

COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

Anita Butani
Undersecretary-General

Bryan Chao, *Chair*

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Rina Vazirani
Secretary-General

Linda Dong
Director-General

Alida Meghji
Chief of Staff

Narahari Phatak
Business Director

Shan Shan Cao
Undersecretary-General
General Assembly

Anita Butani
Undersecretary-General
Economic &
Social Council

Daniel Corren
Undersecretary-General
Crisis Committees
& Regional Summits

Ivan Genadiev
Undersecretary-General
Crisis Committees
& Regional Summits

Amit Vazirani
Undersecretary-General,
Operations



Delegates,

Hello and welcome to the Economic and Social Council of the 19th annual Ivy League Model United Nations Conference! Over the past year, our staff has been hard at work writing background papers and planning events to bring you a smooth-running, dynamic, and fun conference. This year's Economic and Social Council is led by some of Penn's most experienced staff members, and covers topics that I hope you will find both pertinent and engaging.

To tell you a bit about myself, I am a sophomore from outside of Washington DC studying Management and Real Estate at the University of Pennsylvania. Between high school and college, I have participated in over twenty MUN conferences, in a variety of capacities both on staff and as a delegate. Outside of MUN, I work as a Team Advisor in the Management Department at Penn and I'm active in Penn's South Asia Society.

During conference, I will be working my hardest to ensure that your weekend is productive and stimulating, but it's up to you to truly capitalize on your ILMUNC 2003 experience. Research your country's position on the topics at hand, and be prepared to absorb yourself in intense and captivating debate. Over the course of the weekend, I would love to hear your feedback about the conference, so feel free to introduce yourself and tell me what you think. Between now and January 30th, if you have questions relating to ECOSOC or the conference in general, don't hesitate to email me at ecosoc@ilmunc.org. I look forward to hearing from you and meeting you soon!

Regards,

Anita Butani
Under Secretary General, Economic and Social Council
Ivy League Model United Nations 2003

P.O. Box 31826 • 228 S. 40th Street • Philadelphia, PA 19104
215.898.4823 • info@ilmunc.org • <http://www.ilmunc.org>

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Delegates of the CPCJ:

Welcome to ILMUNC 2003! As the chair of this year's Commission on Crime Prevention and Criminal Justice (CPCJ), I'm looking forward to meeting all of you and having a great weekend at the conference.

Nothing makes for good debate like a controversial topic, so the agenda of the CPCJ looks especially promising this year. All three of the issues slated for our committee have made worldwide headlines in recent months, and it's difficult to find two people — let alone 40 countries — who agree on the best ways to address them. Our discussion of human trafficking, stem cell research, and international money laundering will almost certainly entail attempts to reconcile conflicting views of morality and philosophy, and you know what that means: lots of heated arguments, brilliant ideas, and pissing each other off to no end. Awesome.

If anyone has questions related to our committee, its topics, or anything else, feel free to email me. See you this November!

Sincerely,

Bryan Chao
Chair, Crime Prevention and Criminal Justice
chaob@seas.upenn.edu

COMMITTEE HISTORY

Commission on Crime Prevention and Criminal Justice

The United Nations, since its founding, has given significant attention to improving criminal justice systems in its member states and preventing crime on both the national and international level. With the emergence of sustainable development as one of the United Nations' primary objectives, crime prevention took on new meaning. Not only was crime prevention vital to ensuring an adequate standard of living and maintaining peace and order, it was also crucial to enabling developing countries to attain sustainable development. By reducing crime and improving the criminal justice systems of developing countries, an effective government could take hold, the local currency could be stabilized, and outside investment and assistance could be solicited successfully. Crime prevention has clearly become an integral part of promoting development.

To give adequate attention to the expanding field of crime prevention and criminal justice, the United Nations created the Commission on Crime Prevention and Criminal Justice in 1992. The body is a functional commission of the Economic and Social Council (ECOSOC), and is comprised of 40 member states. The Commission convenes annually, and participates in numerous regional as well as ad hoc conferences and conventions.

The primary focus of the Commission is two-fold: to foster international cooperation in the area of crime prevention and criminal justice, and to facilitate the creation of international standards for crime prevention. Because crime affects so many aspects of society, the Commission coordinates with other United Nations bodies and international organizations. Among the most recent topics of discussion before the Commission are transnational organized crime, and crime in post-conflict societies.

TOPIC ONE

Money Laundering**Introduction**

A-Mark Gold Wholesalers enjoyed a thriving business in 1988. The Los-Angeles based company had just landed a lucrative contract to sell gold to a Florida company named Ronel; this agreement yielded net revenues of about \$1 million per year.¹ A-Mark's arrangement also connected it to a vast network of U.S. and Latin American companies that controlled hundreds of millions of dollars. As competitors struggled through the weak gold market of the late 1980s, A-Mark was relishing gilded times.

But there was one strange detail about the relationship between A-Mark and Ronel: not even an ounce of gold was actually exchanged between the companies. The U.S. government noticed this idiosyncrasy in 1989 and eventually arrested the principals of A-Mark, Ronel, and a host of other firms for involvement in the largest cocaine money laundering network in the history of the world.² A-Mark, which had been simulating sales of gold in order to move money into the accounts of narcotraffickers, was only one cog in the La Mina system, a scheme estimated to have "cleaned" over \$1 billion of "dirty" money during its four years of existence.

Few laundering schemes of the past have rivaled the size of La Mina, but many have displayed equally intriguing tactics: ingenious use of financial instruments to hide the true sources of money; myriad relationships with the cocaine trafficking industry; transfers of enormous amounts of money between countries' banking systems; and, most importantly, the crafty use of banks, corporations, and governments to achieve their goals.

Perhaps more than any other crime, money laundering is defined by its complexity. The more circuitous and clandestine the path of the money, the less likely it is to be discovered by the law. And as anti-money laundering forces fortify their regulations, the strategies employed by criminals grow ever more wily, resulting in a destructive game of global cat-and-mouse that affects every human being in the world in one way or another. In addition to facilitating the traffic of illicit drugs, money laundering undermines the legal banking system, reduces social efficiency, and disrupts the financial world on numerous levels.

The Commission on Crime Prevention and Criminal Justice (CPCJ) has resolved to address the issue of international money laundering, which has received much attention due to its role in the terrorist activities of September 11, 2001. The CPCJ must analyze the increasing involvement, both inadvertent and intentional, of legal institutions in illegal money laundering schemes. After identifying the relevant actors and deciding the levels of responsibility that they should bear, based on international law,

ethics, and the principles of the United Nations, the Commission should endeavor to find efficient and effective solutions that do not violate national sovereignty.

Statement of Issue

The Financial Action Task Force (FATF), an organization formed by the G-7 countries in 1989, defines money laundering as "the processing of criminal proceeds to disguise their illegal origins, allowing criminals to enjoy profits in the legal economy without jeopardizing their black market economy sources of revenue."³ The FATF, which issues preventive standards and recommendations, is one of numerous attempts in recent years to combat the growing industry of money laundering, which became a crime in itself only in 1986 through the Money Laundering Control Act.

Any cash-generating illegal activity may potentially need to transfer its profits into the legal financial system, but Latin American drug production is by far the most important driver of the money laundering industry. The U.S. government estimates that domestic sales of cocaine, 90% of which is imported from Colombia, reached \$36 billion in 2001. Along with the traffic of marijuana, opium, and other drugs, the cocaine trade has helped to fuel a money laundering industry that has created between \$500 billion and \$1.5 trillion in "dirty money" worldwide, according to International Monetary Fund estimates.⁴ This sum constitutes a shocking 2-5% of world GDP and signifies that money laundering is now the third largest industry in the world.⁵

Over the past few decades, launderers have developed ever-craftier methods of legitimizing their ill-gotten gains in the face of increasing regulatory measures. Perhaps the first widely used form of money laundering was "smurfing," a process where hired couriers — "smurfs" — take small portions of the illegal money and transfer them into many bank accounts, usually established in different banks in numerous cities to escape suspicion. Smurfs almost always deposit money in amounts of less than \$10,000 to avoid filing mandatory reports; even with this precaution, however, their regular payments can often be traced by bank and government authorities. Nowadays, money launderers have turned to more advanced methods such as manipulation of retail businesses and foreign exchange bureaus, purchase of real estate, and the real or simulated trade of high-priced commodities.

All types of money laundering generally involve three distinct processes: placement, layering, and integration. Placement is the introduction of illegally acquired money into the commercial financial system. Most drug transactions utilize cash as a medium of exchange, so placement normally involves the transfer of enormous amounts of cash into the banking system, either directly or through the purchase of money orders and other financial instruments.⁶ Because placement requires discreet and clever

manipulation and is where the actual act of laundering takes place, this is the most dangerous stage for the criminal.

Layering is the electronic splitting and transferring of dirty money between banks in order to simulate legal transactions. This stage distances the money from its criminal sources by making it extremely difficult for authorities to trace it back to a point of entry. Sufficient layering enables integration, the final step of the laundering process, in which the criminals remove their gains from the banking system and return them to the legal economy. Integration allows drug traffickers to reinvest their profits to continue their trade, perhaps by purchasing aircraft or paying the coca farmers. They may also use integrated money to invest in other profitable enterprises or simply to support their lives of globetrotting luxury.

