

REPORT

Introduction

Trafficking in persons is one of the most prevalent crimes today involving severe human rights violations. The international community identifies trafficking as a contemporary form of slavery and has initiated a campaign to encourage states to criminalize trafficking in persons, protect victims, and develop measures to prevent this phenomenon. Traffickers may be individuals, organized crime groups, or public officials who exploit people as commodities, buying and selling them for profit transnationally or within a country's borders. Their victims are women, men, and children of various ages and backgrounds who share a common characteristic: they are vulnerable to exploitation due to poverty, lack of education, discrimination, and other socio-economic factors. Although trafficking is a crime and a human rights violation regardless of the victim's gender or age, the problem has had a disproportionate impact on women and girls.¹

It is difficult to pinpoint exact statistics reflecting the number of victims trafficked worldwide. The U.S. Department of State addresses this issue in its 2007 Trafficking in Persons Report, estimating that approximately 800,000 people are trafficked annually across international borders. However, the report stresses that "[a] wide range of estimates exists on the scope and magnitude of modern-day slavery." It cites statistics from the International Labor Organization indicating that 12.3 million people are subjugated to forced labor, bonded labor, forced child labor, and sexual servitude, and also cites other estimates that range from four to 27 million.²

The role of crime victims has changed significantly over the last several decades. Crime victims are presently an integral part of the justice system and the American Bar Association (ABA) has played an important part in that process.³ Like all victims, trafficking victims deserve protection under the rule of law. While historically trafficking victims may have been seen as offenders, the law has changed and society needs to accept that persons unlawfully trafficked are victims. These victims should not be re-victimized and should have their fundamental human rights upheld.

Definition of Trafficking in Persons

The most widely accepted legal definition of trafficking in persons is set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol) that supplements the United Nations Convention Against Transnational Organized Crime. Article 3(a) of the Protocol states:

¹ RULE OF LAW INITIATIVE, AMERICAN BAR ASSOCIATION, AN INTRODUCTION TO THE HUMAN TRAFFICKING ASSESSMENT TOOL 1 (2005), *available at* http://www.abanet.org/ceeli/publications/htat/htat_manual_intro.pdf [hereinafter HUMAN TRAFFICKING ASSESSMENT TOOL].

² U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 8 (2007), *available at* <http://www.state.gov/g/tip/rls/tiprpt/2007/> [hereinafter 2007 TIP REPORT].

³ See CRIMINAL JUSTICE SECTION, AMERICAN BAR ASSOCIATION, THE VICTIM IN THE CRIMINAL JUSTICE SYSTEM (2006), *available at* <http://meetings.abanet.org/webupload/commupload/CR300000/newsletterpubs/victimreport.pdf>.

"Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.⁴

Countries are encouraged to adopt this definition by signing and ratifying the UN Trafficking Protocol and the main convention.⁵ The elements enumerated above should be incorporated in national anti-trafficking laws defining the offense of trafficking in persons *at a minimum*. The UN Trafficking Protocol represents a “floor” not a “ceiling” for standards that are to be legally codified in order for nations to be able to combat trafficking in a comprehensive manner.⁶ Thus, countries should define the offense of trafficking in persons as the Protocol indicates, but can, if necessary, include other elements that would enable them to address particular aspects of the trafficking phenomenon that is occurring within and across their borders.

The UN Trafficking Protocol also makes irrelevant a defense asserting that a victim consented to the crime when a trafficker employed any of the coercive means listed in Article 3(a) (such as threat or use of force, etc.).⁷ Furthermore, in trafficking scenarios where the victims are persons under the age of 18, it is not necessary to prove any coercive means when prosecuting the trafficker.⁸

The Three P’s Approach

When drafting the UN Trafficking Protocol, the international community agreed to hold governments accountable and to undertake a three pronged approach to trafficking: prevention, protection, and prosecution. The “three P’s” delineate what governments, in cooperation with

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, art. 3(a), G.A. Res. 55/25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/55/383 (Jan. 8, 2001), available at http://www.unodc.org/pdf/crime/a_res_55/res5525e.pdf [hereinafter UN Trafficking Protocol].

