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ALTERNATIVE REPORT

An NGO response to the Periodic Report of the United States of America to the UN Committee on the Rights of the Child Concerning the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography

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YOUNG CENTER FOR IMMIGRANT CHILDREN'S RIGHTS

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BPSOS-Houston

Capital Area Immigrants' Rights Coalition

Catholic Charities for the Archdiocese of Galveston-Houston

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Conference of Major Superiors of Men

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Hospital Sisters of Saint Francis

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Network for Cultural Change, Inc.

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Trafficking in America Task Force, Inc.

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This report is submitted to the UN Committee on the Rights of the Child by the organizations and individuals named in the accompanying cover sheet.

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INTRODUCTION

This NGO Alternative Report is a response to the United States Government's (USG) third periodic report to the UN Committee on the Rights of the Child (UNCRC) on its work to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC).

The purpose of this report is to augment information provided in the alternative report submitted by ECPAT-USA and signatories, by addressing the issue of *the sale of children for the purpose of forced labor* as defined under Articles 2-3 of the OPSC. Our respective organizations' decision to submit two separate reports on labor and sex trafficking is driven by efficiency, respective expertise, and logistics of gathering data and information. In authoring this report, we recognize that victims of both labor and sexual trafficking face many of the same challenges and emphasize the importance of improving efforts to address *both* labor and sexual exploitation of all children, regardless of nationality or legal status.

US government law, the Trafficking Victims Protection Act, and its subsequent reauthorizations (referred to as the "TVPA" and "TVPRA" throughout this report) *do not* distinguish the trafficking of children for labor or services from the definition of the sale of children for the purpose of forced labor under Articles 2 and 3 of the OPSC. The USG asserts that the TVPA and TVPRA meet US obligations under the OPSC, as the statutes addressing labor trafficking do not require the element of "remuneration or any other consideration" included in the definition of "sale" in the Optional Protocol, and uses the term "labor trafficking" throughout its report. As a result, we use the terms "human trafficking," "labor trafficking," and "sale of children for the purpose of forced labor" interchangeably in cited material, excerpts from governmental and non-governmental reports, and research used to support our assertions. We have made an effort to highlight examples of research, data, protection and prevention efforts that specifically address the definition of the sale of children for the purpose of forced labor as defined under the OPSC.

Organized by CHRC and the Young Center, this report is a collaborative effort of NGOs, academic centers, service providers, and advocates who work with or on behalf of children who are victims of sale for the purpose of forced labor or labor trafficking as defined by the UN Palermo Protocol, the UN CRC OPSC, and the TVPA and TVPRA. We have used the following sources for the development of the report: The 2016 USG Report on the Implementation of the Optional Protocol to the Convention on the Rights of Children on the Sale of Children, Prostitution, Child Pornography (OPSC); published materials of the CHRC and the Young Center, NGO published reports, published academic reports and research, government reports, current legislation and governmental reports on its implementation, case studies, feedback, research, and published work provided by NGOs during two national consultative calls, and follow-up calls with NGOs as necessary.

The Alternative Report is limited to critiques of those issues that its contributors feel are most critical and about which we are most knowledgeable. It briefly addresses areas in which the US is taking affirmative steps to address child labor trafficking.

This Alternative report uses the term "victim," a legal term used to describe a wronged party. We recognize and respect the resiliency and perseverance of child survivors of human trafficking and exploitation.

This Alternative Report includes several case examples to demonstrate our points. The names of survivors, as well as some cities or other identifying information, have been changed to protect the identity of survivors.

SALE OF CHILDREN FOR FORCED LABOR OR CHILD LABOR TRAFFICKING UNDER THE TVPA

Unlike sex trafficking, labor trafficking is often tied to formal economies and industries, which can make it more difficult to distinguish from "legitimate" work. As a result, the sale of children for labor or child labor trafficking is often more challenging to identify and respond to. For example, children forced to work as domestic servants, in factories, restaurants, peddling candy or other goods, or working on farms may not automatically elicit suspicion from an outside observer as compared to the same child providing sexual services for money. A recent research report evaluating services for minors illustrated this problem by stating that NGO program staff serving child trafficking victims reported that "neither law enforcement nor social service providers were looking out for such youth."[1] In addition to cases involving US citizen children engaged in forced and coerced labor, some undocumented children are subject to debt bondage and peonage and forced to work to pay off smuggling debts. Often, these children are described as smuggled rather than as victims of labor trafficking and/or forced labor. In some cases, they are criminalized for acts they were forced to perform by their traffickers.

The following are case examples provided by NGOs and media reports that demonstrate the diversity of forced labor cases involving children in the United States:

- *"Alice" is a survivor of domestic servitude. At age 11, she was trafficked to the United States from her home country in Africa. She went to school in two different states before being identified as a victim of child abuse – not of forced labor or labor trafficking. She was able to escape, but it took two more years for her to be identified as a victim of trafficking and to receive immigration benefits and social services commensurate with her status as a trafficking victim. (Source: Heartland Alliance, Chicago, Illinois)*

- *"Jeffrey", 16, was brought to the United States by a family that told him that he had to work for them at their store to pay off his travel debt. He worked eight hours a day, six days a week. He did not attend school. Eventually, the family told him to leave, and he ended up homeless on the street. (Source: Coalition Against Slavery and Trafficking, "CAST," Los Angeles, California)*

- *"Pablo," was 15 years old when, fleeing gangs in El Salvador, his parents arranged for a coyote to bring him to the United States. Instead, the coyote forced Pablo to work in Mexico for long hours, cultivating squash. Pablo was denied food if he didn't work, kept isolated and alone, and told he would be arrested and deported if he did not follow his traffickers' instructions. At the same time, the traffickers attempted to extort money from Pablo's parents. After six weeks, Pablo's traffickers crossed the US border with Pablo, but he was apprehended by Customs and Border Patrol. He was detained for a month before he was reunited with his parents in Southern California. (Source: CAST)*

- *When "Miguel" was 15, he was forced to flee El Salvador after he refused to join a gang and sell drugs, and his brother was kidnapped and murdered. When Miguel reached the US border, the coyotes forced him to carry drugs into the United States. Miguel was apprehended by US border patrol and placed in custody. Miguel was afraid to share his story and even attempted suicide at one point. (Source: CAST)*

[1] Gibbs, D, Hardison Walters, J. L., Lutnick, A., Miller, S., & Kluckman, M. (2015). Evaluation of services for domestic minor victims of human trafficking. Submitted to the US Department of Justice. Available at https://www.ncjrs.gov/pdffiles1/nij/grants/248578.pdf

