



human rights *first*

American ideals. Universal values.

BLUEPRINT

How to Dismantle the Business of Human Trafficking

BLUEPRINT FOR THE ADMINISTRATION,
THE U.S. CONGRESS, AND U.S. BUSINESS LEADERS

JULY 2015

Human Rights First

American ideals. Universal values.

On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.

© 2015 Human Rights First
All Rights Reserved.

This report is available online at humanrightsfirst.org

WHERE TO FIND US

75 Broad Street, 31st Floor,
New York, NY 10004

Tel: 212.845.5200
Fax: 212.845.5299

humanrightsfirst.org

805 15th Street, N.W., #900
Washington, DC 20005

Tel: 202.547.5692
Fax: 202.543.5999

1303 San Jacinto Street, 9th Floor
at South Texas College of Law, Houston, TX 77002

Tel: 713.955.1360
Fax: 713.510.1935

“Our fight against human trafficking is one of the great human rights causes of our time, and the United States will continue to lead it...”

President Obama
September 25, 2012

Introduction

This year marks the 150th anniversary of the ratification of the 13th Amendment, which abolished slavery in the United States. Yet in the world today there are an estimated 20.9 million people enslaved,¹ and the United States is both a source and destination of victims. While the United States would have a moral responsibility to address this problem even without its history of slavery, its legacy heightens this imperative.

Contemporary slavery manifests in various ways. Many trafficking victims are forced to toil in fields, factories, and fishing boats for little or no pay. Others are held captive in private homes. Forced prostitution rings imprison women, girls, and boys in brothels or force them to work in the streets under threat of abuse. What links all these forms—as well as historic American slavery—is the profit motive. Human trafficking is a lucrative criminal enterprise, generating \$150 billion annually in profits worldwide.² The United States should seek to reduce substantially the number of victims by implementing policies and practices that dismantle the business of trafficking.

Since passage of the Trafficking Victims Protection Act (TVPA) of 2000—and its subsequent reauthorizations—the U.S. government has undertaken significant steps to build an anti-human trafficking infrastructure. Through annual publication of the Department of State's (DOS) Trafficking in Persons report (TIP report), it has called worldwide attention to this blight.³ The DOS Office to Monitor and Combat Trafficking in Persons (J/TIP) provides grants to U.S. and foreign institutions involved in prevention/awareness, protection/services, law enforcement/prosecution, research and data

collection, and evaluation. J/TIP also coordinates U.S. agencies both at home and abroad, including agencies on the President's Interagency Task Force (PITF).⁴

Despite these efforts, human trafficking continues to be a horrific human rights problem both in the United States and around the world. The 2014 DOS TIP report used law enforcement data to determine that 44,738 survivors were reported globally in 2013⁵—a paltry figure considering the number of victims. It is clear that far more needs to be done.

The goal of the United States should be to flip the financial equation for traffickers—to dismantle the business of human trafficking by increasing the risks and decreasing the profits. To that end, the U.S. government should increase prosecutions, strengthen partnerships with allies in the private sector, and increase funding to create more effective and sustainable efforts to combat this crime.

Executive Summary

A Three-Pronged Approach: Increasing Risk, Decreasing Profits, and Providing Adequate Resources in Order to Dismantle the Business of Human Trafficking

Prong One: Increasing the risks for perpetrators

The U.S. government should increase the risk of engaging in human trafficking. To accomplish this, it should step up prosecutions of all actors

involved in the crime. This should be done through a victim-centered approach in the investigation and prosecution phases, expanded training of law enforcement, prosecutors, and judges, improved sources of evidence, and better coordination among victim advocates and officials at all levels of government: federal, state, local, and tribal.

The U.S. government should also take steps to more broadly use financial investigations, a proven tool in successful prosecutions.

At the same time, it should expand the role of the private sector. This requires improving formal and informal working relationships with partners in the private sector who can help disrupt human trafficking networks. Businesses, in coordination with law enforcement, should adopt a proactive approach. They should implement training and awareness programs to teach employees to identify and report potential incidents of human trafficking.

Prong Two: Decreasing the profits that drive perpetrators

The United States should approach human trafficking as the business that it is. To disrupt it, the U.S. government should focus on protecting workers through better procurement policies and partnerships with companies to replicate those policies where practical.

Because human trafficking is a profit-driven crime, the United States should eliminate economic incentives by denying perpetrators access to U.S. markets for both goods and labor. As the largest buyer of goods and services worldwide, the U.S. government should ensure that its procurement contracts remain free of human trafficking. The U.S. government should adopt and enforce strong policies to protect workers providing services and goods under government contracts.

Additionally, the United States should work with businesses to root out human trafficking. Congress should pass legislation to encourage businesses to adopt compliance plans to identify and mitigate the risk of trafficking in their supply chains for goods and labor. And government officials should work with companies to revise and implement guiding principles to ensure they are not unintentionally contributing to the human trafficking problem globally. Corporate leaders should also encourage self-regulation to eradicate exploitation from their supply chains.

