



**Testimony of**

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***End Worker Exploitation to End Human Trafficking***

Thank you to the Tom Lantos Human Rights Commission for the opportunity to present the Solidarity Center's perspective and approach to combating international human trafficking. We appreciate the Commission's interest in the issue, particularly its emphasis on trafficking for the purposes forced labor and other forms of labor exploitation.

My name is Neha Misra. I am the Senior Specialist for Migration and Human Trafficking at the Solidarity Center, an international non-governmental organization (NGO) that promotes and protects worker rights globally, with programs in more than 60 countries. The Solidarity Center is an allied organization of the AFL-CIO and a member of the Alliance to End Slavery and Trafficking (ATEST). Building upon more than 20 years of experience in the areas of child labor, migrant worker exploitation and supply chain accountability, the Solidarity Center raises awareness about the prevalence and underlying causes of forced labor and other forms of trafficking for labor exploitation, and implements programs with partners from myriad sectors to combat the problem. These programs include initiatives that address each of the four "Ps" that have become part of the anti-trafficking paradigm: prevention, protection of victims, prosecution (or as we prefer to describe it, "rule of law") and partnerships. The Solidarity Center has the unique ability to work across borders, in both countries of origin and destination for trafficked workers, as we have long-term, on-the-ground relationships with local partners. We have implemented anti-human trafficking programs in countries such as China (Hong Kong), India, Indonesia, Malaysia, Nepal, Pakistan, the Philippines, Sri Lanka, Thailand, Jordan, Kuwait, Qatar, Kenya, Sierra Leone, Moldova, and the Dominican Republic.

The Solidarity Center's anti-trafficking programs span the globe. And while each country we work in has its own unique circumstances and problems, we have found a common theme. Human trafficking and forced labor have, at their core, violations of worker rights and lack of labor standards and protections for workers. Whether its low-wage workers in sectors such as domestic work or construction, migrant workers<sup>1</sup> toiling on palm oil plantations or other marginalized groups, such as poor women workers or child laborers, human trafficking is a worker rights issue because it is linked to various forms of labor exploitation. It is one of the worst forms of worker abuse.

Understanding this link between worker rights violations and human trafficking is key to eradicating this horrific human rights abuse globally. This means that to eradicate forced labor, we must address the underlying vulnerability of workers to exploitation, expand and enforce labor laws, and allow workers to organize to monitor their workplaces and improve their wages and working conditions.

In other words, end worker exploitation to end human trafficking.

We increasingly hear the term "modern slavery" used by advocates, activists, policymakers and the media to describe the different types of exploitation or compelled service children, women

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<sup>1</sup> The term "migrant worker" is the internationally accepted term for a person who migrates for employment, whether temporary, seasonal or permanent. In the United States, in everyday language, "migrant worker" may refer to a seasonal or temporary worker, and "immigrant worker" refers to someone who migrates for work on a more permanent basis, or who has residency rights. I will use the term "migrant worker" in my testimony to refer to all workers who migrate for work, regardless of their status or length of stay in the destination country.

and men end up in through the myriad forms of coercion and deceptive practices traffickers use. Terms such as forced labor, debt bondage and involuntary servitude are used to describe severe exploitation that continue today in our modern world, though under a different guise. Instead of shackles and chains, workers are now enslaved through threats, debt and other forms of economic coercion.

While governments used to be the primary perpetrators of forced labor, the International Labor Organization now estimates that among the 20.9 million people in forced labor globally, the vast majority are exploited in the private economy.<sup>2</sup> The ILO also estimates “the total illegal profits obtained from the use of forced labor globally amount to \$150 billion per year. The illegal profits are highest in Asia and Developed Economies. This amount exceeds the GDP of many countries around the world.”<sup>3</sup>

Modern slavery thrives in a context of private actors and economic coercion. Our response, therefore, must address this context, recognizing human trafficking as more than just sexual exploitation and more than just organized crime. We must exert economic pressure as a response and recognize the protection of worker rights as key to trafficking prevention. We must also reject policies and practices that restructure and institutionalize harmful economic and business models that increase workers’ vulnerability to human trafficking.

