



**Alliance To End
Slavery & Trafficking**

ATEST RECOMMENDATIONS FOR 2021 TRAFFICKING VICTIMS PROTECTION ACT REAUTHORIZATION

Introduction

Human trafficking continues to be one of the most important challenges of our time. More than 20 years after Congress first passed the Trafficking Victims Protection Act (TVPA), traffickers continue to exploit an estimated 25 million people in forced labor around the world, earning over \$150 billion dollars annually from this crime. An estimated 15 million more people are trapped in forced marriages.

This year, the TVPA is set to expire and will need to be reauthorized for the sixth time. The TVPA serves as the cornerstone for the U.S. counter-trafficking response and contains the overwhelming majority of authorizations for the policies and programs that drive this important work. As Congress begins its work to reauthorize the TPVA once again, the Alliance to End Slavery & Trafficking (ATEST) is presenting recommendations we believe will help ensure a successful, strong reauthorization.

We believe it is critical that Congress continues the long history of bipartisanship on TVPA reauthorizations. Combating human trafficking remains a priority across both sides of the aisle. Any legislation introduced and moved through Congress to reauthorize the TVPA must have strong support from both parties.

We also strongly urge Members of Congress to work together to introduce a single, complete TVPA reauthorization bill. For the most recent reauthorization passed in 2018, there were four different pieces of legislation, each reauthorizing a portion of the TVPA. This process was unwieldy and contributed to significant delays. We greatly appreciate the desire of so many Members to contribute to the TVPA reauthorization, but to ensure a more productive, smoother process, we request that offices coordinate to have a single reauthorization bill. We also urge Congress to reauthorize the TVPA for a period of five years.

ATEST recommendations are presented in this document not in priority order, but by categories.

ATEST 2021 TVPRA Recommendations	
Authorizations	<ul style="list-style-type: none"> • Critical authorization increases to support prevention, survivor protection, and perpetrator prosecution • Lengthening the authorization timeline to at least 5 years
Expanding Protections for Survivors	<ul style="list-style-type: none"> • Ensuring services in the child welfare system are extended to children in forced labor • Comprehensively addressing the nexus between human trafficking and gender-based violence • Providing whistleblower protection for trafficking survivors reporting forced labor • Updating T-visa standards to expand protections for trafficking survivors • Requiring the Department of State to implement post-arrival orientation, in-person monitoring and exit interviews for all visa categories of domestic workers brought by diplomatic personnel
Preventing Trafficking in Global Supply Chains	<ul style="list-style-type: none"> • Strengthening regulation of foreign labor recruiters • Increasing transparency and improving enforcement of regulations prohibiting trafficking in government contracts • Authorizing the International Labor Affairs Bureau - ILAB
Integrating Trafficking Strategies into Foreign Assistance	<ul style="list-style-type: none"> • Requiring USAID to integrate anti-trafficking strategies and activities into all international aid programs • Requiring the U.S. to oppose international development bank loans that do not have trafficking impact and mitigation strategies in Tier 2 Watchlist and Tier 3 countries

The Alliance to End Slavery and Trafficking is a U.S. based coalition that advocates for solutions to prevent and end all forms of human trafficking and modern slavery around the world.

ATEST member organizations include: Coalition to Abolish Slavery & Trafficking (CAST), Coalition of Immokalee Workers (CIW), Free the Slaves, HEAL Trafficking, Human Trafficking Institute, Humanity United Action (HUA), McCain Institute for International Leadership, National Network for Youth (NN4Y), Polaris, Safe Horizon, Solidarity Center, T'ruah: The Rabbinic Call for Human Rights, United Way Worldwide, Verité and Vital Voices Global Partnership.



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Recommendation 1:

Critical authorization increases to support prevention, survivor protection, and perpetrator prosecution

ATEST Recommended Authorizations FY22-26 (in millions)

Section	Agency/ Program	Previous Authorization FY 21	FY21 Enacted Approps	FY22 ATEST Approps Request	Recommended Authorizations FY 22	FY 23	FY 24	FY 25	FY 26
22 USC §7110a	JTIP: Admin (TIP report, PITF/SPOG)	\$13.8	\$16.0	\$18.0	\$18.0	\$18.0	\$20.0	\$20.0	\$21.5
22 USC §7110c1	JTIP: Grants	\$65.0	\$77.0	\$77.0	\$77.0	\$77.0	\$90.0	\$90.0	\$101.0
Sec. 115 of PL 114-22	JTIP: survivor advisory	n/a	n/a	\$0.6	\$1.0	\$1.0	\$1.0	\$1.0	\$1.0
	JTIP: PEMS	\$37.5	\$25.0	\$37.5	\$37.5	\$37.5	\$37.5	\$37.5	\$37.5
22 USC §7110b1	HHS: foreign national victim assistance	\$16.0	\$27.8	\$50.0	\$30.0	\$30.0	\$34.0	\$34.0	\$40.0
22 USC §7110b2	HHS: US victim assistance	\$8.0			\$20.0	\$20.0	\$23.0	\$23.0	\$25.0
22 USC §7110b1	HHS: NHTH	\$3.5	\$4.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0	\$5.0
22 USC §7110f	DOL	\$5.0	[\$67.3]	[\$130.0]	[\$130.0]	[\$130.0]	[\$146.0]	[\$146.0]	[\$165.0]
22 USC §7110d1	DOJ: US victim assistance	\$77.0	\$85.0	\$134.0	\$109.0	\$109.0	\$123.0	\$123.0	\$138.0
22 USC §7110d3	DOJ/HHS: US victim assistance	\$11.0			\$11.0	\$11.0	\$12.0	\$12.0	\$14.0
34 USC § 20705	DOJ: task forces	\$10.0			\$14.0	\$14.0	\$16.0	\$16.0	\$18.0
34 USC § 20702	DOJ: minor victim services grants	\$8.0			\$10.0	\$10.0	\$11.0	\$11.0	\$13.0
22 USC §7110i	DHS: ICE investigations	\$10.0	n/a	\$18.8	\$18.8	\$18.8	\$21.0	\$21.0	\$24.0
n/a	DHS: ICE FL investigations	n/a	\$15.7	\$15.7	\$15.7	\$15.7	\$15.7	\$15.7	\$15.7
n/a	DHS: CBP tariff act enforcement	n/a	n/a	\$20.0	\$20.0	\$20.0	\$23.0	\$23.0	\$25.0

EXPLANATION AND SUPPORTING MATERIAL:

I. STATE DEPARTMENT AUTHORIZATIONS

J/TIP ADMINISTRATION:

J/TIP provides funding and tools to assist governments that have the will to change but lack financial resources to do so. U.S. leadership through the J/TIP office continues to elevate worldwide awareness and advance global responses to human trafficking. These resources are needed to strengthen collaboration with posts and regional bureaus, to enable J/TIP to encourage foreign governments to comply with minimum standards in the *Trafficking Victims Protection Act* (TVPA), and to facilitate implementation of the tier ranking system. These resources will enable J/TIP to provide additional expertise in prosecution and prevention strategies; address performance gaps, particularly for Tier 2 Watch List countries; and support ongoing reporting and grant functions to achieve the TVPA's standards and build in-country capacity. Additionally, this funding would support the President's Interagency Task Force, which J/TIP convenes, by coordinating anti-trafficking efforts across the U.S. Government. Lastly, as JTIP's grantmaking capacity continues to grow, so does their need for staff to manage this increased programming.

JTIP GRANTS:

JTIP grants enable nonprofits, non-governmental organizations, public international organizations and universities to fight human trafficking through prevention workshops, training workshops for law enforcement, and legal and strategic support. These grants provide specialized training for law enforcement officers to recognize trafficking and forced labor, conduct investigations, assist with prosecutions and support victims. Particularly in light of the COVID-19 crisis, more people are vulnerable to trafficking. Additional funding and support are required to meet the increased need for ongoing and new services. These funds are critical to ensuring that victims are identified and protected, traffickers are convicted, and systems and policies are in place to prevent future trafficking.

JTIP grants also fund the **Child Protection Compacts (CPCs) program**. State Department CPCs support policies and programs that prevent and respond to violence, exploitation, and abuse against children, and measurably reduce the trafficking of minors by building sustainable and effective systems of justice, prevention, and protection. This assistance can be provided in the form of grants, cooperative agreements, or contracts to or with national governments, regional or local governmental units, or non-governmental organizations with expertise in the protection of victims of severe forms of human trafficking.

U.S. ADVISORY COUNCIL ON HUMAN TRAFFICKING:

The council provides advice and recommendations to the Senior Policy Operating Group and the President's Interagency Task Force to Monitor and Combat Trafficking. We applaud the U.S. Government for working with survivors, who are in the best position to analyze and recommend policies that have the greatest impact. This request would fund support staff for council convenings, council member travel expenses and per diem, consulting fees for council members

and other authorized activities. Per Section 1299R of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (P.L. 116-283), Congress extended the Advisory Council's mandate through FY 2024 and also authorized Advisory Council members to receive compensation for their work. Dedicated funding would increase the Advisory Council's capacity and sustainability in supporting the U.S. government's response to human trafficking.

PROGRAM TO END MODERN SLAVERY / END MODERN SLAVERY INITIATIVE:

The program has allowed the U.S. to leverage its investment by marshaling resources from other donor governments and the private sector. PEMS/EMSI funds programs to combat sexual exploitation and forced labor around the world, gathers data, and establishes best practices with civil society and national governments to significantly and measurably decrease the prevalence of modern slavery.

II. HHS AUTHORIZATIONS

ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF), VICTIM SERVICES:

ACF fulfills mandates of the Trafficking Victims Protection Act to 1) Identify and serve victims who are foreign nationals; and 2) Create specialized case management programs to assist U.S. citizen victims. The number of trafficking victims certified as needing comprehensive, trauma-informed, gender-specific services has risen dramatically but funding for services has not kept pace. Additionally, funding increases for victim services programs under HHS have never matched the increases provided to programs under DOJ. Both programs are essential to effectively assist victims and survivors and we encourage parity in funding for both programs. While HHS departments have worked efficiently with limited resources to support service providers, further funding would allow HHS to fulfill legislated and related needs of victims more fully.

Service providers across the country have noted a significant increase in the services required by victims and survivors during the COVID-19 crisis. One California-based service provider reported that the number of requests for food, housing and rental assistance received per week has nearly quadrupled due to COVID-19, while another saw a 62% increase in requests for resources like housing and clothing. A third provider reported a 132% increase in requests for food and transportation. A survey conducted by the OSCE Office for Democratic Institutions and Human Rights and the United Nations Entity for Gender Equality and the Empowerment of Women (the "OSCE ODIHR Survey") confirms the increased needs of service providers globally to effectively assist victims during the pandemic. The crisis has heightened vulnerabilities to exploitation and required providers to work with limited resources to provide expanded services. We are seeing unprecedented unemployment rates and significantly heightened client financial needs in all areas. Both trafficking victims currently receiving services and those newly seeking services have shown an increased need for direct assistance to pay for basic necessities like food and shelter. With the pandemic impacting employment opportunities in all industries where human trafficking survivors have formerly sought employment and stability, we expect a significant increase in the coming years in the need for sustained comprehensive services for all survivors for longer periods of time. Specifically, Data from the Trafficking Hotline showed that in April 2020, the number of crisis trafficking situations increased by more than 40 percent and the number of situations in

which people needed immediate emergency shelter nearly doubled. We therefore request an increase in funds in FY22 to \$50,000,000, which will help keep up with the expected needs of trafficking victims and their family members.

NATIONAL HUMAN TRAFFICKING HOTLINE:

The National Human Trafficking Hotline (“Trafficking Hotline”) is a toll-free 24/7 center available to answer calls, text messages, online tips and email queries. The Trafficking Hotline connects victims with anti-trafficking services in their area (such as shelter, case management, and legal services), collects tips on human trafficking cases, and, where appropriate, reports actionable tips to law enforcement. The Trafficking Hotline serves both domestic and foreign victims inside the U.S. In FY20 alone, the Trafficking Hotline identified more than 18,600 sex and labor trafficking victims in every state across the U.S. Funding to the Trafficking Hotline has been insufficient to meet the growing demand. From FY19 to FY20, the hotline saw a 42% increase in incoming contacts, including calls, texts, online chats, emails and online tip forms. During that same period, there was a 17% increase in the number of trafficking victims and survivors who reached out to the Hotline directly. This is particularly meaningful as victims and survivors know their situations and needs better than anyone, giving the Trafficking Hotline the best information and avenue to help. We request an increase in the National Human Trafficking Hotline’s authorization to \$5,000,000 to support the Hotline to continue to meet the needs of victims and survivors of human trafficking.