Finally, the United States should ensure that its foreign trade is free of trafficking. The U.S. government should leverage potential trade relations to require standards on anti-human trafficking policies with all its trade partners. Negotiations for trade agreements should be recognized as an opportunity to compel our partners to combat human trafficking.

Prong Three: Adequate Resources for anti-trafficking policies

Slavery is legal nowhere, yet happens everywhere. Eradicating it will require significant additional resources and better collaboration among government, private sector, and non-profit actors.

The financial resources currently deployed to fight slavery are alarmingly low. Worldwide, governments and NGOs combined spend an average of \$124 million annually,⁶ while traffickers are earning profits estimated at \$150 billion per year. Even though it is the world's leader in funding international anti-trafficking programs, the U.S. government spent more money in a single month fighting the war on drugs than it spent fighting trafficking—domestically and internationally—over the past 15 years.

While sufficient funds alone won't guarantee success, insufficient funds guarantee failure. Congress should appropriate a level of funding commensurate with this problem.

Increasing the Risks for Perpetrators of Human Trafficking

Human traffickers will continue to exploit victims unless the risks outweigh the rewards. A key tool the U.S. government should utilize for increasing these risks is ensuring that the crime is adequately investigated and prosecuted. Prosecutions should target all individuals involved in human trafficking. Law enforcement and prosecutors should employ enhanced expertise, adopt a victim-centered approach, and fill gaps in knowledge and training.

Law enforcement investigations strongly rely upon the testimony of trafficked victims to secure evidence against traffickers. Trafficking victims, who have suffered significant trauma and are often mistrustful of authorities, are frequently reluctant to cooperate with investigators and participate in prosecutions. To gain trust, ensure trafficked persons' protection, and reduce instances of further traumatization, all law enforcement and criminal justice procedures should follow a victim-centered approach—one that prioritizes the victim's needs and wishes above other considerations. Experts report this is not only the most humane approach, but also the most effective in achieving successful prosecutions.

Gathering evidence to successfully prosecute human traffickers can be particularly difficult

given victims' frequent unwillingness to testify against their traffickers. Therefore enhanced expertise in working with victims is required for successful prosecutions. Prosecutors should also rely on evidence other than victim testimony to increase success.

Trafficking prosecutions should not focus solely on final perpetrators. Other actors are often directly involved in trafficking, such as investors, recruiters, transporters, informers, guides or crew members, enforcers or body-guards, debt-collectors, supporting personnel and specialists, and money launderers.⁷ All of these actors should also be prosecuted. Some of these individuals may be operating in other countries, requiring international cooperation.

Traffickers often rely on enablers—actors from both legitimate and illegitimate businesses not directly involved in trafficking, but who either knowingly or unknowingly support these crimes by providing essential goods and services. The government should prosecute any enablers who engage in criminal activity in support of trafficking—e.g. document forgers and corrupt public officials. While buyers of goods and services procured through labor or sex trafficking are not, per se, part of the trafficking organization, the government should address the demand they generate for goods and services from trafficked persons.

The United States should strengthen investigations into the financial gains of trafficking to identify all perpetrators and bring them to justice. Cooperative working relationships between experts on human trafficking, law enforcement and financial institutions are essential to identifying red flags for trafficking-related financial transactions. Such relationships should be bolstered or established where they do not already exist.

Finally, businesses should ensure their employees are adequately trained to identify and promptly report incidents of human trafficking.

Recommendations

The United States should increase the number of prosecutions of all actors involved in trafficking. This must be accomplished through a victim-centered approach in investigations and prosecutions; enhanced expertise developed through training for law enforcement, prosecutors, and judges; increased and enhanced sources of evidence; and improved formal and informal working relationships with the private sector and victim advocates.

To promote a victim-centered approach:⁸

1. The **Department of Justice and Health and Human Services** should continue to guarantee victims' right to safety, stability, and recovery. The **DOJ** should ensure that psycho-social and other victim services are available at all stages of the criminal procedure.
2. **Law enforcement agencies at every level**—federal, state, local, and tribal—must have the capacity to correctly and promptly identify victims of human trafficking. The **U.S. government** should adopt a uniform screening tool for law enforcement personnel to identify victims of human trafficking. Such tools are available in the public domain and ready for use.⁹ Additionally, identified victims should be coded as human trafficking victims, even if their cases will later be prosecuted under other statutes, so that the government can gather an accurate account of the scope and nature of the problem across the United States.
3. Victims of trafficking should have legal representation in any criminal proceeding. **Law enforcement and the prosecution** should coordinate with the private sector and NGOs to ensure that victims have access to quality legal representation. Additionally, law enforcement and prosecutors should work closely with victims' attorneys during the course of all investigations and prosecutions to ensure the protection of their rights.
4. The **DOJ** should consistently implement best practices for maximum victim protection. The privacy and identity of victims should be protected during the trial phase—both for their safety and dignity. Such protective measures include victim concealment or testifying behind screens, allowing victims to testify via video-link, or removing the public from the courtroom when victims testify.¹⁰
5. In order to reduce pressure on victims to testify at trial, evidence other than victim testimony—such as wiretaps, evidence gleaned through financial investigations or investigations into other crimes¹¹—should be considered and included as part of the trafficking investigation where possible. **Law enforcement and prosecutors** should continue to develop investigative strategies to allow them to conduct successful prosecutions with additional evidence beyond victim testimony.
6. **Congress, prosecutors, law enforcement, and judges** should apply the principle of “non-punishment” in all cases—both sex and labor trafficking—involving trafficking victims who may have committed a criminal offense as a result of being trafficked. Trafficking victims should never be punished or threatened with prosecution

