

Committee on Women's Issues

Finish Time	
Start Time	
Date	6-11-08

The William Wilberforce Trafficking Victims Protection Reauthorization Act that passed the House is an extremely strong bill that addresses many of the deficits in current law. Among other things, it ensures that countries cannot linger on the Tier II watchlist forever without slipping into Tier III and becoming subject to penalties; it eliminates the requirement that law enforcement must persuade a terrified victim to prove force, fraud or coercion; it makes sex tourism a crime; it eliminates the "I didn't know she was underage" defense so that a trafficker of children will face

signed January 10, 2006. worked to add a provision to address the demand side of trafficking to the reauthorization bill very conscious of where their country ranks in combating trafficking. I am proud of having giving law enforcement grounds to prosecute traffickers. Ambassadors who visit my office are government leverage against countries that are not doing enough to combat trafficking, and both within our borders and internationally. It has been a very successful tool, giving our In 2000 Congress passed the Trafficking Victims Protection Act to begin to address trafficking

in human flesh is often referred to as a growth industry. can be sold only once, but a human being can be sold over and over. Small wonder that the trade lucrative trade for organized crime, surpassed only by drug and gun trafficking. Drugs and guns victims of the modern day slave trade. Law enforcement tells us that this is the third most sense of hope. Forced into prostitution or compelled to labor with little or no wages, they are abused, raped, tortured, forcibly addicted to drugs. They lose their families, their freedom, their many people are trafficked within the United States. Victims lead a life of pure horror. Many are Department estimates that 17,500 individuals are trafficked into the United States each year, and annually, millions more if we include people who are trafficked within borders. The State Trafficking is a \$10 billion worldwide enterprise that subjugates roughly 800,000 people

to move so quickly. The city council is fortunate to have such extraordinary women. a group of activists and city council leaders to support this resolution. Finally, I particularly want thank my City Councilwoman, Jessica Lappin, who accepted my challenge and brought together has shown exceptional leadership on this issue, and she deserves our gratitude. I also want to Chairwoman Helen Sears for introducing this resolution and taking a stand on trafficking. She Thank you for giving me the opportunity to speak on this important issue. I want to thank

Testimony of Congresswoman Carolyn B. Maloney
Before the Women's Rights Committee
of the New York City Council
June 11, 2008

Washington, DC 20515-3214
House of Representatives
Congress of the United States



CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK
2331 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3214
COMMITTEES:
FINANCIAL SERVICES
GOVERNMENT REFORM
JOINT ECONOMIC COMMITTEE

DISTRICT OFFICES:
 1651 THIRD AVENUE
SUITE 311
NEW YORK, NY 10128
(212) 860-0606
 28-11 ASTORIA BOULEVARD
ASTORIA, NY 11102
(718) 932-1804
WEBSITE: www.house.gov/maloney

penalties whether law enforcement can prove the trafficker knew his victim's age or not; it includes a strong model law; and it provides a source of funding to assist domestic victims of trafficking. The House passed the bill by 405-2. The Senate has introduced legislation that mirrors the House bill in many respects but omits certain key provisions.

Since 2001, the Justice Department has prepared an Assessment of U.S. Government Efforts to Combat Trafficking in Persons describing what it is doing to combat human trafficking. It contains a wealth of information, including statistics that I find quite instructive. The total number of trafficking cases filed since 2001 is 123, resulting in a grand total of 238 convictions. In FY 2006, there were 98 convictions. When you consider the tens of thousands of trafficking victims, that's just a drop in the bucket. Furthermore, the number of cases the Department of Justice has opened has been falling since 2005 when it reached a high of 35. Trafficking is a crime with tens of thousands of victims; it is simply astonishing that we can manage so few convictions. Until the law treats this crime seriously, trafficking in persons will continue to flourish in the United States.

There are those who argue that labor trafficking is a bigger problem than sex trafficking. To them, I would simply point to the statistics: even with the stricter standard in place, there have consistently been more than twice as many prosecutions for sex trafficking than labor trafficking. For example, 85 individuals were charged with sex trafficking in FY 2006, compared with 26 individuals charged with labor trafficking. If the current impediments to proving sex trafficking were removed (e.g. the requirement of proving force, fraud or coercion, or the defense that a trafficker claims to be ignorant of a young victim's age), the law would be a more effective deterrent.

I applaud the New York City Council for calling for a strong anti-trafficking bill. I hope your resolution will become a model for similar resolutions across the country.



New York City Council
Committee on Women's Issues
Public Hearing
June 11, 2008

Testimony by Carol Smolenski,
Executive Director

Thank you to the New York City Council Committee on Women's Issues for holding this hearing giving us this opportunity to talk about the need to pass stronger federal anti-sex trafficking legislation, particularly anti-sex trafficking legislation that protects children. The William Wilberforce Trafficking Victims Protection Reauthorization Act that was passed in the House takes many positive steps toward strengthening the protection, prevention, and prosecution components of the TVPA; therefore, we urge that the Senate adopt the House Bill as is.

