

BOUND: HOW ELIMINATION OF FORCED LABOR WILL REDUCE POVERTY

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INTRODUCTION

Beneath the low rung occupied by migrant workers in the U.S. exists a more invisible group—agricultural slaves.¹ Like other migrant workers, these people often arrive with the help of a coyote, who promises decent pay for a fee.² Because many workers are unable to pay this kind of fee up front, the coyote suggests paying it out of their wages once they begin work in America.³ One man from Mexico, Antonio, divulged that he was sold upon his arrival in Florida to a set of brothers for \$350.⁴ On their land, he lived in a shack with other workers which the brothers locked at night, never leaving the workers alone, and deducting the costs of living from Antonio’s paycheck until he received almost nothing.⁵ Once he escaped by running to the highway when the guard fell asleep, Antonio expressed the pain of his period of entrapment:

“For four and a half months, I was held in forced labor in the fields against my will, and it seemed like an eternity for me. They were watching me all the time, controlling all I did. I thought I was going to die.”⁶ Antonio was one of the lucky ones. He escaped after a few months and prosecutors successfully convicted his owner and sentenced them to time in prison.⁷

Southern agricultural areas are breeding grounds for this type of forced labor. One Department of Justice (DOJ) official referred to South Central Florida as “ground zero for modern [American]

¹ See KEVIN BALES & RON SOODALTER, *THE SLAVE NEXT DOOR: HUMAN TRAFFICKING AND SLAVERY IN AMERICA TODAY* 49 (2009) (“As bad as most pickers have it, there is a rung on the ladder that is lower still—the *enslaved* farmworker.”).

² See *id.* (“...Antonio was unable to make a sufficient living to support them all. He met with a contractor—a *coyote*—who promised that he would smuggle Antonio into the United States and find him construction work in California for a fee of 16,000 pesos—about \$1,700 American.”).

³ See *id.* (“Antonio told the man that he didn’t have that much money, but the *coyote* assured him that he could pay it off once he started to work.”).

⁴ *Id.*

⁵ See *id.* at 49–50 (detailing Antonio’s living situation upon arriving in America).

⁶ See *id.* at 50.

⁷ See *id.* (“After four months in slavery, Antonio saw his chance. While he and a few others were shopping, Cuello, on guard outside the market, dozed off, and the workers ran to the highway and escaped. The subsequent case against the Cuello trafficking operation was one of Florida’s first contemporary cases of forced labor. Cuello was convicted and sentenced to prison on slavery charges.”).

slavery.”⁸ Farmers growing plants such as tomatoes and oranges are attracted by this near-free labor, which infiltrates, unbeknownst to most Americans, into everyday consumption.⁹

In the last fifty years, the United States and its fellow nations in the developed world have poured monetary aid into the developing world, but have seen minimal progress in quality of life or economic health.¹⁰ Perhaps the sluggish pace of general economic development connects to the failure to focus on modern slavery.¹¹ Kevin Bales, co-founder of Free the Slaves, the largest anti-slavery organization in the U.S., posits a bold argument: “Ending slavery may be one of the best things we can do to make a serious dent in poverty.”¹² This paper supports and applies that thesis, suggesting that we should take serious steps toward eliminating slavery if we are serious about eliminating poverty, and suggesting how we might take those steps.

Economic and social statistician Robert Smith examined the reasons that certain countries measure higher on the Human Development Index¹³ than those which one would assume to be their equals, such as Scandinavian countries over the United States, or Ghana over Mali.¹⁴ He found that in predicting human development, “the amount of slavery was more important than the level of democracy, national debt, civil conflict, or corruption.”¹⁵ Because potential for economic growth is absolutely essential for a country’s redemption from poverty, everyone, not

⁸ *Id.* at 51.

⁹ *See id.* (quoting activist Laura Germino’s statement about American consumers’ ignorance to the slavery in their orange juice and hamburger purchases).

¹⁰ KEVIN BALES, ENDING SLAVERY: HOW WE FREE TODAY’S SLAVES 217 (2007) (“Aside from factors like international debt repayment and unfair trade subsidies that suck resources out of poor countries, economic development has been pouring money into the developing world for decades; if we have not made great human or economic progress in much of the developing world over the past fifty years, does adding slavery to the mix just mean that we are doubling our load of unsolvable problems?”).

¹¹ *See id.* (“As it turns out, new research suggests that one of the reasons economic development is taking so long is precisely *because* we have not taken on slavery.”).

¹² *Id.*

¹³ This index measures countries’ aid to help their citizens achieve higher quality of life, including life expectancy, literacy, and purchasing power. *See id.* at 218.

¹⁴ *See id.* at 218 (explaining Smith’s research questions).

¹⁵ *Id.* at 219.

only slaves, must have the opportunity to live a free life, making an honest living.¹⁶ A country that uses slavery, therefore, has great inequality, which causes repressed economies, low education and literacy rates, and short lifespans for everyone living there.¹⁷ Many projects that focus on alleviating one concern, such as building wells to provide clean water, or immunizing children from dangerous diseases, while prolonging lifespans and improving health, do not eliminate suffering long-term; rather, these projects, embarked without eyes open to slavery, simply help corrupt government officials and slaves' owners.¹⁸ While these projects do good work, and certainly better people's lives short-term, many need more help than medicine can provide. Some consider poverty to encompass the half of the earth's population that lives on less than \$2 per day; while most of these people are not slaves, many of the very poorest are, and they survive on much less: "denying the central role of poverty in modern-day slavery is like denying the central role of gravity in rainfall."¹⁹

Poverty is a multi-faceted and deeply rooted problem, both domestically and globally.

The U.S. measures poverty statistically with a Census Bureau Threshold determination each year; the most recent data, for 2011, found a family of four to be under the poverty threshold if their annual cash income was \$23,021 or less.²⁰ This amount fluctuates based on the number of people in the household. Globally, the poverty line is much lower; World Bank classifies the 1.2 billion people living on \$1.25 or less a day as living in extreme poverty.²¹ Another common standard of deprivation is the average poverty line in developing countries, those who live on

¹⁶ *Id.* ("The analysis shows that in the poorest parts of the world one of the greatest enemies to growth and to the chance to live a decent life is slavery, not just for slaves but for everyone.").

¹⁷ *Id.*

¹⁸ *See id.* at 225 (identifying the problems with development projects that do not focus on eliminating slavery).

¹⁹ E. BENJAMIN SKINNER, A CRIME SO MONSTROUS: FACE-TO-FACE WITH MODERN-DAY SLAVERY 290 (2008).

²⁰ *See FAQs*, INSTITUTE FOR RESEARCH ON POVERTY, <http://www.irp.wisc.edu/faqs/faq1.htm#recent> (depicting poverty threshold for 2011).

²¹ *Poverty Overview*, WORLD BANK <http://www.worldbank.org/en/topic/poverty/overview>.

less than \$2 a day, 2.4 billion people in total.²² This low level of living, combined with the growing inequality between those who live in poverty and those who are affluent create cause for concern, not only for the actual low level of subsistence, but for the injustice and unfairness present in the global economic system, trapping people in such extreme poverty.

