



Freedom Network USA

February 8, 2024

VIA EMAIL to tipreportUS@state.gov

TIP Ambassador Cindy Dyer
US Department of State
Office to Combat and Monitor Trafficking in Persons (JTIP)
2201 C Street NW, SA-09 Suite NE3054
Washington DC 20520

RE: Freedom Network USA’s Input for the 2024 Trafficking in Persons Report

Dear Ambassador Dyer:

Freedom Network USA (FNUSA), established in 2001, is a coalition of 104 non-governmental organizations and individuals that provide services to and advocate for the rights of trafficking survivors in the US. Since the enactment of the Trafficking Victims Protection Act of 2000 (TVPA), FNUSA members have worked to ensure that trafficking survivors receive the full array of legal and social services needed and that they are engaged in ensuring effective implementation of the law. FNUSA members include survivors who experienced both sex and labor trafficking in the US, civil attorneys who have brought cutting-edge lawsuits against traffickers, criminal attorneys who have represented survivors wrongly charged with a crime, immigration attorneys who have represented hundreds of individuals granted T and U visas, and social service providers who have assisted thousands of survivors — both US citizens and foreign nationals, and minors and adults, across the gender spectrum.

FNUSA offers the following information about the challenges facing the US Government in our shared mission to address human trafficking in the US. Although our comments are not an exhaustive list of all US Government efforts that impact human trafficking, we focus on those about which we have the most information and experience.

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Information Relevant to the Minimum Standards

Overview

1. Major Accomplishments

Significant but insufficient steps have been taken to reverse the targeting, scapegoating, and denial of services to immigrants seeking to enter the US or live safely in the US. FNUSA provided recommendations for multiple critical actions in December 2020.¹ Multiple reports have documented the reversal of many of the most egregious policies, including the ‘Muslim ban,’ revisions to public charge, and revocation of the NTA policy.² It is also notable that the HHS Office of Refugee Resettlement is taking a much less harmful approach to its role in protecting

¹ Freedom Network USA, *Human Trafficking Policy Recommendations for Immediate Action From the Biden-Harris Administration*, 12/17/2020,

<https://freedomnetworkusa.org/app/uploads/2020/12/FNUSATransitionMemoBiden17Dec2020.pdf>

² American Immigration Lawyers Association, *Still Striving- The First Year of the Biden Administration*, 1/19/22, <https://www.aila.org/infonet/biden-administration-immigration-actions-progress>

UACs and no longer denies UACs access to comprehensive medical care. However, many harmful policies remain and have been proposed that continue to put migrants at risk of trafficking and deny protection and services to trafficking victims who are unable to enter the US or fear coming forward once in the US due to their treatment at the border.³

The median processing time for T Visas was 14 months, up from 12.3 in FY23, but still below the 18-month median from years prior.⁴ USCIS approved the highest number of T Visas in any fiscal year, with 2,181 approvals in FY 2023 compared to 1,715 in FY 2022. However, denials were also up from last year with 638 in FY 2023 and 389 in FY 2022. USCIS received nearly triple the number of applications with 8,598 in FY 2023 and 3,070 in FY 2022. This did not help with the backlog of cases as 9,394 cases remained pending at the end of 2023, compared to 3,490 in 2022.⁵

In January, 2023, new guidance on Deferred Action for workers reporting labor violations was rolled out after many years of advocacy from workers' rights organizations. Deferred Action for Labor Enforcement (DALE) has provided an essential protection for workers so they can more safely report workplace labor rights abuses without fear of deportation. This program has resulted in greater access to Deferred Action and faster processing times for applications, but systemic barriers have prevented full access to this lifesaving benefit.⁶ The program has also highlighted the huge barriers to obtaining Continued Presence (CP) for survivors of trafficking. FNUSA members report they have had to turn to DALE instead of CP to help survivors access immigration relief after reporting being exploited, because law enforcement refuses to request CP in cases where survivors are eligible.

The US Department of Justice (DOJ) Office for Victims of Crime (OVC) has improved access to services and protection for trafficking survivors. A training and technical assistance grant for legal providers to improve victims' rights enforcement and criminal record relief assistance was added to help enhance the quality of legal services available to survivors. After advocates with lived experience reported to OVC that they were unable to apply for the Human Trafficking Fellowship Program due to the System for Award Management (SAM) physical address requirement. OVC quickly responded with new guidance for survivor applicants to apply without using SAM within three days.

The US Department of Health and Human Services (HHS) Administration for Children and Families (ACF) created a new working group to address forced labor in healthcare and public

³ KIND, *The First Year of the Biden Administration's Policies on Unaccompanied Children*, January 2022, <https://supportkind.org/wp-content/uploads/2022/01/One-year-review-report-1-11-21-FINAL.pdf>

⁴ USCIS, *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms By Fiscal Year*, <https://egov.uscis.gov/processing-times/historic-pt>

⁵ USCIS, "Number of Form I-914, Application for T Nonimmigrant Status By Fiscal Year, Quarter, and Case Status," 1/2024, https://www.uscis.gov/sites/default/files/document/data/i914t_visastatistics_fy2023_q4.pdf

⁶ National Immigration Law Center, *Building Worker Power Through Deferred Action: a Report on the First Year*, 1/12/2024, <https://www.nilc.org/news/special-reports/deferred-action/>

health supply chains.⁷ The working group is the first of its kind within the federal government to focus on developing tools and resources to help the healthcare sector prevent, identify, and address forced labor in its supply chains.

2. Greatest Deficiencies

Overall, the US government fails to directly address the systemic factors that enable trafficking. The US response has focused mostly on protection and prosecution, while continuing to support the policies and systems that protect profits over workers, abusers over victims, and economic growth over health and safety. The US must develop a framework for primary prevention and commit to its implementation.

In 2022, the US Congress failed to fully reauthorize the TVPA, the critical legislative framework for the US anti-trafficking response. In 2023, Congress failed again to pass the remaining reauthorizations for the DOJ and HHS Victim Services programs, two of the biggest programs serving survivors in the United States. The bills that have been introduced have been delayed, and include funding authorizations for these two programs that are significantly lower than the budgets needed to serve the growing number of survivors seeking services in the US.

The US Government must also improve its implementation of the protections outlined in the TVPA. Law enforcement rarely requests Continued Presence for immigrant survivors of human trafficking, leaving them unprotected for years while their T Visas are pending. Survivors who have been granted T Visas face long waits to obtain Social Security Numbers and issues accessing public benefits when SSNs are delayed or not recognized by the appropriate agencies. Sex trafficking survivors continue to be denied restitution, even in federal cases where restitution is mandatory.

Federally funded services remain time-limited, focused only on immediate crisis intervention, leaving survivors of all nationalities struggling to heal from their experience fully. In addition, a new grant cycle for the Trafficking Victims Assistance Program funded by the HHS Office on Trafficking in Persons (OTIP) began in October 2022, but the grantee and OTIP failed to transition the program properly. The program ended abruptly at the end of September with little warning for service providers and clients. Only after direct advocacy by FNUSA with OTIP were survivors re-enrolled in the program in November, but not without experiencing distress and loss of trust in the program's providers.⁸ In 2023, the grant program provided significantly less funding and utilized an unpredictable funding structure that made it difficult for grant-funded providers to help clients meet their basic needs.

⁷ Administration for Children and Families, "ACF Announces New Public-Private Working Group to Address Forced Labor in Healthcare and Public Health Supply Chains," 1/26/2023, <https://www.acf.hhs.gov/media/press/2023/media/acf-announces-new-public-private-working-group-address-forced-labor>

⁸ Freedom Network USA, *Letter to OTIP: Disruptions to TVAP Funding for Human Trafficking Survivors*, 10/26/2022, <http://freedomnetworkusa.org/app/uploads/2022/12/TVAP-Urgent-Letter-to-HHS-Oct2022.pdf>

The US continues to criminalize victims, including sex and labor trafficking survivors, for the crimes they are forced to commit by their traffickers. Survivors of both sex and labor trafficking are being criminalized for a wide variety of offenses across the US. Survivors are left with charges in multiple jurisdictions with varying criminal record relief options.⁹ There continues to be no criminal record relief for federal convictions, leaving many survivors stuck with felony records even after they have managed to vacate or expunge state-level records.¹⁰ FNUSA's Survivor Reentry Project¹¹ is supporting over 146 survivors working to clear criminal records of a total of over 1315 charges, including Prostitution (50%), Drug Offenses (10%), Theft/Larceny (9%), Trespass/Loitering (6%), Forgery/false Documents (5%), Assault/Battery (3%), Robbery (2%), and Other (15%).

Credit reporting agencies began accepting requests for adverse credit information related to trafficking to be removed from credit reports following the 2022 final rule from the Consumer Financial Protection Bureau. While the rule presents a new opportunity for survivors to remedy some of the financial harms of trafficking and access previously blocked economic opportunities, there are few resources available to assist survivors in filing the documentation with credit reporting agencies, creating barriers to access for many.¹² Implementation has been difficult as survivors without legal representation have faced significant hurdles to obtaining victim determination documentation and unjust denials of documentation by credit reporting agencies.

The US Government continues to restrict access to humane asylum and is considering implementing immigration policies that will only put migrants in danger and create vulnerabilities to trafficking. Policies like Remain in Mexico, mandatory detention,¹³ and expedited removal may all be implemented in the near future. These policies undermine due process, force people back into dangerous conditions where they are likely to be harmed or killed, and make people vulnerable to human trafficking.

3. Additional Information/Recommendations

FNUSA provided recommendations for immediate actions that the US Government could implement to improve the US response to human trafficking, including recommendations for

⁹ Freedom Network USA, *Criminal Record Relief Laws for Survivors*, <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

¹⁰ KB White, Freedom Network USA, *Impact of Arrest and Conviction Histories on Trafficking Survivors*, 12/6/2021, <https://freedomnetworkusa.org/2021/11/10/impact-of-arrest-and-conviction-histories-on-trafficking-survivors/>

¹¹ Freedom Network USA, <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

¹² FNUSA, *Freedom Network USA's Response to Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking*, Docket No. Bureau-2022-0023 or RIN 3170-AB12, 5/9/2022, <https://freedomnetworkusa.org/app/uploads/2022/05/FNUSACommentsCFPBAdverseInformationRule9May2022.pdf>

¹³ Human Rights First, "Mandatory Detention is Cruel, Unnecessary, and Wasteful," 12/2023, https://humanrightsfirst.org/wp-content/uploads/2023/12/Mandatory-Detention_-Dec-2023.pdf

specific federal agencies as well as whole of government actions in its 2020 Transition Memo.¹⁴ Many of these have not been prioritized. Continued attempts to institute an asylum ban and more restrictive immigration proceedings, attacks on LGBTQ+ rights across the country, the continued criminalization of sex work, the dismantling of reproductive rights, and the lack of reform of visas that are easily exploited by traffickers have created and exacerbated vulnerabilities to human trafficking across the country. Without sustained efforts to fix these issues, the US will not make significant progress toward preventing trafficking.

4. Effective Strategies/Best Practices

Worker-driven social responsibility¹⁵ shows promise when the government refuses to act. The Coalition of Immokalee Workers Fair Food Program¹⁶ and Milk with Dignity¹⁷ are two examples of successful implementation of this approach in agricultural sectors in the US. Additionally, California's Little Hoover Commission has issued a series of reports laying out what should be done at the state level to identify labor trafficking¹⁸, coordinate a state-wide response¹⁹, and help victims.²⁰

Prosecution

5. Implementation of Laws, Policies, and Procedures

US law characterizes most employment-related violations as civil, and not criminal, violations. Additionally, labor protections vary by jurisdiction, making it difficult for workers to understand and protect their rights. With limited funding for enforcement by the US Department of Labor (DOL) and US Equal Employment Opportunity Commission (EEOC), workers, especially low-wage workers, are left with few protections.²¹ DOL's Wage and Hour Division (WHD) has demonstrated a commitment to investigating child labor violations, but has not received a funding increase that would allow for sufficient investigators to increase its investigation

¹⁴ Freedom Network USA, *Human Trafficking Policy Recommendations for Immediate Action From the Biden-Harris Administration*, 12/17/2020,

<https://freedomnetworkusa.org/app/uploads/2020/12/FNUSATransitionMemoBiden17Dec2020.pdf>

¹⁵ Worker-Driven Social Responsibility Network, *What is WSR?*, <https://wsr-network.org/what-is-wsr/>

¹⁶ Worker-Driven Social Responsibility Network, *Fair Food Program*, <https://wsr-network.org/success-stories/fair-food-program/>; Fair Food Program: The Power of Prevention, <https://fairfoodprogram.org/>

¹⁷ Worker-Driven Social Responsibility Network, *Milk with Dignity*, <https://wsr-network.org/success-stories/milk-with-dignity/>

¹⁸ Little Hoover Commission, *Report #251 Labor Trafficking: Strategies to Uncover this Hidden Crime*, September 2020, <https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/251/Report251.pdf>

¹⁹ Little Hoover Commission, *Report #250 Human Trafficking: Coordinating a California Response*, June 2020, <https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/250/Report250.pdf>

²⁰ Little Hoover Commission, *Report #252 Labor Trafficking: Strategies to Help Victims and Bring Traffickers to Justice*, October 2020, <https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/252/Report252.pdf>

²¹ Elizabeth Warren and Ro Khanna, *CNN Business Perspectives*, *10 Worker Protections that Should be in the US Government's Next Aid Package*, 5/13/2020, <https://www.cnn.com/2020/05/13/perspectives/stimulus-package-worker-protections/index.html>; Celine McNickolas and Margaret Poydock, *Economic Policy Institute Working Economics Blog*, *We Need an Essential Workers Bill of Rights*, 5/5/2020, <https://www.epi.org/blog/congress-must-include-worker-protections-in-the-next-coronavirus-relief-bill-we-need-an-essential-workers-bill-of-rights/>

capacity.²²

The US Government's immigration policies put immigrants and migrant workers at high risk of labor trafficking. At the same time, the government also fails to invest in the identification and prosecution of labor trafficking.²³

Recommendation: *The US government should provide dedicated funding for DOL and EEOC to develop effective programs to identify and support trafficking survivors within their areas of expertise and existing authorities. The US Government should expand the authorities of DOL and EEOC to better detect, deter, and prosecute labor trafficking. The WHD should be expanded to include enough investigators to properly investigate cases and be provided with sufficient funding to fulfill its mandates. The US Government should reform employment-related immigration categories to ensure that workers have the ability to escape abuse and exploitation without fear of harm. The DOL should release new guidance restoring authority for DOL investigators to file applications for Continued Presence for immigrant survivors of human trafficking that they identify in the course of their work without requiring that they refer the case to another agency.*

6. Understanding of all Forms of Trafficking

The US Government routinely fails to understand, identify, respond to, and address child labor trafficking, choosing to focus primarily on the sex trafficking of minors.²⁴ The Trafficking Victims Prevention and Protection Reauthorization Act of 2022²⁵ required child welfare agencies to collect data, train staff, and report on labor trafficking, which was previously left out of federal law. 2023 was the first year child welfare agencies had to implement this requirement and there are few resources and guidelines for agencies to ensure implementation is consistent.

In the last five years, the US Government has failed to identify all trafficking victims in the child welfare system due to this focus on sex trafficking. A report by Coalition to Abolish Slavery & Trafficking (CAST) highlights the disparate treatment of child labor and sex trafficking victims in the child welfare system in California, which provides an example of what is happening across

²² Departments of Labor and Health and Human Services, "Departments of Labor and Health and Human Services Announce New Efforts to Combat Exploitative Child Labor," 2/27/2023, <https://www.hhs.gov/about/news/2023/02/27/departments-labor-and-health-and-human-services-announce-new-efforts-combat-exploitative-child-labor.html>

²³ Freedom Network USA, Input to UN Special Rapporteur on Forced Labor in Agriculture, 1/31/2022, <https://freedomnetworkusa.org/app/uploads/2022/02/FNUSAInputLaborTraffickingAgricultureUNSpecialRapporteur-January2022.pdf>

²⁴ Freedom Network USA, Input to UN Special Rapporteur on Forced Labor in Agriculture, 1/31/2022, <https://freedomnetworkusa.org/app/uploads/2022/02/FNUSAInputLaborTraffickingAgricultureUNSpecialRapporteur-January2022.pdf>; Center for the Human Rights of Children, Loyola University Chicago School of Law, NGO Input to the Special Rapporteur on Contemporary Forms of Slavery, 4/22/2021, <https://freedomnetworkusa.org/app/uploads/2021/10/NGOInputonChildLaborTrafficking.pdf>

²⁵ 42 USC 5106(g)(b)(1)

the US.²⁶ Protections for children within the system are also insufficient to prevent trafficking by foster parents and ensure safe placements for all children.

Recommendation: FNUSA calls on the US Government to provide guidance for child welfare agencies on identifying potential labor trafficking and connecting children with services. States must ensure their child welfare systems prevent, identify, and serve victims of all forms of trafficking. Additionally, FNUSA calls on HHS to expand the National Advisory Committee on the Sex Trafficking of Children and Youth to include both sex and labor trafficking and to include questions on child labor trafficking in the survey of 50 states conducted by this Committee.²⁷

7. Overall Anti-Trafficking Law Enforcement Efforts

As FNUSA continues to note, the US Government needs to increase its investigation and prosecution of labor trafficking. In FY22, the DOJ initiated a total of 162 federal human trafficking prosecutions, a significant decrease from 228 prosecutions in FY21.²⁸ DOJ charged 310 defendants in FY22, down from 347 in FY21, and a dramatic decrease from a recent high of 553 defendants in FY17.²⁹ The cases continue to involve predominantly sex trafficking (155 prosecutions), with only 7 prosecutions involving predominantly labor trafficking, which is less than half of the labor trafficking cases in each of the last four years.³⁰ FNUSA remains concerned about the disturbingly low number of investigations and prosecutions involving labor trafficking compared to sex trafficking. The available data indicates that approximately 96% of DOJ's prosecutions and convictions are for sex trafficking cases, and only 4% are for labor trafficking cases.³¹

However, service providers tell a very different tale of human trafficking in the US, identifying far higher percentages of labor trafficking victims. FNUSA members are serving a much more balanced division of cases, reporting that 48% of their clients were survivors of sex trafficking, 43% were survivors of labor trafficking, and 7% were survivors of both.³² DOJ's human trafficking services grantees served 16,390 trafficking survivors from July 2021 to June 2022, a significant increase from 10,070 in the prior year; 62% were victims of sex trafficking, 21% labor trafficking, and 8% both sex and labor trafficking.³³ This distribution was very similar to the previous year. HHS-funded service providers reported that the majority of foreign national trafficking survivors they supported were labor trafficking survivors (62% labor, 20% sex

²⁶ CAST, *Child Labor Trafficking in California*, October 2019, <https://www.castla.org/wp-content/uploads/2019/11/ChildLaborTraffickinginCANov2019final.pdf>

²⁷ Freedom Network USA, Input on National Advisory Committee on the Sex Trafficking of Children and Youth in the United States Recommendations and State Self-Assessment Survey, 10/30/2020, <https://freedomnetworkusa.org/app/uploads/2020/11/FNUSACommentsStateSurveyOMBOct2020.pdf>

²⁸ 2023 TIP Report.