Some money laundering schemes make use of the foreign exchange market. In the Colombian cocaine industry, transactions through the black market peso exchange (BPME) are necessitated by the accumulation of dollars through cocaine sales in the United States. Latin American traffickers wish their money to be denominated in domestic currency, so they hire a Colombia-based "peso broker" to convert the dollars. For the broker, however, the process is only beginning. He uses U.S. contacts to place the dollars in the legal banking system. He then finds Colombians, usually legitimate businessmen, who wish to import goods from the U.S. Using his freshly stocked accounts, the broker purchases the goods in dollars and has them shipped to Colombia. The businessmen pay him in pesos, thus allowing the broker to begin the cycle anew. By charging both the traffickers and the businessmen a premium for BPME services, the broker is rewarded handsomely for his risky dealings.

Because the peso brokers purchase goods from North American companies, the BPME extends its clandestine and illegal fingers throughout U.S. commerce. Even Fortune 500 companies have been known to inadvertently aid the money laundering effort: General Electric refrigerators, for example, are a favorite item for Colombian businessmen. This unintentional crime does not always go unnoticed by federal law enforcement, however. For instance, in 1995, a distributor for Philip Morris' cigarettes was indicted for using BPME money to fund its purchases; five years later, Colombian tax collectors sued the tobacco giant for involvement in money laundering. When confronted with these charges, Philip Morris and other corporations claimed complete innocence and insisted that their involvement in the BPME, if at all real, was an accident. The government sometimes was able to seize these companies' assets, but the companies often argued successfully in court that they had no way to know of the money's illegal origins.⁷

Money laundering violations are certainly not unique to U.S. firms. Proceeds from the Latin American drug trade are often laundered, not surprisingly, through banks all around the world. International terrorism is also

a major driver of international money laundering, since terrorist organizations must hide the funds that they derive from support groups. To combat these illegal crimes and others, U.S. and international legislation has increasingly been focused upon prevention of money laundering.

History of the Issue

Major Anti-Money Laundering Legislation in the United States

Though countries around the world have passed legislation pertaining to the prevention of laundering, this discussion will often focus on the United States' efforts, simply because its prominent banking system and reliable currency has made it a focal point of international money laundering. Many of the United States' pioneering legislative efforts have been replicated or emulated in Europe and other countries.

Since 1970, the United States has created a series of regulations to deter the increasingly complex practice of money laundering. Not surprisingly, due to its role in facilitating the concealment of the sources of dirty money, the banking industry has been the focal point of these standards. The first major piece of legislation addressing money laundering came in 1970 with the signing of the Bank Secrecy Act (BSA), designed to better identify the "paper trail" left by large transactions. Banks were required to report all cash transactions of \$10,000 or more through the Currency Transaction Report (CTR). In addition, the Currency or Monetary Instrument Report (CMIR) required the reporting of all currency or monetary instruments valued at \$10,000 or more transferred into or out of the United States. The BSA also requires the filing of a Suspicious Activity Report (SAR) when a bank is involved in a transaction of \$5,000 or more, "and the bank knows, suspects, or has reason to suspect that the transaction involves funds derived from illegal activities."⁸

While the BSA improved the detection of certain violations, it fell short of making money laundering a federal crime: "as long as the trafficker filed the required reports nothing in the BSA would restrict or penalize that activity."⁹ Furthermore, financial institutions questioned the constitutionality of the act, and doubt existed over whether it was the bankers' or the clients' responsibility to initiate a CTR. These shortfalls, along with the rampant non-compliance with the BSA, led to the passage of the Money Laundering Control Act of 1986. Previously limited to U.S. Treasury agencies, authority to monitor transactions was expanded to include the FBI and DEA, both part of the Justice Department. Knowingly engaging in or being "willfully blind" to a transaction involving more than \$10,000 involving property with criminal origins was deemed a criminal offense. In addition, this legislation, part of the Anti-Drug Abuse Act of 1986, made it an offense to design transactions to skirt BSA reporting standards.

The Anti-Drug Abuse Act of 1988 added further support to the BSA. It required more detailed recording of certain cash transactions and imposed harsher civil, criminal, and forfeiture sanctions for money laundering offenses and BSA violations. In addition, geographic targeting orders (GTO) were used to scrutinize known money laundering nuclei. For example, banks in Miami and jewelry stores in Los Angeles came under heightened vigilance. Reflecting the international scope of money laundering, a GTO issued in the summer of 1996 required 12 institutions and a total of 1,600 agents in metropolitan New York to report all cash transfers to Colombia over \$750. This particular GTO was estimated to have cut the value of drug trafficking cash sent to Colombia by one-third and resulted in the closing of hundreds of money transmitters.¹⁰

Further emphasis on international issues can be seen in Section 2532 of the Crime Control Act of 1990, which provided the Office of the Comptroller of the Currency (OCC) additional enforcement powers and granted it "the authority to request the assistance of a foreign banking authority in conducting any investigation, examination, or enforcement action."¹¹ Furthermore, the Act calls on the OCC to cooperate with foreign banking authorities in their investigations.

The USA PATRIOT Act

Although traditionally linked to illicit activities such as the drug trade, prostitution, and gambling, money laundering came under scrutiny from a different angle following the events of September 11, 2001. As part of the "Uniting and Strengthening America Act by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism of 2001 (USA PATRIOT Act), the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (IMLA) limits the practices U.S. banks and corporations can engage in and the methods by which they do so. Although the driving force behind this legislation was the importance of shutting out terrorist cells from access to the U.S. financial system, the terms of the Act have a direct impact on a wider range of criminal organizations as well as companies lying outside the U.S. border.

Under the act, the Treasury has received the power to "impose special measures" on domestic financial entities involved in activities posing a high risk of incidence of money laundering schemes. Consequently, the Treasury has the right to demand additional information or records for the people and institutions behind questionable transactions. Higher due diligence standards were imposed on private and "correspondent" bank accounts, which allow foreign banks to do business in other countries through another bank. A prohibition was also imposed on doing business with "shell" banks ("banks with no physical location") or foreign correspondent banks that have relationships with shell banks. In addition, the Office of Foreign Assets Control (OFAC) List of Specially Designated Nationals and Blocked Persons and the Fed's

Control List were reemphasized as methods to block suspicious persons from opening accounts or initiating financial transactions. Going along with these items was the establishment of a secure network for SAR and CTR reporting and a minimum set of requirements for identifying customers and the "beneficial owners" of bank accounts. As the ABA Banking Journal reports, while banks had vehemently opposed the "know your customer" (KYC) regulations in the past, "Now, for all practical purposes, KYC is a law."¹² To be sure, the new set of laws and amendments to the BSA of 1970 have contributed to further complexities associated with compliance.¹³

Indeed, the USA PATRIOT Act has added numerous controls to prevent the laundering of money through the correspondent banking system. Although affiliations with correspondent banks are still permitted, carrying out transactions with shell banks has been outlawed. This could have arguably prevented two recent incidents involving prominent U.S. banks: the Bank of New York was recently involved in moving \$7 billion for Russian bankers via a shell account in Nauru, and Citigroup was recently exposed in a drug money laundering scheme in which the bank used ties to a correspondent bank for a shell bank in the Cayman Islands that did business in Argentina.

The International Level

With the passing of both the UN Vienna Convention and the Basle Statement of Principles of the Bank for International Settlements in 1998, money laundering became an offense that required criminalization on an international level. The Vienna Convention "demonstrates the interest in the issue in the international arena and its importance, because it is a problem that goes beyond national jurisdictions." The document emphasizes the need for cooperation among nations in areas such as seizure, judicial assistance, information sharing and extradition. The Basle Statement stresses the need for sound banking procedures for customer acceptance, identification, dealing with high risk accounts, the role of supervisors, and customer due diligence in a cross-border context. These documents set the precedent for the formation of new multinational organizations aimed at addressing the problem of money laundering.

FATF

The Financial Action Task Force on Money Laundering (FATF) was formed by the OECD in 1989 and will be in place through 2004, when its members must vote to extend its mandate. The FATF was formed with the objective of developing coordinated international legislation to combat money laundering. "A policymaking body, the FATF works to generate the political will required to bring about national legislative and regulatory reforms necessary to clamp down on the proceeds of crime. The FATF monitors global progress in implementing anti-money laundering measures, reviews money laundering techniques and counter-measures, and promotes the adoption

and implementation of anti-money laundering legislation.”¹⁴ The FATF has developed forty recommendations for “the establishment of measures at the national level to implement programs that combat money laundering effectively, creating a system of peer evaluation to measure the application of these recommendations by its members.”¹⁵ Its forty recommendations on combating money laundering have formed the basis of counter laundering legislation in its own 31 member states and in many others.