#### *Migrant Workers High Vulnerability to Human Trafficking*

For example, it is common business practice for employers to subcontract hiring and human resources management responsibilities to labor brokers or employment agencies. These labor recruiters are redefining work, compelling workers—who have no other viable opportunities for employment in their home village or country—to pay exorbitant recruitment fees for the “privilege” of laboring under harsh and often inhumane conditions. Many of these migrant workers end up trafficked into forced labor and debt bondage. Despite this proven connection between recruitment fees and vulnerability to forced labor<sup>4</sup>, governments and businesses are institutionalizing these practices through increased temporary migration programs and the under- or non-regulation of labor recruiters.

Unsafe migration processes and the lack of labor law and other legal protections for migrant workers make them particularly vulnerable to forced labor, and governments clearly lack political will to do much about it. The potential profits to be made from the global labor migration business—by government officials, employers, employment agencies and labor recruiters—seem to trump initiatives to combat migrant workers’ vulnerability.

Malaysia makes an excellent case study for this profits-over-rights model. It is one of the largest destination countries for migrant workers in Asia. There are approximately 2 million

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<sup>2</sup> *ILO Global Estimate of Forced Labor*, [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_182004.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf)

<sup>3</sup> *Profits and Poverty: The Economics of Forced Labour*, International Labor Organization, 2014, ([http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_243391.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf))

<sup>4</sup> In its *Profits and Poverty* report, the ILO found “the payment of recruitment fees, even to relatives or friends, leads to a higher probability of ending up in forced labor.” Id. at p. 44.

documented and 2 million undocumented migrant workers, including Indonesians, Nepalese, Filipinos, Indians, Bangladeshis, Sri Lankans and, increasingly, Vietnamese, Cambodians, Burmese and Laotians. These migrants comprise nearly 30 percent of the Malaysian workforce. While the Malaysian economy thrives on cheap migrant labor, foreign workers in sectors such as agriculture, construction, service, manufacturing and domestic work often have their rights violated with little recourse under Malaysian laws, policies and practices.

Despite the constant demand for cheap migrant labor, as well as an invariable influx of migrants, Malaysia has few concrete policies and laws to protect migrant workers. And existing policies protecting migrants are not enforced, or are enforced inconsistently, and tend to be short-term, temporary fixes. Malaysia has signed bilateral agreements with several of the countries mentioned above, yet these agreements are often weak and difficult to enforce. Migrant workers in Malaysia consistently face serious violations of internationally recognized labor and human rights, including confiscation of passports, restrictions on movement, deceit and fraud in wages (including nonpayment), forced labor, involuntary servitude, debt bondage and other forms of human trafficking. Physical and mental abuse, including sexual harassment and violence, is a common phenomenon. Migrant workers are also denied the freedom of association in policy and practice, which further prevents them from accessing justice because they cannot initiate grievance procedures or use collective bargaining to gain rights in the workplace.

The Malaysian government has actually implemented policies recently that are increasing migrant workers' vulnerability to forced labor rather than decreasing it. For example, a Malaysian government policy implemented in January 2013 places the burden of paying immigration and employment authorization fees on foreign workers, rather than on employers, increasing the risk of debt bondage. Moreover, the Malaysian government periodically implements crackdowns on undocumented migrants, most recently in January 2014, where they conducted massive operations to detain and deport hundreds of thousands of migrant workers. However, the Malaysian government does not have adequate screening procedures to ensure that trafficking victims are not also detained and deported. In addition, the deportations often involve leaving migrant workers literally just over the border in Indonesia, without any resources or support. Indonesian NGOs report that these migrant workers are then vulnerable to traffickers who promise them new jobs or assistance getting home.

