



Joint Submission by Legal Momentum and The Program on Human Rights and the Global Economy (PHRGE) at Northeastern University School of Law to the CEDAW Committee on Trafficking in Women and Girls in the Context of Global Migration, 72nd Session¹

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INTRODUCTION

We commend the Committee on the Elimination of Discrimination against Women for convening this vital discussion on global trafficking of women and girls and for inviting relevant stakeholders to contribute to the Committee's guidance on this issue. We welcome the opportunity to submit recommendations based on our observations on labor trafficking of women and girls in the United States. Assessing the U.S. situation, our submission highlights the disproportionate impact of labor trafficking on low-income immigrant women. Using Article 6 of CEDAW as a framework, we assess strengths and weaknesses in U.S. domestic legal infrastructure, with a focus on how CEDAW principles have successfully been applied locally. Based on this analysis, our submission identifies strategic policy and legislative measures that States Parties can employ to comply with obligations under CEDAW to safeguard women and girls from human trafficking.

LABOR TRAFFICKING IN THE UNITED STATES

The disproportionate impact of labor trafficking on women is often overlooked, despite its prevalence.² While reliable statistics are lacking, because many victims never self-report,³ it is estimated that over ten thousand individuals are trapped in forced labor in the U.S. at any given time.⁴ The majority of labor trafficking victims in the U.S. are women,⁵ and the majority of labor

¹ Legal Momentum and PHRGE prepared this testimony with the invaluable assistance of Thera McAvoy.

² Nicole Littenberg & Susie Baldwin, *The Ignored Exploitation: Labor Trafficking in the United States*, in Human Trafficking is a Public Health Issue: A Paradigm Expansion in the United States 67, 69 (Makini Chisolm-Straker & Hanni Stoklosa eds., 2018), [hereinafter *Human Trafficking is a Public Health Issue*], <https://link-springer-com.ezproxy.neu.edu/content/pdf/10.1007%2F978-3-319-47824-1.pdf>

³ U.S. Department of Justice, National Strategy to Combat Human Trafficking 2 (2017), [hereinafter *National Strategy to Combat Human Trafficking*], <https://www.justice.gov/humantrafficking/page/file/922791/download>.

⁴ Free the Slaves, Washington D.C. & the Human Rights Center of the University of California, Berkeley, *Hidden Slaves Forced Labor in the United States*, 23 Berkeley Journal of International Law 47, 47 (2005), [hereinafter *Hidden Slaves Forced Labor in the United States*], <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1281&context=bjil>.

⁵ *Id.* at 6.

trafficking cases involved undocumented immigrants.⁶ Women and girls made up 85 percent of all known trafficking victims in North America in 2016.⁷ Most were age 25 and older.⁸ In cases where race was recorded, the majority were Hispanic.⁹ In cases investigated by the FBI, most trafficking survivors born outside the U.S. were from Mexico, China, and the Philippines.¹⁰ However, people are trafficked from at least thirty-five different countries around the world to the U.S.¹¹

Globally and in the United States, traffickers target women, based on their physical and financial insecurity. Women are disproportionately victims of violence.¹² Thirty-five percent of women worldwide have experienced physical or sexual violence.¹³ A large number of women attempting to cross into the U.S. are attempting to escape sexual and domestic violence or are sexually assaulted while trying to enter the U.S.¹⁴ Those who have suffered past violence and trauma such as domestic violence or sexual assault are vulnerable to trafficking as traffickers seek to exploit the psychological effects of trauma.¹⁵

As a group, women worldwide also disproportionately face (1) substantial barriers to accessing equal educational opportunities, (2) obstacles to entering the workforce, (3) high levels of discrimination in the workplace, (4) depressed wages, and (5) high levels of poverty.¹⁶ Mirroring global trends, women in the U.S. are 35 percent more likely than men to live in poverty and twice as likely to work in low-wage occupations.¹⁷ Women of color, immigrant women, and

⁶ Duren Banks & Tracey Kyckelhahn, Characteristics of Suspected Human Trafficking Incidents, 2008-2010 1 (Bureau of Justice Statistics 2011), [hereinafter *Characteristics of Suspected Human Trafficking Incidents*], <https://www.bjs.gov/content/pub/pdf/cshti0810.pdf>.

