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American ideals. Universal values.

BLUEPRINT

How to Dismantle the Business of Human Trafficking

BLUEPRINT FOR THE ADMINISTRATION

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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.

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“As I have seen firsthand, the stark reality of modern slavery is unconscionable, demanding the United States and civilized world make a commitment to end it for good.”

Senator Bob Corker

February 24, 2015

Introduction

The United States abolished slavery with the ratification of the 13th Amendment over 150 years ago. Yet according to the International Labor Organization, there are still more than 20 million slaves around the world today—about double the number of people in bondage during the transatlantic slave trade.

The United States continues to be both a source and destination country for human trafficking victims. Traffickers earn an estimated \$150 billion annually in illicit profits, while NGOs and governments worldwide spend about \$124 million annually to combat this crime.

Meanwhile, American workers are forced to compete against free labor, as companies take advantage of the global failure to enforce anti-slavery laws.

To thwart the national security threats posed by human trafficking, the Bush and Obama Administrations supported anti-trafficking legislation, increased funding for anti-trafficking programs, and focused on addressing slavery both here at home and around the world.

Increasingly, organized crime rings and international terror organizations traffic in human beings to accumulate wealth and power. Trafficking is a lucrative crime that undermines government rule of law. A continued commitment to addressing slavery will help eliminate the national security risks associated with corruption, terrorism, and organized crime.

Traffickers utilize modern day slavery to exploit global markets and undermine the stability of free markets. As the largest single purchaser of goods and services in the world, the U.S. government is in the position to protect world markets and can do extensive work to stop enabling slavery.

The United States has a zero-tolerance policy regarding trafficking and government employees and contractors engaging in any form of it. This policy sets the stage to continue strengthening protections for trafficked persons and continue ensuring American tax dollars are not given to federal contractors that enslave people.

Keeping slavery out of the supply chains of companies that sell goods in the United States helps us to protect vulnerable individuals and protect the integrity of workers, businesses, and international markets.

White House Recommendations

To stop traffickers from exploiting new victims, the U.S. government must be strategic about deploying its limited resources. **The best way to do this is for the White House to appoint a Senior Advisor to coordinate a national strategy to guide the U.S. government's response to human trafficking, both at home and abroad.** A White House Senior Advisor should be responsible for coordinating the development and implementation of a comprehensive strategy focused on holding traffickers accountable for their crimes while drying up the profits that drive them.

The State Department Office to Monitor and Combat Trafficking in Persons currently manages the President's Interagency Task Force, the cabinet level interagency working group, and the Senior Policy Operating Group (SPOG), the senior staff level interagency working group. When these groups were created, the U.S. government was focused almost exclusively on combating trafficking overseas, but now, fifteen years later, the

federal government spends equal amounts on domestic and international programs. It is therefore **essential to centralize these efforts under a Senior Advisor with a broader view who is responsible for implementing a government-wide strategy that addresses both domestic and foreign slavery.**

In this role, the White House Senior Advisor should:

Prioritize Human Trafficking in Diplomatic Engagements

For this effort to have any real impact, fighting slavery must be a priority at the highest levels of the administration and an important factor in all bilateral and multilateral relationships. A White House Senior Advisor on human trafficking should be at the table for diplomatic strategy and policy development meetings to ensure the United States is using every opportunity to leverage its influence and relationships—such as potential trade deals—to persuade other countries to significantly boost their efforts to combat trafficking. The Senior Advisor would also be responsible for promoting an international discussion of best practices for eliminating trafficking around the world.

Share Data and Information

U.S. government efforts to combat human trafficking would benefit from a centralized office to collect data as well as to share best practices. Existing statistics and figures are often speculative, with varying organizations and agencies conducting isolated research and data collection, which often lack transparency. The White House Senior Advisor should encourage effective information-sharing and collaboration to effectively address the problem of human trafficking.