III. DOL AUTHORIZATION

DOL INTERNATIONAL LABOR AFFAIRS BUREAU (ILAB):

The Bureau of International Labor Affairs (ILAB) is an essential part of the U.S. Government’s international response to forced labor, human trafficking and child labor. ILAB’s mandates touch on key elements of partnership, prevention, protection and prosecution, such as child labor, international labor diplomacy, international economic affairs and labor-related trade policy. Through highly respected research, grant-making and policy development work, ILAB identifies cases of goods reported on the annual “List of Goods Produced by Child Labor or Forced Labor.” In the last reauthorization, Congress mandated that ILAB include goods produced with inputs made with forced labor to the extent practicable. This expansion of the List is critical to help Customs and Border Protection enforce Section 307 of the Tariff Act by providing research to identify imports at high risk for being made with forced labor, but will cost additional resources.

IV. DOJ AUTHORIZATIONS

VICTIM ASSISTANCE/ STATE AND LOCAL LAW ENFORCEMENT TASK FORCES:

In 2019, the National Human Trafficking Hotline identified 11,500 potential trafficking cases in the United States, a 7.9 percent increase in identified cases since 2018. In the first 2 months of shelter-in-place orders, the Trafficking Hotline recorded a 40 percent increase in crisis cases reported compared to prior years. This trend has continued for the following months. The COVID-19 crisis has drastically changed the landscape for serving human trafficking victims and

survivors. Service providers nationwide have reported a greater caseload and more difficulties providing services due to shelter-in-place orders and lockdown restrictions. As economic vulnerabilities continue to increase throughout the duration of the pandemic and economic recovery, we expect an increase in required services for victims and survivors. Despite the amplified need for comprehensive services, we anticipate a 35 percent decrease in funding for service providers in the anti-trafficking movement as part of the economic fallout from this global health crisis. We are seeing sustained unprecedented unemployment rates and significantly heightened client financial needs in all areas, including social and legal needs, and thus expect a significant increase in the need for sustained comprehensive services.

To attempt to meet the growing needs of victims and survivors, we request a continue increase in authorizations for human trafficking survivors and law enforcement. Given the increased vulnerability to trafficking due to high unemployment rates and general financial, legal and social instability, additional authorizations for victim services is critical.

MINOR VICTIM SERVICES GRANTS:

Specialized, comprehensive, trauma-informed and gender-specific assistance to minor victims of human trafficking is critical. Minors face significant hurdles recovering from the abuse and trauma they have endured. Law enforcement has identified the lack of specialized housing programs throughout the U.S. as the greatest obstacle in effectively prosecuting child traffickers. We request additional authorizations to support services, training and outreach for labor-trafficked youth (\$4 million of the \$12 million total authorization). We believe including labor trafficked children is imperative given that the federal definition of human trafficking includes both sex trafficking and forced labor.

V. DHS AUTHORIZATIONS

IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) INVESTIGATIONS:

HSI plays a critical role in combating severe forms of trafficking originating from foreign countries, including investigating violations of Section 307 of the Tariff Act of 1930, and is, therefore, the first line of defense against key aspects of this crime. In FY17 HSI initiated 833 TIP investigations, down from 1,029 in FY16 and from 1,034 in FY15. We request funding from the Immigration and Customs Enforcement allocated funds for investigations, training, victim services, and victim witness coordinators within HSI to combat severe forms of trafficking in persons as authorized by Sec. 113(i) of the TVPRA of 2013 and updated in the TVPRA of 2018.

ICE FORCED LABOR INVESTIGATIONS:

Congress has funded ICE to enforce laws against forced child labor for twenty years; for the last seventeen years, Congress has appropriated \$15.7 million annually. By statute, ICE Homeland Security Investigations (HSI) is the only U.S. government law enforcement agency authorized to investigate allegations of forced child labor and forced labor in the manufacture or production of goods that are imported into the United States, as well as to conduct investigations into allegations of forced labor here in the United States. ICE HSI has 26 offices in the United States and 63 offices that work side-by-side with foreign law enforcement in 46 countries. This wide reach is

critical to the success of investigations into forced child labor and forced labor generally, because these investigations often involve criminal networks or individuals in other countries.

These investigations are even more important today because Congress has taken steps to prevent the United States from supporting slave labor by amending Section 307 of the Tariff Act, which bans the import of any goods produced with forced labor. Given the importance of ICE's role in enforcing this provision, we think it critical to codify the authorization for this funding and clarify that the funding is exclusively for both forced labor and forced child labor investigations.

CUSTOMS AND BORDER PROTECTION (CBP) FOR ENFORCEMENT OF SECTION 307 OF THE TARIFF ACT:

We request a new authorization for CBP to self-initiate investigations into the enforcement of section 307 of the Tariff Act of 1930. Recent changes in law have made it easier to enforce this prohibition on the importation into the U.S. of goods made with forced labor. Funds would be used to fulfill CBP's budget request for FY18 of 20 new auditors, to further enforce forced-labor restrictions in imports as was addressed in section 910 of the TFTEA of 2015. Increased and improved enforcement of the Act would allow CBP to stop goods made with forced labor from entering the U.S. markets and discourage foreign producers from using forced labor in their supply chains.

We have seen a small but steady uptick in enforcement actions over recent years. In FY 2018, there were two Withhold Release Orders (WRO) issued, including a notable one for all cotton from Turkmenistan, and in FY 2019, there were six WROs issued. In FY 2020, CBP more than doubled the previous amount by issuing thirteen WROs, resulting in the detention of more than 300 shipments containing nearly \$50 million of goods believed to be tainted by forced labor. However, this remains just a fraction of what is needed to ensure the law is adequately enforced.



Recommendation 2:

Authorizing the TVPA for at least 5 years

Since first passing in 2000, Congress has reauthorized programs within the Trafficking Victims Protection Act in three or four year periods. As the law and the U.S. government's response to human trafficking was developed and established, this allowed for key changes to improve effectiveness and respond to the needs of trafficking victims and survivors. Now, more than 20 years later and with the foundation of the TVPA in place, extending the authorization period to at least 5 years will make space for additional opportunities to evaluate effectiveness and ensure proper Congressional oversight in order to identify future legislative changes. An authorization period of least five years will also align the timing of the TVPA with other landmark U.S. laws such as the Farm Bill, the Violence Against Women Act, and the President's Emergency Plan for AIDS Relief.



Recommendation 3:

Ensuring services in the child welfare system are extended to labor trafficked children

PURPOSE: To ensure data collection, prevention efforts, and specialized services for all child trafficking victims in the child welfare system.

EXPLANATION AND SUPPORTING MATERIAL:

In 2014 and 2015, The Preventing Sex Trafficking and Strengthening Families Act (Public Law 113-183) and The Justice for Victims of Trafficking Act (Public Law 114-22), respectively, were enacted and provided increased protections for child sex trafficking victims in the child welfare system. More than five years after enactment, at least 15 states have taken steps to identify and prevent **both** sex and labor trafficking in their child welfare system, whereas only 6 states have sex trafficking only protections. Thus, the majority of states taking action have recognized that children experience both sex and labor trafficking in our child welfare systems, and need heightened protections. The time is now for the federal government to update its own outdated language around the definition of child abuse to ensure data reporting and other provisions enacted to prevent and early identify child sex trafficking victims in our child welfare system, and to encourage the other 29 states who have yet to take action around this issue to do so for all child trafficking victims.

Recent reports on this issue highlight the need to protect both child sex and labor trafficking victims.

Child labor trafficking victims have been identified in a diverse array of industries, including agricultural work, restaurant service, hair braiding, domestic work, forced peddling, and a range of illegal work activities.[1] Child labor trafficking victims will be identified if an effort is made to look for them. If not, they will continue to be exploited and abused. In Florida, 24 children were involved in a child labor trafficking scheme where they were forced to sell items door to door until they were identified by an off-duty Florida Department of Child and Families worker.[2] A similar scheme was identified in Colorado, where an anti-trafficking organization helped children who were trapped in magazine sales crews.[3]

Two recent studies (2016-2018) by Covenant House, an organization providing services to runaway and homeless youth, examined both sex and labor trafficking of youth. In one study covering 10 cities, researchers found that 166 of 641 youth were trafficked — 92 for sex, 52 for labor, and 22 for both sex and labor. Thus, 74 out of 166, or 45%, of trafficked youth were trafficked for labor (including labor plus sex).[4] In Los Angeles, the type of trafficking was evenly

split (50%-50%) between sex and labor trafficking. The study further found that labor trafficking was more prevalent than sex trafficking among homeless youth in Oakland, California (19% vs. 15%).^[5] Importantly when looking at the connection to the child welfare system, youth who had a history of involvement in the foster system accounted for 26%^[6] of all youth who were labor trafficked, according to the results of the 10-city study by Covenant House. The researchers concluded: “Youth between the ages of 17 and 19 need special attention because of their unique vulnerabilities.”^[7]

The connection of child labor trafficking to the child welfare system was also seen in Florida, where the state tracks data for sex and labor trafficking of foster youth. In July 2018, after a lengthy study of over one million youth in the Florida child welfare system, the researchers found that 9% of trafficked youth in the child welfare system were labor trafficked. The researchers noted that “labor trafficking is even less likely to be identified than sex trafficking,” indicating that the labor percentage they found is likely lower than reality.^[8]

Case Examples of Labor Trafficked Children in Need of Protection

- **Mary**, a young Mexican girl, was forced to peddle tamales on the street and was sexually assaulted in her family’s home. While she was peddling on the street, a woman noticed bruises on her body and called the police. Police dropped Mary off at the local homeless shelter where she waited for help for over two months before being identified as a child trafficking victim by a staff member.^[9]
- **Jessica** was 17 when she was recruited to sell magazines in the southern United States. She was forcibly transported and made to work in various locations in the United States and finally escaped when she was 18. She went to a police department for help. The police department considered her homeless and did not identify this as a labor trafficking case.^[10]
- **Liz and Marty**, two American youth were homeless after their families kicked them out of their homes and answered a website ad for au pair services. Once they were flown to the host family’s home, they were forced to work every day and sexually assaulted by the father of the household, who used drugs to sedate them.^[11]
- **Marco**, 16, was forced to smuggle drugs into the United States. He was violently beaten and watched as a friend was killed in front of him. Marco was arrested for selling drugs and sentenced to time in juvenile hall instead of being identified as a victim of human trafficking.^[12]

PROPOSED STATUTORY LANGUAGE:

Sec: ___

In The Preventing Sex Trafficking and Strengthening Families Act (Public Law No: 113-183) strike all references to “sex trafficking” and replace with “human trafficking”

Update the definition of victim to include both sex and labor trafficking victims:

In Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended—

- (1) In subparagraph (b) by striking “Sex”
- (2) In subparagraph (9) by striking “sex” and
- (3) In subparagraph (9)(B) inserting after 103(9)(A) “&(B)”

Amend Section 106 of the Child Abuse Prevention And Treatment Act (42 U.S.C 5106a)

42 U.S.C.5105(a) is amended

(1) in subsection (b)(2)(B)(xxiv) by striking “sex” and

103(10) of the Trafficking Victims Protection Act

of 2000 (22 U.S.C. 7102 (10)) and inserting “103(11 &12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102 (11 &12))”

(2) in subsection (b)(2)(B)--

(A) in clause (xxii), by striking “sex” and

(B) in clause (xxiv) by striking “sex” and “103(10) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102 (10))” and inserting “103(11 &12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102 (11 &12))”

(C) in clause (xxv) by striking “sex”

42 U.S.C 5106(g)

(1) in subsection (b)(1)---by striking “sexual abuse” and “sex” and “(as defined in paragraph (10) [1] of section 7102 of title 22) or a victim of severe forms of trafficking in persons described in paragraph (9)(A) [1] of that section” and inserting “as defined in paragraph 103(11 &12) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102 (11 &12))” and at the end inserting a child shall be considered a victim of “sexual abuse” if the child is identified, by a State or local agency employee of the State or locality involved, as being a victim of sex trafficking (as defined in paragraph (12) [1] of section 7102 of title 22) or a victim of severe forms of trafficking in persons described in paragraph (11)(A) [1] of that section.”

[1] *Child Trafficking for Labor in the United States: Overview*, Freedom Network USA (June 2011), available at http://freedomnetworkusa.org/wp-content/uploads/2012/05/FN_Child_Trafficking_Updated.pdf.

[2] J.D. Gallop, *Police Say 24 Children Rescued from Human Trafficking Scheme*, FL. Today, Oct. 29, 2013, <http://www.floridatoday.com/article/20131029/NEWS01/310290024/children-human-trafficking>.

[3] Margo Pierce, *Magazine Crew—Human Trafficking May Have Knocked at Your Door*, Denver Voice, Nov. 1, 2009, <http://www.denvervoice.org/ourvoice/2009/11/1/freature-magazine-crew-human-trafficking-may-have-knocked-at.html>.

[4] Murphy, Laura, "Labor and Sex Trafficking Among Homeless Youth: A 10-City Study," Loyola University New Orleans Modern Slavery Research Project (2016), <https://static1.squarespace.com/static/5887a2a61b631bfbbc1ad83a/t/5a7490fdc8302508d6b76f1c/1517588734590/Labor+and+Sex+Trafficking+Among+Homeless+Youth.pdf>; Wolfe, Debra et al, "Human Trafficking Prevalence and Child Welfare Risk Factors Among Homeless Youth A Multi-City Study," U. Penn. Field Center January 2018, <https://fieldcenteratpenn.org/wp-content/uploads/2013/05/6230-R10-Field-Center-Full-Report-Web.pdf>.