because of their irregular migration or labor status, forced prostitution, or related criminal activity.¹² Congress has taken steps to ensure that minor sex-trafficking victims are treated as victims and not prosecuted for crimes they were forced to commit as part of their exploitation. Similar protections should be applied to adults, as well as child and adult victims of labor trafficking.

7. The Trafficking Victims Protection Act, along with other statutes, mandates restitution for victims of human trafficking from perpetrators upon their conviction.¹³ However data show that this mandate is not consistently enforced, especially in cases of sex trafficking.¹⁴ **Prosecutors** should present restitution requests in all human trafficking cases, including those where a plea agreement is achieved, even when such an agreement includes a non-human trafficking related charge.¹⁵ **Judges** should consistently enforce this mandate.¹⁶ In addition, law enforcement should also focus on following the money trail of traffickers to track and secure funds for restitution. Consistent implementation of financial investigations, seizure of profits, and victim restitution increases the cost and risk to traffickers while decreasing the profit.¹⁷

To enhance expertise:

1. **Congress** should increase funding for Enhanced Collaborative Model Task Forces.¹⁸ These task forces take a comprehensive and proactive role in investigating cases of human trafficking through a multi-disciplinary approach that links partners, including NGOs and government at the local, state, tribal, and federal levels. Providing services to victims is a cornerstone of this model.¹⁹ Enhanced Collaborative Model Task Forces—as well

as other task forces formed at the state level—should be required to publish all data on performance measures and share best practices.

2. The **government** should expand the Anti-Trafficking Coordination Teams Initiative (ACTeams). This joint effort by the Department of Justice, Department of Homeland Security, and Department of Labor has yielded positive results in the current six pilot districts by increasing the number of human trafficking cases filed.²⁰ The ACTeams initiative should also incorporate victim advocates to increase the number of convictions. Further information is included in the *Adequate Resources* section.
3. In order to achieve consistent investigations and prosecutions of human trafficking cases, law enforcement, prosecutors, and judges must fully understand the nature of this crime, victim needs, and the applicable law. Accordingly, continued training for law enforcement, prosecutors, and judges should be provided. Training is especially needed for labor trafficking, as there is less understanding about how to recognize, investigate, and prosecute this crime. Law enforcement agencies should have clear and uniform protocols and guidelines detailing the process for investigating sex and labor trafficking cases.

To prosecute all involved:

1. The **Department of Justice** should ensure the prosecution of all individuals engaged in human trafficking, from those involved in recruitment of victims to the final stage perpetrator. Human trafficking cases are complex and can be prosecuted under multiple criminal charges, such as the Mann

Act and the Travel Act, as well as tax and financial crimes. When trafficking cases are brought under these other charges, the **U.S. government** should still track these cases as trafficking in order to have a better account of the number and nature of human trafficking cases filed across the country.

2. International and domestic cooperation is essential for successful investigations into transnational human trafficking. The United Nations Convention Against Transnational Organized Crime contains detailed provisions on both formal and informal cooperation in criminal matters. The **U.S. government** should use diplomatic pressure to encourage countries that have ratified the Convention to cooperate in cases involving international human trafficking, especially around Articles 13 (International Cooperation for Purposes of Confiscation), Article 16 (Extradition), Article 18 (Mutual Legal Assistance), Article 19 (Joint Investigations), and Article 27 (Law Enforcement Cooperation).²¹ Experiences gleaned through joint investigations of drug trafficking and child pornography rings should be applied to investigations of human trafficking.
3. The **DOJ Foreign Corrupt Practices Act (FCPA) Unit** should investigate bribes paid throughout labor recruitment supply chains to hold companies liable for acts that facilitate labor abuses and trafficking. These investigations should cover all public officials involved in recruiting foreign workers, including customs, border, and labor department officials.²²
4. In order to identify all individuals and entities involved in trafficking, investigations must follow the money trail. Financial analysts and compliance professionals, in cooperation with experts on human trafficking and law enforcement, should be trained to understand human trafficking and indicators for transactions that are likely related to trafficking cases. In addition to increasing investigations of financial transactions in order to identify trafficking, financial levers should be employed to seize profits and provide restitution for victims (see *supra* point 7). The **U.S. government** should also partner with businesses and financial institutions to shut down payment accounts when red flags lead to confirmed trafficking-related financial transactions.
5. The **U.S. government** should encourage cooperative working relationships between law enforcement and the financial industry. The Banker's Alliance Against Human Trafficking—established between the Manhattan District Attorney's Office, the Thomson Reuters Foundation, and top financial institutions—should serve as a model to be replicated at every level of government.²³ Additionally, **law enforcement agencies** should ensure that information received from financial entities regarding potential incidents of trafficking is promptly investigated.
6. Human trafficking should also be addressed as a financial compliance issue. The **Department of Treasury's Financial Crimes Enforcement Network (FinCEN)** should continue, as well as expand, its efforts to identify financial activity that supports or is derived from human trafficking. We commend this agency's recent issuance of the *Guidance on Recognizing Activities that May be Associated with Human Smuggling and Human Trafficking*.²⁴ Treasury should continue these efforts and ensure that

