

## *Notes and Commentary*

# Conference on Identifying and Serving Child Victims of Trafficking

Micah N. Bump\* and Julianne Duncan\*\*

## INTRODUCTION

Human trafficking for sexual exploitation and other forms of forced labour is one of the fastest growing areas of international criminal activity. The overwhelming majority of victims of severe forms of trafficking are women and children. This phenomenon, at least on the scale seen today, has only recently begun to receive public attention. As a result, efforts to combat trafficking of women and children have significantly increased in the last three years, both in the United States and elsewhere in the world. The particular vulnerability of child victims, related to bio-physiological, social, behavioural, and cognitive phases of the maturation process, distinguishes them from adult victims and underscores the necessity of special attention to their particular needs.

The Conference on Identifying and Serving Child Victims of Trafficking<sup>1</sup> was organized to facilitate discussion among the key personnel and institutions, both governmental and non-governmental, with mandates to improve the United States' ability to identify and serve child victims of trafficking. Convened by the Migration and Refugee Services (MRS) of the United States Conference of Catholic Bishops (USCCB) and the Institute for the Study of International Migration (ISIM) of Georgetown University, the conference benefited from a wide range of participants from the US Federal Government, national and international non-governmental organizations (NGOs), advocacy groups, agencies serving traffick-

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\* Institute for the Study of International Migration, Walsh School of Foreign Service, Georgetown University, Washington, DC, USA.

\*\* Migration and Refugee Services, United States Conference of Catholic Bishops, Washington, DC, USA.

ing victims, and academia. Participants explored strategies and protocols to identify child victims of trafficking and assess their special needs and circumstances in order to develop a blue print for further technical assistance to a wide range of appropriate audiences.

In particular, the discussion concentrated on seven general points of inquiry related to identifying and serving child victims of trafficking. First, what is the institutional context for federal care of trafficked children under the Trafficking Victims Protection Act (TVPA) of 2000 in the aftermath of the creation of the Department of Homeland Security (DHS)? Second, what are the regulations governing trafficked children's access to services under the TVPA? Third, what are the points of first contact with child victims of trafficking and how can we improve identification of trafficking victims in these areas? Fourth, what are the barriers to timely and accurate provision of appropriate services to children? Fifth, how can the anti-trafficking community ensure adequate protection of child victims of trafficking after identification but prior to official determination of eligibility? Sixth, what must be done to protect child witnesses in trafficking prosecution cases? And finally, what are the policy proposals that should be considered by policy makers, lawmakers, NGOs, and other experts to improve the identification and service to child victims of trafficking?

This Conference Report outlines major points of discussion, areas of consensus, issues in further need of analysis, and provides policy recommendations. It also includes a background discussion of trafficking in persons and the US Government's response to this phenomenon. Through this Report, the Conference seeks to encourage further discussion, collaboration, and action in order to enhance existing policies, improve their implementation, and develop well-defined mechanisms and durable solutions to better identify and serve child victims of trafficking.

## BACKGROUND

Trafficking in persons for sexual exploitation is one of the fastest growing areas of criminal activity. It is considered the third largest source of profits for organized crime, behind only drugs and weapons, generating approximately US\$ 5 to 7 billion annually (Arlacchi, 2000). The overwhelming majority of survivors of severe forms of trafficking are women and children. Women and children are most vulnerable to trafficking for sexual exploitation, including prostitution and sex tourism. Child sexual exploitation has grown exponentially in all countries, but is especially rampant in Asia and Latin America. Many women and children who are trafficked for bonded labour and domestic work end up being sexually exploited as well (Raymond et al., 2002).

Generally, the flow of trafficking is from less developed countries to industrialized nations or toward neighbouring countries with marginally higher standards of living. The largest source country of children trafficked into the United States is Mexico (Miko and Park, 2000). Mexican children older than 12 years of age are trafficked to the United States primarily for child prostitution. Since trafficking is an underground criminal enterprise, there are no precise statistics on the extent of the problem. Different methodologies used to assess the scope of the problem account for the numerical variations. Regardless of the different methodologies used, trafficking is an enormous problem. Estimates of the number of trafficking victims range from 700,000 to 4 million women and children worldwide each year (O'Neill Richard, 2000; Arlacchi, 2000). The largest number of victims trafficked internationally come from Asia, with more than 225,000 annual victims believed to be coming from South-East Asia and more than 150,000 from South Asia (Derks, 2000).