And yet, despite clearly demonstrating a disregard for worker rights and receiving a Tier 3 ranking in the U.S. Department of State's 2014 *Trafficking in Persons (TIP) Report*, Malaysia is currently part of the Trans-Pacific Partnership (TPP) negotiations with the United States and 10 other countries. Because economic consequences can lead to trafficking protections, Congress, the executive branch and other governments must ensure that bilateral and multilateral trade agreements (like the TPP) contain labor standards and protections to prevent trafficking, ensuring the standards apply to all workers, including migrants. Labor standards in trade agreements should include the same enforcement and dispute resolution mechanisms as other provisions such as intellectual property rights, and not be relegated to secondary status.

## *Global Supply Chains Tainted with Forced Labor*

Given our globalized economy, the link between worker exploitation and human trafficking in the context of forced labor perpetrated by private actors through economic coercion means that products made with forced labor are ending up on our grocery and retail shelves. And, governments and businesses are not doing enough to ensure that supply chains are not tainted with forced labor and other forms of human trafficking.

In general, it is difficult to quantify the extent of forced labor in global supply chains. But as those supply chains reach down to more and more suppliers, the chances that trafficked people are in the labor force increase. For example:

- When buyers and multinational corporations demand cheap or unrealistic pricing structures from suppliers, severe labor abuses, including forced labor, often result in their supply chains.<sup>5</sup>
- Similarly, when employers contract out or hire unregulated subcontracted suppliers, or rely on labor recruiters and employment agencies, they should not be surprised to find that they have trafficking victims in their production lines.
- When employers refuse to enforce or claim that it is too difficult to monitor adherence to core labor standards in their supply chains, the probability that they will find forced labor, debt bondage and other severe forms of labor exploitation increases.

In 2008, the Solidarity Center released a report as part of its *Degradation of Work* series titled, *The True Cost of Shrimp: How Shrimp Industry Workers in Bangladesh and Thailand Pay the Price for Affordable Shrimp*. Thailand is one of the main exporters of shrimp to the United States. The report highlighted how companies in Thailand systematically use the lack of labor rights and weak labor law enforcement to exploit the mostly Burmese shrimp processing workers. The report uncovered major human rights abuses in the industry: unpaid wages, unsafe and unhealthy workplaces, child labor, forced labor, physical intimidation, violence and sexual abuse. Six years later, little progress has been made to clean up the industry.

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<sup>5</sup> The pricing structure as a cause of human trafficking cannot be overemphasized, as this is an underlying factor that employers, business, corporations and consumers can all address. As described in the Solidarity Center's report, *The True Cost of Shrimp*: "As a commodity, the price of shrimp fluctuates according to supply and demand, and price pressure is significant all along the supply chain. Retailers, sensitive to the risk involved with importing fresh food, press import companies for faster distribution, acceptable quality and the lowest prices. Importers, aware that market fluctuations can affect prices, leverage their bulk purchasing power to demand speedy delivery from producers. Trapped between producers and importers are labor-intensive shrimp factories. Often, the factories' response to price pressure is to squeeze wages, neglect workplace health and safety regulations, and cut other corners that leave shrimp workers bearing the social cost of affordable shrimp." *The True Cost of Shrimp*, Solidarity Center, 2008, p. 11.

Reports continue to surface about human trafficking of migrant workers in the seafood processing sector in Thailand.<sup>6</sup> The Thai fishing industry has also received harsh criticism for the trafficking of migrant worker men, not only Burmese, but increasingly Cambodians and Rohingya refugees, onto fishing boats.<sup>7</sup> This was a major factor in the downgrading of Thailand to Tier 3 in the Department of State's *2014 TIP Report*.<sup>8</sup> Just this year, the *Guardian* newspaper conducted a six-month investigation and found that a large number of migrant workers were bought and sold like slaves and held against their will on Thai fishing boats. The *Guardian* found that such forced labor plays an integral part in the production of shrimp sold in leading supermarkets around the world, including in the United States, in stores such as Walmart, Costco, Carrefour and Tesco.<sup>9</sup>

When the Solidarity Center issued its *True Cost of Shrimp* report, we were immediately attacked by Thai shrimp producers and industry associations, who all claimed that they had good labor practices and clean supply chains. The companies also made promises to be transparent and institute measures to ensure that there was no forced labor in fishing and seafood production in Thailand. Yet every year since, the media, unions and NGOs have provided strong evidence of forced labor in the industry. When the State Department ranked Thailand on Tier 3 last month, the Thai fishing industry again claimed the allegations were outrageous.<sup>10</sup> The industry representatives can make these false claims because they know that they likely will not be held accountable by the Thai government or anyone else.