[5] Murphy, Loyola University New Orleans Covenant House Study (2016), *supra*.

[6] See also New York State Interagency Task Force on Human Trafficking, "2017 Annual Report," <https://www.criminaljustice.ny.gov/pio/humantrafficking/ITF-2017-Annual-Report.pdf>. **New York** state interagency task force that studied data on all forms of trafficking from 2007 to 2017 and issued a report in 2018.[6] The task force examined only reports to the Office of Temporary and Disability Assistance. In ten years, there were 1,022 "confirmed victims." Of these, **18%** were deemed to involve labor trafficking and **27%** of the victims were children under the age of 18.

[7] Murphy, *supra*.

[8] Gibbs, Deborah et al, "Sex and Labor Trafficking and the Child Welfare Population in Florida," presentation at International Family Violence and Child Victimization Research Conference, July 2018

[9] Individual stories from Coalition to Abolish Slavery and Trafficking (CAST) caseload (2018).

[10] *Id.*

[11] *Id.*

[12] *Id.*



Recommendation 4:

Comprehensively addressing the nexus between human trafficking and gender-based violence

PURPOSE: To address root causes of human trafficking and ensure greater collaboration between efforts to address human trafficking and gender-based violence (GBV). Comprehensive efforts to reduce human trafficking must include efforts to prevent and respond to GBV given the intertwined relationship of the two crimes. Recognizing the nexus between human trafficking and GBV is critical. While trafficking in persons can be a form of GBV, various forms of GBV can also serve as drivers to human trafficking and/or a method of controlling and manipulating individuals across all forms of trafficking. The Strategy to Prevent and Respond to Gender-Based Violence Globally is a key tool to begin addressing these issues collectively.

EXPLANATION AND SUPPORTING MATERIAL:

Recognizing that the nexus between human trafficking and gender-based violence (GBV) is addressed in the design of programming and provision of services is critical to holistically supporting victims/survivors. Gender-based violence, or gender-based violence and harassment (GBVH), is an umbrella term for pervasive forms of violence including physical, psychological, sexual, and economic harm that affect individuals in their homes, communities, and workplaces - as well beyond and between them. GBV is characterized as being directed at a person because of their sex or gender, and/or disproportionately impacting a person because of their sex or gender. Although anyone can experience GBV, it disproportionately impacts women and girls, with one in three women worldwide experiencing some form of GBV in their lifetime. Moreover, marginalized and vulnerable populations including but not limited to refugees, migrants, and minorities, often face greater risks and more formidable barriers to support and services as it relates to GBV.

While trafficking in persons can be a form of GBV, various forms of GBV can also serve as a driver to human trafficking and/or a method of controlling and manipulating individuals across all forms of trafficking. Comprehensive efforts to reduce human trafficking therefore must include efforts to prevent and respond to GBV. As of 2017, the ILO estimated that there were approximately 25 million victims/survivors of human trafficking worldwide, many of whom had faced both trafficking and GBV. According to the United Nations' 2020 *Global Report on Trafficking in Persons*, women and girls are particularly vulnerable to trafficking and account for 7 out of 10 victims globally. The report also notes that victims/survivors of domestic servitude, in which women account for 88%, face even more severe forms of sexual, physical, and psychological forms of abuse than typically seen in other forms of trafficking. Overall, the UN

Report noted that across all forms of trafficking, the majority of victims face physical and/or psychological violence. *The Strategy to Prevent and Respond to Gender-Based Violence Globally 2016 Update* also acknowledges the link between human trafficking and GBV by explicitly stating that all forms of human trafficking can be described as a type of GBV. It further references the *President's Interagency Task Force to Monitor and Combat Trafficking in Persons* (PITF) as an example of US efforts to prevent and respond to GBV within the context of human trafficking. Alongside the Strategy, the *2013-2017 Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States* notes that the *DOJ Office on Violence Against Women* was required to include human trafficking in its operations due to the link between GBV and human trafficking.

Many factors that increase vulnerabilities to GBV – including gender discrimination and pervasive inequality, poverty, weak social structures including poor education and health infrastructures, and displacement such as due to conflict, war or natural disasters – mirror or are similar to the root causes of human trafficking, and therefore can lead to individuals being more at-risk to trafficking and exploitation. While GBV is often inflicted as a tool to manipulate and control women, children and men are forced into commercial sex and forced labor across all forms of trafficking as well. The US government recognizes that comprehensive efforts to reduce human trafficking must include efforts to prevent and respond to GBV due to the intertwined relationship of the two crimes. The Administration's *Inter-Agency Strategy to Prevent and Respond to Gender-based Violence Globally 2016 Update*, and the *2013-2017 Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States*, acknowledge that the intersections between GBV and TIP demonstrate the importance of addressing GBV and structural gender inequalities in counter-trafficking advocacy and intervention to mitigate vulnerabilities to trafficking. Moreover, they underscore the critical point that holistically supporting victims and survivors requires tackling these interrelated issues together.

Whether GBV and trafficking drive one another or co-occur, the intertwined relationship of these crimes – and thus solutions to address them – are inextricably linked within and beyond the pandemic context. The *United Nations' Global Report on Trafficking in Persons 2020* predicted that vulnerabilities to trafficking would increase due to downstream effects of the Covid-19 pandemic, including but not limited to the global economic recession, compounded challenges to intervention, re-distribution and scarcity of resources due to emerging needs, accessibility of service provision and safety networks, as well as barriers related to communication and advocacy. The inter-linkages between trafficking and GBV underscore the importance of addressing GBV and structural gender inequalities in counter-trafficking advocacy and intervention to mitigate vulnerabilities to trafficking, and more holistically and sustainably support survivors. Comprehensive efforts to reduce human trafficking must include efforts to prevent and respond to GBV. To achieve measurable and sustainable impact, it is important to implement multi-dimensional strategies that address the link between human trafficking and GBV.

PROPOSED STATUTORY LANGUAGE:

UNITED STATES STRATEGY TO PREVENT AND RESPOND TO GENDER-BASED VIOLENCE GLOBALLY.

(a) GLOBAL STRATEGY REQUIREMENT—No later than 180 days after the date of the enactment of this Act, and annually thereafter for 6 years, the Secretary of State shall develop or update a United States global strategy to prevent and respond to gender-based violence (GBV), including but not limited to violence against women and girls (VAWG). The strategy and annual reports on implementation of the strategy shall be transmitted to the appropriate congressional committees and made publicly available on the Internet.

(b) INITIAL STRATEGY—For the purposes of this section, the “United States Strategy to Prevent and Respond to Gender-Based Violence Globally”, issued in August 2012, shall be deemed to fulfill the initial requirement of subsection (a).

(c) COLLABORATION AND COORDINATION—In developing the strategy under subsection (a), the Secretary of State shall consult with—

(1) the heads of relevant Federal agencies;

(2) the Senior Policy Operating Group on Trafficking in Persons;

(3) existing public-private partnerships leveraging perspectives from Federal agencies, private sector, and civil society organizations; and

(3) representatives of civil society and multilateral organizations with demonstrated experience in addressing GBV/GBVH and VAWG including but not limited to occurrences in the world of work, and/or promoting gender equality internationally.

(d) PRIORITY COUNTRY SELECTION—To further the objectives of the strategy described in subsection(a), the Secretary shall identify no less than 4 eligible low-income and lower middle-income countries on the Tier 2 or Tier 2 Watch list of the Department of States’ most recent Trafficking in Persons Report, with significant levels of violence against women and girls, including within displaced communities, that have the governmental or nongovernmental organizational capacity to manage and implement GBV prevention and response program activities, including as relates to the world of work, and should, when possible be geographically, ethnically, and culturally diverse from one another.

(e) IMPLEMENTATION AND COUNTRY PLANS —In each country identified under subsection (d), the Secretary shall develop and implement comprehensive, multi-sectoral, and holistic individual country plans designed to address and respond to violence against women and girls that include—

(1) an assessment and description of the current or potential capacity of the government of each identified country and civil society organizations in each such identified country to address and respond to violence against women and girls.

(2) an assessment and description of the incidence and prevalence of gender-based violence in the world of work, defined by the ILO to include paid and unpaid work (including both productive and reproductive work), paid work outside of the public sphere, such as domestic work, street vending and home-based work, and related contexts such as transportation to and from work.

(3) an identification of coordination mechanisms with Federal agencies that—

(A) have existing programs relevant to the strategy;(B) have existing programs relevant to measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a peacekeeping or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and measures to prevent the use of forced labor or child labor in violation of international standards.

(C) will be involved in new program activities; and

(D) are engaged in broader United States strategies around development;

(4) a description of the monitoring and evaluation mechanisms established for each identified country, and their intended use in assessing overall progress in prevention and response;

(5) a projection of the general levels of resources needed to achieve the stated objectives in each identified country, including an accounting of—

(A) activities and funding already expended by the Department of State, the United States Agency for International Development, other Federal agencies, donor country governments, and multilateral institutions; and

(B) leveraged private sector resources; and

(C) strategies, as appropriate, designed to accommodate the needs of stateless, disables, internally displaced, refugee, persons trafficked, or religious or ethnic minority women and girls. (f) **PRIORITY COUNTRY SELECTION REPORT**— No more than 90 days after selection of the priority countries required under subsection (d), and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees and make publicly available a report detailing the priority country selection process, the implementation of specific country plans, and include an overview of all programming and specific activities being undertaken, the budget resources requested, and the specific activities to be supported by each Executive agency under the strategy.



Recommendation 5:

Providing whistleblower protection for trafficking survivors reporting labor trafficking¹

PURPOSE: To encourage workers to report abusive employers, protect them from the threat of deportation by employers who are angry that they have complained about abuse, prevent exploitation and abuse in the workplace, and ensure that immigrant workers subject to exploitation or trafficking are not deported from the United States prior to their identification as victims of this crime.

EXPLANATION AND SUPPORTING MATERIAL:

This provision is designed to provide immigration relief to workers who are whistleblowers of severe labor exploitation. There have been a number of human trafficking cases recently in the United States where workers who raised the alarm about severe abuse by employers have initially been threatened with deportation as a way to keep them quiet. These workers have had to remain in the United States in an undocumented status in order to stay in the country to pursue their cases against the abusive employers. After many years, these same workers have been certified as trafficking victims and receive “T” visas, but had to struggle for many years without status. Examples of this include a group of Indian workers known in the media as the Signal Workers. This provision would give trafficked workers like these access to immigration relief in the United States while they pursue claims here, even if they are not initially identified as trafficking victims.

PROPOSED STATUTORY LANGUAGE:

To protect victims of crime or serious labor violations from deportation during Department of Homeland Security enforcement actions, and for other purposes. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

¹ This Act, which has been proposed for many years and was included in the bipartisan immigration reform bill passed by the Senate in 2013 (S.744), is currently contained in the Biden Administration’s comprehensive immigration reform proposal. However, given its important protections for survivors of forced labor and human trafficking, it should be considered for inclusion in the TVPA 2021 Reauthorization

SECTION 1. SHORT TITLE. This Act may be cited as the 'Protect Our Workers from Exploitation and Retaliation Act' or the 'POWER Act'.

SEC. 2. VICTIMS OF SERIOUS LABOR AND EMPLOYMENT VIOLATIONS OR CRIME.