⁵ The United Nations Convention Against Transnational Organized Crime entered into force on September 29, 2003 and the Trafficking Protocol entered into force on December 25, 2003. As of May 2007, there were 133 States Parties to the Convention and 111 States Parties to the Trafficking Protocol. The United States deposited its instrument of ratification to both the Convention and the Trafficking Protocol on November 03, 2005. See Signatories to the UN Convention Against Transnational Organized Crime and its Protocols, at http://www.unodc.org/unodc/en/crime_cicp_signatures.html.

⁶ See James Puleo, Senior Advisor on Migration Policies and Migration Management, Address at the MIDSA Workshop on Extra-Regional Irregular Migration and Migrant Smuggling To, Through, and From the SADC Region in Johannesburg, South Africa (June 25-27 2003), cited in Preliminary Report and Recommendations of the MIDSA Workshop on Extra-Regional Irregular Migration and Migrant Smuggling To, Through, and From the SADC Region, available at <http://www.sarpn.org.za/documents/d0000735/index.php>.

⁷ UN Trafficking Protocol, *supra* note 4, art. 3(b).

⁸ *Id.* art. 3(c)-(d).

civil society, should do in order to address the problem of trafficking in persons in a comprehensive manner.

Preventive anti-trafficking measures include:

- awareness raising and information campaigns for potential victims and their families
- the development of long-term strategies that aim at improving the economic and social position of groups that are vulnerable to being trafficked
- reform of immigration laws and policies in destination countries so that they do not contribute to the growth of irregular migration and trafficking in persons
- increased opportunities for individuals to migrate legally for work and vocational training.⁹

Protecting victims of trafficking involves the following:

- properly identifying victims of trafficking
- defining trafficked persons as “victims” according to national legislation
- ensuring that acts of trafficked persons committed in connection with having been trafficked are not criminalized
- providing medical care, safe accommodations, and psychological and legal counseling to victims; supporting them in their role as witnesses in criminal investigations and prosecutions
- regularizing victims’ residence status for a certain period of time
- providing victims with access to employment and education
- conducting information campaigns regarding the rights of victims, including the right to compensation, other civil remedies, and the right to a fair trial if victims are subjected to criminal prosecution.¹⁰

Such protection and assistance measures contribute to the psychological and physical stabilization of trafficked victims and avoid re-traumatization. Victims thus will be better able to regain control of their own lives and to decide whether they wish to testify against their traffickers.

Measures to effectively prosecute traffickers include:

- clearly defining trafficking as a separate crime in legislation
- establishing criminal sanctions comparable to the gravity of the offense of trafficking
- providing for the criminal liability of legal persons that are used by traffickers as a front for their illicit activities
- criminalizing all activities related to trafficking (i.e. lesser-included offenses)
- establishing other offenses related to trafficking
- creating specialized investigation units focused on trafficking
- developing the means to exercise extraterritorial jurisdiction since trafficking often extends beyond national borders
- implementing extradition agreements and proceedings, as well as mutual legal assistance protocols.¹¹

⁹ HUMAN TRAFFICKING ASSESSMENT TOOL, *supra* note 1, at 26.

¹⁰ *Id.* at 27-28.

¹¹ *Id.* at 26-27.