U.S. multinationals may be complicit in this. As mentioned earlier, Thailand is one of the largest exporters of shrimp to the United States. As buyers of Thai processed seafood, these U.S. companies have not done enough to prove to consumers that their supply chains are not tainted with forced labor.

And despite U.S. laws that prohibit the importation of goods made with forced or child labor, Thai shrimp continues to be found at major U.S. retailers and in consumers' freezers. Similar concerns may be raised about products such as ready-made garments from Malaysia, Haiti, Jordan and other countries where there are reports of forced labor and debt bondage in the industry.

The U.S. government must do more to ensure that multinational corporations are held accountable for their practices abroad. And we must increase government scrutiny of imports to ensure goods made by forced labor are not allowed in the U.S. marketplace. This type of

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<sup>6</sup> See for example: "Trafficked into Slavery on Thai Trawlers to Catch Food for Prawns," *The Guardian*, June 10, 2014, <http://www.theguardian.com/global-development/2014/jun/10/-sp-migrant-workers-new-life-enslaved-thai-fishing>.

<sup>7</sup> See "Special Report: "Thailand Secretly Supplies Myanmar Refugees to Trafficking Rings," *Reuters*, December 4, 2014, <http://www.reuters.com/article/2013/12/05/us-thailand-rohingya-special-report-idUSBRE9B400320131205>.

<sup>8</sup> <http://www.state.gov/j/tip/rls/tiprpt/countries/2014/226832.htm>

<sup>9</sup> See "Revealed: Asian Slave Labour Producing Prawns for Supermarkets in US, UK," *The Guardian*, June 10, 2014, <http://www.theguardian.com/global-development/2014/jun/10/supermarket-prawns-thailand-produced-slave-labour>. See also "Thailand's Seafood Industry: A Case of State-Sanctioned Slavery?" *The Guardian*, June 10, 2014, <http://www.theguardian.com/global-development/2014/jun/10/thailand-seafood-industry-state-sanctioned-slavery>.

<sup>10</sup> "Fishery Invites Supply Chain Inspection," *The Nation*, June 25, 2014, <http://www.nationmultimedia.com/business/Fishery-invites-supply-chain-inspection-30237027.html>.

economic consequence will be a catalyst for change. The Coalition of Immokalee Workers' *Fair Food Program* is an excellent example of how economic consequences can help to eliminate forced labor and other forms of labor trafficking in an industry.<sup>11</sup>

The 1930 Tariff Act prohibits the importation of goods into the United States made with forced or child labor. This law, however, is rarely enforced as the “consumptive demand exception” weakens it. As required by the 2005 Trafficking Victims Prevention Reauthorization Act (TVPRA), the U.S. Department of Labor “maintains a list of goods and their source countries which it has reason to believe are produced by child labor or forced labor in violation of international standards.”<sup>12</sup> Even though many of the goods on the list are produced for export by the identified countries, the list has not been used to enforce the Tariff Act.

After the publication of the Solidarity Center's *True Cost of Shrimp* report, Senator Harkin asked the Department of Homeland Security (DHS) to investigate. U.S. Immigration and Customs Enforcement (ICE) investigators admitted to the Solidarity Center that they knew that their investigation would not find forced labor in the Thai seafood sector because the investigation process is flawed. Currently, ICE must notify foreign governments of their intent to inspect workplaces that export products to the United States. Such notification results in the “cleansing” of these workplaces to remove any signs of trafficking or forced labor. Moreover, U.S. law does not allow evidence collected by unions, the media or non-governmental sources to be the basis for restricting the importation of products made by trafficked or forced labor. This must be reformed. The DHS must review and rework the role of ICE in overseas inspections.