²⁹ 2023 TIP Report.

³⁰ 2023 TIP Report.

³¹ 2023 TIP Report.

³² Freedom Network USA 2022 Member Report, data reflecting services provided from 1/1/19 to 12/31/20, https://freedomnetworkusa.org/app/uploads/2021/12/FRN_21121-Member-Report-2021_Final.pdf.

³³ 2023 TIP Report.

trafficking, and 12% labor and sex). The distribution of US Citizen and Lawful Permanent Resident survivors included 93% sex trafficking survivors, 1% labor, and 3% both sex and labor trafficking, with 3% unknown.³⁴

It is notable that while labor trafficking survivors are primarily foreign nationals, sex trafficking cases are more likely to have US citizen survivors. The US Government continues to invest, focus, and act primarily to protect US nationals and fails to protect foreign nationals equally.

Law enforcement has relied on a set of indicators of potential trafficking to investigate online advertisements for potential human trafficking. These indicators are widespread and have previously not received much study into their efficacy. These indicators are even used by financial institutions to shut down accounts and prevent sex workers acting legally from accessing their payments. Recently, the DOJ National Criminal Justice Reference Service published a study assessing the likelihood of often-used indicators to point to human trafficking or to consensual sex work. Many of the indicators commonly used to trigger human trafficking investigations were found not to be significant predictors of human trafficking.³⁵

Recommendation: *Based on these data, FNUSA notes that survivors of forced labor, especially immigrants, cannot rely on the US Government to obtain justice and compensation. We call on the US Government to assess and address the reasons for the lack of investigation into labor trafficking, and the associated failure to protect immigrant trafficking survivors. The methods used by federal and state law enforcement to investigate potential human trafficking should be thoroughly evaluated to ensure resources are not wasted, and potential harms to sex workers and trafficking victims are limited.*

8. Efforts to Investigate/Prosecute Knowingly Soliciting or Patronizing a Sex Trafficking Victim

US law enforcement agencies routinely fail to differentiate between consensual sex work and sex trafficking, falsely using the term “trafficking” to describe arrests of consensual sex workers and those soliciting and patronizing consensual sex workers.³⁶ Arrests of sex buyers and sex workers do not end in sex trafficking convictions. However, law enforcement agencies generally fail to provide the data needed to understand the impact of most raids, including how few end in conviction and how many lead to false arrests or arrests of victims.

³⁴ 2023 TIP Report.

³⁵ Kristina Lugo-Graulich and Leah Meyer, NCJRS, *Law Enforcement Guide on Indicators of Sex Trafficking in Online Escort Ads*, 12/2022, <https://www.ojp.gov/pdffiles1/nij/grants/305699.pdf>

³⁶ Leila Goldstein, WYSO, *The Ohio AG Says Stings Rescue Trafficking Victims. Often That Means They're Arrested.*, 10/18/2021, <https://www.wyso.org/local-and-statewide-news/2021-10-18/the-ohio-ag-says-stings-rescue-trafficking-victims-often-that-means-theyre-arrested>; Fox News Staff, Fox 13, *Over 100 Arrested in Polk County Undercover Human Trafficking Sting*, 10/28/2021, <https://www.fox13news.com/news/over-100-arrested-in-polk-county-undercover-human-trafficking-sting> (noting that “among those suspects were 36 individuals who offered to commit prostitution” and “62 suspects who solicited prostitutes”); Edhat Santa Barbara, *Sheriff's Detectives Conduct Human Trafficking Sting Operation*, 11/16/2021, <https://www.edhat.com/news/sheriffs-detectives-conduct-human-trafficking-sting-operation> (noting that “a total of 3 women engaged in the sales of sex acts were contacted and 4 sex buyers were arrested”)

The US Government continues to support this approach, known as the End Demand or Abolitionist approach, despite the harm being caused. Arresting those engaged in consensual transactions between adults does not identify traffickers or trafficking victims.³⁷ Instead, it traumatizes sex workers and makes it harder for them to engage in harm-reduction tactics, and the resulting criminal records, shame, and stigma make it harder for sex workers to choose other employment. It also disproportionately impacts BIPOC and immigrant communities, who are more severely harmed by an arrest and more likely to be prosecuted or convicted.³⁸

Recommendation: *The US Government should act to decriminalize sex work at the Federal, State, Local, and Tribal levels. Funding and attention should be shifted away from a criminal justice intervention model to, instead, provide resources and support to those engaged in trading sex and support those who are seeking alternative occupations. The US Government should work to ensure that all work is safe and respond to all abuse and exploitation in the workplace, on the street, or in the home.*

9. Prosecutions to Hold Private Employers or Corporations Accountable for Forced Labor in Supply Chains

The US Government fails to hold corporations accountable for forced labor committed by the employers directly, let alone further down in their supply chains. While the US Customs and Border Patrol (CBP) is increasingly using Withhold Release Orders to address the importation of goods made with forced labor, forced labor that occurs within the borders of the US continues with near impunity.³⁹

Recommendation: *Based on these data, FNUSA notes that survivors of forced labor cannot rely on the US Government to obtain justice and compensation. We call on the US Government to assess and address the reasons for the lack of investigation into labor trafficking, and the associated failure to protect immigrant and migrant trafficking survivors.*

³⁷ Sebastian Kohn, Open Society Foundations, *The False Promise of “End Demand” Laws*, 6/2/2017, <https://www.opensocietyfoundations.org/voices/false-promise-end-demand-laws>; Bronwyn McBride, et al, Cult Health Sex, September 2021, *Harms of Third Party Criminalization Under End-Demand Legislation: Undermining Sex Workers’ Safety and Rights*, <https://pubmed.ncbi.nlm.nih.gov/32744171/>; Freedom Network USA, *Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work*, September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSAStatementDecrimSept2021.pdf>; Freedom Network USA, *End Demand Fact Sheet*, 2018, <https://freedomnetworkusa.org/app/uploads/2018/07/End-Demand.pdf>; Beyond Trafficking and Slavery, Open Democracy, *It’s Time to Get Off the Fence on Sex Workers’ Rights*, 2021, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/sex-work-on-bts/>; ACLU, *Is Sex Work Decriminalization the Answer? What the Research Tells Us*, 2020, https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief.pdf

³⁸ Amnesty International, *From Margin to Center: Sex Work Decriminalization is a Racial Justice Issue*, 12/12/2016, <https://www.amnestyusa.org/from-margin-to-center-sex-work-decriminalization-is-a-racial-justice-issue/>; Linda Anderson, *U Md Journal of Race, Religion, Gender, and Class*, 2021, *Ending the War Against Sex Work: Why It’s Time to Decriminalize Prostitution*, <https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=1358&context=rrgc>

³⁹ Freedom Network USA, *Input to UN Special Rapporteur on Forced Labor in Agriculture*, 1/31/2022, <https://freedomnetworkusa.org/app/uploads/2022/02/FNUSAInputLaborTraffickingAgricultureUNSpecialRapporteur-January2022.pdf>

10. Judges

As noted in Section 2, judges continue to punish trafficking survivors for forced criminal acts. Judges also continue to support diversion courts designed to force suspected or confirmed survivors into services under the threat of incarceration, which is not trauma-informed and causes harm to survivors who are criminalized for their victimization.⁴⁰ Judges also require more training on safe harbor statutes, criminal record relief, and affirmative defense options for trafficking survivors in states where those remedies are available.

Service providers report that prosecutors and judges routinely fail to protect victims' rights during trials, including failure to update victims on the status of the case, to protect their privacy, to recognize victim rights counsel, and to order restitution.

Immigration judges fail to protect trafficking survivors when they deny relief, including asylum and other forms of protection. Immigration judges often defer to government attorneys, provide the government with more flexibility (such as with filing deadlines and continuances), and deny applications on discretionary grounds.

Recommendation: *Comprehensive training and technical assistance must be provided to judges so that they are able to identify and respond appropriately to trafficking survivors who appear before them as victims, witnesses, defendants, or parties to a civil case. The training must be inclusive of labor and sex trafficking, of US Citizens and foreign nationals, of all ages and gender identities. Training and technical assistance should be expanded to include safe harbor statutes, criminal record relief, and affirmative defense options as those remedies become available. Diversion courts must not be allowed to coerce trafficking survivors into unwanted services with the threat of prosecution. The US should provide legal representation to all immigrants, and establish an independent immigration court system, including specialized courts for minors⁴¹, to protect the rights of immigrant trafficking survivors.⁴²*

11. Official Complicity

FNUSA calls on the US Government to address its own complicity in labor trafficking in private detention facilities under contract with the US Government and in federal jails, prisons, and immigration detention. The Thirteenth Amendment to the US Constitution provides an

⁴⁰ Becca Kendis, Case Western Reserve Law Review, 2019, *Human Trafficking and Prostitution Courts: Problem Solving or Problematic?*, <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=4815&context=caselrev>; Melissa Cook, et al, Health Justice, 2021, *A Longitudinal Study of Justice Characteristics Among Girls Participating in a Sex Trafficking Court Program*, <https://rdcu.be/cGnut>

⁴¹ KIND, *For the Rule of Law, An Independent Immigration Court*, 1/19/2022, <https://supportkind.org/resources/statement-for-record-for-the-rule-of-law-an-independent-immigration-court/>

⁴² American immigration Lawyers Association, *AILA Policy Brief: Restoring Integrity and Independence to America's Immigration Courts*, 1/24/2020, <https://www.aila.org/advo-media/aila-policy-briefs/aila-calls-for-independent-immigration-courts>; American Bar Association, *ABA Testifies in Favor of Independent Immigration Court System*, 1/20/2022, <https://www.americanbar.org/news/abanews/aba-news-archives/2022/01/aba-testifies-in-favor-of-independent-immigration-court-system/>

exception to the ban on slavery and involuntary servitude for punishment of a crime.⁴³ This exception allows for forced labor in prisons across the US. At least seven lawsuits have been filed in recent years by immigrant detainees who have alleged violations of the Trafficking Victims Protection Act (TVPA) during their detention.⁴⁴ These lawsuits – involving ICE detention centers run by private prison companies throughout the country – contain well-documented allegations of labor trafficking, with immigrant detainees forced to work for a dollar a day under the threat of solitary confinement and a climate of fear. Some of these claims have been pending for as long as 8 years, clearly giving the US Government notice of the conditions at the detention centers. One case settled in late 2023, requiring CoreCivic to do the bare minimum to protect detained workers’ rights by providing basic safety equipment and training to employees as well as notifying all detained people in its facilities of their rights.⁴⁵ The failure of the US Government to take action to protect these victims, stop these exploitive practices, or take any action against the corporations involved, shows the US Government’s continued complicity in these acts of human trafficking.⁴⁶ Courts are also ordering defendants to complete sentences in rehabilitation facilities that require participants to work without pay, sometimes in dangerous conditions.⁴⁷

The US Government has also been complicit in the abuse and exploitation of sex trafficking survivors. Law enforcement agents have knowingly engaged in sex abuse of suspected sex trafficking victims during their investigation of the very victimization that the law enforcement agents were committing.⁴⁸ State and local agencies often engage in the same type of abuse during investigations of sex work and massage parlors.

In addition, the US Government is enabling forced labor through a failure to properly screen visa applications for employers who are not attempting to hide their intention to violate federal labor and trafficking laws. In a recent case in New York, nurses from the Philippines working in the US on EB-3 visas experienced forced labor and left their jobs, only to be prosecuted by the

⁴³ Verite, “Work Behind Bars: Analysis of Prison Labor in the United States Based on International Labor Standards,” 6/2022, <https://verite.org/wp-content/uploads/2022/06/Work-Behind-Bars-Briefing-Documents-June-2022-1.pdf>

⁴⁴ See, e.g., *Ruelas v. County of Alameda*, 3:19-cv-07637 (N.D. Cal. Nov. 20, 2019); *Barrientos v. CoreCivic*, 4:18-cv-00070-CDL (M.D. Ga. Apr. 17, 2018); *Gonzalez v. CoreCivic*, 1:18-cv-00169 (W.D. Tex. Feb. 22, 2018); *Gonzalez v. CoreCivic*, No. 3:17-cv-02573-AJB-NLS (S.D. Cal. Dec. 27, 2017); *Novoa v. The GEO Group*, No. 5:17-cv-02514 (C.D. Cal. Dec. 19, 2017); *Owino v. CoreCivic*, No. 17-cv-1112-JLS-NLS (S.D. Cal. 2017); *Menocal v. The GEO Group*, 1:14-cv-02887-JLK (D. Colo. 2014).

⁴⁵ Southern Poverty Law Center, “Settlement in Forced Labor Case Against Private Prison Company Operating Immigration Detention Center,” 10/19/2023, <https://www.splcenter.org/presscenter/settlement-forced-labor-case-against-private-prison-company-operating-immigration>

⁴⁶ Human Trafficking Legal Center, *Fact Sheet: Human Trafficking & Forced Labor in For-Profit Detention Facilities*, 2018, <http://www.htlegalcenter.org/wp-content/uploads/Human-Trafficking-Forced-Labor-in-For-Profit-Detention-Facilities.pdf>.

⁴⁷ Shoshana Walter, *Reveal News*, *At hundreds of rehabs, recovery means work without pay*, 7/7/2020, <https://revealnews.org/article/at-hundreds-of-rehabs-recovery-means-work-without-pay/>

⁴⁸ Mackensie Shulman, et al, *AP News*, *Documents: Federal Agents Engaged in Sex Acts with Victims*, 5/11/2020, <https://apnews.com/article/nv-state-wire-police-us-news-az-state-wire-ca-state-wire-1c86224532d2ab314fe0f245bdce62b9>

US Government for leaving the abusive employer without enough staff to support patients. The US Government approved the employment contracts to grant visas for the nurses despite clauses preventing the workers from leaving despite exploitative working conditions.⁴⁹ In addition, many employment contracts of temporary workers include forced arbitration clauses that compel arbitration when a worker sues their employer for trafficking. These clauses prevent access to a fair hearing in front of a judge, public accountability, and identification of other survivors from that employer. Some workers are compelled into arbitration in other countries, losing their eligibility for a T Visa when they leave the US to participate in forced arbitration. These types of contracts are approved in many visa cases despite the intention for harm being visible in the contract language. The US Government is failing to screen potential abusive employers out of the visa pool and, in turn, sanctioning the forced labor occurring under its guestworker visa programs.

There was also a recorded instance of ICE illegally detaining workers at the request of their employers after the employee tried to exercise their rights to legally transfer to a safer job after receiving threats from their employer.⁵⁰ Abusive bosses use threats of deportation to force workers to stay. ICE detaining this worker only fuels workers' fears of deportation or detention.

Recommendation: FNUSA recommends that the US Government amend the US Constitution to end the forced labor exception for punishment.⁵¹ The US Government should immediately discontinue civil immigration detention. Failing that, the US Government must, at the very least, stop contracting with private corporations for immigration detention and join the plaintiffs as amici in their lawsuits against the private corporations who have exploited these immigrants. The US Government should also increase the oversight of visa applications to ensure employers intentionally subjecting workers to abusive employment contracts are held accountable and unable to apply for any foreign worker visas. Congress should pass the Ending Forced Arbitration of Human Trafficking Act (S.3585) to amend the Federal Arbitration Act to ban forced arbitration of human trafficking claims. FNUSA also recommends that the US Government immediately ban all law enforcement agents from engaging in sex acts as part of any investigation, prosecution, or other law enforcement activities.

12. Evidence of Trafficking by Nationals Deployed Abroad

FNUSA has no comments on this issue.

Protection

13. Coordinated Government Efforts to Identify Victims of All Forms of Trafficking

⁴⁹ Freedom Network USA, *FNUSA and the Human Trafficking Legal Center File Amicus Brief Asserting the Rights of Survivors Who are Unjustly Prosecuted*, 1/12/2023, <https://freedomnetworkusa.org/app/uploads/2023/01/Anilao-Amicus-Brief-As-Filed.pdf>

⁵⁰ Texas Rio Grande Legal Aid, "Arkansas Federal Court Dismisses Lawsuit Filed by Farmworker Wrongfully Detained by ICE," 12/12/2022, <https://www.trla.org/news-releases/arkansas-federal-court-dismisses-lawsuit-filed-by-farmworker-wrongfully-detained-by-ice>

⁵¹ End the Exception, "Abolition Amendment, <https://endtheexception.com/>

The US Government's efforts to identify victims of human trafficking remain disjointed, uncoordinated, and opaque. There are few published protocols, policies, or procedures for federal agencies to follow when they encounter potential survivors of human trafficking. There is little coordination and accountability within or among federal agencies to ensure survivors are provided with appropriate services and support.

The Abolish Human Trafficking Act of 2017 requires that the Department of Homeland Security (DHS) establish a victim screening protocol to be used by all DHS personnel involved in human trafficking investigations. The protocol must be developed in consultation with "interagency partners and nongovernmental organizations that specialize in the prevention of human trafficking and support victims of human trafficking and survivors of human trafficking."⁵² The Trafficking Victims Protection Act of 2017 requires the DOJ to establish a similar victim screening protocol for use in all DOJ anti-trafficking operations. The protocol must be developed in consultation with "survivors of human trafficking, and nongovernmental organizations that specialize in the identification, prevention, and restoration of victims of human trafficking."⁵³ Neither protocol has been developed despite the deadlines included in the legislation.

Service providers report that law enforcement agencies fail to respond to reports of trafficking made by service providers. Law enforcement is least likely to respond when the survivor has already left the trafficking experience, the survivor experienced labor trafficking, the survivor was smuggled into the US, or in cases of trafficking by a family member. This disparity can be inferred from the data provided by USCIS, showing that although all T Visa applicants are required to report their trafficking experience to law enforcement, only 16% submitted the I-914 Supplement B documentation provided by law enforcement.⁵⁴ Law enforcement agencies also continue to fail to apply for Continued Presence to provide immediate protection to foreign national trafficking survivors.⁵⁵

Recommendation: FNUSA recommends that DHS and DOJ jointly convene a working group of survivors and service providers to provide guidance on the development of these protocols. FNUSA also recommends that DOL participate in this working group to specifically address the context of labor trafficking. FNUSA recommends that DHS require screening of all foreign nationals encountered during immigration enforcement activities for humanitarian protection, and err on the side of protection. The asylum process should be protected as expedited screenings and removals fail to identify survivors and potential victims of human trafficking, putting them in further danger. FNUSA further recommends that law enforcement be held accountable for their failure to respond to reports of all forms of trafficking and consistently provide support for foreign national survivors in the form of Continued Presence.

⁵² Pub L 115-392.

⁵³ Pub L 115-393.

