



GAPS IN THE UNITED STATES RESPONSE TO HUMAN TRAFFICKING

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The International Human Rights Clinic (IHRC) at Santa Clara University School of Law provides students with an opportunity to learn substantive international human rights law and practical legal skills while working with victims of human rights violations and with experts in the field. Students collaborate with human rights organizations worldwide to support human rights claims in domestic and international fora, investigate and document human rights violations, develop and participate in advocacy initiatives before the United Nations and regional and national human rights bodies, and engage with global and local human rights campaigns.

I. Introduction

1. The International Human Rights Clinic (IHRC) at Santa Clara Law respectfully submits this report to the United Nations Universal Periodic Review (UPR). Over the past two years, IHRC has investigated local responses to human trafficking in the California Bay Area, a major U.S. hot spot for human trafficking that reflects national trends. We interviewed dozens of federal, state, and local law enforcement officials, victim services providers, and legal aid providers who work with human trafficking victims. Their observations and recommendations form the basis for our report.¹
2. This report details violations of the United States' obligations under international human rights law stemming from the failure of the U.S. to address human trafficking in a comprehensive and coordinated manner. While we applaud the U.S. for the great strides it has already taken, significant gaps leave many victims unprotected. This report identifies three troubling gaps in the U.S. response to human trafficking: U.S. failure to 1) adequately identify and investigate labor trafficking cases; 2) address the intersection between the child welfare system and human trafficking, and 3) provide coordination and promote collaboration between local, state, and federal agencies to combat human trafficking.

II. Background and Framework

3. The United States is obligated to prevent human trafficking and protect trafficking victims under its international treaty obligations including Articles 8 and 24 of the ICCPR,² Article 9 of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography,³ Articles 6 and 9 of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons,⁴ as well as under the general prohibition against slavery in Article 4 of the Universal Declaration of Human Rights.⁵ As a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), the U.S. should also “refrain from acts which would defeat the object and purpose of” these treaties.⁶

¹ Where this report refers to local service providers and law enforcement officials, such references derive from information gathered from these actors in the California Bay Area.

² UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171.

³ UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, 16 March 2001, A/RES/54/263.

⁴ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, available at http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf.

⁵ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III).

⁶ United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, Art. 18.

4. The U.S. specifically accepted recommendations during the 2010 UPR to ratify CRC⁷ and CEDAW⁸, and to consider signing the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (CMW).⁹ The U.S. also accepted recommendations to “provide information and services to victims of trafficking[,]”¹⁰ “take effective steps to put an end to child prostitution[,]”¹¹ “protect the human rights of migrants”,¹² and “prevent slavery of agricultural workers, in particular children and women.”¹³
5. Since the 2010 UPR, the U.S. has received specific recommendations regarding its obligations to prevent human trafficking from several U.N. bodies, including the Committee on the Elimination of Racial Discrimination,¹⁴ the Human Rights Committee,¹⁵ the Committee on the Rights of the Child,¹⁶ and the Special Rapporteur on Contemporary Forms of Slavery.¹⁷
6. To date, the U.S. has not adopted a comprehensive plan addressing these concerns and recommendations, although the recent release of the Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, 2013-17 (FSAP), represents a promising but incomplete step in this direction.¹⁸
7. The following sections of the report discuss different aspects of the existing U.S. legislative and policy framework to address human trafficking, analyzing some significant gaps in detail, and providing recommendations on how the U.S. may address these gaps.

⁷ United States Department of State, UPR Recommendations Supported by the U.S. Government (June 2014), recommendations 10, 11, 13, 14, 20, 21, 22, 34, and 43, *available at* <http://www.state.gov/j/drl/upr/recommendations/index.htm> [hereinafter UPR Recommendations Supported by the U.S. Government].

⁸ UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendations 10, 11, 14, 20, 21, 22, and 33.

⁹ UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendation 30.

¹⁰ UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendation 169.

¹¹ UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendation 167.

¹² UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendation 210.

¹³ UPR Recommendations Supported by the U.S. Government, *supra* note 7, recommendation 193.