The US Office to Monitor and Combat Trafficking in Persons, established in 2000 and located within the State Department, provides estimates of the number of victims trafficked yearly to the United States in its annual Trafficking in Persons (TIP) report. The figure presented in the TIP report dropped significantly from approximately 50,000 in 2002 to 20,000 in 2003. The US State Department attributes this substantial difference to the fact that the Central Intelligence Agency (CIA) enhanced the methodology to estimate the number of trafficking victims and as a result provided revised statistics. Others argue that the current administration's decreased emphasis on trafficked victims in exploitative labour situations and increased scrutiny of victims of sexual exploitation is responsible for the decline.

At least one-third of trafficking victims are unaccompanied and/or separated children. The most comprehensive research on trafficking victims in the United States, carried out by the University of Pennsylvania, indicates that as many as 17,000 children between the ages of 12 and 17 are trafficked into the United States for sexual exploitation alone each year (Estes and Weiner, 2001). Within the United States these children fall into two categories: (1) those known through official agencies and systems, but not recognized as victims of trafficking, and (2) those hidden in street life, emergency shelters, migrant camps, and other unidentified places. While the United States strives to combat this modern day slavery, it faces serious challenges in finding durable solutions for prevention, protection, and prosecution of trafficking cases. The low number of children determined by government agencies to be victims of trafficking highlights the gravity of this problem. At the time of the Conference on Identifying and Serving Child Victims of Trafficking, the Office of Refugee Resettlement (ORR) had issued 396 letters certifying individual victims of trafficking. Only 24 of the eligibility letters had been issued to minors.

## RESTRUCTURING THE CARE OF UNACCOMPANIED CHILDREN IN FEDERAL CUSTODY

The Homeland Security Act (HSA) of 2002 represented the largest restructuring of the US Federal Government in the past 50 years. The Act improves the treatment of children in federal custody under US immigration law and policy (Nugent and Schulman, 2003). Since the HSA pertains to all children in federal custody, it directly affects trafficked children in government care. Each year, immigration officials apprehend approximately 100,000 unaccompanied children at US borders. Ninety-five per cent of these children voluntarily choose to immediately return to their home countries. Most of the children that go back are Mexican and freely return under a bilateral agreement between the two Governments. Thus, 5,000 children annually remain in the custody of the US Federal Government. Approximately 500 children are in the custody of the US Federal Government at any one time during any given year (WCRWC, 2002: 1). Conference participants stressed that there is a good possibility that this population includes many unidentified trafficked children.

The plight of the children detained by the former Immigration and Naturalization Service (INS) has received significant attention from Congress, the executive branch, the legal community, NGOs, and the general public. In response to this criticism, the HSA has significantly altered the Government's approach to "unaccompanied alien children" by transferring jurisdiction over their care, custody, and placement from the former INS to ORR.<sup>2</sup> A 2001 and 2002 multi-state assessment of INS treatment of unaccompanied children concluded that the INS had been assigned with "two irreconcilable and competing functions" (WCRWC, 2002: 2). At the same time the INS was charged with providing custodial care to the children, it was also acting as the prosecutor working to remove them from the United States. The conflict of interest that resulted from INS' opposing roles – as both a law enforcement agency and a service provider – produced systemic ineffectiveness and compromised the best interest of the children. Consequently, children were frequently denied their basic human rights and proper treatment. Approximately one-third of the unaccompanied children were placed in secure juvenile delinquent facilities where they commingled with juvenile criminals and were subject to abusive treatment (WCRWC, 2002: 2).