Thailand is one of the largest exporters of seafood to the United States. The AFL-CIO has filed a petition to suspend Generalized System of Preferences (GSP) status for Thailand with the U.S. Trade Representative (USTR). The AFL-CIO has called for a suspension of GSP as a way to incentivize the Thai government to effectively address forced labor and human trafficking, and other labor rights abuses of migrant and Thai workers. Congress should encourage and support the USTR to suspend the GSP and other trade benefits for any country that does not effectively address forced labor. Economic consequences are key to eradicating forced labor. And countries that are habitual abusers of vulnerable workers should face trade sanctions

Multinational corporations' codes of conduct—which are voluntary and unenforceable—have failed to curtail trafficking in many sectors, including garment/textile, agriculture and seafood processing. There is no easy solution to this problem, but we know that a key deterrent is the ability of unions and labor rights organizations to shine a light on these practices through on-the-ground investigations and worker whistle-blowing. It is crucial for the U.S. government support such monitoring efforts and the efforts of workers to report human rights violations in their own workplaces. Ultimately, workers and trade unions must be empowered to monitor supply chains because history shows that abuses in the workplace only end when workers have the power to ensure that their rights under ILO conventions and national laws are respected. Employers and governments must therefore support and respect the freedom of association for workers.

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<sup>11</sup> <http://ciw-online.org/slavery/> and <http://ciw-online.org/fair-food-program/>

<sup>12</sup> <http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>

Public awareness campaigns and education for at-risk groups are important tools for prevention; but, in and of themselves, they will not eradicate trafficking for forced labor. Together with increased prosecutions and convictions, one of the most effective prevention tools that governments and businesses have is economic pressure. Governments should impose trade restrictions, import bans or other penalties on products made with forced labor, and multinational corporations should exert their significant power as buyers to hold suppliers accountable to supply chains free of forced labor.

### *Bonded Labor in Pakistan: Using an Economic Model to Combat the Practice*

Even in the supply chain of products that are mostly for local use or consumption, like bricks, the model for addressing forced labor and other forms of human trafficking of workers must be holistic, address worker rights more generally and use economic consequences and incentives.

All indications suggest that Pakistan's brick kiln and agriculture sectors are rife with bonded labor wherein women and children are particularly vulnerable. The Asian Development Bank recently estimated that 1.8 million people (1 percent of Pakistan's population) are bonded laborers, though many NGOs place the estimate much higher. Currently, there is a decent work deficit in these largely informal sectors. Workers are poorly remunerated; payments are almost always below the officially declared minimum wage. Deprived of social security coverage, workers repeatedly find themselves taking additional loans to meet medical expenses and for weddings, funerals and other social occasions. Some workers and their families are even sold from one employer to another and may remain in debt bondage for generations. It is reported that bonded labor is Pakistan's largest human trafficking problem; no existing legislative framework adequately addresses internal trafficking, and enforcement of laws to abolish bonded labor has largely remained weak.

Pakistan's 1992 Bonded Labor System (Abolition) Act theoretically freed all bonded laborers and erased their debts. The Act also established criminal sanctions for those responsible for holding workers in debt bondage. However, successive governments have lacked the political will or capacity to enforce the law. While hundreds of workers are freed from debt bondage each year through the efforts of NGOs and other socially conscious organizations, the practice largely continues unabated and is especially prevalent in brick kilns. Donors, NGOs and others have attempted to intervene on behalf of brick kiln workers, but most efforts have lacked a long-term strategy or a holistic approach to the problem. Specifically, programs intended to improve the situation of brick kiln workers have been piecemeal at best, and none have tried to promote and link brick production to ethical procurement.