In addition to the FATE, many nongovernmental, multilateral, and intra-governmental organizations have become involved, including the Bank of International Settlements, the OECD, the G-7, G-8, nations’ finance and justice ministers, the United Nations, the World Bank, and the International Monetary Fund. At times, the overlapping sets of rules conflict in important respects. “It is ironic that the international community would fail to produce a single, unified set of rules to take on a criminal activity that thrives precisely on exploiting differences in laws and regulations.”¹⁶

Analysis

The Global Consequences of Money Laundering

Our discussion to this point has largely avoided a review of the consequences of money laundering activities. Some argue that money laundering is, indeed, beneficial to developing countries, because “it helps create new business and job opportunities and raises purchasing power.”¹⁷ While it is accurate that the money laundering process may include the financing or purchase of legitimate goods and projects, that it is a necessary reality due to the countries’ stage in relative economic development is far from the truth. Rather, money laundering has a profoundly negative impact on all countries: it “facilitates tax evasion, fosters corruption, and undermines legitimate enterprises.”¹⁸ Perhaps even more alarming is its effect on weakening the foundations of countries’ economic systems: “The cleaning of dirty funds distorts economic data, is hell on government officials trying to manage economic policy, messes with important macroeconomic indicators, leads to volatility in interest and exchange rates, and skews income distribution. Moreover, successfully laundered funds allow criminals to refinance their original enterprises — many of which are violent and destroy social fabric.”¹⁹

Furthermore, money laundering is instrumental in concealing government corruption and bribery. When public officials earn vast sums of money from unlawful dealings, they — just like common criminals — need to “clean” them in order to hide their illegal origins. For this reason, money laundering perpetuates inefficient, unethical government regimes. The infamous case of Raul Salinas, brother of former Mexican president Carlos Salinas,

demonstrates the role of laundering in concealing bribery and corruption in the public sector. While brother Carlos was presiding over the country from 1988-94, Raul undertook a series of transactions that converted pesos into dollars and wired them out of Mexico; the aggregate value of these transfers totaled approximately \$200 million. Some of the transactions may well have been legitimate, but evidence suggests that many of them were intended to hide contributions from cocaine traffickers who had paid Salinas in return for protection against prosecution. These bribes increased in value and frequency as the unscrupulous public figure strengthened his private ties with drug lords, eventually becoming their money launderer. When Salinas murdered his brother-in-law in 1995, the ensuing investigation exposed his “dirty” bank accounts, many created under false names in Switzerland and other European nations. Authorities are fairly certain that he illegally laundered over \$120 million out of Mexico from 1992-94.²⁰

In summary, money laundering is a driver for macroeconomic and macro-social problems. When coupled with its contribution to the sustenance of criminal activities and drug use, it is clear that money laundering creates detrimental conditions in the areas in which it exists. However, it is worth mentioning that some countries whose banks will effectively be shut out of the U.S. banking system as a result of the USA PATRIOT Act argue that the new policy is the result of groups such as the OECD’s attempts to keep capital from flowing to places where taxes are lower. These countries feel it undermines their ability to set their own tax codes without being punished by groups such as the OECD.²¹ While this is an interesting attack on the implications of anti-laundering legislation, the “tax argument” remains minor when weighed against the aforementioned harms which recent legislation seeks to address.

The responsibility of banks and other institutions to curtail money laundering

Banks

Citing the core functions of banks, some bankers question their role in the anti-money laundering effort: “‘We are community bankers, we are not trained to be cops,’ Alison Gilstrap (a compliance officer) said, referring to the need for a clear set of guidelines on money laundering.”²² Others do not even see money laundering as a crime worth addressing. Rather, “‘they see only the original crime, such as drug trafficking, bribery, and prostitution.’”²³

However, a contrary view, supported by legislation, reveals that not only is money laundering a crime, but it is also a responsibility of banks to curtail it. The events of September 11 highlighted the important role banks play in the money laundering process. In an address delivered at the American Bankers Association’s (ABA) Money Laundering Conference, Assistant U.S. Attorney General Michael Chertoff said, “Like it or not, you are on the front

lines of the war on terrorism. You are privileged by your jobs to make a contribution.”²⁴ As a result of being on “the front lines,” although they may not be cops, bankers are in a lucrative position to keep criminals from using the banking system to clean their dirty money. Bankers possess the responsibility of taking all reasonable measures to ensure that criminals do not have access to a legitimate banking system.

Corporations

Since all laundered money passes through the banking system, the banking sector is the main focus of anti-money laundering efforts. Nevertheless, one must not forget to examine the broader network of players that participate in the money laundering process. Targeting the laundered money once it has entered the financial system is arguably as important as detecting its entrance. Once money has entered the banking system, the ability to conceal money or misrepresent its origins remains extremely high. As a result, other commercial institutions’ adoption of anti-money laundering practices is absolutely crucial if regulatory efforts are to be successful. Recent legislation, including the PATRIOT Act, recognizes the increased importance of this process. Only banks had to file SARs before President George Bush, Jr. signed the new law in October 2001. But now “investment companies, currency exchanges, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, automobile, airplane and boat dealers... have to do so as well.”²⁵

Public Sector

Finally, governments have the responsibility to participate in anti-money laundering efforts by drafting legislation that provides clear guidelines, procedures, and support and enforcement mechanisms. Since the regulatory regimes operating from country to country are at best piecemeal and often are widely ignored, U.S. institutions are required to play an active and dominant role in countering money laundering. While the level of cooperation between banks and U.S. government agencies has been promising, less stringent controls in other countries permit “access to financial-services systems in more regulated jurisdictions, making a global minimum standard necessary for an effective reduction in laundering.”²⁶ While agreements such as the FATF reflect the movement toward a global standard, they will be rendered futile without the cooperation of companies. Weak background institutions, coupled with the exposure of corporate players to the money laundering process, underscore the central responsibility of banks and other institutions in combating money laundering.

The Costs of Money Laundering Regulation

Costs incurred by banks and companies

Compliance with the regulations created by the USA PATRIOT Act will increase costs for banks. Prior to the new and stricter requirements, KPMG’s Ellen Zimiles estimated a large bank’s expense to fight money laundering

at \$10 million a year.²⁷ The new law will place far more emphasis on direct, KYC-type activities that will cause even further cost increases for these institutions.²⁸

While the ABA states that its member-bankers will follow the new laws, several critics note that legislation fails to provide streamlined processes for potential suspects. The Fed and the Office of Foreign Assets Control (OFAC) maintain two of the most important lists against which companies must clear suspected criminals. Bankers complain about the complexity of the list, in which different sets of names and varying requirements complicate the verification process.²⁹ Furthermore, lists contain “so many unfamiliar but similar-looking names, sometimes with dozens of spelling variations, often accompanied by aliases and little or no additional identifying information” that “freezing the wrong account could mean a lawsuit. Failing to do so could result in a hefty fine.”³⁰ There is often a long delay between the time that the bank first reports a suspect account and the point that they receive an answer from the OFAC. Banks and corporations have not been instructed about what actions they should take if, while waiting for a response from OFAC or the Fed, a transaction occurs in the account of the suspected money launderer. A possible failure to provide the customer with sufficient, accurate, and timely information regarding his account or purchase transaction might have a damaging effect on a bank’s reputation.

Additional costs will arise through increased requirements on verifying the identity of customers and clients. As the ABA Banking Journal reports, verifications will call for much more than looking at a customer’s driver’s license: “Real time verification of the license against public records may be required, along with the ability to scan and save copies of customer identity documents. Biometric requirements are also possible.”³¹

By following new legislation, a business must also confront several new liability issues. First, the USA PATRIOT Act does not provide protection for a bank or other business if legal problems arise from violating a client’s privacy. According to PriceWaterhouse Coopers, failure to disclose a bank’s privacy policy could expose companies to litigation risks.³² Foreign banks also increase their exposure to liability issues by following the new American legislation. “Some foreign banks could face legal action at home from depositors who lose their assets in the U.S. justice system.”³³

Social Costs

Although the new legislation provides various social benefits, it also burdens society with several tangible and intangible costs. As a result of the increased costs incurred by banks and other companies, we are likely to see these costs being passed along to the consumer, similar to security costs being passed along to air travelers after September 11. An intangible loss involves an increased ability for banks and other commercial institutions to violate a customer’s privacy. With new requirements forcing these businesses to turn in confidential cli-

ent information to government authorities, “your financial activities are more open than ever to federal enforcement and intelligence agencies in Washington — who don’t have to tell you when they’re picking through your accounts. In fact, they’re not allowed to tell you.”³⁴

Government Costs

Prior to the new legislation, the Treasury department was already being swamped with too many bank reports: “Of 12 million reports filed in 2000 with Treasury’s Financial Crimes Enforcement Network, officials estimate that 30% were useless because they fell under exemptions....”³⁵ With the tougher and more threatening legislation now in place, bankers have more of an incentive to turn over an even higher number of reports. Banking industry lawyer Byre explains, “Rather than risk a fine, the thinking is ‘I’m automated, so I’m going to report it anyway,’ knowing full well that the information may overload the system.”³⁶

Possible Solutions

In wake of the September 11 terrorist attacks, a plethora of new legislations and investigations were enforced on a global scale. These policies represent an initial step in increasing awareness of the problem’s importance and laying the fundamental basis of a potential legislative solution. Bankers and businesses have found the new legislation to be an incomplete solution to money laundering, in part because they feel that it demands too much of them. “It appears that officials want us to report more about the customer than is currently possible,” said one perplexed bank security officer.³⁷ The barrage of complex legislation has also left many bankers bewildered, and their lack of understanding has prevented optimal compliance. Until the regulations are revised in April 2002, it will be extremely difficult for a bank to determine exactly how it should proceed in attempting to abide by the new laws. Regardless, a basic set of suggestions for both business and policy solutions can be formulated.