financial institutions consistently report activity related to human trafficking through Suspicious Activity Reports (SARs).

7. **Treasury** should employ financial sanctions to tackle traffickers who rely on its financial markets, either by creating appropriate sanctions regimes or by employing the currently existing ones, such as the Transnational Criminal Organizations Sanctions Regime. Law enforcement agencies should coordinate with the Treasury's Office of Foreign Assets Control in their investigations when appropriate.
8. **Businesses and the private sector** should also play a role in identifying and reporting incidents of human trafficking. Businesses should train employees, vendors, and suppliers on identifying human trafficking. Furthermore, the **U.S. government** should continue to develop tools for businesses to train in recognizing and reporting trafficking incidents, like the Toolkit for Responsible Businesses created by the Department of Labor, to tackle child labor and forced labor.²⁵

contracts are free of human trafficking. The U.S. government should adopt and enforce strong policies to protect workers who provide both services and goods under government contracts.

The government should work with private businesses to ensure that laborers employed by U.S. companies—both U.S. and foreign nationals employed at home and abroad—are protected from human trafficking. Congress should pass legislation to incentivize businesses to adopt compliance plans to identify and mitigate the risk of trafficking in their supply chains for goods and labor. Corporate leaders should also encourage self-regulation of their industries to eradicate exploitation from their supply chains.

The United States should also ensure that its foreign trade is free of trafficking. The U.S. government should leverage potential trade relations to push for strong anti-human trafficking policies, implementation plans, and enforcement measures with all its trade partners. Negotiations for trade agreements should be recognized as an opportunity to incentivize our partners to address human trafficking.

Decreasing the Profits that Drive Traffickers

Human trafficking is a profit-driven crime. The United States should focus on eliminating the economic incentives that motivate perpetrators by denying them access to goods and labor markets.

As the largest single purchaser of goods and services in the world, it is essential for the U.S. government to ensure that its procurement

Recommendations

The United States must understand human trafficking as a business model. To dismantle this business, the U.S. government should focus on improving labor recruitment and procurement policies and identifying guiding principles for companies to ensure they are not unintentionally contributing to the problem.

To ensure we are not enabling human trafficking through federal procurement policies:

1. The **U.S. government** is the largest buyer of goods and services in the world; as such, it has a responsibility to ensure that its supply chains remain free from human trafficking. The U.S. government has made significant strides in recent years to adopt policies and regulations intended to root out human trafficking from our federal supply chains. These regulations do not, however, define an enforcement strategy and as such have had a limited impact to date. The United States should define a strategy for effectively enforcing the existing anti-human trafficking regulations in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS)—this strategy must clearly identify how each regulation will be enforced and which offices within agencies are responsible for ensuring compliance.
2. The new FAR regulations (resulting from Executive Order 13627) ban the use of recruitment fees from federal contracting, but there is a lack of consistency across agencies on what constitutes a recruitment fee.²⁶ The administration should adopt a clear and comprehensive definition of what constitutes a recruitment fee to ensure that all federal contracts are free of this unscrupulous labor recruitment practice, including defense contracts. **Congress** should also codify a comprehensive definition to ensure long-term impact.
3. The **U.S. government** should join the Coalition of Immokalee Workers (CIW) Fair Food Program. For years, the CIW has drawn attention to human rights abuses and slavery in the agricultural sector in the

United States. The Fair Food Program challenges major retail companies and farm owners to increase wages for farmworkers, ensure their basic human rights, and advocate a zero tolerance policy for forced labor. The program includes a monitoring mechanism to ensure compliance. Under the Fair Food Program, CIW has signed agreements with leading companies (Walmart, McDonalds, and Subway) and has enlisted consumers to press other companies to sign on.²⁷ The **U.S. government** should join these efforts.