The Solidarity Center/Pakistan is in the process of fronting a holistic approach with the concept of "decent work" brick kilns (kilns that meet a much higher standard than previously advocated by anyone). The project would bring on board government entities to support ethical procurement of bricks for construction. The government is a major purchaser of bricks, and, if it so motivated, could help ensure that the program is self-sustaining, leveraging infrastructure development funds to ensure social justice through decent work, wages and benefits for brick kiln workers. The cost of the high-road (clean bricks) might be slightly higher than the market's low-road (un-clean bricks), but the extra cost would markedly enhance the quality of life for kiln

workers. The concept links donor and state funding for projects to sourcing bricks from labor-friendly “decent work” clusters of kilns. In addition to improving the socioeconomic condition of workers, this initiative is expected to create a safe haven for the production of bricks because new buildings and their builders will not carry the taint of child and bonded labor.

It is Solidarity Center’s contention that paying minimum wages, extending social security coverage to workers, allowing them the right to organize and eliminating child labor and forced labor will have minimal implications on owners’ profitability. Any “losses” in profit they suffer will be offset by socioeconomic dividends, such as a more motivated and healthy workforce. Additional policy interventions, such as incentives for owners to comply with labor standards through a “social clause”<sup>13</sup> in public procurement framework, can help sustain the decent work agenda in the brick kiln sector. It is expected that increased demand for bricks as part of a public infrastructure development program will raise the market price of bricks significantly, allowing brick kilns to achieve economies of scale and reap larger profits.

Through initiatives such as the upcoming FAR Council regulations to implement Executive Order (E.O.) 13627, *Strengthening Protections against Trafficking in Persons in Federal Contracts* and USAID’s Counter Trafficking in Persons (C-TIP) policy, the U.S. government is using federal procurement policy as a way to implement important anti-trafficking initiatives in government supply chains. The Solidarity Center and its partners are using similar economic models to urge other governments to do the same. Private businesses should follow suit.

## **Recommendations for Initiatives to Combat Trafficking for Labor Exploitation**

End worker exploitation to end human trafficking.

Key initiatives to combat trafficking for labor exploitation should include:

1. *Using trade agreements to prevent forced labor (economic pressure):*
  - a. Congress, the executive branch and other governments must ensure that bilateral and multilateral trade agreements (like the TPP) contain labor standards and protections to prevent trafficking, ensuring the standards apply to all workers, including migrants. Because economic consequences can lead to trafficking protections, labor standards in trade agreements should include the same enforcement and dispute resolution mechanisms as other provisions like intellectual property rights, and not be relegated to secondary status.
  - b. Congress should encourage and support the United States Trade Representative (USTR) to suspend the Generalized System of Preferences (GSP) and other trade benefits for any country that does not effectively address forced labor. Economic

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<sup>13</sup> The idea is to make an amendment in federal and provincial public procurement laws, requiring government agencies to procure bricks from certified units, which comply with core labor standards.

pressure is key to eradicating forced labor. And countries that are habitual abusers of vulnerable workers should face consequences.

2. *Prevention through regulation of labor recruiters:*

- a. Congress and other governments should strictly regulate labor recruiters and employment agencies, and eliminate worker recruitment fees and shift costs back to the employer. Workers should not be required to pay fees associated with recruitment, the migration process or placement. Employers must be held liable for the abuses of the labor recruiters they hire. In addition, workers must have a way to ensure that a recruiter is legitimate and licensed.
- b. To that end, the U.S. Senate passed *Subtitle F: Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad* and similar provisions in *Subtitle I* as part of S. 744 (Immigration Reform) in 2013 is a significant step toward addressing labor trafficking. In the U.S. House of Representatives, H.R. 3344, introduced last year by Chairman Ed Royce, is modeled after *Subtitle F*, and has bipartisan support with over 70 co-sponsors. The Senate and the House of Representatives should make efforts at the earliest possible time to pass such legislation to end fraud in our nonimmigrant visa programs and prevent trafficking in the labor recruitment system. Not only will such a law help to protect migrant workers in the United States, it will also serve as a powerful model for other countries, which need to pass and enforce similar laws and policies.
- c. Governments must specifically adopt measures to de-link government officials from recruitment agencies, including measures to address possible conflicts of interest. High level prosecutions of corrupt government officials and owners of labor recruitment agencies would also send a powerful message.