⁵⁴ USCIS, *Characteristics of T Nonimmigrant Status (T Visa) Applicants*, January 2022

⁵⁵ Freedom Network USA, *Continued Presence Challenges and recommendations*, 2/18/2021, <https://freedomnetworkusa.org/app/uploads/2021/02/FNUSAContinuedPresenceChallengesRecommendationsFeb2020.pdf>

14. Identifying potential victims under commercial sex criminalization

Sex work is largely illegal across the US, which has resulted in the criminalization of survivors and contributed little to law enforcement's ability to respond to trafficking. Instead, law enforcement is often unable to distinguish between voluntary sex work and sex trafficking, leading them to arrest victims.⁵⁶ Law enforcement also targets transgender people for loitering and prostitution arrests at high rates, further restricting their rights to exist in public spaces.⁵⁷ These arrests prevent access to services by misidentifying survivors and blocks access to housing by creating arrests or criminal records. It also leads to distrust of law enforcement, which acts as a barrier to reporting of trafficking or abuse and can lead to unwillingness to participate as a witness if they are later recognized as a victim.

Criminalization forces sex workers to the margins which only creates vulnerabilities to trafficking. When sex workers can share information with each other about unsafe clients, details about where and when they are working, develop collaborative safety plans and check-ins, and work in the same location, they are able to create safe networks that prevent violence.⁵⁸ Sex workers have no labor department to report workers' rights violations to and cannot safely report harm to law enforcement. They may have to take on riskier clients and work in isolation to pay for basic needs for themselves and their families.⁵⁹

Law enforcement does not need commercial sex to be criminalized in order to effectively investigate trafficking. Human trafficking laws remain strict in countries with various forms of decriminalization.⁶⁰ More sex workers will be able to report violence and trafficking if they are no longer afraid of arrest for prostitution.⁶¹ Law enforcement would waste less time and money investigating prostitution and would have more time for thorough trafficking investigations. Law enforcement is fully able to investigate crimes in other industries, like manufacturing, hospitality, and agriculture; demonstrating that criminalization of workers is not required to investigate worker exploitation and abuse.

⁵⁶ Hannah Garry and Maura Reinbrecht, *Over-Policing of Sex Trafficking: How U.S. Law Enforcement Should Reform Operations*, International Human Rights Clinic at USC Gould School of Law, 15 November, 2021, <https://humanrightsclinic.usc.edu/2021/11/15/over-policing-sex-trafficking-how-u-s-law-enforcement-should-reform-operations/>

⁵⁷ Dustin Gardinier, "Police much more likely to stop transgender people in California for 'reasonable suspicion'," San Francisco Chronicle, 7/31/2022, <https://www.sfchronicle.com/politics/article/Transgender-California-police-LGBTQ-stop-report-17337333.php>

⁵⁸ Global Network of Sex Work Projects, *The Impact of 'End Demand' Legislation on Women Sex Workers*, February 12, 2018, https://www.nswp.org/sites/default/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf

⁵⁹ Erin Albright and Kate D'Adamo, *Decreasing Human Trafficking through Sex Work Decriminalization*, AMA Journal of Ethics, 1/19/2017, <https://journalofethics.ama-assn.org/article/decreasing-human-trafficking-through-sex-work-decriminalization/2017-01>

⁶⁰ ACLU, *Is Sex Work Decriminalization the Answer? What the Research Tells Us*, 10/16/2020, <https://www.aclu.org/publications/sex-work-decriminalization-answer-what-research-tells-us>

⁶¹ UN Human Rights Special Procedures, "Mandate of the Working Group on discrimination against women and girls: Eliminating discrimination against sex workers and securing their human rights," 10/2023, <https://www.ohchr.org/sites/default/files/documents/issues/women/wg/sex-work-pp-fin-proofread-24-sept.pdf>

The criminalization of commercial sex also prevents funding and prioritization for services for sex workers that can help prevent trafficking. Sex workers and trafficking survivors have extensive knowledge of tools to keep each other safe, but surveillance and criminalization prevent them from protecting each other.⁶² There is little funding for sex worker-led harm reduction efforts that help prevent many forms of violence against sex workers. Instead, by criminalizing sex work, the US Government and state governments force sex workers to take on more risk by working alone, without the ability to screen for unsafe clients, and without a safe way to report violence and trafficking without fear of arrest.⁶³ Criminalization also discourages funders from providing funds for harm reduction and prevention efforts for fear of legal liability and moral backlash.

Recommendation: FNUSA calls on the US to fully decriminalize sex work in the US, at the federal, state, and local levels in order to prevent human trafficking.⁶⁴

15. Government Hotline Operations

The US Government supports a national human trafficking hotline but requires it to operate as a law enforcement tipline in certain cases as well as a hotline for survivors. Survivors may not want to report their cases to law enforcement due to fear of retaliation, deportation, or further trauma from an investigation. They may belong to a community that is subjected to routine over-policing and refuse to engage with law enforcement due to the harms committed in their community. Survivors may have been personally subjected to abuse, exploitation, or false arrests by law enforcement in the past. This conflation of opposite and ethically conflicting duties harms survivors who may not trust this dual resource, may not understand that their information may be shared with law enforcement, and serves to divert limited resources away from survivors.⁶⁵

In 2023, Attorneys General across the country attacked the hotline for insufficient reporting of cases and requested Congress pass legislation to require the hotline to report tips to law enforcement upon request. There is a lack of understanding of the intent of the hotline among

⁶² Jennifer, Suchland, "What's Wrong with the US Federal Response to "Sex Trafficking"?", The Gender Policy Report, 11 January, 2023, <https://genderpolicyreport.umn.edu/whats-wrong-with-the-us-federal-response-to-sex-trafficking/>

⁶³ Freedom Network USA and National Survivor Coalition, *Re-Centering Sex Worker Safety in Anti-Trafficking Work: Perspectives from the Field*, <https://freedomnetworkusa.org/app/uploads/2023/10/Recentering-Sex-Worker-Safety-in-Anti-Trafficking-Work.pdf>

⁶⁴ Freedom Network USA, *Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work*, September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSASTatementDecrimSept2021.pdf>; Freedom Network USA, *End Demand Fact Sheet*, 2018, <https://freedomnetworkusa.org/app/uploads/2018/07/End-Demand.pdf>; Beyond Trafficking and Slavery, Open Democracy, *It's Time to Get Off the Fence on Sex Workers' Rights*, 2021, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/sex-work-on-bts/>; ACLU, *Is Sex Work Decriminalization the Answer? What the Research Tells Us*, 2020, https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief.pdf

⁶⁵ Freedom Network USA, *Public Comment on the Evaluation of the National Human Trafficking Hotline*, 10/25/2019, <https://freedomnetworkusa.org/app/uploads/2019/11/FNUSAHotlineEvaluationSurveyComment-1.pdf>

law enforcement, Congress, and the general public. No other hotline for survivors of violence reports tips to law enforcement. The hotline is already overwhelmed with tips from the general public and survivors report difficulty reaching a hotline representative to connect to services. Requiring the hotline to report tips to law enforcement, will result in a further loss of trust in the hotline from survivors and further delay their access to services.⁶⁶

Recommendation: FNUSA recommends that the US Government immediately cease using the National Human Trafficking Hotline as a law enforcement tipline, discontinue using any outreach or education materials that present it as such, cease requiring the hotline to report on the number of cases referred to law enforcement, and ensure that all hotline resources are dedicated to connecting survivors with services and not in gathering unnecessary data or providing tips to law enforcement. FNUSA further recommends the immediate publication of the evaluation study of the National Human Trafficking Hotline.

16. Victim Services

FNUSA notes that the US Government provides funding for services for human trafficking survivors. Appropriations for victim services and training grants have increased to over \$100 million annually, and US law provides for significant immigration protections for trafficking survivors, including Continued Presence (CP) and the T and U Visas. However, these investments are insufficient, especially in light of the growing number of survivors needing services and budget cuts to other social safety net services survivors rely on. In 2023, pandemic supplemental assistance programs ran out, significantly reducing the amount of aid people receive through programs like the Supplemental Nutrition Assistance Program, rental assistance funds, and funding for child care centers. The child tax credit, which is credited with helping reduce child poverty throughout the US ended and is unlikely to restart.⁶⁷ The lack of social safety net programs creates vulnerabilities to trafficking by forcing people into poverty.

FNUSA notes with concern that the Congressional funding authorizations under the TVPA and its progeny have expired, the 117th Congress failed to reauthorize them before the session ended, and the 118th Congress still has not passed a reauthorization. The TVPA funding authorizations also include two harmful restrictions. First, the ‘prostitution pledge’ suggests that service providers who provide supportive services to trafficking survivors who are engaged in sex work are not eligible for services and that agencies that express opposition to the End Demand framework do not qualify for funding. This clause limits harm reduction efforts and increases vulnerability to trafficking in the sex trades. This clause also limits survivors’ self-determined agency by forcing them to frame their experiences in government-sanctioned ways to work in the field, replicating coercive patterns. This clause also explicitly violates the First Amendment in seeking to restrict or compel speech by US Citizens and US corporations.

⁶⁶ Freedom Network USA, “The National Human Trafficking Hotline Cannot Act as a Law Enforcement Tipline and Help Survivors,” 11/1/2023, <https://freedomnetworkusa.org/2023/11/01/the-national-human-trafficking-hotline-cannot-act-as-a-law-enforcement-tipline-and-help-survivors/>

⁶⁷ Shannon Pettypiece, “Stretched social safety net could see more strain in 2024,” 12/25/2023, NBC News, <https://www.nbcnews.com/politics/politics-news/2024-food-stamp-rent-assistance-programs-get-hit-hard-rcna130833>

Second, the funding requires that providers document raising and expending non-federal funds for the same programs, a 25% match. This requirement is complex, time-consuming, and does not ensure high-quality services are provided to survivors. Since the pandemic, service providers have faced severe burnout and staffing issues and an increase in the need for services, all while dealing with shortages in funding and falling volunteer numbers (a critical source of in-kind matches). These conditions make it difficult for providers to meet the match requirement.⁶⁸

Across the US, victim and prevention services are funded at significantly lower levels than law enforcement. For example, in FY20 the foster care system for the state of New York received a 23 times smaller budget than the New York City Police Department.⁶⁹ A portion of the DOJ TVPA funding for victim services is carved out for law enforcement task forces. This diverts funds intended to be provided to service providers to law enforcement. This disparity in funding becomes apparent when considering that survivors may need years of service provision, including assistance with housing and medical and mental health care, but only a small portion of survivors receive assistance from law enforcement to leave their trafficking situation.

In addition, many benefits and resources offered to survivors are contingent on cooperation with law enforcement during an investigation, including the T Visa. For survivors who have experienced harm or exploitation by law enforcement agents or fear deportation or harm from law enforcement, these benefits are out of reach. FNUSA member clients have also reported facing criminal charges or being reported to employment licensing agencies while assisting law enforcement in the investigation. Immigrant massage workers have had their certifications restricted as part of the law enforcement crackdown on massage parlors, preventing them from accessing safe work. These present significant barriers to service access for survivors and may increase fear of harm from law enforcement, making it less likely for survivors to report exploitation.

Recommendation: FNUSA urges the US Government to immediately reauthorize the TVPA victim services programs, including the removal of the ‘prostitution pledge’ and the removal or reduction of the 25% match requirement from trafficking services grants. The US Government should reduce the administrative burdens on providers in order to focus on services for survivors.⁷⁰ The US Government should direct all victim services funds to service providers and

⁶⁸ Matt Sinclair, “Nonprofits, foundations adjust to the post-pandemic era,” Philanthropy News Digest, 3/30/2023, <https://philanthropynewsdigest.org/news/exclusives/nonprofits-foundations-adjust-to-the-post-pandemic-era>

⁶⁹ New York State, Office of Children and Family Services, *Division of the Budget*, <https://www.budget.ny.gov/pubs/archive/fy20/exec/agencies/appropData/ChildrenandFamilyServicesOfficeof.html>

New York City Government, *In the Face of an Economic Crisis, Mayor de Blasio Announces Budget that Prioritizes Safety, Police Reform, Youth Services, and Communities of Color*, 6/30/2020, <https://www.nyc.gov/office-of-the-mayor/news/487-20/in-face-an-economic-crisis-mayor-de-blasio-budget-prioritizes-safety-police#:~:text=The%20%2488.19%20billion%20budget%20was,the%20safety%20of%20all%20communities.>

⁷⁰ Freedom Network USA, *FNUSA’s Priorities for 2021 Reauthorization of the Trafficking Victims Protection Act*, May 2021, <https://freedomnetworkusa.org/app/uploads/2021/05/FNUSAs-Priorities-for-TVPA-Reauthorization-2021.pdf>

training and technical assistance providers as well as increase the amount of funding for victim service programs.

17. Quality of Victim Care

The US Government has finally begun the process of creating standards of care for providers administering its grants. There is little oversight for even federal government-funded service providers. There are reports of exploitation and discrimination by providers, with few options for recourse.⁷¹ HHS funnels all funding for services to foreign nationals through a single grant program that is not victim-centered and does not allow services to be tailored to survivors' needs. The services are time-limited, limit support for dependent family members of the survivor, and utilize a budget formula that overly restricts funding for clients. This disparity in the various funding programs leaves survivors at risk of insufficient support depending on the available provider.

Access to many services is still too limited for all survivors to receive necessary services. FNUSA members report there is limited housing overall, both temporary and permanent, due to the ongoing affordable housing crisis. Within the limited housing options, transgender survivors, male survivors, families, people who use substances, and survivors who continue to perform sex work have even fewer options due to restrictive housing programs. Language access policies and procedures are not widespread enough, creating barriers to accessing quality services for survivors who need services in languages other than spoken English. There are few educational services available for survivors or job training and employment assistance.

Recent attacks on access to comprehensive medical care for those who can get pregnant are reducing access to needed reproductive health care for human trafficking survivors. Sexual assault is a common form of abuse perpetrated against labor and sex trafficking survivors, and it is critical that survivors have access to comprehensive reproductive health care without restrictions. In the aftermath of the Supreme Court's decision to strike down *Roe v. Wade*, many states have established bans on abortion without exceptions for children, rape, or incest, leaving many survivors without reproductive healthcare options.⁷² States that require parental consent for minors to access abortion care also put victims of familial trafficking at risk of further harm.

Recommendation: *FNUSA recommends that DOJ and HHS work together to ensure survivors have access to voluntary, non-discriminatory, and trauma-informed services. FNUSA recommends that the US Government take immediate action to protect access to comprehensive reproductive health care, including abortion, throughout the US.*⁷³ FNUSA

⁷¹ Sarah Lynch, Reuters, *Exclusive: Justice Department anti-human trafficking grants prompt whistleblower complaint*, 2/10/2020, <https://www.reuters.com/article/us-usa-justice-grants-exclusive-idUSKBN20425G> (noting an OVC grant recipient is alleged to require survivors to participate in religious programs)

⁷² New York Times, *Tracking the States Where Abortion Is Now Banned*, 1/6/2023, <https://www.nytimes.com/interactive/2022/us/abortion-laws-roe-v-wade.html>

⁷³ *Joint Letter Calling for Helms Amendment Repeal*, 12/17/2021, https://freedomnetworkusa.org/app/uploads/2022/01/Helms-Anniversary-Community-Letter_2021.pdf

*recommends the development of a field-driven national resource center to provide training and technical assistance to providers and hold federal grantees accountable. FNUSA further recommends making changes to the grant awards to ensure that funding is proportionate to the number of survivors supported, supports survivors of all forms of trafficking, and is shared with community-based organizations connected to communities most at risk of trafficking.*⁷⁴

18. Specialized Care for Child Victims

Child victims of human trafficking are disproportionately involved in the juvenile justice system, the child welfare system, and homelessness services. Youth who are particularly vulnerable to trafficking because they are facing poverty, unsafe homes, homelessness, unemployment, lack support systems, or have faced prior abuse, are often in contact with these systems. These systems are not designed to handle survivors of complex trauma and often traumatize youth, but are some of the only options provided for responding to child trafficking. The US has created this network of systems that forces children into repeated interactions with these systems, often making them more vulnerable to trafficking, rather than reducing vulnerabilities.

2023 was the first year all state child welfare systems were required to screen for labor trafficking among youth in their care and provide them with needed services. State agencies struggled to implement the new requirement and understand how to screen for child labor trafficking. When children are identified, there is a widespread lack of services available. Child victims who cannot return safely to their own families are placed into child welfare care, but the specialized care they need is not always available.⁷⁵ Some children are placed into the system even if their parents were not involved in their trafficking, separating families unnecessarily. The child welfare system can also make children more vulnerable to trafficking, making it an imperfect and sometimes harmful placement for children.

The juvenile justice system in the US disproportionately criminalizes Black and Brown youth, youth who have experienced trauma, and youth experiencing homelessness. The sexual abuse to prison pipeline has a disproportionate impact on Black girls. Despite laws protecting child victims of sex trafficking from criminalization, youth, particularly Black youth are charged with prostitution and treated as perpetrators, receiving over half of prostitution arrests for youth under age 18.^{76,77} The juvenile justice system does not connect criminalized youth with

⁷⁴ Freedom Network USA, *FY2022 Human Trafficking Funding Recommendations*, 12/17/2021, <https://freedomnetworkusa.org/app/uploads/2021/12/FY22FNUSAFundingRecs.pdf>; Freedom Network USA, *Supporting Human Trafficking Survivors During the Coronavirus Pandemic: Challenges and Solutions*, April 2020, <https://freedomnetworkusa.org/app/uploads/2020/04/FNUSAs-Recommendations-on-Supporting-Human-Trafficking-Survivors-Coronavirus-17April2020.pdf>

⁷⁵ Child Welfare Information Gateway, “Human Trafficking and Child Welfare: A Guide for Child Welfare Agencies,” 4/2023, https://cwig-prod-prod-drupal-s3fs-us-east-1.s3.amazonaws.com/public/documents/trafficking_agencies.pdf?VersionId=AsPy7dEfBXOqjszIQysX8WXfJL4XQfmX

⁷⁶ National Black Women’s Justice Institute, “Sex Trafficking of Black Women & Girls,” 1/2022, https://www.nbwji.org/files/ugd/0c71ee_cd4d16e2b9ce4568be165c09a6badf53.pdf

⁷⁷ US Government Accountability Office, “Child Trafficking: Addressing Challenges to

appropriate services to help survivors or prevent trafficking, on top of traumatizing youth involved in the system. There is a lack of safe places to take trafficked minors who do not have a safe home to return to, so they are often kept in juvenile detention, which can cause additional trauma.⁷⁸ Around 46% of youth experiencing homelessness have also been in a juvenile detention facility, jail, or prison.⁷⁹ This creates further vulnerabilities to trafficking for criminalized children.

Children who have run away or are experiencing homelessness are also disproportionately impacted by human trafficking. In a study of 641 youth, 19% were identified as victims of human trafficking.⁸⁰ Misperceptions about trafficking prevent youth experiencing homelessness from accessing shelter services, and services are lacking when they do.⁸¹ Youth experiencing homelessness sometimes choose not to access shelters or avoid the child welfare system because they feel they are safer on their own. Youth who have run away from child welfare system placements are particularly vulnerable to trafficking.