According to late twentieth century political philosopher John Rawls, two principles of justice are most appropriate for a democratic society that attempts to realize the idea that citizens are free and equal.²³ Rawls' principles of justice include the liberty principle and the equality principle. The liberty principle states that "Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all."²⁴ In application of this principle, forced labor is inherently unjust, not only for the actual wrong of forcing someone to work against his will, but because this labor would prevent him from claiming his full basic liberties. A forced laborer lacks adequate liberty to choose his place and means of employment, home, and way he spends his time. His claim to liberties is significantly less than other citizens. Rawls' equality principle also indicates the injustice of forced labor; it requires social and economic inequalities to be "open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle)."²⁵ Forced laborers do not experience fair equality of opportunity because they are under another person's control. They cannot take another job or move elsewhere to find greater social and economic prospects as their free neighbors can. According to the difference principle, "inequalities in lifetime prospects (as measured by the index of primary social goods) are allowable if the inequalities work to make

²² *Id.*

²³ See JOHN RAWLS, JUSTICE AS FAIRNESS 39 (2001) (explaining what question his principles attempt to answer).

²⁴ *Id.* at 42.

²⁵ *Id.* at 42–3.

those who are worst off as well off as possible compared to alternative arrangements.”²⁶ Rather than a trickle-down effect, this theory compels improvement of the poorest’s absolute well-being, which could mean, in practice, resource distribution to those worst-off.²⁷ This theory requires abolition of slavery, certainly an economic and social system keeping the worst-off from attaining more. Each of these principles set forth by Rawls clarifies the injustice of forced labor. People subject to this system cannot even attempt to gain the equality of liberty and social and economic opportunity of their peers. To live in a society where people really are equal and free, no one can be forced to work as a slave.

In Part I, this paper will illustrate the presence of forced labor in the U.S. and globally. Part II will introduce current laws and mechanisms in place for fighting forced labor, and examine their efficacy, or lack thereof, showing the poverty that persists because of the gaps in policy and implementation. Part III introduces recommendations for future actions by US government, citizens, and NGOs to eliminate forced labor in and outside the U.S.

I. FORCED LABOR SLAVERY

Slavery takes many forms, including sex trafficking, forced or bonded labor, involuntary domestic servitude, and use of child soldiers.²⁸ This paper will focus on forced and bonded labor (often grouped under the term “forced labor”) for a few reasons. Modern slavery is often considered to be a shorthand for sex trafficking and exploitation. While this is certainly a real

²⁶ NORMAN DANIELS, *JUST HEALTH* 53 (2008).

²⁷ *See id.* at 93 (“Specifically, Rawls argues that contracts would choose the difference principle, which... permits inequalities provided that they make the worst-off groups in society as well off as possible. The argument for the difference principle appears to suggest that relative inequality is less important than absolute well-being... [the difference principle] is not a mere trickle-down principle, but one that requires maximal flow to help the worst-off groups. The worst off, and then the next worst off, and so on.”).

²⁸ *See* U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT JUNE 2012*, 33–35, *available at* <http://www.state.gov/documents/organization/192587.pdf> [hereinafter TIP REPORT] (listing the different kinds of activities that make up human trafficking).

issue, controversy about mixing sex trafficking and legitimate sex workers complicates the problem of actual slavery. The question of whether a woman voluntarily takes part in prostitution can be murky, especially in the U.S. and Europe. Many worry that focusing on prostitution engages a “moralistic position” that should not be pursued by government.²⁹ Culturally, sex trafficking is already established as a problem—many organizations work to fight it, and the public seems generally aware of its presence worldwide, from Thai brothels that draw “sex tourists” to Eastern European women brought to the U.S. The number of sex cases prosecuted in the U.S. (both filed and convictions found) under the federal Trafficking Victims Protection Act of 2000 (TVPA)³⁰ far exceeds the number of labor cases commenced.³¹ For one, these cases are easier to prosecute; they involve brothels and more easily targeted sites that can be investigated and reported, especially after training began in the last decade with the passage of the TVPA.³²

Finally, the number of prostitutes in the U.S. who have actually been trafficked is questionably low; one representative from the Urban Justice Center in New York said less than 25 percent of the immigrant women sex workers the center served could be labeled as trafficked.³³

Because of the complicated nature of fighting sex trafficking specifically, it makes sense to focus on the other side of the coin, the more hidden, but perhaps more prevalent, and equally damaging, issue of forced labor human trafficking. It may be more beneficial to focus on regulating domestic, agricultural, and factory work settings that are known to include many trafficked laborers; “interest in buying sex in whatever form is hard to quell by fiat.”³⁴

Abolitionist E. Benjamin Skinner wrote, “The end of slavery cannot wait for the end of poverty,

²⁹ See ANTHONY M. DESTEFANO, *THE WAR ON HUMAN TRAFFICKING: U.S. POLICY ASSESSED* 85 (2007) (noting increased controversy and criticism as the abolitionist perspective gained traction).

³⁰ Victims of Trafficking and Violence Protection Act of 2000, PL 106–386, October 28, 2000, 114 Stat. 1464 [hereinafter TVPA].

³¹ See *id.* at 83 (reviewing the number of cases prosecuted under the TVPA in each major category).

³² See *id.* (explaining the relative ease of investigating and prosecuting sex trafficking in the U.S.).

³³ See *id.* at 115 (relaying the representative statistics and opinion of the trafficking issue).

³⁴ See *id.* at 145 (contemplating the efficiency and possibility of focusing on labor rather than sex).

but any realistic strategy of global abolition must involve some elements of targeted poverty alleviation.”³⁵

Slavery can be distinguished from other forms of low-paid, undesirable work through three main criteria: complete control of one person over another via physical and psychological violence, hard labor for little or no pay, and economic exploitation profiting the slaveholder.³⁶ For example, a young man who comes to the U.S. looking for work and is recruited to pick tomatoes may be forced to work very long hours, watch those working beside him beaten, and threatened physical harm and deportation if he stopped working.³⁷ He labors outside for low pay and experiences threats of violence and control through psychological violence. While this man is not chained or locked in one place, the threats of violence and report of illegal status to immigration serve as invisible chains. Low pay and poor working conditions do not alone constitute forced labor—these criteria of control, little or no pay, and economic exploitation must all be met. The TVPA defines labor trafficking as “The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.”³⁸ This type of slavery is prevalent in the U.S. and around the world, and allows an increase in poverty.

Amartya Sen theorized that lack of capabilities, rather than a lack of income alone, defines poverty: “The basic failure that poverty implies is one of having minimally adequate

³⁵ SKINNER, *supra* note 19, at 291.

³⁶ See BALES & SOODALTER, *supra* note 1, at 13 (listing three “criteria for knowing if someone is a slave. The first is the complete control of one person by another, through the use of violence—both physical and psychological. The second—hard labor for little or no pay—clearly applies as well. Slaves receive nothing beyond subsistence. The third criterion is economic exploitation—making a profit for the slaveholder”).

³⁷ See *Labor Trafficking in Agriculture*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us/agriculture-a-farms> (describing one forced laborer’s journey working in the U.S.).

³⁸ TVPA, *supra* note 30; also note that while the TVPA may seem to define slavery as a type of forced labor, most publications and authors consider forced labor to be a type of slavery; often, the term used is “forced labor slavery.”

capabilities, even though poverty is also *inter alia* a matter of inadequacy of the person's economic means (the means to prevent the capability failure).³⁹ Concentration on an issue such as forced labor brings the focus to how one can attain Rawls' liberties and the capability to function, not actual achievements.⁴⁰ Martha Nussbaum takes Sen's capability analysis further; in determining what a "life worthy of human dignity" requires, she holds that a decent political order with social justice must secure a threshold level of ten central capabilities, which include, among other necessities, bodily integrity and control over one's environment.⁴¹ Bodily integrity includes the ability to "move freely from place to place; to be secure against violent assault,"⁴² and control over material environment includes the ability to "hold property (both land and movable goods); having the right to seek employment on an equal basis with others; ...being able to work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers."⁴³ Forced labor eliminates bodily integrity—in its very definition, it restrains freedom of movement. Forced laborers are also unable to control land, always subject to another person's choices, and having no opportunity to work elsewhere. These denials of basic rights eliminate these people's capabilities under Nussbaum's approach, and therefore render them unable to escape their poverty, as Sen's logic would imply. In the U.S., therefore, there is a strong indication that moving people out of forced labor would re-instill these capabilities, and therefore bring them out of the inadequacy of capabilities that creates and sustains poverty.