Business Solutions

Proper Cost Benefit Analysis (CBA)

The new government legislation features a wealth of new requirements: increased reporting requirements, reduced ability to send money abroad, etc. To optimize the effects of the PATRIOT Act and other laws, a CBA should be performed on each individual measure to determine if it is truly contributing to social benefit or not. This type of analysis will require substantive information concerning the reductions in laundering activity affected by each regulation; unfortunately, a significant period of time will be necessary before that information can be acquired, due to the recent introduction of the laws. Once the CBA is completed, the government can begin to eliminate ineffective regulations and place the emphasis on those that are succeeding.

Compliance Program

If a business is to successfully implement anti-money laundering standards, it must establish a strong and consistent compliance program. This requires a business to “adopt, develop and implement internal programs, policies, procedures and controls to guard and detect against the offenses” (FATF). At the management level, compliance offers be put in place to ensure the proper maintenance and reporting of transaction records. The FATF’s definition of a correct compliance program includes three main components: procedures to ensure high standards of employee integrity, ongoing employee training programs, and standards to guard and detect against money laundering offenses.

Management Leadership

Along with a sound compliance program, strong management leadership is instrumental in emphasizing the correct ethical tone within the institution. When leaders at a bank or corporation clearly define their own ethical commitment, their subordinates will be likely to follow suit; if they do not, legal violations are all but inevitable.

Policy Solutions

Effective legislation

As the PATRIOT Act demonstrates, law is a powerful tool in money laundering prevention. Governments need laws that: establish corporate criminal liability for bank and non-bank financial institutions; apply to all types of financial transactions; apply reporting and anti-money laundering laws to a long list of predicate offenses not limited to drug trafficking; criminalize investments in legitimate industry if the proceeds were derived from illegal acts; and enable the sharing of financial and corporate ownership information with law enforcement agencies and judicial authorities.

Constant monitoring of money laundering patterns and trends

More sophisticated techniques, involving both bank and non-bank financial institutions, in a wider array of traditional and nontraditional financial center countries, have complicated identification, tracing and investigation. Information exchanges have been improving, but critical gaps in know-how must be closed in tandem with improved cooperation. We need improved information both domestically and from more foreign countries concerning the factors that influence drug traffickers and their managers to deal with money in the way they do. Currently, interviews of captured drug money launderers are producing valuable information about illegal money management schemes.

Fighting drugs and other crime

Others believe that our main focus should be on combating a fundamental source of the problem, the drug trade, rather than emphasizing money laundering legislation. To do so, the U.S. government must implement policies with the objective of reducing both the supply and demand for narcotics. Such procedures may include plac-

ing more of an emphasis on drug education programs, addiction treatment, and sound urban development. This would, in turn, minimize the proceeds to drug traffickers and, thus, reduce money laundering. Similarly, we must fight terrorism and other criminal activity that spurs money laundering.

Focusing on "sting" operations

Government sting operations, in which government officials pose undercover as money launderers in order to learn about their activity, have proved to be immensely successful in the past. The most famous example of such an initiative is Operation: Casablanca, which ultimately exposed a network of Californian and Mexican cocaine traffickers, as well as many corrupt bankers and public officials, including those at a PriceWaterhouse Coopers branch in Bogotá, Colombia.³⁸ Another success was that of Polar Cap, a U.S. Drug Enforcement Agency operation that helped to expose the enormous La Mina drug money laundering network. In the future, the U.S. government should maintain its focus on sting operations and perhaps encourage its Latin American counterparts to do the same.

Conclusion

Bankers, corporate executives, and government officials must contemplate the crusade against money laundering on a daily basis; the rest of humanity has the luxury of not doing so, but it is nevertheless strongly affected by the monetary machinations of criminals around the world. Therefore, leaders in the crusade must understand that they are responsible for protecting the interests of all of society, even when some of these interests may directly conflict with others. Pragmatism and dedication are not sufficient; only a sound globally based approach will provide guidance through the trickiest of crises by facilitating decision-making amidst competing claims. The global solutions proposed in this paper, while certainly not sufficient for eradication of the elusive beast that is money laundering, provide a necessary first step towards a more productive and just global economy. The CPCJ must seek a way to combine these solutions and/or propose new ones in a manner that will best combat the problem.

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TOPIC TWO

Trafficking of Humans**Introduction**

Within the last twenty years, a full-scale crackdown on the illicit drug trade has put an enormous dent in the potential profits of international crime organizations. While it was believed that the international drug war had ruined many of these crime rings, leaving them in shambles, the fall of communism in 1991 opened a new set of possibilities providing destroyed and desperate economies around in the world ready to be taken advantage of by the hindered international crime organizations. Amongst the many types of crime that have been introduced or reintroduced to the international community as a result of the proliferation of third world countries, trafficking in human beings proven to be extremely profitable to all involved traffickers. However, trafficking in human beings has also been regarded as one of the most abominable violations of human rights by all nations and international organizations around the world.

Statement of the Problem

Despite ongoing and developing regulations and attempts to decrease the trafficking of human beings, the trafficking has nonetheless prevailed and proven to be a serious and developing problem in the international community. According to the ODCCP, trafficking in humans is currently the fastest growing kind of organized crime. It is a multi-billion dollar business that continues to exist in the face of helpless law enforcement agencies and lenient repercussions by most penal systems around the world.

Trafficking in human beings poses several severe problems to the international community. First, human trafficking is viewed as an appalling violation of human rights by most nations around the world; people who are trafficked are compelled against their will to comply with their captors through threats of violence or physical force. Victims are abused mentally and physically by their captors and forced into both a foreign country and a lifestyle that depreciates their value as human beings, such as prostitution, or underpaid overworked physical laborers. It is believed by many that the current status of trafficking in human beings is comparable to the colonial slave trade and can therefore not be tolerated to exist in this global society.

Second, trafficking in human beings results in the uncontrolled spread of many terrible diseases, such as the HIV virus and AIDS. People are abducted from countries where these diseases thrive and are moved to countries that are unaware of the influx of potentially disease-ridden migrants. These countries, therefore, are unable to

control and track the disease and its movement. Since most women who are trafficked around the world are sent to supply to sex industry, their promiscuous activities around the world facilitates the spreading of the diseases.

Third, human trafficking, by its nature, results in illegal and uncontrolled immigration. Traffickers bypass the normal immigration process of countries, and cause chaos and confusion amongst immigration administrations that try to control the amount of people and track their whereabouts and visa statuses as they enter each respective nation. Uncontrolled immigration forces countries to be stricter in their immigration procedures and lower the amount of potentially legitimate immigrants to move into the country. In the end, legitimate aliens suffer in addition to the countries, themselves.

Finally, human trafficking has caused a rise in fraudulent documents, such as passports, visas, work papers, and student travel visas. The rise in human trafficking has caused a rise in the production of fraudulent documents that are unable to be tracked sufficiently by national governments. There are people all around the world that are willing to produce fraudulent papers for traffickers who will pay them a large sum of money. This rise in fraudulent-paper-producing groups makes it easier for criminals of other natures to obtain fraudulent papers. The proliferation of such phony documents results in such events as the September 11 terrorist attack on the United States of America.

The number of trafficked people is growing; the American government believes that every year between 700,000 and 1,000,000 women and children are trafficked throughout the world. Most of the trafficked human beings are abducted from Eastern and Central European nations, former Soviet nations, and Asian nations. People are trafficked mostly for the purpose of forced labor, domestic servitude, or in order to supply the worldwide illicit sex trade. The American government believes that between 10,000 and 100,000 women are trafficked around the world annually, solely for the purpose of sexual exploitation. This large scale increasing trafficking feeds the concern of the uncontrolled spreading of sexually transmitted diseases, including the HIV virus and AIDS.

History and Relevant International Action

In the past four centuries 11.5 million people were moved out of Africa into other areas around the world to serve as sexual slaves or forced servitude. Within the last 100 years, those past actions have become considered abominable by all nations around the world. In comparison, throughout the last decade, more than 30 million women and children may have been trafficked within and from Southeast Asia for the purposes of sex and labor. Furthermore, reliable estimates indicate that about 200 million people may now be in some way under the influence or in the hands of traffickers of various kinds world-

wide.

The fact that the definition of trafficking of human beings has not been consistent internationally has been an obstacle to the progress in the fight against human trafficking. There have, however, been progresses to facilitate the international attack on the trafficking of human beings in relation to the definition of human trafficking. In the 2000 Vienna Ministerial decision, the OSCE welcomed the broad definition of trafficking that has been adopted in the United Nations protocol to prevent, suppress and punish trafficking in person, especially women and children, supplementing the United Nations convention against transnational organized crime. "Trafficking in persons" means the recruitment, transportation, transfer, harboring or receipt of person, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

When discussing the trafficking of human beings, it is very important not to confuse alien smuggling and human trafficking. The difference between the two is that in alien smuggling, the smugglers are providing a temporary service where, in most cases, both parties benefit from the exchange. An example of alien smuggling would be when many illegal citizens pay smugglers and are hidden in cargo compartments, often in terrible conditions, with the purpose of simply moving to another country and bypassing the normal immigration process. In alien smuggling, the person who is transported is not controlled or forced into servitude by the smugglers. In human trafficking, however, the benefit is one-sided, with the captor using the victim and profiting from their suffering and toil. An example of human trafficking would be when those people who are promised transfer to another country, were instead of being freed, forced into servitude by those who promised them safe transport to another country. Essentially, alien smuggling involves a short-term monetary profit for the smugglers whereas trafficking, on the other hand, usually involves long-term exploitation for the monetary gain by the kidnappers or abductors.

