



6/9/2008

The Honorable Joseph Biden
Chairman
Foreign Relations Committee
United States Senate
Washington, D.C. 20510

The Honorable Sam Brownback
Ranking Member of the
Subcommittee on the Constitution
Committee on the Judiciary
Washington, D.C. 20510

VIA FAX AND E-MAIL

RE: Senate Bill 3061- William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007 (TVPRA 2007)

Dear Chairman Biden and Ranking Member Brownback:

The New York Anti-Trafficking Network (Network) has provided direct services to over 300 survivors of trafficking and advocated on their behalf since 2002. As the first coalition in New York State to engage in advocacy on issues relating to survivors of trafficking in New York, the Network aims to bring together the voices of those who have first-hand experience of the injustices of human trafficking, who work consistently to meet the needs of trafficked persons, and who advocate for a more humane and responsive policy towards trafficked persons. Our membership currently includes over 90 organizations and individuals working directly with survivors of trafficking and other forms of violence.

On behalf of the Network, we are writing to thank you for introducing Senate Bill (S.B.) 3061, the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007. The provisions in S.B. 3061 greatly enhance protections for survivors of human trafficking and strengthens the government's ability to prevent and prosecute these cases. Indeed, provisions in S.B. 3061 provide critical and necessary improvements to protect the safety and dignity of survivors of human trafficking. They include:

- Broadening continued presence protections to family members;
- Waiving the good moral character bar;
- Excepting the cooperation requirements with law enforcement for a victim who experiences severe trauma but still wishes to seek immigration relief;
- Providing resources and protection to those sponsored by diplomats; and
- Extending continued presence protection to victims who seek civil remedies.

We also thank you for ensuring that the definition of human trafficking is protected, and that it will continue to focus on the horrific crime of human trafficking, rather than on state-level prostitution. Specifically, the Network would like to thank you for

excluding the unnecessary and dangerous provisions in House Bill (H.R.) 3887 that will have unintended negative consequences for survivors of trafficking.

H.R. 3887 unnecessarily broadens the federal Mann Act, extending criminal penalties to “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.”¹ It deceptively and inaccurately calls this prostitution-related crime “sex trafficking.”

As written, H.R. 3887 equates every instance of adult prostitution to a form of modern-day slavery, whether these individuals live under a climate of fear, which is the heart of the trafficking crime. In fact, the United Nations’ definition of human trafficking also requires that “threat,” “force,” or “other forms of coercion” be present.²

Therefore, 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. The proposed changes in H.R. 3887 are dangerous in the following ways:

- The bill would make prostitution-related activities, even within state borders, a federal crime. This confusion of prostitution and trafficking shifts the focus from helping and protecting trafficked persons to using federal resources to prosecute state-level offenses involving consenting adults who may not see themselves as victims of a crime.
- These provisions would force the Justice Department to investigate and prosecute crimes of prostitution that are already being prosecuted under the state laws, thus diverting much needed and already scarce resources from actual trafficking cases to prostitution crimes.
- H.R. 3887 moves the real crime of sex trafficking from the list of 13th Amendment slavery crimes where it belongs to join the prostitution offenses in the Mann Act, thereby undermining the scope of 13th Amendment protections against modern-day slavery.

Creating a new standard and definition for trafficking in persons fails to protect victims. The Department of Justice has stated that the main difficulty is not proving these elements, but rather, securing witness testimony. In our experience working on hundreds of cases, victims of a severe form of trafficking need critical protections, including social services advocates and attorneys, who accompany and support them through the criminal justice process. When victims are ensured these stabilizing services, they are willing and able to testify, and in fact many of our clients urgently want to testify against their traffickers. Changing the definition merely dilutes the strength of a powerful tool to protect human trafficking victims.

As service providers and advocates who witness the toll modern-day slavery takes on its victims and their families each day and for years to come—even after they have escaped from the abuse—we urge you to ensure that the TVPRA of 2007 remains true to the vision

¹ Proposed Section 221(f)(1) of H.R. 3887.

² Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Article 3, paragraph (a).

of the original law. We support S.B. 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.

Sincerely,

New York Anti-Trafficking Network Steering Committee:
Asian American Legal Defense and Education Fund
Klasko, Rulon, Stock, and Seltzer, LLP
New York Association for New Americans
Safe Horizon
Sex Workers Project at the Urban Justice Center

cc: Richard Lugar, Edward M. Kennedy, Orrin G. Hatch, Herb Kohl, Charles E. Grassley, Dianne Feinstein, Jon Kyl, Russell D. Feingold, Jeff Sessions, Charles E. Schumer, Lindsey Graham, Richard J. Durbin, John Cornyn, Benjamin L. Cardin, Sheldon Whitehouse, Tom Coburn