U.S. Responses

In response to an increasing number of trafficking cases into the United States, Congress passed the Trafficking Victims Protection Act of 2000 (“TVPA”), which defines the offense of trafficking domestically.¹² The TVPA also incorporates measures to prevent trafficking in persons, protect and assist trafficked victims, and strengthen the prosecution and punishment of traffickers.¹³ In addition to other benefits and services, certain victims are entitled to apply for T-visas which can be a preliminary step towards permanent residence status in the United States.¹⁴ The TVPA also provides for financial assistance to other countries in order to help them better combat trafficking.¹⁵ In 2003, Congress reauthorized funding for the TVPA and amended the legislation, *inter alia*, to allow victims to sue their traffickers for damages in U.S. courts.¹⁶ In 2005, the TVPA was reauthorized for an additional two-year period, with Congress placing an emphasis on reducing the demand for trafficking in persons and addressing the issue of trafficking within U.S. post-conflict and humanitarian emergency assistance programs.¹⁷

In 2006, the U.S. government spent approximately \$28.5 million to boost domestic efforts to combat trafficking in persons.¹⁸ These efforts included:

- increased prosecutions -- the Department of Justice initiated 168 investigations, charged 111 individuals with trafficking, and obtained 98 convictions (including in previously initiated cases)
- a significant number of victim identifications -- the Department of Health and Human Services (HHS) certified 234 victims of trafficking
- the issuance of 192 T-visas to victims of trafficking and 106 T-visas to their immediate family members
- the continued implementation of an anti-trafficking public awareness campaign by HHS entitled “Rescue & Restore”
- an assessment indicating significant progress by the Department of Defense (DOD) in implementing preventive measures targeting U.S. troops involved in peacekeeping and other missions.¹⁹

At the state level, the California and Colorado legislatures have made significant progress by passing comprehensive anti-trafficking laws. These are two of a multitude of U.S. states that

¹² Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, § 103(8), 114 Stat. 1464, 1470 (codified as amended at 22 U.S.C. §7102(8) (2000)), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ386.106.pdf [hereinafter TVPA 2000].

¹³ TVPA 2000 §§ 106-107, 112; 22 U.S.C. §§ 7104-7105, 7109.

¹⁴ TVPA 2000 § 107(e)(1), amending 8 U.S.C. 1101(a)(15).

¹⁵ TVPA 2000 § 109; 22 U.S.C. § 2152d.

¹⁶ Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, §4(a)(4), 117 Stat. 2875, 2878 (codified as amended at 18 U.S.C. §1595 (2003)), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_public_laws&docid=f:publ193.108.pdf [hereinafter TVPRA 2003].

¹⁷ Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 §§ 101, 201, 119 Stat. 3558, 3560, 3567 (codified as amended at 22 U.S.C. §§ 7104, 14044 (2006)), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ164.109.pdf [hereinafter TVPRA 2005].

¹⁸ 2007 TIP REPORT, *supra* note 2, at 49.

¹⁹ *Id.*

have criminalized trafficking in persons classifying it as a felony in their legislation.²⁰ California law, in particular, mirrors TVPA (as amended) requirements by providing for mandatory restitution for victims and by allowing them to bring civil actions against their traffickers.²¹ California anti-trafficking provisions even surpass federal legislation by instituting stricter guidelines for the issuance of law enforcement endorsements/certifications used for the purposes of identifying and defining individuals as victims of trafficking in persons.²²

Both California and Colorado have established interagency taskforces. Their duties include collecting and analyzing trafficking data, evaluating pertinent legislation, identifying programs available for victims of trafficking, assessing prosecution and prevention efforts, and examining models for cooperation among governmental and non-governmental entities.²³ While state prosecutions are forthcoming, California and Colorado authorities have focused on victim protection measures such as making trafficking victims eligible for benefits such as welfare,²⁴ establishing hotlines,²⁵ providing police with translators,²⁶ and conducting trainings with law enforcement officials and social workers in order to improve their techniques for identifying victims of trafficking.²⁷ As far as prevention is concerned, the interagency taskforces in both