The crackdown on the drug trade over the last twenty years led many international crime syndicates that had established effective trafficking routes to turn to the trafficking of a new commodity, according to Laura Lederer who is the leader of the Protection Project at Johns Hopkins University. The trafficking in human beings has since then grown into one of the most popular international crimes that has taken advantage of the fact that most nations are not prepared or able to fight the trade in humans.

Analysis

Traffickers in human beings operate very similarly to those who traffic drugs, since many drug traffickers

also traffic people. Those who traffic in women, similar to narcotic traffickers, operate across international borders, taking advantage of extradition laws and the lack of total international cooperation. Traffickers most often lure their victims with phony advertisements and fake promises of jobs, such as positions as nannies and waiters, in attractive, foreign countries like America. Most established human trafficking organizations focus their attention and operations on nations with rising unemployment and deteriorating social networks. These countries are attractive to the traffickers because the citizens of those countries are desperate for work and are willing to leap at any job offers available to them. These countries, as mentioned before, most often fall in the regions of Central and Eastern Europe, Asia and countries of the former Soviet Union. These trafficking organizations have become more and more dangerous as they have established more routes and found areas where easily lured people are abundant. The increasing profit has attracted more and more international crime syndicates to join the trafficking in human beings. A Filipino research group estimated that crime syndicates that are involved in the trafficking of human beings collectively generate profits of about \$17 billion a year. Among the known international crime rings that are involved in the trafficking of human beings industry are numerous Chinese Triads, the Japanese Yakuza crime ring, numerous Thai criminal networks, Russian organized crime networks, and Ukrainian crime syndicates.

Trafficking in humans is a problem that has caused a lot of corruption in countries that are already in shambles. Traffickers have been known to pay off judges, politicians, and police authorities. In the first three months of 2000, more than 50 Albanian police officers were thrown off of the police force for taking bribes from the Albanian mafia in relation to human trafficking; some of the police officers were even directly involved in the trading of humans and were known to sell girls that fell into their own hands.

Much to the dismay of border officials, trafficking usually involves conspiracy, document forgery, visa, mail, and wire fraud, as previously mentioned. In order to control their victims, traffickers generally seize all travel documents and identification papers that their victims possess and abuse them mentally and physically until the victims are willing to comply with their captors.

Once the victims are completely subservient to their captors, the traffickers either smuggle their victims across international borders or smuggle them internally throughout the country of abduction. If the victims are being moved from one country to another, the traffickers will either smuggle the victims into the country circumventing the normal immigration process, or sometimes the traffickers will provide their victims temporarily with false documents during the normal immigration process. The traffickers even coach women on how to respond to immigration interviews — in the United States, the visa interview. After the victim is allowed into the country, the traffickers will, once again, seize those documents, which will later

be reused by other victims. Asian traffickers commonly use photo substitutions and imposter passports to transport women into the United States.

The issue of whether or not trafficking in human beings involves the same precedent as slave trading has been the foremost issue of debate in viewing the trafficking of humans as a violation of human rights. Ali Deegan of the International Organization for Migration believes that "[When] it (prostitution) is forced, and you're not earning any income from your labor, and you're being sold from one trafficker to another, yes, I would classify it as slavery. I think it has all the elements." It has most definitely been confirmed by international organizations that have conducted research on the trafficking of human beings that traffickers, or those who buy victims from traffickers take all of the money that is earned by the victims and that the labor is forced by violent threats or force. Those victims that are trafficked who are unable to escape their captors are most often forced to supply the sex trade or into servitude in homes, factories, and fields. Trafficking victims who have been lucky enough to escape from their captors have reported to officials that the traffickers are often quite ruthless and extremely violent.

There have been a few recent events that have been connected to the trafficking of humans. In 2000, the Chinese police rescued approximately 123,000 trafficked people around the country. Last spring, 70 Cambodians were enslaved on a fishing ship when they were falsely promised safe passage to Thailand. The Thailand coast guard later rescued the trafficked victims. Last October, 370 illegal aliens who were being smuggled into Australia drowned when the vessel sank. There are not too many recorded incidents of human trafficking because trafficking by its very nature is covert and clandestine. It is very infrequent that incidents of human trafficking are exposed to the public's eye, other than the trafficking of human beings' effects.

Most victims of human trafficking are trafficked out of their home countries as children. Since the fact that trafficked women and children that supply the sex trade could carry HIV or AIDS has been brought to the public's eye, including the eyes of the traffickers and the trafficker's customers, traffickers have focused their attempts of abduction on younger and younger women. According to Sophie Mosko of Save the Children, "A majority, it seems like, of the women who are trafficked are under 18 years old. They're demanded younger and younger in the sex trade because there's less fear of AIDS." Because young women are such a demanded commodity and the issue of HIV, AIDS, and other sexually transmitted viruses are such a concern, the price of young girls has increased greatly from before. According to Degan Ali of the International Organization for Migration, "I mean a young virgin-like girl, by the time she gets to Italy [from Albania] could be worth as much as \$10,000. She's a real investment." In some villages in Albania, families have stopped sending their teenage girls to school because the parents

fear that traffickers will kidnap their children. Presently, it is estimated that about 30,000 Albanian prostitutes walk the streets of Europe. Considering that Albania possesses only around three millions citizens, that is nearly one percent of the country's population.

China is a country that has been a primary target of abductions by human traffickers. China has become a target because of its culture, the state of its economy, and the social aspects of the country. In China, for instance, between June of 2000 and April of 2001, 22 babies were stolen in Handon, a small town. Since China is a country where families value boys over girls and families are restricted to the birth of one child due to the population control measured instituted by the Peoples Republic of China, there is an enormous market for stolen babies. Childless couples that are reluctant to go through the elaborate adoption process in China, rural families that are in need of more help on their farms, or couples with only daughters who desire a son are all willing to pay very highly for stolen babies, thus creating an enormous demand in the market for kidnapped and trafficked people. Furthermore, China is a country where most men are expected to have an heir to their family fortune, so it is necessary for them to have a son, once again, in desperate cases, requiring that man to turn to the illegitimate market for children. The potential profits have created an enormous industry in China where babies are stolen or sometimes even bred for sale. For an idea of how much Chinese families are willing to pay for children, Qi Xiaobo of the Handan County Police Bureau says that "The average income is 500 yuan a month, but babies fetch 9,800 and 12,000 yuan from families desperate from sons." That is approximately between 18 and 24 months of salary for a child. Those numbers clearly reflect the feelings of desperation of Chinese citizens in need of wives and children.

Over the last ten years, there has been a consistency of trafficking one group of peoples to another country in order to supply a certain industry. According to the International Organization for Migration (IOM), most of the women that are abducted from Vietnam are sent to Cambodia to supply the sex industry. Other Vietnamese women are sent to Taiwan and China as wives to supply the countries' lack of women. Cambodians that are abducted and trafficked to Thailand, Taiwan, and Singapore often end up as sex slaves, beggars, or domestic laborers. It is estimated that over the past 10 years, 200,000 women and children that came from Bangladesh have ended up as prostitutes in Pakistan. Another 200,000 beings from Bangladesh have become maids or camel jockeys in the Middle East. India has been a popular shipping destination for Nepalese and Bangladesh women who end up living a life of prostitution.

The trafficking of human beings is an increasingly serious problem that is having a detrimental impact on all of the nations around the world. The impact that trafficking is having is only continuing to grow worse and worse due to the large proliferation of abductions and trafficking

profits. Sophie Mosko of Save the Children says, "Trafficking for prostitution is the easiest trafficking to do because there's no investment involved." She continues as saying, "It's just cheap. You don't have to buy drugs, you don't have to buy guns. You just kidnap girl."

The United States Department of State released a report in November of 1999 titled "International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime", the United States published the first extensive report on the growing international issue. It was found, in the report, that traffickers are most commonly exploiting economic crises in Russia and Asia, as well as regional conflicts that exist in countries such as Kosovo. The report found that the rise of trafficking into the international sex 'industry' heavily contributes to the spread of such diseases as HIV and AIDS. It found that overseas, many major organized crime rings, particularly Russian, Eastern European, and Asian syndicates are heavily involved in the human trafficking industry. The report recognized how the trafficking in women industry is closely intertwined with other criminal activities, such as extortion, racketeering, money laundering, the bribery of officials, drug use, document forgery, and gambling. In the report, a review of trafficking cases showed that penalties did, as expected, appear to be light, especially when compared to cases involving drug dealers. It confirmed that the penalties for trafficking in certain countries did not reflect the magnitude of human rights abuses involved. The report also stated that there is no real international comprehensive trafficking of human beings laws in existence. The American government's extensive report estimated that between 700,000 and 1,000,000 women and children are trafficked around the world each year and that half of those trafficked hail from Asia. It is also claimed that anywhere from 10,000 to 100,000 of the women trafficked annually are trafficked specifically for the purpose of sexual exploitation.