³⁹ AMARTYA SEN, *INEQUALITY REEXAMINED* 111 (1992).

⁴⁰ *See id.* (noting "the primary concern in poverty analysis is with capability to function, rather than with achieved functionings").

⁴¹ MARTHA C. NUSSBAUM, *CREATING CAPABILITIES: THE HUMAN DEVELOPMENT APPROACH* 33–4 (2011).

⁴² *Id.* at 33.

⁴³ *Id.* at 34.

A. Trafficking Into the United States

Forced labor is a pressing issue worldwide. The International Labour Organization's (ILO) most recent estimate identified 14,200,000 persons as victims of non-government-imposed labor exploitation worldwide.⁴⁴ Other groups, such as Human Rights Watch, have estimated that in India alone, 40 million people toil as bonded laborers.⁴⁵ As significant as this issue may be globally, the same problem also plagues the United States, if on a smaller scale. According to the Department of State's 2006 Trafficking in Persons Report, "14,500 to 17,500 people are trafficked into the United States from overseas and enslaved each year."⁴⁶ In 2008, Skinner estimated that 50,000 slaves existed in the U.S. at any one time, on average experiencing three years of slavery.⁴⁷

Simultaneously, a very small percentage of these cases are investigated; in 2006, the Department of Justice charged 111 people for human trafficking and slavery.⁴⁸ Slavery takes a much different form than it did at the time of President Lincoln's Emancipation Proclamation, and costs significantly less for an owner. In 1850, the average slave cost \$40,000 in today's money; now, one can buy another person for less than a few *hundred* dollars.⁴⁹ The affordability of a slave makes one accessible and also disposable, providing little incentive for treating him well.⁵⁰ Although forced labor persists within U.S. borders, we have the resources available to fight it. A concentrated effort through laws and policies could actually eradicate forced labor

⁴⁴ TIP REPORT, *supra* note 28, at 45.

⁴⁵ *Discrimination and Exploitative Forms of Labor*, HUMAN RIGHTS WATCH (1999), http://www.hrw.org/reports/1999/india/India994-09.htm#P1695_354939 ("An estimated forty million people in India, among them fifteen million children, are bonded laborers.").

⁴⁶ BALES & SOODALTER, *supra* note 1, at 6.

⁴⁷ See SKINNER, *supra* note 19, at 265 ("With an average term of enslavement lasting at least three years, there are now some 50,000 slaves in the United States.").

⁴⁸ BALES & SOODALTER, *supra* note 1, at 7.

⁴⁹ *Id.* at 6.

⁵⁰ See *id.* at 6 ("This cheapness makes the modern slave affordable, but it also makes him or her a disposable commodity. For the slaveholder it's often cheaper to let a slave die than it is to buy medicine to keep the slave alive.").

from the “land of the free.” For these reasons, this paper will emphasize domestic challenges and remedies, while only briefly touching on more glaring issues of slavery in the developing world.

Domestic servants, factory workers, and day laborers in the U.S. are susceptible to coercive migration, as forced labor “is embedded in American work culture;”⁵¹ needs for temporary, cheap labor by factories and immigrant households increase the market for slave labor.⁵² This use of forced labor sustains poverty through the economic system, in addition to serious social and ethical issues. Working in isolation, moving between work sites, and receiving payment on an erratic schedule, make foreign and migrant workers more vulnerable to labor traffickers.⁵³ Some recruiters take advantage of these vulnerabilities, in addition to migrants’ language barriers and distance from friends and family, to enslave them through debt, violence, and threats.⁵⁴ The increased profit this coercion provides the owners can make it more difficult for other workers to find fair wages, and impacts the economy in these industrial sectors. The Director of Policy for the Polaris Project, a leading U.S. organization fighting human trafficking, explains that “the supply of vulnerable individuals looking for a livelihood, the ever insatiable demands of consumers in our global economy, the complicity of governments and corporations, and the unscrupulous conduct of illegitimate labor recruiters play a catalytic role [in the persistence of trafficking].”⁵⁵ This persistence in labor trafficking results in a continuation in these individuals’ poverty.

⁵¹ DESTEFANO, *supra* note 29, at 83.

⁵² *See id.* (“Give the growth in the number of immigrant households needing domestic help, coupled with the fact that factories and agricultural businesses constantly need temporary—and cheap—sources of labor, it is likely that labor trafficking cases are much more pervasive than federal enforcement actions indicate.”).

⁵³ *See Labor Trafficking in Agriculture, supra* note 37 (“Agricultural work is often isolated and transient, and income can be irregular.”).

⁵⁴ *See id.* (“Workers often see peaks and lulls in employment due to changing harvest seasons, and may travel up and down the country to find work. Unscrupulous crew leaders exploit these conditions of vulnerability, adding debt, violence and threats to hold farmworkers in conditions of servitude.”).

⁵⁵ Mary C. Ellison, J.D. Director Of Policy, *Congressional Testimony*, POLARIS PROJECT (Nov. 2012), <http://www.polarisproject.org/what-we-do/policy-advocacy/federal-policy/congressional-testimony>.

In practice, defining who exactly is a forced laborer can be difficult. Some cases, such as Antonio's, are extremely clear—he was physically locked up at night and unable to leave. Tales of other workers blur the line separating forced laborers from other low-paid workers. For example, Caroline Payne, a woman who grew up poor in New Hampshire, could never find a job paying more than minimum wage despite hard work; even her attempts to get an education were disrupted by family issues, such as abuse suffered by her daughter.⁵⁶ For years, she moved between departments at Wal-Mart and factory work, making between \$6.25 and \$6.80 per hour, unable to advance.⁵⁷ Caroline and her daughter experience a difficult life that seems unfair, work that does not seem aptly compensated, and obstacles to higher rungs on the corporate ladder. However, Caroline, while her options are few and poor, has options. She chooses where to work and how to spend the money she legally attains. Her lack of education and physical issues stunt her, but they do not trap her—she is not a forced laborer.

Claudio's story falls in a greyer area. He and his wife left Mexico and moved to South Carolina, where they removed stakes and plastic sheeting from tomato fields.⁵⁸ They received \$250 together every other week—the alternate weeks' checks went to the coyote—averaging about \$12.50 per day, far below minimum wage.⁵⁹ After that work was done, they moved to a sweet potato field in North Carolina, where the proposed wage was \$.40/bucket of sweet potatoes they unearthed, which should have meant \$12 per hour for Claudio—rather, he usually received around \$40 each day.⁶⁰ Without choice, money was deducted from their paycheck to live in a cinder-block camp, where they slept on the concrete floor, left without enough money to

⁵⁶ See DAVID SHIPLER, *THE WORKING POOR* 58 (2004) (describing their flight to Florida to escape abusive situations and the lapse in education that caused).

⁵⁷ See *id.* at 65 (reporting Caroline's wage stagnation).

⁵⁸ See *id.* at 100 (recounting Claudio's trip to the United States).

⁵⁹ See *id.* (explaining the wages paid).

