

### HUMAN TRAFFICKING AND REPRODUCTIVE RIGHTS

*Updated April 2015*

*“It is unthinkable that we would be prohibited from referring clients for care upon a diagnosis of cancer, heart disease or diabetes etc. And yet, it has been the practice of the last five years to prohibit referrals for reproductive health care that also helps to halt disease and prevent long-term health issues or even death.” – Florrie Burke,<sup>1</sup> Inaugural Recipient of the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons and Founding Member of the Freedom Network USA*

#### **Human Trafficking Survivors Have Urgent Reproductive Healthcare Needs**

The U.S. Department of State reports that as many as 27 million individuals are trafficked worldwide.<sup>2</sup> and estimates show that more than half of victims subjected to forced economic exploitation are female and 98 percent of sexually exploited victims are female.<sup>3</sup> A significant number of individuals are born in the United States and trafficked domestically, many of whom are girls and women.<sup>4</sup>

Individuals trafficked into any form of labor are at high risk of sexual assault, sexually transmitted infection (STI) transmission, HIV transmission, and sometimes irreparable damage to their reproductive health. Trafficked women are also in danger for unwanted pregnancy. Survivors of trafficking into the sex industry, servile marriage, and domestic work are particularly vulnerable. Many traffickers use rape and sexual abuse to break the spirit, instill fear, and ensure compliance of their victims. Some traffickers also derive financial benefit from putting their victims at sexual risk – they force them to engage in prostitution under dangerous circumstances where they cannot use condoms or other protection, and where they are susceptible to sexual violence. Traffickers also control the reproductive choices of their victims in order to ensure maximum profit by engaging in any of the following tactics: forcing them to have abortions so that they can keep working, restricting or forbidding medical care for STIs or injuries, or compelling them to carry pregnancies to term in order to control their children. The following survivor stories illustrate the need for reproductive health care for survivors of trafficking:

- **“Constance”** was trafficked from the Middle East to the United States by a family that kept her as a domestic worker. She was a survivor of female genital mutilation and was physically, sexually, and emotionally abused by her employer. By the time she escaped and found help from a service provider, she was vomiting blood, experienced daily headaches, and suffered from severe stomach pain. Eventually, her pelvic pain was mitigated with the use of hormonal contraceptives.

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<sup>1</sup> House Committee on Oversight and Government Reform HHS and the Catholic Church: *Examining the Politicization of Grants*, 112th Cong. 2-4. (Dec. 14, 2011) (written testimony of Florrie Burke, M.Ed., MA, LMFT Comprehensive Services for Survivors of Human Trafficking), available at [http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11\\_Minority\\_Hearing\\_Burke\\_Testimony.pdf](http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11_Minority_Hearing_Burke_Testimony.pdf).

<sup>2</sup> U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT 7* (June 2013) available at <http://www.state.gov/documents/organization/210737.pdf>. The last time the federal government cited domestic estimates of trafficking was in 2008, when the State Department said the Justice Department estimated in 2005 that 14,500 to 17,500 victims were trafficked into the United States annually. CLARE R. SEELKE & ALISON SISKIN, CONGRESSIONAL RESEARCH SERVICE, *TRAFFICKING IN PERSONS: U.S. POLICY AND ISSUES FOR CONGRESS CRS-17 n.39* (Aug. 14, 2008) available at <http://fpc.state.gov/documents/organization/109559.pdf> (citing Dep’t of Justice, Attorney Gen. Annual Report to Congress on U.S. Gov’t Activities to Combat Trafficking in Persons: Fiscal Year 2005 (June 2006)).

<sup>3</sup> PATRICK BELSER, M. DE COCK & FARHAD MEHRAN, INTERNATIONAL LABOUR ORGANIZATION, *ILO MINIMUM ESTIMATE OF FORCED LABOUR IN THE WORLD 5-6* (Apr. 2005) available at [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_081913.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_081913.pdf).

<sup>4</sup> See, U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT 381* (June 2013) available at <http://www.state.gov/documents/organization/210742.pdf>.