¹⁴ UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on the combined seventh to ninth periodic reports of United States of America*, 29 August 2014, CERD/C/USA/CO/7-9, para. 18 [hereinafter CERD Concluding Observations].

¹⁵ UN Human Rights Committee (HRC), *Concluding observations on the fourth periodic report of the United States of America*, 23 April 2014, CCPR/C/USA/CO/4, para. 14.

¹⁶ UN Committee on the Rights of the Child (CRC), *Concluding observations on the second periodic report of the United States of America submitted under article 12 of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography, adopted by the Committee at its sixty-second session (14 January–1 February 2013)*, 2 July 2013, CRC/C/OPSC/USA/CO/2.

¹⁷ UN Special Rapporteur on Contemporary Forms of Slavery, Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian; Thematic report on challenges and lessons in combating contemporary forms of slavery, 1 July 2013, A/HRC/24/43, para. 42 (noting the vulnerability of migrant workers to trafficking in the United States).

¹⁸ President’s Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States, 2013-2017 (2013), *available at* <http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf> [hereinafter FSAP].

III. Failure to Identify and Investigate Labor Trafficking Cases

8. According to law enforcement officials and service providers, the U.S. government has failed to take sufficient measures to identify and investigate labor trafficking cases.¹⁹ These actors observe that labor trafficking victims are typically identified by non-governmental service providers rather than by relevant government agencies, and that law enforcement often does not pursue the investigation and prosecution of such cases.²⁰ While we commend the U.S. for “the initiation of complex, multi-jurisdictional, and international labor trafficking investigations,” and the “successful prosecution” of an unspecified number of domestic servitude cases,²¹ the U.S. has not adopted concrete measures to adequately address labor trafficking.
9. The U.S. acknowledged in its 2014 Trafficking in Persons Report (2014 TIP Report) and 2012 Trafficking in Persons Report (2012 TIP Report) that federal investigations and prosecutions focus disproportionately on sex trafficking cases over those involving labor trafficking.²² Our research indicates that causes of the under-investigation problem include 1) a lack of sufficient resources and 2) the failure of federal law enforcement agencies and other agencies charged with labor law enforcement to take affirmative steps to identify and investigate labor trafficking cases.²³
10. According to local law enforcement officials, police departments with federal anti-trafficking funding lack sufficient resources to investigate labor trafficking cases, which they characterize as more time- and resource-intensive than sex trafficking investigations.²⁴ The 2012 TIP Report echoes this concern, noting “federal and state worksite inspectors lacked sufficient resources and training to increase victim

¹⁹ IHRC Interviews with Federal, State, and Local Law Enforcement Officials, Victim Services Providers, and Legal Aid Providers who Work with Human Trafficking Victims, Names Redacted (2012-2014) (on file with author) [hereinafter IHRC Interviews].

²⁰ IHRC Interviews, *supra* note 19.

²¹ U.S. DEP’T OF STATE, U.S. RESPONSES TO QUESTIONS FROM THE U.N. HUMAN RIGHTS COMM. CONCERNING THE FOURTH PERIODIC REPORT OF THE U.S. ON THE INT’L COVENANT ON CIVIL AND POLITICAL RIGHTS, ¶ 111 (July 2013) [hereinafter U.S. ICCPR RESPONSE].

²² U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT, 398 (2014) [hereinafter TIP REPORT 2014], *available at* <http://www.state.gov/documents/organization/226849.pdf> (noting that in 2013, the Department of Justice “convicted a total of 174 traffickers . . . where 113 were predominantly sex trafficking and 25 were predominantly labor trafficking, although several involved both.”); U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT, 360 (2012) [hereinafter TIP REPORT 2012], *available at* <http://www.state.gov/documents/organization/192598.pdf> (noting that “federal and state human trafficking data indicate more investigations and prosecutions have taken place for sex trafficking than labor trafficking.”); *see also* U.S. DEP’T OF JUSTICE, ATTORNEY GENERAL’S ANNUAL REPORT TO CONGRESS AND ASSESSMENT OF U.S. GOVERNMENT ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS: FISCAL YEAR 2011, 34, 65 (2013) [hereinafter ATTORNEY GENERAL’S REPORT 2011], *available at* <http://www.justice.gov/archive/ag/annualreports/agreporhumantrafficking2011.pdf>.