⁶⁰ See *id.* (describing the differences between perceived means of pay).

buy food.⁶¹ However, Claudio and his wife were free to leave—in fact, they did, looking for other kinds of work, and found odd jobs cutting wood and installing roofing.⁶² However, such work was very short-term and hard to find. It involved hard labor for pay too low to pay back their coyote. In many ways, this couple resembles forced laborers, receiving below minimum wage for hard labor, owing a debt to a coyote. However, their freedom of movement and choice of employer (albeit limited), enabled by the lack of complete control by their employers and absence of physical and psychological violence or threats renders their plight slightly less than the forced labor slaves addressed here.

B. Forced Labor Worldwide

Labor trafficking worldwide occurs on a much larger scale, through international trafficking and financial coercion, and can illustrate the problems faced by the American microcosm. In South and East Asia, countries such as Malaysia, Indonesia, and India encounter labor trafficking through debt bondage in industries such as “agriculture, construction, food processing, and manufacturing.”⁶³ Globally, the scale of forced labor slavery is greater than that of sexual exploitation. Laborers are usually trafficked within the same country or region of origin, often traveling only a few miles; the cost, much lower for labor than for sex trafficking, thus facilitates this type of slavery.⁶⁴ Forced labor slaves commonly toil in rock quarries, rice mills, and clothing factories, unable to move freely, leave their work facility, or pursue alternate

⁶¹ *See id.* at 101 (describing the squalid living conditions at the camp).

⁶² *See id.* (listing the different jobs Claudio and his wife found).

⁶³ *See* HUMAN TRAFFICKING 152 (Maggy Lee ed., 2007) (“This broader definition of trafficking opens up the possibility of understanding men as ‘victims of trafficking’ by including other sectors where forms of debt-bondage labour is widespread, namely agriculture, construction, food processing, and manufacturing.”).

⁶⁴ *See id.* at 79 (“One reason why the scale of labour exploitation is greater than that for sexual exploitation is that the majority takes place within the region, and the costs for transport and crossing borders are relatively affordable.”).

employment.⁶⁵ They often suffer physical and sexual abuse as well.⁶⁶ To keep these people enslaved, owners frequently use debt bondage, offering a small loan to be repaid through work, which is impossible to repay when the owner inflates the loan and fails to pay the employee.⁶⁷ Years later, the loan has only increased in interest and deprived the laborers of freedom.⁶⁸ Medical needs and wedding costs often induce people to take such loans, which may pass down for generations as slaves' children are born into slavery and forced to work off their parents' "debt."⁶⁹ Such debts and other forms of financial coercion are prohibited under U.S. law and the Palermo Protocol, which criminalizes it as a form of trafficking.⁷⁰

Many nations, and ethnic groups within nations, are trapped or stunted by slavery and poverty. Certain cultural norms and corruption often enable forced labor slavery to exist, and this system then creates an economic dependence in the industries in which it is most prevalent. If one business person uses free labor, his competitors struggle. Ethnic discrimination is a key factor in determining which groups will be victimized by false opportunities and fall into the trap of bonded labor: "ethnicity and nationality are always in play, with ethnic markers and colonial

⁶⁵ *IJM Forced Labor Fact Sheet*, INTERNATIONAL JUSTICE MISSION,

<http://www.ijm.org/sites/default/files/resources/Factsheet-Forced-Labor-Slavery.pdf> [hereinafter *Fact Sheet*].

⁶⁶ *See id.* ("Modern-day slaves face brutal conditions in rock quarries, rice mills, brick kilns, fisheries, garment factories and many other industries around the world. Victims of slavery are often deprived of the freedom of movement, unable to leave the facility where they are forced to work and unable to seek employment elsewhere. Forced laborers are also often victims of violent physical and sexual abuse.").

⁶⁷ *See id.* ("Debt bondage is a common method used to entrap victims of slavery. In this illegal scheme, an employer offers a small loan (often as low as \$25) to a laborer, with the understanding that the loan will be repaid through work at the owner's facility. The owner then ensures this repayment is impossible by refusing to pay the employee and inflating the loan through exorbitant interest rates, false charges, and denying requests for information on the status of the loan.").

⁶⁸ *See id.* ("The laborer is forbidden to leave the work facility until the loan is "repaid" in full—despite the fact that the work already completed by the laborer should have fulfilled any obligation to the owner long ago. The employer becomes the laborer's owner—and the loan's conditions are often extended to relatives of the victim, including children, who are forced to work off a false and ever-growing debt.").

⁶⁹ *See TIP REPORT, supra* note 28, at 34 ("Some workers inherit debt; for example, in South Asia it is estimated that there are millions of trafficking victims working to pay off their ancestors' debts."); *see also Rescued From A Lifetime Of Slavery In Chennai*, INTERNATIONAL JUSTICE MISSION, <http://www.ijm.org/news/rescued-lifetime-slavery-chennai> (telling the story of rescuing families who were enslaved for 18 years and whose children, born in the sawmill, worked alongside their parents).

⁷⁰ *See TIP REPORT, supra* note 28, at 34 ("U.S. law prohibits the use of a debt or other threats of financial harm as a form of coercion and the Palermo Protocol requires its criminalization as a form of trafficking in persons.").

histories used to justify inhuman practices, recreating cultures in which superiority and shame replace notions of rights and duties.”⁷¹ In Latin America, patterns of inequality and discrimination against indigenous groups often lead to labor slavery.⁷² Similarly, long histories of poverty and intense discrimination place minorities, those in the lowest or untouchable castes or tribes in Asia, and descendants of slaves in Africa, at the most risk.⁷³ These systems of discrimination become societal norms, and discrimination and extreme poverty breed extreme vulnerability.

Economically, the perceived choice to employ free laborers has a significant negative impact. According to the ILO, forced labor trafficking globally results in a cost of \$20 billion each year, calculated from the cost of “wages and other benefits denied to migrant workers by fraudulent labor recruiters in their home countries, labor brokers in the country of work, and employers who refuse pay wages.”⁷⁴ Because of this economic impact, the issue of forced labor turns from a purely criminal and humanitarian issue to a practical economic one. These lost earnings have a greater effect as they trickle down through the supply chain into products consumers are unaware were tainted by slave labor.⁷⁵ The U.S. Department of Labor (DOL) has identified 122 goods from 58 countries that clearly included some production by slaves or children.⁷⁶ The goods, when imported into the U.S., virtually import their use of forced labor.

⁷¹ See HUMAN TRAFFICKING, *supra* note 63, at 85.

⁷² See INT’L LABOUR ORG., THE COST OF COERCION 19–20 (98th Session 2009), available at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_106268.pdf [hereinafter COST OF COERCION] (“Forced labour in Latin America is closely linked to patterns of inequality and discrimination, particularly against indigenous peoples.”).

⁷³ See *id.* at 81 (“Research and operational programmes have led to an enhanced understanding of the population groups at risk of forced labour, often as a result of a long-standing pattern of poverty and discrimination. They can include caste and other minorities in Asia, indigenous peoples in Latin America and, in some cases, the descendants of slaves in Africa.”).

⁷⁴ TIP REPORT, *supra* note 28, at 11.

⁷⁵ See COST OF COERCION, *supra* note 72, at 49 (““Employers have become increasingly aware that forced labour can penetrate their own business operations, as well as those within their extended supply chains.”).

⁷⁶ *International Trafficking*, POLARIS PROJECT, <http://www.polarisproject.org/human-trafficking/international-trafficking>.

II. REASONS FORCED LABOR REMAINS CLANDESTINE

Forced labor is widespread, and continues with little interference. Some slaves toil outside the knowledge of local police and government officials, while others see a blind eye turned as officials focus on more public issues. A push over the last decade has educated many federal and local forces as to the general problem of human trafficking, but obstacles indigenous to the issue of forced labor deter real change. The hidden element of labor trafficking often results in a lack of awareness that this labor is not voluntary, and police forces do not proactively search out evidence of such cases. When cases are discovered and brought to the attention of officials, evidence is difficult to attain and substantiate, making prosecution of the perpetrators rare. Infrequent and lenient punishment lowers the risk for future perpetrators who are not deterred by empty threats.