⁷ United Nations Office on Drugs and Crime, Global Report on Trafficking in Persons 2018 70 (2018). http://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf

⁸ Characteristics of Suspected Human Trafficking Incidents, *supra* at note 4, at 1.

⁹ *Id.*

¹⁰ National Strategy to Combat Human Trafficking, *supra* note 2, at 5.

¹¹ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 48.

¹² Modern Enslavement of Immigrant Women, *supra* at note 10.

¹³ World Health Organization, Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence 2 (2013).

https://apps.who.int/iris/bitstream/handle/10665/85239/9789241564625_eng.pdf;jsessionid=3C045B43E7371D4B611993D2351420E7?sequence=1

¹⁴ Jacqueline Weiss, US is Now Denying Asylum Claims from Domestic and Gang Violence Survivors, INSIDER (July 13, 2018), <https://www.thisisinsider.com/us-denies-asylum-claims-from-domestic-and-gang-violence-survivors-2018-7>; Deborah Bonello & Erin Siegal McIntyre, Is rape the price to pay for migrant women chasing the American Dream?, Splinter (Sept. 10, 2014), <https://splinternews.com/is-rape-the-price-to-pay-for-migrant-women-chasing-the-1793842446>.

¹⁵ National Human Trafficking Hotline, The Victims, <https://humantraffickinghotline.org/what-human-trafficking/human-trafficking/victims> (Last visited Feb. 2, 2019).

¹⁶ ACLU, Human Trafficking: Modern Enslavement of Immigrant Women in the United States, [hereinafter *Modern Enslavement of Immigrant Women*], <https://www.aclu.org/other/human-trafficking-modern-enslavement-immigrant-women-united-states> (Last visited Feb. 2, 2019).

¹⁷ Jasmine Tucker & Caitlin Lowell, THE NAT'L WOMEN'S LAW CTR., *National Snapshot: Poverty among Women and Families*, 2015 (Sept. 2016), <https://nwlc.org/wp-content/uploads/2016/09/Poverty-Snapshot-Factsheet-2016.pdf>.

working mothers are especially likely to work low-wage jobs essential to the U.S. economy but typically overlooked.¹⁸

Many women migrate seeking physical and financial security for themselves and their families.¹⁹ While the number of women seeking to immigrate exceeds the number of men,²⁰ legal immigration mechanisms are disproportionately aimed at industries dominated by men, often forcing women to migrate without documentation or to rely on their husbands.²¹ These various disadvantages push many women into informal, unregulated labor markets within the U.S. where they are more easily abused,²² and taken advantage of by traffickers, who then force them to work in industries that keep them hidden from public view and cut off from potential assistance.²³

About 14 percent of all suspected human trafficking cases in the U.S. from January 2008 to 2010 involved labor trafficking.²⁴ In labor trafficking the most common forms of coercion used by traffickers include “forced drug use, violence, threats, isolation, intimidation, debt bondage, and passport confiscation.”²⁵ Migrants paying to enter the U.S. and workers in industries that commonly uses recruitment services to hire workers are often particularly susceptible to abuse and debt.²⁶

Labor trafficking exists in the U.S. where it is most profitable,²⁷ and the FBI believes that labor trafficking is most common in industries where the work is primarily low-skilled and done by temporary workers.²⁸ Industries exempt from labor and employment laws tend to be more popular industries for trafficking.²⁹ Human trafficking is prevalent in these areas because employers are able to gain nearly complete control of their workers.³⁰ Common industries include day labor, domestic work, agriculture, landscaping, and hospitality.³¹

¹⁸ THE LEADERSHIP CONFERENCE EDUCATION FUND & GEORGETOWN CTR. ON POVERTY AND INEQUALITY, BARE MINIMUM: WHY WE NEED TO RAISE WAGES FOR AMERICA’S LOWEST-PAID FAMILIES 10-11(2018), <http://civilrightsdocs.info/pdf/reports/Bare-Minimum.pdf>.