²³ IHRC Interviews, *supra* note 19; *see also* TIP REPORT 2012 at 360-364, *supra* note 22.

²⁴ IHRC Interviews, *supra* note 19.

identification appreciably.”²⁵ According to the 2014 TIP Report, “federal and state efforts to prevent and respond to child labor trafficking allegations were inadequate.”²⁶

11. Federal agencies charged with the enforcement of labor laws do not yet regularly identify and investigate labor trafficking cases.²⁷ The 2012 TIP Report notes that, despite the fact that they “are often the first government authorities to detect exploitative labor practices[.]” Department of Labor investigators “are not mandated to investigate human trafficking[.]” and do not receive “[s]ystematic trafficking-specific training[.]”²⁸ In the 2014 TIP Report, the U.S. recognized that “potential cases of labor trafficking were still being viewed too often as ‘workplace disputes’ or contract violations, rather than being investigated as potential criminal matters.”²⁹
12. Farm workers and domestic workers are uniquely vulnerable to labor trafficking, as U.S. labor laws explicitly exclude these categories of workers from key aspects of their protections.³⁰ This lack of legal protection leaves women and children particularly exposed to exploitation; a study found that 98% of California domestic workers are female,³¹ and the federal law regulating child labor includes an exemption to allow children as young as 12 years old to work in the agricultural industry.³² Although the U.S. states that “[p]rotecting vulnerable workers . . . is a priority[.]”³³ it makes no mention in its 2014 TIP Report of steps taken to do so.³⁴
13. Migrant workers in the U.S. are also particularly vulnerable to forced labor.³⁵ A recent “federally-funded report found that 30 percent of migrant laborers surveyed . . . were victims of labor trafficking and 55 percent were victims of labor abuse[.]”³⁶ The H-2B guestworker program also places migrant workers at risk for trafficking.³⁷

²⁵ IHRC Interviews, *supra* note 19; TIP REPORT 2012 at 364, *supra* note 22.

²⁶ TIP REPORT 2014 at 401, *supra* note 22.

²⁷ TIP REPORT 2012 at 360, *supra* note 22.

²⁸ TIP REPORT 2012 at 360, *supra* note 22.

²⁹ TIP REPORT 2014 at 401, *supra* note 22.

³⁰ 29 U.S.C. §§ 213(a)(15); (b)(21) (Fair Labor Standards Act); 29 U.S.C. § 651(b) (Occupational Safety and Health Act); 29 C.F.R. § 1975.6 (Occupational Safety and Health Act regulations); 29 U.S.C. § 151-169 (National Labor Relations Act).

³¹ Mujeres Unidas y Activas, *Behind Closed Doors: Working Conditions of California Household Workers*, 2 (March 2007), available at <http://www.datacenter.org/reports/behindcloseddoors.pdf>.

³² 29 U.S.C. §§ 213(a)(15); (b)(21) (Fair Labor Standards Act); see also Polaris Project, *Labor Trafficking in Agriculture* (Aug. 15, 2013), available at <http://www.polarisproject.org/human-trafficking/labor-trafficking-in-the-us/agriculture-a-farms>.

³³ U.S. ICCPR RESPONSE at ¶ 113, *supra* note 21.

³⁴ TIP REPORT 2014, *supra* note 22.

³⁵ American Civil Liberties Union, *United States’ Compliance with the International Covenant on Civil and Political Rights*, American Civil Liberties Union Shadow Report to the Fourth Periodic Report of the United States, 18 (Sept. 13, 2013), available at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/USA/INT_CCPR_NGO_USA_15353_E.pdf [hereinafter ACLU Shadow Report].

³⁶ TIP REPORT 2014 at 402, *supra* note 22.

³⁷ ACLU Shadow Report, *supra* note 35; see also CERD Concluding Observations, *supra* note 14, para. 18 (concluding that “workers entering the [United States] under the H-2B work visa programme are at high risk of becoming victims of trafficking and/or forced labour.”).