Continue Survivor Engagement

The U.S. Advisory Council on Human Trafficking launched in January 2016 and is comprised entirely of survivors to provide counsel on federal anti-trafficking policies and programs, including advising the President's Interagency Task Force as well as the SPOG. Engagement with this group is critical to informing both domestic and international efforts to combat trafficking. This **council should therefore be coordinated by the White House Senior Advisor.**

Establish Anti-Trafficking Compliance Advisors

The U.S. government must enforce Title XVII of the National Defense Authorization Act of 2013 and Executive Order 13627, which require U.S. government contractors with contracts exceeding \$500,000 to have compliance plans protecting vulnerable workers from being trafficked. The Federal Acquisition Regulations released new rules on January 29, 2015 and contractors have been responsible for implementing these changes since March 2, 2015 when the rules went into effect.

The White House Senior Advisor should appoint a senior level staff person within key agencies (e.g. Department of Defense, Department of State, and USAID) to support procurement officials on how to best implement these regulations, as well as to provide high-level oversight and monitoring. These advisors should be managed within the Procurement Working Group of the SPOG and be coordinated by the White House Senior Advisor.

Office of Management and Budget

The State Department’s most recent annual Trafficking in Persons report shows there were 6,609 convictions globally and only 297 convictions for human trafficking here in the United States in 2015. When compared to the estimated 20.9 million victims enslaved globally, it’s clear that most traffickers operate with relative impunity.

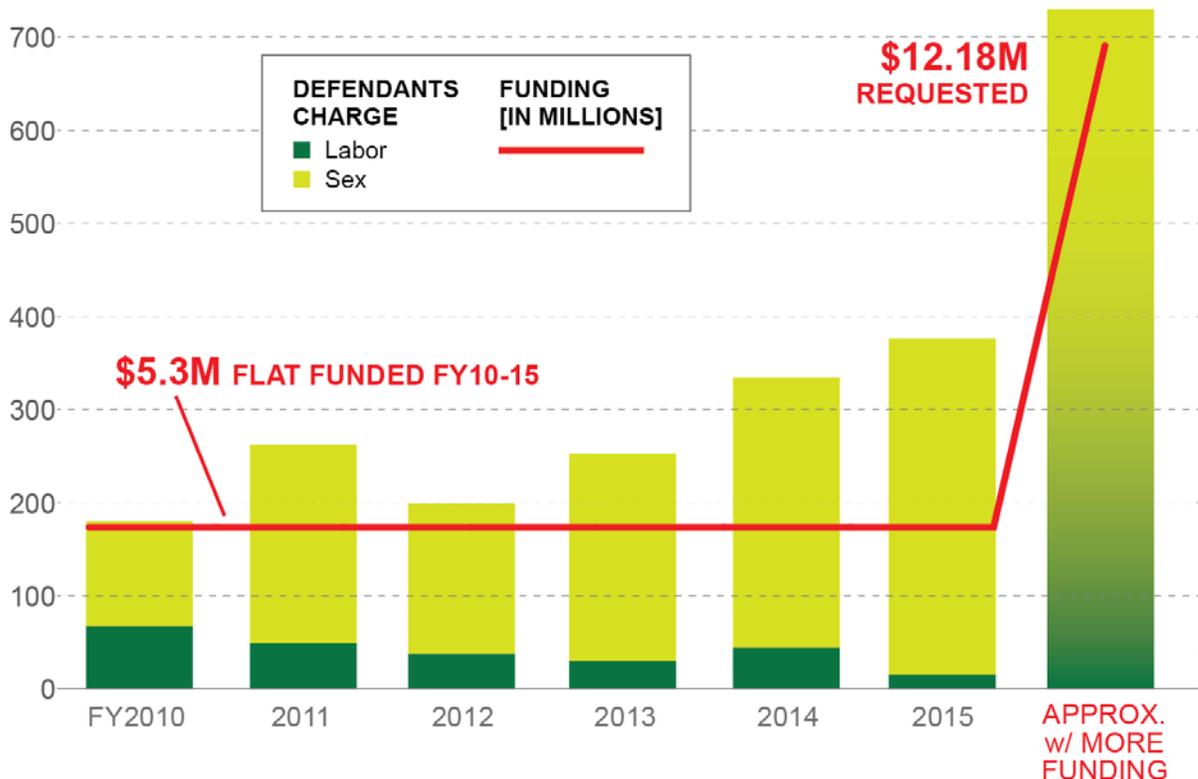
It is essential to increase the legal risks to traffickers if the U.S. government is going to begin to make a dent in this problem. As things stand now, every victim rescued—a vital part of government efforts—is simply replaced with a new victim. Increasing accountability is an essential element to disincentivizing perpetrators and slowing the growth of this crime.