According to the CIA, 50,000 women and children from Asia, Latin America, and Eastern Europe are brought into the United States each year to work as prostitutes, hard laborers, or servants. These people that enter the country most often enter with false documents including working papers and passports. These documents are very hard to spot by immigration agencies and it is believed that raising measures to check out all documents and their legitimacy would slow down the immigration process in the United States as well as be unfair to legitimate foreigners who seek immigration into the country. The CIA further reports that the countries that are primary sources of abductions and kidnappings for traffickers are Thailand, Vietnam, China, Mexico, Russia, and the Czech Republic. Countries that are becoming more and more popular targets for human traffickers are the Philippines, South Korea, Malaysia, Latvia, Hungary, Poland, Brazil, and Honduras.

How to track and prosecute traffickers is not the only issue that is facing the international community. Other

than the prosecution of traffickers in human beings, another issue is the protection of trafficking victims. Non Governmental Organizations (NGOs) claim that there are numerous challenges that make protecting trafficking victims difficult. Most of the issues are based around the fact that trafficking is regarded by some as an immigration issue and not as a violation of human rights. Therefore, those that view the issue as an immigration problem are more reluctant to provide ample resources and sheltering for trafficking victims and are more inclined to simply deport the victims back to their countries of origin rather than house and support them after their traumatizing experiences. NGOs have pointed out to the international community that a problem in solving the issue of how to deal with rescued trafficked victims is that there is no consistency in international policies regarding the handling or housing of trafficked victims.

There have been some actions by NGOs to combat the trafficking in human beings. There are many new organizations that are heavily sponsored as well as old organizations that are all working together to both assist trafficked victims and assist in the tracking of international human traffickers. In Thailand, the International Organization for Migration attempts to reunite Cambodian families with their children who had been kidnapped from them by either outright kidnappers or imposters posing as people who offer children education or job opportunities abroad. Another NGO that has been extremely effective has been the Protection Project based in the United States. The Protection Project has been compiling a database of international laws worldwide regarding human trafficking and has drawn up maps showing commonly used human trafficking routes.

The reason why there has not been any significant progress in the war against human trafficking is that there are many impediments that prevent authorities from properly persecuting human being traffickers. The most common problem is that authorities are often unable to gain enough information and evidence against traffickers in order to effectively prosecute them. Because of this challenge, most officials do not like to take on slavery or trafficking cases because they find them very difficult to investigate and prosecute. Furthermore, such countries as the United States do not have sufficient laws that are aimed directly at the problem of human trafficking, which means that the penalties for trafficking humans are often very lenient in comparison to the magnitude of the crime committed. Therefore, international laws serve as an ineffective and small deterrent against trafficking in humans; it is not difficult for traffickers to avoid governmental authorities and the penalties in most countries are very light. Over the last two years, while it is estimated that up to 100,000 trafficked victims entered the United States where their captors most likely held the victims in bondage, the United States government prosecuted cases involving no more than 250 of those victims. Another problem that stands before officials arises from the fact that traffickers

commonly move aliens to countries that are very different in culture and practices from their own. This tactic increases the control of traffickers over their victims because the victims have no one to turn to for help. It serves as impediment to law enforcement and investigations because victims are either intimidated by law officials or are comfortable in their new home and therefore often avoid confronting them and reporting incidents of human trafficking due to fear of arrest or being deported. Another problem is that law enforcement has very few resources to train women for trafficking undercover work. On top of the poor training resources, women officials who go undercover would have to willingly subject themselves to severe physical and mental suffering, which few administrations are able to force women to do. Therefore, law enforcement agencies have few resources to get inside of trafficking operations in order to gain a deeper understanding of how the trafficking crime rings function, in detail. Law enforcement agencies do not hear about trafficking cases unless the abductions of victims are internal because officials are unaware of abductions outside of the country and even more so of where victims are being smuggled.

Since 2000, the Chinese government has waged an enormous campaign against trafficking in women, using such methods as highlighting highly publicized arrests, death sentences and rescues. While this campaign has had large effects in the country, decreasing the trade, trafficking in human beings still prevails in rural areas because of a combination of the ratio of gender in rural areas and Chinese cultural values. In rural China, there are approximately 120 men for every 100 girls because rural couples favor the birth of sons over daughters and therefore abort fetuses and abandon newborns that are female. Furthermore, in much of rural China, it is considered culturally and economically essential that every man finds a bride and gives birth to heirs to their family fortune. That means that for every 100 men who marry, another 20 must resort to other measures to find brides, many of which resort to buying kidnapped women from other provinces of the country. The problem of finding wives has become so extreme that rather than women offering dowries to men to wed them, men actually compete with other men and offer enormous dowries to women's families due to the scarcity of women in the rural region. Currently, bride prices can cost over \$4,000. Women who have been kidnapped and abducted, on the other hand, only cost a quarter of that amount, thus making them much more appealing to poorer rural men.

The trade of human beings raises another human rights issue because it reflects and reinforces the low social status of women. "In villages, there is a long tradition of prizing males and looking down on females. So the best local women...can hope for is to get away, to look for work elsewhere — and that leaves them vulnerable," says Zhu Wenguang, a private detective. Traffickers prey upon women's low status and degraded self worth in such societies. Traffickers preying on the low status of women do

not only occur throughout China but is an enormous trend worldwide. The countries where women are viewed as being less than men are the nations where abductions are the most prevalent. Case after case of women who answer advertisements that promise jobs in the United States later find that the jobs are fake and never existed. They find themselves taken prisoner by their believed saviors and forced into prostitution or hard labor. "Abduction is a very serious problem for these women. They have few resources to draw upon. They are desperate for work but don't know what is suitable or how to find it. So they can easily be tricked," according to Xie Lihua, an editor of *Rural Women Knowing All*, a Chinese journal. Most victims are simply looking to escape poverty in their home countries and therefore readily accept fraudulent offers of foreign employment from others with intentions of trafficking.

A Nigerian smuggling ring, for instance, charged parents in Nigeria anywhere from \$10,000 to \$12,000 to bring their children to New York for a good education. Once the children were taken to the United States, however, they were forced to work as domestic laborers. Other international crime rings operate similarly to the Nigerian smuggling ring, grossing enormous amounts of profit. The United Nations estimated that trafficking in human beings generated approximately one to two billions dollars collectively for all crime organizations involved in trafficking in the beginning of the 1990s. In 2000, the United Nations estimated that those profits had soared to somewhere between eight and nine billion dollars annually. There is a necessity to stop the situation as soon as possible because unless there is intervention, the ongoing cycle of new international crime organizations being attracted to increasing profits, and thus generating more profits to attract more international crime organizations will persist, despite individual countries' best efforts. There needs to be international cooperation in combating the trafficking of human beings.

Before the full-scale Chinese crackdown on human trafficking, abductions of women were rising 20 percent a year, according to the state press, while abductions of children, most commonly young boys that are to be sold by heirless families, were rising 15.3 per year. Chinese police may be unclear of exactly how large the problem of trafficking human beings is, but reports from 1999 find police rescuing 10,000 women on average per year, which Chinese officials are sure is only a small fraction of those kidnapped. China's attempts to curtail the internal and external trafficking in its borders have been somewhat effective, but nowhere near as effective as an international attack would be. China's approach has been effective because it offers harsh measures against trafficking and makes the public very aware of the pressing situation.

There has been some progress on the international front to attempt to combat the international trafficking in human beings. Of the many international conferences to discuss and address human trafficking, the United States

has been working with countries in the European Union, the Group of Eight, the United Nations, Israel, Italy, and Ukraine to combat the rise in human trafficking. Another example of cooperation on the international front is the adoption of an anti-trafficking declaration and action plan by the Economic Community of Western African States (ECOWAS) in December of 2001. Currently, the United Nations is continuing its activities against human trafficking in Benin, Nigeria, and Togo.

Some problems that prevent the issue of human trafficking from being resolved efficiently on an international level include the lack of an agreed upon definition regarding trafficking in women and children. While the definition that is provided above has been accepted by the United Nations, many third world countries, amongst other nations, have not accepted the definition. That provides another impediment because in order for the war against the trafficking of human beings to be effective, it is necessary for complete global cooperation. Since most third world countries are the primary sources of trafficked aliens and primary targets by many trafficking crime rings, it is especially necessary that those third world countries agree with the definition or else they may not comply with the international attempt to stop trafficking. There is also a problem regarding the blurriness of distinctions and differences between trafficking in humans, alien smuggling, and irregular migration patterns.

The United Nations General assembly has already passed three resolutions during the last three years addressing the issue of human trafficking. These resolutions all recognized that the trafficking of human beings is a matter of international concern that involved many violations of fundamental human rights. The relevant resolutions were: Resolution 50/167, Resolution 51/66, and Resolution 52/98. The resolutions passed all call for numerous measures to be taken by governments around the world. The resolutions call internationally for the strengthening of laws against the trafficking of human beings, the intensifying of efforts to enforce the laws regarding human trafficking, and the assurance of the full and proper protection, treatment, and rehabilitation of women and children who are victims of trafficking. While these resolutions are a start, their operative statements are ineffective unless all countries agree to them and enforce them strongly. Full cooperation amongst all nations is absolutely essential.