There is a lack of comprehensive services for youth survivors, both those in placements or not. They need access to intensive services like mental healthcare, healthcare, safe housing, education, and mentorship, but are often not able to access every form of care they need. Many children aren't placed into any form of government care, and face barriers to finding appropriate services. A portion of the specialized services available to children experience an overlap of other issues like homelessness, criminalization, or other forms of abuse like domestic violence and sexual assault. There is a countrywide lack of well-trained mental health providers. There are insufficient services for boys, child labor trafficking survivors, and survivors who are Black, Indigenous, LGBTQIA, or foreign nationals.⁸² Many types of services survivors need and access are non-trafficking-specific, like libraries, afterschool programs, camps, clothing closets, food pantries, city services, non-profit youth centers, church youth groups, and cultural affinity groups.

There is also a lack of strong prevention services for children. Comprehensive sex education and workers' rights training for all students are primary prevention activities that are not

Public Awareness and Survivor Support," GAO-24-106038, 12/11/2023, <https://www.gao.gov/assets/d24106038.pdf>

⁷⁸ US Government Accountability Office, "Child Trafficking: Addressing Challenges to Public Awareness and Survivor Support," GAO-24-106038, 12/11/2023, <https://www.gao.gov/assets/d24106038.pdf>

⁷⁹ Coalition for Juvenile Justice, Addressing the Intersections of Youth Legal System Involvement and Homelessness," <https://www.juvjustice.org/sites/default/files/resource-files/Principles%2520for%2520Change-3-compressed-2.pdf>

⁸⁰ Laura T. Murphy, *Labor and Sex Trafficking Among Homeless Youth*, Loyola University New Orleans, <https://oag.ca.gov/sites/all/files/agweb/pdfs/ht/murphy-labor-sex-trafficking-homeless-youth.pdf>

⁸¹ US Government Accountability Office, "Child Trafficking: Addressing Challenges to Public Awareness and Survivor Support," GAO-24-106038, 12/11/2023, <https://www.gao.gov/assets/d24106038.pdf>

⁸² Ibid.

widespread. Existing awareness and prevention campaigns are not evidence-based or spread misinformation about trafficking and sexual health.

Recommendation: *The US Government should fund expanded services for youth, both trafficking-specific and general services. The child welfare system should be reformed to provide more protections for children. Law enforcement, prosecutors, and judges should receive extensive training on Safe Harbor laws and avoiding the criminalization of child survivors. An expansive social safety net should be implemented to prevent children from becoming vulnerable to poverty and trafficking. Child labor laws should be strengthened to protect children, including extensive workers' rights training for children. Workers' rights training and comprehensive sexual education should be taught in all schools.*

19. Cooperation Between Law Enforcement and Victim Services

In most cases, law enforcement and victim services do not work together to support survivors. DOJ has tried to incentivize cooperation through the Enhanced Collaborative Model Task Force Grants (ECM) for more than 10 years, but they have failed to achieve this goal. Therefore, by continuing to fund these grants, DOJ is diverting victim services funds to law enforcement operations that often harm survivors. Evaluations conducted by DOJ have found that the law enforcement and service provider partners are identifying completely different survivors, and the grants do not result in increased law enforcement support of survivors identified by service providers.⁸³ As noted above, law enforcement continues to arrest survivors, abuse survivors in the course of investigations into suspected human trafficking, and fails to provide documentation to support immigration protection for immigrant survivors.

Recommendation: *FNUSA recommends that DOJ discontinue diverting victim services funds to law enforcement agencies by replacing the law enforcement partners in the ECM grants with community-based organizations connected to communities most at risk of all forms of trafficking.*⁸⁴

20. Restitution

FNUSA continues to be concerned about the US Government's failure to order mandatory criminal restitution in all human trafficking cases, and the woefully low rate of payment of restitution once it is ordered. Trafficking as a crime revolves around economic gain for the trafficker. Restitution provides one path to survivors regaining some of the financial losses from trafficking, but when it is rarely ordered or paid, this remedy becomes inaccessible to survivors. Courts awarded mandatory restitution to trafficking victims in just 36% of human trafficking cases brought between 2009 and 2012.⁸⁵ Even after this disturbing report was provided to the

⁸³ William Adams, et al, Urban Institute, *Evaluation of the Enhanced Collaborative Model to Combat Human Trafficking, Technical Report*, May 2021, <https://www.ojp.gov/pdffiles1/nij/grants/300863.pdf>

⁸⁴ Freedom Network USA, *FY2022 Human Trafficking Funding Recommendations*, 12/17/2021, <https://freedomnetworkusa.org/app/uploads/2021/12/FY22FNUSAFundingRecs.pdf>

⁸⁵ Human Trafficking Legal Center and WilmerHale, *When "Mandatory" Does Not Mean Mandatory: Failure To Obtain Criminal Restitution in Federal Prosecution of Human Trafficking Cases in the United States*, September 2014, <https://htlegalcenter.org/wp-content/uploads/HTProBono-Trafficking-Restitution-Report.pdf>

US Government, little improvement has been made. “Data collected and analyzed since the publication of the initial findings provide a disheartening portrait of a continuing failure on the part of United States federal courts to order criminal restitution to trafficking victims. The updated data indicated that the percentage of trafficking cases ending with a mandatory criminal restitution order dropped from 36% in the prior period to just 27% in the current research date range.”⁸⁶ The most recent data indicates that in 2022, mandatory restitution was only ordered for 48% of convicted defendants, an increase from 36% ordered in 2021.⁸⁷ Prosecutors should also be trained to request restitution in the prosecution of similar and lesser offenses, such as visa fraud or smuggling, when victims have suffered abuse or exploitation.

Recommendation: FNUSA recommends that the US Government increase and improve training and technical assistance for prosecutors and judges about mandatory restitution in human trafficking cases, provide resources to assist prosecutors in presenting their arguments in court, and provide trafficking victims with victim-witness counsel to advocate for restitution and other victims’ rights issues before federal courts. FNUSA additionally recommends that the US Government use all authorities at its disposal to ensure that restitution is actually paid to survivors, including the use of impoundment and forfeiture, as well as the authorities of the State Department and Treasury, including sanctions, freezing foreign assets, limitations on diplomatic visas and downgrading TIP Report rankings.

21. Protection and Encouragement of Victim-Witnesses

The US Government provides insufficient funding and support for trafficking victims and witnesses, including a lack of relocation and living expenses available to victims vulnerable to retaliation. Service providers report that prosecutors threaten to bring charges against survivors if they do not assist with the prosecution of the traffickers, and in fact, do prosecute victims for crimes they were forced to commit by traffickers. Providers also report that prosecutors do not uniformly protect victims’ rights during trial, as mentioned in Section 11.

Providers also report that prosecutors and federal law enforcement refuse to grant Continued Presence (CP) until after a witness has testified, which is against the intention of the TVPA to provide immigration protection and stability for survivors who may potentially serve as witnesses. Using CP as a carrot and stick to coerce survivors into testifying is a gross misuse of power and replicates the dynamics of a trafficking situation. Survivors should have access to the full benefits they are eligible for, including work authorization, to keep themselves safe.

Recommendation: FNUSA recommends that the US Government increase and improve training for prosecutors, law enforcement, and judges about victims’ rights, ensure adequate financial support to victims and witnesses cooperating with the prosecution, request CP as soon as a

⁸⁶ Human Trafficking Legal Center and WilmerHale, *United States Federal Courts’ Continuing Failure to Order Mandatory Criminal Restitution for Human Trafficking Victims*, September 2018, <https://htlegalcenter.org/wp-content/uploads/2018-Mandatory-Restitution-Report.pdf>.

⁸⁷ Lindsey Lane, et al., Human Trafficking Institute, *2022 Federal Human Trafficking Report*, <https://traffickinginstitute.org/federal-human-trafficking-report/>

survivor is identified as a possible witness, and stop prosecuting survivors for the crimes they were forced to commit by their traffickers.

22. Immigration Protection for Victims

In recent years, immigrants, including immigrant survivors of human trafficking, have been specifically targeted with regulatory and procedural changes that decrease access to health, safety, and success. These actions caused immigrants to fear the US Government and created a hostile environment for immigrants, increasing their risk of trafficking and making it more challenging for survivors of human trafficking to access services and support. FNUSA has raised the issues and concerns in its comments for the 2018-2024 TIP Reports. Federal policies, including increased and indiscriminate immigration enforcement and increased barriers to immigration relief, have had a direct and marked impact on immigrant survivors of abuse and exploitation⁸⁸, including human trafficking. The cumulative effects of the US Government's immigration policies and rhetoric have stopped immigrant survivors of human trafficking from seeking protection from law enforcement and accessing legal and social services. Victims remain in trafficking situations longer, believing that the US Government will not protect them from harm.⁸⁹ The decreases in prosecutions of trafficking, as noted in the 2022 and 2023 TIP Reports, are the inevitable result of this fear of law enforcement. While many of these policies have been reversed, some remain or are being reintroduced. The US Government will need to engage in serious and sustained efforts to rebuild trust with immigrant communities in order to successfully address trafficking of immigrants.

Non-trafficking Specific Protections

The US Government's limitations on protections for asylum-seekers and other immigrants also harm human trafficking survivors who are navigating those systems. FNUSA members have represented numerous immigrants who were trafficked by family members, gangs, and other private actors outside of the US, but then fled to the US for protection. These human trafficking survivors have relied on asylum due to their fear of persecution, or actual retaliation, inflicted upon the victims and/or their family members from their traffickers. While some restrictions from the previous administration have been overturned or rescinded, significant procedural hurdles remain that undermine due process, and the current administration has attempted to reinstate these harmful policies.⁹⁰ Immigration restrictions like expedited asylum screenings and deportation,⁹¹ extended detention, and the "Remain in Mexico" policy create conditions in

⁸⁸ Immigrant Survivors Fear Reporting Violence, 2019, <https://www.tahirih.org/wp-content/uploads/2019/06/2019-Advocate-Survey-Final.pdf>

⁸⁹ See Cast, Freedom Network USA, and Polaris report, "2017 Social Service, Advocate and Legal Service Survey Regarding Immigrant Survivors of Human Trafficking," <https://freedomnetworkusa.org/app/uploads/2018/01/ImmigrationSurveyReportFinal.pdf>; and "In Trump's America, Bosses are Accused of Weaponizing the ICE Crackdown, December 18, 2018," <https://www.bloomberg.com/news/features/2018-12-18/in-trump-s-america-bosses-are-accused-of-weaponizing-the-ice-crackdown>

⁹⁰ American Immigration Lawyers Association, *Still Striving- The First Year of the Biden Administration*, 1/19/22, <https://www.aila.org/infonet/biden-administration-immigration-actions-progress>

⁹¹ National Immigrant Justice Center, "The Biden Administration Continues to Thwart Access to Counsel for People Seeking Asylum, June 2023," <https://immigrantjustice.org/staff/blog/obstructed-legal-access-june-2023-update>

which migrants are vulnerable to human trafficking and other forms of exploitation. Further dangerous immigration restrictions along the border by states like Texas create additional vulnerabilities to trafficking and force immigrants to make dangerous choices to seek safety.

Trafficking survivors, like most trauma survivors, need time and a safe place to process their trauma sufficiently to be able to provide the information required by asylum agents to assess their claims properly. These policies prevent human trafficking survivors from attaining legal status by closing off asylum as a potential legal avenue, hindering them from securing counsel due to limited continuances in immigration court (as lawyers must spend more time and effort on each case, they will take fewer cases, and immigrants will be unable to retain a lawyer before their immigration hearings), and precluding them from securing collateral relief from USCIS. Current processing times for T Visas now exceed 17 months, which is a significant improvement from previous years, but still presents a long waiting period for survivors to access the benefits of T Visa status, including work authorization.⁹² Trafficking survivors are increasingly held in immigration detention, even when T Visas are pending, leaving traumatized trafficking survivors in unsafe, unsanitary conditions without access to sufficient medical and mental health care or adequate access to their attorneys.⁹³ This also limits the ability of survivors to assist in the investigation and prosecution of the traffickers if they are removed from the US. Thus, these policies, again, protect traffickers instead of trafficking survivors.

The Deferred Action for Labor Enforcement (DALE) program introduced in January 2023, has provided expanded access to Deferred Action for workers reporting labor violations, including trafficking survivors who report forced labor. While the process has expanded access, systemic barriers like lack of affordable immigration legal services, insufficient resources for worker organizing, labor agency delays, and underrepresented immigrant communities, have prevented full access to the relief.⁹⁴ Additionally, FNUSA members report that trafficking survivors are often issued Deferred Action instead of the more protective Continued Presence.

Recommendation: FNUSA notes, with great appreciation, that the US Government has reversed some of these policies in the past three years but notes that many others remain in effect, are still in the midst of litigation, or are proposed to be implemented again. FNUSA commends the US Government for reinstating access to fee waivers, rescinding the public charge rule change from the last Administration, and rescinding the ‘blank spaces’ policy. FNUSA calls on the US Government to immediately reverse other policies that restrict and deny due process to immigrants, especially for immigrants seeking asylum and other humanitarian protections in the

⁹² As of 1/23/2024. USCIS provides current case processing time estimates for forms (including the I-914 Application for T Nonimmigrant Status) at <https://egov.uscis.gov/processing-times/> and historical averages at <https://egov.uscis.gov/processing-times/historic-pt>

⁹³ Von Werthern et al, BMC Psychiatry, *The Impact of Immigration Detention on Mental Health: A Systemic Review*, 12/6/2019, <https://bmcp psychiatry.biomedcentral.com/articles/10.1186/s12888-018-1945-y>; Linton et al, *Pediatrics*, March 2017, <https://pediatrics.aappublications.org/content/early/2017/03/09/peds.2017-0483>

⁹⁴ National Immigration Law Center, *Building Worker Power Through Deferred Action: a Report on the First Year*, 1/12/2024, <https://www.nilc.org/news/special-reports/deferred-action/>

US.⁹⁵ FNUSA recommends that DHS eliminate civil detention of immigrants, allowing all immigrants access to legal counsel, healthcare, and reduced exposure to violence, illness, and trauma. FNUSA recommends federal and state labor agencies, DHS, the Biden Administration, and Congress implement the recommendations provided by the National Immigration Law Center to improve access to DALE.⁹⁶

Protections for Unaccompanied Minors

Unaccompanied minors (UACs) are at high risk of trafficking. The TVPA contains specific provisions to ensure that they are appropriately screened for trafficking and then provided with age-appropriate services and protections. However, the US Government has failed to fully implement these protections, especially in border areas, and has failed to provide comprehensive legal and social services once the minors are released from HHS custody.

Recommendation: FNUSA recommends that the US Government provide employment authorization to unaccompanied minors with approved Special Immigrant Juvenile petitions to ensure that they have access to employment, education, and healthcare.⁹⁷ FNUSA also recommends that the US Government discontinue efforts to reinstate Title 42-like measures and re-establish regular processing and screening of immigrants at all border crossings to provide UACs with access to safety and protection in the US. FNUSA also recommends that the US Government provide post-release services, including case management and legal representation, to all UACs upon their release from either ORR or DHS custody, even if they are over the age of 18 at the time of their release.

Trafficking-specific Immigration Protections

Although the TVPA created extensive protections for immigrant survivors of human trafficking, implementation has not lived up to the legal promise.⁹⁸ Continued Presence is rarely provided to victims, bona fide determinations are rarely made in T Visa cases, and the T Visa adjudications have been applying a more restrictive standard that has denied protection for survivors. The T Visa program is underutilized, and these administrative barriers make it difficult

⁹⁵ Alliance for Immigrant Survivors, Comment on Interim Final Rule, DOS Public Charge, 1/18/2022, https://freedomnetworkusa.org/app/uploads/2022/02/AIS_DOS-Sign-on-Comment-Final-Jan-18_2022.pdf; Coalition for Humane Immigrant Rights, Collaborative Letter in Support of Immigrant Protections in Build Back Better, 1/7/2022, https://freedomnetworkusa.org/app/uploads/2022/01/FINAL-Imm-Serving-Orgs_-_Call-on-Senate-Leadership-and-VP-Harris-Can-and-Should-Disregard-the-Parliamentarians-Advisory-Opinion-on-Immigration.pdf; Joint Letter Calling for Termination of Title 42 and MPP, 1/17/2021, https://freedomnetworkusa.org/app/uploads/2022/01/Joint-Letter-in-response-to-Remain-in-Mexico-2.0-and-Title-42-continuation_12172021.pdf

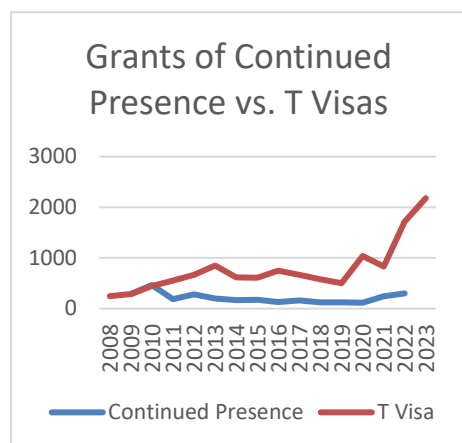
⁹⁶ National Immigration Law Center, *Building Worker Power Through Deferred Action: a Report on the First Year*, 1/12/2024, <https://www.nilc.org/news/special-reports/deferred-action/>

⁹⁷ KIND, *Left in Limbo: Why Special Immigrant Juveniles Need Employment Authorization*, 1/10/2021, <https://supportkind.org/wp-content/uploads/2022/01/SIJS-EAD-Brief-1.10.21-FINAL.pdf>; The Door, “Any Day They Could Deport Me” Over 44,000 Immigrant Children Trapped in SIJS Backlog, November 2021, <https://www.sijsbacklog.com/any-day-they-could-deport-me>

⁹⁸ Joint Comment in Response to Request for Public Input: Identifying Barriers Across USCIS Benefits and Services, 5/19/2021, <https://freedomnetworkusa.org/app/uploads/2021/05/Joint-Comment-on-Barriers-to-Services-and-Benefits-5.19.2021.pdf>

for survivors to access its protections.

Although FNUSA commends DHS's efforts to expand access to Continued Presence (CP) through



revised guidance and new training materials, we remain deeply concerned about the low number of CP grants issued to victims of trafficking. Foreign national survivors rely on this temporary immigration status to access emergency services and support while cooperating with law enforcement and working to apply for long-term immigration relief. The number of survivors granted CP increased in 2022 (298) compared to 2021 (247 grants),⁹⁹ representing the second year of an increase after a mainly downward trend since the high in 2011. Despite the increase, the number of grants remains shockingly low compared to the number of T Visas issued in 2023 (2281)

and 2022 (1715).¹⁰⁰ This trend is consistent over time, as shown in the chart.¹⁰¹ Furthermore, FNUSA members have reported that survivors of sex trafficking are more likely to obtain CP than survivors of labor trafficking.

The introduction of the new Deferred Action for Labor Enforcement (DALE) option for workers reporting labor violations has further revealed the faults in the CP process. Law enforcement is largely unwilling to request CP for survivors, which forces survivors reporting labor trafficking to apply for DALE instead, which offers fewer protections. CP offers a two-year renewable authorization and access to federal benefits, which are all crucial supports for survivors. CCHT released guidance for law enforcement¹⁰² about CP that recommends requesting CP for every identified victim and encouraging CP over deferred action, but this guidance has not done enough to improve law enforcement and prosecutors' misuse and disregard for CP.