One of the goals of the HSA is to decrease child placement in detention facilities in favour of less restrictive care options, including foster care in the Unaccompanied Refugee Minors (URM) programme run by two national voluntary agencies, the US Conference of Catholic Bishops (USCCB) and the Lutheran Immigration and Refugee Service (LIRS). Through the URM program, both LIRS and USCCB have local affiliates that provide care and services to unaccompanied refugee, asylee, Cuban, Haitian, or trafficked children in federal custody. Although

undocumented children remain in federal custody if placed in a URM programme and are not normally eligible for URM care as unaccompanied refugee minors, ORR's Division of Unaccompanied Children's Services has begun and will continue to use the URM programmes to care for some children in federal custody in immigration proceedings (using a different funding mechanism than through state contracts). URM programmes have more appropriate family foster care and other types of less restrictive care for children while their cases are being determined. By using the URM programme instead of detention facilities, ORR is striving to maintain protection of the children and increase family reunification. Analysts have already concluded that the transfer of functions to ORR will significantly benefit the children, their family members, and their pro bono or private attorneys, all of whom have struggled with the old system for years (Nugent and Schulman, 2003).

Under the HSA, ORR has a specific mandate to "ensure that the interests of the child are considered in decisions and actions related to the care and custody of an unaccompanied alien child."<sup>3</sup> The overhaul of the system is still in transition and child welfare advocates and service providers, as well as government officials, point out that placement decisions are based on the proximity of a given facility, whether it is a detention centre or any other facility. Thus, the remaining challenge for ORR and the service provider community is to ensure that secure, non-detention facilities are available for all unaccompanied children and that law enforcement personnel are aware of such facilities.

## TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (TVPA)

In October 2000, Congress passed the TVPA to comprehensively address the human trafficking phenomenon. The Act defines trafficking as all acts involved in the recruitment, abduction, transport, harbouring, transfer, sale, or receipt of persons within national or across international borders, through force, coercion, fraud, or deception, in order to place persons in situations of slavery or slavery-like conditions, forced labour or services, such as forced prostitution or sexual services, domestic servitude, bonded sweatshop labour, or debt bondage. Its stated purposes are "to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims"<sup>4</sup> The TVPA sets forth a three-pronged strategy to combat the crime of trafficking in persons: (1) *protection* (by providing protection and assistance to victims), (2) *prosecution* (by prosecuting offenders), and (3) *prevention* (preventing human trafficking by working with authorities in the victims' home countries).

## **Access to services under the TVPA**

As a part of the TVPA, adult and child victims of trafficking are eligible for a number of different services and benefits regardless of their immigration status. They can also apply to remain in the United States under the T-visa programme. Eligibility for services and access to the trafficking related visas are two separate processes that may or may not interlock. Victims are not required to have a T-visa in order to gain access to a substantial amount of assistance. This is especially true for child victims of trafficking. With regards to child victims, timely access to services is of greater importance than the T-visa to avoid re-victimization. Thus, in theory, the law is designed to make the services as readily available as possible to children. This is reflected in the fact that children face different service eligibility requirements than adults.

Eligibility determination and certification for the services lies with ORR within the Department of Health and Human Services (DHHS). ORR, after consultation with the US Attorney General in the Department of Justice (DOJ), may certify an adult victim of trafficking. HHS certification must confirm that an adult victim is: (1) willing to assist in the investigation or prosecution of traffickers, and (2) has either made a bona fide application for a T-visa with the Bureau of Citizenship and Immigration Services (BCIS) in the DHS or is a person whose continued presence in the United States is assured by the Attorney General in order to assist with prosecution in trafficking cases. Children under age 18 are exempt from the certification process but still need the “determination of eligibility” from ORR in order to gain access to services. In the case of a child victim, ORR will issue letters of eligibility determination, similar to the adult certification letters, stating that a child is a victim of a severe form of trafficking.

Certain publicly funded services related to the protection of life and safety of trafficking victims do not require certification of determination of eligibility. These services include access to appropriate forms of shelter, medical and legal assistance, witness protection, translation services, and repatriation.<sup>5</sup> Certified victims are eligible for work permits, vocational training, job placement, and social services through referral to appropriate NGOs. Thus, the TVPA entitles adult victims (certified by ORR) and child victims (determined eligible by ORR) to benefits and services to the same extent as refugees, but does not consider them refugees. These benefits include access to URM programmes, the Children’s Health Insurance Programme (CHIPs), and the Temporary Assistance to Needy Families (TANF) programme. Victims between ages 16 and 24 who have received work permits may be eligible for Job Corps, a programme run by the US Department of Labor. In addition, when a trafficker is prosecuted the court “shall order restitution, and the order of restitution shall direct the trafficker to pay the victim the full amount of the victims’ losses”.<sup>6</sup>