Who We Are: My organization is ECPAT-USA. ECPAT stands for End Child Prostitution, an international organization based in Bangkok. Since 1991 ECPAT has grown from working only on the problem of sex tourism in Asia to working against child sexual exploitation in all its forms all over the world. We now have branches in more than 70 countries.

What We Do: ECPAT-USA conducts research and training, raises awareness and undertakes advocacy campaigns to protect children commercial sexual exploitation and trafficking. For three years we co-sponsored the New York City Community Response to Trafficking Project with the International Organization for Adolescents. We have published three studies about child sexual exploitation and trafficking, both international and in the US and are currently preparing to publish another report about child trafficking to the US for domestic servitude.

ECPAT USA supports the amendments the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007 [H.R. 3887] makes to Chapter 117, title 18 of the United States Code, the chapter in which sex trafficking is codified as a criminal offense. We support the specific language in the new provision that states in relevant part: "In a prosecution under this subsection, the Government need not prove that the defendant knew that the person had not attained the age of 18 years."

This is important language. Men who sexually exploit children, especially men who exploit teens, invariably suggest that they should not be charged with child sexual exploitation because they did not know how old the victim was. In case after case of sexual exploitation of teens, men

are not charged because of their supposed lack of "knowledge". Knowledge of age is simply too nebulous a concept to consistently and convincingly prove.

It is true that trafficked children carry fake IDs given to them by pimps, and lie to johns and law enforcement officers alike. But it is still important to recognize these children as victims, exploited by the pimps and johns, and not to allow men who use them and abuse them to walk away, claiming "I didn't know she was 13 years old."

Even when victims do reveal that they are under age 18, it is too easy for their exploiters to claim that they had no idea the prostituted child from whom they purchased sex was indeed a child. An article from the *New York Post* outlines the assertion that was so easy for pimps and commercial sex purchasers to make to avoid prosecution under the previous language of the TVPRA--23-year-old Brooklyn man pimped, beat and raped girls ages 11, 13, 14 and 17. Of an 11-year-old girl he peddled under the name "Sweets," he claimed, "I thought she was 19." Under the William Wilberforce House bill, sex abusers would no longer be able to continue prostituting and raping children simply because they "didn't know."

For this reason, the House version's elimination of the "knowledge" requirement should prove to make the TVPRA a much more effective prosecutorial tool in the quest to eradicate the commercial sexual exploitation of children. Therefore, ECPAT-USA strongly supports a resolution that encourages the Senate to include an identical provision eliminating the "knowledge" requirement in its version of the TVPRA so that all child abusers, both those who are honest about their intentions to exploit children as well as those who are not, may be prosecuted and punished for the trauma they have inflicted on their child victims.

ECPAT USA commends the Senate's TVPRA bill for addressing the acute need for increased access to victim services for all trafficked children, regardless of nationality or alienage. It is particularly important that the Senate, like the House, has outlined a plan to accord child victims access to interim services while the official determination of their trafficking victim status is pending. Finally, the Senate's categorization of sex tourism as an independent criminal offense is significant; however, ECPAT advocates for the Senate to include, as the House has done, increased punishments for sex tourism offenders when the commercial sex act is performed with a child.

If the Senate were to incorporate these two heightened protections for child trafficking victims—eradication of the "knowledge" component and increased punishments for sex tourism offenders—when children are involved—into its version of the bill, this would allow the TVPRA to inch closer to finally achieving its three-prong goal: to prosecute offenders, to protect victims, and to prevent trafficking.

Thank you for the opportunity to submit this testimony today.

**STATEMENT OF JESSICA NEUWIRTH
PRESIDENT OF EQUALITY NOW
TO THE NEW YORK CITY COUNCIL 6/11/08**

I want to start by thanking the New York City Council for this

opportunity to testify on the subject of the William Wilberforce Trafficking Victims Protection Reauthorization Act (the TVPRA). My name is Jessica Neuwirth, and I am the President of Equality Now, an international human

rights organization working for the protection and promotion of the rights of women and girls worldwide. Equality Now has been deeply involved in the fight against sex trafficking for more than fifteen years, and is a member of the Steering Committee of the New York State Anti-Trafficking Coalition, which advocated successfully for the passage of a strong state law against human trafficking here in New York. The issue today is whether or not we will see similarly strong legislation at the federal level. We need your help.

In December of 2007, by a vote of 405-2, the House passed a bill that reauthorized the Trafficking Victims Protection Act of 2000, the TVPA.

This bill, HR 3887, creates a coherent and comprehensive legal framework for the criminal prosecution of human trafficking and addresses some of the problems with the TVPA that have greatly limited its effectiveness in the prosecution of sex trafficking. Today I am going to talk about the particular difficulties in prosecuting sex trafficking cases – Equality Now focuses primarily on sex trafficking as most victims of sex trafficking are women

and girls.