Washington and Lee University

A. Failure of Police Forces to Identify and Investigate

As discussed above, forced labor does not exist in a vacuum, but rather seizes upon individuals who are often already impoverished and vulnerable. The U.S. Agency for International Development's (USAID) Counter-Trafficking in Persons Policy notes that many of the bases for trafficking are the same issues that most developing countries face: "limited education and employment opportunities, weak social safety nets, a tenuous rule of law, and ethnic and gender discrimination."⁷⁷ The multi-faceted vulnerability factors seem to make forced labor incredibly difficult to tackle—wouldn't we first have to tackle education, employment, social aid, and law enforcement? While solving all inequalities would be ideal, bringing people out of slavery and preventing others from falling into such traps might occur before each of these

⁷⁷ USAID, USAID COUNTER-TRAFFICKING IN PERSONS POLICY (Feb. 2012), *available at* http://transition.usaid.gov/our_work/democracy_and_governance/technical_areas/trafficking/pubs/C-TIP_Policy.pdf.

safeguards is in place. Another obstacle is the ignorance of many police forces and communities as to the plight that those working in an adjacent field might be facing. Forced laborers often blend in and are difficult to distinguish from migrant or low, but fairly paid, workers.

Difficulties finding or learning about and then investigating labor trafficking cases often stem from the reasons these workers are trapped in the first place. One such reason is isolation – they are often new to the area, so disoriented they do not know where they are, do not speak the language, and would not know where to go or whom to trust if they *could* escape.⁷⁸ Some forced laborers are held removed from civilization, but many live on major roads; regardless, “the enslaved worker, a veritable stranger in a strange land, is as isolated as if he were on Mars.”⁷⁹ Another invisible chain held by the owner is the slave’s belief that he owes a debt and must pay it off, honestly.⁸⁰ Valuing trust, integrity, and his own reputation allows a man to be used dishonestly by an owner who has no intention of ever letting his books reflect a paid debt.⁸¹

B. Difficulty in Procuring Evidence

Evidence in labor trafficking cases is challenging to attain. A general lack of data and primary sources in the field makes gathering evidence and pursuing investigation tactics difficult; data is lacking on offender characteristics, financial aspects and profits, and time series information.⁸² Conducting such research requires facing high risk, inaccessibility of victims, ethical issues, and political sensitivities. Traffickers and criminals in their arena are generally dangerous, but risk especially heightens with the “systematic and high level corruption” required

⁷⁸ BALES & SOODALTER, *supra* note 1, at 52 (describing the way isolation traps agricultural workers).

⁷⁹ *Id.*

⁸⁰ *See id.* (“There is one more subtle reason why enslaved workers don’t attempt to escape. They feel honor-bound to pay their debt.”).

⁸¹ *See id.* (describing the way that dishonesty preys on small farmworkers’ honesty).

⁸² *See* HUMAN TRAFFICKING, *supra* note 63, at 55 (“The most serious shortcomings of the available data are: ‘(1) lack of concise data on offender characteristics and offender structures; (2) lack of data on the financial aspects, including the whereabouts of the profits; (3) lack of time series data and cross-nationally compatible data.’”).

by organized trafficking and the ties between officials, traffickers, and other paid facilitators.⁸³

Interviewing victims while they are still under the control of the trafficker is also tricky. One must find the victim or trafficker and gain that person's trust over time to gather helpful information.⁸⁴ This kind of investigation of victims, while it may be beneficial long-term, can increase distress in their current situation, jeopardizing their well-being and increasing the chance the owner will discover and punish their conversations; attaining informed consent is also quite difficult.⁸⁵

Political and cultural sensitivities add another layer of complexity to the investigation and information-gathering process.⁸⁶ Differences in socioeconomic and cultural bases can create an ideological gulf between the victim and his understanding of his situation and options, and those who desire to help him. Even when many of these factors are minimal, lack of evidence of criminal intent, weak and insufficient admissible evidence, inadequate evidence to constitute a federal offense, and prosecutors' lack of desire to go forward because of a perceived lack of deterrence can create problems.⁸⁷ Witnesses also create issues when victims cannot identify their traffickers, are afraid of trying to prosecute them, and have stories that cannot be corroborated.⁸⁸ When police do conduct investigations and attempt to prosecute, many are acquitted, and many

⁸³ See *id.* at 55 (detailing the risks for researchers and investigators and the lack of reports on specific corruption cases, even though "there is a perception of wide-spread corruption in relation to trafficking").

⁸⁴ See *id.* at 56 (noting the reasons for inaccessibility of traffickers and victims).

⁸⁵ See *id.* at 56–7 (discussing the ethical implications of researching trafficking).

⁸⁶ See *id.* at 57 (noting political sensitivity of entering trafficking arenas, especially regarding sex trafficking).

⁸⁷ See DESTEFANO, *supra* note 29, at 134 ("A more detailed review showed that prosecutors in all federal court districts declined to proceed to criminal charges for reasons that seemed constant from year to year: lack of evidence of criminal intent, weak or insufficient admissible evidence, "office policy" (which was not defined), problems with jurisdiction or court venue, no evidence of a federal offense, "minimal" interest of prosecutors because a prosecution wouldn't have deterrent value, and problems with witnesses.").

⁸⁸ See *id.* ("One federal prosecutor in New York City, who asked not to be identified, said that victims are often unable to identify the traffickers, who may be removed by distance and time from the place of exploitation. Fear is also a factor: while appreciating help and rescue, victims may not remember everything that happened; and in cases involving single victims, prosecutors find it extremely difficult to corroborate their statements.").

others serve very short terms, time served, or simply pay a small fine.⁸⁹ When these crimes are not prosecuted, actually paying one's workers can almost seem like a poor business decision. The level of risk is so low a business owner could rationally decide to traffic laborers.⁹⁰ New York punishes labor trafficking as a "D" felony, with a maximum sentence of seven years; sex trafficking has a far more serious maximum of twenty-five years as a "B" felony.⁹¹

Nationally, many would assume the DOL would play a significant role in reducing trafficking into the U.S. by carefully approving and tracking agricultural guest workers. This is not the case. The Government Accountability Office (GAO) found the DOL did not fully investigate and address violations of wage, hour, and child labor violations.⁹² It did not even employ the tools it did have to persuade or incentivize violators to comply.⁹³ Failing to enforce laws that require accurate reports of employees' hours worked and wages received almost condones employers' failure to follow these laws and treat their employees fairly.⁹⁴ "the government is abdicating its responsibility to protect these people from employers who ignore or abuse the laws as a matter of course and as a way of doing business."⁹⁵

Globally, the prosecutorial situation is dire. Without a strong, fair, and uncorrupt legal system, which would require, at minimum, education and ethical training of lawyers, judges, and

⁸⁹ See HUMAN TRAFFICKING, *supra* note 63, at 132 ("When investigations are mounted and traffickers are prosecuted, the outcomes are negative because many are acquitted. Those who are convicted often receive limited terms of imprisonment, small fines or are sentenced merely to the time they have served during the investigation.").

⁹⁰ See *id.* ("The involvement of crime groups in trafficking becomes a rational decision because of their low level of risk.").

⁹¹ See BALES & SOODALTER, *supra* note 1, at 202 ("In New York, "sex trafficking" is now punishable as a "B" felony (maximum sentence twenty-five years), whereas "labor trafficking" warrants only "D" felony status (maximum sentence seven years).").

