

COALITION

*Against Trafficking
in Women*

October 5, 2007

The Honorable Peter Keisler
Acting Attorney General of the United States
Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20005

Dear Mr. Acting Attorney General:

Founded in 1988, the Coalition Against Trafficking in Women is the first international non-governmental organization to challenge the trafficking of women and girls as an acute form of gender discrimination and a severe violation of human rights. The one hundred representative signers of this letter include leaders of organizations and communities that range across the country's religious, ideological and political spectrums. What unites us is our collective outrage at human trafficking and our commitment to end it.

More than six months ago, Congresswoman Maloney and Congressmen Wolf and Scott wrote to former Attorney General Gonzales to express their concerns with the Department's anti-trafficking policies and strategies. They did so in the context of his public statements that the initiative against domestic trafficking was a matter of high priority to the Department. We share these views and applaud these statements. The multibillion dollar "industry" operated within the United States by criminal traffickers enslaves and devastates hundreds of thousands of girls and women in a manner eerily reminiscent of the 19th Century African slave trade.

We write because of the Department's apparent rejection of the views expressed in the Maloney-Scott-Wolf letter and because of our serious concerns about the Department's anti-trafficking activities. First, we fail to understand why the Department has called on States to enact a model statute that effectively requires proof of fraud, force or coercion for the conviction of sex traffickers, instead of encouraging State and local prosecutors to strengthen and enforce existing statutes under which traffickers can be convicted on proof that they have "merely" engaged in sex trafficking. Our concern about the Department's model law is made

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particularly grave by its seriously misguided definition of prostitution as a form of “labor or services.” The effect of conceptualizing prostitution as a form of “work” not only conflicts with public statements that former Attorney Generals Ashcroft and Gonzales and other administration officials have made, it also effectively converts the pimps, brothel owners and others who profit from the prostitution “industry” into presumptively legal employers. The Department’s “labor or services” definition is thus in clear conflict with repeated statements of the President, with his National Security Policy Directive 22 and with almost all State and local laws on the subject.

What the Department’s trafficking policy as embodied in the model law dangerously ignores is the acute difficulty of gaining testimonial evidence of fraud, force or coercion from terrified and brutalized victims of trafficking, and the potential danger that such a requirement poses to victims’ safety. It is well documented that many victims enslaved by traffickers suffer from traumatic bonding and related conditions that make it impossible for them to give the testimony essential to the prosecution of fraud, force or coercion cases. In fact, we believe that the Department’s policy will cause predatory traffickers to *increase* their acts of violence and psychological abuse in order to ensure that the persons they abuse will not serve as prosecution witnesses.

Requiring proof of force, fraud, and coercion has not only had a detrimental effect on the prosecution of cases of domestic trafficking. Such proof requirements have been cited by anti-trafficking leaders in other countries as obstacles to holding traffickers accountable for their systematic acts of violence against girls and women. If trafficking victims are afraid to testify against their traffickers in the U.S., as they are, they are more afraid to do so in foreign countries with even more violent traffickers and often less protective legal systems.

The approach of the Department’s model law appears to be replicated in the Department’s prosecution policies and strategies. We are gravely concerned by the Department’s failure to more fully utilize D.C. Criminal Code § 22-2707, which makes sex trafficking per se a felony offense. In enforcing the D.C. Criminal Code, the Department functions much like State and local prosecutors, so that

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vigorous utilization of Section 22-2707 would send a powerful leadership message to those prosecutors, one that would help ameliorate the negative effects of the Department's model State law. In the same vein, we are troubled by the Department's failure to more fully utilize 18 U.S. Code §2422(a), a statute recently amended by Congress that requires no proof of fraud, force or coercion and that would be of particular value in jurisdictions where major cities in different States border each other.