¹⁹ Global Freedom Center, Women: Invisible in Labor and Labor Trafficking 1-2 (n.d.), [hereinafter *Invisible in Labor and Labor Trafficking*],

<https://traffickingresourcecenter.org/sites/default/files/Women%20and%20Forced%20Labor%20-%20GFC.pdf>

²⁰ American Immigration Council, *Immigrant Women in the United States: A Portrait of Demographic Diversity* (Sept. 10, 2014), <https://www.americanimmigrationcouncil.org/research/immigrant-women-united-states>.

²¹ *Invisible in Labor and Labor Trafficking*, *supra* at note 18, at 1-2.

²² *Id.*

²³ Modern Enslavement of Immigrant Women, *supra* at note 10.

²⁴ Characteristics of Suspected Human Trafficking Incidents, *supra* at note 4, at 3.

²⁵ National Strategy to Combat Human Trafficking, *supra* note 2, at 3.

²⁶ Report of the Special Rapporteur, *supra* at note 19, at 5.

²⁷ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 56.

²⁸ National Strategy to Combat Human Trafficking, *supra* note 2, at 5.

²⁹ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 56.

³⁰ *Id.*

³¹ Report of the Special Rapporteur, *supra* at note 19, at 6; Characteristics of Suspected Human Trafficking Incidents, *supra* at note 4, at 3.

Of labor trafficking cases reported to the National Human Trafficking Hotline in 2017, domestic work was the most common.³² Domestic labor trafficking survivors are easily exploited due to the isolated nature of the home, where they have few opportunities to come into contact with outsiders.³³ Employers may keep workers confined to the private home through threats and intimidation.³⁴ Domestic workers are often also hired without a work contract, and must rely only on a private agreement with their traffickers.³⁵

Forced labor is also common in U.S. agriculture in the production, cultivation, and harvesting stages of the supply chain.³⁶ This was the second most common form of forced labor reported to the National Human Trafficking Hotline.³⁷ Farm workers are in a very vulnerable position. The high demand for farm labor,³⁸ combined with low wages, poor working conditions, heavy recruitment of workers without work authorization or lawful immigration status, weak legal protections, and general absence of monitoring, create prime conditions for labor trafficking.³⁹ Because farm workers typically work in isolated fields with very few opportunities to come into contact with outside parties, contributes to their vulnerability.⁴⁰

U.S MEASURES TO COMBAT TRAFFICKING

Article 6 of Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires States Parties to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”⁴¹ Under international law, States Parties have both reactive and proactive obligations to prevent, investigate, and prosecute traffickers; assist and protect victims; and put in place effective remedies for victims.⁴² States should also be seeking to address root causes of trafficking and adopt holistic approaches to integrate these remedies, looking more broadly at other CEDAW provisions, including Article 11, which prohibits discrimination in employment. While the United States is not a party to CEDAW, it has nonetheless enacted relevant provisions, particularly at the state and local levels, which provide important insights to enrich and inform the Committee’s guidance.

³² Polaris, 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline 2 (n.d.), [hereinafter *2017 Statistics from the National Human Trafficking Hotline*], <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf>.

³³ *Id.* at 3.

³⁴ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 62 .

³⁵ Human Trafficking is a Public Health Issue, *supra* note 1, at 77.

³⁶ Invisible in Labor and Labor Trafficking, *supra* at note 18, at 1-2.

³⁷ 2017 Statistics from the National Human Trafficking Hotline, *supra* at note 37, at 2.

³⁸ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 63.

³⁹ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 48.

⁴⁰ National Strategy to Combat Human Trafficking, *supra* note 2, at 3.

⁴¹ Office of the High Commissioner, Convention on the Elimination of All Forms of Discrimination against Women 3 (1979), <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>.

⁴² *United Nations General Assembly, Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children* U.N. Doc. No. A/70/260 (Aug. 3, 2015).