Protection for Victims of Labor and Employment Violations-Section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)) is amended--(1) in clause (i)--(A) by amending subclause (I) to read as follows: '(I) the alien--'(aa) has suffered substantial abuse or harm as a result of having been a victim of criminal activity described in clause (iii);'(bb) has suffered substantial abuse or harm related to a violation described in clause (iv);'(cc) is a victim of criminal activity described in clause (iii) and would suffer extreme hardship upon removal; or'(dd) has suffered a violation described in clause (iv) and would suffer extreme hardship upon removal;';(B) in subclause (II), by inserting ', or a labor or employment violation resulting in a workplace claim described in clause (iv)' before the semicolon at the end;(C) in subclause (III)--(i) by striking 'or State judge, to the Service' and inserting ', State, or local judge, to the Department of Homeland Security, to the Equal Employment Opportunity Commission, to the Department of Labor, to the National Labor Relations Board'; and (ii) by inserting ', or investigating, prosecuting, or seeking civil remedies for a labor or employment violation related to a workplace claim described in clause (iv)' before the semicolon at the end; and(D) in subclause (IV)--(i) by inserting '(aa)' after '(IV)' and(ii) by adding at the end the following: 'or'(bb) a workplace claim described in clause (iv) resulted from a labor or employment violation;';(2) in clause (ii)(II), by striking 'and' at the end;(3) in clause (iii), by striking 'or' at the end and inserting 'and'; and(4) by adding at the end the following: '(iv) in the labor or employment violation related to a workplace claim, the alien--'(I) has filed, is a material witness in, or is likely to be helpful in the investigation of, a bona fide workplace claim (as defined in section 274A(e)(10)(C)(iii)(II)); and'(II) reasonably fears, has been threatened with, or has been the victim of, an action involving force, physical restraint, retaliation, or abuse of the immigration or other legal process against the alien or another person by the employer in relation to acts underlying the workplace claim or related to the filing of the workplace claim; or'.(b) Temporary Protection for Victims of Crime, Labor, and Employment Violations-Notwithstanding any other provision of law, the Secretary of Homeland Security may permit an alien to temporarily remain in the United States and grant the alien employment authorization if the Secretary determines that the alien--(1) has filed for relief under section 101(a)(15)(U) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)); or(2)(A) has filed, or is a material witness to, a bona fide workplace claim (as defined in section 274A(e)(10)(B)(iii)(II) of such Act, as added by section 3(b)); and(B) has been helpful, is being helpful, or is likely to be helpful to--(i) a Federal, State, or local law enforcement official;(ii) a Federal, State, or local prosecutor;(iii) a Federal, State, or local judge;(iv) the Department of Homeland Security;(v) the Equal Employment Opportunity Commission;(vi) the Department of Labor;(vii) the National Labor Relations Board; or(viii) other Federal, State, or local authorities investigating, prosecuting, or seeking civil remedies related to the workplace claim.(c) Conforming

Amendments-Section 214(p) of the Immigration and Nationality Act (8 U.S.C. 1184(p)) is amended--(1) in paragraph (1), by inserting 'or investigating, prosecuting, or seeking civil remedies for workplace claims described in section 101(a)(15)(U)(iv)' after 'section 101(a)(15)(U)(iii)' each place such term appears;(2) in paragraph (2)(A), by striking '10,000' and inserting '30,000'; and(3) in paragraph (6)--(A) by inserting 'or workplace claims described in section 101(a)(15)(U)(iv)' after 'described in section 101(a)(15)(U)(iii)'; and(B) by inserting 'or workplace claim' after 'prosecution of such criminal activity'.(d) Adjustment of Status for Victims of Crimes-Section 245(m)(1) of the Immigration and Nationality Act (8 U.S.C. 1255(m)(1)) is amended by inserting 'or an investigation or prosecution regarding a workplace claim' after 'prosecution'.(e) Change of Nonimmigrant Classification-Section 384(a)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367(a)(1)) is amended--(1) in subparagraph (E), by striking 'physical or mental abuse and the criminal activity' and inserting 'abuse and the criminal activity or workplace claim';(2) in subparagraph (F), by adding 'or' at the end; and(3) by inserting after subparagraph (F) the following: '(G) the alien's employer,'.

SEC. 3. LABOR ENFORCEMENT ACTIONS.(a) Removal Proceedings-Section 239(e) of the Immigration and Nationality Act (8 U.S.C. 1229(e)) is amended--(1) in paragraph (1)--(A) by striking 'In cases where' and inserting 'If'; and112(B) by inserting 'or as a result of information provided to the Department of Homeland Security in retaliation against individuals for exercising or attempting to exercise their employment rights or other legal rights' after 'paragraph (2)'; and(2) in paragraph (2), by adding at the end the following: '(C) At a facility about which a workplace claim has been filed or is contemporaneously filed.'. (b) Unlawful Employment of Aliens-Section 274A(e) of the Immigration and Nationality Act (8 U.S.C. 1324a(e)) is amended by adding at the end the following: '(10) CONDUCT IN ENFORCEMENT ACTIONS--(A) ENFORCEMENT ACTION-If the Department of Homeland Security undertakes an enforcement action at a facility about which a workplace claim has been filed or is contemporaneously filed, or as a result of information provided to the Department in retaliation against employees for exercising their rights related to a workplace claim, the Department shall ensure that--(i) any aliens arrested or detained who are necessary for the investigation or prosecution of workplace claim violations or criminal activity (as described in subparagraph (T) or (U) of section 101(a)(15)) are not removed from the United States until after the Department--(I) notifies the appropriate law enforcement agency with jurisdiction over such violations or criminal activity; and(II) provides such agency with the opportunity to interview such aliens; and(ii) no aliens entitled to a stay of removal or abeyance of removal proceedings under this section are removed.'(B) PROTECTIONS FOR VICTIMS OF CRIME, LABOR, AND EMPLOYMENT VIOLATIONS--(i) STAY OF REMOVAL OR ABEYANCE OF REMOVAL PROCEEDINGS- An alien against whom removal proceedings have been initiated under chapter 4 of title II, who has filed a workplace claim, who is a material witness in any pending or anticipated proceeding involving a bona fide workplace claim, or who has filed for relief under section 101(a)(15)(U),

shall be entitled to a stay of removal or an abeyance of removal proceedings and to employment authorization until the resolution of the workplace claim or the denial of relief under section 101(a)(15)(U) after exhaustion of administrative appeals, whichever is later, unless the Department establishes, by a preponderance of the evidence in proceedings before the immigration judge presiding over that alien's removal hearing, that--(I) the alien has been convicted of a felony; or (II) the workplace claim was filed in bad faith with the intent to delay or avoid the alien's removal.

(ii) DURATION-Any stay of removal or abeyance of removal proceedings and employment authorization issued pursuant to clause (i) shall remain valid until the resolution of the workplace claim or the denial of relief under section 101(a)(15)(U) after the exhaustion of administrative appeals, and shall be extended by the Secretary of Homeland Security for a period of not longer than 3 additional years upon determining that--(I) such relief would enable the alien asserting a workplace claim to pursue the claim to resolution; (II) the deterrent goals of any statute underlying a workplace claim would be served; or (III) such extension would otherwise further the interests of justice.

(iii) DEFINITIONS-In this paragraph:

(I) MATERIAL WITNESS-Notwithstanding any other provision of law, the term 'material witness' means an individual who presents a declaration from an attorney investigating, prosecuting, or defending the workplace claim or from the presiding officer overseeing the workplace claim attesting that, to the best of the declarant's knowledge and belief, reasonable cause exists to believe that the testimony of the individual will be relevant to the outcome of the workplace claim.

(II) WORKPLACE CLAIM-The term 'workplace claim' means any written or oral claim, charge, complaint, or grievance filed with, communicated to, or submitted to the employer, a Federal, State, or local agency or court, or an employee representative related to the violation of applicable Federal, State, and local labor laws, including laws concerning wages and hours, labor relations, family and medical leave, occupational health and safety, civil rights, or nondiscrimination.'

SEC. 4. AUTHORIZATION OF APPROPRIATIONS. There are authorized to be appropriated such sums as may be necessary to carry out this Act and the amendments made by this Act.



Recommendation 6:

Updating T-visa standards to expand protections for trafficking survivors

PURPOSE: Ensure immigration trafficking protections for all trafficking victims in the United States regardless of where or when the trafficking occurred, by ensuring they are eligible for T-visas.

EXPLANATION AND SUPPORTING MATERIAL:

Currently trafficking survivors, including children who have fled to the United States *after* a trafficking experience, are generally not eligible for any type of immigration relief in the United States. Usually asylum protections and special immigrant juvenile status protections do not apply despite the survivor facing horrific abuse and a fear of being re-trafficked if they are forced to return to their home countries.

Currently, less than 1,000 T-visas have been granted to trafficking survivors each year since the enactment of the TVPRA despite an annual quote of 5,000. Given the dire consequences that trafficking survivors face if they must return to home countries where the trafficking occurred, the US government should change the T-visa standard to protect all trafficking victims in the United States regardless of whether the trafficking occurred in the United States or outside the United States. Notably, other crime victims applying for U-visas do not need to show they are in the U.S. on account of those crimes and can apply for U-visas from outside the United States. A higher standard should not be applied for trafficking victims applying for T-visas; instead these standards should be made uniform.

Even if human trafficking survivors applying for a T-visa were trafficked into or within the United States, the threshold for proving that they are in the United States on account of their trafficking has been extraordinarily high, particularly over the past four years. Often, human trafficking victims are not connected to or are too traumatized to seek services immediately after their trafficking. It is not uncommon for trafficked victims who are years out of their trafficking situation to apply for immigration relief, only to be denied on the basis of physical presence, even though these victims did not and could not have returned home because of their trafficked history. Survivors stay in the United States to access services, including medical and mental health services, and immigration relief, and usually cannot financially afford to return home after the significant debt bondage many of them have experienced.

- **Pedro**, a Guatemalan youth, left his home after a gang threatened to kill his parents if he did not join them. In Mexico he met a man who promised him work. Instead he was locked in a house with armed guards and forced to clean and wash clothes in the house. After two weeks he finally escaped and fled to the United States. He is terrified to return home because he believes he will be forced to work for a gang or his parents will be killed. Although he was identified as a victim of severe form of trafficking by an NGO because of his forced labor in Mexico, he is ineligible for a T-visa because his trafficking did not occur in the United States.
- **Carmen**, a Mexican national, was kidnapped by a Mexican gang at the age of 14, chained to a bed and forced to engage in prostitution for over 5 years. She had 2 children during this experience, and her traffickers listed their names on her children's birth certificates. Carmen only escaped from this ongoing abuse by burning down the house of her captors and fleeing with her two young children. Once in the United States, she was identified as a victim of severe form of trafficking by an NGO, but because her trafficking experience was in Mexico and not the United States she was ineligible for a T-visa. Carmen continues to live in fear that she will be returned to Mexico and the gang will find her and her children, and they will suffer the same fate she did.
- **Raul** grew up in a poor neighborhood in Guatemala. On his way to school he had to pass a corner where gang members congregated. The gang members would call Raul and try to convince him to join them. But he refused. One day, gang members asked Raul to deliver a briefcase full of drugs for them. Raul refused, but the gang members showed him their guns and threatened to kill him and his family. Terrified, Raul had no choice but to comply with their demands. The gang continued to try and force Raul to join them. When he refused, they attacked and beat his father. Terrified, Raul's family went into hiding and Raul fled to the United States for his safety. He was apprehended by border patrol, released to a family friend, and referred to a trafficking NGO by his U.S. Committee for Refugees and Immigrants (USCRI) caseworker. Although this NGO identified Raul as a survivor of human trafficking, after extensive immigration screening, they concluded under the current standard for the T-visa and other immigration relief he was not eligible for legal status to remain in the US.
- **Marco** (17), **Melisa** (15) and **Manuel** (11) are siblings from Honduras. The children were abandoned by their fathers and lived with their mother. In about 2012, their mother died of what the children believed was breast cancer, leaving the siblings to live with their much older sister Maria. Once they moved in with Maria, she refused to allow Marco and Melisa to attend school. Instead, Marco, then 15, was forced to work two jobs and give his older sister all of the money that she earned. Maria forced Melisa to do all of the cooking and cleaning for the household and to care for Maria's young children. Maria and her husband were also physically violent towards Manuel and Melisa. After about a year, Maria told the children that they could no longer live with her and they moved San Pedro Sula to live with a cousin. There, Marco continued to work to try and support his brother and sister.

Gang members approached Marco and tried to force him to serve as a lookout for their illegal activities. When Marco refused, they threatened to kill him and his younger siblings. Knowing that they had no safe place to stay in Honduras, the children fled to the United States where their mother's best friend lives. They are now living with their mother's friend, and Melisa and Marco are attending school for the first time in years. All three children have been referred to therapy and Manuel is receiving critical medical care after receiving a serious diagnosis. Marco is seeking special immigrant juvenile status, but with his 18 birthday fast approaching, it is extremely uncertain if he will be able to obtain the necessary predicate order in time and under the current T-visa standard he is not eligible for this form of relief.

PROPOSED STATUTORY LANGUAGE:

Sec. __. Applications for Visas Relating to Trafficking.

Section 101(a)(15)(T)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(T) is amended by deleting subclause (II) and redesignating clauses (III) and (IV) as (II) and (III).



Recommendation 7:

Requiring the Department of State to implement post-arrival orientation, in-person monitoring and exit interviews for all visa categories of domestic workers brought by diplomatic personnel

PURPOSE: To create protections to prevent the trafficking of domestic workers by increasing monitoring of employers, creating opportunities for domestic workers to report abuses and collecting information to hold traffickers accountable. Under this provision, the Department of State shall implement post-arrival orientation, in-person monitoring and exit interviews for all visa categories of domestic workers brought by diplomatic personnel (A-3, G-5, B-1 and J-1 au pairs).

EXPLANATION AND SUPPORTING MATERIAL:

Orientation programs are important opportunities for workers to learn about their rights in the United States. The orientations, which should occur when the worker initially arrives, is a critical time to reach workers, who may not yet be subjected to an exploitative work situation. On-going monitoring is crucial to ensure that new employment opportunities do not become abusive and/or exploitative over time. The U.S. government must take a proactive approach after the domestic worker arrives to ensure that information about rights is effectively communicated. The in-person model is not unprecedented, and several countries have implemented in-person registration with successful outcomes. The State Department previously piloted a similar program for A-3 visa holders in Washington, DC. The State Department should also conduct exit interviews to screen domestic workers leaving the U.S. at the end of their visa stay. Even as monitoring and labor rights enforcement improves, some workers will not be comfortable sharing the details of their employment conditions until they are safely headed home.