The TVPA has not been an effective tool for law enforcement in sex

trafficking prosecutions over the last seven years since it was passed because the "force, fraud, or coercion" requirement in the law is very difficult to

prove, even when the conduct does constitute force, fraud, or coercion. Such

prosecutions rely heavily on victim testimony, which puts a huge burden on victims, who are afforded little protection under the law. In addition to being under direct threat themselves, trafficking victims often have family back in their country of origin under threat; these and many other kinds of coercive pressure, which is very real and very frightening, often prevents them from testifying. Brutalized by rape and violence, passed from trafficker to trafficker, and sold again and again in prostitution, these women are often broken by the force that has been used against them – it would be a grave injustice to mistake their submission for consent. It is not consent but it makes force, fraud and coercion very difficult to prove.

In the six years after the TVPA passed, less than 70 cases of sex trafficking were successfully prosecuted – 70 cases over six years. The Justice Department has reported more than 70 cases of sex trafficking – it has reported thousands of cases. Most of these cases are cases they have brought under the Mann Act because the Mann Act does not require proof of “force, fraud or coercion.” It merely requires proof that the trafficker moved a person across state lines for the purpose of prostitution. These are cases that the Justice Department has itself identified as trafficking cases, and what the House bill does is to integrate the Mann Act into the TVPA to give us a consolidated and comprehensive legal framework. It also removes the interstate transport requirement – this requirement is not in the TVPA, which defines “sex trafficking” as “the recruitment, harboring, transportation, provision, or obtaining a person for the purpose of a commercial sexual act.” This is the definition in Section 103(9) of the TVPA passed in 2000. In 2000, however, the Congress limited the criminal prosecution of trafficking to what is called “severe forms of trafficking” and that is where the force, fraud and coercion requirement came in. We believe the federal government

should be prosecuting all sex trafficking, not just severe forms of sex

trafficking, and in doing so it will be much easier to prosecute severe forms of sex trafficking as well for the reasons I have mentioned. The House bill retains force, fraud and coercion as an aggravated sex trafficking offence. The Department of Justice has expressed concern that there are

inadequate resources to address anything but the most severe forms of sex trafficking and consider anything else to be "unnecessary and a diversion from Federal law enforcement's core anti-trafficking mission."¹ The

Department of Justice further claims that its "record during the last six years demonstrates its success in investigating and prosecuting trafficking and related crimes and in convicting and securing appropriate sentences for

traffickers."² These statements, and the views of the Department of Justice as expressed regarding H.R. 3887, indicate that the Department of Justice believes it is doing an effective job in combating human trafficking. We

strongly disagree.

The Justice Department and no doubt even some of the advocacy

groups you will hear from today want us to keep sex trafficking and

prostitution separate. They do not want to recognize the overlap between

sex trafficking and prostitution. While it is true that not all women in

prostitution have been trafficked, it is also true that all sex trafficking

victims are trafficked into prostitution. The pimps who buy and sell these

trafficking victims are part of the global sex trafficking distribution network.

Yet there seems to be a reluctance to identify these pimps as sex traffickers –

the question is why? Critics of the House bill claim that the bill "federalizes

prostitution". It does no such thing. The crime of prostitution is nowhere in

¹ Department of Justice letter to The Hon. John Conyers, dated November 9, 2007, p. 9.

² Ibid, p. 8

the bill. The House bill recognizes that many pimps are sex traffickers and integrates the crime of pimping into the sex trafficking legislative framework, that is a reflection of reality – not only the reality of sex trafficking but even the reality of the Justice Department's sex trafficking cases to date. It is not the enormous expansion of the TVPA that the Justice Department claims. As I quoted earlier, the TVPA definition of sex trafficking is not limited to cases of force, fraud or coercion.

There is no reason in public policy or otherwise to protect pimps who are buying and selling women from the scope of federal jurisdiction, especially as it is the current federal pimping law that is currently being used in most sex trafficking cases. The House held hearings and understood this. The bill it passed, championed by Representative Carolyn Maloney, is strong and will really aid us in the struggle to end sex trafficking. We would like to see the Senate bill reflect the same strength and it is our great hope that New York's senators, particularly Senator Schumer who serves on the Judiciary Committee, will help us. The Steering Committee of the New York State Anti-Trafficking Coalition has asked him to sponsor amendments to the Senate bill, which does not include the criminal justice provisions I have described. We hope you will join us in urging our Senators to bring the progressive thinking of our New York anti-trafficking law, the strongest in the country, into the federal system. Thank you.

June 11, 2008

Good morning. Thank you to Helen Sears, Sarah Gonzalez, the Women's

Issues Committee, the Juvenile Justice Committee, and Speaker Christine Quinn

(NYC Council) for providing us with a forum to discuss this vitally important issue.

My name is Ivy Suriyopas. I am a staff attorney with the Asian American Legal

Defense and Education Fund (AALDEF), and I direct the Anti-Trafficking

Initiative. I provide direct legal representation for both sex and labor trafficking

survivors, conduct community education, and engage in policy advocacy.