⁹² See *id.* at 73 ("In July 2008, the federal watchdog, the Government Accountability Office (GAO), reported to the House Education and Labor Committee in Congress that the Wage and Hour Division of the DOL—the agency responsible for investigating complaints of wage, hour, and child labor violations— was failing to full investigate and properly address violations of the law.").

⁹³ See *id.* ("They concluded that the agency 'does not sufficiently leverage its existing tools to increase compliance.'").

⁹⁴ See *id.* at 74 ("Lack of enforcement allows illegal migrants to become victims.").

⁹⁵ *Id.*

police, perpetrators of forced labor laws do not pay any price for their actions, and therefore are in no way deterred from continuing to act. The United Nations Office on Drugs and Crime (UNODC) found that as of 2007, “approximately 40% of countries had not registered a single conviction against perpetrators of trafficking and slavery, which is crucial for deterrence.”⁹⁶ Thirty-two percent of countries did not record a single prosecution between 2003 and 2007.⁹⁷

III. WAYS FOR THE U.S. TO ELEVATE ITS ROLE IN FIGHTING FORCED LABOR

The U.S. has begun to recognize the issue of human trafficking in the twenty-first century, but it can do more, both for those trapped within its borders and those in other countries. A focus on the dangers of labor trafficking specifically is necessary. The U.S. and other nations’ governments around the world use the “3P” paradigm in efforts to combat human trafficking, focusing on prevention, protection, and prosecution.⁹⁸ In 2009, Secretary of State Hillary Clinton introduced a fourth “P,” partnership.⁹⁹ These pillars create a solid framework for eliminating labor trafficking. Prevention at its most basic focuses on increasing awareness and educating the public around the world, both in sending and receiving trafficking countries, about the dangers and vulnerability triggers of human trafficking.¹⁰⁰ That prevention should also include:

“rectifying laws that omit classes of workers from labor law protection; providing robust labor law enforcement, particularly in key sectors where trafficking is most typically found; implementing measures that address significant vulnerabilities such as birth registration and identification; carefully constructing labor recruitment programs that ensure protection of workers from exploitation; strengthening partnerships between law enforcement, government, and nongovernmental organizations to collaborate, coordinate, and communicate more effectively; emphasizing effective policy implementation with

⁹⁶ *Fact Sheet*, *supra* note 65.

⁹⁷ UNITED NATIONS OFFICE ON DRUGS AND CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 44 (February 2009), *available at* http://www.unodc.org/documents/Global_Report_on_TIP.pdf.

⁹⁸ U.S. DEP’T OF STATE, THE 3PS: PREVENTION, PROTECTION, PROSECUTION (Jul. 9, 2012), <http://www.state.gov/j/tip/rls/fs/2012/194722.htm>.

⁹⁹ *Id.*

¹⁰⁰ *See id.* (describing historic efforts for prevention).

stronger enforcement, better reporting, and government-endorsed business standards; and tackling this global crime at its root causes by monitoring product supply chains...”¹⁰¹

Extending the duty to prevent labor trafficking to law enforcement and corporations lifts some of the burden from NGOs that focus their resources on advocacy efforts.

Protection centers around the victim: identifying, then rescuing, rehabilitating, and reintegrating that person.¹⁰² Rehabilitation and reintegration rely on ease of attaining proof of citizenship or immigration relief as well as emergency services and access to educational and vocational opportunities.¹⁰³ Prosecution, a crucial step in fighting trafficking, is a bit more nuanced than the other steps. To effect real change, courts must impose serious jail time on trafficking offenders (with maximum sentences of at least four years) and generally impose a year or more imprisonment.¹⁰⁴ Successful prosecutions are important in deterring future crime.¹⁰⁵

The newest “P,” partnership, requires government officials, civil society, the private sector, and the public at large to work together to maximize effectiveness.¹⁰⁶ The U.S. claims these ideals, and promises to realize them, but must take further steps to actually act out the 4Ps in practice.

Then, we might see real change, domestically and abroad.

A. Within Its Borders

Federal and state governments have a duty to protect their constituents and those who reside in their jurisdictions. While sex trafficking involving U.S. citizens sometimes occurs,

¹⁰¹ *Id.*

¹⁰² *See id.* (identifying the “3Rs” key to protection).

¹⁰³ *See id.* (listing the programs governments can put in place to protect victims).

¹⁰⁴ *See id.* (“The Department of State evaluates whether governments prescribe a maximum prison sentence of at least four years’ deprivation of liberty for the crime of trafficking in persons and vigorously prosecute alleged trafficking offenders. Imposed sentences should involve significant jail time, with a majority of a government’s cases resulting in sentences on the order of one year of imprisonment or more.”).

¹⁰⁵ *See* TIP REPORT, *supra* note 28, at 9 (“In this paradigm, strong protection efforts bolster the effectiveness of law enforcement activities and successful prosecutions in turn serve to deter the crime from occurring.”).

¹⁰⁶ *See id.* (explaining the “integral nature of “partnership”).

forced labor of U.S. citizens seems nonexistent. That does not mean, however, that aliens and non-residents are not subject to forced labor; the U.S. government has a great duty to protect these people who have come onto U.S. soil from being taken advantage of by criminal traffickers. We can focus on forced labor occurring in the U.S. by modifying and enforcing current federal legislation, adopting and enforcing state legislation, enabling law enforcement, and empowering individuals to look for and report potential incidents of forced labor.

1. *Federal Legislation*

The Trafficking Victims Protection Act (TVPA),¹⁰⁷ first passed in 2000, established the State Department Office to Monitor and Combat Trafficking in Persons, mandated an annual Trafficking in Persons report, and created a tier system by which to rate countries' anti-trafficking efforts.¹⁰⁸ This Act established trafficking as a federal crime, provided assistance for trafficking victims, and gave visa protection for international victims.¹⁰⁹ The T-visa provision of the TVPA allows victims to stay in the U.S. for four years while they help law enforcement prosecute traffickers.¹¹⁰ The bill was reauthorized in 2003, 2005, and 2008, and after expiring in 2011, President Obama signed the TVPA reauthorization into law in March 2013 after it passed through the House and Senate.¹¹¹ This new version of the bill provides new partnerships with other countries to prevent trafficking, increases protections for victims, and adds new tools for

¹⁰⁷ Pub. L. No. 106-386.

¹⁰⁸ *The Trafficking Victims Protection Reauthorization Act*, INTERNATIONAL JUSTICE MISSION, <http://www.ijm.org/node/195>.

¹⁰⁹ *Id.*

¹¹⁰ See DESTEFANO, *supra* note 29, at 41 (explaining this category of immigration documents); *see generally* U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, INFORMATION FOR VICTIMS OF HUMAN TRAFFICKING, http://www.dcs.virginia.gov/victims/humantrafficking/vs/documents/ICE_Victims_Assist_Program.pdf.

¹¹¹ *Trafficking Victims Protection Reauthorization Act*, ALLIANCE TO END SLAVERY & TRAFFICKING, <http://www.endslaveryandtrafficking.org/trafficking-victims-protection-reauthorization-act>.

prosecutors to use in trafficking cases.¹¹² This passage is extremely important, and it is equally important that this bill not be allowed to expire again, lapsing for years without reauthorization.

Passage of the TVPA has significance beyond direct implementation. With its application, local government officials have become more aware of the fact that some prostitutes might be trafficking victims, and they attempt to investigate.¹¹³ However, this increased sensitivity has not extended to labor trafficking, and it must.¹¹⁴ Amplified training of law enforcement officials as to the prevalence of labor trafficking and the areas in which it is common could help bring this issue to the foreground.