A. Suggested Recommendations:

14. We would like to make the following recommendations regarding the under-identification and investigation of labor trafficking cases:
 - a. Review U.S. laws and regulations to ensure full protection against exploitation and forced labor for all categories of workers, including agricultural workers, migrant workers, and domestic workers. Assess the extent to which existing gaps disproportionately impact the rights of women, children, and minority groups and provide detailed information in this regard.
 - b. Reform the H-2B guestworker program to allow workers with this visa to leave abusive employers without facing deportation and establish a procedure for such workers to obtain permanent residency and citizenship.
 - c. Ratify and implement the ILO Convention concerning Forced or Compulsory Labor (1930) and its 2014 Protocol. Additionally, take measures to fulfill the voluntary commitment undertaken during the 2010 UPR to consider signing and ratifying CMW.
 - d. Mandate the Department of Labor and other labor law enforcement agencies to investigate labor trafficking cases and to provide agents with trafficking-specific training.

IV. Failure to Address the Intersection between Human Trafficking and the Child Welfare System

15. Recent data demonstrates that child trafficking victims are very likely to have some interaction with the child welfare system, yet the U.S. is not taking sufficient steps to address this connection.³⁸ The U.S. is failing to: 1) protect children already in the child welfare system and homeless children who are particularly vulnerable to trafficking and 2) meet the unique needs of trafficking survivors who are subsequently placed in the child welfare system following their rescue.
16. We applaud the U.S. for providing increased funding to train service providers “on addressing child trafficking, particularly as it intersects with the child welfare system and runaway and homeless youth programs[,]”³⁹ and FSAP provisions recognizing the need to protect children who are homeless or in the child welfare system.⁴⁰ Additionally, we welcome recent legislative proposals to address these issues, though we are concerned

³⁸ CALIFORNIA CHILD WELFARE COUNCIL, ENDING THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN: A CALL FOR MULTI-SYSTEM COLLABORATION IN CALIFORNIA, iii, 3-4, 10-11 (February 2013) [hereinafter CA Child Welfare Council Report], available at http://www.youthlaw.org/fileadmin/ncyl/youthlaw/publications/Ending-CSEC-A-Call-for-Multi-System_Collaboration-in-CA.pdf; see also NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, NEW YORK PREVALENCE STUDY OF COMMERCIAL SEXUALLY EXPLOITED CHILDREN, ii (April 18, 2007) [hereinafter NY CSEC Report], available at <http://ocfs.ny.gov/main/reports/csec-2007.pdf>.

³⁹ TIP REPORT 2014 at 397, *supra* note 22.

⁴⁰ See generally, FSAP, *supra* note 18.

that the U.S. has failed to approve any of these.⁴¹ We urge the U.S. to implement swift, specific, and comprehensive measures in this regard.

17. Children involved in the child welfare system are highly vulnerable to trafficking and sexual exploitation.⁴² The Department of Justice (DOJ) approximates that “nearly 300,000 children are at risk of becoming victims of domestic sex trafficking each year, with foster youth being especially susceptible to coercion, manipulation and exploitation by traffickers.”⁴³ A recent California Child Welfare Council report determined that “a history of child welfare agency involvement” was a “major risk factor” for child trafficking.⁴⁴ That same study warns that traffickers actively seek out the most vulnerable children in the child welfare system by targeting group homes and shelters.⁴⁵ Although state-level studies show a strong correlation between child trafficking and the child welfare system, the U.S. government does not gather nationwide data, which further impedes efforts to understand and address this serious problem.⁴⁶

18. The child welfare system also lacks the resources, guidance and training necessary to adequately meet the special needs of traumatized⁴⁷ child trafficking survivors⁴⁸ who are placed in the child welfare system despite laws requiring child welfare agencies to serve trafficked children.⁴⁹ Because “most state child protection professionals do not have the training, protocols or procedures to identify and respond appropriately to child trafficking cases,” child “victims are often left without critical support, are subsequently re-trafficked, and remain vulnerable to further exploitation and abuse.”⁵⁰ Additionally, the child welfare system does not employ sufficient caseworkers to meet the need.⁵¹

⁴¹ Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980), Strengthening Child Welfare Response to Trafficking Act of 2014 (H.R. 5081), Enhancing Services for Runaway and Homeless Victims of Youth Trafficking Act of 2014 (H.R. 5076), Stop Exploitation Through Trafficking Act of 2014 (H.R. 3610), and Preventing Sex Trafficking and Improving Opportunities for Youth in Foster Care Act (H.R. 4058). Text of these bills can be found at <https://www.govtrack.us>.