Throughout 1999, the Ad Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime has met regularly to draft a 'Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially women and children'. The protocol required that in order to sufficiently punish traffickers, it was necessary for participating governments to criminalize trafficking outright and to seize all trafficking gains. The protocol further required governments, in order to protect trafficking victims, to make legal proceedings relating to human trafficking confidential and to provide victims with the

information necessary in court proceedings. The protocol also requires governments to provide the necessary housing, counseling, employment, and other assistance to trafficking victims. It required governments to consider legislation that would permit trafficking victims to remain in their territories temporarily or permanently. In order to further prevent trafficking in human beings, the protocol calls for an increased level of cooperation among law enforcement agencies, stronger border controls, and more intricate travel documents, so that they are harder to forge by traffickers. The United Nations Office for Drug Control and Crime Prevention director Pino Arlacchi proposed that governments should reintroduce antislavery laws where they have clearly lapsed or have simply been taken off of the books in June of 2000.

Possible Solutions

While the plethora of challenges associated with combating trafficking in human beings as well as protecting the victims of trafficking seem and indeed are very overwhelming, the task is certainly not unmanageable. Prevention must include economic changes in countries that are the most common targets of human traffickers, public awareness campaigns in those countries, as well as improved international data collection on the issue of human trafficking. All prevention strategies must focus on the source areas in the source countries rather than focusing on tighter border control and stopping the trafficking victims in transit. Controlling and healing the source will be much more effective than attempting to simply stymie the issue with solely focusing on border controls and immigration procedures. NGOs should be used to promote or accelerate the empowerment of women in political, economic, social, and educational roles at all levels of source countries since most traffickers target weak and under appreciated women. A stride towards the equality of women and men will severely hinder the trafficking industry because women will be less intimidated than before by traffickers. There is also a need for increased resources for trafficking victims, such as access to medical, mental health, and legal services provided by the country in which they are rescued. There is most certainly a need to create trafficking and exploitation task forces to specialize specifically in human trafficking. Deterring, disrupting, and prosecuting traffickers will require the strengthening of laws and penalties that currently exist against trafficking or even the drafting of new trafficking proposals.

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Other Resources

Human Rights Watch

<http://www.hrw.org>

International Centre for Migration Policy Development

<http://www.icmpd.org/uploading/OcandTR.pdf>

Protection Project

<http://www.protectionproject.org>

(You will need to create a screen name and a password upon entry. Don't worry, you can forget it after the conference, I promise)

TOPIC THREE

Cloning

Introduction

Preceded by a more technically focused Committee on Crime Prevention and Control, the Commission on Crime Prevention and Criminal Justice (CPCJ) was founded and established by the Economic and Social Council in February 1992. CPCJ consists of 40 members elected by the Council on the basis of equitable geographical distribution: African States (12), Asian States (9), Latin American and Caribbean States (8), Western European and other States (7), and Eastern European States (4). The Commission offers nations a forum to exchange information and to decide on methods to fight crime on a global level by formulating international policies and recommending activities in the field of crime control.

Statement of the Issue

Stem cells are cells taken from human embryos that are only days old. Possessing the ability to divide or self-replicate for infinite periods of time, stem cells can often do so throughout the entire life of an organism. If used in the right conditions, stem cells also can differentiate into the many cell types that make up an organism. They have the potential to develop into mature cells that have both the shape and function of cells such as heart cells, nerve cells, or skin cells. The uses of stem cells are just beginning to be researched, and have already shown promise as potential cures/treatments for different forms of cancer, Parkinson's disease, heart disease, and diabetes, among others.

Despite the promise of new developments being discovered in stem cell research, the controversy remains focused on the destruction of human embryos – which is necessary in order to retrieve these cells. Opponents of stem cell research feel that scientists are destroying life in order to advance scientific research. They believe that life begins at conception and as a result, feel that the stem cells and embryos are distinct entities that have the same moral status as humans. However, there are other varying beliefs that view human life as starting at different points in development. Opponents feel that an implied preference is given to fully developed humans by allowing the research and the consequent destruction. The issue of stem cell research with the isolation of the individual cells has caused tensions between possibly two of the world's most important ethical commitments: protecting human life and curing disease.

History

With the discovery of penicillin and the polio vaccine, people around the world hoped that someday, common diseases such as cancer, mental illnesses, and heart disease, would be cured as well. In the 1960's, scientists observed that cancer cells in mice could form different types of tissue. This prompted the gain in popularity of the concept of a "master cell" that is able to prompt different types of tissue growth. Since this discovery had limited research applications, scientists were unable to create non-cancerous, self-renewing stem cells from mouse embryos in the next two decades. During this time period, however, other types of fetal research yielded a vaccine against measles as well as improved treatment of blood diseases.

Throughout the 1970s, embryo research became a public issue as developments accelerated. In 1972, the first hint that umbilical cord blood could be clinically useful was found. When Norman Ende of the University of Medicine and Dentistry of New Jersey gave an infusion of cord blood to a 16-year old leukemia patient, he found that later, the patient's blood contained red blood cells identified as the donor's stem cells.

Throughout the 1980s, studies on stem cells continued as scientists began to transplant fetal tissue. However, these new studies were met with opposition from anti-abortion groups against the use of biological materials from aborted fetuses. By 1981, stem cells from mouse embryos at an early cell stage were obtained by researchers at the University of California at San Francisco and the University of Cambridge in England. This discovery permitted scientists to explore the cultures of stem cells that could allow the cells to multiply. It also allowed them to combine mouse stem cells with separate embryos resulting in a genetically hybrid mouse.

In 1988, scientists at the University of Colorado performed the first fetal tissue transplant on a patient with Parkinson's disease. As research became more widespread, scientists at the University of Toronto, in 1993, announced the growth of an entire mouse from individual stem cells extracted from mouse embryos. However, as scientists began to discover differences in the developmental biology of mice versus humans, research of stem cells began to develop in mammals more similar to humans.

By 1995, stem cells from a monkey were isolated by University of Wisconsin's James Thomson, who also noticed unusual characteristics in the behavior of the stem cells. Thomson discovered, upon close examination, that the primate stem cells quickly differentiated into various tissues. The only exception was if the stem cells were grown in tissue culture dishes along with a special type of cell called a "feeder cell" that prevented them from specializing. By applying his primate stem cell extraction technology to spare embryos from fertility clinics, Thomson performed the first successful extraction of human stem cells in February of 1998. At the same time, The Johns Hopkins University's John Gearhardt discovered how to

isolate and culture human stem cells from his research on Downs' Syndrome.

In 1999, researchers in Sweden and the United States discovered new pathways in which the brain produces a small but consistent number of new nerve cells. This startling new evidence contradicted the long-held belief that the adult brains of humans and other primates were incapable of gaining new cells, and only lost them. Researchers also found that neural stem cells were able to grow into a wide variety of new brain cells. This discovery opened the notion that transplanting brain cells, grown from stem cells, could possibly cure serious head injuries, or even neurological disorders such as Parkinson's and Alzheimer's diseases.

In the year 2000, scientists in Singapore and Australia derived human embryonic stem cells from the inner cell mass of blastocysts (one of the earliest stages of the development of the embryo) donated by couples undergoing treatment for infertility. Currently, as human embryonic stem cell lines are shared and new lines become known, more and more research groups have reported methods to direct the differentiation of cells under specific laboratory conditions. Most of the research being done has been aimed towards generating human tissues for transplantation purposes in the quest to cure the many diseases that plague the world's population.

Relevant International Action

With the recent developments in stem cell research, ethical and religious objections have brought this new issue to the attention of the United Nations. Perhaps the most noteworthy of actions was the recent joint request from the French and German governments asking the United Nations to approve a measure that seeks a worldwide ban on human cloning for reproductive purposes. Although this law would explicitly ban human cloning for reproduction, it would still allow controlled scientific research on in vitro embryos and stem cells. The law also mandates that any embryos used in research must be formally intended for purposes other than producing a child.

In 1999, the United Nations General Assembly endorsed the Universal Declaration on the Human Genome and Human Rights. This declaration states, "Practices...contrary to human dignity, such as the reproductive cloning of human beings, shall not be permitted."¹ The WHO (World Health Organization) also has adopted resolutions that describe the "replications of human beings [as]...contrary to human integrity and morality."²

Analysis

Much of the opposition and issues related to stem cell research is a direct result of the method in which stem cells are obtained — the destruction of human embryos. The

fundamental controversy is centered on the dispute of whether human embryos are alive and can be considered individual human entities. Most religious groups acknowledge the possibilities of curing diseases with stem cell research. However, many also feel that in destroying the human embryos to retrieve stem cells, scientists are in essence, killing human life for research.

Perhaps the religion most opposed to stem cell research is Catholicism. According to Edmund Pellegrino, director of the Center for Clinical Bioethics at Georgetown University Medical Center, Roman Catholics view human life as a continuous progression from a single cell embryo up until death.³ As a result, Catholics believe that scientists who extract stem cells from aborted fetuses or spare embryos from fertility clinics are destroying the equivalent of a fully-grown human being. They also feel that distinguishing certain embryos as human beings when they pass a certain stage of development is an arbitrary practice.

However, within the beliefs of Catholicism, there are some that believe that there is a cutoff point in which an embryo becomes an individual human entity. For instance, Margaret Farley, a Catholic nun and professor of Christian ethics at Yale University Divinity School, believes that embryos in their earliest stage of development are not yet individual human beings, and thus a case for stem cell research can be made. Farley believes that the embryo can be designated as an individual human entity when it develops the first signs of a nervous system and can begin to respond to its surroundings (around 14 days after conception).