AALDEF is a member of the NY Anti-Trafficking Network (NYATN).

S.3061, the Senate version of the Trafficking Violence and Protection

Reauthorization Act (TVPRA) submitted by Senators Biden and Brownback,

supports trafficking survivors far more effectively than **H.R. 3887**. I strongly

recommend that the Council of the City of New York **not pass Proposed**

Resolution 1329-A, urging the United States Senate to pass the United States

House of Representatives' version of the William Wilberforce TVPRA. **In the**

alternative, the New York City Council can amend Proposed Resolution

1329-A to urge Congress to pass S.3061, the Senate version of the TVPRA.

The Thirteenth (13th) Amendment of the US Constitution prohibits slavery and

involuntary servitude. Acknowledging that human trafficking is a form of

"modern-day slavery," the TVPA statutorily recognized labor and sex trafficking

as part of these federal proscriptions against forced labor. The TVPRA defines

'human trafficking,' in part, as involving "force, fraud, or coercion" for both labor and sex trafficking. This definition is consistent with the United Nations' definition that includes "threat or use of force or other forms of coercion . . . [and] fraud."¹ And this definition has been successfully used by federal law enforcement and immigration authorities since the statute's passage in 2000.

H.R. 3887, in contrast, removes the "force, fraud, or coercion" element of 'sex trafficking' from the purview of the 13th Amendment and inserts its provisions into the Mann Act.² In effect, this change would equate sex trafficking with prostitution and require federal authorities to investigate and prosecute prostitution-related offenses. The conflation of sex trafficking with prostitution would undermine the role of state and local authorities to prosecute these offenses and harm human trafficking survivors who need benefits, services, and assistance.

The US Department of Justice issued a letter in November 2007 that listed its "significant concerns" and ultimate opposition to H.R. 3887. Expansion of the Mann Act would effectively federalize pandering, pimping, and prostitution-related offenses historically prosecuted at the state and local levels. H.R. 3887 would add profound pressure to limited federal resources when state and local

¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, Art 3.
² Perpetrators would include "whoever knowingly, in or affecting interstate . . . commerce, . . . persuades, induces, or entices any individual to engage in prostitution, for which any person can be charged with an offense, or attempts to do so." Proposed Section 221(f)(1) of H.R. 3887.

June 11, 2008

authorities already have the experience, expertise, and resources to address prostitution-related offenses.

The vast majority of my cases involve human trafficking survivors who are willing to assist law enforcement authorities in the investigation and prosecution of traffickers. Passage of H.R. 3887 would reduce the ability of authorities to effectively work on cases involving severe forms of trafficking in persons. The

vast majority of my cases involve labor trafficking. Passage of H.R. 3887 will

likely shift resources away from this oppressive form of abuse and exploitation. The vast majority of my cases involve female trafficking survivors. Passage of

H.R. 3887 will likely shift resources away from trafficking survivors who are disproportionately female. Again, I strongly recommend that the Council of the

City of New York not pass Proposed Resolution 1329-A. In the alternative,

the New York City Council can amend Proposed Resolution 1329-A to urge Congress to pass S.3061, the Senate version of the TVPRA.

Thank you again for your time.

The Sex Workers Project at the Urban Justice Center thanks you for this opportunity to present our recommendations for the New York City Council's support of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.

The Sex Workers Project (SWP) is the first program in New York City and in the country to focus on the provision of legal services, legal training, documentation, and policy advocacy for sex workers. The SWP's program on trafficking in persons advises and represents trafficking victims in legal cases; informs and educates immigrant communities about the issue of trafficking and possible legal options; and trains attorneys on this issue. The SWP also coordinates with various law enforcement agencies to better identify victims of trafficking, and to ensure that trafficked persons who cooperate with law enforcement are protected through the legal process. Finally, we collaborate with other non-governmental organizations to advocate for trafficking-related policies that focus on the human rights of trafficked persons and respect

123 William Street, 16th Floor
 New York, New York 10038
 T: 646/602.5626
 spatel@urbanjustice.org

Staff Attorney
 Sex Workers Project
 Urban Justice Center
 Steering Committee Member
 NY Anti-Trafficking Network
 Member
 Freedom Network

Testimony of Sapna Patel, Esq.

June 11, 2008

**WOMEN'S ISSUES COMMITTEE AND JUVENILE JUSTICE COMMITTEE
 PUBLIC HEARING**

The New York City Council

Urban Justice Center
 123 Williams Street, 16th Floor
 Tel: (646) 602-5626 • Fax: (212) 533-4598



2
Furthermore, H.R. 3887 drains already overtaxed resources of the DOJ. Currently, even though trafficked persons working with the Sex Workers Project are willing to cooperate and seek justice, federal law enforcement has been unable to investigate and prosecute these cases due to the large volume of victim reports. Including consensual adult prostitution as a crime that DOJ must focus on while already covered by

As written, H.R. 3887 alters the definition of what constitutes human trafficking in a way that is drastically different than current federal and international laws and norms by eliminating force, fraud or coercion as elements of trafficking. Creating a new definition of trafficking that eliminates force, fraud or coercion does not protect victims by minimizing their testimonial burdens. In fact, the Department of Justice (DOJ), and service providers can attest to this, state that the main difficulty is not proving elements of force, fraud or coercion but rather securing witness testimony. In working with victims, SWP has found that many trafficked persons, once stabilized with housing, medical care, work authorization and the elimination of the threat of deportation, are willing to participate in the investigation and prosecution of the traffickers and do wish to seek justice as part of the healing process.