To ensure that businesses' operations remain free from trafficking:

1. The **U.S. government** should review the H-2 guest worker program and the J-1 Visa Exchange Visitor Program. In their current states, these programs allow for abusive employment practices and provide little legal protection to workers, leaving them vulnerable to human trafficking. The U.S. government should strengthen its regulation to ensure that H-2 and J-1 workers enjoy the full protection of U.S. law, as well as meaningful access to courts and legal services.²⁸
2. The **U.S. government** should continue establishing working relationships with industry leaders in transportation (airlines, bus, and train), advertising (print and online advertising), housing (hotel chains, real estate agencies), financial (banks, money transfer agencies, money exchange bureaus), and other potential private sector partners (casinos, dealers of high end consumer goods, businesses in industries in which individuals have been trafficked—e.g. construction, food service, domestic service, janitorial and hotel service, agriculture) to educate them about

trafficking and how to spot red flags in the daily operations of their businesses.²⁹ U.S. industry leaders should communicate with J/TIP to work with foreign governments when trafficking is found in their supply chains in foreign countries.

3. The **U.S. government** should develop due diligence minimum standards and require businesses to map their supply chains to guarantee that no slave labor and trafficked persons were used in the production of consumer goods. Due diligence can be achieved through legislation governing transparency, similar to the 2010 California State Transparency in Supply Chains Act—which requires reporting on efforts to rid supply chains of trafficking and forced labor.³⁰ Accountability measures should include an independent audit process that would certify that no slave or forced labor occurs anywhere in the company’s supply chain.
 4. The **U.S. government** should create incentives for businesses to adopt and enforce a gold-standard model compliance plan to maximize protections for workers and mitigate the risk of human trafficking in their supply chains. A model compliance plan should include the elements set forth in the Federal Acquisition Regulations (FAR) regarding combating trafficking in persons, including: prohibiting all suppliers and subcontractors from charging employees a recruitment fee to obtain a job, prohibiting employers from withholding identification or immigration documents, and providing the employee a written employment agreement in their native language including the salary and location of the job. Additionally, there should be no unreasonable restrictions on workers’ ability to enter and exit company-provided facilities. They should also be able to terminate their employment at any time.
- To ensure that our foreign trade remains free of human trafficking:**
1. The **U.S. government** should leverage potential trade relations to require its trade partners to adopt minimum standards to combat human trafficking. The United States should include outcome-based commitments to fight human trafficking and mechanisms to track enforcement in all its foreign trade negotiations. These commitments must require, at a minimum, adopting a concrete plan to implement the main recommendations contained in the annual State Department Trafficking in Persons report. The United States should leverage a potential trade agreement as an opportunity to incentivize trade partners to meet measurable benchmarks to improve their record in combatting trafficking.
 2. The **U.S. government** should establish effective enforcement and accountability procedures to ensure that our partners fulfill their commitments to fight human trafficking. These mechanisms must be included in any trade agreements where anti-human trafficking commitments are agreed upon.
 3. The **U.S. government** should ensure that none of its imports include goods manufactured with slave labor. While U.S. law prohibits the import of goods produced with forced labor, there is an existing loophole; if the goods are not produced in high enough quantities domestically to meet demand, they can still be imported. The U.S. Congress should amend the 1930 Tariff Act to eliminate the consumptive demand exception to the prohibition on importing goods made with forced labor,

indentured labor, or by benefit of human trafficking. In particular, Congress should pass section 909 of the Trade Facilitation and Trade Enforcement Act of 2015 (H.R. 644). Once passed, Congress should adequately resource the Department of Homeland Security to enforce this new provision.

4. Executive Order 13126 established the Department of Labor’s list of goods produced with forced or child labor, as well as new procurement policies.³¹ As per the executive order, the FAR requires contractors to certify that they have no knowledge that goods they are importing are made with forced labor, unless those goods are coming from one of the 42 countries with which the United States has a trade agreement. The **administration** should amend this policy so that contractors certify no knowledge of forced labor involved in any products they import regardless of whether trade agreements exist between the United States and the country of origin.

Adequate Resources for Anti-Trafficking Policies

The financial resources currently deployed to fight modern slavery are alarmingly low. Worldwide, it is estimated that governments and NGOs combined spend on average \$124 million annually to combat trafficking.³² Traffickers earn exorbitant profits, estimated at \$150 billion per year.³³ Even as the world leader in supporting international anti-trafficking programs, the U.S. government spends more money in a single

month fighting the war on drugs than it spent fighting trafficking—domestically and internationally—over the past 15 years.

The current model for coordinating anti-trafficking efforts across agencies is insufficient. There needs to be one central coordinator, appointed by the White House, who can effectively implement a comprehensive national strategy focused on increasing the risks and decreasing the profits for traffickers, while also identifying and serving victims.

A national strategy should increase resources spent both domestically and internationally on programs aimed at comprehensive, sustainable projects that reduce the prevalence of trafficking in targeted areas. As part of this strategy, to determine where and how to best spend resources the U.S. government needs to develop an authoritative command of the number of victims of human trafficking in the United States using a peer-reviewed and transparent methodology. This analysis should identify the nodes through which trafficking operations recruit, transport, advertise, shelter, and exploit their victims.³⁴ The Barrier Model, used in the Netherlands, is a conceptual framework to study human trafficking.³⁵ Its strength lies in identifying illicit actors and activities at each phase of the trafficking process and the “numerous stakeholders that are in a position to collaborate in constructing structural barriers so that it becomes more difficult for human beings to be trafficked into the Netherlands.”³⁶ The U.S. government should work with all stakeholders to develop and implement a similar model for the purpose of analyzing patterns of human trafficking, particularly focusing on the areas of recruitment, accommodation, employment, and finance to identify those involved in the trafficking chain.