- *In 2011, 24 children and young adults were lured to Orlando, Florida with promises of honest wages. Instead, they were crammed into the back of a van, driven around, and forced to sell cheap items and candy bars door-to-door and outside of gas stations. They worked 10-hour days and were transported in unsafe conditions to unfamiliar neighborhoods. The children were required to meet daily sales quotas. Their traffickers rationed their food and water. Police ultimately arrested two men in connection with this operation on labor trafficking charges.*[2]

- *Eight unaccompanied immigrant boys who had traveled to the United States from Central America were released from custody to child labor traffickers posing as family friends. The boys were made to de-beak chickens at an egg farm for twelve hours a day, six days a week, for as little as two dollars a day in pay. They were forced to live in unheated, cockroach-infested trailers in Ohio in the dead of winter, and they were told that if they tried to escape, they would be killed. In December 2014, federal agents and local officers raided the egg farm and rescued the boys.*[3]

- *Four teenage basketball players from Nigeria were lured to the United States with the promise of college scholarships to play basketball. One boy ended up homeless in New York City, while the other three children were placed in foster care in Michigan.*[4] *In 2015, the Department of Homeland Security raided the Faith Baptist Christian Academy South in Ludowici, Georgia, and discovered thirty young boys, mostly Dominican, who had been living in the campus gym since 2013 and sleeping on the floor. The boys had been recruited to America with the promise of a high school education and a shot at a college scholarship.*[5]

[2] Gallup, J. D. (2013). Police say 24 children rescued from human trafficking scheme. Florida Today. Available at http://www.floridatoday.com/story/news/local/2013/10/29/police-say-24-children-rescued-from-human-trafficking-scheme-two/77199404/
[3] VanSickle, A. (2016). Overwhelmed federal officials released immigrant teens to traffickers in 2014. The Washington Post. Available at https://www.washingtonpost.com/national/failures-in-handling-unaccompanied-migrant-minors-have-led-to-trafficking/2016/01/26/c47de164-c138-11e5-9443-7074c3645405_story.html
[4] Harper, A. (2016). How elite basketball exploits African athletes. Harper's Magazine. Available at http://harpers.org/archive/2015/04/american-hustle/
[5] Harper, A. (2015). A lesser-known human trafficking problem: Teenage basketball players. NPR Code Switch. Available at http://www.npr.org/sections/codeswitch/2015/04/06/397822833/a-lesser-known-human-trafficking-problem-teenage-basketball-players

I

DATA

Effective data collection is critical in advancing the OPSC objectives such as the creation of research-informed policies, and the implementation of improved services for children who are victims of forced labor and labor trafficking. Since the last reporting period, the USG has demonstrated modest improvements in data collection measures for child labor trafficking, but these efforts are primarily focused on sex trafficking. In the most recent Federal Strategic Action Plan on Services for Victims of Human Trafficking in the US (2013-2017), the USG recognized the lack of data on services for child trafficking victims and called for research to establish a baseline knowledge of human trafficking and victim services. The Department of Health and Human Services (HHS) has launched a multi-year initiative to standardize human trafficking data and to integrate questions on *both* commercial sexual exploitation and forced labor into the Runaway and Homeless Youth Management Information System. The Federal Strategic Action Plan on Services for Victims of Human Trafficking in the US (2013-2017) created an action plan to study the prevalence of commercial sexual exploitation of children in the United States, but did not create a parallel action plan related to labor trafficking of children. Rather, the labor trafficking studies primarily focus on adults.[6]

At present, few methodologically rigorous, empirically-based research studies concerning child trafficking exist. New policies and laws that call for public child welfare and protection agencies to better respond to child trafficking focus on child sex trafficking and fail to acknowledge the need for improved data collection on forced labor and child labor trafficking. For example, the Preventing Sex Trafficking and Protecting Families Act (2014) mandates that child welfare agencies report the numbers of children in their care, placement, or supervision who are identified as sex trafficking victims to the Department of Health and Human Services.[7] The Justice for Victims of Trafficking Act (2015) amends the Child Abuse Prevention and Treatment Act (CAPTA) to include provisions to identify and assess "known or suspected victims of sex trafficking."[8] While these provisions are positive steps, it is imperative that states recognize and take steps to mitigate the dearth of data on child labor trafficking as they continue to develop data collection tools, procedures, and policies to identify and respond to child trafficking In the United States.

[6] Owens, C., Dank, M., Farrell, A., Breaux, J., Banuelos, I., Pfeffer, R., Heitsmith, R., Bright, K., & McDevitt, J. (2014). Understanding the organization, operation, and victimization process of labor trafficking in the United States. Urban Institute. Available at http://www.urban.org/research/publication/understanding-organization-operation-and-victimization-process-labor-trafficking-united-states

[7] Preventing Sex Trafficking and Strengthening Families Act. Pub. L. 113-183. 128 Stat. 1919, codified as amended at 42 USC. §1305. Available at https://www.congress.gov/113/plaws/publ183/PLAW-113publ183.pdf

[8] Justice for Victims of Trafficking Act of 2015. Pub. L. 114-22. 129 Stat. 227, codified as amended at 18 USC § 1. Available at https://www.congress.gov/114/plaws/publ22/PLAW-114publ22.pdf

II

IMPLEMENTATION

A. LEGISLATION AND MONITORING

While the USG has implemented new legislation to combat trafficking since the last reporting period, new measures fail to recognize child labor trafficking as a unique challenge requiring special attention. We echo the comments of our colleagues, ECPAT-USA, in their alternative report observing that the USG report refers throughout to "human trafficking"—a term that fails to distinguish adults from children or sex from labor trafficking. The use of a generic term that conflates children and adults relegates child trafficking to a subset of human trafficking whereby the children remain hidden and invisible.

Moreover, in many cases legislation concerning trafficking focuses exclusively on sex trafficking to the detriment of the many child labor trafficking victims. For example, the Preventing Sex Trafficking and Protecting Families Act (2014) and Justice for Victims of Trafficking Act do not address child labor trafficking. The USG's tendency to treat the trafficking of adults and children as indistinguishable and to focus efforts primarily on sex trafficking has significant repercussions on data collection, law enforcement interventions, training, prevention, and services. The federal government should acknowledge that the trafficking of children is distinct from that of adults, and should implement policies and procedures to address, not only child sex trafficking, but child labor trafficking.

1. Labor Laws

The USG has taken steps to better investigate those industries and businesses that traditionally hire children and youth and to provide a way for children in need to seek assistance. However, more needs to be done.