The Sex Workers Project strongly encourages the New York City Council to actively oppose House Bill 3887 as it unnecessarily broadens the federal Mann Act thus inaccurately equating every instance of adult prostitution to a form of modern-day slavery. In moving "sex trafficking" into the Mann Act, H.R. 3887 shifts the focus of the federal government from prosecution of 13th amendment related crimes, such as peonage, slavery, and trafficking in persons, to prostitution offenses where individuals can leave their situation and do not see themselves as victims of a crime.

II. PROBLEMATIC PROVISIONS IN HOUSE BILL 3887

We encourage the New York City Council to support Senate Bill 3061 as the included provisions greatly enhance protections for human trafficking victims and strengthen the government's ability to prevent and prosecute cases. The enhanced provisions include broadening continued presence protections for family members and those victims seeking civil actions, waiving the good moral character bar, providing resources and protection to those sponsored by diplomats, and excepting the requirement of cooperation for victims who experience severe trauma. Most importantly, Senate Bill 3061 ensures that the definition of human trafficking is protected and that it will continue to focus on the horrific crime of trafficking rather than on state-level prostitution.

I. ENHANCED PROTECTIONS UNDER SENATE BILL 3061

Based on experience working directly with over 100 trafficked persons and through long-term relationships with them, SWP encourages the New York City Council to *SUPPORT Senate Bill 3061* and to *OPPOSE House Bill 3887*.
The SWP applauds the efforts of the New York City Council to address the problem of human trafficking at the local level. Given that New York City is a hub for this severe violation of human rights, it is critical that all trafficked persons here receive much needed services outlined and expanded in the Senate Bill 3061, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.
The SWP is a member of the national Freedom Network and the NYC Anti-Trafficking Network (Co-Chair, Policy & Advocacy Committee; Member, Steering and Legal Committees).

Thank you for offering advocates such as the Sex Workers Project and other members of the NY Anti-Trafficking Network an opportunity to share our expertise and our concerns with you as you consider supporting the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.

Your support of Senate Bill 3061 of the reauthorization of TVPRA will directly and positively affect trafficked persons in New York City and enable them to access much needed services without scarce resources being re-directed to persons who are not victims of trafficking.

In conclusion, the Sex Workers Project of the Urban Justice Center encourages members of the New York City Council to support Senate Bill 3061 and actively oppose House Bill 3887. Policies and laws, such as H.R. 3887, that are created based on misinformed ideologies that do not reflect the realities on the ground must not be supported. SWP urges the New York City Council to stand against anti-prostitution measures that couch themselves as anti-trafficking. This type of advocacy only serves to harm trafficked persons in the sex industry and in the general labor sectors where a majority of persons are trafficked.

IV. CONCLUDING REMARKS

The Sex Workers Project stands firm in our opposition of H.R. 3887 with the following allies: Department of Justice, Fraternal Order of Police, National Association of Attorneys General, National District Attorneys Association, New York Anti-Trafficking Network, Freedom Network and the National Asian Pacific American Women's Forum.

III. ALLIES IN OPPOSITION TO HOUSE BILL 3887

state law enforcement, dilutes already scarce prosecutorial resources and makes the current lack of opportunities for trafficked persons to seek justice even worse.

Lastly, increased criminalization of the sex industry by the federal government will exacerbate the violation of human rights against US citizens and migrants, including those persons in the sex industry due to circumstance for lack of livable economic options and trafficked persons. Mandating the federal government to enforce prostitution offenses will result in more arrests of people who are trafficked – the very people this law intended to protect. Already, state law enforcement, in their efforts to “rescue” trafficked persons in the sex industry, raid brothels that culminate in detaining many trafficked persons who are terrified to speak out against their abusers for fear of retribution and keep silent due to grave mistrust of U.S. law enforcement. Requiring federal law enforcement to build-upon ineffective local raids will only lead to the exacerbation of victims being arrested as criminals instead of being rescued and directed to social services.

The Sex Workers Project (SWP) is the first program in New York City and in the country to focus on the provision of legal services, legal training, documentation, and policy advocacy for sex workers. The SWP's program on trafficking in persons advises and represents trafficking victims in legal cases; informs and educates immigrant communities about the issue of trafficking and possible legal options; and trains attorneys on this issue. The SWP also coordinates with various law enforcement agencies to better identify victims of trafficking, and to ensure that trafficked persons who cooperate with law enforcement are protected through the legal process. Finally, we collaborate with other non-governmental organizations to advocate for trafficking-related policies that focus on the human rights of trafficked persons and respect

The Sex Workers Project at the Urban Justice Center thanks you for this opportunity to present our recommendations for the New York City Council's support of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.