The United States should then direct resources to eliminate trafficking in each identified area.

Resources should cover efforts and programs aimed at increasing the risk and decreasing profits for perpetrators of human trafficking.

Recommendations

Domestic funding:

1. The DOJ Human Trafficking Prosecution Unit (HTPU) is a specialized federal unit in the Criminal Section of the Civil Rights Division that centralizes top prosecutors with human trafficking expertise. HTPU prosecutors work with law enforcement agencies to streamline trafficking investigations and ensure consistent application of trafficking-related statutes. This unit is critical since human trafficking cases often involve multiple jurisdictions and are extremely complex. HTPU also leads six pilot Anti-Trafficking Coordination Teams (ACTeams) to enhance coordination with the Department of Homeland Security and Department of Labor. In addition to launching the ACTeams, HTPU has seen a 56 percent increase in cases since 2010. Despite this increase in case load, the HTPU has been flat funded at \$5.3 million since FY2010. HTPU cannot continue increasing its caseload without additional resources and staff. **Congress** should increase the funding allocated to this important unit so that it can increase convictions across the United States, thus increasing the risks for traffickers and deterring future perpetrators.
2. The DOJ Office of Justice Programs (OJP) provides victim service grants that enhance interagency collaboration and promote a coordinated community response to trafficking. OJP also funds the Enhanced Collaborative Model Human Trafficking Task Forces that take a comprehensive and proactive role in investigating cases of human trafficking through a multi-disciplinary approach, linking partners from different perspectives including NGOs and different levels of government. Trafficking is a complex crime that is not widely understood at all levels of law enforcement. This coordination goes a long way in improving the success of investigations and prosecutions in specific jurisdictions. Currently, the Bureau of Justice Assistance and the Office for Victims of Crime, both under OJP, fund thirteen Human Trafficking Task Forces, down from forty-two task forces funded in the past ten years. Federal funding is key to ensuring cooperation amongst all relevant agencies and also consistent data reporting. **Congress** should prioritize funding OJP, specifically for additional task forces across the country.
3. The **U.S. government** should mandate that human trafficking be a standard training topic for all law enforcement officers. Identification of trafficked persons should be mainstreamed into other law enforcement investigations to ascertain if witnesses or victims of other crimes may also be trafficking victims. In addition, specialists in investigating and prosecuting trafficking cases should be required in Offices of the United States Attorneys to adequately meet regional needs in prosecuting human trafficking cases. These positions should be permanently funded.
4. To improve understanding of the scope and nature of the trafficking problem in the United States and best determine where to focus resources, all government agencies coordinated by the Senior Policy Operating

Group (SPOG) should adopt the methodology used by the International Labor Organization (ILO) in producing its worldwide estimates of forced labor (which covers both sex and other forms of labor exploitation—regardless of whether the labor or sexual exploitation is the result of forced, coerced, fraudulent, or deceptive practices).³⁷ Their methodology is transparent, peer-reviewed, and is, to date, the most reliable for producing estimates of forced labor.³⁸ The ILO has developed guidelines for the design and implementation of national surveys³⁹ that the **U.S. government** should adopt. The methodology used should be made public.⁴⁰ **Congress** should allocate resources to the appropriate agency to lead this methodology.

International funding:

Congress should pass Senator Corker's bill—the *End Modern Slavery Initiative Act*—to establish a 501(c)3 organization dedicated to pooling public and private funds to identify

successful anti-trafficking strategies that can be scaled up and replicated worldwide. The \$1.5 billion fund will start with a commitment of \$250 million from the U.S. government, contingent on raising the remaining funding from foreign governments and private entities over a seven year period. This fund will bolster law enforcement in select geographic areas with a goal of reducing the incidences of slavery by at least 50 percent during the duration of the project.

The U.S. government's annual spending of \$50 million on international anti-slavery programs is barely a fraction—about .1 percent—of the U.S. foreign aid budget. It cannot keep pace with this quickly growing criminal enterprise. Concentrated investment in key geographic areas is crucial to identifying successful methods that can be scaled up and replicated across the globe. After five years, the Board of the End Modern Slavery Initiative would be required to present a plan for eradicating slavery once and for all, based on the results of the projects supported by the fund. ■