For example, the USG should improve child labor standards in agriculture to prevent the sale of children for the purpose of forced labor and labor trafficking. Protecting child farmworkers from dangerous and exploitative work is the responsibility of lawmakers as well as the agencies charged with implementing the law, including the Department of Labor (DOL) and the Environmental Protection Agency (EPA). By providing children working in agriculture less protection than children working in other industries, and by poorly enforcing the protections they do have, the government fails to uphold its responsibility to safeguard the health, education and safety of child farmworkers. Some examples of this include: [9]

- Outside of agriculture, the standard minimum age for work is 16. There are no similar restrictions protecting children working in agriculture. In agriculture, employers may hire children ages 14 and 15 to work unlimited hours outside of school. There is no parental consent requirement.

- The DOL Wage and Hour Division has too few investigators, and therefore too little attention is devoted to child labor. Of those resources devoted to child labor, too little focus is placed on agriculture. As a result, growers have no reason to fear consequences stemming from their illegal use of children.

In addition to increasing regulation of child labor in the agriculture industry, the USG should closely examine some corporations' abuse of the J-1 visa program, which was ostensibly designed to foster cultural exchange and to provide technical training opportunities for foreign college-age students. However, because employers do not have to pay payroll taxes on J-1 workers, some have begun to

[9] Human Rights Watch. (2010). Fields of peril: Child labor in US agriculture. New York, New York. Available at http://www.hrw.org/sites/default/files/reports/crd0510webwcover_1.pdf

treat the program as a source of easily exploitable and cheap labor. In one instance, two sisters from the Dominican Republic who were recruited to work in customer service at a luxurious Tennessee hotel found themselves living in the hotel's stables, caring for the horses as well as tending to guest rooms.[10] Their sponsor refused to approve their requests to work elsewhere. Indebted and isolated, they felt that they had no option other than to leave and seek work elsewhere, thereby jeopardizing their J-1 status. If the USG were to conduct periodic audits of frequent J-1 visa sponsors, it could curtail the systemic abuse of the program and ensure that its original objectives of promoting interculturalism and providing job training are fulfilled.

2. Lack of Child-Centered Practices in Applying Laws to Children who have been Trafficked for Labor (TVPA) or Sold for the Purpose of Forced Labor (OPSC)

Currently, the USG narrowly interprets the TVPA and the TVPRA—the pertinent laws relating to the sale of children—and consequently leaves several categories of victims of forced labor at risk of exploitation and unable to access protections afforded to them as victims of such crimes.[11]

Unlike sex trafficking, victims of child labor trafficking under the TVPA must prove "force, fraud, or coercion," with the burden of proof resting with the child. The statute explicitly provides that coercion includes threats of harm, physical restraint, perceived threats, or the abuse of the legal system, and requires that, at minimum, there is intent to subject an individual to various forms of forced labor. Requiring victims of labor trafficking to prove additional elements in order to receive relief inevitably denies protection to some victims whose trafficking experience may not conform to the most traditional model of trafficking.

Furthermore, children are not adequately protected under the US definition of labor trafficking because it does not distinguish children from adults.[12] A 14-year-old child must submit evidence and prove eligibility for protection in the same manner as a 32-year-old adult. But the requirement that a child labor trafficking victim bear the burden of proof in establishing force, fraud or coercion is not developmentally appropriate. Developmentally, children are presumed less likely to have the ability to identify and evaluate their options; a child may only be able to identify one option in a situation where an adult would be able to identify multiple options.[13] Also, "because adolescents tend to discount the future and weigh more heavily the short-term risks and benefits, they may experience heightened pressure from the immediate coercion they face."[14] Therefore, the requirement that child labor trafficking victims prove force, fraud, or coercion—just as an adult would—fails to recognize that a child is likely to perceive and react to situations differently than an adult.

Additionally, there are no special standards for children in immigration removal proceedings, and unlike all other legal arenas in which children are subjects of a legal proceeding, there is no statutory best interests standard in US immigration law. In its report, the USG notes that immigration courts may consider "the best interests of the child" in exercising discretion *and* ensuring a child-appropriate hearing environment. This is incorrect. The Executive Office of Immigration Review guidance for immigration judges states that the court may use its discretion *only* in taking steps to ensure a 'child-appropriate' hearing environment.[15] The guidance does not encourage immigration judges to use their discretion in considering the best interests of a child when determining legal relief. In other words, an immigration judge may decide to return a child to his or her home country without ever having to expressly examine whether the child wants to return home, whether the child will be safe, or whether the child will have a caretaker. This is in direct conflict with the Convention on the Rights of the Child, which states that in all actions concerning a child, the best interests of the child shall be a primary consideration.[16] In addition, the absence of developmentally appropriate standards or procedures in immigration proceedings has the potential to endanger all unaccompanied, non- US citizen children sold for the purpose of labor or sexual exploitation.

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[10] Southern Poverty Law Center. (2014). Culture shock: The exploitation of J-1 cultural exchange workers. Montgomery, AL. Available at https://www.splcenter.org/20140202/culture-shock-exploitation-j-1-cultural-exchange-workers

[11] Trafficking Victims Protection Act of 2000, 18 USC. §§ 1589-1594, codified as amended at 22 USC. §§ 7101-7110, 2152(d) (2005). Note that the TVPA was reauthorized in 2003, and in January of 2006, the United States passed into law the TVPRA of 2005, which provided increased funding and new social service programs for the victims of human trafficking. Congress enacted the TVPRA of 2005 to amend the previously written Trafficking Victims Protection Act of 2000 ("TVPA"), which in turn was a part of the larger Victims of Trafficking and Violence Protection Act of 2000.

[12] Note, however, that children under the age of 18 are not required to assist law enforcement agencies to obtain the protective visa.

[13] Beyer, M. (2000). Immaturity, culpability & competency in juveniles: A study of L17 cases. Criminal Justice, 15(2): 27-40.

[14] Conn. v. Heinemann, 920A.2d 278 (Conn. Sup. Ct. 2007).

[15] Neal, D. L. (2007). Operating policies and procedures memorandum 07-01: Guidelines for immigration court cases involving Unaccompanied Alien Children. Executive Office of Immigration Review. Available at https://www.justice.gov/sites/default/files/eoir/legacy/2007/05/22/07-01.pdf

[16] UN General Assembly. (1989). Convention on the rights of the child, Part I, Art. 3(1).