FNUSA members and others report barriers to obtaining T Visas in the form of frequent Requests for Evidence (RFEs) and denials that contravene legal standards.¹⁰³ Recent RFEs and denials have included victim-blaming language and clear errors of law, in which USCIS adjudicators improperly interpret the Immigration and Nationality Act (INA) and the regulations put out by USCIS itself. For example, adjudicators have sought justification as to why the survivor has not left the US since escaping from the trafficking situation, even though the 2016

⁹⁹ 2023 TIP Report

¹⁰⁰ USCIS T Visa Statistics FY2021,

https://www.uscis.gov/sites/default/files/document/data/I914t_visastatistics_fy2021_qtr4.pdf

¹⁰¹ CP data is compiled from previous TIP Reports and AG Reports; T Visa data is pulled from USCIS' chart,

https://www.uscis.gov/sites/default/files/document/reports/I914t_visastatistics_fy2020_qtr4.pdf

¹⁰² Blue Campaign, "Continued Presence: Temporary Immigration Designation for Victims of Human Trafficking,"

<https://www.dhs.gov/blue-campaign/materials/pamphlet-continued-presence>

¹⁰³ Yael Schacher, Refugees International, May 2019,

<https://www.refugeesinternational.org/reports/2019/5/21/abused-blamed-and-refused-protection-denied-to-women-and-children-trafficked-over-the-us-southern-border>

regulations expressly removed the language contained in the previous regulations regarding whether the survivor had a “clear chance to leave.”¹⁰⁴ Additionally, USCIS has prevented immigrant survivors from receiving status due to crimes that their traffickers forced them to commit, in violation of INA § 212(d)(13). As each day without status is another day of vulnerability for a victim of trafficking, RFEs are increasing challenges to properly serving survivors and impacting survivors’ decision to come forward at all. The increased time that legal service providers spend responding to the RFE and appealing denials also means fewer survivors can be assisted.

Adjudication for T Visa applications is currently averaging 17 months¹⁰⁵, still over double the 6 to 9-month processing times that were common only a few years ago despite efforts to reduce the processing times.¹⁰⁶ This also delays their receipt of employment authorization documents (EADs) and leaves them vulnerable to ongoing financial instability, a key risk factor in re-trafficking. Others are stuck in immigration detention, with limited access to the legal, social services, and family support they need to recover from their victimization. While USCIS approved the highest number of T Visas in any fiscal year (2181), 9394 applications were left pending at the end of the year. Even survivors with CP are impacted, as many prosecutors urge survivors to wait to file the T Visa application until after the investigation and prosecution are complete. CP, however, lasts only for 2 years. Once the investigation is closed, the CP status ends, and survivors are again left in limbo while they wait for another 2 years in unlawful status and without employment authorization while their T Visas are adjudicated.

The Regulations for the implementation of the T Visa sets forth the process for USCIS to make a bona fide determination for T Visa applications.¹⁰⁷ This determination should include a grant of Deferred Action, enabling the applicant to obtain legal employment and an automatic stay of removal for applicants in proceedings. USCIS has, to date, failed to implement these regulations, leaving trafficking victims in immigration detention, without employment authorization, and at risk of re-trafficking or, worse, removal from the US, which makes them ineligible for a T Visa.

Recommendation: *FNUSA commends USCIS on publishing the T Visa Chapter of the Policy Manual and revoking the ‘Notice to Appear’ memo. FNUSA recommends that DHS and DOJ analyze their own data to find the regions of the US with the highest disparity in numbers of CP grants vs. T Visa grants, and to prioritize those areas for intensive training and support to federal and local law enforcement partners. FNUSA also recommends that federal agencies authorize victim-witness personnel at the FBI, US Attorneys’ Offices, DOJ Human Trafficking Prosecution Unit, and DHS Homeland Security Investigations to prepare and submit CP*

¹⁰⁴ “Removes the current regulatory “opportunity to depart” requirement for those who escaped their traffickers before law enforcement became involved; 8 CFR 214.11(g)(2).” Fed. Reg. Vol. 81 No. 43, December 19, 2016, at 92268.

¹⁰⁵ Current processing times are provided by USCIS at <https://egov.uscis.gov/processing-times/>

¹⁰⁶ USCIS reports processing times of 6.8 to 9.6 months for FY 2012 to FY 2017, <https://egov.uscis.gov/processing-times/historic-pt>.

¹⁰⁷ 8 CFR 214.11

applications. These personnel are most likely to have the relevant identification information about the survivor, the survivor's needs, and the case's status. Additionally, the US Government must expand the list of entities eligible to file CP applications to include at least law enforcement agencies at the State, Local, and Tribal levels.

FNUSA recommends that USCIS immediately provide sufficient training, staffing, and supervision and remove any restrictions, unnecessary requirements, or unnecessary reviews to adjudicate all immigration applications in a timely manner consistent with past precedent. FNUSA recommends that USCIS provide regular training, in partnership with nongovernmental experts, for USCIS adjudicators that includes detailed guidance on the updated regulations, examples of actual trafficking situations, explanation of the impact of trauma on survivors, and instructions on drafting victim-centered RFEs. This training should be developed with the input of survivors to ensure that it properly and accurately reflects the lives, fears, and motivations of trafficking victims. USCIS should also issue work authorizations to applicants when T Visa applications are pending for over 180 days to allow survivors to work legally and reduce the harm and vulnerabilities caused by long processing delays.

FNUSA recommends that the US Government implement significant changes to the T Visa regulations to fully implement the bona fide determination process and use an accurate adjudication standard that recognizes all forms of human trafficking.¹⁰⁸ Until the process is fully implemented, DHS must act to ensure immigrants are not removed from the US while their T Visa application is pending.¹⁰⁹ FNUSA also recommends changes to ensure increased access to Continued Presence for survivors.¹¹⁰

23. Protection for Nationals Trafficked Abroad

FNUSA has no comment on this issue.

24. Criminalization of Victims

As noted in Section 2, the US continues to criminalize victims, including sex and labor trafficking survivors, for the crimes they are forced to commit by their traffickers. Survivors are left with charges in multiple jurisdictions with varying criminal record relief options.¹¹¹ There is no

¹⁰⁸ Freedom Network USA's public comments on T Visa regulations, 9/13/2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSACommentsTReg13Sept2021.pdf>; Freedom Network USA, *Human Trafficking Recommendations for Immediate Action From the Biden-Harris Administration*, December 2020, <https://freedomnetworkusa.org/app/uploads/2020/12/FNUSATransitionMemoBiden17Dec2020.pdf>

¹⁰⁹ See this report for more information on recent T Visa statistics and recommendations: Julie Dahlstrom and Heba Gowayed, Boston University, *Access Denied: Barriers to Legal Protection for Immigrant Survivors of Human Trafficking*, 12/2022, https://www.bu.edu/law/files/2022/12/AccessDenied_Final_120422.pdf

¹¹⁰ Freedom Network USA, *Continued Presence Challenges and Recommendations*, 2/18/2021, <https://freedomnetworkusa.org/app/uploads/2021/02/FNUSAContinuedPresenceChallengesRecommendationsFeb2020.pdf>

¹¹¹ Freedom Network USA, *Criminal Record Relief Laws for Survivors*, <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

criminal record relief for federal convictions.¹¹² FNUSA's Survivor Reentry Project¹¹³ is supporting over 146 survivors working to clear criminal records of a total of over 1315 charges, including Prostitution (50%), Drug Offenses (10%), Theft/Larceny (9%), Trespass/Loitering (6%), Forgery/false Documents (5%), Assault/Battery (3%), Robbery (2%), and Other (15%).

Commercial sex remains unlawful throughout the US at the local, state, and federal levels. Law enforcement continues to arrest those believed to be engaged in sex work, even when they suspect that those being arrested may be sex trafficking survivors. Recent raids in Ohio, framed as anti-trafficking, primarily resulted in the arrest of sex workers, consensual sex buyers, and sex trafficking survivors.¹¹⁴ The Ohio Attorney General's press release on the raid detailed the arrest of 158 people seeking consensual paid sex with an adult, 50 sex workers, and law enforcement detained 51 potential sex trafficking survivors.¹¹⁵ In contradiction with the federal statute classifying all minors engaged in commercial sex as victims, states and local governments continue to criminalize these minors. While some jurisdictions use 'diversion courts' or other mechanisms to allow criminalized victims to avoid incarceration, they continue to be traumatized by the arrest and experience of criminalization.

Only 29 states and the District of Columbia have non-criminalization Safe Harbor laws that protect child victims of sex trafficking from facing prostitution charges.¹¹⁶ These laws tend to ignore potential charges or immigration issues that child victims of labor trafficking may face, including drug charges or other criminal charges from crimes victims were forced to commit. The lack of special provisions for this criminal activity results in survivors with criminal records that create significant barriers to access to benefits and services that are essential to healing. In states with Safe Harbor legislation, there are issues with enforcement due to funding or staffing constraints. Washington State, for example, passed its Safe Harbor law in 2020 but has faced significant staffing hurdles in providing services mandated by the law. When youth do face charges related to their trafficking, they are unable to have the charges or arrests cleared from juvenile or family court records. Record sealing can be lifted if someone faces a charge as an adult or turns 18 in some states, and Child Protective Services and law enforcement can access

¹¹² KB White, Freedom Network USA, *Impact of Arrest and Conviction Histories on Trafficking Survivors*, 12/6/2021, <https://freedomnetworkusa.org/2021/11/10/impact-of-arrest-and-conviction-histories-on-trafficking-survivors/>

¹¹³ Freedom Network USA, <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

¹¹⁴ Leila Goldstein, WYSO, *The Ohio AG says stings rescue trafficking victims. Often that means they're arrested.*, October 18, 2021, <https://www.wyso.org/local-and-statewide-news/2021-10-18/the-ohio-ag-says-stings-rescue-trafficking-victims-often-that-means-theyre-arrested>; Leila Goldstein, WCBE News, *"Rescued" Trafficking Victims In Ohio Often Arrested As Well*, October 19, 2020, <https://www.wcbe.org/news/2021-10-19/rescued-trafficking-victims-in-ohio-often-arrested-as-well> ;

¹¹⁵ Ohio Attorney General, *Attorney General Dave Yost Announces Success of Statewide Anti-Human Trafficking Sting: Operation 'Ohio Knows' Nets 161 Seeking to Buy Sex*, October 4, 2021, <https://www.ohioattorneygeneral.gov/Media/News-Releases/October-2021/Attorney-General-Dave-Yost-Announces-Success-of-St>.

¹¹⁶ Shared Hope, "Safe Harbor Map," <https://reportcards.sharedhope.org/safeharbormap/?location=wa>; Freedom Network USA, "Criminal Record Relief Laws for Survivors," <https://freedomnetworkusa.org/advocacy/survivor-reentry-project/>

and reference sealed files.¹¹⁷ These charges can follow people for their entire lives and create significant barriers to obtaining safe work, education, and housing.

Even for survivors who have received record relief, vacated or expunged records often show up on criminal background checks. This creates barriers to accessing safe housing and job-specific licensing. The Consumer Financial Protection Bureau put out a new advisory in January 2024 that may help more survivors receive accurate background checks and improve access to housing.¹¹⁸

DOJ's Office for Victims of Crime provides funding to Enhanced Collaborative Model Human Trafficking Task Forces (ECMs) that must be shared by a state or local law enforcement agency and a service provider. For too long, law enforcement agencies have used these funds to support 'raids and rescues' that include arresting sex workers, sometimes even if the workers are identified as sex trafficking survivors. In New York, for example, reporting has revealed that ECM Task Force member NYPD engaged in routine criminalization of sex workers and possible sex trafficking victims.¹¹⁹ Task Forces also support 'diversion courts' that rely on arrest to coerce survivors into programs or services.¹²⁰ Some law enforcement agencies use these funds for 'john stings' designed to arrest potential sex buyers using decoys completely unrelated to identifying sex trafficking survivors. Each dollar spent arresting a sex worker or customer seeking consensual sex with an adult is a dollar taken away from housing, legal services, food, or education for a trafficking survivor.

FNUSA's members report that clients in the US experience administrative punishments that prevent survivors from performing legal and safe work related to their expertise and interests. These administrative hurdles can also increase vulnerability to trafficking for both people with lived experience and without. In some cases, the loss of these administrative rights is tied to existing criminal charges. There are few opportunities for second-chance employment for people with felony records.¹²¹ Many jobs that require licenses in order to perform work legally, like social work, teaching, law, medical care, and massage, often do not allow people with

¹¹⁷ Andrea Coleman, OJJDP, *Expunging Juvenile Records: Misconceptions, Collateral Consequences, and Emerging Practices*, 12/2020, <https://ojjdp.ojp.gov/publications/expunging-juvenile-records.pdf>

¹¹⁸ CFPB Advisory Opinion, 12 CFR Part 1022, 1/23/2024, <https://www.govinfo.gov/content/pkg/FR-2024-01-23/pdf/2024-00788.pdf>

¹¹⁹ For example, NYPD is part of an ECM Task Force, Joshua Kaplan and Joaquin Sapien, ProPublica, *NYPD Cops Cash in on Sex Trade Arrests with Little Evidence, While Black and Brown New Yorkers Pay the Price*, <https://www.propublica.org/article/nypd-cops-cash-in-on-sex-trade-arrests-with-little-evidence-while-black-and-brown-new-yorkers-pay-the-price>

¹²⁰ Melissa Gira Grant, The Appeal, *Inside NY Courts Where Sex Workers are 'Painted as Victims and Treated as Criminals'*, September 21, 2018, <https://theappeal.org/inside-ny-courts-where-sex-workers-are-painted-as-victims-and-treated-as-criminals/>

¹²¹ Sabra Boyd, Vice, *What It's Like to Look For a Job After Prison*, 4/11/2022, <https://www.vice.com/en/article/pkp4xm/second-chance-employment-prison>

criminal records to hold licenses, even if they have completed the necessary training.¹²² Other service trades like firefighting also exclude people with records, even if they have received the necessary training as part of serving their sentence. In other cases, administrative rights are removed without criminal charges, creating a need to find a new form of safe work or operate without a license.

Recommendation: FNUSA recommends discontinuing the ECM funding in order to focus on services for survivors. If the ECM grants continue, DOJ must disallow activities and expenses that criminalize survivors or divert resources away from services for survivors and urge a greater allocation of funding for the service provider arm of the Task Force.¹²³ The US must also decriminalize sex work at the Federal, state, and local levels and shift resources to providing services and support to sex trafficking survivors and sex workers seeking alternate employment.¹²⁴ The US should expand opportunities for second-chance employment, remove hurdles to obtaining work licenses for survivors with criminal records, and legislate federal criminal record relief for both adult and juvenile records to help survivors obtain safe, living wage employment. Reforms to the criminal legal system should be extended to include immigration consequences. FNUSA urges the US Government to study the effects of forced criminalization as part of labor trafficking, including non-prostitution charges like drug charges from survivors forced to work in the drug trade.

Prevention

25. Prevention Efforts

The US Government has failed to engage in primary prevention efforts to change the conditions that allow trafficking to thrive in the US. The lack of affordable access to basic needs like housing, food, healthcare, mental healthcare, childcare, education, and transportation, as well as the actively harmful immigration and carceral systems, create and increase vulnerabilities to exploitation. Systemic reforms to labor, immigration, social safety net support, the child welfare system, education, family support, the juvenile and criminal justice systems, community education, and the creation of positive market forces (through programs such as the Coalition of Immokalee Workers' Fair Food Program¹²⁵) are more important in preventing human trafficking than billboard campaigns and interventions after the fact. In a more broadly focused

¹²² Don Thompson, KQED, 'An Untapped Pool of Talent': Why Isn't California Hiring More Formerly Incarcerated Firefighters?, 8/22/2022, <https://www.kqed.org/news/11923117/an-untapped-pool-of-talent-why-isnt-california-hiring-more-formerly-incarcerated-firefighters>

¹²³ Freedom Network USA, *FY22 Human Trafficking Funding Recommendations*, December 2021, <https://freedomnetworkusa.org/app/uploads/2021/12/FY22FNUSAFundingRecs.pdf>.

¹²⁴ Freedom Network USA, *Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work*, September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSASTatementDecrimSept2021.pdf>; Freedom Network USA, *End Demand Fact Sheet*, 2018, <https://freedomnetworkusa.org/app/uploads/2018/07/End-Demand.pdf>; Beyond Trafficking and Slavery, Open Democracy, *It's Time to Get Off the Fence on Sex Workers' Rights*, 2021, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/sex-work-on-bts/>; ACLU, *Is Sex Work Decriminalization the Answer? What the Research Tells Us*, 2020, https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief.pdf

¹²⁵ For more information, see <http://ciw-online.org/>.

approach, workers are free from discrimination, learn their rights, are fairly paid, have access to safe and affordable housing, health care, and education, and can report concerns without fear of reprisal. Additionally, employers gain access to committed buyers and can advertise products that are free of labor trafficking. The US Government's approach to sex trafficking, has been overly focused on criminal justice interventions, devoting few resources to ensuring youth and adults have access to fair wages and living conditions. Both youth and adults need resources and support for avoiding homelessness, protection from abuse, and accessing safe alternatives.

Recommendation: *FNUSA urges the US Government to more comprehensively address the conditions of vulnerable populations to prevent labor and sex trafficking. By taking a strong public health approach to trafficking, the US can move beyond prosecution and into holistic prevention approaches to prevent trafficking from happening in the first place.¹²⁶ Extensive mandatory screening for trafficking throughout the juvenile justice, immigration, criminal justice, and child welfare systems should be instituted.*

26. National Action Plan

While the US Government released a National Action Plan, it lacks sufficient detail and commitments to substantial change to have a significant impact. It also continues to support End Demand strategies that cause harm. There was no meaningful opportunity for NGOs to engage in the development of the original Plan or the revised Plan. There is no clear mechanism for accountability in the implementation of the Plan.

Recommendation: *FNUSA urges the US Government to provide further detail and accountability measures to make the National Action Plan meaningful. FNUSA further recommends that the National Action Plan reject End Demand policies and implement the reforms recommended by FNUSA throughout this document.*

27. Government-funded Anti-Trafficking Information/Education Campaigns

The US Government does provide useful Know Your Rights pamphlets and information at the Embassies. However, the information is insufficient to counter the threats of traffickers and systematic ways in which workers, especially BIPOC and immigrant workers, are left with limited options and power.

There are also awareness campaigns at airports and other places of transportation and accommodation. There has been a proliferation of education campaigns targeting schools and students. However, there have been limited or no evaluations to ensure that the campaigns are effective in any respect and that the campaigns do not cause harm. In fact, there have been

¹²⁶ For more information, see FNUSA, HEAL Trafficking and National Survivor Network's comments submitted to HHS' Office on Trafficking in Persons on Human Trafficking Prevention, <https://freedomnetworkusa.org/app/uploads/2019/11/RevisedFNUSAHealNsNRecsOTIPPrevention-1.pdf> and FNUSA's 2023 Public Comment on Proposed HHS Prevention Framework, <https://freedomnetworkusa.org/app/uploads/2023/06/FNUSA-Comments-on-HHS-Prevention-Framework-June-2023.pdf>

numerous examples in 2023 alone of trained airline personnel causing harm by accusing interracial families of being engaged in trafficking.¹²⁷

Recommendation: FNUSA urges the US Government to conduct a rigorous evaluation of the effectiveness of human trafficking training before it is recommended for widespread implementation in industries. The evaluation should determine if the training increases the ability to accurately identify potential trafficking victims without racial profiling, victim blaming, or resulting in misinformation. Training materials used in schools should use a harm-reduction, sex-positive approach that helps students to learn about the importance of sharing consent and establishing healthy relationships.