²⁰ See California Trafficking Victims Protection Act §7, 2005 Cal. Legis. Serv. Ch. 240 (A.B. 22) (West), available at, http://www.leginfo.ca.gov/pub/05-06/bill/asm/ab_0001-0050/ab_22_bill_20050921_chaptered.pdf; amending CAL. PENAL CODE § 236.1 (2006) [hereinafter CTVPA]; see also Concerning the Prohibition Against Trafficking in Humans, and Making an Appropriation in Connection Therewith, S.B. 06-207 (2006), §§ 1,2, amending COLO. REV. STAT. § 18-13-127, § 18-6-402 (2006), available at http://www.leg.state.co.us/Clis2006A/csl.nsf/fsbillcont3/A96881CC8ABC91938725712300781AB4?Open&file=207_enr.pdf; see generally Center for Women Policy Studies, State Laws on Trafficking, at http://www.centerwomenpolicy.org/programs/trafficking/map/default_flash.asp (last visited June 21, 2007).

²¹ CTVPA, *supra* note 20, §§ 2, 10, amending CAL. CIV. CODE § 52.5, CAL. PENAL CODE § 1202.4 (2006); TVPRA 2003, *supra* note 16, §4(a)(4); 18 U.S.C. 1595; TVPA 2000, *supra* note 12, § 112(a)(2); 18 U.S.C.1593.

²² CTVPA, *supra* note 20, § 8, amending CAL. PENAL CODE § 236.2 (“Within 15 days of the first encounter of a victim of human trafficking . . . law enforcement agencies shall provide brief letters that satisfy the . . . Law Enforcement Agency Endorsement (LEA) regulations”); *but see* 8 C.F.R. 214.11(f)(1) (“The decisions whether or not to complete an LEA endorsement for an applicant shall be at the discretion of the LEA.”).

²³ See CA ACTS Task Force Mission, available at <http://www.safestate.org/index.cfm?navID=442> and California Alliance to Combat Trafficking and Slavery (CA ACTS) Task Force, 2005 Cal. Legis. Serv. Ch. 239 (S.B. 180) §1, available at http://www.leginfo.ca.gov/pub/05-06/bill/sen/sb_0151-0200/sb_180_bill_20050921_chaptered.pdf; see also Interagency Task Force on Trafficking in Persons, HB 1143 § 1 (2005), COLO. REV. STAT. § 18-1.8-101 (2005), available at http://www.leg.state.co.us/clis2005a/csl.nsf/fsbillcont3/2F129005E4ACAE6087256F39007EC0BD?Open&file=1143_enr.pdf. For a summary description of the taskforces please see Center for Women Policy Studies, at <http://www.centerwomenpolicy.org/programs/trafficking/map/lawdetail.cfm?state=CA> and at http://www.centerwomenpolicy.org/programs/trafficking/map/map_display.cfm?state=CO.

²⁴ See Department of Social Services, State of California, All-County Letter No. 06-60 (Dec. 21, 2006) (authorizing welfare offices to give benefits to trafficking victims), available at <http://www.dss.cahwnet.gov/getinfo/acl06/pdf/06-60.pdf>. Some benefits available include “cash assistance, food stamps, medical assistance, and refugee social services to assist with adjustment and facilitate self-sufficiency.” California Refugee Programs Bureau, Human Trafficking – Benefits and Services Available, available at http://www.cdss.ca.gov/refugeeprogram/HumanTraff_2287.htm.

²⁵ Colorado Human Trafficking Hotline, Colorado Division of Criminal Justice, available at <http://dcj.state.co.us/crcpi/>.

²⁶ See *id.*

²⁷ State Mobilizes[sic] to Fight Human Trafficking, HUMAN RIGHTS HEADLINES, May 16, 2007, at http://ushrnetwork.typepad.com/ushrn_news/2007/05/state_mobilizes.html.

California and Colorado are in charge of evaluating approaches for running public awareness campaigns regarding trafficking in persons.²⁸ However, efforts on this front seem to be lagging.

At the local level, in 2005, the city of Los Angeles received an award of \$450,000 from the U.S. Department of Justice to fund the training of the entire Los Angeles Police Department (LAPD) to properly identify and assist victims of trafficking.²⁹ While this is one example, more could be done at the local level to aid those authorities who are often the first point of contact when a trafficking scenario is uncovered.