- **“Maria”** was 18 years old when she was taken to the United States from Mexico after learning about a job as a waitress. Instead, upon arriving in the United States, Maria was taken to a trailer in Florida, where she was instructed that she owed a smuggling fee and would have to repay it through prostitution. She worked six days a week, 12 hours a day, serving 32 to 35 clients daily. She describes her body as “utterly sore and swollen.” If any of the other victims got pregnant, they were forced to have abortions. The cost of the abortion was then added to the smuggling debt. She was eventually discovered in an immigration raid, whereupon agents put her into detention and did not provide her with any medical care.<sup>5</sup>
- **“Sarah”** was trafficked into New York from Azerbaijan and forced to engage in prostitution from 4:00 p.m. to 4:00 a.m., seven days a week. She was subject to severe physical and psychological abuse including “slapping, punching, kicking, cutting and burning.” When she developed a vaginal cyst that caused swelling, pain, and bleeding, the trafficker ridiculed her, told her it would pass, and ordered her to continue working.<sup>6</sup>
- Four girls ages 14 to 17 were trafficked from Mexico and forced to work in a brothel 15 hours a day, seven days a week. In the brothel, customers were free to use or not use condoms, and thus the victims were not protected from sexually transmitted diseases or pregnancy. Due to the stress and trauma of the trafficking, one victim did not have a menstrual cycle for seven months. Two victims became pregnant and were forced to take medication to induce abortions.<sup>7</sup>
- **“Lauren”** was enslaved for six years as a domestic worker. During that time, she was repeatedly raped by her employer, her employer’s son, and friends of the employer, none of whom used condoms. The woman described these events to caseworkers after she was freed and was referred for a complete gynecological exam. The exam showed that the woman had been infected with multiple STDs and due to the lack of treatment during her captivity, she had sustained permanent damage and a loss of fertility.<sup>8</sup>

### A Victim-Centered and Rights-Based Approach to Care

The Freedom Network (USA) uses and promotes a rights-based approach to direct services for victims and survivors of human trafficking. This approach places a trafficked person’s priorities at the center of anti-trafficking work. The model relies on voluntary, nonjudgmental assistance with an emphasis on self-determination to best meet an individual’s short- and long-term needs.

As illustrated by the foregoing examples, giving survivors of human trafficking immediate access to full reproductive healthcare can literally save lives. However, even when a survivor’s life is not in jeopardy, describing and offering all available options for reproductive health services begins to rebuild the survivor’s sense of self-determination. In captivity, many survivors lose all control over their bodies and sexual lives. A client-centered approach to human trafficking gives survivors back what was lost – control over their reproductive and sexual health and choices.<sup>9</sup>

This restoration of agency and choice is especially important as prevention against future abuse and violence. In one 2012 study, women who had been trafficked into commercial sex had a high incidence of subsequent abusive relationships after leaving trafficking situations.<sup>10</sup> The experience of trafficking, especially at a young age, may disrupt expectations of what is normal in familial, work, or romantic situations, and it may make it

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<sup>5</sup> *Int’l Trafficking in Women and Children: Hearings Before the Subcomm. on Near Eastern and South Asian Affairs of the S. Comm. on Foreign Relations*, 106th Cong. 26 (2000) (statement of Inez, a trafficking survivor).

<sup>6</sup> Brief of Appellee, *United States v. Mammedov*, No. 06-2971-cr, 2007 WL 6370255 (E.D.N.Y. Nov. 14, 2007).

<sup>7</sup> Brief for Appellee, *United States v. Jimenez-Calderon*, No. 03-3738, 2004 WL 4986150, at \*8 (3d Cir. Jan. 22, 2004).

<sup>8</sup> *HHS and the Catholic Church: Examining the Politicization of Grants (Minority Day of Hearing): Hearing before the H. Comm. on Oversight and Gov’t Reform*, 112th Cong. 17 (Dec. 14, 2011) (written statement of Florrie Burke).

<sup>9</sup> *House Committee on Oversight and Government Reform HHS and the Catholic Church: Examining the Politicization of Grants*, 112th Cong. 2-4. (Dec. 14, 2011) (written testimony of Florrie Burke, M.Ed., MA, LMFT Comprehensive Services for Survivors of Human Trafficking), available at [http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11\\_Minority\\_Hearing\\_Burke\\_Testimony.pdf](http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11_Minority_Hearing_Burke_Testimony.pdf).

<sup>10</sup> MELISSA DITMORE, ANNA MATERNICK & KATHERINE ZAPERT, SEX WORKERS PROJECT AT THE URBAN JUSTICE CENTER, *THE ROAD NORTH: THE ROLE OF GENDER, POVERTY AND VIOLENCE IN TRAFFICKING FROM MEXICO TO THE U.S.* 64 (Sep. 2012).

more difficult to recognize danger or risk.<sup>11</sup> Therefore, a victim-centered approach both prioritizes the therapeutic restoration of control and agency and prioritizes the provision of reproductive healthcare, options, and contraception to minimize risk to the survivor in her future relationships.