### **Access to the T-visa under the TVPA**

Section 107(e) of the TVPA established the T non-immigrant visa for victims of trafficking. Under the TVPA, up to 5,000 T-visas are available annually to certified victims of trafficking who qualify to stay in the United States.<sup>7</sup> The T-visas offer non-immigrant status for three years, after which the individual may apply for permanent residence. Congress created this classification with the intention of providing a safe haven for certain eligible victims of severe forms of trafficking who are assisting law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

The TVPA completely separates eligibility for services from access to the T-visa. However, the two processes are often confused to be the same because the requirements for each are very similar. In order to receive the DHS qualification for T-1 non-immigrant status, a person must demonstrate: (1) that he or she is a victim of a severe form of trafficking in persons; (2) that he or she is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking in persons; (3) that, if 15 years of age or older, he or she has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons; and (4) that he or she would suffer extreme hardship involving unusual and severe harm if removed from the United States.<sup>8</sup> Children who have not yet attained the age of 15 at the time of application for the T-visa are exempt from the requirement to comply with law enforcement requests for assistance in order to establish eligibility. However, once they turn age 15, they must comply.

Some lawmakers see these requirements as too stringent. Congressman Tom Lantos stated at a hearing regarding the implementation of the TVPA that the T-visa “should be in the first instance a humanitarian visa, not one used only as a club to obtain the law enforcement cooperation from frightened and abused victims who are not only traumatized but suspicious of all government authorities” (Lantos, 2001). Whether the humanitarian ideal has been put into practice and upheld is one of several criticisms about T-visa regulations (Bishop, 2003).

### **Trafficking in Persons and Worker Exploitation Task Force (TPWETF) under the TVPA**

The TVPA also appropriates funds for the recently created Trafficking in Persons and Worker Exploitation Task Force (TPWETF), which includes representatives of the Department of Justice, the Federal Bureau of Investigations, the Department of Homeland Security, the Executive Office for US Attorneys, the Office of Victims of Crime, and the Violence Against Women Office (DOJ, nd). In addition,

the TPWETF has created 15 regional task forces, each of which includes points of contact from local US Attorneys' offices, DHS, the FBI, the Department of Labor, the Equal Employment Opportunity Commission (EEOC), and state and local law enforcement. The TPWETF works to prosecute traffickers, assist victims of trafficking, train law enforcement officers about trafficking, and provide reference materials for both law enforcement and NGOs (DOJ, nd). The TPWETF also has a complaint line to allow for easy reporting of trafficking-related matters.

## CHILD VICTIMS: CHALLENGES OF IDENTIFICATION, ELIGIBILITY FOR SERVICES, AND THE T-VISA

The United States' current system for addressing the numerous complex issues related to trafficking in children is hindered by several systemic gaps. No comprehensive plan exists to identify, serve, and protect child victims from the point of encounter to family reunification or placement in foster programme. The challenge that emerged from the Conference on Identifying and Serving Child Victims of Trafficking is how the key players in the anti-trafficking field can join forces to build a regime that effectively addresses the need to identify and provide services to child victims of trafficking.

### **Identification challenges**

The most urgent issue facing the anti-trafficking community is the improvement of the identification of child victims. In July 2001, DOJ announced the issuance of a regulation implementing Section 107(c) of the TVPA. One of the regulations under 107(c) requires the US Federal Government to identify victims of severe forms of human trafficking. Although regulations have been released, the Federal Government has been challenged in carrying out their mandate. As mentioned above, as of May 2003 the Federal Government had identified and served only 24 child victims out of a potential 17,000.

The Conference on Identifying and Serving Child Victims of Trafficking concluded that first contact with unidentified child victims would most likely be made by one of the following three groups: (1) immigration/DHS at or between ports of entry and at detention facility, (2) police/local law enforcement, or (3) social services/medical service providers. Identification improvements must be made in these three areas. Improvements at the border have the most potential for increasing the identification of child victims of trafficking. The fact that US immigration officials annually apprehend approximately 100,000 unaccompanied children at US borders signifies that there is a large pool of potential victims that is slipping through the

proverbial cracks. Currently, there are no bilateral protocols in place at US borders to identify trafficking cases at initial apprehension. The problem of developing trust between governments was viewed by the conference participants as a barrier to proper identification.