Legislative Reform

The ABA should support legislative changes to the TVPA (as amended) and state, local, territorial, and tribal law in order to authorize funding, appropriate funding, improve anti-trafficking prevention measures, and increase protection and assistance for victims of trafficking in the United States. The following are several recommendations for legislative reform:³⁰

- *The law enforcement cooperation and physical presence requirements for T Nonimmigrant status should be eliminated. All survivors of trafficking who have demonstrated that they are victims of severe forms of trafficking (under the TVPA) should be permitted to remain in the United States. Currently, to be eligible for a T-visa, victims must comply with reasonable requests from law enforcement among other requirements.³¹ The vast majority of victims of trafficking will comply with law enforcement requests. However, in limited circumstances, trafficking victims are unable to cooperate because they are emotionally or physically unable or are in fear for their safety or the safety of their family members. These individuals should not be required to cooperate. In keeping with the humanitarian goals of the TVPA (as amended), if victims of trafficking have proven that they have escaped from slavery, they should be permitted to remain in the United States without being compelled to comply with law enforcement requests or establish that they are physically in the United States on account of being trafficked. Accordingly, the Immigration and Nationality Act should be amended to*

²⁸ California Alliance to Combat Slavery and Trafficking (CA ACTS) Task Force, *supra* note 23, § 1, amending CAL. PENAL CODE § 13990(a)(5); Interagency Task Force on Trafficking in Persons, *supra* note 23, § 18-1.8-101(3)(e).

²⁹ Press Release, United States Attorney's Office, Central District of California, Human Trafficking Task Force Formed in Los Angeles: Justice Department Awards \$450,000 Grant to L.A.P.D. To Fund Training of Entire Force to Help Officers Recognize and Help Victims of Human Trafficking (Jan. 24, 2005), available at <http://www.usdoj.gov/usao/cac/news/pr2005/014.html>.

³⁰ The following recommendations were derived from legislative changes proposed by the Freedom Network USA. Freedom Network USA, Recommendations for Legislation to Further Protect the Rights of Trafficked Persons (May 2004).

³¹ To be eligible for a T-visa, one has to:

- be, or have been, the victim of a severe form of trafficking in persons;
- be physically present in the United States on account of trafficking;
- comply with reasonable requests from federal, state, and local law enforcement for assistance in the investigation or prosecution of the trafficking, unless the victim is under the age of 18; and
- demonstrate that one would suffer extreme hardship involving unusual and severe harm upon removal.

See TVPA 2000, *supra* note 12, § 107(e)(1)(C), amending 8 U.S.C. 1101(a)(15)(T).

permit trafficking victims to be eligible for T-visas without proving their physical presence and being required to comply with reasonable law enforcement requests.

- *The law should clearly state that law enforcement officials are required to provide a “law enforcement agency” endorsement to a trafficked person when that person exhibits willingness to cooperate by offering information on a trafficking situation.* In many cases, trafficking victims are willing to give information to law enforcement officials to pursue a criminal case against the trafficker. At that point, the trafficked person has shown a willingness to cooperate with law enforcement and therefore has met his or her requirement under the TVPA (as amended).³² The law should be amended to clearly state that law enforcement officials should not unnecessarily withhold the endorsement until some later date or case milestone, or because the government does not wish to pursue an investigation or prosecution at that point in time.
- *All trafficked persons who come forward to cooperate with law enforcement should have the express right to legal counsel (at the government’s expense if necessary).* Such representation is critical because many trafficking survivors fear self-incrimination, prosecution, and deportation, and counsel is in the best position to assert the rights of a trafficked person. Furthermore, it takes tremendous courage for trafficking victims to come forward and they should not be re-traumatized by the criminal legal process. Allowing trafficking victims to be represented by their own legal counsel minimizes re-traumatization and should be clearly provided for in the TVPA (as amended).
- *Trafficking victims, family members, and witnesses to trafficking cases who participate in investigations or prosecutions should benefit from state and federal witness protection.* Trafficked individuals, their family members, and other witnesses place their lives in danger by working with law enforcement or testifying against traffickers in court. For the most part, NGOs assist such individuals to relocate within the United States and find safety. However, this is done on an *ad hoc* basis without a real system in place for adequate protection. Consequently, the law should be amended to allow cooperating victims, family members, and witnesses to enter state and federal witness protection programs.
- *Family members of trafficking victims should be paroled into the U.S. under a derivative status.* Trafficking victims are often more concerned about their family’s lives than they are about their own and need to know that their families are safe in order to effectively participate in the criminal prosecution of their traffickers. As it is extremely difficult, if not impossible, to protect victims’ family members abroad, family members should be paroled into the United States to be adequately protected from traffickers. Paroling family members into the United States will not only lead to more victims being able to report their crimes, but it will also make current victims much more effective witnesses.
- *Trafficking victims should be granted immediate eligibility for adjustment of status to permanent residence upon approval of the T-visa.* Trafficking victims should not have to