⁴² CA Child Welfare Council Report at iii, 3-4, 10-11, *supra* note 38; *see also* NY CSEC Report at ii, *supra* note 38; U.S. DEPT. OF HEALTH AND HUMAN SERVICES OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, HUMAN TRAFFICKING INTO AND WITHIN THE UNITED STATES: A REVIEW OF THE LITERATURE (Aug. 2009), *available at* <http://aspe.hhs.gov/hsp/07/humantrafficking/litrev/>.

⁴³ Press Release, U.S. Representative Karen Bass, 37th Congressional District, Statement on Legislation to Combat Youth Trafficking (Apr. 26, 2013) (on file with author), *available at* <http://bass.house.gov/press-release/statement-legislation-combat-youth-street-trafficking> (citing U.S. DEP’T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, JUVENILE JUSTICE BULLETIN 1, (July 2010), *available at* <https://www.ncjrs.gov/pdffiles1/ojjdp/228631.pdf>).

⁴⁴ CA Child Welfare Council Report at 18-19, *supra* note 38.

⁴⁵ CA Child Welfare Council Report at 1, 10-15, *supra* note 38.

⁴⁶ For further commentary on the lack of reliable human trafficking data in the U.S., *see* Maureen Q. McGough, *Ending Modern-Day Slavery: Using Research to Inform U.S. Anti-Trafficking Efforts*, National Institute of Justice Journal, Issue No. 271 (February 2013) [hereinafter NIJ Report], *available at* <http://www.nij.gov/journals/271/pages/anti-human-trafficking.aspx>.

⁴⁷ IHRC Interviews, *supra* note 19; CA Child Welfare Council Report at 29-32, *supra* note 38.

⁴⁸ IHRC Interviews, *supra* note 19; ATTORNEY GENERAL’S REPORT 2011 at 36-37, *supra* note 22; CA Child Welfare Council Report at 29-30, *supra* note 38.

⁴⁹ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT, 385 (2013), *available at* <http://www.state.gov/documents/organization/210742.pdf>; LOYOLA UNIVERSITY CHICAGO, CENTER FOR THE HUMAN RIGHTS OF CHILDREN, BUILDING CHILD WELFARE RESPONSE TO CHILD TRAFFICKING, 12 (2011) [hereinafter Loyola Report], *available at* http://www.luc.edu/chrc/pdfs/Building_Child_Welfare_Response_to_Child_Trafficking.pdf.

⁵⁰ Loyola Report at 13, *supra* note 49; *see also* CA Child Welfare Council Report at 57, *supra* note 38.

⁵¹ Statement of Ashley R. Harris, Child Welfare Policy Associate, Texans Care for Children,

19. The child welfare system also fails to identify missing children, increasing their vulnerability to trafficking, because it lacks a “universal, consistent, and mandated” system of reporting missing children.⁵² As a result, traffickers “have no fear of punishment due to the lack of attention when young people from this population go missing.”⁵³ U.S. House Representative David Reichert reported that “[o]f children reported missing . . . who were also likely sex trafficking victims, 60 percent were in foster care or group homes when they ran away.”⁵⁴
20. LGBTQ youth are disproportionately represented in the child welfare system⁵⁵ and are “up to five times more likely than heterosexual youth to be victims of trafficking.”⁵⁶ Providers report that LGBTQ youth comprise 40% of the runaway and homeless youth population,⁵⁷ while LGBTQ individuals only account for 5-7% of the population.⁵⁸ The U.S. acknowledges that these youth are particularly vulnerable to trafficking⁵⁹ and that exploiters target them while in the welfare system, on the run, or homeless.⁶⁰ Currently, the U.S. lacks a systematic child welfare approach to screen, identify, and protect these at-risk children, especially LGBTQ youth.⁶¹

A. Suggested Recommendations:

Hearing on Preventing and Addressing Sex Trafficking of Youth in Foster Care (October 23, 2013), *available at* <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=391328> (testifying that caseworkers are overworked with a caseload of over 30 youth at a time, exceeding the recommended 12 to 15 youth per caseworker).

