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The Trafficking Victims Protection Act at 20: A Look Back – **and a Look Ahead**

Tom Lantos Human Rights Commission Hearing
Excerpts of Remarks
Rep. Chris Smith, Co-Chairman
January 15, 2020

This year marks the twentieth anniversary of the *Trafficking Victims' Protection Act* (TVPA), and the occasion provides an opportunity for reflection and assessment of the TVPAs efficacy, accomplishments and limitations. It also provides us with an opportunity to think about future challenges, many of which could not have been anticipated twenty years ago, such as how ever-evolving technology is being utilized by both traffickers, for their nefarious purposes, and also law enforcement, as it seeks to protect the vulnerable and exploited.

But first a look back.

Though it is hard to believe it now, when I first introduced the TVPA, the legislation was met with a wall of skepticism and opposition—dismissed by many as a solution in search of a problem. Several Members of Congress turned me down when I asked them to cosponsor the bill. For most people at that time—including lawmakers—the term trafficking applied almost exclusively to drugs and weapons, not human beings.

Reports of vulnerable persons—especially women and children—being reduced to commodities for sale were often met with surprise, incredulity or indifference.

My legislation—the *Trafficking Victims Protection Act* signed into law in the year 2000, created a new whole-of-government domestic and international strategy and established numerous new programs to **protect victims**, **prosecute traffickers** and to the extent possible, **prevent it** in the first place—the three Ps.

The *Trafficking Victims Protection Act* included a number of “sea change” criminal code reforms including treating as a victim—and not a perpetrator of a crime—anyone exploited by a

commercial sex act who had not attained the age of 18 and anyone older where there was an element of force, fraud or coercion.

The TVPA radically reformed the US criminal code to authorize asset confiscation and jail sentences of up to life imprisonment.

Included among the historic reforms:

- Section 1590 of the Act—Trafficking with respect to peonage, slavery, involuntary servitude or forced labor—stipulates that “Whoever knowingly recruits, harbors, transports, provides or obtains by any means, any person for labor or services ...shall be fined ...or imprisoned not more than 20 years.”
- Section 1591 of the Act—Sex trafficking of children or by force, fraud or coercion—stipulates that “Whoever knowingly, in or affecting interstate commerce, recruits, entices, harbors, transports, provides, or obtains by any means a person; or benefits, financially or by receiving anything of value...” shall be liable up to 20 years imprisonment, and a fine if the victim has not attained the age of 18 or if 18 or older, if there was an element of force, fraud or coercion. A violation against a child who has not attained the age of 14 carries up to life imprisonment.

Thousands of human traffickers have been prosecuted and jailed pursuant to the *Trafficking Victims Protection Act* including all charges brought against Jeffrey Epstein and the infamous convictions involving the Smallville actress Allison Mack.

That said, believing that federal law needed parallel state and local statutes to effectuate an effective prosecution strategy, my law included new DOJ programs to assist states in crafting laws and authorized the creation of new anti-human trafficking task forces—today there are 57 task forces throughout the country.

In like manner, the TVPA provides law reform and best practices technical assistance to other countries. We want the whole world on the same page—with laws, policies and priorities that aggressively attacks this insidious evil.

The Act also included sheltering and a national hotline and on the refugee side, created a new asylum category—the T visa—to protect victims and their families.

Among its many other provisions, the *Trafficking Victims Protection Act* also created the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons, the U.S. State Department’s Trafficking in Persons Office and annual TIP report with its tier grading of every nation’s record in making “serious and sustained efforts” to eliminate human trafficking. Those relegated to what we call Tier 3—egregious violators—are subject to sanctions.

In 2008, I first introduced *International Megan's Law*. It passed the House in 2010, 2014, 2016—and, thankfully, finally cleared the United States Senate and was signed into law in 2016—eight years later!

As you may recall, Megan Kanka was from my hometown of Hamilton was just 7 years old when she was kidnapped, raped, and brutally murdered in 1994. Her assailant lived across the street. Unbeknownst to her family and other residents in the neighborhood, he was a convicted repeat child sex offender.

Megan's heartbroken-to-this day-parents—Maureen and Richard Kanka—have been amazingly effective, courageous and heroic in successfully pushing every state in the union including New Jersey to enact *Megan's Law*.

Why *International Megan's Law*? We know from law enforcement, academia and media documentation that Americans on the U.S. sex offender registries are frequently caught sexually abusing children in Asia, Central and South America, Europe, and, frankly, everywhere.

Indeed, this was a point made just yesterday, at an all-day conference on human trafficking held at the Department of Justice. One of our witnesses today, Ambassador John Cotton Richmond, was on the panel that discussed the international and transnational aspects of human trafficking.

The inherent secrecy of international travel enables child exploitation.

A deeply disturbing 2010 report by the Government Accountability Office (GAO) found that at least 4,500 U.S. passports were issued to registered sex offenders in fiscal year 2008 alone. Typically, a passport is valid for 10 years, meaning some or many of the tens of thousands of registered sex offenders possessing passports may be on the prowl internationally looking to exploit and abuse.