Since the last report, the US has taken affirmative steps to incorporate the best interests standard into policy and practice. In May 2016, the Interagency Working Group on Unaccompanied Children, comprising representatives from the Department of Homeland Security, Department of Justice, Department of State, and Department of Health & Human Services, released the "Framework for Considering the Best Interests of Unaccompanied Children".[17] The *Framework* recognizes that any decision involving an unaccompanied child, from the moment of apprehension through the completion of immigration proceedings, should take into account the child's best interests, including the child's safety and well-being, expressed interests, health, family integrity and liberty. All four agencies have pledged their support and agreed to work on implementation.

B. TRAINING

While research is still limited, we do know that child labor trafficking victims often encounter at least one, if not several, systems that fail to identify them as victims of child trafficking.[18] These systems include local, state, and federal law enforcement, child welfare and child protection, juvenile justice, education, and social service providers.[19]

While it is commendable that the USG has increased training efforts addressing child trafficking to a larger cohort of first responders and stakeholders, very few training efforts include content addressing *both* sex and labor trafficking and forced labor of children. Many trainings continue to refer to victims of "human trafficking" generically or focus exclusively on sex trafficking. Additionally, an assessment of the quality and effectiveness of the training programs continues to be lacking in this reporting period.

We also echo our colleagues' concerns and recommendations that all USG training on crimes under the OPSC and human trafficking should address both labor and sex trafficking of all children regardless of nationality or legal status, including US citizen, refugee, non-citizen domestic and legal permanent resident children. We agree that the USG should consult with child-centered NGOs to develop appropriate training materials.

[17] Interagency Working Group on Unaccompanied Children. (2016). Framework for considering the best interests of unaccompanied children. Chicago, IL. Available at http://theyoungcenter.org/wp-content/uploads/2016/05/107014_Book.pdf

[18] Gibbs, D, Hardison Walters, J. L., Lutnick, A., Miller, S., & Kluckman, M. (2015). Evaluation of services for domestic minor victims of human trafficking. Submitted to the US Department of Justice. Available at https://www.ncjrs.gov/pdffiles1/nij/grants/248578.pdf; Kaufka Walts, K. (2012). Understanding child trafficking in the United States: A review of current policies, research, and issues facing survivors. In Davis, R. C., Lurigio, A. J., & Herman, S., Victims of Crime (500-530). Thousand Oaks, CA: Sage Publications.

[19] Covenant House. (2013). Homelessness, survival sex, and human trafficking: As experienced by the youth of Covenant House New York. New York, NY. Available at: https://d28whvbyjonrpc.cloudfront.net/s3fs-public/attachments/Covenant-House-trafficking-study.pdf

III

PREVENTION OF THE SALE OF CHILDREN, CHILD PROSTITUTION, AND CHILD PORNOGRAPHY

The following provides a brief synopsis of groups identified as vulnerable to child labor trafficking, which the USG report also identifies in its report. We note that children often fall into more than one of the categories listed below. For example, an LGBTQ teen may have been involved in the child welfare system or a migrant child may become homeless in the United States.

A. "SYSTEM-INVOLVED" YOUTH: CHILDREN WITH PAST OR PRESENT EXPERIENCES IN THE CHILD WELFARE AND/OR JUVENILE JUSTICE SYSTEMS

Recent research indicates that trafficked children suffer higher incidents of neglect and of physical and sexual abuse. In one study, at least one-third of young people receiving services as trafficking victims had been involved in the child welfare system and nearly two-thirds of one NGO's clients had been involved in the juvenile justice system.[20] Both research studies and anecdotal information provided by NGOs show that many child trafficking victims have experienced neglect, physical abuse, and sexual abuse. Case narrative data describe young victims who were deprived of basic necessities, ejected from their homes because of their behavior or sexual/gender orientation, and sexually abused by parents or other household members. Despite efforts to identify domestic minor victims of labor trafficking, programs across the country report that child labor trafficking victims remain difficult to identify.

B. RUNAWAY AND HOMELESS YOUTH

Homeless youth are often targeted by labor traffickers because they lack access to shelter, food, and personal connections. Often promises of paid, legitimate employment are not realized. A survey conducted by the National Network for Youth in 2013 found that runaway and homeless youth had been targeted by door-to-door trafficking sales rings. These youth were lured by the promise of housing, employment and food but found themselves living in overcrowded motel rooms with other labor-trafficked youth, receiving little or no pay and given unreasonable sales quotas.[21] Another case example further demonstrates the vulnerability of runaway and homeless youth to labor trafficking:

> *"Jessica" was 17 when she was recruited to sell magazines in the southern United States. She was forcibly transported and made to work in various locations and finally escaped in California. She went to a police department for help. The police department considered her homeless and did not identify her as a labor trafficking victim. (Source: CAST)*

C. LGBTQ YOUTH

We are heartened to see the USG report address the vulnerabilities of LGBTQ youth to exploitation under the TVPRA, TVPRA and OPSC. Research shows that LGBTQ youth are at higher risk of both homelessness and exploitation, including both sex and labor trafficking. Below is a case example illustrating this point:

> *"Stacey," who self-identified as a lesbian, was 17 years old when she was kicked out of her home in Oregon. After spending time at a shelter for homeless youth, she moved in with a family and provided child care. She was forced to leave the home when she refused to*

[20] Gibbs, D, Hardison Walters, J. L., Lutnick, A., Miller, S., & Kluckman, M. (2015). Evaluation of services for domestic minor victims of human trafficking. Submitted to the US Department of Justice. Available at https://www.ncjrs.gov/pdffiles1/nij/grants/248578.pdf

[21] National Network for Youth. (2014). Human trafficking and the runaway and homeless youth population. Washington, DC. Available at: https://www.nn4youth.org/wp-content/uploads/Homeless-Youth-and-Human-Trafficking.pdf

have sexual relations with the parents together. The parents never paid her and kept her belongings from her, including her social security and health insurance cards. (Source: CAST)

D. UNACCOMPANIED IMMIGRANT CHILDREN

The United States has seen a dramatic increase in the number of unaccompanied immigrant children arriving at its border. After an unprecedented surge in FY 2014,[22] and a brief drop in FY 2015, the number of immigrant children reaching the US has begun to climb again. Border apprehensions of unaccompanied children in FY 2016 are up 78% from the previous year, and officials expect a return to 2014 levels or higher.[23] Many of these children make the dangerous journey seeking relief from systemic violence, domestic abuse, forced gang recruitment, and extreme poverty, among other things.