PROPOSED STATUTORY LANGUAGE:

Sec. _____. Protections for Domestic Workers.

The following amendments shall be made to Section 203 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008.

Section 203(b)(4) is amended by adding the following:

B. The Secretary shall share the files of all temporary domestic workers, which shall include a copy of the visa-holder's employment contract and the employer's contact information, with the Department of Labor.

Section 203 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 is amended by re-designating subsection (d) as subsection (f) and inserting the following as subsection (d):

(1) Oversight Committee.

A. The Department of State (DOS) will work with the Department of Labor (DOL) and NGOs to form an Oversight Committee, run by the Department of Labor, to ensure the protection of A-3 and G-5 visa-holders as well as any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer, or any nonimmigrant visa issued under the au pair category of the (J) section 101 (a)(15) of the Immigration and Nationality Act (8 USC 1101(a)(15)).

a. In developing this Oversight Committee, the Secretary of Labor shall consult with NGOs with expertise working with victims of trafficking in persons, and rights of domestic workers, as well as domestic worker leaders themselves. DOL may contract with NGOs to conduct some of the monitoring responsibilities, including interviewing domestic workers, collecting data, creating reports, and other agreed-upon tasks.

b. The Department of State shall maintain responsibility for responding to employers of A-3 and G-5 visa-holders, and their home States, against whom allegations of abusive conduct are made.

(2) Reporting

B. DOS, DOL, and assisting organizations will work together to establish the Oversight Committee the goal of which is to most effectively protect individuals holding an A-3 visa, G-5 visa, as well as any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer, or any nonimmigrant visa issued under the au pair category of the (J) section 101 (a)(15) of the Immigration and Nationality Act (8 USC 1101(a)(15)).

C. DOL shall submit a report on the new Oversight Committee's progress to the appropriate congressional committees no later than 180 days after the passage of this act, and then every 2 years after that. The report shall include data from interviews of A-3s and G-5s, as well as any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer, or any nonimmigrant visa issued under the au pair category of the (J) section 101 (a)(15) of the Immigration and Nationality Act (8 USC 1101(a)(15)), complaints, and recommendations to DOS in response to findings of abuse by and/or civil damage awards against domestic worker employers.

D. DOS shall submit a report on the monitoring of employers. The report shall include the details of an employer orientation program (as further described in 203(g)). DOS shall provide this report to the appropriate congressional committees no later than 180 days of the passage of this Act. DOS shall continue to submit reports on monitoring of employers, and the program's successes and needed improvements every [year/two years].

Section 203 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 is amended by re-designating subsection (f) as subsection (h) and inserting the following as subsection (g):

For individuals holding an A-3 visa, G-5 visa, any nonimmigrant visa issued to a personal or domestic servant who is accompanying or following to join an employer, or any nonimmigrant visa issued under the au pair category of the (J) section 101 (a)(15) of the Immigration and Nationality Act (8 USC 1101(a)(15)), the Secretary shall implement, not later than 180 days after the date of the enactment of this Act —

- (1) a worker orientation program that will include distribution of the information pamphlet and video described in 8 USC 1375(b) and education about the protections listed in subsections (a), (b), and (c) of this section and providing a copy of the employment contract to the worker in a language that the worker understands. This program shall be conducted jointly by DOS, DOL and partner NGOS. A list of resources that provide services to workers (NGOs, legal service providers, and social workers) shall be provided to workers. The program shall occur within 60 days of the worker's arrival to the United States.
- (2) an in-person monitoring program that will include follow-up interviews with workers outside the presence of their employers, assurance of confidentiality, re-distribution of the information pamphlet and video described in 8 USC 1375b, re-distribution of the list of resources, education about the protections listed in subsections (a), (b), and (c) of this section, review of the employment contract with the worker, and wage reporting;
- (3) an exit interview program that will include [distribution of the information pamphlet and video described in 8 USC 1375(b) and education about the protections listed in subsections (a), (b), and (c) of this section and providing a copy of the employment contract to the worker.]

The following shall replace Sec. 203(b)(3) —

Monitoring and Training of A-3 and G-5 visa Employers.

A. The Department of State shall establish an employer training program for employers of A-3 and G-5 employees which will include an educational video (either in the worker's language, or translated for the worker) on the laws and fair labor standards in the United States to ensure fair treatment of domestic employees and adherence to the

rights set out in the pamphlet. The program will include an explanation of the possible consequences to A-1, A-2, G-1, G-2, and G-3 visa holders of violating these laws which include suspension of A-3 and G-5 visas, request for waiver of immunity, civil damages [, or revocation of or refusal to renew the employer's visa] at the Secretary's discretion.

B. The Department of State shall require quarterly wage reporting by all employers of A-3 or G-5 visa holders.



Recommendation 8:

Strengthening regulation of foreign labor recruiters in the U.S. and abroad

PURPOSE: Foreign labor contractors are increasingly relied upon to facilitate the movement of labor from one country to another. While many foreign labor contractors behave ethically and are engaged in lawful conduct, other foreign labor contractors are often complicit with or directly involved in trafficking of workers. Contractors often charge exorbitant fees for their services, forcing workers into debt bondage, falsifying documents, and deceiving workers about their terms and conditions of work, increasing vulnerability to human trafficking. Stricter regulation of labor recruiters is needed to protect workers entering the United States from human trafficking and other abuses, especially in temporary or guest worker programs.

EXPLANATION AND SUPPORTING MATERIAL:

This provision is designed to address the particular vulnerability of migrant/immigrant workers to human trafficking, and the specific role that foreign labor contractors or recruiters play in this. As a prior U.S. Department of Justice indictment of Global Horizons has highlighted – a case involving over 400 human trafficking victims in the agricultural industry who all initially entered the United States lawfully through the H-2 guest worker visa program – labor contractors play a major role in trafficking of migrant/immigrant workers. They often deceive or coerce workers into accepting jobs that later turn out not to be as promised. They often charge workers exorbitant fees to migrate, which in turn leads to debt bondage, and then use legal threats to maintain control of them, often by manipulating the immigration process. Over the last four years, we have seen an expansion of the temporary nonimmigrant guestworker visa program, without the accompanying worker rights' safeguards needed to prevent abuses and exploitation.

As noted in a report by Verité, a leading organization that addresses labor practices, it is worthwhile to challenge the assumption that workers who enter a country legally, under programs designed to manage their temporary labor, would be better off than those who are undocumented. Verité's research found that, in the U.S. case, migrants who enter the U.S. through guest worker programs face a range of vulnerabilities to forced labor that are not necessarily faced by their undocumented counterparts.

The House of Representatives passed a version of the 2008 TVPRA that included provisions to regulate foreign labor contractors as a means of preventing human trafficking. We have learned so much more since 2008 about the major role that foreign labor contractors play. In fact, many

U.S.-based service providers state that regulating foreign labor contractors is one of the most important initiatives needed to combat human trafficking in the United States.

The provisions proposed would go a long way in preventing what are often the largest cases of human trafficking in our own backyard. The disclosure requirements would help prevent the deception that often leads to vulnerable workers ending up in debt bondage or other situations of forced or coerced labor. The proposed legislation also grants the Department of Labor the power to ensure enforcement of these provisions, through registration of labor contractors, and administrative and civil remedies to hold them accountable. Thus, this legislation creates a well-rounded approach to combating trafficking for labor exploitation in the United States and abroad, by increasing transparency and holding foreign labor contractors accountable, as it seeks to prevent trafficking from occurring, punish traffickers, and protect victims.

PROPOSED STATUTORY LANGUAGE

SEC. 3601. DEFINITIONS.

Findings.--Congress makes the following findings:

- (1) Foreign labor contractors are increasingly relied upon to facilitate the movement of labor from one country to another.
- (2) While many foreign labor contractors behave ethically and are engaged in lawful conduct, certain foreign labor contractors are often complicit with or directly involved in trafficking of workers.
- (3) Some contractors charge exorbitant fees for their services, force workers into debt bondage, falsify documents, and deceive workers about their terms and conditions of work, increasing workers' vulnerability to human trafficking.
- (4) Stricter regulation of labor recruiters is needed to protect workers entering the United States from human trafficking and other abuses. Stronger legal frameworks will ensure the integrity of the American economy, which is undermined when unregulated actors conspire to fraudulently deceive workers about the terms and conditions of work.

(a) **IN GENERAL.**—Except as otherwise provided by this subtitle, the terms used in this subtitle shall have the same meanings, respectively, as are given those terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(b) **OTHER DEFINITIONS.**—

(1) **FOREIGN LABOR CONTRACTOR.**—The term “foreign labor contractor” means any person, other than an employer, who performs any foreign labor contracting activity on behalf of an employer, whether directly or indirectly, including any person who performs foreign labor contracting activity wholly outside of the United States, except that the term does not include any entity of the United States Government.

(2) **FOREIGN LABOR CONTRACTING ACTIVITY.**—The term “foreign labor contracting activity” means recruiting, soliciting, hiring, employing, sponsoring, managing, furnishing, processing visa applications for, transporting, or housing an individual who has travelled from

outside the United States, to the United States, in furtherance of employment in the United States, including when such activity occurs wholly outside of the United States.

(3) **PERSON.**—The term “person” means any natural person or any corporation, company, firm, partnership, joint stock company or association or other organization or entity (whether organized under law or not), including municipal corporations.

(4) **SECRETARY.**—The term the “Secretary” means the Secretary of Labor.

(5) **WORKER.**—The term “worker” means an individual who is or has been, or is seeking to be employed, or otherwise perform work for pay in the United States, regardless of immigration or nonimmigrant status.

(6) **RECRUITMENT FEE.** – The term “recruitment fee” refers to any fee or cost incurred in the recruitment process in order for a worker to secure employment or placement, regardless of the manner, timing or location of the fee or cost imposition or collection, and including those in the form of loans, deductions, or kickbacks.

(6) **DISCLOSE.** – The term “disclose” means to make a formal or informal communication or transmission.

SEC. 3602. **DISCLOSURE.**

(a) **REQUIREMENT FOR DISCLOSURE.**—Any person who engages in foreign labor contracting activity shall ascertain and disclose in writing in English and in the primary language of the worker at the time of the worker’s recruitment, at the time of visa processing, and once the worker has arrived at the worksite in the U.S. the following information:

(1) The identity, address, and contact information of the employer, their agents and corporate officers, and the identity, address, and contact information of persons conducting the recruiting on behalf of the employer, including any and all subcontractor or agents involved in such recruiting, regardless of whether the persons conducting the recruiting are directly employed by the employer.

(2) All assurances and terms and conditions of employment, from the prospective employer for whom the worker is being recruited, including:

- (i) work hours per week;
- (ii) level of compensation;
- (iii) wage rate, frequency of payment, and manner in which wages will be paid;
- (iv) place and period of employment activities;
- (v) description of the type and nature of work tasks to be performed by the worker;
- (vi) any withholdings or deductions from compensation;

(vii) housing and lodging information for site where worker is going to live during the work period; and,

(viii) any penalties for terminating employment.

(3) A signed copy of the work contract between the worker and the employer.

(4) The type of visa under which the foreign worker is to be employed, the length of time for which the visa will be valid and the terms and conditions under which this visa will be issued and renewed, with a clear statement of whether the employer will secure renewal of this visa or if renewal must be obtained by the worker, and any expenses associated with securing or renewing the visa.

(5) A disclosure of which costs are required to be borne by the employer under the terms of the worker's visa.

(6) An itemized list of any costs or expenses to be charged to the worker and any deductions to be taken from wages, including but not limited to any costs for housing or accommodation, transportation to and from the worksite, meals, health insurance, workers' compensation, costs of benefits provided, medical examinations, healthcare, tools, or safety equipment costs.

(7) The existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment.

(8) Whether and the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including work related injuries and death, during the period of employment and, if so, the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

(9) A statement, in a form specified by the Secretary—

(A) stating that—

(i) no foreign labor contractor, agent, or employee of a foreign labor contractor, may lawfully assess any fee (including visa fees, processing fees, transportation fees, legal expenses, placement fees, and other costs) to a worker for any foreign labor contracting activity; and

(ii) the employer may bear such costs or fees for the foreign labor contractor, but that these fees cannot be passed along to the worker; and

(B) explaining that—

(i) no additional requirements or changes may be made from the terms of the contract originally signed by the worker unless the worker is provided at least 24 hours to review and consider the additional requirements or changes and be provided with a copy

of these changes in English and the worker's primary language with worker receipt acknowledgment;

(ii) no such additional requirements or changes may be made to the original contract signed by the worker without the specific consent of the worker to each such additional requirement or change; and

(iii) such consent shall be obtained voluntarily and without threat of penalty and if not so obtained will be a violation of law subject to the provisions of section 3610;

(C) describing the protections afforded the worker by this section and by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ([8 U.S.C. 1375b](#)) and any applicable visa program, including—

(i) relevant information about the procedure for filing a complaint provided for in section 3610;

(ii) information on the various methods to contact the National Human Trafficking Hotline, a resource for workers experiencing human trafficking; and

(iii) information on federal agencies, and their state equivalents, tasked with enforcement of labor and employment rights available to workers.