GLOBALLY, there are 20.9 million trafficking victims, BUT there were only 6,609 trafficking-related convictions in 2015.

Increase Funding for the Human Trafficking Prosecution Unit

Within the Department of Justice’s (DOJ) Civil Rights Division, the Human Trafficking Prosecution Unit (HTPU) has seen a 62 percent increase in cases filed in the last five years (FY

Additional funding could nearly double the cases being investigated and defendants charged and result in a significant increase in convictions, especially in labor-related trafficking cases.



2011-2015) over the previous five years (FY 2006-2010). Despite this significant increase in case load, funding for HTPU has remained stagnant at only \$5.3 million since FY 2010.

- Based on the number of victims provided with services last year, HTPU needs an increase of \$6.881 million to keep pace with the increasing workload and to ensure that the office can take on more complex cases. With an increase of \$6.881 million (up to \$12.181 million total) in funding, HTPU could hire an additional forty-seven attorneys, which could increase the number of trafficking cases filed by 37 percent and the number of trafficking defendants charged by 73 percent based on the estimates in the FY 2015 DOJ Congressional Budget Justification.

Increase Funding for DOJ's Civil Rights Division's Anti-trafficking Efforts

- Just four percent of DOJ's human trafficking caseload last year were labor trafficking cases, while labor trafficking represented 49 percent of DOJ's human trafficking caseload in 2009. There has been a steady decline in the number of labor trafficking cases filed, in part because prosecutors are overwhelmed by their current trafficking caseloads and are unable to prioritize labor trafficking cases. This is partially because labor cases usually take longer to investigate and prosecute than sex trafficking cases and require more coordination between agencies. **Providing designated human trafficking prosecutors in each U.S. Attorney's Office across the country, with training specific to both sex and labor trafficking, would ensure dedicated attention and expertise is brought to these cases,**

increasing accountability for traffickers that are enslaving workers across the United States. OMB should increase funding by \$13.6 million for the U.S. Attorney's offices to support specialized prosecutors and training in human trafficking, and necessary support staff, in each of the 93 districts.

FAR Regulations Amendment

The Federal Acquisition Regulations at 48 CFR Part 22, Subpart 22.17, Combating Trafficking in Persons, and the associated clause at 48 CFR 52.222-50 that were added as a result of Executive Order 13627, ban the use of recruitment fees in federal contracting and sub-contracting in order to protect vulnerable workers from unscrupulous labor recruiters. However, the definition of a recruitment fee remains unclear, making this provision difficult for contractors to implement and challenging for the U.S. government to enforce.

- OMB should adopt the broadest definition of a recruitment fee—including anything of value—to ensure that all federal contracts are free of this unscrupulous labor practice, which frequently leads to a form of indentured servitude.

U.S. Trade Representative

- The United States, the world's largest importer, brings in over \$2 trillion worth of goods each year, made with labor from every part of the globe. That fact makes the United States one of the most coveted trade partners worldwide and **presents a powerful opportunity for the United States to leverage trade relationships to press partner nations to meet human rights benchmarks**, including the promotion of stronger international efforts to combat modern slavery. These efforts

would be a powerful tool in protecting vulnerable workers, reducing trafficking, and creating a level playing field for U.S. workers. They would also be a boon to responsible companies that are working hard to eliminate forced labor in their supply chains.