⁵² Statement of John D. Ryan, Chief Executive Officer, National Center for Missing and Exploited Children, Hearing on Preventing and Addressing Sex Trafficking of Youth in Foster Care (October 23, 2013), *available at* <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=391328>.

⁵³ Statement of Withelma “T.” Ortiz Walker Pettigrew, Board Member, Human Rights Project for Girls, Hearing on Preventing and Addressing Sex Trafficking of Youth in Foster Care (October 23, 2013), *available at* <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=391328>.

⁵⁴ David G. Reichert, Chairman, Hearing on Preventing and Addressing Sex Trafficking of Youth in Foster Care (October 23, 2013), *available at* <http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=391328>.

⁵⁵ CALIFORNIA CHILD WELFARE COUNCIL, COMMERCIAL SEXUAL EXPLOITATION: THE INTERSECTION WITH CHILD WELFARE, (accessed on September 3, 2014) [hereinafter CSEC Work Group Fact Sheet], *available at* <http://www.chhs.ca.gov/CWCDOC/CSEC%20Fact%20Sheet%20-%204.pdf>.

⁵⁶ U.S. Department of Health and Human Services Administration for Children, Youth and Families (ACYF) Guidance to States and Services on Addressing Human Trafficking of Children and Youth in the United States, 5 (September 13, 2013), *available at* <http://www.acf.hhs.gov/programs/endtrafficking/trafficking/guidance>.

⁵⁷ Durso, L.E., & Gates, G.J., SERVING OUR YOUTH: FINDINGS FROM A NATIONAL SURVEY OF SERVICE PROVIDERS WORKING WITH LESBIAN, GAY, BISEXUAL, AND TRANSGENDER YOUTH WHO ARE HOMELESS OR AT RISK OF BECOMING HOMELESS, 3 (2012) Los Angeles: The Williams Institute with True Colors Fund and The Palette Fund, *available at* <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>; *see also* U.S. Department of Health & Human Services, Quick Facts, *available at* <http://www.acf.hhs.gov/programs/fysb/quick-fact?page=4>.

⁵⁸ Andrew Cray, Katie Miller, and Laura E. Durso, Center for American Progress, Seeking Shelter: The Experiences and Unmet Needs of LGBT Homeless Youth (September 2013), *available at* <http://www.americanprogress.org/issues/lgbt/report/2013/09/26/75746/seeking-shelter-the-experiences-and-unmet-needs-of-lgbt-homeless-youth/>.

⁵⁹ TIP REPORT 2014 at 397, *supra* note 22.

⁶⁰ CSEC Work Group Fact Sheet, *supra* note 55.

⁶¹ CSEC Work Group Fact Sheet, *supra* note 55; *see also* FSAP, *supra* note 18.

21. We would like to make the following recommendations to address the intersection of the child welfare system and human trafficking in the U.S.:
- a. Develop and undertake immediate measures to ensure that the child welfare system has the mandate, resources, and training necessary to screen, identify, track, and provide appropriate services to trafficking victims, as well as to protect vulnerable children from trafficking. Ensure these measures are tailored to protect particularly vulnerable groups, including LGBTQ youth.
 - b. Take measures to fulfill the voluntary commitment undertaken during its first UPR to ratify and implement the CRC.
 - c. Mandate reporting of missing foster children to law enforcement.
 - d. Ensure that child victims of trafficking are not criminalized.
 - e. Expand the definition of child abuse in all jurisdictions to include abuse caused by pimps, traffickers, and buyers of commercial sex to bring child trafficking victims within the mandate of the child welfare system.