Endnotes

- ¹ ILO, “*ILO Global Estimate of Forced Labour*,” June 1, 2012, available at: <http://www.ilo.org/global/topics/forced-labour/news/WCMS_182109/lang--en/index.htm>
- ² ILO, “*Profits and Poverty: The Economics of Forced Labour*,” May 20, 2014, available at: <http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang--en/index.htm>
- ³ U.S. Department of State, “*Trafficking in Persons Report*,” annual, available at: <<http://www.state.gov/j/tip/rls/tiprpt/>>
- ⁴ This includes, but is not limited to the Department of State (DOS), Department of Justice (DOJ), Department of Health and Human Services (HHS), Department of Labor (DOL), Department of Homeland Security (DHS), Department of Defense (DOD), Department of Agriculture (USDA), Department of Treasury (Treasury), Department of Education (DOED), Department of Transportation (DOT), and the U.S. Agency for International Development (USAID). A full list can be found here: <<http://www.state.gov/j/tip/rls/reports/pitf/>>
- ⁵ U.S. Department of State, “*2014 Trafficking in Persons Report*,” June 2014, available at: <<http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm>>
- ⁶ M. Ucnikova, “OECD and Modern Day Slavery: How Much Aid Money is Spent to Tackle the Issue?,” *Anti-Trafficking Review*, issue 3, 2014, pp 133-150, available at: <<http://www.antitraffickingreview.org/index.php/atjournal/article/view/68/78>>
- ⁷ For more, see Aronowitz, A., “*Human Trafficking Human Misery: The Global Trade in Human Beings*,” Praeger Publishers, 2009.
- ⁸ For more on the victim-centered approach see the U.S. Department of Homeland Security website at: <<http://www.dhs.gov/victim-centered-approach>>
- ⁹ Vera Institute of Justice, “*Improving Human Trafficking Victim Identification—Validation and Dissemination of a Screening Tool*,” June 2014, available at: <http://www.vera.org/sites/default/files/resources/downloads/human-trafficking-identification-tool-technical-report.pdf>
- ¹⁰ For more on witness protection measures during trial, see UNODC, “*Human Trafficking Toolkit*,” Chapter 5, Tool 5.18, available at: <https://www.unodc.org/documents/human-trafficking/Toolkit-files/08-58296_tool_5-18.pdf>
- ¹¹ Examples of other crimes are document forgery, false imprisonment, assault or domestic violence.
- ¹² For more on the Non-Punishment principle, see the United Nations Working Group on Trafficking in Persons, “Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such Trafficking,” available at: <http://www.unodc.org/documents/treaties/organized_crime/2010_CTOC_COP_WG4/WG4_2010_4_E.pdf>; and OSCE, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, “Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regards to victims of trafficking,” 2013, available at: <<http://www.osce.org/secretariat/101002?download=true>>
- ¹³ See 18 U.S.C. § 1593, 18 U.S.C. § 3663A, 18 U.S.C. § 2259.
- ¹⁴ See Alexandra F. Levy, Martina E. Vandenberg, and Lyric Chen, “*When “Mandatory” Does Not Mean Mandatory: Failure to Obtain Criminal Restitution in Federal Prosecution of Human Trafficking Cases in the United States*,” The Human Trafficking Pro Bono Legal Center and Wilmer Cutler Pickering Hale and Dorr L.L.P., 2013. p.7.
- ¹⁵ *Id.*, pp. 5-7.
- ¹⁶ Prosecutors should follow the recommendations presented by Fulbright & Jaworski L.L.P. and Polaris Project in “*Maximizing Restitution Awards for Labor and Sex Trafficking Victims: A Guide For Federal Prosecutors And Pro Bono Attorneys*”, 2013, available at: <http://www.americanbar.org/content/dam/aba/multimedia/trafficking_task_force/resources/Maximizing_Restitution_Awards2013.authcheckdam.pdf>
- ¹⁷ For a complete list of measures to raise costs and risks and reduce profits in human trafficking, see OSCE, “*Analyzing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*,” Table 6.1, p. 71, available at: <<http://www.medaille.co.uk/GIFT%20OSCE%20Analysing%20the%20Business%20Model%20ofTrafficking.pdf>>
- ¹⁸ The model, described in a report by the Senior Policy Operating Group Grantmaking Committee as a best practice, “... includes proactive coordination between law enforcement on local, state and federal levels; leadership from the U.S. Attorneys’ Offices and state prosecutors; and the provision of comprehensive services to address their full range of needs