123 William Street, 16th Floor
 New York, New York 10038
 T: 646/602.5626
 spatel@urbanjustice.org

Member
 Freedom Network
 Steering Committee Member
 NY Anti-Trafficking Network
 Staff Attorney
 Sex Workers Project
 Urban Justice Center

Testimony of Sapna Patel, Esq.
 June 11, 2008

The New York City Council
 MEN & ISSUES COMMITTEE AND JUVENILE JUSTICE COMMITTEE
 PUBLIC HEARING

Urban Justice Center
 123 Williams Street, 16th Floor
 Tel: (646) 602-5626 • Fax: (212) 533-4598

Furthermore, H.R. 3887 drains already overtaxed resources of the DOJ. Currently, even though trafficked persons working with the Sex Workers Project are willing to cooperate and seek justice, federal law enforcement has been unable to investigate and prosecute these cases due to the large volume of victim reports. Including consensual adult prostitution as a crime that DOJ must focus on while already covered by

As written, H.R. 3887 alters the definition of what constitutes human trafficking in a way that is drastically different than current federal and international laws and norms by eliminating force, fraud or coercion as elements of trafficking. Creating a new definition of trafficking that eliminates force, fraud or coercion does not protect victims by minimizing their testimonial burdens. In fact, the Department of Justice (DOJ), and service providers can attest to this, state that the main difficulty is not proving elements of force, fraud or coercion but rather securing witness testimony. In working with victims, SWP has found that many trafficked persons, once stabilized with housing, medical care, work authorization and the elimination of the threat of deportation, are willing to participate in the investigation and prosecution of the traffickers and do wish to seek justice as part of the healing process.

The Sex Workers Project strongly encourages the New York City Council to actively oppose House Bill 3887 as it unnecessarily broadens the federal Mann Act thus inaccurately equating every instance of adult prostitution to a form of modern-day slavery. In moving "sex trafficking" into the Mann Act, H.R. 3887 shifts the focus of the federal government from prosecution of 13th amendment related crimes, such as peonage, slavery, and trafficking in persons, to prostitution offenses where individuals can leave their situation and do not see themselves as victims of a crime.

II. PROBLEMATIC PROVISIONS IN HOUSE BILL 3887

We encourage the New York City Council to support Senate Bill 3061 as the included provisions greatly enhance protections for human trafficking victims and strengthen the government's ability to prevent and prosecute cases. The enhanced provisions include broadening continued presence protections for family members and those victims seeking civil actions, waiving the good moral character bar, providing resources and protection to those sponsored by diplomats, and excepting the requirement of cooperation for victims who experience severe trauma. Most importantly, Senate Bill 3061 ensures that the definition of human trafficking is protected and that it will continue to focus on the horrific crime of trafficking rather than on state-level prostitution.

I. ENHANCED PROTECTIONS UNDER SENATE BILL 3061

Based on experience working directly with over 100 trafficked persons and through long-term relationships with them, SWP encourages the New York City Council to *SUPPORT Senate Bill 3061* and to *OPPOSE House Bill 3887*.

The SWP applauds the efforts of the New York City Council to address the problem of human trafficking at the local level. Given that New York City is a hub for this severe violation of human rights, it is critical that all trafficked persons here receive much needed services outlined and expanded in the Senate Bill 3061, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.

Network (Co-Chair, Policy & Advocacy Committee; Member, Steering and Legal Committees). The SWP is a member of the national Freedom Network and the NYC Anti-Trafficking

Thank you for offering advocates such as the Sex Workers Project and other members of the NY Anti-Trafficking Network an opportunity to share our expertise and our concerns with you as you consider supporting the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007.

Your support of Senate Bill 3061 of the reauthorization of TVPRA will directly and positively affect trafficked persons in New York City and enable them to access much needed services without scarce resources being re-directed to persons who are not victims of trafficking.

In conclusion, the Sex Workers Project of the Urban Justice Center encourages members of the New York City Council to support Senate Bill 3061 and actively oppose House Bill 3887. Policies and laws, such as H.R. 3887, that are created based on misinformed ideologies that do not reflect the realities on the ground must not be supported. SWP urges the New York City Council to stand against anti-prostitution measures that couch themselves as anti-trafficking. This type of advocacy only serves to harm trafficked persons in the sex industry and in the general labor sectors where a majority of persons are trafficked.

IV. CONCLUDING REMARKS

The Sex Workers Project stands firm in our opposition of H.R. 3887 with the following allies: Department of Justice, Fraternal Order of Police, National Association of Attorneys General, National District Attorney's Association, New York Anti-Trafficking Network, Freedom Network and the National Asian Pacific American Women's Forum.