The heightened sense of security in the post-September 11 environment has channelled resources overwhelmingly toward combating terrorism. As a result, border patrol agents and staff are not receiving enough training on trafficking issues and identification of trafficking victims. This is further complicated by the fact that identification of children, especially females, at the border is difficult because often times they present themselves and are classified as 21 years old. Analysis of fingerprint records at the border shows an unusually high number of female entrants who are 21 years old. Trafficked girls are also coached to say that they are the wives of the trafficker. Furthermore, at the time of apprehension at the border trafficked children may not have suffered through the most terrible exploitation or even know that they are being trafficked. Representatives of DOJ have stated that they have given this issue thought, but a protocol has yet to be developed to deal with age determination and identification issues.

Participants observed that within state and local law enforcement and the state social services system there are numerous experts who have worked with sexually abused and traumatized children. Furthermore, they noted that there are many experts who understand the difficulties of integration into a new culture. Participants pointed out that, beyond this expertise, local and state social service systems should be engaged in identifying children who come into contact with the state juvenile justice system, local ethnic organizations, or CPS investigators.

Local law enforcement and social services agencies are the other groups that participants felt were most likely to have first contact with child victims of trafficking. Past evidence suggests that police officers who encounter victims in the course of their normal routine comprise the majority of local law enforcement contact with trafficking victims. Participants identified the following 16 ways social service agencies could come into contact with a child victim: (1) emergency rooms in hospitals, (2) child protective services, (3) state and local juvenile justice departments, (4) domestic violence centres, (5) Covenant House type shelters, (6) ethnic community-based organizations, (7) churches and religious leaders, (8) health care providers, (9) school counsellors, (10) refugee service providers, (11) labour unions/garment industry workers, (12) legal aid agencies, (13) street outreach programmes, (14) soup kitchens/homeless shelters, (15) work with domestic servants, and (16) work with adult prostitutes. Training local law enforcement and social service personnel is key to improving identification through these avenues.

## **Service access challenges**

In order for trafficked children to have access to the services provided under the TVPA, they must obtain the determination of eligibility from ORR (in cooperation with DOJ). Cooperation and collaboration of these two agencies play a key role in this process, because trafficking-related information is not made available to both agencies at the same time. Many trafficking-related cases are brought to the attention of the US Federal Government through the TPWETF complaint line. This line is run by the Criminal Section of the Civil Rights Division of DOJ. As complaints are received, they are forwarded to the Deputy Chief of the Criminal Section responsible for the geographic area where the trafficking incident occurred. The Deputy Chief determines if further investigation is necessary and then assigns the appropriate personnel to carry out the investigation and/or prosecution. Local offices of federal law enforcement agencies can also initiate and carry out investigations of trafficking cases based on local information. These officers convey this information to their federal headquarters, which, in turn, contact the Criminal Division of the TVPA (Department of Justice, 2002).

Thus, DOJ is the principal government contact for at-large reports on trafficking-related issues through the TPWETF complaint line, as well as the ultimate receptor of information on trafficking cases from all federal law enforcement agencies. Although DOJ is the main government point of contact for trafficking cases, ORR must issue the “determination of eligibility” letter facilitating children’s access to services. Effective issuance of this letter hinges upon ORR receiving the case information from DOJ in a timely manner. Given the low number of children who have accessed services, conference participants expressed a concern that DOJ was, in certain cases, aware of child victims of trafficking, but not effectively communicating this to ORR, thus denying child victims their rightful services.

Conference participants attributed the interagency communication difficulty to the fact that the eligibility determination process is relatively new and DOJ is still working out its implementation, along with the fact that DOJ resources are more devoted to issues other than trafficking.<sup>9</sup> Furthermore, participants pointed out that, in certain cases, the DOJ may not pursue a trafficking case brought to their attention because of lack of resources, which complicates the application for services. If federal law enforcement does not refer the child to ORR for determination of eligibility, ORR cannot issue that determination.