At the federal level, the U.S. enacted the Trafficking Victims Protection Act (TVPA) in 2000.⁴³ TVPA criminalizes “procuring and subjecting another human being to peonage [...], slavery, involuntary servitude, or forced labor;” and gives some provision for social service support and legal benefits for survivors.⁴⁴ The statute also provides a mechanism for survivors to bring civil claims against traffickers.⁴⁵

The TVPA, serves as a necessary first step in holding traffickers accountable in accordance Article 6 of CEDAW. However, the TVPA places stronger emphasis on law enforcement rather than survivor support, as the victim must first demonstrate cooperation with law enforcement in their persecution efforts to obtain immigration relief and social services.⁴⁶ Obtaining certification can be burdensome to the survivor⁴⁷ and also relies heavily on officer discretion as to whether it is deserved.⁴⁸ This positions victims first as tools of law enforcement rather than law enforcement serving to assist and protect trafficking victims.⁴⁹

Federal law enforcement officials also lack appropriate training and resources to support survivors and to provide necessary protections for victims and their families.⁵⁰ As law enforcement provides so few resources in most trafficking cases, NGOs and social service agencies are placed in the position of being the primary supports for trafficking survivors. However, they struggle to meet this heavy financial burden,⁵¹ in part because funding available for trafficking victims can vary widely state by state.⁵²

Additionally, many trafficking victims fear contacting law enforcement because of their immigration status of for fear that they will also be prosecuted. Victims who wish to seek help must first contend with their fear of detention and deportation.⁵³ Traffickers encourage this fear by threatening to report undocumented victims to law enforcement.⁵⁴ This fear is often justified, because law enforcement officers regularly treat undocumented immigrants and trafficking victims as criminals.⁵⁵ Victims of trafficking may be penalized because they initially cooperated with their traffickers when they were trying to obtain work and are often charged with crimes relating to their trafficking.⁵⁶ These various factors serve as disincentives to reporting for many

⁴³ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 69. United States Department of Labor, Trafficking in Persons: A Guide for Non-Governmental Organizations (2002), <https://www.dol.gov/wb/media/reports/trafficking.htm>.

⁴⁴ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 49.

⁴⁵ Modern Enslavement of Immigrant Women, *supra* at note 10.

⁴⁶ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 49.

⁴⁷ *Id.* at 76.

⁴⁸ *Id.* at 79.

⁴⁹ *Id.* at 49.

⁵⁰ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 49.

⁵¹ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 50.

⁵² National Conference of State Legislatures, Human Trafficking: An Overview of Services and Funding for Survivors 2 (2018), [hereinafter *An Overview of Services and Funding for Survivors*], http://www.ncsl.org/documents/cj/Human_Trafficking_FINAL_32391.pdf.

⁵³ National Strategy to Combat Human Trafficking, *supra* note 2, at 2.

⁵⁴ *Id.*

⁵⁵ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 57.

⁵⁶ Human Trafficking is a Public Health Issue, *supra* note 1, at 70; National Conference of State Legislatures, Prosecuting Human Traffickers: Recent Legislative Enactments 7 (2018), http://www.ncsl.org/Portals/1/HTML_LargeReports/Prosecuting_Traffickers_091818_32767.pdf.

victims of trafficking who must consider these potential costs of reporting trafficking. By discouraging reporting and victim cooperation, this approach paradoxically impedes law enforcement in their primary goal of prosecuting traffickers. Despite the high estimated number of labor traffickers in the U.S., the Department of Justice only obtained 27 labor trafficking convictions in 2017, the most recent year for which data is available.⁵⁷

In the U.S., labor and employment laws serve as another critical vehicle for eliminating conditions that encourage trafficking. At the federal level, for example, Title VII of the Civil Rights Act of 1964 (Title VII), prohibits employment discrimination based on specific factors such as sex, race, and national origin. The National Labor Relations Act (NLRA) empowers private sector employees to organize into unions, engage in collective bargaining to improve terms and conditions of employment, and take collective action. The Fair Labor Standards Act (FLSA), imposes various fair labor practices, imposing a federal minimum wage, requiring overtime pay for certain employees, and prohibiting employment of minors.⁵⁸ And the Occupational Safety and Health Act (OSHA) imposes various requirements to regulate workplace health and safety hazards.