28. Survivor Input

The US Government does seek input from the all-survivor US Advisory Council on Human Trafficking. Notably, payment for the members of the Council has finally been authorized. However, the US Government provides limited support to ensure that the Council has the information and expertise, either within the members or provided by consultants, to develop the most effective recommendations and information. The members of the Council are chosen through a secretive political process, with no accountability to ensure that the Council members are representative of the wide variety of experiences and perspectives of trafficking survivors.

In the creation of new laws, the US Congress rarely considers the input of people with lived experience of trafficking. A recent bill in the US House (H.R.2601) was proposed and rushed through markup after sponsors refused to meet with survivors who offered to share their expertise on the potential harms that would be caused by the bill. Unlike other branches of the US Government, Congress has no formal mechanism for lived experience experts to inform legislative efforts.

Recommendation: FNUSA urges the US Government to invest directly in improving the effectiveness and outcomes of survivor engagement. The US Government should provide survivor advocates with training and technical assistance through a survivor-led NGO effort. The US Government should also improve the impact of the US Advisory Council by providing the Council with expert consultants to provide in-depth expertise on the systems and challenges that the Council identifies. The US Government should also provide a response to the Council's

¹²⁷ Natalie Swaby, "Dad mistaken for human trafficker on American Airlines flight from Sea-Tac Airport," King 5 News, 5/12/2023, <https://www.king5.com/article/news/local/dad-mistaken-human-trafficker-american-airlines-flight/281-216dc4c2-19ed-4e8f-9677-4ea5e8dff8f0>; Thao Nguyen, "Mother who was accused of human trafficking by Southwest files discrimination lawsuit," 8/6/2023, <https://www.usatoday.com/story/travel/news/2023/08/06/southwest-racial-profiling-discrimination-lawsuit/70540134007/>; Helen Coffey, "Black passenger falsely accused of trafficking his own children on flight," 9/25/2023, <https://www.independent.co.uk/travel/news-and-advice/black-passenger-trafficking-children-flight-b2417983.html>; Kimberly Craig, "Delta Airlines calls police on Black grandma, Japanese grandpa on suspicion of child trafficking," 9/28/2023, <https://www.wxyz.com/news/delta-airlines-calls-police-on-black-grandma-japanese-grandpa-on-suspicion-of-child-trafficking>

recommendations, including whether the recommendations are accepted or rejected and the status of implementation for all accepted recommendations.

29. Labor Recruitment

The US Government has failed to sufficiently address the widespread abuses of labor recruiters that lead directly to the abuse and exploitation of immigrant workers. Although some regulations have been enacted, they have been insufficiently implemented, and US businesses are not held responsible for the labor recruitment abuses from which they benefit. Most migrant workers are trapped by visa restrictions that tie them to their employer or require the employer's permission to change jobs.

Recommendation: FNUSA urges the US Government to expand protections for all workers and hold employers accountable for any abuses committed in the process of obtaining workers for employment in the US. The US Government must also increase transparency about employer sanctions, ensure abusive employers are barred from all forms of employment-based visas, and engage in reforms of employment-based visas to ensure that workers are empowered to leave and report abusive employers without harm.¹²⁸

30. International Coordination on Recruitment

FNUSA has no comment on this issue.

31. Migration/Trade Policies and Trafficking

The US guestworker and student visa programs continue to be rife with abuse and exploitation, including labor trafficking.¹²⁹ Providers report that overseas recruiters continue to charge excessive fees to workers and perpetrate fraud and other recruitment abuses, which lay the foundation for human trafficking in the US. In 2020, the US Government issued a rule to restrict wages for H-2A workers regardless of market conditions.¹³⁰ Additionally, the structure of the

¹²⁸ Freedom Network USA, Input to UN Special Rapporteur on Forced Labor in Agriculture, 1/31/2022, <https://freedomnetworkusa.org/app/uploads/2022/02/FNUSAInputLaborTraffickingAgricultureUNSpecialRapporteur-January2022.pdf>

¹²⁹ Justice in Motion's Visa Pages, <https://www.justiceinmotion.org/visa-pages>; and see cases including: USA v. Patricio, et al. (<https://www.justice.gov/usao-sdga/pr/human-smuggling-forced-labor-among-allegations-south-georgia-federal-indictment>); Francis et al. v. Apex USA Inc. et al, 5:18-cv-00583 (D. Okla.); Chaidez v. Hemphill, 2:18-cv-01837 (E.D. Pa.); Rosas v. Sarbanand Farms, 2:18-cv-00112 (W.D. Wash.); Bernal v. Coleman, 1:18-cv-00088 (W.D. Ky.).

¹³⁰ <https://www.federalregister.gov/documents/2020/11/05/2020-24544/adverse-effect-wage-rate-methodology-for-the-temporary-employment-of-h-2a-nonimmigrants-in-non-range>

low-wage programs in particular (for example, the H-2A¹³¹, H-2B¹³², and J-1¹³³ programs) and even religious worker visas, which generally bind a worker's lawful status in the US to the employer who sponsored their visa, makes it almost impossible for a worker to leave an abusive employer without facing deportation or economic ruin.¹³⁴ There have been several recent investigations and indictments in guestworker cases, such as 'Operation Blooming Onion' (extensive multi-year exploitation of H-2A visas that led to the deaths of at least 2 workers)¹³⁵, ongoing investigation of around 200 religious workers exploited by a temple¹³⁶, Utah AG indictment of a carnival for abusing H-2B visas to exploit workers¹³⁷, and a recent indictment for labor trafficking of seasonal workers in South Carolina.¹³⁸ Proposed rules for the H-2A and H-2B programs were sent out for public comment in September 2023. The rules addressed many common issues within the H-2 program, but failed to address the fundamental issue of visas being tied directly to an employer and should be strengthened to prevent employers from using common tools of coercion and abuse.¹³⁹

¹³¹ Freedom Network USA, *Human Trafficking and H-2 Temporary Workers*, May 2018, <https://freedomnetworkusa.org/app/uploads/2018/05/Temporary-Workers-H2-May2018.pdf>; Colorado Legal Services, *Overworked and Underpaid: H-2A Herders in Colorado*, 1/14/2010, <https://humantraffickinghotline.org/sites/default/files/Overworked%20and%20Underpaid%20-%20CLS.pdf>; Centro de los Derechos Del Migrante, Inc., *Ripe for Reform: Abuses of Agricultural Workers in the H-2A Visa Program*, April 2020, <https://cdmigrante.org/wp-content/uploads/2020/04/Ripe-for-Reform.pdf>;

¹³² Centro de los Derechos Del Migrante, Inc., *Breaking the Shell: How Maryland's Migrant Crab Pickers Continue to be "Picked Apart"*, 09/2020, <https://cdmigrante.org/breaking-the-shell/>;

¹³³ Freedom Network USA, *Human Trafficking and J-1 Visas for Temporary Workers*, May 2018, <https://freedomnetworkusa.org/app/uploads/2018/05/Human-Trafficking-and-J-1-Visas-May2018.pdf>; International Labor Recruitment Working Group, *Shining a Light on Summer Work: A First Look at the Employers Using the J-1 Summer Work Travel Visa*, 2019, <https://cdmigrante.org/wp-content/uploads/2019/07/Report-Shining-A-Light-on-Summer-Work.pdf>; International Labor Recruitment Working Group, *Shortchanged: The big Business Behind the Low Wage J-1 Au Pair Program*, 2018, <https://cdmigrante.org/wp-content/uploads/2018/08/Shortchanged.pdf>

¹³⁴ See this report for extensive information on the H-2B Visa program: Justice in Motion, *Visa Pages: U.S. Temporary Foreign Worker Visas: H-2B Visa*, 10/2022, https://www.justiceinmotion.org/files/ugd/64f95e_6df196b8539949209a16e97ab6571bd4.pdf

¹³⁵ US Attorney's Office, Southern District of Georgia, Press Release, *Human smuggling, forced labor among allegations in south Georgia federal indictment*, <https://www.justice.gov/usao-sdga/pr/human-smuggling-forced-labor-among-allegations-south-georgia-federal-indictment>

¹³⁶ Joe Atmonavage, NJ.com, *Lawsuit accusing NJ temple of human trafficking on hold as criminal investigation continues*, <https://www.nj.com/news/2021/12/lawsuit-accusing-nj-temple-of-human-trafficking-on-hold-as-criminal-investigation-continues.html>

¹³⁷ Utah Attorney General's Office, Press Release, *Labor Trafficking Arrest: Mexican Nationals Held Against Their Will, H2B Visas Withheld, Forced into Horrendous Working & Living Conditions*, <https://attorneygeneral.utah.gov/11317-2/>

¹³⁸ US Attorney's Office, District of South Carolina, Press Release, *Multi-Count Federal Indictment Returned for Labor Trafficking Violations*, <https://www.justice.gov/usao-sc/pr/multi-count-federal-indictment-returned-labor-trafficking-violations>

¹³⁹ Joint Comments on Proposed H-2A rule, 11/14/2023, <https://freedomnetworkusa.org/app/uploads/2023/12/Farmworker-Justice-comments-Improving-Protections-for-H-2A-Workers.pdf>

The US has failed to provide assistance and information for workers on visas tied to their employers who are laid off if they work in lower-wage fields. In early January 2023, when major technology companies laid off thousands of workers, the government quickly created listening sessions and materials to help high-income workers know their rights while searching for new positions. The US Government chooses to prioritize providing these resources to workers in high paying positions, while workers in low-wage jobs are left with few resources.

FNUSA was pleased to see the H-2B Worker Protection Taskforce's report outlining ways federal agencies can work together to improve rights and prevent exploitation of H-2B workers.¹⁴⁰ By increasing data collection and transparency, protecting workers who report violations, and ensuring workers know their rights, many of the vulnerabilities the H-2 program creates for workers can be alleviated. Extensive reform of the visa categories is still necessary to prevent the programs' continued harm.

Recommendation: *FNUSA calls on the federal government to reform these guestworker programs to guarantee robust protections for workers, including visa portability for all guestworkers, robust workers' rights information provided to all workers both pre-departure and upon their arrival in the US, safeguards against exploitative employment contracts being approved with visas, and robust enforcement against employers and recruiters who have abused or exploited their workers or benefited from the actions of recruitment agencies that they directly or indirectly engaged.¹⁴¹ The agencies in the Interagency H-2 Worker Protection Working Group should implement the H-2B Worker Protection Task Force's recommendations immediately.¹⁴² Congress and federal agencies should prioritize regulation of these visa categories before expansion of the program is allowed to continue.*

32. Prevention of Forced Labor in Supply Chains

As discussed in multiple sections of this document, while there have been some investigations and prosecutions into labor trafficking in the US, the US has failed to enact needed reforms in immigration and labor laws or invest sufficient resources in agencies with expertise in employment violations (DOL and EEOC) to effectively prevent forced labor.

The US fails to ensure that workers always have the full right to organize for better working conditions, a vital component of preventing forced labor. A 2021 Supreme Court decision eroded the rights of migrant workers to organize by barring farmworker union organizers from

¹⁴⁰ H-2B Worker Protection Taskforce, *Strengthening Protections for H-2b Temporary Workers*, 10/2023, <https://www.whitehouse.gov/wp-content/uploads/2023/10/H-2B-Worker-Protection-Taskforce-Report.pdf>

¹⁴¹ Freedom Network USA, Input to UN Special Rapporteur on Forced Labor in Agriculture, 1/31/2022, <https://freedomnetworkusa.org/app/uploads/2022/02/FNUSAInputLaborTraffickingAgricultureUNSpecialRapporteur-January2022.pdf>; Joint Comments on J-1 Au Pair Program Rulemaking, 11/4/2021, <https://freedomnetworkusa.org/app/uploads/2021/11/Au-Pair-Rule-Sign-On-Letter-FINAL.pdf>; FNUSA's Comments on RIN 1400-AD14, Proposed Rule, "Exchange Visitor Program – Summer Work Travel," February 2017, <https://freedomnetworkusa.org/app/uploads/2016/10/FNUSACommentsRIN1400-AD14.pdf>

¹⁴² H-2B Worker Protection Taskforce, *Strengthening Protections for H-2b Temporary Workers*, 10/2023, <https://www.whitehouse.gov/wp-content/uploads/2023/10/H-2B-Worker-Protection-Taskforce-Report.pdf>

speaking about the union with workers on farm property, even during non-working hours.¹⁴³ While there was an increase in workers represented by unions and unionization efforts across industries, union density is not increasing across the country due to decades of policies that erode organizing rights.¹⁴⁴ Weak federal laws and right to work laws in many states, alongside company union busting efforts prevent workers from organizing for better working conditions, which are often also trafficking prevention measures.

Child labor restrictions are an indispensable form of prevention of child labor trafficking. These labor laws were created because children were working in unsafe factory conditions and exposed to hazardous chemicals.¹⁴⁵ Federal law prohibits children under the age of 18 from working in meatpacking plants and bars. It also restricts the hours children can work so they can attend school.¹⁴⁶ Despite these protections, DOL closed 955 investigations with child labor violations in 2023, finding 5,800 kids employed in violation of child labor laws. A January 2023 DOL investigation found 154 children aged 14 and 15 employed by McDonald's were working excessive hours and outside of the time restrictions set by federal law.¹⁴⁷ A food sanitation contractor was required to pay \$1.5 million in civil penalties for employing more than 100 children in dangerous jobs.¹⁴⁸ A Wage and Hour investigation found a sawmill operator had caused multiple injuries and a teen's death by allowing children to work on dangerous lumber processing machinery and working after legally-permitted hours.¹⁴⁹

The children most likely to end up in dangerous jobs and working extended hours are the ones who have greater vulnerability to human trafficking. Children who do not speak fluent English, live in mixed-status or undocumented households, have parents out of work or who do not make enough to support a family, have disabilities, or face housing insecurity or homelessness may seek work to support themselves or their family and are more likely to end up in exploitative jobs. In the recent DOL lawsuit in Nebraska, most of the children hired illegally in

¹⁴³ Nina Totenberg, NPR, *Supreme Court Hands Farmworkers Union A Major Loss*, 6/24/2022, <https://www.npr.org/2021/06/23/1000129827/in-a-narrow-ruling-supreme-court-hands-farmworkers-union-a-loss>

¹⁴⁴ Heidi Shierholz, et. al., "Workers want unions, but the latest data point to obstacles in their path," Economic Policy Institute, 1/23/2024, <https://www.epi.org/publication/union-membership-data/#:~:text=Unionization%20is%20much%20lower%20in,the%20public%20sector%20experienced%20losses.>

¹⁴⁵ US Bureau of Labor Statistics, *History of child labor in the United States—part 2: the reform movement*, 1/2017, <https://www.bls.gov/opub/mlr/2017/article/history-of-child-labor-in-the-united-states-part-2-the-reform-movement.htm>

¹⁴⁶ Daniel Weissner, Reuters, *U.S. company fined for hiring kids to clean meatpacking plants*, 2/17/2023, <https://www.reuters.com/world/us/us-company-fined-hiring-kids-clean-meatpacking-plants-2023-02-17/>

¹⁴⁷ US Department of Labor, *US Department Of Labor Finds Mcdonald's Franchise Operator Violated Child Labor Hours, Safety Regulations At Seven Locations In Erie, Warren*, 2/22/2023, <https://www.dol.gov/newsroom/releases/whd/whd20230222-2>

¹⁴⁸ US Department of Labor, "More Than 100 Children Illegally Employed in Hazardous Jobs, Federal Investigation Finds; Food Sanitation Contractor Pays \$1.5m In Penalties," 2/17/2023, <https://www.dol.gov/newsroom/releases/whd/whd20230217-1>

¹⁴⁹ US Department of Labor, "Sawmill Operator Agrees to Compliance With Federal Child Labor Laws After Wisconsin Teen Suffers Fatal Injuries Operating Dangerous Machinery," 9/2/2023, <https://www.dol.gov/newsroom/releases/whd/whd20230907>

the meat packing plants did not speak fluent English.¹⁵⁰ Children in illegal labor in rural areas are less likely to be identified and provided services due to the lack of resources and less frequent opportunities for third-party intervention.

Efforts to remove child labor protections are rising in states with large industrial economies. Arkansas, Iowa, New Hampshire, New Jersey, and North Dakota all passed legislation in 2023 that weakened protections for children working in the state.¹⁵¹ These included expanding the hours children aged 14-18 can work during the school year, shielding employers from liability if children are injured or killed, allowing children to work in more dangerous industries, and removing the little regulatory oversight that existed for child workers. Numerous other states introduced legislation that remove protections for children. Removing these protections and shielding companies from liability if a child is harmed or killed will put children in danger and increase the risk of child labor trafficking. A tight labor market and refusal by companies to pay competitive, livable wages will not be solved by putting more children in dangerous jobs and longer shifts.

Recommendation: FNUSA calls on the US Government to dedicate resources to evaluating US supply chains and businesses using illegal child labor, violating child labor laws, and the impact of reducing protections on harm to children. The US Government should also commit more resources to expand the WHD to ensure all labor violations are thoroughly investigated. Federal child labor law should be strengthened to provide increased protections to minors working in all states. Services and referral networks should be expanded to ensure children who have experienced labor violations and labor trafficking can access the comprehensive resources necessary to heal. An increase in funding is necessary for rural areas to increase oversight of businesses and expand services available to survivors. FNUSA also recommends expanding efforts to ensure US citizen and noncitizen workers of all ages know their rights.

The US Government should take extra care to protect Unaccompanied Migrant Children (UAC) to ensure these particularly vulnerable children do not face abuse and exploitation. The government should provide expanded services and legal counsel to UAC after leaving government care (either immigration detention or HHS custody) so that these children can receive critical prevention services like medical, social, mental health, and legal services.

33. Impact of Bilateral, Multilateral, or Regional Anti-Trafficking Arrangements

FNUSA has no input on this issue.

34. International Governmental Assistance

FNUSA has no input on this issue.

¹⁵⁰ Daniel Weissner, Reuters, *U.S. company fined for hiring kids to clean meatpacking plants*, 2/17/2023, <https://www.reuters.com/world/us/us-company-fined-hiring-kids-clean-meatpacking-plants-2023-02-17/>

¹⁵¹ Samantha Capaldo, "Recent Federal and State Legislation to Amend Child Labor Laws," 12/14/2023, <https://nationalaglawcenter.org/recent-federal-and-state-legislation-to-amend-child-labor-laws/>

35. Reduce Country Nationals in International and Domestic Child Sex Tourism

FNUSA has no input on this issue.

Territories and Semi-Autonomous Regions

36. Non-sovereign Territories and Semi-Autonomous Regions

FNUSA has no input on this issue.