Often, unaccompanied children become victims of labor trafficking after incurring considerable debt to cover the cost of their journey to the United States. Typically, a child, or the child's family in home country, will arrange for a guide to safely transport the child to the United States, and what starts out as the cost of smuggling quickly becomes labor trafficking as debt falls to the child to repay. The child may be forced to work off his or her debt in restaurants, agriculture, construction, domestic work, or manufacturing - jobs that are dangerous, isolated, and highly exploitative. In addition, as discussed in greater detail in Section IV.B, many unaccompanied children are forced to work for gangs or drug cartels, thereby becoming criminals themselves in the eyes of the USG. Case examples are presented below:

When "Pablo" was just 15 years old, gang members threatened to kill him if he did not join their ranks, so to escape forced recruitment, his parents arranged for a coyote to bring Pablo to the United States. However, instead of bringing Pablo to the United States, they forced him to work for them in Mexico, making him spend long hours cultivating squash in the fields. Pablo's traffickers denied him food if he didn't work; kept him isolated and alone; and told him that he would be arrested and deported if he did not obey their commands. After about six weeks, Pablo's traffickers attempted to bring him to the United States, where they intended to make him continue to work for them against his will. Fortunately, Pablo was apprehended by Customs and Border Patrol. He was terrified of his traffickers and afraid to share his trafficking ordeal with them until CBP called his father, who encouraged Pablo to tell the truth. (Source: CAST)

"Qiao" was only 14 years old when her mother arranged for "snakeheads," a/k/a Chinese smugglers, to take her to the United States to find work. During her nine-month journey across the Pacific and up through South and Central America, Qiao was given little food or water, was not allowed to leave the cramped room she shared with strangers, and was repeatedly threatened by the snakeheads that she must repay her debt upon arrival in the United States. At one point, while in a Guatemalan drop house, a smuggler tried to sexually assault Qiao. She fought him off but remained terrified that she would face additional abuse on her journey or if she was unable to pay her debt after she arrived. After Qiao was apprehended and placed in US custody, the snakeheads sought her release from detention by threatening to break her arms and legs if she did not agree to use their lawyer. Qiao ultimately won asylum. (Source: The Young Center for Immigrant Children's Rights)

For policies and programs to be effective in protecting children, we must recognize that there is no single victim "profile." Trafficked minors include youth who are pre-adolescents, adolescents and transition age; of any race and culture; US citizen and non- US citizen; accompanied and unaccompanied; male and female; heterosexual and LGBTQ; "tragically disadvantaged and apparently privileged."[24]

The social context can affect the extent to which a child is vulnerable – limited or lack of access to education, economic security and employment, positive social networks, health, safety, and housing are often precursors to subsequent exploitation under the OPSC, TVPA and TVPRA. Consequently, social context must be considered in creating victim-informed responses. For some youth, access to legal and safe employment will be a critical component to an effective service plan for a trafficked child. For others, reunification with family members and positive social support networks will play a critical role. As there is no single profile of a victim, the USG must provide diverse and flexible services to ensure children are successfully rehabilitated and not re-traumatized or re-exploited.

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[22] US Administration for Children and Families. (2016). ACF fact sheet. Washington, DC. Available at: https://www.acf.hhs.gov/sites/default/files/orr/orr_uc_updated_fact_sheet_1416.pdf

[23] Lillis, M. (2016). Illegal immigrant numbers skyrocket at Mexican border. The Hill. Available at: http://thehill.com/latino/278785-migrant-numbers-skyrocket-at-mexican-border

[24] Gibbs, D, Hardison Walters, J. L., Lutnick, A., Miller, S., & Kluckman, M. (2015). Evaluation of services for domestic minor victims of human trafficking. Submitted to the US Department of Justice. Available at https://www.ncjrs.gov/pdffiles1/nij/grants/248578.pdf

IV

PROHIBITION OF THE SALE OF CHILDREN, CHILD PORNOGRAPHY, CHILD PROSTITUTION, AND RELATED MATTERS

A. STATE LEVEL RESPONSES

While the TVPA and its subsequent reauthorizations prohibit labor trafficking and forced labor, efforts to prosecute these crimes by local governments and states are still deficient.

State-level policies, including Safe Harbor laws that decriminalize juvenile prostitution, allow some prior sentences to be vacated, and amend the definition of child abuse to include child trafficking, are promising measures to improve identification and recovery services. But these laws have limited impact for children who are victims of forced labor or labor trafficking. Most of these Safe Harbor laws provide protections *only* for sexually exploited youth, while children engaged in forced labor and labor trafficking remain unidentified and vulnerable to penalties (e.g., for peddling, engaging in forced criminality, or working while unauthorized or undocumented), detention, and further trauma.

B. IDENTIFYING FORCED CRIMINALITY AS FORM OF LABOR TRAFFICKING

As discussed above, both federal[25] and state-level Safe Harbor laws and policies recognize that children engaged in commercial sexual exploitation, including prostitution, should not be criminalized or penalized for their involvement in such activities, even though prostitution is considered an illegal activity in all US states but one. In many of these cases, a child is recruited and manipulated to engage in sexual acts and the adult perpetrator (or "trafficker") subsequently profits from the services performed by the child.

Advocates and NGOs around the country have identified similar fact patterns involving children coerced and/or forced to engage in criminal activities. In these cases, there is a promise of or an exchange of money, goods or services, in exchange for a child's labor in the form of compelled criminal activity. In other words, adults are profiting or receiving remuneration in exchange for the child's services via criminal acts. This includes (but is not limited to) the production and transportation of drugs, theft, peddling, and other crimes—all at the hands of adults who are using children for their own profit. A case example is presented below:

> *"Pedro" was 16 when he fled El Salvador. He had suffered months of harassment by local gang members, but decided to flee when they threatened to harm him. He traveled through Guatemala and Mexico, but as he neared the US border, he was kidnapped by armed men who took him to a drop house packed with other migrants. Pedro's kidnappers forced Pablo to call his mother and demanded that she send them money, but she was poor and unable to meet their demands. After three months of harassing Pedro's mother, the kidnappers lost patience and forced Pedro to work for them as a drug mule. Over the course of several weeks, Pedro's kidnappers forced him to make roughly ten trips across the US border transporting drugs. He tried many times to get away, but anytime he was outside of the drop house, he was escorted by armed guards. When Pedro finally succeeded in escaping, he was found by US border agents and taken into custody. He was so traumatized by his experience that it was five months before he confided in his federally appointed child advocate that he had been forced to carry drugs for his kidnappers. (Source: The Young Center for Immigrant Children's Rights)*