V. Failure to Provide Adequate Local, State, and Federal Coordination, Funding, and Training

22. The U.S. is also violating its human rights obligations by failing to coordinate anti-trafficking efforts among federal agencies and between federal, state, and local agencies, and by providing insufficient, inconsistent funding and training for local anti-trafficking efforts. Although we applaud the U.S. for its recently released FSAP, we urge the U.S. to strengthen its efforts to provide federal coordination of anti-trafficking efforts in all areas.⁶² We are particularly concerned that the FSAP does not include concrete implementation measures.⁶³
23. Although the U.S. government has acknowledged that Article 50 of the ICCPR requires it to “take measures appropriate to the Federal system to the end that the competent authorities of the state or local governments may take appropriate measures for the fulfillment of the Covenant[,]”⁶⁴ it has failed to coordinate and implement anti-trafficking efforts between federal, state, and local agencies. Local law enforcement officials report that this lack of coordination has reduced their effectiveness in responding to human trafficking,⁶⁵ and that traffickers take advantage of this phenomenon by moving trafficking victims, particularly children, into different jurisdictions to evade investigation.⁶⁶

⁶² See generally, FSAP, *supra* note 18.

⁶³ See generally, FSAP, *supra* note 18.

⁶⁴ *U.S. reservations, declarations, and understandings, International Covenant on Civil and Political Rights*, 138 Cong. Rec. S4781-01 (daily ed., April 2, 1992).

⁶⁵ See generally, NIJ Report, *supra* note 46.

⁶⁶ IHRC Interviews, *supra* note 19.

24. Local law enforcement agencies and victim services organizations also report that a lack of consistent, sufficient funding is a major barrier to eradicating trafficking and serving victims.⁶⁷ In 2011, U.S. government grants funded only 39 local anti-trafficking task forces nationwide, or less than one task force per state.⁶⁸ For police departments, such grants are insufficient to enable the hiring of additional officers to engage in “labor-intensive” human trafficking investigations, which contributes to under-identification of trafficking cases.⁶⁹
25. Local law enforcement and service providers further agree that the U.S. needs to take broad measures to provide standardized human trafficking training for all agencies that come into contact with potential trafficking victims, including immigration agencies, labor law enforcement agencies, and child welfare agencies.⁷⁰ As noted above, child welfare agencies lack “adequate tools or training to consistently and systematically identify” trafficking victims, and a recent government study reveals that “law enforcement commonly lack[s] training on how to investigate human trafficking cases.”⁷¹ The 2012 TIP Report likewise acknowledges that to combat trafficking more effectively, the U.S. should “institute universal training on the detection of human trafficking for all relevant Department of Labor (DOL) investigators [and] increase victim identification training for immigration detention and removal officers and systematize screenings for trafficked persons in all immigration detention centers.”⁷²
26. This failure is particularly troubling in light of the current influx of unaccompanied immigrant children subject to expedited removal proceedings, likely without appropriate screening for human trafficking prior to deportation, despite a federal law – which legislators now seek to repeal – requiring such screening.⁷³ In a recent report, the U.S.

⁶⁷ IHRC Interviews, *supra* note 19.

⁶⁸ U.S. DEP’T OF STATE, FOURTH PERIODIC REPORT OF THE UNITED STATES OF AMERICA TO THE U.N. COMM. ON HUMAN RIGHTS CONCERNING THE INT’L COVENANT ON CIVIL AND POLITICAL RIGHTS, ¶ 202 (Dec. 30, 2011); *see also* Bureau of Justice Assistance, Anti-Human Trafficking Task Force Initiative, *available at* https://www.bja.gov/ProgramDetails.aspx?Program_ID=51.

⁶⁹ IHRC Local/Federal Law Enforcement Interviews, *supra* note 66; NIJ Report, *supra* note 46 (discussing a recent U.S. government study showing that local law enforcement agencies are unable to devote scarce resources to “labor-intensive” human trafficking investigations).

⁷⁰ IHRC Interviews, *supra* note 19; NIJ Report, *supra* note 46.

⁷¹ CA Child Welfare Council Report at 57, *supra* note 38; NIJ Report at 30, *supra* note 46.

⁷² TIP REPORT 2012 at 360, *supra* note 22.