Trafficking Profile

37. Trafficking Situation

The most detailed information on US Government anti-trafficking efforts is included in the Attorney General's Report to Congress and Assessment of US Government Activities to Combat Human Trafficking (AG Report)¹⁵² as mandated by the TVPA.¹⁵³ However, the US Government has failed to submit this vital report for the past fiscal two years. The most recent report available covers FY21.¹⁵⁴ This failure leaves government agencies, nongovernmental organizations, and survivors with incomplete information about the efforts and impact of the US Government.

Recommendation: *The US Government must comply with the law and release the report annually, using comparable data so that governments and civil society can access the most accurate information about the government's efforts to address human trafficking. The government should not change the data presented without good reason. The agencies should provide additional data, detail, explanation, or disaggregation; while still providing comparable data to allow an analysis of the progress made.*

38. What groups, including underserved communities, are at particular risk of human trafficking?

US policy continues to uphold the systemic marginalization of Native people, LGBTQIA individuals, immigrants, Black and Brown people, and low-income communities. This marginalization causes abuse and exploitation, including human trafficking, and reduced access to protection, services, and support. US Government efforts must shift to tackling the issues that make populations vulnerable to abuse and exploitation in the first place. Without dedicating significant resources to dismantling racist systems that oppress vulnerable communities, exploitation will flourish and trafficking will remain pervasive.

Lack of access to safe and affordable housing, child care, safe living-wage employment, medical and mental health care, effective child and family support, and immigration relief, coupled with

¹⁵² Request for Information for the 2021 Trafficking in Persons Report, 85 FR 77482.

¹⁵³ 22 USC 7103(d)(7).

¹⁵⁴ US Department of Justice, Attorney General's Annual Report to Congress on US Government Activities to Combat Trafficking in Persons, April 28, 2020, <https://www.justice.gov/d9/2023-04/AG%20HT%20Report%20FY21FINALPDF.pdf>

ongoing discrimination against Black and Brown people, immigrants, and LGBTQIA individuals, are all direct contributors to vulnerability. A significant reduction in human trafficking requires significant changes to the systems that have put these communities at risk. It requires expanded social services and support for those most vulnerable to exploitation and abuse. There must be significantly increased access to health and mental healthcare, protections for LGBTQIA individuals, and legal status for immigrants. We must transform systems of accountability to end the ongoing horror of police violence against Black and Brown people. The impact of these systemic issues has been exacerbated by the COVID-19 pandemic, where gig workers, sex workers, and immigrants were excluded from relief packages, and Black and Brown people have been getting sick and dying at disproportionately high rates and are being vaccinated at disproportionately low rates.¹⁵⁵ As the US ended COVID-19-related assistance programs, these disparities have only worsened.

Recommendation: *FNUSA calls on the US Government to effectively address the root causes of trafficking and exploitation: racism, poverty, insecure housing, discrimination, and a broken immigration system. The US Government must ensure that affordable housing, medical and mental health care, childcare, and education are available to all, dramatically increase efforts to reform the child welfare system to focus on supporting families and providing legal representation for system-involved children, eliminate discrimination, reform policing, and enact comprehensive immigration reform.*¹⁵⁶

Black and Brown Communities

US history is replete with systemic and individual acts of abuse and exploitation of Black and Brown people. The development of US legal protections for workers was explicitly racist, excluding agriculture and domestic work, sectors filled with formerly enslaved people, from seminal labor rights legislation.¹⁵⁷ These industries continue to be rife with abuse and exploitation, including labor and sex trafficking. The explicit exclusion of prison labor from the US Constitutional ban on slavery demonstrates the intentional, systemic oppression of Black communities in the criminal legal system.¹⁵⁸ The COVID-19 pandemic has made explicit the impact of systemic racism on Black and Brown communities, who are suffering at much higher

¹⁵⁵ Leonard Egede and Rebekah Walker, *New England Journal of Medicine*, *Structural Racism, Social Risk Factors, and Covid-19 – A Dangerous Convergence for Black Americans*, 9/17/20, <https://www.nejm.org/doi/full/10.1056/NEJMp2023616>

¹⁵⁶ Freedom Network USA, HEAL Trafficking and National Survivor Network's comments submitted to HHS' Office on Trafficking in Persons on Human Trafficking Prevention, <https://freedomnetworkusa.org/app/uploads/2019/11/RevisedFNUSAHealNsNRecsOTIPPrevention-1.pdf>.

¹⁵⁷ Juan Perea, *The Echoes of Slavery: Recognizing the Racist Origins of the Agricultural and Domestic Worker Exclusion from the National Labor Relations Act*, 2011, <https://lawcommons.luc.edu/cgi/viewcontent.cgi?article=1150&context=facpubs>

¹⁵⁸ Harvard University, *Confronting Anti-Black Racism Resource: Criminal Justice*, <https://library.harvard.edu/confronting-anti-black-racism/criminal-justice>; Kica Matos and Jamila Hodge, Vera Institute of Justice, *The Chains of Slavery Still Exist in Mass Incarceration*, 6/17/2021, <https://www.vera.org/blog/the-chains-of-slavery-still-exist-in-mass-incarceration>.

rates of infection, illness, death, and long COVID symptoms.^{159,160}

Black women, girls, and gender non-conforming people are disproportionately represented as victims of trafficking and transgender youth of color are at a high-risk of sex trafficking. Despite this, significantly more Black youth survivors are criminalized with arrests for prostitution than white youth.¹⁶¹

The recent backlash against teaching students about discrimination in schools, misusing the term Critical Race Theory,¹⁶² bans on books with protagonists of color or discussing race and racism,¹⁶³ and restrictions on voting rights¹⁶⁴ are further examples of ongoing, systemic, government-supported racism. The Supreme Court striking down Affirmative Action has only fueled efforts to prevent education on racism and access to literature that features Black and Brown people, and its long-ranging impacts on access to higher education may be devastating. States that previously targeted primary and high school materials have turned their attention toward banning curriculum about race in higher education, both in legislation and by targeting educators with lawsuits and threats of firing.^{165,166}

Recommendation: FNUSA calls on the US Government to engage in extensive anti-racist policymaking to address the systemic abuse and exploitation of Black and Brown people in the US. Comprehensive action is needed to not only remove barriers and protect the rights of Black and Brown people, but also to provide redress for the harm suffered and to invest in communities that have been impoverished and exploited. Specific recommendations include the adoption of labor protections for domestic workers and agricultural workers, redirecting funding from law enforcement to community development organizations that are rooted in Black and Brown communities, increased funding and support for public schools, encouragement of local legislation that protects teaching on race and racism, expansion of affordable housing, expansion of voting rights protections, and expanded access to affordable healthcare and

¹⁵⁹ Rohan Khazanchi, Charlesnika Evans, and Jasmine Marcelin, [JAMA Network Open](https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2770954), *Racism, Not Race, Drives Inequity Across the COVID-19 Continuum*, 9/25/2020,

<https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2770954>

¹⁶⁰ National Institutes of Health, *Symptoms of Long COVID Differ for People of Different Racial and Ethnic Groups*, <https://covid19.nih.gov/news-and-stories/symptoms-long-covid-differ-people-different-racial-and-ethnic-groups>

¹⁶¹ National Black Women's Justice Institute, "Sex Trafficking of Black Women & Girls," 1/2022,

https://www.nbwji.org/files/ugd/0c71ee_cd4d16e2b9ce4568be165c09a6badf53.pdf

¹⁶² Stephen Sawchuk, [Education Week](https://www.edweek.org/leadership/what-is-critical-race-theory-and-why-is-it-under-attack/2021/05), *What is Critical Race Theory, and Why Is It Under Attack?*, 5/18/2021,

<https://www.edweek.org/leadership/what-is-critical-race-theory-and-why-is-it-under-attack/2021/05>

¹⁶³ Jonathan Friedman and Nadine Farid Johnson, PEN America Experts, *Banned in the USA: The Growing Movement to Censor Books in Schools*, 9/19/2022, <https://pen.org/report/banned-usa-growing-movement-to-censor-books-in-schools/>

¹⁶⁴ NPR, *A Look Back at Attacks on Voting Rights in 2021 - And What Could be Next*, 12/31/2021,

<https://www.npr.org/2021/12/31/1069539008/a-look-back-at-attacks-on-voting-rights-in-2021-and-what-could-be-next>

¹⁶⁵ Daniel Golden, "Muzzled by DeSantis, Critical Race Theory Professors Cancel Courses or Modify Their Teaching," *ProPublica*, 1/3/2023, <https://www.propublica.org/article/desantis-critical-race-theory-florida-college-professors>

¹⁶⁶ Kamilah Mims, "CRT Forward Tracking Project Trends as of 12/20/2023," *UCLA Law*, 12/20/2023,

<https://crtforward.law.ucla.edu/crt-forward-tracking-project-trends-as-of-12-20-2023/>

mental healthcare for all. The federal government should act to protect access to content and education about Black and Brown people and racism. States should enact legislation that protects Black and Brown people and content about Black and Brown communities.

Immigrant Communities

The US Government's immigration policies have long been rooted in racism.¹⁶⁷ It is incredibly difficult for immigrant survivors of human trafficking to come forward and government-led discrimination and xenophobia¹⁶⁸ make immigrants, particularly immigrant children and LGBTQIA immigrants, increasingly vulnerable to human trafficking.

FNUSA is deeply concerned about the long-term effects of the "zero tolerance," family separation, and Remain in Mexico policies enacted by the previous Administration at the US-Mexico border and that the current Administration intends to replicate.^{169,170} Title 42-type exclusions at the southern border leave immigrants subject to inhumane conditions in shanty settlements where they are frequently abused and exploited by gangs, and have limited access to the legal and social services needed to heal from the trauma they are fleeing.¹⁷¹ These policies have caused lasting harm. Immigrants remain fearful of accessing the services and support from governmental agencies for which they are eligible (including emergency medical care and protection from sexual abuse, domestic violence, and human trafficking), leaving them vulnerable to abuse and exploitation.

FNUSA is also concerned about the impact of Title 42 on asylum seekers expelled from the United States. Over 13,000 reports of acts of violence against asylum seekers who were expelled to Mexico have been reported since the Biden Administration began.¹⁷² Title 42-type policies makes asylum seekers more vulnerable to exploitation by returning them to places where they are likely to experience persecution or violence. Migrants have the right to seek asylum in the United States, and the US has an obligation to prevent further harm to asylum seekers.

¹⁶⁷ Richard Boswell, *Journal of Gender, Race & Justice*, *Racism and US Immigration Law: Prospects for Reform After "9/11?"*, 2003,

https://repository.uchastings.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1057&context=faculty_scholarship

¹⁶⁸ Miriam Jordan, *The New York Times*, *GOP Governors Cause Havoc by Busing Migrants to East Coast*, 9/15/22, <https://www.nytimes.com/2022/08/04/us/migrants-buses-washington-texas.html>

¹⁶⁹ Erica Bryant, Vera, *Children Are Still Being Separated from Their Families at the Border*, 6/23/2022, <https://www.vera.org/news/children-are-still-being-separated-from-their-families-at-the-border>

Aguilera, Jasmine, *TIME*, *The 'Remain in Mexico' Policy Is Officially Over. But Hundreds of Migrants Are Still Stuck in Mexico*, 8/29/2022, <https://time.com/6208555/remain-in-mexico-mpp-program-unwind/>

¹⁷⁰ Bill Frelick, "Biden Must Not Trade Away the Right to Seek Asylum," *Human Rights Watch*, 1/2/2024, <https://www.hrw.org/news/2024/01/02/biden-must-not-trade-away-right-seek-asylum>

¹⁷¹ See KIND, *The Border, Trafficking, and Risks to Unaccompanied Children: Understanding the Impact of US Policy on Children's Safety*, https://supportkind.org/wp-content/uploads/2019/12/KIND_Child-trafficking-at-border-paper-11-18-19-FINAL-1.pdf.

¹⁷² Human Rights First, *Human Rights Stain, Public Health Farce*, 12/15/2022, <https://humanrightsfirst.org/wp-content/uploads/2022/12/HumanRightsStainPublicHealthFarce-1.pdf>

Recommendation: FNUSA calls on the US Government to ensure the safety of immigrants and engage in concerted and sustained efforts to rebuild trust with immigrant communities and immigrant survivors of human trafficking. While rescinding harmful regulations, rules, and procedures is a necessary step, it is not sufficient. New versions of harmful policies only put asylum seekers in harm's way and at risk of trafficking. The US Government must engage in more comprehensive reforms of immigration, public benefits, employment, and civil rights laws and enforcement to dismantle the systemic racism that harms immigrants, especially those who are Black, Brown, and LGBTQIA.

LGBTQIA and Two Spirit Communities

In a study released by the DOJ's Office of Juvenile Justice and Delinquency Prevention on youth trading sex (victims of sex trafficking using the federal definition), over half of the individuals surveyed were LGBTQIA-identified.¹⁷³ FNUSA has noted for years that LGBTQIA communities are both overrepresented among youth trafficking survivors and desperately underserved in terms of both resources and protections.¹⁷⁴ Scaling back these limited protections causes further marginalization and increases vulnerability to exploitation and abuse, particularly for LGBTQIA youth, who are often pushed out of their homes due to discrimination.

A recent rise in anti-LGBTQIA policies and violence, including banning books with LGBTQIA themes or protagonists,¹⁷⁵ violence and threats of violence directed towards LGBTQIA community gatherings,¹⁷⁶ and proposed legislation to restrict and censor drag shows,¹⁷⁷ present greater threats to the rights of the LGBTQIA community and further marginalization. These types of bans fuel violence and threats of violence against LGBTQIA people and educators who teach about LGBTQIA communities. Additionally, discrimination by law enforcement agencies often results in the inability of law enforcement to recognize the trafficking of transgender survivors.

Recommendation: The US Government must engage in a proactive effort to increase services, protection, and support for LGBTQIA and Two-Spirit communities and individuals.¹⁷⁸ The federal government should act to protect access to safety the LGBTQIA community and education about

¹⁷³ Swaner, et al., *Youth Involvement in the Sex Trade: A National Study*, March 2016,

<https://www.courtinnovation.org/publications/youth-involvement-sex-trade>.

¹⁷⁴ Freedom Network USA, 2016 Member Report, *Spotlight: Unique Vulnerabilities of LGBTQIA Community Members*, <https://freedomnetworkusa.org/app/uploads/2016/12/Member-Report-2015-Electronic-Version.pdf>

¹⁷⁵ Samantha Laine Perfas, "Who's getting hurt most by soaring LGBTQ book bans? Librarians say kids." *Harvard Gazette*, 6/28/2023, [https://news.harvard.edu/gazette/story/2023/06/lgbtq-book-challenges-are-on-the-rise-heres-](https://news.harvard.edu/gazette/story/2023/06/lgbtq-book-challenges-are-on-the-rise-heres-why/#:~:text=The%20primary%20reason%20cited%20in,investigation%20by%20The%20Washington%20Post)

[why/#:~:text=The%20primary%20reason%20cited%20in,investigation%20by%20The%20Washington%20Post](https://news.harvard.edu/gazette/story/2023/06/lgbtq-book-challenges-are-on-the-rise-heres-why/#:~:text=The%20primary%20reason%20cited%20in,investigation%20by%20The%20Washington%20Post).

¹⁷⁶ Trent Brown, *Texas Tribune*, *Texas drag shows become a right-wing target amid rising extremism*, 10/9/2022, <https://www.texastribune.org/2022/12/09/texas-drag-shows-all-ages-family-friendly/>

¹⁷⁷ Edward Hellmore, *The Guardian*, *Republican legislators introduce new laws to crack down on drag shows*, 1/21/2023, <https://www.theguardian.com/world/2023/jan/21/anti-drag-show-laws-bans-republican-states>

¹⁷⁸ Center for American Progress, *Improving the Lives and Rights of LGBTQ People in America: A Roadmap for the Biden Administration*, 1/12/21, <https://www.americanprogress.org/article/improving-lives-rights-lgbtq-people-america/>

LGBTQIA people and rights. States should enact legislation that protects LGBTQIA people and content about the LGBTQIA community.

LGBTQIA and Two Spirit Immigrants

In light of the rollbacks in protection for both immigrants and LGBTQIA individuals, LGBTQIA immigrants are especially vulnerable. The abuses suffered by transgender asylum-seekers at the border, exemplified by the death of trans woman Roxsana Hernandez Rodriguez in ICE custody amid signs of physical assault and abuse,¹⁷⁹ cause increased fear of the US government among LGBTQIA immigrants. However, LGBTQIA immigrants have come to the US because they are fleeing violence and prejudice in their home countries and have no choice but to remain in the relative safety of the US.¹⁸⁰ The US Government's refusal to protect LGBTQIA immigrants forces them into underground economies, increasing their vulnerability to future abuse, including human trafficking.

In addition to the already inhumane environment created by US immigration policy, transgender immigrants detained by the US Government are held in horrific conditions and denied needed healthcare.¹⁸¹ Service providers report that transgender trafficking survivors are less likely to be released from immigration detention, even after being identified as a trafficking survivor by law enforcement, than cisgender survivors.

Recommendation: *FNUSA calls on the US Government to limit the detention of immigrants and close all privately-run immigration detention facilities.¹⁸² If LGBTQIA immigrants are detained, they must be provided ongoing gender-affirming healthcare and be placed according to their gender identity. The US Government should take extra care to protect LGBTQIA UACs and provide expanded services and legal counsel to UACs after leaving government care (either immigration detention or HHS custody), so that these children can receive medical, social, mental health, and legal services. FNUSA also calls on the US Government to immediately and permanently end the Remain in Mexico program and Title 42 border restrictions and allow UACs and asylum seekers to enter the US at border crossings to pursue their claims.*

American Indian/Alaska Native Communities

¹⁷⁹ Sandra Garcia, *New York Times*, *Independent Autopsy of Transgender Asylum Seeker Who Died in ICE Custody Shows Signs of Abuse*, 11/27/18, <https://www.nytimes.com/2018/11/27/us/trans-woman-roxsana-hernandez-ice-autopsy.html>

¹⁸⁰ Rebecca Morin, *USA Today*, *Dangerous Wait for Freedom: Hurdles Abound for Transgender Migrants Seeking Asylum in US*, 12/12/2021, <https://www.usatoday.com/story/news/politics/2021/12/12/transgender-migrants-hit-immigration-hurdles-when-seeking-asylum-us/8641213002/?gnt-cfr=1>

¹⁸¹ Mica Rosenberg and Ted Hesson, *Reuters*, *Exclusive: Serious Health Care Lapses Found in US Detention Center Housing Transgender Migrants*, 3/2/2020, <https://www.reuters.com/article/us-usa-immigration-transgender-exclusive/exclusive-serious-health-care-lapses-found-in-u-s-detention-center-housing-transgender-migrants-idUSKBN20P1OT>; Sam Levin, *The Guardian*, *A Trans Woman Detained by ICE for Two Years is Fighting for Freedom: 'I've Been Forgotten'*, 6/9/2021, <https://www.theguardian.com/us-news/2021/jun/09/a-trans-woman-detained-by-ice-for-two-years-is-fighting-for-freedom-ive-been-forgotten>

¹⁸² Joint Letter Calling for Closure of Immigration Detention Facilities, 4/2/2021, <https://freedomnetworkusa.org/app/uploads/2021/04/First-10-to-CNC-Organizational-Letter.pdf>

American Indian and Alaska Native (AI/AN) communities have been subject to abuse, internment, displacement, forced sterilization, and attempted genocide by the US Government.¹⁸³ These communities continue to experience generational trauma leading to increased violence and substance abuse rates.¹⁸⁴ Sex and labor trafficking of Native people are not comprehensively addressed in US policy, practice, funding, or training. The lack of resources, support, and understanding leave AI/AN survivors with limited support and create programs that are not designed to meet the needs of AI/AN survivors. Persistent, systemic oppression has left AI/AN communities without the resources and respect they need to heal and grow, creating vulnerabilities for AI/AN community members on and off reservations.¹⁸⁵

The US Government has failed to address the Missing and Murdered Indigenous Women crisis. Structural and systemic racism against Indigenous people creates vulnerabilities to trafficking.