However, gaps and loopholes in these laws have created blanket exemptions for certain industries, creating key opportunities for labor trafficking to flourish and thrive. For example, many federal laws, such as Title VII only apply to larger employers with 15 or more employees, thus excluding domestic workers from protection. In fact, domestic workers are also excluded from the NLRA, the FLSA, and OSHA.⁵⁹ Farm laborers are also not legally considered employees for some purposes. For example, they are not covered under the NLRA and thus do not benefit from job protection if they form unions or organize to improve their wages or working conditions.⁶⁰ While there are federal laws in place specifically to protect agricultural workers, such as the Migrant and Seasonal Agricultural Worker Protection Act (MSAWPA), migrant workers holding visas for temporary or seasonal work are not protected under the MSAWPA,⁶¹ which again eliminates protections for some of the most vulnerable workers. Gaps in existing laws serves to perpetuate the uneven power dynamic between traffickers and their victims so that abuse can flourish almost unchecked.⁶²

Moreover, many federal agencies, such as the U.S. Department of Labor's Wage and Hour Division, lack sufficient resources to properly investigate working conditions in private homes, or to adequately cover the breadth of reported violations across the U.S.⁶³ As a result, these agencies cannot reliably enforce even those protections that do exist.⁶⁴

In the absence of sufficient federal protections, state and local officials have been taking the lead to adopt CEDAW inspired laws and regulations at the local level.⁶⁵ San Francisco was the first city in 1998, and this led directly to an initiative on human trafficking. Numerous other cities

⁵⁷ Human Trafficking is a Public Health Issue, *supra* note 1, at 75.

⁵⁸ 29 U.S.C. § 203.

⁵⁹ Human Trafficking is a Public Health Issue, *supra* note 1, at 77.

⁶⁰ *Id.* at 62.

⁶¹ Report of the Special Rapporteur, *supra* at note 19, at 8.

⁶² Human Trafficking is a Public Health Issue, *supra* note 1, at 78.

⁶³ Hidden Slaves Forced Labor in the United States, *supra* note 3, at 64.

⁶⁴ Report of the Special Rapporteur, *supra* at note 19, at 8-9.

⁶⁵ Women's Intercultural Network, *supra* at note 51, at 1-2.

have joined, including Los Angeles, California; Cincinnati, Ohio; Honolulu, Hawai'i; and Pittsburgh, Pennsylvania, to name a few.⁶⁶ Other cities have adopted commitments to use CEDAW principles to shape local law, including Eugene, Oregon, New Orleans, Louisiana, and Salt Lake City, Utah, to name a very few.⁶⁷

Various states are taking the lead to proactively fill gaps in federal law and to develop new and innovative model legislation. In California, the California Transparency in Supply Chains Acts, requires covered companies to report on internal steps taken to end human trafficking within their supply chains, though this reporting is inconsistent and the act is not accompanied by sanctions for poor reporting.⁶⁸ Connecticut passed a law in 2016 that requires all hotel and motel staff to be trained on how to recognize trafficking, so that owners of hotels cannot claim ignorance of trafficking and also to give owners and staff concrete steps they can take to prevent trafficking when they recognize it.⁶⁹ Due to domestic workers' self-advocacy, New York, Hawaii, California, Massachusetts, Connecticut, Oregon, and Illinois have all passed state laws to enforce their rights.⁷⁰ Various states, including New York, have also increased the minimum wage substantially to better reflect a living wage.