- for all trafficking victims.” Senior Policy Operating Group, “*Promising Practices: A Review of U.S. Government-Funded Anti-Trafficking in Persons Programs*,” 2012, available at: < <http://www.state.gov/documents/organization/207712.pdf> >
- ¹⁹ The involvement of NGOs will provide support to victims of trafficking who may not want to cooperate with law enforcement. This will allow victims to stabilize which may ultimately lead to their willingness to voluntarily provide evidence for investigations and prosecutions.
- ²⁰ U.S. Department of Justice Civil Rights Division, FY 2016 Performance Budget Congressional Submission, at 5, available at <http://www.justice.gov/sites/default/files/jmd/pages/attachments/2015/02/01/14._civil_rights_division_crt.pdf>
- ²¹ For more, see the United Nations Office on Drugs and Crime (UNODC), “Anti-human trafficking manual for criminal justice practitioners; Module 6: International cooperation in trafficking in persons cases,” 2009, available at: <http://www.unodc.org/documents/human-trafficking/TIP_module6_Ebook.pdf>
- ²² Verite, “*Corruption and Labor Trafficking in Global Supply Chains*,” 2013, available at: <<http://www.verite.org/sites/default/files/images/WhitePaperCorruptionLaborTrafficking.pdf>>
- ²³ Press release: “Manhattan DA Cyrus R. Vance, Jr., Thomson Reuters Foundation CEO Monique Villa, Top U.S. Financial Institutions Issue White Paper To Combat Human Trafficking Using Financial Data,” 2014, available at: <<http://www.trust.org/documents/press-release-white-paper-guidance.pdf>>
- ²⁴ U.S. Department of Treasury, “*Guidance on Recognizing Activities that May be Associated with Human Smuggling and Human Trafficking*,” September 11, 2014, available at: <http://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2014-A008.pdf>
- ²⁵ <http://www.dol.gov/ilab/child-forced-labor/>
- ²⁶ U.S. Government Accountability Office, “*Human Trafficking: Oversight of Contractors’ Use of Foreign Workers in High-Risk Environment Needs to be Strengthened*,” November 2014, available at: < <http://www.gao.gov/assets/670/666998.pdf> >
- ²⁷ See more of CIWs campaigns at: <<http://ciw-online.org/take-action/>> and <<http://ciw-online.org/supermarkets/>>
- ²⁸ See Southern Poverty Law Center, “*Close to Slavery: Guestworker Programs in the United States*,” 2013, available at: <<http://www.splcenter.org/get-informed/publications/close-to-slavery-guestworker-programs-in-the-united-states>>; Southern Poverty Law Center, “*Culture Shock*,” 2014, available at: <<http://www.splcenter.org/get-informed/publications/Culture-Shock>>
- ²⁹ Children traveling with an unrelated and unknown adult is a red flag for airlines; unaccompanied minors arriving at bus stations in US cities are red flags for bus companies, adds in “erotic” sections for numerous persons with the same contact telephone number or particularly young women or girls is a red flag for a trafficking ring.
- ³⁰ For more on this, see Lagon, M., “*Modern slavery will continue if corporations keep passing the buck*,” The Guardian, June 27, 2014, available at: <<http://www.theguardian.com/commentisfree/2014/jun/27/modern-slavery-corporations-business-sense-ethical-supply-chain>>
- ³¹ See Executive Order 13126, “Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor,” June 12, 1999, available at: <<http://www.gpo.gov/fdsys/pkg/FR-1999-06-16/pdf/99-15491.pdf>>
- ³² M. Ucnikova, “OECD and Modern Day Slavery: How Much Aid Money is Spent to Tackle the Issue?,” *Anti-Trafficking Review*, issue 3, 2014, pp 133-150, available at: < <http://www.antitraffickingreview.org/index.php/atrjournal/article/view/68/78> >
- ³³ ILO, “*Profits and Poverty: The Economics of Forced Labour*,” May 20, 2014, available at: <http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_243391/lang-en/index.htm>
- ³⁴ OSCE, “*Analyzing the Business Model of Trafficking in Human Beings to Better Prevent the Crime*,” pp. 29-36, 2010), chapter 3, available at: <<http://www.medaille.co.uk/GIFT%20OSCE%20Analysing%20the%20Business%20Model%20ofTrafficking.pdf>>
- ³⁵ *Id.*, pp. 75-77.
- ³⁶ It is important to identify those that do not have a stake in creating barriers – like Craig’s List and Backpage.com – which could play a very important role in establishing barriers to the advertisement of trafficked victims and prostituted children on their websites. For more on the Barrier Model, *Id.*, p. 77.
- ³⁷ The estimates are calculated by region rather than country.
- ³⁸ For more on the methodology, see ILO, “*ILO Global Estimate of Forced Labor, Results and Methodology*,” 2012, available at: <http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf>
- ³⁹ For more on the survey guidelines for estimating forced labor at the national level, see ILO, “*Hard to see, harder to count*,” 2012, available at: <http://www.ilo.org/public/libdoc/ilo/2011/111B09_351_engl.pdf>

⁴⁰ Another study calculated the hidden population of migrant laborers in San Diego. Zhang, S. X., “*Trafficking of Migrant Laborers in San Diego County: Looking for a Hidden Population*,” San Diego State University, 2012, available at: <<https://www.ncjrs.gov/pdffiles1/nij/grants/240223.pdf>>



American ideals. Universal values.

WHERE TO FIND US

75 Broad Street, 31st Floor,
New York, NY 10004

Tel: 212.845.5200
Fax: 212.845.5299

humanrightsfirst.org

805 15th Street, N.W., #900
Washington, DC 20005

Tel: 202.547.5692
Fax: 202.543.5999

1303 San Jacinto Street, 9th Floor
at South Texas College of Law, Houston, TX 77002

Tel: 713.955.1360
Fax: 713.510.1935