(10) Any education or training to be provided or required, including the nature, timing and cost of such training and the person who will pay such costs, whether the training is a condition of employment, continued employment, or future employment; and whether the worker will be paid or remunerated during the training period, including the rate of pay.

(11) Any other information that the Secretary may require by regulation.

(12) Statement on prohibition against discrimination under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

(b) RELATIONSHIP TO LABOR AND EMPLOYMENT LAWS.—Nothing in the disclosure required by subsection (a) shall constitute a legal conclusion as to the worker's status or rights under the labor and employment laws.

(c) PROHIBITION ON FALSE AND MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in any foreign labor contracting activity shall knowingly provide materially false or misleading information to any worker concerning any matter required to be disclosed under section (a). The disclosure required by this section is a document concerning the proper administration of a matter within the jurisdiction of a department or agency of the United States for the purposes of [section 1519](#) of title 18, United States Code.

SEC. 3603. PROHIBITION ON DISCRIMINATION.

(a) IN GENERAL.—It shall be unlawful for an employer or a foreign labor contractor to fail or refuse to hire, discharge, intimidate, threaten, restrain, coerce, or blacklist any individual or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of

employment, because of such individual's race, color, creed, sex, including sexual orientation, gender identity, sex stereotyping, and pregnancy, childbirth, and related medical conditions, national origin, religion, age, or disability.

(b) DETERMINATIONS OF DISCRIMINATION.—For the purposes of determining the existence of unlawful discrimination under subsection (a)—

(1) in the case of a claim of discrimination based on race, color, creed, sex, including sexual orientation, gender identity, sex stereotyping, and pregnancy, childbirth, and related medical conditions, national origin, or religion, the same legal standards shall apply as are applicable under title VII of the Civil Rights Act of 1964 ([42 U.S.C. 2000e et seq.](#));

(2) in the case of a claim of discrimination based on unlawful discrimination based on age, the same legal standards shall apply as are applicable under the Age Discrimination in Employment Act of 1967 ([29 U.S.C. 621 et seq.](#)); and

(3) in the case of a claim of discrimination based on disability, the same legal standards shall apply as are applicable under title I of the Americans With Disabilities Act of 1990 ([42 U.S.C. 12111 et seq.](#)).

SEC. 3604. RECRUITMENT FEES.

No employer or foreign labor contractor shall assess any recruitment fee) to a worker for any foreign labor contracting activity.

SEC. 3605. REGISTRATION.

(a) REQUIREMENT TO REGISTER.—

(1) IN GENERAL.—Subject to paragraph (2), prior to engaging in any foreign labor contracting activity, any person who is a foreign labor contractor or who, for any money or other valuable consideration paid or promised to be paid, performs a foreign labor contracting activity on behalf of a foreign labor contractor, shall obtain a certificate of registration from the Secretary of Labor pursuant to regulations promulgated by the Secretary under subsection (c).

(2) EXCEPTION FOR CERTAIN EMPLOYERS.—An employer, or employee of an employer, who engages in foreign labor contracting activity solely to find employees for that employer's own use, and without the participation of any other foreign labor contractor, shall not be required to register under this section. Notwithstanding the preceding sentence, such an employer shall be subject to the requirements of subsections (a) and (c) of section 3602 and sections 3603 and 3604 and shall be subject to the remedies under section 3610 for all violations stemming from the employer's own foreign labor contracting activity.

(b) NOTIFICATION.—

(1) ANNUAL EMPLOYER NOTIFICATION.—Each employer shall notify the Secretary, not less frequently than once every year, of the identity of any foreign labor contractor involved in any foreign labor contracting activity for, or on behalf of, the employer, including at a minimum, the

name and address of the foreign labor contractor and a description of the services, the states where the workers will be employed and the number of workers to be employed.

(2) ANNUAL FOREIGN LABOR CONTRACTOR NOTIFICATION.—Each foreign labor contractor shall notify the Secretary, not less frequently than once every year, of the identity of any subcontractee, agent, or foreign labor contractor employee involved in any foreign labor contracting activity for, or on behalf of, the foreign labor contractor.

(3) NONCOMPLIANCE NOTIFICATION.—An employer shall notify the Secretary of the identity of a foreign labor contractor whose activities do not comply with this subtitle within 30 days of when the employer becomes aware of noncompliance.

(4) AGREEMENT.—Not later than 48 hours after receiving a request from the Secretary, an employer shall provide the Secretary with the identity of any foreign labor contractor, or any other person performing recruitment activities, with which the employer has a contract or other agreement, or of whom the employer is aware.

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to establish an efficient electronic process for the timely investigation and approval of an application for a certificate of registration of foreign labor contractors, including—

(1) a declaration, subscribed and sworn to by the applicant, stating the applicant's permanent place of residence, the foreign labor contracting activities for which the certificate is requested, and such other relevant information as the Secretary may require;

(2) a set of fingerprints of the applicant;

(3) an expeditious means to update registrations and renew certificates;

(4) providing for the consent of any foreign labor recruiter to the designation by a court of the Secretary as an agent available to accept service of summons in any action against the applicant, if the applicant has left the jurisdiction in which the action is commenced, otherwise has become unavailable to accept service or is subject to personal jurisdiction in no State;

(5) providing for the consent of any foreign labor recruiter to jurisdiction in the Department of Labor or any state or Federal court of the United States for any action brought by any aggrieved individual or worker;

(6) providing for cooperation in any investigation by the Secretary or other appropriate authorities;

(7) providing for consent to the forfeiture of the bond for failure to cooperate with these provisions;

(8) providing for consent to be liable for violations of this subtitle by any agents or subcontractees of any level in relation to the foreign labor contracting activity of the agent or subcontractee to the same extent as if the foreign labor contractor had committed the violation;

(9) providing for consultation with other appropriate Federal agencies to determine whether any reason exists to deny registration to a foreign labor contractor; and

(10) any other requirements that the Secretary may prescribe.

(d) **TERM OF REGISTRATION.**—Unless suspended or revoked, a certificate under this section shall be valid for 2 years.

(e) **APPLICATION FEE.**—

(1) **REQUIREMENT FOR FEE.**—In addition to any other fees authorized by law, the Secretary shall impose a fee, to be deposited in the general fund of the Treasury, on a foreign labor contractor that submits an application for a certificate of registration under this section.

(2) **AMOUNT OF FEE.**—The amount of the fee required by paragraph (1) shall be set at a level that the Secretary determines sufficient to cover the full costs of carrying out foreign labor contract registration activities under this subtitle, including worker education and any additional costs associated with the administration of the fees collected.

(f) **REFUSAL TO ISSUE; REVOCATION.**—In accordance with regulations promulgated by the Secretary, the Secretary shall refuse to issue or renew, or shall revoke and debar from eligibility to obtain a certificate of registration for a period of not greater than 5 years, after notice and an opportunity for a hearing, a certificate of registration under this section if—

(1) the applicant for, or holder of, the certification has knowingly made a material misrepresentation in the application for such certificate;

(2) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

(A) is a person who has been refused issuance or renewal of a certificate;

(B) has had a certificate revoked; or

(C) does not qualify for a certificate under this section;

(3) the applicant for, or holder of, the certification has been convicted within the preceding 5 years of —

(A) any felony under State or Federal law or crime involving robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury, peonage, human trafficking or 18 U.S. code CHAPTER 77 - PEONAGE, SLAVERY, AND TRAFFICKING IN PERSONS, domestic violence, or smuggling or harboring individuals who have entered the United States illegally; or

(B) any crime relating to gambling, or to the sale, distribution or possession of alcoholic beverages, in connection with or incident to any labor contracting activities.

(4) the applicant for, or holder of, the certification has materially failed to comply with this section.

(g) RE-REGISTRATION OF VIOLATORS.—The Secretary shall establish a procedure by which a foreign labor contractor that has had its registration revoked under subsection (f) may seek to re-register under this subsection by demonstrating to the Secretary’s satisfaction that the foreign labor contractor has not violated this subtitle in the previous 5 years and that the foreign labor contractor has taken sufficient steps to prevent future violations of this subtitle.

SEC. 3606. BONDING REQUIREMENT.

(a) IN GENERAL.—The Secretary shall require a foreign labor contractor to post a bond in an amount sufficient to ensure the ability of the foreign labor contractor to discharge its responsibilities and to ensure protection of workers, including wages.

(b) REGULATIONS.—The Secretary, by regulation, shall establish the conditions under which the bond amount is determined, paid, and forfeited.

(c) RELATIONSHIP TO OTHER REMEDIES.—The bond requirements and forfeiture of the bond under this section shall be in addition to other remedies under 3610 or any other law.

SEC. 3607. MAINTENANCE OF LISTS.

(a) IN GENERAL.—The Secretary shall maintain—

(1) a list of all foreign labor contractors registered under this subsection, including—

(A) the countries from which the contractors recruit;

(B) the employers for whom the contractors recruit;

(C) the visa categories and occupations for which the contractors recruit; and

(D) the States where recruited workers are employed; and

(E) include range of pay scales in each industry/occupation under (a)(1)(C);

(F) include statistics showing how many workers each country are routinely hired; and

(2) a list of all foreign labor contractors whose certificate of registration the Secretary has revoked.

(b) UPDATES; AVAILABILITY.—The Secretary shall—

(1) update the lists required by subsection (a) on an ongoing basis, not less frequently than every 6 months; and

(2) make such lists publicly available, including through continuous publication on Internet websites and in written form at and on the websites of United States embassies in the top five most common languages spoken in that country.

(c) INTER-AGENCY AVAILABILITY.—The Secretary shall share the information described in subsection (a) with the Secretary of State

SEC. 3608. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

Section 214 ([8 U.S.C. 1184](#)) is amended by adding at the end the following:

“(s) A visa shall not be issued under the subparagraph (A)(iii), (B)(i) (but only for domestic servants described in clause (i) or (ii) of [section 274a.12\(c\)\(17\)](#) of title 8, Code of Federal Regulations (as in effect on December 4, 2007)), (G)(v), (H), (J), (L), (Q), (R) or add any new immigration subsections of section 101(a)(15) until the consular officer—

“(1) has provided to and reviewed with the applicant, in the applicant’s language (or a language the applicant understands), a copy of the information and resources pamphlet required by section 202 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ([8 U.S.C. 1375b](#)) ; and

“(2) has reviewed and made a part of the visa file the foreign labor recruiter disclosures required by section 3602 of the Border Security, Economic Opportunity, and Immigration Modernization Act, including whether the foreign labor recruiter is registered pursuant to that section.”.

SEC. 3609. RESPONSIBILITIES OF SECRETARY OF STATE.

(a) IN GENERAL.—The Secretary of State shall ensure that each United States diplomatic mission has a person who shall be responsible for receiving information from any worker who has been subject to violations of this subtitle.

(b) PROVISION OF INFORMATION.—The responsible person referred to in subsection (a) shall ensure that the information received is provided to the Department of Justice, the Department of Labor, or any other relevant Federal agency.

(c) MECHANISMS.—The Attorney General and the Secretary shall ensure that there is a mechanism for any actions that need to be taken in response to information received under subsection (a).

(d) ASSISTANCE FROM FOREIGN GOVERNMENT.—The person designated for receiving information pursuant to this subsection is strongly encouraged to coordinate with governments and civil society organizations in the countries of origin to ensure the worker receives additional support.

(e) MAINTENANCE AND AVAILABILITY OF INFORMATION.—The Secretary of State shall ensure that consulates maintain information regarding the identities of foreign labor contractors and the employers to whom the foreign labor contractors supply workers. The Secretary of State shall make such information publicly available in written form and on-line, including on the websites of United States embassies in the official language of that country.

(f) ANNUAL PUBLIC DISCLOSE.—The Secretary of State shall make publicly available on-line, on an annual basis, data disclosing the gender, country of origin and state, if available, date of birth, wage, level of training, and occupation category, disaggregated by job and by visa category.

SEC. 3610. ENFORCEMENT PROVISIONS.

(a) COMPLAINTS AND INVESTIGATIONS.—The Secretary—

(1) shall establish a process for the timely receipt, investigation, and disposition of complaints filed by any person, including complaints respecting a foreign labor contractor's compliance with this subtitle; and

(2) either pursuant to the process required by paragraph (1) or otherwise, may investigate employers or foreign labor contractors, including actions occurring in a foreign country, as necessary to determine compliance with this subtitle.

(b) ADMINISTRATIVE ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary finds, after notice and an opportunity for a hearing, any foreign labor contractor or employer failed to comply with any of the requirements of this subtitle, the Secretary may impose the following against such contractor or employer—

(A) a fine in an amount not more than \$30,000 per violation; and

(B) upon the occasion of a third violation or a failure to comply with representations, a fine of not more than \$75,000 per violation.

(c) AUTHORITY TO ENSURE COMPLIANCE.—The Secretary is authorized to take other such actions, including issuing subpoenas and seeking appropriate injunctive relief and recovery of damages, as may be necessary to assure compliance with the terms and conditions of this subtitle.