Recommendation: *The US Government must increase investments and support of AI/AN communities so that they may heal from generational trauma and deprivation caused by decades of US Government policies. The US Government must also provide increased training for social and legal service programs, law enforcement, and court systems on trauma-informed cultural humility so that these mainstream systems are able to respond more appropriately to the needs of AI/AN community members and increase opportunities and support for AI/AN community-based and community-led solutions. The US Government should also fund increased culturally competent services for Indigenous communities, especially rural communities and those in noncontiguous US states and territories.*¹⁸⁶

Sex Workers

US law, at the federal and local levels, criminalizes adults engaged in consensual commercial sex work.¹⁸⁷ This puts sex workers in a state of constant vulnerability. They are vulnerable to abuse and exploitation by third-party exploiters, customers, and even law enforcement. Sex workers are reluctant to report crimes committed against them because they report that law

¹⁸³ National Geographic, *The United States Government's Relationship with Native Americans*, <https://www.nationalgeographic.org/article/united-states-governments-relationship-native-americans/>; Donald Fixico, History.com, *When Native Americans Were Slaughtered in the Name of 'Civilization'*, 10/25/2021, <https://www.history.com/news/native-americans-genocide-united-states>

¹⁸⁴ Editorial Staff, American Addiction Centers, *Risks of Alcoholism Among Native Americans*, 10/26/2021, <https://americanaddictioncenters.org/alcoholism-treatment/native-americans>; US National Institutes of Health, National Institute on Drug Abuse, *Higher Rate of Substance Use Among Native American Youth on Reservations*, 5/31/2018, <https://nida.nih.gov/news-events/news-releases/2018/05/higher-rate-of-substance-use-among-native-american-youth-on-reservations>

¹⁸⁵ HHS Office on Trafficking in Persons, *Human Trafficking Leadership Academy Class 5 Recommendations*, 9/10/2020, https://nhttac.acf.hhs.gov/sites/default/files/2020-11/HTLA%20Class%205%20Recommendations%20Report_508c.pdf

¹⁸⁶ See the US Advisory Council on Human Trafficking 2023 Annual Report for further recommendations on improving and increasing services for Indigenous communities: <https://www.state.gov/united-states-advisory-council-on-human-trafficking-annual-report-2023/>

¹⁸⁷ Freedom Network USA, *Human Trafficking and Sex Worker Rights*, April 2015, <https://freedomnetworkusa.org/app/uploads/2018/07/HT-and-Sex-Workers-Rights.pdf>

enforcement rarely acts to protect them and sometimes abuses them.¹⁸⁸ Even when the abuse rises to the level of human trafficking, survivors are unlikely to report these crimes to law enforcement due to the stigma, fear, and lack of trust in law enforcement. Criminal records from multiple prostitution arrests limit the ability of sex workers and trafficking survivors to access education, alternative employment, housing, social services, and respect.¹⁸⁹ While states are increasingly decriminalizing minors engaged in commercial sex work, those over the age of 18 are routinely arrested. Together, these factors put sex workers at high risk of human trafficking.¹⁹⁰

In the wake of the enactment of Public Law 115-164, the Allow States and Victims to Fight Online Sex Trafficking Act of 2017 (FOSTA), many sex workers have reported more unsafe work environments and increased vulnerability to traffickers.¹⁹¹ Whereas sex workers previously could use online platforms to work more safely and independently, FOSTA has caused many sex workers to rely on intermediaries, leading to an increased risk of sex trafficking. One study found that Craigslist's 'Erotic Services' section reduced the female homicide rate by over 17 percent.¹⁹²

¹⁸⁸ Lou Chibbaro Jr., *Washington Blade*, DC, *PG Cops Investigated for 'Coercing' Trans Sex Worker*, 11/19/18, <https://www.washingtonblade.com/2018/11/19/d-c-p-g-cops-investigated-for-coercing-trans-sex-worker/>; Kathleen Deering, et al, *Am J Public Health*, *A Systematic Review of the Correlates of Violence Against Sex Workers*, May 2014, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3987574/>; Sam Levin, *The Guardian*, *Abused then Arrested: Inside California's Crackdown on Sex Work*, 11/28/18, <https://www.theguardian.com/us-news/2018/nov/28/california-sex-workers-crackdown>; Robin Scullin, *Johns Hopkins University Hub*, *Police Interactions Linked to Increased Risk of Client Violence for Female Sex Workers*, 11/18/19, <https://hub.jhu.edu/2019/01/08/violence-against-sex-workers-police/>.

¹⁸⁹ *On the Super Bowl, Safety, and Solidarity: Finding Common Ground in a Time of Crisis ... and Beyond...*, 2/2/2021, <https://freedomnetworkusa.org/app/uploads/2021/02/On-the-Super-Bowl-Safety-and-Solidarity2Feb2021.pdf>

¹⁹⁰ Freedom Network USA, 2016 Member Report, *Spotlight: Criminalization of Sex Work*, <https://freedomnetworkusa.org/app/uploads/2016/12/Member-Report-2015-Electronic-Version.pdf>.

¹⁹¹ Freedom Network USA, *Freedom Network Urges Caution in Reforming the CDA*, 2017, <https://freedomnetworkusa.org/app/uploads/2017/10/FNUSAUrgesCautionCDAREform.pdf>; Survivors Against SESTA, *What Is SESTA/FOSTA*, https://survivorsagainstsesta.files.wordpress.com/2018/09/post-sesta_0917.pdf; Emily McCombs, *Huffpost Personal*, *'This Bill is Killing Us': 9 Sex Workers on Their Lives in the Wake of FOSTA*, 5/11/18, https://www.huffingtonpost.com/entry/sex-workers-sesta-fosta_us_5ad0d7d0e4b0edca2cb964d9; Siouxsie Q, *Rolling Stone*, *The War on Sex Workers Needs to Stop Now*, 4/13/18, <https://www.rollingstone.com/politics/politics-news/the-war-on-sex-workers-needs-to-stop-now-628335/>; Pimps are Preying on Sex Workers Pushed Off of the Web Because of FOSTA-SESTA, *Motherboard*, April 30, 2018, https://motherboard.vice.com/en_us/article/bjqvz/fosta-sesta-sex-work-and-trafficking; COYOTE RI, *Four Years of FOSTA: the Survey*, <https://www.swopbehindbars.org/so/5dOD1Yfon/c?w=kJEovD72L3ryrjlbjlluZbQ7tCK3lyqWxQIE-f8dFxE.eyJ1jjoiaHR0cHM6Ly9mNmEzZDg4Mj1iN2UwLTQ5M2ItYmNjYyOzMjMzNTc1ZTQ2OWYudXNyZmlsZXMuY29tL3VnZC80YTBlOGNmZc4NjM3NTM3MjJkNDU5YmI3Y2I0YjhjYWQ0ZTAwMGUucGRmP2RuPUZvdjJZWfyc09mRm9zdGEucGRmliwicil6ljFjYzU1NDY2LWNmOTMtNDfjYS1mMjAwLWEzMGZiOWZIMDlxMCIsm0iOiJtYWlsX2xwliwiYyI6ljQ2MjI4MmYxLTg1ZDYtNDk4OS05NmY2LTNkMzgz5N2UxMmEwNSJ9>

¹⁹² Scott Cunningham, Gregory DeAngelo, and John Tripp, *Craigslist Reduced Violence Against Women*, February 2019, <https://s3.documentcloud.org/documents/5720120/craigslistFOSTA.pdf> (forthcoming publication in *Journal of Human Resources*, <https://www.scunning.com/publications.html>); Alison Bass, *Huffpost*, *Craigslist's Erotic Services Site Appears to Have Reduced Female Homicide Rates by 17 Percent*,

Some US states have pursued legislation to partially decriminalize sex work (often called the Nordic Model or the Equality Model), which decriminalizes sex work but maintains the criminalization of purchasing sex. These models create significant harm by forcing sex workers to take on more risky clients since they are unable to vet clients and their clients are still under the threat of criminalization, and preventing workers from working together for safety.¹⁹³ Partial decriminalization is ineffective at preventing human trafficking, because workers are often still unable to report to law enforcement and access trafficking-related services due to fear of retaliation from clients who face criminal charges. This legislative model is dangerous and should not be replicated in more states.

Recommendation: *FNUSA calls on the US to fully decriminalize sex work in the US, at the federal, state, and local levels in order to prevent human trafficking.*¹⁹⁴

People with Disabilities

The US Government needs to take more steps to understand the scope and dynamics of trafficking targeting persons with disabilities. In its 2016 Trafficking in Persons Report, the State Department noted that persons with disabilities are especially vulnerable to human trafficking. The National Human Trafficking Hotline received reports of more than 2,000 cases of trafficking of persons with disabilities between 2015 and 2017 in the US. More training, better screening, and expanded outreach are necessary to correctly identify this population.¹⁹⁵ Specific services and support are needed to address the unique procedural hurdles faced by immigrants with disabilities, including UACs with disabilities. Programs and services for people with disabilities are often restricted based on immigration status, lack of language access resources, and lack of culturally appropriate services. The Social Security Disability Insurance program is crucial to ensuring people with disabilities receive appropriate healthcare, but the income limits prevent them from achieving economic stability, which is a key trafficking prevention factor.

Recommendation: *To better understand the extent to which anti-trafficking programs are appropriately serving persons with disabilities, FNUSA recommends that the US Government*

https://www.huffpost.com/entry/craigslists-erotic-services-site-appears-to-have-reduced_b_59df8778e4b0cee7b9549e66

¹⁹³ Amnesty International, *Explanatory Note on Amnesty International's Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers*, 26 May 2016, <https://www.amnesty.org/en/documents/pol30/4063/2016/en/>

¹⁹⁴ Freedom Network USA, *Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work*, September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSASTatementDecrimSept2021.pdf>; Freedom Network USA, *End Demand Fact Sheet*, 2018, <https://freedomnetworkusa.org/app/uploads/2018/07/End-Demand.pdf>; Beyond Trafficking and Slavery, Open Democracy, *It's Time to Get Off the Fence on Sex Workers' Rights*, 2021, <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/sex-work-on-bts/>; ACLU, *Is Sex Work Decriminalization the Answer? What the Research Tells Us*, 2020, https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief.pdf

¹⁹⁵ Human Trafficking Legal Center, *Fact Sheet: Trafficking of Persons with Disabilities in the United States*, <http://www.htlegalcenter.org/wp-content/uploads/Trafficking-of-Persons-with-Disabilities-in-the-United-States-Fact-Sheet.pdf>.

fund research that will document: the extent to which service providers are screening survivors of trafficking for either existing disabilities or those resulting from the abuse suffered during the trafficking experience; and the extent to which trafficking services are fully accessible to survivors with disabilities, including, but not limited to, physical, sensory, developmental, and/or communication. Research is also needed to better document the training and resource needs of community programs serving persons with disabilities and to provide them with the training and technical assistance to identify and respond to trafficking. The US Government should provide training and technical assistance to all human trafficking services grantees to ensure that they are able to both identify survivors of trafficking with disabilities and provide survivors with necessary accommodations in accordance with the Americans with Disabilities Act and related laws. Accommodations may include, but are not limited to, interpreters, specialized transportation services, communication devices, and accessible physical spaces. The US Government should provide training and technical assistance to law enforcement and judicial personnel to ensure that they are able to recognize the trafficking of persons with intellectual and/or cognitive disabilities or in cases where theft of Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits are involved.

People without access to reproductive healthcare

Throughout the US, access to reproductive healthcare of all forms has been significantly restricted. The 2022 Supreme Court decision to strike down Roe v. Wade provided a catalyst for states to ban access to lifesaving medical care. 148 provisions were enacted in states to restrict access to reproductive health or curtail rights to healthcare and 80 were enacted that restrict access to abortion care. Trans rights were swept up in these efforts leading to 34 enacted provisions that restrict access to gender-affirming care.¹⁹⁶ Access to all forms of healthcare is essential for preventing trafficking and helping survivors. As more rights are restricted, more people will be placed into debt to get the care they need or prevented from accessing care at all, both of which create and exacerbate vulnerabilities to trafficking.

Recommendation: States should enact legislation that protects access to all forms of reproductive and gender-affirming care. The US Government should act to protect the rights to reproductive and gender-affirming care for all.

39. Chinese/Cuban/North Korean Workers

FNUSA has no input on this issue.

40. Risks, Trends, and Vulnerabilities from Climate Change and Climate Disasters

The US Government has done little to prepare for the effects of climate change on human trafficking. In the wake of natural disasters and climate-related disasters, the government

¹⁹⁶ Kimya Forouzan and Isabel Guarnieri, "State Policy Trends 2023: In the First Full Year Since Roe Fell, a Tumultuous Year for Abortion and Other Reproductive Health Care," Guttmacher Institute, 12/19/2023, <https://www.guttmacher.org/2023/12/state-policy-trends-2023-first-full-year-roe-fell-tumultuous-year-abortion-and-other#:~:text=As%20of%20mid%2DDecember%202023%2C%20seven%20states%20are%20restricting%20abortion,new%20gestational%20bans%20in%202023.>

response has exacerbated vulnerabilities to trafficking and exploitation. Post-disasters, both residents of the area experiencing the disaster and the disaster relief workers can face increased vulnerability to all forms of human trafficking.

Disasters can result in the internal displacement of communities, including sudden losses of homes, livelihoods, and support networks.¹⁹⁷ With the US already facing an affordable housing crisis¹⁹⁸, climate crises put further pressure on the accessibility of affordable housing. Extreme weather also prevents service providers from serving existing clients and people newly needing services. During the major winter storm that shut down most of Texas' power grid in 2021, multiple domestic violence shelters lost power and faced structural damage that closed the shelters for weeks.¹⁹⁹ In addition, the US disaster response through the Federal Emergency Management Agency (FEMA) is not designed to ensure that everyone affected by a disaster is able to access shelter and services. FEMA does not provide cash assistance or Disaster Unemployment Assistance to people who are undocumented and does not coordinate with other federal agencies to work with noncitizens.²⁰⁰ Federal government websites with information on evacuation orders, safety protocols, and FEMA aid applications are often inaccessible for the first 36 hours after a disaster, making it extremely difficult for anyone in the area to apply for aid. In southern states, where FEMA has often been deployed in coordination with the military, the agency is viewed as a heavily militarized force, resulting in residents' fear of mistreatment and an unwillingness to approach representatives.²⁰¹ Prisons and jails rarely evacuate in the case of extreme weather. They often do not have thorough evacuation plans in place, leaving thousands of incarcerated people in unsafe and unsanitary conditions during climate disasters.²⁰² In the aftermath of climate disasters, the US has shown it is unprepared and unwilling to provide comprehensive and effective aid that would mitigate increased vulnerability to human trafficking.

Disaster relief workers are part of a unique mobile labor force brought to sites of climate disasters to assist with debris cleanup, construction, hospitality, and maid services. These jobs are often dangerous and performed by a majority of undocumented workers. These workers

¹⁹⁷ Sunita Jain Anti-Trafficking Initiative and Leanne McCallum Desselle, Public Comments On Federal Disaster Preparedness And Relief And Community Resilience With An Anti-Trafficking Lens, 6/3/2022, <https://www.regulations.gov/comment/EPA-HQ-OA-2022-0050-0062>

¹⁹⁸ National Low Income Housing Coalition, *The Gap: A Shortage of Affordable Homes*, 4/2022, <https://nlihc.org/gap>

¹⁹⁹ Lorena O'Neil, Marie Claire, They Fled Domestic Violence in a Pandemic. Then Came the Winter Storm. 10/4/2021, <https://www.marieclaire.com/health-fitness/a35584601/genesis-womens-shelter-dallas-texas-winter-storm/>

²⁰⁰ Sunita Jain Anti-Trafficking Initiative and Leanne McCallum Desselle, Public Comments On Federal Disaster Preparedness And Relief And Community Resilience With An Anti-Trafficking Lens, 6/3/2022, <https://www.regulations.gov/comment/EPA-HQ-OA-2022-0050-0062>

²⁰¹ Sunita Jain Anti-Trafficking Initiative and Leanne McCallum Desselle, Public Comments On Federal Disaster Preparedness And Relief And Community Resilience With An Anti-Trafficking Lens, 6/3/2022, <https://www.regulations.gov/comment/EPA-HQ-OA-2022-0050-0062>

²⁰² N'dea Yancey-Bragg, USA Today, *Hurricane Ian brings renewed focus to 'life and death' struggle for prisoners during a disaster*, 10/14/2022, <https://www.usatoday.com/story/news/nation/2022/10/14/hurricane-ian-jails-prisons-florida/8189762001/>

are in uniquely vulnerable positions because they are isolated from support systems, non-English speaking, do not know the area well, rely on their employer for basic needs, and are seeking economic security. In the aftermath of Hurricanes Katrina and Michael, DHS deployed agents to arrest and deport undocumented migrant workers, but employers were not held accountable for purposefully seeking out cheap labor and breaking labor and immigration laws.²⁰³ Employers use the fear of law enforcement and immigration enforcement to coerce undocumented workers into staying in their jobs and not reporting victimization.

Recommendations: FNUSA calls on the US Government to extend its federal disaster relief efforts to all residents, regardless of immigration status, and to improve the resources available to residents to find housing when they are displaced. The government should also increase protections for migrant workers who perform the majority of the labor necessary to rebuild after climate disasters in the US. The recommendations provided by the Sunita Jain Initiative and Leanne McCallum Desselle to the White House Environmental Justice Advisory Council should be consulted in the process of improving federal disaster preparedness efforts.

Child Soldiering

41-43. Child Soldiers

FNUSA has no input on this issue.

Thank you for your time and attention to these matters. Please contact me (jean@freedomnetworkusa.org) if you have any questions or need further information.

Sincerely,



Jean Bruggeman
Executive Director
Freedom Network USA

²⁰³ Sunita Jain Anti-Trafficking Initiative and Leanne McCallum Desselle, Public Comments On Federal Disaster Preparedness And Relief And Community Resilience With An Anti-Trafficking Lens, 6/3/2022, <https://www.regulations.gov/comment/EPA-HQ-OA-2022-0050-0062>