Additionally, 34 states in the U.S. provide survivors with information on how to bring civil suits against their traffickers, and 37 have procedures in place for victims to expunge criminal records related to their trafficking.⁷¹ Currently, 29 states also require traffickers to pay restitution to their victims. This money may be used to cover the costs of needed physical and mental care, housing, and serve as back pay for labor.⁷²

RECOMMENDATIONS

The U.S. experience provides critical insights and lessons-learned to guide States Parties in crafting legislation that is practical, effective, protective of survivors, and avoids some of the pitfalls that currently exist in the U.S. The U.S. experience also demonstrates the important role that localities can play. When the federal government has fallen short in prioritizing, protecting, and promoting human rights, certain states and cities have taken the lead, implementing targeted localized laws and policies to address trafficking and to close critical gaps in legal protection. This localized approach serves as an important model for States Parties explore when considering where and how to enact legislation to address trafficking at home.

Strengthen and Expand Labor Law to Prevent Trafficking

Strengthening fair labor standards in those industries most at risk of labor trafficking would help to eliminate the very conditions that allow it to flourish. To ensure that the most vulnerable

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Report of the Special Rapporteur, *supra* at note 19, at 9.

⁶⁹ Polaris, Connecticut Moves Toward Eradicating Human Trafficking in Hotels and Motels with New Law (2016), [hereinafter *Connecticut Moves Toward Eradicating Human Trafficking*], <https://polarisproject.org/blog/2016/08/05/connecticut-moves-toward-eradicating-human-trafficking-hotels-and-motels-new-law>.

⁷⁰ Human Trafficking is a Public Health Issue, *supra* note 1, at 82-83.

⁷¹ *Id.* at 4-5.

⁷² *Id.* at 5.

individuals are protected, States Parties, as well as regional and local legislative bodies, should enact laws that apply broadly to all categories of employees and that impose minimum wage requirements, workplace health and safety regulations, subsidized healthcare and other benefits, union and collective bargaining rights, and fair workplace standards. Additionally, legislation should include concrete enforcement mechanisms and funding for enforcement. Existing legislation should be amended to close loopholes that leave certain workers and industries vulnerable to trafficking. Regional and local leadership should identify risks and develop regional and local strategies and legislation to address trafficking and provide necessary support to victims at all levels.

Require Training of Employers and Employees in High Risk Industries

To address the prevalence of trafficking in certain industries, States Parties should explore legislation, like the statute recently enacted in Connecticut, that identifies industries at higher risk of trafficking and that requires employers in those industries to carry out mandatory trainings for employees at all levels. Training should educate employers and employees about what trafficking is, ways to identify it, and for victims, what their rights are with respect to trafficking and ways to escape and seek redress. This type of legislation serves to assist victims and imposes proactive obligations on employers.

Create Victim-Centered Support Structures and Services

As discussed above, a legislative strategy that focuses on law enforcement without focusing on the needs of survivors is inadequate. Trafficking victims face a host of complex challenges that make them prey to trafficking and make it almost impossible for them to escape. To address those challenges in a sustainable way, social services agencies supporting trafficking victims need to provide comprehensive services that address those complex challenges in a holistic way. These needs include counseling, shelter and long-term housing, employment, healthcare, food, and immigration assistance. To provide necessary services to help trafficking victims escape and to address root causes of trafficking, States Parties must enact and fund comprehensive support services for victims and for vulnerable populations. Failure to meet these needs can drive victims back into new trafficking situations due to their inability to obtain basic necessities.⁷³ To help victims navigate the relevant arenas, including the criminal justice system; social services, and immigration, States Parties should provide funding for legal representation for trafficking victims.

As a form of redress, States Parties should also consider enacting statutes that require traffickers to provide restitution to their victims. Criminal laws that seek accountability for trafficking should be carefully crafted to ensure that victims are not also subject to criminal penalty. For example, in states across the U.S., criminal laws that prohibit prostitution have resulted in the arrest and prosecution of trafficking victims.⁷⁴ To the extent victims are at risk of being

⁷³ An Overview of Services and Funding for Survivors, *supra* at note 78, at 3.