³² See TVPRA 2003 (as amended), *supra* note 16, §4(a)(3); 22 U.S.C. 7105(b)(1)(E)(iv).

wait until the criminal proceedings against their traffickers have concluded or for three years, as it is currently mandated by the TVPA,³³ to apply for legal permanent resident status and to fully integrate into life in the United States. The granting of a T-visa sufficiently establishes the trafficking victims' need to access the protection and benefits of residence in the United States. Requiring victims to wait until the criminal proceedings against their traffickers have concluded or an additional three years serves only to increase their instability and fear and does not promote stable communities.

- *The “extreme hardship” requirement for victims of trafficking should be removed.* Currently, the TVPA requires *inter alia* all T-visa applicants to demonstrate that they will suffer extreme hardship upon removal to their home country from the United States.³⁴ Given the manner in which most victims have been trafficked and their vulnerability as victims, the extreme hardship requirement for T Nonimmigrant status should be eliminated for all victims. Victims should be afforded the protection of the United States on humanitarian grounds alone and without being required to prove the extreme hardship involving severe and unusual harm.
- *The TVPA should be amended to include a good moral character exception for T Non-immigrants applying for permanent resident status.* Trafficking victims and their family members may not be able to meet the good moral character requirement³⁵ to adjust to permanent resident status because of incidents that occurred as a result of trafficking. The TVPA should be amended to provide a good moral character exception for acts incident or related to trafficking that would otherwise make them unable to establish good moral character for adjustment purposes.
- *The law should provide particular assistance to child victims of trafficking.* The TVPA and related legislation, including laws regarding legal assistance and crime victims, should be amended to entitle child victims of trafficking to emergency benefits and other benefits. For child victims, legal representation shall include the appointment of a guardian *ad litem* who can assert the child victim's best interest. In particular, HHS should be assigned the exclusive authority to certify minors as victims who are eligible for assistance. Such assistance would include appointing a guardian *ad litem* within five business days from the point of identification, thus, amending 18 U.S.C. 3509(h).³⁶
- *The TVPA should be amended to cover trafficking victims who arrive in the United States for the purpose of aiding in the investigation or prosecution of a trafficker on U.S. territory or who seek to bring a civil suit to recover compensation and damages from trafficking assets found in the United States.* According to the TVPA, victims can receive T-visas and benefits if they are “physically present” in the United States because they were trafficked.³⁷ Victims who enter the United States to aid with investigations or

³³ TVPA 2000, *supra* note 12, § 107(f), amending 8 U.S.C.1255(l)(1)(A).

³⁴ TVPA 2000, *supra* note 12, § 107(e)(1)(C), amending 8 U.S.C. 1101(a)(15)(T)(i)(IV); *see also supra* text accompanying note 31.

³⁵ TVPA 2000, *supra* note 12, § 107(f), amending 8 U.S.C. 1255(l)(1)(B).