Now, under *International Megan's Law*, convicted child sex offenders who travel abroad must provide notice to the U.S. Government—via the Angel Watch Center—prior to departure of all planned destinations. Failure to do so carries a significant jail term commensurate with a convicted child sex abuser not reporting to local law enforcement. Upon receipt of the travel itinerary, the U.S. government informs the destination country or countries of those plans.

The destination country or countries are then empowered with actionable information to render the traveler inadmissible.

The law is working as intended. In just over two years, the U.S. government has notified foreign governments of the planned travel of 10,541 covered sex offenders to their countries. As of July—3,681 individuals who were convicted of sex crimes against children were denied entry by these nations.

Concerned that some may fail to include their true destination when filing—and out of an abundance of caution and concern for kids—their passports contain the following message that will not likely go unnoticed by border agents: **“The bearer was convicted of a sex offense against a minor and is a covered sex offender pursuant to 22 United States Code Section 212(b).”**

The Act also created a new policy of reciprocity—an attempt to get other countries to warn us when a convicted pedophile plans to travel to the United States, empowering us to deny entry.

Internationally, I serve as the Special Representative for Combatting Human Trafficking in the Parliamentary Assembly of the Organization for Cooperation and Security in Europe. I’ve offered 20 resolutions over the years beginning in 1999 in St. Petersburg, Russia which were approved—each focusing on new and effective strategies including *Megan’s Law* and *International Megan’s Law*- to be merged with each nation’s ongoing work.

Finally, last January, President Trump signed my fifth anti-human trafficking bill into law—*The Frederick Douglass Trafficking Victims Prevention and Protection Act*.

That law provides:

- Over \$430 million for numerous programs and initiatives;
- Shelter, interventions, and reintegration for trafficking victims;
- Facilitation of trafficking-free supply chains in U.S. commerce;
- Training of U.S. government procurement officials on how to mitigate buying goods and services associated with sex or labor trafficking; and
- Preference in federal government travel bookings for those airlines that have a viable situational awareness protocol in place to detect and report suspected trafficking occurrences.

Of particular importance, the new *Frederick Douglass Act* also authorizes the Secretary of Health and Human Services, in consultation with the Secretary of Education and the Secretary of Labor, to award grants to local educational agencies, in partnership with a nonprofit, nongovernmental agency, to establish, expand, and support programs:

- To educate school staff to recognize and respond to signs of sex and labor trafficking; and
- To provide age-appropriate information to students on how to avoid becoming victims of sex and labor trafficking.

Indeed, we will have as one of our witnesses today Katherine Chon from HHS, who will discuss among other items the implementation of the education provisions of the Frederick Douglas bill.

A number of NGOs have developed school courses including the Frederick Douglass Family Initiatives Project, A21, Just Ask, and the National Center for Missing and Exploited Children.

Such programs are a critically important way to inform, enlighten—and warn—our young people, making them situationally aware and hopefully preventing and reducing the number of future victims.

According to the International Labor Organization (ILO) one in four trafficking victims are children and more than 40 million individuals of all ages are living in slavery worldwide.

Out of the 24.9 million people trapped in forced labor, 16 million people are exploited in the private sector such as domestic work, construction or agriculture; 4.8 million persons in forced sexual exploitation, and 4 million persons in forced labor imposed by state authorities.

Women and girls are disproportionately affected by forced labor, and account for the majority of the victims in the commercial sex industry.

However, a 2013 report from ECPAT-USA (formerly End Child Prostitution and Trafficking) titled “And boys too”, concluded that the “scope of the commercial exploitation of boys is vastly underreported.” Lori Cohen, ECPAT’s executive director, will be among our witnesses today.

A 2016 study commissioned by the U.S. Department of Justice, found that up to 36 percent of the children forced into the U.S. sex industry were male.

According to the Polaris Project, sex trafficking within residences informally used as brothels typically involves child victims, with boys making up a growing percentage.

As we “look ahead” to the next twenty years, we need to be more aware of this exploitation of boys.

Today as never before, traffickers are using internet communication technologies (ICTs) to lure children into trafficking.

According to a National Center for Missing and Exploited Children study the average age of online enticement that can result in being trafficked was 15.

Hence the need to educate children, which is what the Frederick Douglass Act seeks to do.

We also need to be aware of how new technologies are used in financial transactions which seek to hide activities from the eyes of law enforcement.

At yesterday's panel discussion on international trafficking at the Department of Justice which I referenced previously, one of the DOJ's representatives, an expert in countering money laundering, touted how law enforcement is able to detect suspicious wire transfers and credit card transactions which are used in human trafficking. Great gains have been made in stopping this.

But what happens when traffickers seek to develop new ways to avoid detection? We are witnessing the increasing use of cryptocurrencies – Bitcoin being perhaps the most famous, but there are others – in an effort by traffickers and their patrons to avoid detection. There are also underground banking networks. Indeed, there are networks that have existed for centuries – the hawala system for example – which are very hard for law enforcement to detect.

Fortunately, we will have a witness on our second panel, Liat Shetret, who will address the use of cryptocurrencies. I also refer our panel and audience to a written submission which will be made part of the record from Dr. Louise Shelley from George Mason University on “Human Trafficking and the International Financial System.”

With that, I look forward to a very enlightening discussion, both looking back and looking ahead.