## **T-visa challenges**

Although the TVPA was passed into law in October of 2000, DOJ has yet to issue final regulations for the issuance of T-visas. Semi-final regulations were released

in late January 2002. The slow pace of implementation of the TVPA has frustrated the representatives who supported it, as one of its principal tenets was to provide help and protection to trafficking victims by offering residency status instead of deportation (Smith, 2001). Even with the semi-final regulations in place, the number of T-visas granted is far from approaching the annual limit of 5,000.

Legal practitioners and members of NGOs who represent and serve victims of trafficking in their attempts to obtain T-visas have expressed frustration with the T-visa application process and have sought explanations for the low numbers of T-visas granted so far. Meeting participants collectively emphasized that the clandestine and illegal nature of trafficking greatly affected the number of visa applicants. Trafficking occurs through underground criminal networks, so victims have few opportunities to escape and are difficult to access with remedies.

As indicated before, children under age 15 are not required to comply with reasonable requests made by law enforcement in order to apply for a T-visa. However, children have to “demonstrate that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States”.<sup>10</sup> The National Network on Behalf of Battered Immigrant Women (2002) expressed a concern that child victims of trafficking will not be able to articulate “extreme, unusual, and severe” hardship well enough to satisfy the burden of the application. While newspaper articles and police records may be presented as evidence in the application for services, the process requires a level of news coverage and local law enforcement participation that may not exist.

### CHILD ACCESS TO SERVICES PRIOR TO DETERMINATION OF ELIGIBILITY

Participants pointed out that the time interval between the initial identification of a child victim and the issuance of a determination of eligibility letter by ORR constituted a major obstacle in providing timely and appropriate assistance to trafficked children. During this time a secure environment is essential to the child’s well-being, as he or she has usually just recently left the trafficking situation and is highly vulnerable to escape or re-capture by the traffickers. NGO representatives and service providers stressed the need for policy and lawmakers to define who will provide and fund protective care for child victims of trafficking during the pre-certification stage.

Most often, trafficked children awaiting their eligibility determination are housed at juvenile detention centres. Theoretically, these children should be immediately eligible for state provided CPS. However, since state CPS services have been unable to accommodate this need, victim advocates have had to deal with each

case in an ad hoc fashion. Apart from placement in juvenile detention centres, children have been given shelter at secured hotels, at private residences of good Samaritans, and at facilities run by religious groups. Conference participants agreed that placement within the federally funded URM programme would be the ideal solution to this problem. However, it is unclear if this population of children legally qualifies for placement within a federally funded system.

## PROSECUTION OF TRAFFICKERS AND PROTECTION OF CHILD WITNESSES

The effectiveness of the TVPA has been the subject of both praise and criticism. The praises have mostly come as a result of the increased number of trafficking prosecutions, while inadequate victim protection measures have drawn significant criticisms. In the first two years following the passage of the TVPA (2001 and 2002), 76 trafficking cases were prosecuted, which is three times as many as in the previous two years (*Associated Press*, 2003). The TVPA requires that a hotline for trafficking victims functions on a continual basis, which has resulted in more than 75 new trafficking investigations (Cheng, 2001). Furthermore, training and awareness raising efforts among federal and local law enforcement have increased the number of investigations of traffickers. The DOJ has also created resources for federal prosecutors to assist in trafficking cases. All prosecutors have received *The Guidance on New Law Concerning Trafficking in Persons* and the Civil Rights Division has hired two new attorneys who will be responsible for outreach and training of federal prosecutors on implementation of the new law and victim protection issues (DOJ, 2001).

While the number of prosecutions against traffickers has increased, victim advocates and service providers have expressed concern about the lack of protection given to victims before, during, and after the prosecution. Participants raised concern that trafficked children may be re-traumatized if they act as witnesses against their traffickers in a prosecution. Some service providers have raised the point that helping trafficked children through prosecution of their traffickers does not necessarily take into account that judicial retribution is not culturally important to the victim. However, others argue that children who have managed to free themselves from the traffickers are resilient survivors who may be further empowered by a successful prosecution. The fundamental concern among victim service providers is that the well-being of the child be maintained before, during, and after prosecution so that a successful prosecution is also a successful outcome for the child.