³⁶ 18 U.S.C. 3509(h).

³⁷ TVPA 2000, *supra* note 12, §107(e)(1)(C) amending 8 U.S.C. 1101(a)(15)(T)(i)(II); *see also supra* text

prosecutions, but who were not directly trafficked into the United States are not eligible to apply for T-visas or to receive federal benefits under the TVPA. The same applies to victims who sue their traffickers in civil suit remotely and attempt to reach their assets that are in the United States.

- *Legislation should place an emphasis on prevention measures.* Federal, state, local, territorial, and tribal laws should delineate an increase in resources for the prevention of trafficking in persons via non-governmental and governmental efforts that a) promote the education of law enforcement, immigration officials, and other government officials on the issue, and b) foster the development of guidelines, policies, and procedures for processing trafficking claims.
- *Public awareness regarding anti-trafficking laws should occur on a larger scale and laws should provide for specific means for aiding vulnerable populations.* Legislation should support funding for education campaigns and programs that create awareness about laws and policies against trafficking in persons. Furthermore, provisions should be devised for granting access for the most vulnerable populations to trafficking to education, skills training, and other financial assistance programs such as micro-credit.

Engaging the Legal Profession to Respond to Trafficking in Persons

The ABA should call on lawyers to provide pro bono legal services to victims of trafficking in persons. It should facilitate pro bono representation by designing and providing training programs and curricula for lawyers and others both in the United States and in the countries where it operates rule of law programs around the world. Such training programs and curricula would educate judges, attorneys, law students, legal services providers, legislators, government officials, the media, and others about the dynamics of trafficking, the needs of victims, the relevant laws, including the rights of crime victims under 18 U.S.C. 3771,³⁸ and strategic considerations in representing victims in various types of proceedings. By providing training that equips lawyers and others with the knowledge and skills necessary to provide pro bono legal representation and assistance in trafficking cases, the ABA can be a leader in the legal profession on this issue. Its efforts will serve to encourage U.S. state, local, and specialty bar associations as well as bar associations in other countries to develop and implement training programs for pro bono lawyers. This effort is consistent with and can be a part of the ABA's Second Season of Service initiative and can also encompass frontline legal aid attorneys.

Specifically, pro bono and legal aid lawyers can assist victims of trafficking in several ways:

- *Assistance and representation in criminal cases:* provide legal advice and representation to victims who are willing to cooperate with law enforcement during the investigation phase and all other phases of a criminal prosecution regardless of whether they are providing testimony at trial.³⁹

accompanying note 31.

³⁸ 18 U.S.C. 3771.

³⁹ *Id.*

- *Restitution in criminal cases*: when restitution is ordered for victims in a criminal prosecution, provide assistance in collecting on the order. In the United States, for example, the Justice Department has lacked sufficient resources to pursue these often difficult to collect remedies in criminal cases. Pro bono lawyers could assist in ensuring that justice is done and victims receive and collect court ordered restitution.
- *Victim compensation funds*: every state in the United States has a program for victim compensation. These programs may currently present obstacles and they should be improved. Specifically, these programs should be amended to permit recovery for victims of trafficking. Pro bono attorneys could assist trafficking victims in obtaining compensation from such funds.
- *Immigration relief and other benefits*: represent victims in seeking immigration relief and assist them in obtaining other benefits, such as medical assistance or disability benefits, for which they may be eligible under the TVPA (as amended)⁴⁰ in the United States or under the pertinent domestic legislation of other countries.
- *Civil claims against traffickers*: represent victims in bringing a wide variety of civil claims under U.S. state and federal law as well as the laws of other countries against those involved in the many tiers of a trafficking scheme.

Respectfully submitted,

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⁴⁰ See TVPA 2000, *supra* note 12, §§ 107(b)(1)(A), 107(e)(4); 22 U.S.C. 7105(b)(1)(A), 8 U.S.C. 1101(i).