III. ALLIES IN OPPOSITION TO HOUSE BILL 3887

state law enforcement, dilutes already scarce prosecutorial resources and makes the current lack of opportunities for trafficked persons to seek justice even worse.

Lastly, increased criminalization of the sex industry by the federal government will exacerbate the violation of human rights against US citizens and migrants, including those persons in the sex industry due to circumstance for lack of livable economic options and trafficked persons. Mandating the federal government to enforce prostitution offenses will result in more arrests of people who are trafficked – the very people this law intended to protect. Already, state law enforcement, in their efforts to “rescue” trafficked persons in the sex industry, raid brothels that culminate in detaining many trafficked persons who are terrified to speak out against their abusers for fear of retribution and keep silent due to grave mistrust of U.S. law enforcement. Requiring federal law enforcement to build-upon ineffective local raids will only lead to the exacerbation of victims being arrested as criminals instead of being rescued and directed to social services.

**New York City Council Hearing: William Wilberforce Trafficking Victims
Protection Reauthorization Act (TVPRA) of 2007**

6/11/2009

Thank you Chairpersons Helen Sears and Sarah Gonzalez and the members of the Women's Issues Committee and Juvenile Justice Committee. Thank you also to Speaker Quinn and the other New York City Council members for providing the context for these remarks.

It is a pleasure to be here with you today to discuss the reauthorization of the

Federal Trafficking Victims Protection Act. My name is Jennifer Dreher and I am the Senior Director for Safe Horizon's Anti-Trafficking Program. Safe Horizon is the

nation's leading victim assistance organization and serves over 350,000 people each year who have been touched by violence. Whether we are responding to child abuse, domestic violence, or other violent crimes like human trafficking, we help victims and their

families heal and rebuild their lives.

Since 2001, our Anti-Trafficking Program has provided services to nearly 300 survivors of human trafficking and their family members. We have assisted people from over 60 countries - women, men and children who have been forced into involuntary

servitude involving commercial sex acts, domestic servitude and a variety of other labor situations, including factory work, restaurant work, and peddling. While the majority of trafficking survivors we work with are women, 20% of our clients have been men. Sixty percent of our cases involve labor servitude while almost 40% involve commercial sex acts. Our multilingual, highly trained staff assists survivors through an intensive case

management intervention and legal services model that provides necessary services and referrals for other supports. I am proud to say that Safe Horizon's experience in service provision was recognized when we were chosen to be a regional service provider for the New York State Response to Human Trafficking Program and to train the State's other regional service providers.

In addition, thanks to the generous support of Council Member Sears, Safe Horizon was designated \$350,000 by the City Council this year to provide vital support to survivors including case management, legal representation, reunification with family members and housing options in order for clients to create a life free of the bonds of human trafficking; as well as to train approximately 900 professionals on how to identify victims of human trafficking and the best ways to refer them for services.

The focus of my testimony will address Safe Horizon's support of the Senate Bill S.B. 3061 and the unintended consequences of the House Bill H.R. 3887 to reauthorize the federal Trafficking Victims Protection Act. Safe Horizon's position is in line with the US Department of Justice, the National Association of Attorneys General, and other law enforcement groups such as the Fraternal Order of Police. In addition, we are supported by the New York Anti-Trafficking Network and the Freedom Network (USA), networks of over 100 leading social and legal service providers who work directly with survivors of human trafficking. Together, we serve the majority of discovered trafficked persons in the United States.

Safe Horizon recognizes that all of those who will provide testimony today do so because we are committed to ending the heinous crime of human trafficking and ensuring

that survivors are provided access to critical services that protect their safety and dignity and empower human trafficking survivors to live a life free from violence and exploitation. However, Safe Horizon believes that the House Bill H.R. 3887 will have severe and unintended consequences that will be counterproductive to this shared cause. In particular, we make the following observations:

1. H.R. 3887 considerably alters the definition of what constitutes human trafficking. This provision will have substantial negative impact on many victims, particularly those likely to access assistance.

H.R. 3887 removes “force, fraud, or coercion,” the means by which a trafficker keeps control of their victim, from the definition of sex trafficking. In fact, force, fraud and coercion are the cornerstones of what constitutes trafficking; trafficking can not exist without the means by which a trafficked person is controlled. This altered definition is drastically different from current state, federal and international laws and norms. Persons under the age of eighteen engaged in prostitution *already* qualify for protection under the existing law without having to prove force, fraud or coercion. Removing force, fraud, or coercion of adults from the definition dilutes the strength of a powerful tool to protect human trafficking victims: people who have been compelled against their will into commercial sex acts or labor and who are not free to leave their situation by equating every instance of adult prostitution to a form of modern-day slavery. The intent of the original law is to address people who are forced against their will, many of whom are brought from other countries, to work under slave-like conditions. The means by which a person is controlled-force, fraud or coercion-is a key element in separating the severe

and heinous crime of trafficking from other forms of exploitation. In removing force, fraud or coercion, the ability of the Department of Justice to locate, investigate and protect victims of this most heinous human rights violation would be undermined by an influx of cases where people may not even identify as a crime victim.