- The U.S. government should increase monitoring and enforcement efforts to ensure U.S. trade partners are upholding agreed-upon labor standards and robustly pursuing efforts to combat trafficking in their countries.
- The U.S. government should ensure that strong labor protections, anti-trafficking measures, and enforcement efforts are included in any future trade agreements.
- The U.S. government should not enter or expedite any trade relationship with countries that fail to meet minimum standards in their efforts to combat trafficking as reflected by a Tier 3 ranking in the Department of State's annual Trafficking in Persons (TIP) report.

Agency Recommendations

Recommendations for the U.S. Department of Homeland Security

In 1930, the United States banned the import of goods produced with forced labor; however, the statute included an exemption for goods where the demand domestically exceeded the production. As a result, the United States currently imports **over \$100 billion worth of goods that are likely made with forced or child labor**, based on USTR import data and

the DOL List of Goods Produced with Child or Forced Labor.

This exemption, commonly known as the “consumptive demand loophole,” was closed in February 2016 with the enactment of legislation that amended the Tariff Act. With the loophole in place, enforcement of the ban on importing goods made with forced labor was almost non-existent. In the past eighty-five years, Customs and Border Protection (CBP) has taken just 41 enforcement actions, issued only six detention orders and two findings. Closing the loophole provides a critical opportunity for the United States to ensure it is no longer supporting slave labor by robustly enforcing this ban on foreign goods made with slave labor.

- To begin enforcing the Tariff Act, as amended, CBP should self-initiate investigations of goods imported that are suspected of being produced with forced labor.
- CBP should be more transparent about the enforcement actions that it is taking, including disclosing the number of petitions filed with CBP, how many of those petitions resulted in investigations, Withhold Release Orders issued, findings, and any criminal prosecutions and convictions related to activities prohibited under Section 307 of the Tariff Act.
- CBP should continue and expand ongoing consultations with industry and civil society members to ensure that this new provision is adequately enforced and forced labor imports no longer find their way into American markets.

Recommendations for the U.S. Department of Justice

Sixty-eight percent of the estimated 20.9 million victims worldwide are labor trafficking victims. However, the 2016 State Department TIP report states that of the 6,609 trafficking-related convictions in 2015, only seven percent (456) were labor trafficking cases.

The U.S. Department of Justice (DOJ) reported 297 convictions in the United States in 2015, two percent of which were labor trafficking cases. There has been a steady decline since 2009 **when labor trafficking cases constituted 49 percent of the DOJ’s human trafficking prosecutions.**

Increasing Prosecutions

Prosecutors are overwhelmed by the amount of human trafficking cases they confront.

The U.S. government needs to commit more resources to law enforcement and to strategies that have proven effective in prosecuting this crime.

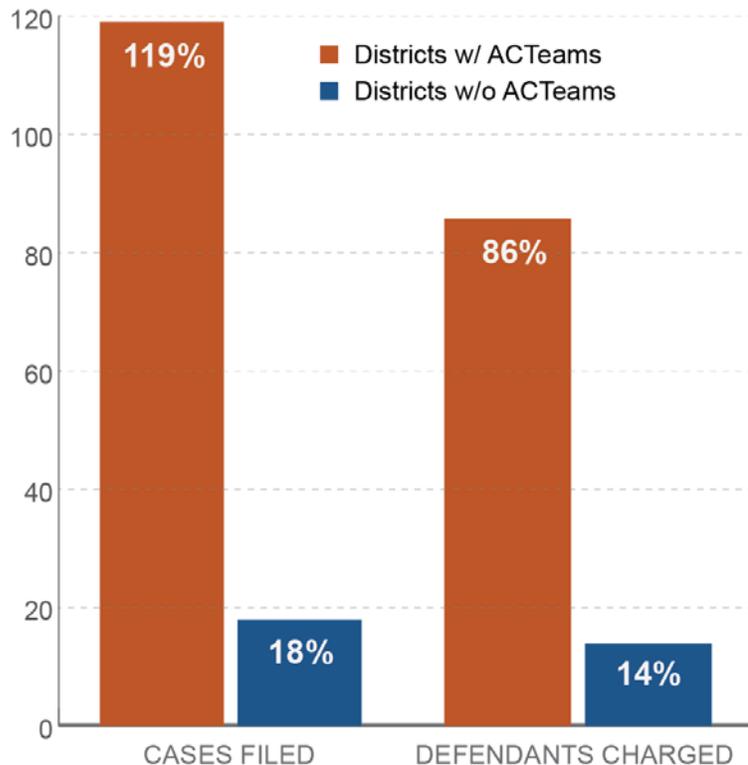
Anti-trafficking Coordination Teams (ACTeams) comprised of representatives of the DOJ, the Department of Homeland Security (DHS), and the Department of Labor (DOL) have successfully built interagency coordination on anti-trafficking cases that take a proactive approach to investigations.