⁷³ *See* National Immigrant Justice Center, Statement before Senate Appropriations Hearing on the White House Emergency Supplemental Funding Request for Unaccompanied Children and Related Matters, *available at* http://www.immigrantjustice.org/sites/immigrantjustice.org/files/NIJC%20statement%20for%20Senate%20Approps%20Hearing%20on%20Emergency%20Supplemental%202014_07_10.pdf; Muzaffar Chishti and Faye Hipsman, Migration Policy Institute, “Dramatic Surge in the Arrival of Unaccompanied Children Has Deep Roots and No Simple Solutions,” (June 13, 2014), *available at* <http://www.migrationpolicy.org/article/dramatic-surge-arrival-unaccompanied-children-has-deep-roots-and-no-simple-solutions>; Muzaffar Chishti, Faye Hipsman, and Bonnie Bui, Migration Policy Institute, “The Stalemate Over Unaccompanied Minors Holds Far-Reaching Implications for Broader U.S. Immigration Debates,” (August 15, 2014), *available at* <http://www.migrationpolicy.org/article/stalemate-over-unaccompanied-minors-holds-far-reaching-implications-broader-us-immigration>; William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044, *available at* <http://www.gpo.gov/fdsys/pkg/PLAW-110publ457/pdf/PLAW-110publ457.pdf>; Alan Gomez, USA Today, “Obama seeks change to law that protects immigrant kids,” (July 2, 2014), *available at* <http://www.usatoday.com/story/news/nation/2014/07/02/immigration-obama-deportation-children-border/11915723/>; Polaris

Congressional Research Service acknowledged studies showing that immigration authorities do not adequately conduct such screening “nor do they have training in place for their Border Patrol agents.”⁷⁴

A. Suggested Recommendations:

27. We would like to make the following recommendations on local, state, and federal coordination, funding, and training efforts on human trafficking in the U.S.:
 - a. Establish, support, and adequately fund a sufficient number of local anti-trafficking task forces. Ensure that these task forces consistently have the necessary training and funds to identify, investigate, and prosecute labor trafficking cases and to coordinate effectively with child welfare and other concerned agencies in cases involving child victims.
 - b. Provide standardized, increased resources and training of all agencies that come into contact with potential human trafficking victims to effectively identify, investigate, and prosecute trafficking cases, particularly those involving forced labor and child trafficking. Include the necessary resources and training to ensure that border patrol and other immigration officials effectively screen detained immigrants, particularly unaccompanied minor children, for human trafficking.
 - c. Do not amend the Trafficking Victims Protection Reauthorization Act of 2008 to remove the requirement that unaccompanied minor children be screened for human trafficking and take measures to fully implement such screening.
 - d. Take affirmative measures to ensure that the federal government takes a leading role to promote communication, cooperation, and coordination among federal agencies and between federal, state, and local agencies to combat human trafficking.
 - e. Implement the commitments undertaken in the FSAP in a timely, comprehensive, and effective manner.

VI. Conclusion

28. As outlined above, the U.S. violates its obligations to prevent human trafficking and protect trafficking victims by failing to adequately identify and investigate labor trafficking cases; address the intersection between the child welfare system and human trafficking; and provide coordination and promote collaboration between local, state, and

Project, Press Release, “U.S. House Considers Undermining its own Human Trafficking Legislation,” (July 25, 2014), *available at* <http://www.polarisproject.org/media-center/news-and-press/press-releases/1036-us-house-considers-undermining-its-own-human-trafficking-legislation->

⁷⁴ Lisa Seghetti, Alison Siskin, and Ruth Ellen Wasem, Congressional Research Service, “Unaccompanied Alien Children: An Overview,” (July 28, 2014), *available at* <http://fas.org/sgp/crs/homsec/R43599.pdf> (citing Betsy Cavendish and Maru Cortazar, Appleseed, *Children at the Border: The Screening, Protection and Repatriation of Unaccompanied Mexican Minors*, (Washington DC, 2011), *available at* <http://appleseednetwork.org/wp-content/uploads/2012/05/Children-At-The-Border1.pdf>).

federal agencies to combat human trafficking. We encourage the U.S. to implement the recommendations mentioned in this report in a timely manner and address these important gaps in the U.S. response to human trafficking.