(d) BONDING.—Pursuant to the bonding requirement in section 3606, bond liquidation and forfeitures shall be in addition to other remedies under this section or any other law.

(e) CIVIL ACTION.—

(1) IN GENERAL.—The Secretary or any person aggrieved by a violation of this subtitle may bring a civil action against any foreign labor contractor or employer in any court of competent jurisdiction—

(A) to seek remedial action, including injunctive relief;

(B) to recover damages on behalf of any worker harmed by a violation of this subsection; and,

(C) to ensure compliance with requirements of this section.

(2) ACTIONS BY THE SECRETARY OF LABOR.—

(A) SUMS RECOVERED.—Any sums recovered by the Secretary on behalf of a worker under paragraph (1) or through liquidation of the bond held pursuant to section 3606 shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each worker affected. Any such sums not paid to a worker because of inability to do so within a period of 5 years shall be credited as an offsetting collection to the appropriations account of the Secretary for expenses for the administration of this section and shall remain available to the Secretary until expended or may be used for enforcement of the laws within the jurisdiction of the wage and hour division or may be transferred to the Secretary of Health and Human Services for the purpose of providing support to programs that provide assistance to victims of trafficking in persons or other exploited persons. The Secretary shall work with any attorney or organization representing workers to locate workers owed sums under this section.

(B) REPRESENTATION.—Except as provided in [section 518\(a\)](#) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this paragraph. All such litigation shall be subject to the direction and control of the Attorney General.

(3) ACTIONS BY INDIVIDUALS.—

(A) AWARD.—If the court finds in a civil action filed by an individual under this section that the defendant has violated any provision of this subtitle (or any regulation issued pursuant to this subtitle), the court may award—

(i) damages, up to and including an amount equal to the amount of actual damages, and statutory damages of up to \$5,000 per plaintiff per violation, or other equitable relief, except that with respect to statutory damages—

(I) multiple infractions of a single provision of this subtitle (or of a regulation under this subtitles) shall constitute only 1 violation for purposes of section 3602(a) to determine the amount of statutory damages due a plaintiff; and

(II) if such complaint is certified as a class action the court may award—

(aa) damages up to an amount equal to the amount of actual damages;
and

(bb) statutory damages of no more than the lesser of up to \$5,000 per class member per violation, or up to \$700,000; and other equitable relief;

(ii) reasonable attorneys' fees and costs; and

(iii) such other and further relief, including declaratory and injunctive relief, as necessary to effectuate the purposes of this subtitle.

(B) CRITERIA.—In determining the amount of statutory damages to be awarded under subparagraph (A), the court is authorized to consider whether an attempt was made to resolve the issues in dispute before the resort to litigation.

(C) BOND.—To satisfy the damages, fees, and costs found owing under this clause, the Secretary shall release as much of the bond held pursuant to section 3606 as necessary.

(D) APPEAL.—Any civil action brought under this section shall be subject to appeal as provided in [chapter 83](#) of title 28, United States Code ([28 U.S.C. 1291 et seq.](#)).

(E) ACCESS TO LEGAL SERVICES CORPORATION.—Notwithstanding any other provision of law, the Legal Services Corporation and recipients of its funding may provide legal assistance on behalf of any non-citizen with respect to any provision of this subtitle.

(f) AGENCY LIABILITY.—

(1) IN GENERAL.—Beginning 180 days after the Secretary of Labor has promulgated regulations pursuant to section 3605(c), an employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under section 3605. An employer who uses a foreign labor contractor who is not registered under section 3605 after such time period, or who uses a foreign labor contractor that has violated any provision of this Act, shall be subject to the provisions of this subsection for violations committed by such foreign labor contractor to the same extent as if the employer were the foreign labor contractor who had committed the violation. Employers shall be jointly and severally liable for the actions of any foreign labor contractor in violation of this section.

(2) LIABILITY FOR AGENTS.—Foreign labor contractors shall be subject to the provisions of this section for violations committed by the foreign labor contractor's agents or subcontractees of any level in relation to their foreign labor contracting activity to the same extent as if the foreign labor contractor had committed the violation.

(g) RETALIATION.—

(1) IN GENERAL.—No person shall intimidate, threaten, restrain, coerce, discharge, demote, suspend, threaten, harass, decline to hire, or in any other manner discriminate against a worker or their family members (including a former employee or an applicant for employment) in the terms and conditions of employment because such worker--

(A) disclosed information to any person that the worker reasonably believes evidences a violation of this section (or any rule or regulation pertaining to this section), including seeking legal assistance of counsel or cooperating with an investigation or other proceeding concerning compliance with this section (or any rule or regulation pertaining to this section);

(B) has filed or has information about a potential complaint, instituted or caused to be instituted any proceeding, testified, assisted, or will testify, or cooperated or seeks to cooperate, in an investigation or other proceeding concerning compliance with the requirements under this title or any rule or regulation pertaining to this title or any workplace claim;

(C) has disclosed information to any other person or entity that the worker reasonably believes evidences a violation of this title or any rule or regulation pertaining to this title, or grounds for any workplace claim;

(D) has assisted or participated, or has information that may assist in any manner in a proceeding or in any other action to carry out the purposes of this title or any workplace claim;

(E) has furnished information to the Department of Labor, the Department of Homeland Security, the Department of Justice, the Equal Employment Opportunity Commission, the National Labor Relations Board, or any Federal, State, or local regulatory or law enforcement agency relating to a violation of this title or any workplace claim, or has such information to furnish to the relevant agency; or

(F) has objected to, or refused to participate in, any activity, policy, practice, or assigned task that the worker (or other such individual) reasonably believed to be in violation of any provision of this title, or any order, rule, regulation, under this title.

(2) ENFORCEMENT.—An individual who is subject to any conduct described in paragraph (1) may, in a civil action, recover appropriate relief, including reasonable attorneys' fees and costs, with respect to that violation. Any civil action under this subparagraph shall be stayed during the pendency of any criminal action arising out of the violation.

(h) WAIVER OF RIGHTS.—Agreements by workers purporting to waive or to modify their rights under this subtitle shall be void as contrary to public policy.

(i) PRESENCE DURING PENDENCY OF ACTIONS.—

(1) IN GENERAL.—If other immigration relief is not available, the Attorney General and the Secretary of Homeland Security shall grant advance parole or deferred action status to permit a nonimmigrant to enter or remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to any action taken pursuant to this section.

(2) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out paragraph (1).

SEC. 3611. RULE OF CONSTRUCTION.

Nothing in this subtitle shall be construed to preempt or alter any other rights or remedies, including any causes of action, available under any other Federal or State law.

SEC. 3612. REGULATIONS.

The Secretary shall prescribe such regulations as may be necessary to carry out this subtitle.



Recommendation 9:

Increasing transparency and improving enforcement of regulations prohibiting trafficking in government contracts

PURPOSE: To enhance enforcement of section XVII of the National Defense Authorization Act of 2013, *Ending Trafficking in Government Contracting* (P.L. 112-239) and Executive Order 13627, *Strengthening Protections Against Trafficking in Persons in Federal Contracts* by (1) increasing transparency regarding how the regulations have been implemented; (2) ensuring that contract/procurement officers are adequately prepared to identify human rights violations; (3) directing each federal agency to appoint a Labor Compliance Officer (LCA) who shall promote awareness of and compliance with human trafficking regulations through their interactions with senior agency officials, contracting officers, and contractors; and (4) directing USDA to conduct a pilot in new solicitations for hand-harvested produce providing an incentive for producers to certify, prior to award, that their product was produced without forced labor in compliance with the Fair Food Program, which has been proven to effectively eliminate forced labor in U.S. agriculture, where the high risk of forced labor is well-documented.

EXPLANATION AND SUPPORTING MATERIAL:

Section 112 of H.R. 220, the *Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018*, strengthened compliance with existing anti-trafficking requirements in Federal procurement processes. It requires the Departments of State and Labor, USAID and the Office of Management and Budget to report annually to GSA on agency actions to ensure contractors and USG officials are following anti-trafficking requirements and are tracking and reporting cases of human trafficking that are identified in the federal procurement process.² There are many actions that must now be reported including: identifying a person in each agency who oversees these actions and files the report; ensuring the contractors and agency officials are educated and trained on compliance with the anti-trafficking requirements; reports on agency identified cases of human trafficking and the results of agency investigation into those acts; results of referrals to the Attorney General and prosecutions for human trafficking; impacts on the federal contract; and any interagency meetings on any disbarred or suspended contractors due to sever forms of trafficking in persons.

These are welcome developments however much remains to be done. For example, some of the reporting requirements of the Federal Acquisition Regulations (FAR) rule have resulted in unintended real-world consequences, including the canceling of audits and reduced willingness by leading companies to find and fix problems in their supply chains. Companies that undertake due diligence are likely to find issues in their supply chains and have to report them to contracting

² Amending Section 106 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104)

officers and agency Inspectors General, while those who opt not to examine their supply chains, in violation of the rule, are unlikely to face repercussions. The United States was the first country to enact such rules, but as other countries are now adopting similar measures, we are poised to fall behind without adopting stronger enforcement efforts. Additionally, human traffickers routinely adopt new methods to coerce and defraud vulnerable workers to evade the changing regulatory landscape; migration patterns are changing over time, particularly now in light of the COVID-19 pandemic. Congress must consider how the trafficking related FAR is responding to the evolving situation of migration.

Likewise, Congress should begin to explore methods for affirmatively using its purchasing power to incentivize the adoption of solutions proven to actually prevent forced labor in high-risk industries. To that end, Congress should direct USDA conduct a pilot in new solicitations for hand-harvested tomatoes providing an incentive for producers to certify, prior to award, that their product was produced without forced labor in compliance with the Fair Food Program, which has been proven to effectively eliminate forced labor in U.S. agriculture, where the high risk of forced labor is well-documented. If the outcome of the pilot can show that additional value is provided to the U.S. Government, the program could be expanded, pursuant to FAR Regulations 6.301-` NS 6.302-7, into future solicitations for other products for which worker-driven social responsibility programs or union-ratified collective bargaining agreements can be shown to prevent forced labor.

PROPOSED STATUTORY LANGUAGE

The Office of Federal Procurement Policy (OFPP) must continue to expand efforts to effectively implement the FAR rule on trafficking in persons, with an emphasis on consistent and transparent enforcement. To that end Section 106(g) of the Trafficking Victims Protection Act (22 U.S.C. 7104) should be amended by inserting language requiring the following:

1. Each agency shall publicly report and make available on their website annually:
 - a. the policies and procedures in place to implement this rule
 - b. how often compliance plans have been included in new contracts
 - c. whether or not compliance plans submitted include effectively implemented best practices such as due diligence plans
 - d. the number of investigations into the possible existence of forced labor or human trafficking in contractors' supply chains; the number of problems that have been identified, and how many incidences have been reported by contractors to Inspectors General
 - e. the number of contracts that have been terminated by as a result of a finding of forced labor or human trafficking; false certification regarding either forced labor or human trafficking by a contractor; or a contractor's refusal to cooperate in a related inquiry. The contracts for which these actions were taken and the date the enforcement action was taken shall be identified
 - f. whether any contractors have been debarred or suspended as a result of obligations required under EO 13126 or EO 13627? If so, the agency shall identify the contracts and contractors for which these actions were taken as well as the date this enforcement action was taken;
 - g. whether or not any safeguards and guidance regarding high-risk sectors for human trafficking and forced labor have been made, and if so, the high-risk sectors that have been identified.
 - h. the number of contracts the agency has in high-risk sectors and whether those contracts were given extra scrutiny to determine that no human trafficking or forced labor were found in the related supply chains of the contractor or subcontractor.

- i. the standards being used to remediate any issues identified
2. Government Accountability Office (GAO) shall submit a study to Congress examining domestic procurement regulations related to human trafficking, including both services and goods procurement shall be commissioned.
3. OFPP shall with issuing new guidance requiring agencies to conduct risk assessments to identify contracts that are providing goods (including commercially available off-the-shelf items, or COTS) from high risk regions or sectors, using the DOL List of Goods Produced by Child Labor or Forced Labor as a reference, then require those contractors to provide compliance plans including what due diligence they are undertaking to mitigate those risks; and
4. Key agencies (including but not limited to the Department of Defense (DOD), DOS, DOL and USAID) shall appoint a Labor Compliance Advisor at a senior level to promote awareness of the human trafficking-related regulations and train procurement officers in reviewing contracts and compliance plans, while also providing high-level oversight and monitoring. Agencies shall report on the content and duration of the training given to procurement officers, including who conducts the training and how frequently officers must receive it.
5. USDA shall conduct a pilot in new solicitations for hand-harvested tomatoes providing an incentive for producers to certify, prior to award, that their product was produced without forced labor in compliance with the Fair Food Program, which has been proven to effectively eliminate forced labor in U.S. agriculture, where the high risk of forced labor is well-documented. If OFPP determines that the outcome of the pilot shows that additional value is provided to the U.S. Government, the program shall be expanded, pursuant to existing authority under FAR Regulations 6.301- and 6.302-7, into all future solicitations for other products for which worker-driven social responsibility programs or union-ratified collective bargaining agreements can be shown to prevent forced labor.