As part of this federal push toward awareness of trafficking, the State Department created a pamphlet entitled “Know Your Rights,” which informs employment-based visa holders about their vulnerability to human trafficking and how to get help.¹¹⁵ The National Human Trafficking Resource Center received 3,000 calls based on this pamphlet’s distribution alone.¹¹⁶ The Director of the Polaris Project suggests an expansion of this successful program: “The Departments of State, Justice, Homeland Security, and Health and Human Services should convene a working group to discuss the expansion of the preventative concept behind the highly successful “Know Your Rights” brochure with other vulnerable populations such as migrant and domestic workers who do not enjoy broad legal protections.”¹¹⁷ When a successful program is easy to implement,

¹¹² *Congress Sends Cornerstone Human Trafficking to President Obama*, Alliance to End Slavery & Trafficking, http://www.endslaveryandtrafficking.org/news_releases/congress-sends-cornerstone-human-trafficking-prevention-bill-president-obama.

¹¹³ See DESTEFANO, *supra* note 29, at 83 (“With passage of the TVPA, officials at state and local levels have become more sensitive to the fact that prostitutes in immigrant neighborhoods might be trafficking victims and thus subjects of interest to federal investigators.”).

¹¹⁴ See *id.* (“But... local law enforcement must also become more sensitive to labor exploitation, a phenomenon that may happen just as often as sex trafficking cases—and maybe even more often.”).

¹¹⁵ See Ellison, *supra* note 55 (“We have begun to do more to identify trafficking victims in the U.S. and around the world through successful models like the State Department’s “Know Your Rights” pamphlet, which educates employment-based visa holders about the risks of human trafficking and about resources available to assist them.”).

¹¹⁶ See *id.* (“Since this brochure was published, the National Human Trafficking Resource Center has received more than 3,000 calls attributable to it being distributed to visa holders entering the United States.”).

¹¹⁷ *Id.*

such as this one, which only entails printing brochures and getting them into the hands of those already identified as vulnerable to trafficking, it should be broadened to maximize impact.

Once these victims have been identified or somehow leave their situation, they should receive housing and means of survival to stabilize themselves and find work that will not put them back into a trafficking situation.¹¹⁸ The T-visa provides an important way for survivors to put themselves back together after their experience, and for members of the victim's family to apply for a T-visa.¹¹⁹ However, far fewer T-visas than the 5,000 allotted are actually granted—in 2011, only 557 victims received one.¹²⁰ This visa is important not only to the well-being of victims, but to the criminal process. Prosecutors need the victims to provide information and testify in proceedings, and if the victim is in his home country, the case is likely to be dropped.

2. State and Local Legislation and Law Enforcement

Federal and local government officials should be educated about labor trafficking and able to identify it. These people work to keep others safe, and they should be the first line of defense in acting to rescue trafficking victims before those victims are able to call for help or risk escape. Ms. Ellison advises that rather than charging or deporting victims because of crimes incident to their trafficking circumstances, the government should identify them and direct them to service providers.¹²¹ Government departments such as the Department of Labor, the

¹¹⁸ *See id.* (“We must provide emergency, transitional, and long-term housing so that survivors are safe and not vulnerable and exposed to traffickers.... In the immediate days, weeks, and months after being trafficked, survivors need access to benefits and services which are directly linked to certification as a trafficking victim by the Department of Health and Human Services, Office of Refugee Resettlement (ORR). ORR certifies foreign national victims and provides letters of eligibility to foreign national minors (under 18) so that they are eligible for federal and State benefits and services to the same extent as refugees.”).

¹¹⁹ *See id.* (listing the requirements for T-visa eligibility for victims and their family members).

¹²⁰ *See id.* (“Despite the availability of the T-Visa at a cap of 5,000 per year, in fiscal year 2011, only 557 victims were granted this visa.”).

¹²¹ *See id.* (“We must also do more to ensure that we increase the percentage of victims identified by training government officials working in all sectors. We must identify victims and direct them to service providers rather than arrest, charge, prosecute or deport them because of criminal or administrative violations incident to their trafficking situations.”).

Department of State, the Equal Employment Opportunity Commission, and Health and Human Services should train local staff in identification of victims and appropriate responses.¹²²

Individual citizens should also look for and report potential incidents of forced labor. Training private groups such as faith congregations and service organizations with tools to identify, report, and help victims of labor trafficking could make a big difference. Those near industries generally susceptible to slave labor should be informed by local police, who should be trained themselves, about possibilities of trafficking victims nearby and steps to take.

B. Outside Its Borders

The U.S. should also increase its presence and aid toward anti-labor trafficking efforts outside its borders. While the issue certainly merits attention domestically, labor trafficking on a global scale is much more pervasive, and also requires the attention, aid, and partnership of the U.S. government. Rather than distributing basic aid to developing countries in term of food and basic necessities, or money to often corrupt governments, resources and manpower devoted to ending slavery could help halt labor trafficking, and in doing so, lessen poverty. While there is an obvious and fair desire to focus on statist issues, the U.S. has an economic and social position that should translate to a cosmopolitan approach in dealing with issues concerning the most basic human rights, especially when other governments are slow to recognize the issue or make changes in policy. We live in an increasingly global world, and national borders are less significant as global organizations and intergovernmental interactions demand a nontraditional

¹²² *See id.* (“Before the close of 2013, the Administration should ensure that the Departments of Justice, Labor, State, and the Equal Employment Opportunity Commission develop and roll out agency-wide trainings. Similarly, Health and Human Services (HHS) should also ensure that any social services staff likely to encounter victims or survivors of trafficking, are trained regarding prevention, identification and appropriate response.”).

view of duties of aid.¹²³ The most affluent and developed countries have a responsibility to citizens of all nations, especially those who suffer as a result of the present world order developed countries created: “As the G-7 countries are reasonably democratic, their citizens share responsibility for the global order their governments have built as well as for the comparative impact of this order upon human lives.”¹²⁴ Most developing and developed countries “have enacted anti-trafficking laws; the next steps in this struggle require governments to implement those laws broadly and effectively.”¹²⁵

Although anti-trafficking laws exist on the books, lack of enforcement renders them useless unless someone provokes their practice. For example, one owner of a rice mill in South India used 35 bonded labor slaves. He was once convicted of using forced labor, but only received a punishment of about ten dollars and time served, his one day at court.¹²⁶ He returned to his mill and employed 14 more forced laborers, but with the help of a U.S.-based organization which trained and led Indian advocates, the judge sentenced him to buying or disposing of a person as a slave, habitual dealing in slaves, and unlawful compulsory labor.¹²⁷ Despite the prevalence of bonded labor in India, this was the first case to convict on a slavery provision since

¹²³ THOMAS POGGE, POLITICS AS USUAL: WHAT LIES BEHIND THE PRO-POOR RHETORIC 14 (2010), available at <http://www.yale.edu/macmillan/globaljustice/docs/gjlecture.pdf> (noting “the very distinction between the national and international realms is dissolving. With national borders losing their causal and explanatory significance, it appears increasingly incongruous and dogmatic to insist on their traditional role as moral watersheds”).

¹²⁴ See *id.* at 22 (“The resulting global institutional order is arguably unjust insofar as the incidence of violence and severe poverty occurring under it is much greater than would have been the case under an alternative order whose design would have given greater weight to the interests of the poor and vulnerable.”).

¹²⁵ TIP REPORT, *supra* note 28, at 31.