As the center of Catholicism, the Vatican has been most opposed to stem cell research. Archbishop Renato Martino, the Vatican's permanent observer at the United Nations, feels strongly that the production of human embryos to supply specialized stem cells for the treatment of diseases and illnesses should be prohibited. As this production involves an eventual destruction of the embryos, Martino strongly feels that scientists would be creating life (embryos) in order to be destroyed. He described this practice as an "exploitation of human beings...even when others might benefit from the practice" and further added that "those same stem cells can be obtained by other, acceptable means."⁴

In the Jewish law, legal status is not given to embryos until they exit the womb, meaning that fetuses are not recognized as human beings until they have emerged from the uterus. Furthermore, Judaism would regard embryos during the first 40 days of gestation "as if they were simply water," according to Rabbi Elliot Dorff, professor of philosophy at the University of Judaism in Los Angeles.⁵ Dorff states that stem cells used for research purposes can be legitimately "procured from donated sperm and eggs mixed together and cultured in a petri dish...[since] genetic materials outside the uterus have no legal status in Jewish law, for they are not...part of a human being."⁶ However, Dorff also states that the Jewish

faith sees the fetus, during most of its gestational development as "the thigh of its mother"⁷, and thus can only "amputate" the thigh (or abort the fetus) if it threatens the mother's life. Jewish tradition is accepting of both natural and artificial means of overcoming illness and disease. Although Judaism prohibits abortions unless absolutely necessary, the use of stem cells extracted from a fetus in order to save others' lives is accepted by the Jewish faith, if the abortion is performed for a justifiable reason.

The Islamic faith does not provide a universally accepted definition of an embryo, nor does it define the moment when a fetus becomes a moral or legal being. A majority of Islamic scholars (of both Sunni – the majority in the Muslim community, and Shi'ite – the minority) divide pregnancies into two stages, the second marked by the end of the fourth month, where they believe that ensoulment takes place. The Koran and the Tradition also believe that perceivable human life is possible only during the later stages of the biological development of the embryo. At these later stages in which form and voluntary movement are perceived, the fetus is given the status of a legal person. However, at the earlier stages of development, according to Islamic faith, the fetus is not considered a legal human entity. According to Abdulaziz Sachedina, professor of Islam at the University of Virginia, as long as the goal is improving the good of humanity, under the Islamic faith, human beings can "intervene in the works of nature, including the early stages of embryonic development."⁸ Sachedina also comments that the act of research using stem cells can be seen as an act of faith in God, since the purpose is to improve human health.

Although the Eastern Orthodox faith supports the furthering of medical healing, it also believes that healing should be done in a matter according to God's will rather than our own and not at the expense of human lives, says Demetrios Demopoulos, pastor at Holy Trinity Greek Orthodox Church in Fitchburg, Massachusetts.⁹ Orthodox Christians believe that human life is sacred at all stages from the embryo to adult, since the only difference between the two is the stage of development. Furthermore, they feel that all stages of life should be entitled to the same protection and opportunity. As a result, the Eastern Orthodox faith believes that embryos should not be sacrificed or destroyed, no matter how worthy the goal is, even in stem cell research.

Finally, Protestant faiths seem to have diverse views on the issue of stem cell research. Some Protestants concur with the beliefs of Gilbert Meilaender, a Christian ethicist at Valparaiso University in Indiana. They believe that utilizing stem cells from aborted or spare fetuses is simply an example of the strong (grown, adult humans) using the weak (fetuses).¹⁰ Meilaender further feels that "society is trying to benefit some members at the expense of others who have already been condemned to die"¹¹ and thus believes that stem cell research should not be allowed. However other Protestants, such as Ronald Cole-Turner, a professor of theology at the Pittsburgh Theological Semi-

nary and chair of the United Church of Christ committee on genetics, strongly support the continuation of stem cell research because of its great advantages and benefits. Although Cole-Turner supports the research in stem cells, he is apprehensive that the medical benefits found will only be distributed by means of the market, excluding the underprivileged members of society.¹²

Besides religious oppositions, stem cell research also can be seen as violating legal codes. If the embryos are alive, extracting embryonic stem cells violates a minimum of three principles of the Nuremberg Code, which presents the principles that scientists must follow while conducting research on human subjects. First, scientists always must obtain the voluntary consent of the human research subject, something that embryos cannot do. Also, if the embryos are created specifically for the purpose of experimentation, then they do not have parents who can speak on their behalf. Second, the Nuremberg Code states that human subjects must be protected “against even remote possibilities of injury, disability, or death.”¹³ Finally, the Nuremberg Code requires that human subject experiments must yield results that are “unprocureable by any other means of study.”¹⁴

Possible Solutions

In stem cell research, the first step for scientists is to obtain the stem cells. As this initial step is the most controversial, perhaps it is also the most important step in which our society must agree upon a solution. As discoveries become known and more research is done, scientists are finding other means of obtaining stem cells for use in research to find cures and treatments for illnesses and diseases. Despite these new findings, many religions still oppose the use of any types of embryo cells in research. However, with the allowance of one method of obtaining stem cells, it will be difficult to prevent a “slippery slope” towards full allowance of all types of stem cell research.

Already, many couples across the world are donating their eggs and sperm used for in-vitro fertilization due to infertility. However, from this process, thousands of leftover embryos remain in the freezer to be discarded, adopted, or donated to researchers for use in stem cell research. One of the problems with this method is that companies performing in-vitro fertilization may be paid off by other companies to create more “leftover” embryos that they can legitimately use for research in stem cells.

Another option lies in donor embryos in which sperm and egg donations are collected to create embryos specifically for the development of stem cells in research. Some researchers believe that this method of creating embryos “solely for research”¹⁵ is more honest and should be accepted by the religious beliefs as different from using normal embryos. However, many religious groups disagree, as they believe that any life created should be protected by the same means.

The last method of obtaining embryonic stem cells is from cloned embryos. In this case, the nucleus of an adult-donor cell is implanted into an egg-cell membrane in order to create a new embryo. A big advantage to this method is that the cells and organs grown from the extracted stem cells of the embryo are genetically identical to the donor’s. These cells or organs can be implanted into the donor without a fear of the donor’s body rejecting them.

Through recent research, biologists have found stem cells in umbilical-cord blood. They discovered that the blood collected from both placentas and umbilical-cords (both of which are normally thrown away after birth) contain stem cells that could possibly be used to rebuild the blood and immune systems of people with leukemia and other cancers. Some firms and companies even offer to preserve and freeze the umbilical cord and placenta blood in case children later develop a disease that could be treated easily by this blood. However doctors and other experts question whether such practices are necessary and wonder if the company’s practices are “right, when the chance a child will ever need his or her cord blood ranges from 1 in 10,000 to 1 in 200,000.”¹⁶ Some fear that expectant parents, some of who can scarcely afford the service, might feel compelled to purchase the service even if their families have no history of blood disorders. Although there are no religious objections to obtaining the stem cells from the placenta and umbilical cord, there are still ethical objections, along with doubts of the usefulness of this type of stem cells, as they have not been proven to be as versatile as embryo stem cells.

Finally, the last option and perhaps the frontrunner in alternatives to embryo stem cells are adult stem cells. Adult stem cells, harvested from bone marrow, brain tissue, and organs, have begun to show similar potential to those derived from embryos. Stem cells obtained from adults also do not pose any religious objections, as they would be obtained from fully consenting adults who would not be harmed. However, adult stem cells have not been found capable to develop into any cell type (as embryonic stem cells can). Still, this may be due to the limited research performed on adult stem cells.

Neuroscientists at the University of Florida caution that adult stem cells in the brain may turn into cancer rather than replenish the neural cells in the brain. Dr. Douglas Steindler and colleagues at the University hypothesize that “brain cancer may begin as a brain stem cell that becomes mutated and does not differentiate into a normal brain cell.”¹⁷ Although Steindler believes that this discovery may provide a new method of study in the quest to cure cancer, he also cautions against using adult stem cells in implants and in treating disease until more is known.

As a result of the limited research and unknown qualities of adult stem cells, some opponents of embryonic stem cell research are proposing and fighting for more research to be done with adult stem cells. Yet other scientists believe that adult stem cells will not prove to be as

versatile as embryonic ones, specifically in developing cures for Parkinson's disease and diabetes. They also point out that it is harder to obtain large quantities of adult stem cells for research purposes and question whether they will lose their potency as time passes.

Conclusion

Our society is only beginning to realize the potential of stem cell research. The possibilities seem endless: organ transplants, cures for diseases (cancer, diabetes, Parkinson's, heart disease), and even treatment for strokes, spinal cord injury, burns, and other serious wounds. However, the controversy surrounding this new field lies in the question of when the embryo is considered an individual human entity. Many religious groups and countries oppose embryonic stem cell research, as they believe that the human embryo should be protected just as a fully developed human should. Even with the new developments to find alternatives to embryonic stem cells, it seems that no other stem cells (whether they are adult or umbilical cord) can match the versatility of the stem cells from the human embryo. Our society is faced with an unrelenting dilemma between two of our most important ethical commitments: treating/curing disease and preserving human life.

Endnotes

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