There are a number of additional aspects of the Department's anti-trafficking policies and strategies that trouble us, and about which we ask your views:

- The Department has given domestic traffickers effective immunity from criminal tax laws, when otherwise legal business owners are prosecuted for such acts as failing to provide W-2 forms. Congresswoman Maloney has recently introduced legislation that would ensure that traffickers are prosecuted for violating criminal tax laws, a leadership act that builds on Senator Grassley's leadership in the 109th Congress. The Grassley bill was unanimously endorsed by the Senate Finance Committee. Will the Department support this initiative?
- In the face of persuasive research conducted by Equality Now, the Department has failed to utilize existing criminal statutes to prosecute so-called "sex tourism" operators. Do you agree?
- The Department prioritizes the prosecution of traffickers of girls and women brought into the United States from foreign countries. Are American citizens who have been subjected to trafficking any less worthy of the Department's protection?
- The Department, through its grants under the Violence Against Women Act and like programs, often denies support to applicants who operate programs for trafficking survivors. Clearly, victims of domestic trafficking, routinely subjected to rape and battery, are as

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much in need of and as much entitled to assistance and services as victims of other forms of gender-based violence. Do you share this view, and do you believe that victims of domestic trafficking are underserved?

- The Department has failed to pursue funds for the grant programs and the survey of the unlawful domestic commercial sex industry that were authorized by the Trafficking Victims Protection Reauthorization Act of 2005. Is it not important for the Department, and the country, to know as much about the predatory world of trafficking as is known about the country's gambling and drug operations?
- There is an apparent lack of coordination within the Department of its anti-trafficking activities. We believe it essential, as called for in the Maloney-Scott-Wolf letter, for there to be a single, accountable office headed by an experienced criminal prosecutor to whom Congress and the American public can look for results in the conduct of the Department's anti-trafficking activities. Do you share this view?
- The Departmental leadership on the trafficking issue has been vested in the Civil Rights Division even though the Division's sole jurisdiction is the prosecution of traffickers who have committed provable acts of fraud, force, or coercion against adult victims. While we celebrate the highly professional and committed prosecutors who have brought such cases, we are deeply concerned that the anti-trafficking strategy adopted by the Department will shield traffickers from prosecution while encouraging them to intensify their acts of violence and psychological abuse. Do you believe this concern legitimate?

Attached is a report prepared by Professor Donna Hughes of the March 13 Human Trafficking Training session conducted by the head of the Civil Rights Division's Anti-Trafficking Unit – a session broadcast to United States Attorneys throughout the country. The Hughes report demonstrates the Department's seeming disinterest

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in enforcing *per se* statutes against trafficking. The report also shows that the Department's anti-trafficking initiative is directed against provable physical violence rather than trafficking *per se*.

We are dismayed by the comments of Department officials described in the Hughes report that leaders of the country's trafficking survivor community are "not ... ready" to engage in education, awareness and service initiatives on behalf of trafficked women. Is this your perception, or the Department's, of the groundbreaking and courageous work of such survivor-led groups as GEMS, Dignity House, Veronica's Voice, SAGE, and Breaking Free?

Congress, the administration, and a broad and fully engaged anti-trafficking coalition now in place can in our view make history, ***and do so this year***, in ending the reign of terror and enslavement long practiced by traffickers operating within this country.

Additionally, effective prosecution of domestic traffickers, and committed Federal government support for their victims, will strengthen the capacity of the State Department's Trafficking in Persons Office to deal with countries that are complicit or indifferent to mass trafficking within their borders. Such action would save millions of trafficked and at risk girls and women throughout the world.

The Department has significantly increased the number of its trafficking prosecutions and the resources it has committed to anti-trafficking activities. Yet in spite of this, there has been no decline in the incidence of domestic trafficking or in the number of girls and women abused and destroyed by domestic traffickers during the five year period in which the Department has conducted its costly anti-trafficking initiative. Moreover and critically, the model law promoted by the Department has produced few if any State prosecutions or convictions – an outcome that we are certain will continue for the reasons set forth in this letter. Until the Department begins prosecuting and calling for the prosecution of traffickers on a *per se* basis, and ends its effective call for limiting such prosecutions to cases where fraud, force or coercion can be proven, domestic and international trafficking will continue to flourish and grow.

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Human trafficking can and must be ended within our borders. But it is only through strong and strategic measures that we will do so. Accordingly, we respectfully request a meeting to discuss the matters set forth in this letter.

Respectfully,

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