¹²⁶ See *Major Conviction Secured for Forced Labor Slavery in Chennai*, INTERNATIONAL JUSTICE MISSION (May 21, 2010), <http://www.ijm.org/news/major-conviction-secured-forced-labor-slavery-chennai> (“In July of that year, Kandasamy was convicted for entrapping forced labor through the common practice of offering an advance loan, but was only given a minor punishment of 500 rupees fine and imprisonment until the ‘rising of the court’ – equivalent to less than one day of imprisonment.”).

¹²⁷ *Id.* (“But 13 months later, IJM partnered with local officials to conduct a second operation at the Powerhouse Rice Mill, this time releasing 14 more forced laborers. . . . The judge proceeded to sentence the three men for the six offenses laid out against them: buying or disposing of a person as a slave, habitual dealing in slaves, and unlawful compulsory labor (IPC Section 370, 371, and 374), enforcement of bonded labor, advancing a bonded debt, abetting a bonded labor offence (BLA Section 16, 17, and 20). Each perpetrator was sentenced to five years imprisonment and fines ranging from Rs. 26,000 to Rs. 52,000. (approximately \$570 - \$1150 USD).”).

the nineteenth century.¹²⁸ This success demonstrates the importance of partnership among organizations, lawyers, and government officials—without the use of bribes—as well as significant partnerships between the U.S. and other countries that experience high levels of labor trafficking. Enforcing and strengthening the rule of law is key to making laws that already exist meaningful. Judgments such as the one in South India indicate a path toward applying rule of law, showing offenders that consequences come from exploiting others illegally – the risk of going to jail for committing a crime which only slightly increases their profits increases the possibility that they will reconsider before using slaves again.¹²⁹

However, the U.S. needs to become involved on a grander scale—organizations such as the one which helped attain this conviction, even with some government grants and a lot of private funding, cannot end slavery on their own. To make a greater, faster impact, the government should become more involved, either by exponentially increasing funding for organizations like this one, or by replicating the strategies which seem to be working. Of course, the push of private citizens and corporations to first, care about products that use slave labor, and second, to act to halt supply chains that employ it, is also necessary: “Governments bear responsibility for some elements of abolition, but where they are unwilling or unable to do so, civil society and the private sector must join the fight.”¹³⁰ In some ways, the government simply working to enforce and enable the free market could make great changes in eliminating forced

¹²⁸ *Id.* (“Kandasamy’s conviction is rare, if not entirely unique: IJM advocates in India have found no cases on slavery provisions reported in any national legal journals since the 19th century.”).

¹²⁹ *Id.* (“Today, the sessions court exhibited the same commitment to seeing rule of law applied in bonded labor cases. Today’s judgment sends a clear message to potential offenders that there are very real consequences to exploiting those less fortunate for profit. Offenders are now very much at risk for going to jail for doing something that only marginally increases their profits. The costs of employing bonded labor now heavily outweigh the benefits.”).

¹³⁰ SKINNER, *supra* note 19, at 291.

labor.¹³¹ Giving title to those who spend their lives squatting on land would help them own something for the first time, and therefore be less likely to leave that land for the enticing promises of a slaveholder.¹³² If they also could attain some kind of microcredit, these very vulnerable, very poor people would be less vulnerable and less poor—“lenders” who turn into slaveholders would face a much greater task of enticing these people, who usually only take loans for bouts of sickness and marriages.¹³³ Bit by bit, these people could gain a bit of wealth, through that, education, and through their education, greater wealth.¹³⁴ Through these minor aids, the free market could effectively end slavery, and effectively reduce the poverty of the most disadvantaged.¹³⁵ As with any eradication effort in society, a multi-pronged, comprehensive and cohesive approach will be needed to achieve real change.

CONCLUSION

The war against slavery may seem impossible to win; many are only recently awakening to the realities of forced labor, but recent laws and developments make this elimination possible. In the 2012 Trafficking in Persons Report, Secretary of State Hillary Clinton wrote, “The problem of modern trafficking may be entrenched, and it may seem like there is no end in sight. But if we act on the laws that have been passed and the commitments that have been made, it is solvable.”¹³⁶ In the U.S., the combination of the desire for cheap and seasonal agricultural labor, and domestic aid for immigrant households leads to a great, and largely undetected, labor

¹³¹ See *id.* at 292 (“If governments and trade organizations enforce the rules of the game, fair markets also can be the world’s best devices for ending slavery.”).

¹³² See *id.* (“In South Asia, where over half the world’s slaves toil, millions of desperately poor people squat on land that the state owns. If they were to receive title to that land, many would own an asset for the first time in their lives.”).

¹³³ See *id.* (“If those new landholders had access to legitimate microcredit, they would be less vulnerable to usurious lenders, traffickers, and slavemasters.”).

¹³⁴ See *id.* (“Instead, slowly, they could build wealth.”).

¹³⁵ See *id.* (“The free market can be the world’s most effective device for ending poverty.”).

¹³⁶ TIP REPORT, *supra* note 28, at 10.

trafficking problem.¹³⁷ Globally, industries which can take advantage of uneducated minorities to work for free, often do. The U.S. has a duty to help the poorest of the poor, those forced to work for free, restricted from leaving or making independent decisions, and tied by a false debt. Enforcing the rule of law in the U.S. and internationally, proactively seeking out slaves and rescuing them from their owners, educating those vulnerable to trafficking, and prosecuting slaveholders to deter others, could eliminate the epidemic of forced labor.

By eliminating this slavery, poverty would immediately and drastically decline. The fight against modern slavery has been in effect for less than a generation, and many stories of advocacy and rescue are those of success.¹³⁸ However, we must identify more victims, provide more services, and ensure more criminal consequences for traffickers to make real change.¹³⁹ This year marks the 150th anniversary of the Emancipation Proclamation.¹⁴⁰ Although most countries, the Universal Declaration of Human Rights, and the UN Palermo Protocol criminalize and condemn slavery, millions continue to live in slavery.¹⁴¹ Former Secretary of State Hillary Clinton said it well: “A century and a half after the promise of freedom was fought and won in the United States, freedom remains elusive for millions. We know that this struggle will not truly

¹³⁷ See DESTEFANO, *supra* note 29, at 83 (“Given the growth in the number of immigrant households needing domestic help, coupled with the fact that factories and agricultural businesses constantly need temporary—and cheap—sources of labor, it is likely that labor trafficking cases are much more pervasive than federal enforcement actions indicate.”).

¹³⁸ See TIP REPORT, *supra* note 28, at 31 (“The modern global abolitionist movement is less than a generation old. Success stories have shown us that survivors are eager to overcome their trauma.”).

¹³⁹ See *id.* (“But to few victims are identified, not enough services are available to survivors, and too few traffickers receive criminal punishment.”).

¹⁴⁰ See *id.* at 2 (“Over the coming months we will celebrate the 150th anniversary of the Emancipation Proclamation, which Abraham Lincoln announced on September 22, 1862 and issued by Executive Order on January 1, 1863.”).

¹⁴¹ See *id.* (“Like the United States, countries around the world have enacted laws and adopted international instruments to end slavery as a legal institution and to eliminate it as a criminal practice. The Universal Declaration of Human Rights prohibits slavery and involuntary servitude. More recently, the UN Palermo Protocol has made the abolition of modern-day slavery a part of international law and a policy-making priority... Yet, despite the adoption of treaties and laws prohibiting slavery, the evidence nevertheless shows that many men, women, and children continue to live in modern-day slavery through the scourge of trafficking in persons.”).

be won until all those who toil in modern slavery... are free to realize their God-given potential.”¹⁴² That struggle must be realized not in words, but in actions.

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¹⁴² *Id.*