There is a general consensus among legal advocates and social service providers that prosecution of traffickers is in the best interest of the trafficked child as long

as the child receives adequate protection before, during, and after the prosecution. The successful outcome of a trafficking prosecution depends greatly on collaborative efforts between the prosecutor and the child advocate. The prosecutor needs the social service provider to help their client understand the importance of their testimony and the process of the prosecution. The social service provider relies on the prosecutor to bring justice and closure to the child's ordeal through legal action. Currently, there is a general lack of trust, protocol, and facilities for trafficked children and their advocates to work with law enforcement and social services. These shortcomings need to be addressed so that both sides can work together to develop the trust necessary to carry out successful prosecutions while upholding the physical and social well-being of the child.

## INTERNATIONAL APPROACH TO COMBATING TRAFFICKING

Participants noted that there are child trafficking cases in which repatriation to the country of origin is the best solution. In such cases it is imperative that children be accompanied and then supported once home, thereby assuring that they do not fall into the grips of the trafficker again and suffer the reprisals. With regards to repatriation to Latin America, participants discussed the services offered by Casa Alianza, the Latin American Covenant House programme.

In February 2003, Casa Alianza, together with the International Organization on Migration (IOM) initiated a pilot project for the repatriation and social reinsertion of trafficked children in Central America. The project will work with NGOs and governments to repatriate those children who voluntarily decide to return to their home country. Casa Alianza will provide social workers to see what possibilities there are for a family reintegration, along with scholarships for education, job skills training for the older youth and other social support services as needed for up to two years. Funding is provided by the Canadian and US Governments. Casa Alianza is working to offer this same service to US civil society groups working with trafficked children from Guatemala, Honduras, Nicaragua, and Costa Rica.

## POLICY RECOMMENDATIONS FOR IMPROVING IDENTIFICATION AND SERVICES TO CHILD VICTIMS

- 1. Develop procedures for all federal and local law enforcement personnel to refer immediately children in “trafficking-like” situations for a needs assessment and age determination with the benefit of the doubt always going to the child.** A system of protocols and referral procedures needs to be developed and disseminated to ensure that all local and national law enforcement and other providers follow a simple procedure to arrange for trafficked children to be referred to proper care.

2. **Improve communication and cooperation between different governmental departments involved in child trafficking cases.** Several agencies in the US Federal Government, including the Department of State, the Department of Health and Human Services, the Department of Justice, the Department of Labor, the Federal Bureau of Investigation, and the Department of Homeland Security are involved in the combat against trafficking. Departmental mandates vary between the categories of prevention, protection, and prosecution. It is clear that in order for any single federal agency to effectively carry out its mandate it must be willing to cooperate and collaborate with other willing agencies. Thus, the harbouring of information pertaining to trafficking cases by individual agencies must cease in favour of increased intelligence sharing. Improved communication between ORR and DOJ is crucial to providing trafficked children access to services.
3. **Increase anti-trafficking resources for law enforcement, especially at the border.** Law enforcement agencies, both on the local level and at the border, and other top trafficking states such as Florida and New York, need to have adequate resources to effectively combat trafficking. The inherently clandestine nature of trafficking requires that significant time and resources be allocated to the agencies mandated to combat the crime. The border patrol and local law enforcement need to have the human and financial capacity to effectively identify and prevent trafficking cases. This could be carried out by increasing federal resources for enhancing the anti-trafficking initiatives of local law enforcement, improving support and training for federal anti-trafficking programmes, and using a federal directive to local communities to improve anti-trafficking measures.
4. **Developing comprehensive trafficking training programmes for federal and local law enforcement as well as social service agencies.** While TVPA has been in existence for more than two years, there is need for broad education among all agencies involved. Comprehensive training must be developed for and provided to the following:
  - a. Federal law enforcement officials with emphasis on front line enforcement personnel like Border Patrol, Department of Labor investigators, and others in similar positions to identify children who are being trafficked.
  - b. Federal officials and their contractors who care for undocumented children through HHS/ORR/Division of Unaccompanied Children's Services. It is likely that trafficked children are among the approximately 6,000 children served in the system per year.
  - c. State and local law enforcement and judicial systems including police; juvenile justice system personnel, including judges; and child protective services investigators.
  - d. State and local child welfare providers, both private and public.

