the Trafficking Victims Protection Reauthorization Act of 2003. The TVPA was reauthorized for an additional two-year period with the passage of the Trafficking Victims Protection Reauthorization Act of 2005.

7. Cost to the Association. (Both direct and indirect costs.)

Adoption of the recommendation would not result in any additional direct or indirect cost to the association.

8. Disclosure of Interest. (If applicable.)

No known conflict of interest exists.

9. Referrals. (List entities to which the recommendation has been referred, the date of referral and the response of each entity if known.)

In May 2007, the following ABA entities were notified:

Section of Health Law (co-sponsor)
Section of International Law (co-sponsor)
Rule of Law Initiative (co-sponsor)
Commission on Domestic Violence (co-sponsor)
Commission on Immigration (co-sponsor)
Center for Human Rights (co-sponsor)
American Immigration Lawyers Association (co-sponsor)

Section of Family Law (agreed to support the resolution but not to be a co-sponsor)

Section of Administrative Law and Regulatory Practice (contacted)
Criminal Justice Section (contacted)
Section of Individual Rights and Responsibilities (contacted)
General Practice, Solo and Small Firm Division (contacted)
Young Lawyers Division (contacted)
Standing Committee on Legal Aid and Indigent Defendants (contacted)
Standing Committee on Pro Bono and Public Service (contacted)
Center for Racial and Ethnic Diversity (contacted)
Commission on Women in the Profession (contacted)
National Legal Aid and Defender Association (contacted)

10. Contact Person. (Prior to the meeting. Please include name, address, telephone number and email address.)

J.A. (Tony) Patterson, Jr.
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2200 Ross Avenue, Suite 2800
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japatterson@fulbright.com

11. Contact Person. (Who will present the report to the House. Please include email address and cell phone number.)

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EXECUTIVE SUMMARY

1. Summary of the Recommendation

Through this recommendation, the American Bar Association urges Congress to pass legislation that strengthens protection and assistance for victims of trafficking in persons, both citizens and non-citizens, and encourages state, local, territorial, tribal, specialty, and foreign bar associations to engage members of the legal profession in raising awareness of trafficking in persons in their communities and in providing pro bono legal services to victims of trafficking.

2. Summary of the Issue that the Resolution Addresses

Existing legislation in the United States covers the three main areas of trafficking in persons: prevention of trafficking, prosecution of traffickers, and protection of victims. However, more could be done legislatively to enhance the protection and assistance of victims of trafficking.

Furthermore, the legal profession in the United States could better coordinate in order to offer comprehensive legal assistance on a pro bono basis to victims of trafficking.

3. Please Explain How the Proposed Policy Position will Address the Issue

The proposed recommendation delineates specific changes to existing legislation such that means for protection and assistance of trafficking victims, both citizens and non-citizens, will be strengthened and victims will be able to better assert their rights as provided for in U.S. law.

The proposed recommendation also delineates ways in which the legal profession can become involved in the overall effort to combat trafficking in persons. Federal, state, local, territorial, tribal, and specialty bar associations in the United States as well as foreign bar associations are well-positioned to engage their members to raise awareness of trafficking in persons and to provide pro bono legal services. Pro bono attorneys can aid victims by assisting them when they are summoned in criminal proceedings initiated against their traffickers, when they seek to collect restitution ordered in criminal prosecutions, when they seek immigration relief and other benefits, and when they institute civil claims against their traffickers.

4. Summary of Minority Views

None to date.