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Written statement* submitted by International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Sale of children in the United States

International Educational Development, Inc. and the Association of Humanitarian Lawyers have addressed the issue of the sale of children for some time.¹ Turning our attention to this topic in regards to the United States, we note that although the United States has gone to serious lengths to stop the rampant growth of the sale of children, its efforts have proved unsuccessful in some areas. The United States complies with the protocol to the Convention on the Rights of the Child that were adopted by the United Nations General Assembly in 2000 and entered into force in 2002.² Yet approximately 50,000 women and children are trafficked into the U.S. each year. The majority of them are transported from the former Soviet Union and Southeast Asia. In some parts of the United States, the children are an average age of 14 and are sold into prostitution. While in most countries, girls are the vast majority of sexually exploited children, in the United States, the number of boys is nearly equal to the number of girls who are sold into the sex trade.³

The United States has implemented policies to eliminate the sale of children in three key areas: prosecution, protection, and prevention.

Prosecution

U.S. law prohibits peonage, involuntary servitude, forced labour, sex trafficking, and confiscation or destruction of documents in connection with trafficking. The United States government implemented and fully complies with the Trafficking Victims Protection Act's (TVPA) minimum standards. U.S. criminal law also prohibits attempts to violate these provisions and penalties for forced labor and involuntary servitude range from five to twenty years imprisonment. Penalties for sex trafficking of minors range from ten or fifteen years to life imprisonment. Federal trafficking offenses are investigated by the Federal Bureau of Investigation (FBI), U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), and the Department of State's Human Trafficking Unit. The Department of Justice's (DOJ) Child Obscenity and Exploitation Section prosecutes trafficking offenses. The DOJ and Department of Human Services (DHS) launch anti-trafficking coordination teams and the DOJ funds anti-trafficking task forces around the country. The United States government continues to increase law enforcement training to bring together DOJ task forces with investigators and victim service providers.

By September 30th, 2013, all states but Wyoming enacted anti-trafficking statutes and all fifty states prohibit the prostitution of minors under state and local laws as well. Traffickers are prosecuted under various state laws resulting in convictions for cases involving forced prostitution of minors, domestic servitude, and commercial sexual exploitation of youth, including lesbian, gay, bisexual, and transgender (LGBT) youth.⁴

Protection

During trafficking investigations and prosecutions, the U.S. government provides victim assistance. Federally-funded victim assistance now includes case management and referrals, medical and dental care, mental health treatment, food, shelter, translation services, immigration and legal assistance, transportation services, and referrals for employment.

Protection for victims also includes a myriad of immigration services. The TVPA authorizes the DHS to provide two types of immigration relief to foreign victims trafficked in the United States: (1) Continued Presence, which allows temporary immigration relief and work authorization where federal law enforcement states that an individual is a victim of severe trafficking; and (2) Self-Petitioning T Non-immigrant Status (T visa), which allows for valid immigration status for up to four years for victims physically present in the U.S. who comply with any reasonable law enforcement

¹ Association of Humanitarian Lawyers researcher Anna Toniolo assisted in the preparation of this document.

² Marta Santos País, United Nations Secretary-General's Special Representative on Violence against Children, available at: <http://www.coe.int/t/dg3/children/1in5/Source/PublicationSexualViolence/SantosPais.pdf>

³ American Bar Association, Section of International Law and Practice, Section of Family Law, Section of Individual Rights and Responsibilities Steering Committee on the Unmet Legal Needs of Children

⁴ Tier Placements, available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/192363.htm>

requests for assistance with an investigation or prosecution of a human trafficking case. Victims under the age of eighteen are not required to assist in law enforcement investigations or prosecutions.

The U.S. also has a Return, Reintegration, and Family Reunification program for victims of trafficking.

Prevention

In order to prevent the sale of children, the United States government attempts to reduce the demand for commercial sex and forced labor by deploying interactive, online training for the federal acquisitions workforce on combating human trafficking. The Department of Labor (DOL) publishes lists of goods from a wide array of countries that it has reason to believe are produced by child labor in violation of international standards. The DOL also updates a list of products produced, mined, or manufactured with forced or indentured child labor requiring any contractor to the federal government who supplies products on the list to certify they have made a “good faith effort” to determine that the products were not made under these conditions.

The U.S. government also seeks to prevent child trafficking through spreading awareness. HHS funds an NGO that operates a national human trafficking hotline and the Department of Education (ED) raises awareness of the commercial sexual exploitation of children to interested schools. U.S. embassies and consulates distribute pamphlets for approved student or work-based visa applicants around the world. DHS spreads awareness world-wide through multilingual television and radio announcements, billboards, newspaper advertisements, online resources, victim assistance materials, and indicator cards for law enforcement and first responders.⁵

The U.S. government has failed to eliminate the sale of children through the slow enactment of policies and training for law enforcement, insufficient victim assistance programs, and incarceration of victims of trafficking.

Although the United States has increased its efforts to prosecute traffickers, protect victims, and prevent the sale of children, the U.S. still faces weaknesses in various areas such as the slow process of enacting policies and training for law enforcement officials who prosecute trafficking, insufficient funding to cover victim needs during an investigation or prosecution, and incarceration of victims of trafficking.

NGOs reported that child trafficking victims faced difficulties accessing needed services because they are often referred to shelters that are not equipped to handle the issues of trafficked children and youth, such as the psychological effects of trafficking.

Despite the TVPA’s provision that states victims should not be incarcerated, fined, or otherwise penalized for unlawful acts committed as a result of being trafficked, NGOs have reported cases of prosecutions against minor trafficking victims. Only eight states passed laws that prevent charging children with prostitution by December 2011. Under the TVPA minors induced to perform commercial sex acts *regardless* of force, fraud, or coercion are considered victims of trafficking, but child victims are still being arrested.⁶

Recommendations

To improve the slow enactment of policies and training for federal and state law enforcement officials who prosecute trafficking, we recommend that the United States government increase federal resources for investigation and prosecution of trafficking offenders, and increase training of federal, state, and local law enforcement.

Additionally, the victim assistance resources need improvement. The U.S. should provide better immigration services, such as developing standardized procedures for consular processing of T visas for family members, U visas, and reduce vulnerability in temporary visa programs, such as student and non-immigrant temporary worker visas. With respect to

⁵ Trafficking in Persons Report 2012, available at: <http://www.state.gov/j/tip/rls/tiprpt/2012/index.htm>

⁶ Ibid.

victim shelters, the U.S. government needs to provide shelters with counsellors equipped to handle the psychological needs of runaway youths and at-risk children.

Adjustments must be made concerning the incarceration of child victims of trafficking, such as formulating responses to help decrease arrests of child victims and increasing understanding that trafficked persons are victims and not criminals. U.S. law enforcement can also increase victim identification training. For example, instituting universal training on the detection of trafficking for all relevant DOL investigators and increasing victim identification training for immigration detention and removal officers. Furthermore, there should be screenings for trafficked minors in all immigration detention centres.

Finally, we recommend that the United States consults with the UN Special Representative to the Secretary-General on violence against children on a regular basis to formulate processes and procedures to eliminate the sale of children in the United States.