- e. Other social service providers who may come into contact with child victims such as soup kitchens, emergency shelters, ethnic organizations, refugee service agencies, and runaway shelters.
  - f. Religious personnel who may be ministering to immigrant and farm worker populations and who may have entry into communities where child victims may be hidden.
  - g. All service providers for trafficked persons should have specialized training in the services available, protocols for referral, and the special needs of child victims, whether with family or unaccompanied.
5. **Children who are identified but not yet referred to ORR for “determination of eligibility” must be housed and provided care in appropriate facilities.** There is currently no system of care identified and funded for this purpose. It remains unclear whether the system of care for “undocumented children in federal custody” also funded and managed by ORR can be adapted for this purpose. Currently, the detention and shelter system for “undocumented children” is not being used for this type of care. Arrangements made by other government agencies are ad hoc at best.
6. **The URM programmes funded by ORR and provided through the LIRS and USCCB system should have adequate capacity to receive the numbers and kinds of children who will be identified and determined eligible.** In addition, they should have appropriate specialized services to assist the child to recover from the trauma of trafficking and have the capacity to assist children who may be called upon to testify against traffickers in legal cases.
7. **Cease the use of juvenile detention centres as housing facilities for trafficked children.** A continued effort must be made to decrease child placement in detention facilities. The foster care services provided by USCCB and LIRS through the URM programme provide appropriate placement to trafficked children. Increased use of the URM programme will help to protect trafficked children and increase family reunification.
8. **Research and evaluation.** Although public awareness of and concern for trafficking victims has never been greater among governments, international agencies, and NGOs, the knowledge base is still very weak, both internationally and domestically. Research on trafficking has not moved much beyond estimating the scale of the problem; mapping routes and relationships between countries of origin, transit, and destination; and reviewing legal frameworks and policy responses. There is no reliable data about the number of trafficking cases and the characteristics of the victims and perpetrators. One element contributing to this limited knowledge is the fact that the development of research methods on human trafficking remains in its infancy. Most studies

rely on overviews, commentaries, and data from service providers. There is a need to conduct well designed, rigorous ethnographic and sociological studies based on in-depth interviews with trafficking survivors that would provide baseline data on trafficking victims and their characteristics. Too often victims of trafficking remain one-dimensional figures whose stories are condensed and simplified. In order to develop appropriate practice increased attention needs to be paid to the expertise and practical knowledge of NGOs and their experience in working with child survivors of trafficking. Therefore, monitoring and evaluation should be an integral part of every assistance programme, public and private.

9. **Take advantage of lessons learned from monitoring and evaluation for policy and programme changes.** Research fulfils a number of roles, one of which is to offer an independent and critical assessment of current policy and practice. Well-designed monitoring and evaluation studies, particularly external evaluations, can identify effective policies and “best practice” approaches as well as assess the success of different programmes. There is also a need to establish a forum where the lessons learned can be shared among policy makers and service providers.

## NOTES

1. The conference was organized by the Migration and Refugee Services (MRS) of the US Conference of Catholic Bishops and the Institute for the Study of International Migration (ISIM) at Georgetown University, held in Miami, Florida from 30 April to 2 May 2003.
2. “Unaccompanied Alien Children” are defined by the HSA as children without lawful immigration status in the United States who have not attained 18 years of age, and who have no parents or legal guardians in the United States, or no parents or legal guardians in the United States who are available to provide care and physical custody (Nugent and Schulman, 2003).
3. HSA § (b)(1).
4. TVPA § 102(a).
5. TVPA § 107(c).
6. TVPA § 112.
7. Eligibility for new “T” non-immigrant status, Interim Regulations, 67 FR 4785.
8. Victims of a severe form of trafficking are defined by Section 103 of the TVPA. To be a “victim of a severe form of trafficking in persons”, an individual must: (1) have been recruited, harbored, transported, provided, or obtained for labor or services, or the purposes of a commercial sex act; and (2) there must have been some force, fraud, or coercion involved to make the victim engage in the labour or services or the commercial sex act (except that there need not be any force, fraud, or coercion in

- cases of commercial sex acts where the victim is under age 18); and (3) for situations involving labour or services, the use of force, fraud, or coercion must be for the purpose of subjecting the victim to involuntary servitude, peonage, debt bondage, or slavery.
9. This information is taken from meeting notes.
  10. Eligibility for New “T” Non-immigrant Status, Interim Regulations, 67 FR 4785.

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