Recommendation 10:

Authorize the International Labor Affairs Bureau - ILAB

PURPOSE: To statutorily authorize the Department of Labor Bureau of International Labor Affairs, a critical component of the U.S. effort to combat forced and child labor

EXPLANATION AND SUPPORTING MATERIAL:

The Bureau of International Labor Affairs (ILAB) at the Department of Labor is an essential part of the U.S. Government's international response to forced labor, human trafficking and child labor. ILAB's mandates touch on key elements of partnership, prevention, protection and prosecution, such as child labor, international labor diplomacy, international economic affairs and labor-related trade policy. Through highly respected research, grant-making and policy development work, ILAB identifies cases of goods reported on the annual "List of Goods Produced by Child Labor or Forced Labor." In the last TVPA reauthorization, Congress mandated that ILAB include goods produced with inputs made with forced labor to the extent practicable. This expansion of the List is critical to help Customs and Border Protection enforce Section 307 of the Tariff Act by providing research to identify imports at high risk for being made with forced labor, but will cost additional resources.

PROPOSED STATUTORY LANGUAGE:

The Act of March 4, 1913 (37 Stat. 736, chapter 3 141; 29 U.S.C. 551 et seq.) is amended by adding at the end the following, "SEC. 12 BUREAU OF INTERNATIONAL LABOR AFFAIRS. BUREAU OF INTERNATIONAL LABOR AFFAIRS:

“(a) ESTABLISHMENT OF THE BUREAU OF INTERNATIONAL LABOR AFFAIRS.—

(1) IN GENERAL.—There is established within the Department of Labor a Bureau of International Labor Affairs (referred to in this section as the ‘Bureau’). The Bureau shall include offices to carry out functions related to—

- (A) trade and labor affairs;
- (B) child labor, forced labor, and human trafficking;
- (C) international relations and economic affairs; and
- (D) other functions and activities as designated by the Secretary of Labor.”

The mission of the Bureau shall include:

(A) promoting a fair global playing field for workers and businesses in the United States and around the world by enforcing trade commitments, strengthening international labor standards, and combating international child labor, forced labor, and human trafficking;

(B) assisting trading partners, through technical assistance and capacity building, in improving working conditions, combating child labor, forced labor, and human trafficking, raising living standards, and protecting the ability of workers to exercise their internationally recognized labor rights to promote a fair global playing field for workers and businesses in the United States and trade partner countries;

(C) Implementing the duties and responsibilities assigned to the Department of Labor [elsewhere in this act - Trafficking Victims Protection Act of...] and under the Trade and Development Act of 2000 (19 U.S.C. 3701 et seq.), the United States-Mexico-Canada Agreement Implementation Act (Public Law 116–2 113), and other Acts, and executive orders, as appropriate.



Recommendation 11:

Require USAID to integrate anti-trafficking strategies and activities into all international aid programs

PURPOSE: To better integrate a Counter-Trafficking in Persons (C-TIP) perspective and programming in U.S. foreign assistance, and to promote the effective implementation of the existing USAID C-TIP Policy throughout the Agency, with a particular focus on institutionalization and implementation in USAID Missions.

EXPLANATION AND SUPPORTING MATERIALS:

It is important that the USG leverage the full range of its foreign policy impact in preventing and ending human trafficking overseas, and in protecting and supporting victims of this crime. In that context, US foreign assistance represents a pivotal and underutilized avenue for potential USG impact. Effective integration of a robust C-TIP Policy across the range of assistance programs, issue areas, Bureaus and Missions is of critical importance. Such integration can (a) ensure that foreign assistance efforts do not inadvertently leave vulnerable community members behind, or even increase their vulnerability, (b) generate new avenues and opportunities to maximize the impact on trafficking issues of US interventions, budgetary investment and activities, and enhance the impact of existing interventions, and c) help reinforce and support broader development objectives.

For example, post-earthquake assistance in Haiti benefited from a critical understanding of locally prevalent forms of human trafficking, which allowed the proper identification of child victims who may otherwise have been returned to situations of extreme vulnerability and abuse.

For these reasons, C-TIP activities should be integrated into other development programs, project design, and methods for program evaluation, and a C-TIP analytical perspective should be incorporated into forthcoming Country Development Cooperation Strategies and into Guidance for future CDCS's. This integration should extend, at a minimum, to health, food security, economic development, education, democracy and governance, conflict and humanitarian assistance. In the context of humanitarian assistance in particular, steps should be taken to ensure that US Foreign assistance is not unintentionally contributing to conditions of vulnerability to human trafficking and that aid workers do not engage in human trafficking.

We commend USAID for developing and beginning to implement the 2012 C-TIP Policy, and for issuing a Trafficking in Persons Field Guide, but much remains to be done to effectively disseminate, institutionalize, and operationalize the policy.³ Including C-TIP integration as part of the TVPA would elevate this initiative within USAID to accelerate and ensure consistent global implementation.

The legislative language we propose calls for USAID to develop training and tools around implementation of the policy and the integration of a counter-trafficking perspective in the day-to-day work of development professionals. All Missions should: 1) receive in-depth training, and report on this to Congress, 2) report to Congress on the progress of integrating C-TIP into their programming work, through C-TIP specific language and core components in Requests for Proposals, as well as in future CDCS documents and in gender or other required analyses that are conducted to inform design and implementation of assistance programs.

In addition, the proposed language requires the USAID Administrator to define a new category of assistance programs, “C-TIP Integrated Development Programs” to encompass the broader range of development programming where C-TIP integration has taken place to some degree. The Administrator will also be required to assign this category a budget tracking number, and report-out on how C-TIP elements are integrated in this category of programs. This will allow greater visibility on the integration of C-TIP efforts into broader development programming and begin to incentivize further integration of C-TIP components in these programs.

Lastly, the proposed language modifies existing US Law (Title 22) codifying foreign assistance policy to include appropriate mention of Trafficking in Persons issues and considerations.

PROPOSED STATUTORY LANGUAGE:

SEC X. RESPONSIBILITIES OF ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) IN GENERAL.— In order to provide greater visibility on efforts to integrate C-TIP elements into broader assistance programming, the Administrator of the United States Agency for International Development shall:

(i) determine a reasonable definition for the term “C-TIP Integrated Development Programs,” which shall include, though not be limited to, any programming to address health, food security, economic development, education, democracy and governance, and humanitarian assistance that includes a sufficient Counter-Trafficking in Persons element integrated in the program design and/or delivery (as determined by the Administrator of the United States Agency for International Development).

(ii) Furthermore, the Administrator shall:

³ A policy update was issued by USAID in January 2021 that should be reviewed and revised because there was inadequate stakeholder consultation and many parts of the update are problematic.

A. assign a budget tracking number for C-TIP Integrated Development Programs, and

B. within six months after the enactment of this Act, and annually thereafter, submit to the House Foreign Affairs and Senate Foreign Relations Committees a report detailing the total dollar value allocated to C-TIP Integrated Development Programs, as well as a narrative description of the criteria by which a program was determined to qualify as having sufficient C-TIP integration, and how C-TIP elements were integrated in those programs, broken down by lines of effort.

(iii) Furthermore, the Administrator shall ensure that each USAID Mission shall:

A. integrate a counter-trafficking in persons perspective and specific actionable component into development programs, project design, and methods for program monitoring and evaluation when addressing a range of development issues, including but not limited to: health, food security, economic development, education, democracy and governance, and humanitarian assistance;

B. implement robust training and disseminate tools around the integration of a counter-trafficking perspective and awareness in the day-to-day work of development professionals;

C. ensure that subsequent Country Development Cooperation Strategies (CDCS) for said countries include a Counter-trafficking in persons analytic component to guide future project design and promote the inclusion of C-TIP elements in project design, implementation, monitoring and evaluation;

D. require the inclusion of a Trafficking in Persons assessment as a standalone analysis or, if there is a reason such an analysis is not deemed feasible, as an element of any other required analysis that is conducted to inform design and implementation of programs described in item (i) above.

(b) REPORTING TO CONGRESS – The Administrator of the United States Agency for International Development shall publicly report to the House Foreign Affairs and Senate Foreign Relations Committees within six months of this statute’s enactment, and every two years thereafter, on progress in implementing Section (a).

SEC. AMENDING USC TITLE 22 TO INCLUDE A C-TIP POLICY PERSPECTIVE IN DEVELOPMENT WORK

(a) 22 U.S. Code § 2151 (a)(3) is amended by inserting “, including but not limited to the right to be free from trafficking in persons,” after the phrase “individual civil and economic rights”.

(b) 22 U.S. Code § 2151-1 is amended by striking “.” and inserting “;” at the end of (b)(4)(G) and inserting a new clause (b)(4)(H) with the following text: “Effective counter-trafficking in persons policies and programs.”

(c) 22 U.S. Code § 2292 (d) [specific direction] is amended by inserting “The President shall also, to the greatest extent possible, ensure that carrying out these provisions does not create or contribute to conditions that can be reasonably expected to lead to an increase in the trafficking in persons of potential

victims who are in conditions of heightened vulnerability as a result of natural and manmade disasters; and, where feasible, shall seek to integrate remedies for this vulnerability into the execution of these provisions.“ after the phrase “as a result of natural and manmade disasters.”



Recommendation 12:

Require the U.S. to oppose international development bank loans that do not have trafficking impact and mitigation strategies in Tier 2 watchlist and Tier 3 countries

PURPOSE: To further engage international financial institutions, most notably the World Bank, to be actively engaged in Counter Trafficking in Persons (C-TIP) efforts and have counter-trafficking priorities integrated into their programming. The Secretary of the Treasury should require the U.S. executive director of each international financial institution to vote “no” on proposed projects in Tier 2 Watch List and Tier 3 countries unless there is a counter-trafficking strategy, including an assessment and mitigation efforts as needed, as part of the project.

EXPLANATION AND SUPPORTING MATERIALS:

This smart and bipartisan approach promotes good development policy while helping to fight human trafficking. It leverages and maximizes the existing investment of multilateral institutions to tackle the problem of human trafficking and development in tandem. It is critical that U.S. engagement ensures the World Bank’s safeguard policies on environmental and social factors are effective. In addition, C-TIP policies and objectives need to be integrated into proactive programming arenas, for instance by lending money to support anti-trafficking interventions as part of larger projects or making more assertive government action against trafficking a condition of loans. Congress has required U.S. representatives at international financial institutions to actively promote C-TIP policies. Our proposal is to step-up this engagement to promote C-TIP strategies and activities at international financial institutions. Such integration can: (a) ensure that development efforts do not support or increase the vulnerability of communities susceptible to human trafficking; (b) generate new avenues and opportunities to maximize the impact on trafficking issues of multilateral investments, and enhance the impact of existing interventions.

PROPOSED STATUTORY LANGUAGE:

SEC. 8. <<NOTE: 22 USC 262d note.>> UNITED STATES SUPPORT FOR INTEGRATION OF ANTI-TRAFFICKING INTERVENTIONS IN MULTILATERAL DEVELOPMENT BANKS.

(a) Requirements.--The Secretary of the Treasury, in consultation with the Secretary of State, acting through the Ambassador at Large for Monitoring and Combating Trafficking in Persons, shall instruct the

United States Executive Director of each multilateral development bank to vote no on proposed projects in Tier 2 Watch List and Tier 3 countries unless there is a counter-trafficking strategy, including an assessment and mitigation efforts as needed, as part of the project; and to initiate discussions with the other executive directors and management of the respective multilateral development bank to--

(1) further develop anti-human trafficking provisions in relevant project development, safeguards, procurement, and evaluation policies;

(2) employing a risk-based approach, require human trafficking risk assessments and integration plans as a routine part of developing projects through existing, forthcoming or new mechanisms and processes;

(3) support analyses of the impact of severe forms of trafficking in persons on key indicators of economic and social development and of the benefits of reducing human trafficking on economic and social development;

(4) support the proactive integration of effective anti-trafficking interventions into projects with the objectives of enhancing development outcomes and reducing the incidence of severe forms of trafficking in project areas;

(5) increase the capacity of multilateral development banks and of recipient governments to conduct human trafficking risk assessments and integrate anti-trafficking interventions into projects;

(6) support the development of meaningful risk mitigation and reduction policies, regulations, and strategies within the multilateral development banks to reduce the incidence and prevalence of severe forms of trafficking in persons and enhance development outcomes that may be improved by reducing the incidence and prevalence of human trafficking; and

(7) support the inclusion of human trafficking risk analysis in the development of relevant country strategies by each multilateral development bank.

(b) Briefings.--The Secretary of the Treasury shall make relevant officials available to brief the committee on Foreign Relations of the Senate, the Committee on Appropriations of the Senate, the Committee on Financial Services of the House of Representatives, and the Committee on Appropriations of the House of Representatives on the implementation of this section.