It has been argued that the removal of force, fraud or coercion from the definition of sex trafficking is necessary to facilitate prosecutions against traffickers when victims are too terrified to testify or participate in the criminal justice process, or that fraud and coercion are too difficult to prove. The Department of Justice has stated that the main difficulty is not proving force, fraud or coercion, but rather, securing witness testimony. In our experience working on hundreds of cases, victims are willing and able to testify once they receive critical, stabilizing social and legal services. Once they understand their rights as a victim of crime, our clients often seek out opportunities to bring their traffickers to justice. It should also be noted that testimony from victims in trafficking cases is not *required* in the current federal law or in the Senate Bill. Many trafficking cases have been successfully prosecuted without trafficked victims having to testify before their trafficker in a trial. Trafficking victims choose to participate in the criminal justice process in many less threatening ways, including conducting interviews with law enforcement, giving victim impact statements and testifying before a grand jury. In fact, participating in the criminal justice process can be therapeutic and empowering for many survivors.

2. H.R. 3887 separates labor and sex trafficking by moving the real crime of sex trafficking from the list of 13th Amendment slavery crimes and relocating it to the Mann Act which criminalizes the transportation of persons across state lines for the purpose of prostitution. This could undermine the fight against all forms of human trafficking.

Separating trafficking for commercial sex from other forms of trafficking may have the unintended consequence of labor trafficking receiving less attention and resources. In addition, prosecutors often need to utilize all sections of the anti-trafficking statute, which would not be possible if the crime of sex trafficking was relocated. More than half of human trafficking victims have been held in labor servitude. Although Safe Horizon is opposed to removing force fraud or coercion from the definition of sex trafficking, the H.R. 3887 move to alter the sex trafficking definition and *not* the labor trafficking definition could be perceived as prioritizing the victimization of people trafficked for sex over those trafficked for labor. Just because a person is forced to work in the labor industry as opposed to the sex industry does not protect them from sexual violence. Quite the opposite is true; in fact, the majority of Safe Horizon's labor trafficking clients have also experienced forms of severe sexual violence including rape and forced abortions. They are just as vulnerable to sexually transmitted diseases and unintended pregnancy as those trafficked into the sex industry. People trafficked into domestic servitude, a labor trafficking offense, are often made to be the personal sex slave of their trafficker. Unfortunately, because this is not *commercial* sexual activity, it does not appear to merit the same gravity in H.R. 3887.

In addition, we know that many people are originally trafficked into the labor industry to work in strip clubs or as bar girls and slowly find themselves being forced into prostitution. If they are fortunate enough to escape their situation before engaging in prostitution, under H.R. 3887 the victim would be held to a separate standard of proof than if they had not escaped until the situation turned from labor trafficking to sex trafficking.

Finally, by separating the crimes and altering the definition of sex trafficking, H.R. 3887 implies that the victimization of those trafficked for sex is worse than the victimization of people trafficked for labor, and that sex trafficking victims are more terrified to testify against their trafficker(s). The bifurcated definitions of labor and sex trafficking in H.R. 3887 would not lessen the burden of proof or ease the terror of testifying for "Kati", a young woman who was lured into a trafficking scheme trying to escape the civil war killing thousands of innocent people in her home country. "Kati" found herself in slave-like conditions forced to work under horrific circumstances cooking, cleaning and caring for her trafficker's children as a domestic servant. "Kati" was never allowed to leave the home or communicate with anyone outside. She was forced to sleep on the floor and was only fed the scraps left over from the children's meals. When she complained, she was severely beaten. Her trafficker, the man of the house, brutally raped her ever week for several years. Once she escaped, "Kati's" family back home received threats and her sister was amputated as a message for "Kati" not to cooperate with police. Her traffickers were related to powerful people in her home country and a jujitsu course was cast upon her family, exiling them from the community.

Under H.R. 3887 “Kati” would be required to prove that she was forced, frauded or

coerced into her situation in order to receive benefits and services whereas as an adult

involved in consensual prostitution would receive those same benefits and services

without the burden of proof.

Again, Safe Horizon firmly believes that force, fraud or coercion must be present

in the definition of human trafficking, but H.R. 3887’s elimination of this litmus test from

sex trafficking and not labor trafficking sends a clear message that labor trafficking

offenses are not considered as serious.

As a service provider who witnesses the impact of human trafficking on its

victims and their families each and every day, I urge you to ensure that the TVPRA of

2007 remains true to the vision of the original law. Safe Horizon supports Senate Bill

3061 and the efforts to prosecute perpetrators of all forms of forced labor and sexual

exploitation; prevent such acts from occurring; and protect all victims of modern-day

slavery. Thank you for your time and attention. I welcome your questions.

Jennifer Dreher
Safe Horizon
74-09 37th Ave, Suite 416
Jackson Heights, NY 11372
jdreher@safehorizon.org