[25] Trafficking Victims Protection Act of 2000, 18 USC. §§ 1589-1594, codified as amended at 22 USC. §§ 7101-7110, 2152(d); Preventing Sex Trafficking and Strengthening Families Act. Pub. L. 113-183. 128 Stat. 1919, codified as amended at 42 USC. §1305. Available at: https://www.congress.gov/113/plaws/publ183/PLAW-113publ183.pdf

One recent study demonstrated that the dynamics of labor trafficking (including forced criminality) appear very similar to those of sex trafficking as traffickers exploit vulnerable people's desperation and isolation. In some cases, labor trafficked youth believed they were entering legitimate romantic relationships and were not immediately aware that criminal activity was involved. In other cases, youth were misled about the degree of danger and illegality involved in the acts there were encouraged to undertake. Most did not get paid what they were originally promised, and several saw coworkers physically harmed by the employers as a form of coercion. Similar to child sex trafficking, labor trafficked youth are often targeted to perform illegal tasks because of their age, vulnerability, and the perception that they will follow orders and are more easily manipulated.[26] Yet despite the similarities to sex trafficking, many children who are forced to perform labor or services for criminal networks, once identified, are treated as criminals instead of victims.

Moreover, child victims of sex trafficking and sexual exploitation are sometimes trafficked for labor engaging in forced criminality as well. In "An Evaluation of Services for Domestic Minor Victims of Human Trafficking" (2015), researchers surveying services provided by three NGOs across the country found that 5% of the youth involved in sex trafficking were *also* victims of labor trafficking—the youth were forced by their sex trade facilitator/trafficker to sell drugs or commit crimes like burglary.

Social science researchers have begun identifying parallels between the trauma effects of child soldiers (another recognized form of child trafficking) and youth involved in criminal networks. Like child soldiers, youth in gangs are often compelled, coerced, or forced to perpetuate violence against others and to commit crimes as part of their initiation or gang-related activities.[27] While trauma typically is understood as a result of victimization, children who are compelled or coerced to commit acts of violence can suffer post-traumatic reactions on a par with those who are victimized. The trauma profiles of gang-involved youth and youth involved in forced criminality are comparable to those of war veterans and child soldiers.[28] This has profound implications for how we should respond to children and youth engaged in forced criminality. A case example of this is presented below:

> *"Anderson" grew up in South Los Angeles. His childhood, he says, was "dangerous and scary as shit." "I carried a gun at the age of 7. I couldn't even shoot it or get my hand around the gun. From 7 to 12 is when I started seeing dead bodies on the ground and people being killed. They started sending me on top of buildings to watch for police." He was shot at several times, and says that when he was 11 he was kidnapped by rival gang members, tied up and held for ransom in a car trunk for 16 hours.*

We believe it is important to acknowledge that there is precedent in other countries for recognizing forced criminality as a form of labor trafficking. In 2013, a Court of Appeals in the United Kingdom struck down a lower court's 2011 ruling penalizing Vietnamese children forced to work on cannabis farms, and instead, held that the children were victims of labor trafficking.[30] In this case, boys and girls were forced to work as 'gardeners' for criminal gangs and were held inside cannabis producing greenhouses tending and watering the plants behind blacked-out windows with no ventilation. Therefore, both federal and state governments should carefully consider the similarities between sex trafficking and labor trafficking for forced criminality and implement policies and provide services that reflect those similarities.

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[26] Covenant House. (2013). Homelessness, survival sex, and human trafficking: As experienced by the youth of Covenant House New York. New York, NY. Available at: https://d28whvbyjonrpc.cloudfront.net/s3fs-public/attachments/Covenant-House-trafficking-study.pdf

[27] Klasen, F., Reissmann, S., Voss, C., & Okello, J. (2015). The guiltless guilty: trauma-related guilt and psychopathology in former Ugandan child soldiers. Child Psychiatry and Human Development, 46(2), 180–193. http://doi.org/10.1007/s10578-014-0470-6; Wainryb, C. (2011). "And so they ordered me to kill a person": Conceptualizing the impacts of child soldiering on the development of moral agency. Human Development, 54, 273-300. http://doi.org/10.1159/000331482

[28] Kerig, P. K., Wainryb, C., Twali, M. S., & Chaplo, S. D. (2013). America's child soldiers: Toward a research agenda for studying gang-involved youth in the United States. Journal of Aggression, Maltreatment & Trauma, 22(7), 773–795. http://doi.org/10.1080/10926771.2013.813883

[29] Zeltner, B. (2016). In Philadelphia, healing trauma is intense, difficult work. Cleveland.com. Available at: http://www.cleveland.com/healthfit/index.ssf/2016/06/in_philadelphia_healing_trauma.html

[30] British Broadcasting Company. (2013). Vietnamese trafficking victims win appeal against convictions. Available at: http://www.bbc.com/news/uk-22999230

V

PROTECTION OF RIGHTS OF VICTIMS OF LABOR TRAFFICKING AND/OR SALE OF CHILDREN FOR PURPOSE OF FORCED LABOR

1. Rights of Children as Victim-Witnesses

The USG is implementing practices to protect and identify child trafficking victims. In its Federal Human Trafficking Strategic Plan, the USG has set an objective to "increase victim identification through coordinated public outreach and awareness efforts." [31] This is a broad effort to make the general public more aware of human trafficking as a whole, and is supported by various federal activities directed at victim identification including awareness events, public outreach, and public service announcements. The Justice for Victims of Trafficking Act of 2015 ("JVTA") also expands the statute of limitations for civil actions by child trafficking survivors, and establishes a report on restitution paid in connection with trafficking offenses. New state "Safe Harbor" laws are now treating children who were largely treated as offenders under most state laws (i.e. juvenile prostitutes) as victims of a crime. As of 2016, 34 states have some version of a Safe Harbor Law, and more states are likely to pass similar statutes. [32]

Safe Harbor laws create not only a larger pool of children who are identified as victims of crime, but children engaged as *victim-witnesses* within criminal justice proceedings involving the investigation and prosecution of their perpetrators. A victim-witness is an individual harmed as a result of a crime who serves as a witness against the person accused of the crime. A child victim-witness is under the age of majority and engages in a similar role, but due to their age and vulnerability, requires additional protections. Child victim-witnesses who are victims of trafficking require specific care that is distinct from the needs of trafficked children generally because participation in the legal proceedings exposes children to a risk of harm.[33] Interviews with law enforcement agents can be traumatizing for a child, as can serving as a victim-witness during court proceedings. The latter may require a child to testify against their perpetrator and be cross-examined by defense counsel, which can be highly traumatizing.