These teams were piloted in six districts from 2012-2013, which saw a 119 percent increase in cases filed, compared to only an 18 percent increase outside of ACTeam districts during the same



period. Similarly, human trafficking defendants increased by 86 percent in ACTeam districts compared to only a 14 percent increase outside of ACTeam districts. DOJ, DHS, and DOL launched phase II last June and added six additional teams.

Increase in cases filed and defendants charged in districts with / without formal collaboration between federal law enforcement agencies



These teams have been successful in part because of the increased interagency coordination and in part because they are designed to proactively investigate cases.

Additionally, the DOJ funds Enhanced Collaborative Model Task Forces which take a comprehensive and proactive role in investigating cases of human trafficking through a multi-disciplinary approach linking law enforcement and NGO partners from local, state, tribal, and federal levels. Trafficking is a complex crime that is not widely understood at all levels of law enforcement and this coordination goes a long way towards improving the success of investigations and prosecutions in specific jurisdictions. Federal funding is key to ensuring cooperation amongst all relevant agencies as well as consistent data reporting.

- DOJ should designate human trafficking prosecutors with specialized training in investigating and prosecuting labor trafficking to ensure dedicated attention to forced labor cases in the 93 U.S. Attorney's offices across the country.
- DOJ should expand collaboration between federal agencies in key districts similar to the ACTeams initiative, as well as between federal and local law enforcement similar to the Enhanced Collaborative Model Task Forces to increase coordination across the country. These partnerships require resources and training so that prosecutors and law enforcement at all levels can work together along with service providers to ensure successful prosecutions that bring traffickers to account.

Mandating Training

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. The Justice Department should also enhance understanding of civil labor law addressing a broader array of worker exploitation practices, which share common root causes with labor trafficking, and may, in some cases, lead to trafficking.

- The U.S. government should continue providing and expand training for law enforcement, prosecutors, and judges. Training is especially needed for labor trafficking, as there is less understanding about how to recognize, investigate, and prosecute this crime.

Victim-Centered Approach

Law enforcement investigations strongly rely upon the testimony of trafficked victims to secure evidence against traffickers. Trafficking victims have often been traumatized and mistrust authorities, and are therefore frequently reluctant to cooperate with investigators and participate in prosecutions.

- To gain trust, ensure trafficked persons' protection, and prevent further traumatization, all law enforcement and criminal justice procedures should follow a victim-centered approach that prioritizes victims' needs. This not only helps victims but encourages them to help investigators and prosecutors.

Recommendations for the U.S. Department of State

Combating trafficking should be a priority of U.S. diplomacy that is not superseded by other U.S. economic, political, and security interests in foreign relations. It should always be treated as an essential issue to be addressed in bilateral and multilateral discussions. The U.S. government should also engage the expertise of

private sector companies with global supply chains to work together to develop technologies for monitoring supply chains for forced labor and to work with other governments to create sustainable supply chain solutions.

The State Department's TIP report, which ranks a nation's efforts to combat human trafficking, is an important diplomatic tool in pressing all countries to adopt robust measures against modern slavery. The TIP report is only useful, however, if its report on a country's progress is

not compromised by U.S. diplomatic interests unrelated to trafficking, which in the past have reportedly inflated rankings for some countries. The State Department needs to make sure that the TIP report is objectively reporting on actual trafficking conditions and anti-trafficking efforts, and is not compromised by other interests.

To ensure credibility in the rankings, the State Department should increase transparency in how it determines the rankings for each country. ■



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