⁷⁴ International Women's Human Rights Clinic, City University of New York Law School Trafficking Victims Advocacy Project, Legal Aid Society of New York, *Criminalization of Trafficking Victims: Submission to the United Nations Universal Periodic Review of United States of America Second Cycle Twenty Second Session of the UPR Human Rights Council* (April - May 2015), <http://www.law.cuny.edu/academics/clinics/hrgj/publications/Criminalization-of-Trafficking-Victims.pdf>.

prosecuted, laws should incorporate corresponding remedies to protect victims, similar to state expungement provisions enacted by various states in the U.S.

Supplement Criminal Anti-Trafficking Measures with Training and Funding for Law Enforcement

To be effective, law enforcement officers must be trained to identify human trafficking, to understand the true dynamics of trafficking, and to provide assistance to survivors using a trauma-informed approach that is sensitive to the realities of trafficking.⁷⁵ Law enforcement officers must also be trained to refrain from taking adverse action against victims and survivors of trafficking. Law enforcement agencies must also have the necessary resources and funding to investigate trafficking and provide adequate support to victims. States Parties should explore measures that prevent local law enforcement officials from intervening or inquiring about a victim's immigration status when pursuing trafficking claims.

Implement Know Your Rights Education for At Risk Communities

Based on victims' isolation, language barriers, short duration in the country, and lack of understanding of domestic laws, many individuals don't even know that they are victims of unlawful trafficking and that available protections exist. One important and effective way to address this problem is to provide know-your-rights training to local communities that are targets of trafficking, such as immigrant and low-income communities. This type of training can help communities identify trafficking, intervene to prevent trafficking, and intervene to report trafficking when it is identified. It also helps individuals realize that they themselves have been trafficked, and to learn about available rights, remedies, and resources. Many survivors have little formal education and poor understanding of legal and welfare systems.⁷⁶ Education on trafficking methods and legal rights would make it easier for victims to access law enforcement and social services when needed.⁷⁷

Community education would also act as a way to discourage trafficking preemptively within communities. Often traffickers are of the same nationality or ethnicity of their victims.⁷⁸ In domestic labor especially, traffickers recruit through family and community ties.⁷⁹ Alerting communities to the risk might help thwart recruiting efforts within those communities.

Regulate Supply Chains and Mandate Reporting

Consumers are increasingly concerned about labor practices behind the products and food that they purchase. Informing consumers and the public about companies' labor practices is a valuable way to help disrupt supply chains that contain human trafficking. Similar to the law enacted in California and provisions under the federal Dodd-Frank Act, States Parties should consider enacting laws requiring companies operating in their jurisdiction to conduct audits and track labor practices along their supply chain, take reasonable measures to address and eliminate

⁷⁵ An Overview of Services and Funding for Survivors, *supra* at note 78, at 49.

⁷⁶ *Id.* at 101.

⁷⁷ *Id.*

⁷⁸ *Id.* at 59.

⁷⁹ Report of the Special Rapporteur, *supra* at note 19, at 6.

trafficking within their supply chain, and report on labor practices to safeguards against trafficking. In fact, many corporations have proactively implemented procedures to conduct periodic audits, train personnel, and conduct investigations and many companies have signed on to the Athens Ethical Principles to work towards preventing human trafficking.

Immigration Relief for Victims of Human Trafficking

As discussed above, traffickers often prey on individuals without legal immigration status and they then further exploit that status to prevent victims from reporting or escaping. To address this dynamic, laws should provide safeguards that ensure that victims without legal status can report without risk of detention, deportation, or other penalty. Governments must also develop and offer immigration relief for victims of human trafficking. Under U.S. law, for example, certain victims of human trafficking or other designated crimes can qualify for special visas if they cooperate with law enforcement and assist with the investigation or prosecution of these crimes. This system has proven to be effective in enhancing trust between communities and law enforcement and providing a critical vehicle for victims to come forward.⁸⁰

Legal Momentum and PHRGE thank the CEDAW Committee for this opportunity to provide our observations and recommendations on trafficking in women and girls in the context of global migration and to contribute towards the Committee's guidance.

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⁸⁰ See Human Rights Watch, *Immigrant Crime Fighters: How the U Visa Program Makes Communities Safer* (July 3, 2018), <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer#>.