### **History of U.S. Policy and Practice on Reproductive Healthcare for Trafficking Victims**

Unfortunately, while most people understand anti-trafficking work to include providing for the psychological, emotional, physical, and mental effects of trauma on survivors of human trafficking, the equally important reproductive healthcare needs of survivors have often been overlooked due to conflicting U.S. policies and practices.

Upon passage of the Trafficking Victims Protection Act in 2000, the Department of Health and Human Services (HHS) awarded grants to direct service providers to offer services to trafficking survivors, including any referrals to necessary reproductive health services, such as contraception, abortion, and family planning. This vital stream of funding launched many anti-trafficking programs that still rely exclusively on these funds.<sup>12</sup> In 2003, Congress expressed concern about the link between HIV/AIDS transmission and trafficking<sup>13</sup> and included provisions in the Trafficking Victims Protection Reauthorization Act of 2005 for government research into the connection.<sup>14</sup>

From 2006 to 2011, HHS reorganized its grant-making and allocated its entire sum to the U.S. Conference of Catholic Bishops (USCCB). USCCB then provided sub-grants to organizations that directly serve trafficked survivors. Per the Catholic doctrine and teachings, USCCB refused to allow sub-grantee organizations to refer survivors to “abortion services or contraceptive materials.”

In recognition of the broad impact of this policy on survivors of trafficking, in September 2011, HHS granted contracts to three regional victim services partners (U.S. Committee for Refugees and Immigrants, Heartland Human Care Services, and Tapestri, Inc.),<sup>15</sup> ensuring that comprehensive case management services including reproductive health referrals are available to survivors of human trafficking.<sup>16,17</sup>

### **Recommendations**

1. Direct service providers should adopt a nonjudgmental and victim-centered approach to providing services and referrals, including the full range of options for reproductive healthcare.
2. The U.S. government, including all agencies that provide funding for services for survivors of human trafficking, should issue grants to ensure that full reproductive healthcare is available to victims.
3. The U.S. government should fund research efforts to examine the risks human trafficking poses for STI and HIV/AIDS transmission, unplanned pregnancies, irreparable harm to reproductive health, and other illnesses and injuries.

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<sup>11</sup>See Jeannette Norris et al., *When a Date Changes from Fun to Dangerous: Factors Affecting Women's Ability to Distinguish*, 5 VIOLENCE AGAINST WOMEN 3, 230-250 (1999); Tricia H. Witte & Rachel Kendra *Risk Recognition and Intimate Partner Violence*, 25 J. OF INTERPERSONAL VIOLENCE, 12, 216 (2010).

<sup>12</sup> *House Committee on Oversight and Government Reform HHS and the Catholic Church: Examining the Politicization of Grants*, 112th Cong. 2-4. (Dec. 14, 2011) (written testimony of Florrie Burke, M.Ed., MA, LMFT Comprehensive Services for Survivors of Human Trafficking), available at [http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11\\_Minority\\_Hearing\\_Burke\\_Testimony.pdf](http://oversight.house.gov/wp-content/uploads/2012/01/12-14-11_Minority_Hearing_Burke_Testimony.pdf).

<sup>13</sup> *Global Trends in Trafficking and the “Trafficking in Persons Report:” Hearing Before the Subcomm. On Int’l Terrorism, Nonproliferation, and Human Rights of the H. Comm. on International Relations*, 108th Cong. (June 25, 2003) (testimony of Holly Burkhalter, U.S. Policy Director, Physicians for Human Rights) (regarding the link between trafficking and HIV/AIDS pandemic, and vulnerability of trafficking victims to contracting sexually transmitted diseases, as victims “are not always and in many cases almost never able to control the terms of sexual contact”).

<sup>14</sup> Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 164, § 104 (c)(1)(B) (prior to 2008 amendment)(specifically requiring study of interrelationship between trafficking in persons and global health risk of HIV/AIDS).

<sup>15</sup> About Human Trafficking, U.S. Dep’t of Health & Human Services Office of Refugee Resettlement <http://www.acf.hhs.gov/programs/orr/resource/about-human-trafficking> (last visited Feb. 13, 2013).

<sup>16</sup> Stephanie Mencimer, *The War on Women: Sex-Trafficking Edition*, MOTHER JONES, May/June 2012, at 1, available at <http://www.motherjones.com/politics/2012/04/catholic-bishops-war-on-contraception-sex-trafficking>

<sup>17</sup> The ACLU of Massachusetts also filed a lawsuit on this matter. See, *American Civil Liberties Union of Mass. v. U.S. Conference of Catholic Bishops, et al.*, Nos. 12-1466, 12-1658, 2013 U.S. App. LEXIS 976 (1st Cir. Jan. 15, 2013).