The Trafficking Victims Protection Reauthorization Act ("TVPRA") states that child trafficking victims are entitled to safety, privacy, information about their case, legal representation, the opportunity to be heard, and restitution.[34] These important TVPRA provisions, however, are difficult to implement without an attorney's assistance. The legal needs of child trafficking victim-witnesses are broad and may require multiple legal experts. For example, an undocumented child will need an immigration attorney, but the immigration attorney may not have civil or criminal justice expertise. If a child is involved in child protection proceedings, they may be assigned a Guardian Ad Litem (GAL), or child advocate. Even if a GAL is assigned, they may not be fully prepared to serve the comprehensive needs of child trafficking victims engaged as victim-witnesses, which often requires both crime victim and criminal justice expertise. As part of a criminal investigation or subsequent trial, children may be asked to participate in multiple interviews with investigators or prosecutors, or to face the perpetrator in a courtroom. Legal representation is not only important for trafficking victims in general, but particularly essential for child victim witnesses because of the risks they face,

[31] US Office for Victims of Crime, Department of Justice, Department of Health and Human Services, & Department of Homeland Security. (2014). The federal strategic action plan on services for victims of human trafficking in the United States 2013-2017. Washington, DC. Available at: http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf.

[32] National Conference of State Legislatures. (2014). Human trafficking overview. Available at: http://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-overview.aspx

[33] Dottridge, M, (2003). Reference guide on protecting the rights of child victims of trafficking in Europe. UNICEF: Geneva, Switzerland. Available at: http://www.unicef.org/ceecis/UNICEF_Child_Trafficking_low.pdf.

[34] Protection and Assistance for Victims of Trafficking, Pub. L. 114-38, 22 US Code § 7105. Available at: https://www.law.cornell.edu/uscode/text/22/7105

including re-traumatization, when such services are not provided.[35] While some improvements have been made to improve access to legal counsel or advocates for children who are victims of trafficking, it should be mandated that *all* children who are suspected of being a victim of a crime under the OPSC, TVPA, and TVPRA be provided an attorney and/or legal advocate to ensure their rights are protected as victim-witnesses.

For example, one critical right and protection offered to both child and adult trafficking victims under federal and many state statutes is restitution or compensation for the value of services performed as part of the exploitation or trafficking. Restitution compensates victims for the harm suffered and enables them to pay for educational, medical, and mental health expenses stemming from that harm. In a study of human trafficking cases between 2009 and 2012, it was found that restitution was awarded in only 36 percent of cases. Over the four-year period, $3.5 million was ordered to victims in 15 labor trafficking cases, and $7.8 million was awarded in 53 sex trafficking cases. A key indicator of whether or not restitution would be awarded was whether or not the prosecutor requested it.[36] We do know that in cases where children have access to an advocate or counsel, however, their access to remedies and protections exponentially increases. For example, of unaccompanied minors who are represented, 73% receive immigration relief, as compared to just 15% of those who are unrepresented.[37] In another case, *US V. Lewis*, the court appointed a GAL to represent trafficked minors. The GAL, a pro bono attorney, submitted an expert witness report documenting the extensive evidence of other harms the children had suffered. The court ordered restitution for, not only the defendant's income obtained through the victims' services, but also additional funds to cover medical, psychiatric, and educational expenses that the expert witness determined the children would incur during their recoveries. The court sentenced the defendant and ordered him to pay $3,892,055 in restitution to four child victims.[38]

2. Unaccompanied Immigrant Children—Identifying and Protecting Children Sold for Forced Labor

Another challenge the USG faces in combatting child labor trafficking is identifying and protecting the many unaccompanied immigrant children that are trafficked for labor. There are no statistics regarding the number of unaccompanied children sold for labor, as a number of factors inhibit identification of such cases. For example, a child's fear of deportation and the effects of severe trauma can prevent him or her from being forthcoming with government officials. In some cases, a child may not even know he or she has been trafficked until after being released from custody to the traffickers. In other cases, the children have been expressly coached to deny that they were trafficked.

Moreover, unaccompanied immigrant children often lack legal representation in the immigration process and once released, they receive little assistance and have access to few resources. As a result, these children risk reentry into the abusive cycle of labor trafficking upon release from custody.[39] While the Office of Refugee Resettlement (ORR) has created a national helpline that released children can call if they are in need of protection, in practice, it is not clear that children understand the purpose of the hotline or what resources are available to them if they call the hotline.

Without legal representation, many unaccompanied immigrant children struggle to obtain protection under the law. The TVPA applies to severe forms of trafficking in persons, considered to be either (a) sex trafficking or (b) the "recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion *for the purpose of* subjection to involuntary servitude, peonage, debt bondage, or slavery."[40] When invoked, the TVPA and TVPRA provide several protections under the law. These protections include eligibility for short term immigration relief, including parole and continued presence, and longer term immigration relief, including a T-nonimmigrant ("T Visa") which allows

[35] Kaufka Walts, K., Rio Reichmann, L., & Lee, C. (2013). Legal services assessment for trafficked children: a Cook County, Illinois case study.) Center for the Human Rights of Children: Chicago, IL. Available at: http://ecommons.luc.edu/chrc/6

[36] Levy, A., Vandenberg, M. (2014). When "mandatory" does not mean mandatory: Failure to obtain criminal restitution in federal prosecution of human trafficking. The Human Trafficking Pro Bono Legal Center & Wilmer Cutler Pickering Hale and Dorr, LLP. Available at: https://www.wilmerhale.com/uploadedFiles/Shared_Content/Editorial/Publications/Documents/Human-Trafficking-When-Mandatory-Does-Not-Mean-Mandatory-2014.pdf

[37] American Bar Association Commission on Immigration. (2015). A humanitarian call to action: Unaccompanied children in removal proceedings. Available at: http://www.americanbar.org/content/dam/aba/administrative/immigration/UACSstatement.authcheckdam.pdf

[38] United States v. Lewis, 791 F. Supp. 2d 81, 81 (D.D.C. 2011)

[39] VanSickle, A. (2016). Overwhelmed federal officials released immigrant teens to traffickers in 2014, The Washington Post. Available at https://www.washingtonpost.com/national/failures-in-handling-unaccompanied-migrant-minors-have-led-to-trafficking/2016/01/26/c47de164-c138-11e5-9443-7074c3645405_story.html

[40] TVPA § 7102(8)(a)-(b), as cited by Giampolo, A. D. (2006). The Trafficking Victims Reauthorization Act of 2005: The latest weapon in the fight against human trafficking, Temple Political and Civil Rights Law Review. 195(16). [emphasis added].

trafficking victims to stay in the United States if they would suffer "extreme hardship involving unusual and severe harm" if returned to their home country.[41] Under section 101(a)(15)(T)(i) of the Act, and subject to section 214(n) of the Act, the Service may classify an alien, if otherwise admissible, as a T-1 nonimmigrant if the alien demonstrates that he or she: (1) Is or has been a victim of a severe form of trafficking in persons; (2) Is physically present in the United States, American Samoa, *or at a port-of-entry* thereto, on account of such trafficking in persons; [emphasis added].

In practice, it is very difficult to establish eligibility for protection for a migrant child who has been sold (as defined by the OPSC), who is apprehended at a border *before* the child has been delivered to the work site. While some progress has been made with the USG issuing more letters of eligibility for benefits to children who both have been trafficked and those who are in the US *for the purpose* of being trafficked or sold for forced labor, there should be clearer guidance for both governmental agencies and immigration practitioners about eligibility for interim protections for both cohorts of children and youth. Denying these children protection compromises the OPSC and TVPA objectives of protecting victims and preventing re-victimization and sale of children for forced labor.

[41] Trafficking Victims Protection Act of 2000, 18 USC. §§ 1589-1594, codified as amended at 22 USC. §§ 7102(8)(a)-(b).
[42] To become eligible for federally funded benefits and services, a child victim who is neither a US citizen nor a lawful permanent resident (LPR) must have an Eligibility Letter or an Interim Assistance Letter from the HHS Office of Refugee Resettlement (ORR). An individual can request a letter of eligibility from ORR on behalf of a child when credible information indicates the child may be a victim of trafficking. A letter of eligibility is not a visa or form of immigration relief.

V

CONCLUSION AND RECOMMENDATIONS

We commend the enactment of strong laws and actions to protect the rights of child victims and prosecute offenders of the OPSC, TVPA, and TVPRA. These efforts include the following:

1. US Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States.
The plan includes several initiatives to promote research, services, and policies affecting all victims of trafficking and sets out specific initiatives directed for efforts involving child victims.

2. US Advisory Council on Human Trafficking.
The Council, established under the Obama administration and consisting of 11 survivors of labor and sex trafficking, provides survivors with a formal avenue to provide input on the USG's anti-trafficking measures.

3. Office of Trafficking in Persons (OTIP).
OTIP was created under the Administration of Children and Families to collaborate with Federal partners and other government and non-government stakeholders to raise public awareness, identify research priorities, and make policy recommendations to enhance anti-trafficking responses.

4. Implementation of ORR HelpLine.
Unaccompanied children remain vulnerable throughout the duration of their removal proceedings, even after release to a sponsor, but they might not contact state child protective services for fear a family member will be referred to immigration enforcement. Recognizing this, in 2015, ORR developed a HelpLine for children released from custody. Providing an avenue for children to ask for assistance can be crucial to ensuring each child's long-term safety and well-being.

5. Development of a Framework for the Consideration of the Child's Best Interests.
The Interagency Working Group on Unaccompanied Children has worked with non-governmental agencies, practitioners, academics and other experts to develop a framework for incorporating a child's best interests into every stage of the immigration process.

6. Enhanced Services for Runaway and Homeless Victims of Youth Trafficking under the Justice for Victims of Trafficking Act.
While the JVTA has not yet been implemented, we commend the USG for recognizing the vulnerability of juvenile homeless and runaway youth to human trafficking and offenses under the OPSC. Increased services to this population recognizes root causes and can be an effective approach to prevention.

7. HHS Guidance to States and Services on Addressing Human trafficking of Children and Youth in the United States (2013).
This guidance includes child labor trafficking as a form of child trafficking.

RECOMMENDATIONS

1. Ratify the Convention on the Rights of the Child (CRC).
The USG should take prompt action to ratify the Convention on the Rights of the Child as one of the main instruments for creating a protective environment for all children. Many of the tenets of the CRC came from US law and fit with existing state child protection principles.

2. Ensure legislative, policy, and research efforts address both labor and sexual exploitation of children.
Ensure all legislation engaging public systems, including education and child welfare systems, is designed to identify and respond to both sex and labor trafficking of children as part of their mandate for training, data collection, and services. Amend the Protecting Children from Sex Trafficking and Strengthening Families Act to include child labor trafficking.

3. Create a line item in the DOL budget for child labor enforcement.
Conduct investigations of work sites that traditionally hire children: restaurants, child care, nail salons, landscaping companies, child care and farms/agriculture.

4. Improve labor standards as applied to child labor to prevent egregious forms of child labor, including sale of children for the purpose of forced labor and labor trafficking.

5. Improve protections for children entering the United States for the purpose of labor trafficking and provide clarity as to how these cases should be treated under the OPSC and TVPA.
For children arriving from parts of the world known for debt-labor exploitation, offer children a meaningful opportunity to apply for protection.

6. Incorporate a best interests standard into the Immigration & Nationality Act.
For children under the age of 18, US law should incorporate the best interests standard, requiring that all decision makers, including immigration judges, asylum officers and immigration authorities consider the child's best interests in rendering decisions.

7. Recognize forced criminality as a form of forced child labor and labor trafficking.
Like child soldiers and sex trafficking victims, children are often recruited, sold, exchanged, compelled and/or forced to perform criminal activities for the benefit of an adult that profits or is otherwise remunerated. These victims should be recognized as such and provided the same services and protections under the law.

8. Ensure federal activities directed at victim identification include identifying all forms of child labor trafficking.
Improve inter-agency coordination among local, state, and federal agencies—especially those that work with children such as child protection/child welfare, education, and juvenile justice systems—and ensure training programs address all forms of child trafficking, including labor trafficking, and rights of children.

9. Provide attorneys and independent child advocates at government expense for all unaccompanied children subject to deportation.
Providing attorneys and independent child advocates (whose role is to advocate for the child's best interest) to all unaccompanied children will result in more effective identification of child trafficking and OPSC victims, and aid victims in navigating the complex US immigration system as they pursue legal relief.

10. Ensure all children, including US citizen and non- US citizen, identified as a potential victim-witness in a human trafficking case are assigned a Guardian Ad Litem, child advocate, or attorney to represent their best interests and ensure protections under the TVPA, OPSC, TVPRA and other relevant statutes, including crime victim statutes.

We strive for a world in which no child, whether in the United States or abroad, is commercially exploited for labor or sex. As members of civil society in the United States and as critical stakeholders in this enormous endeavor, we hope to help guide the UNCRC and ultimately US policy makers toward the next steps needed to protect children from labor trafficking and forced labor, and we look forward to continued progress toward ending the exploitation of children in all forms.