3. *Safe Migration:* The U.S. Congress and executive branch (J/TIP, DRL, DOL, DOJ), along with other governments, should emphasize safer migration processes for workers. This means ending operations that result in mass deportations of undocumented migrant workers without first implementing effective measures to identify and support trafficking victims. It also means ensuring that deported workers are provided with safe passage home. Finally, governments should amend their laws and policies to make it easier for migrant workers to obtain valid work permits and residency documents at little or no cost, in streamlined processes.

4. *The rule of law (prosecutions and accountability)*

- a. Governments should increase the number of prosecutions and convictions for forced labor. This means training police and prosecutors to better investigate and prosecute forced labor cases, and protecting police and other law enforcement officials from retaliation by powerful employers, business owners or high-level government officials for bringing cases forward.

- b. Governments also should penalize abusive workplaces by strengthening enforcement and penalties against employers who are found to have trafficked workers or who have bought products or raw materials made by forced labor. This means prosecuting employers and imposing stiff penalties. Employers must be held accountable for the abuses of their subcontractors, including labor recruiters, and for abuses in their supply chains.

5. *The rule of law (creating an enabling environment):*

- a. Congress, the executive branch, other governments and multinational corporations should ensure freedom of association—the right to organize, join trade unions and collectively bargain for all workers—regardless of status or nationality, in both origin and destination countries.
- b. Freedom of association must be assured in practice and not just law. This means strict penalties for employers who fire, blacklist, retaliate against or collude with government officials to deport, migrant workers who try to organize; and reform of laws that prohibit migrant workers from joining or holding leadership positions in unions, and from participating in collective bargaining.
- c. Governments should reform their labor and other laws to include and protect migrant and domestic workers. All workers—whether national or foreign, documented or undocumented—must have equal and full protection of the law. In addition, governments and employers must recognize and enforce all ILO core labor standards, including the freedom of association and right to organize.
- d. Congress and the U.S. Departments of State and Labor should promote the ratification and implementation of *ILO Convention 189 on Decent Work for Domestic Workers*, and the *ILO Protocol of 2014 to the Forced Labor Convention, 1930 and its accompanying Recommendation*.
- e. Congress, the executive branch and governments in the region should give equal attention not only to passing better laws, but also to implementing, monitoring and enforcing those laws. To do so, governments must enhance the role of labor inspectors. Labor inspectors must be engaged in and be an integral part of law enforcement initiatives to combat human trafficking. In particular, labor inspectors must be given special training to recognize the signs of human trafficking in a workplace, including debt bondage and other forms of economic coercion that result in human trafficking, and to identify victims. Governments must also ensure that there are sufficient numbers of labor inspectors, and that they have the responsibility to inspect all workplaces—including those with high percentages of migrant workers.
- f. Congress and other governments must pass national whistleblower protection laws regarding trafficked workers. Also, companies should ensure that there are such protections in company policy all along the supply chain, and advocate to governments for such protections for workers.

6. *Preventing the importation of goods made with forced labor:*

- a. DHS should increase scrutiny of imports to ensure goods made by trafficked or forced labor are not allowed into the U.S. marketplace. This includes reviewing and re-working the role of ICE in overseas inspections. Congress should consider holding a hearing on this issue.
- b. Congress should amend the Tariff Act of 1930 to remove the “consumptive demand exception.” The demand loophole “renders the ban almost useless, since courts have ruled that U.S. Customs cannot block any product unless the U.S. makes enough of it to meet 100 percent of domestic needs . . . The 1930 provision is unsuited to a globalized 21st-century economy that gives importers a wide choice of suppliers. As the dominant force in this new era, the U.S. has an obligation to set the example.”<sup>14</sup> Congress and the executive branch should also amend U.S. law and policy to allow evidence collected by unions or non-governmental sources to be the basis for restricting the importation of products made by forced labor.
- c. As an immediate protective measure, DHS and Congress should review the importation of Thai seafood under the 1930 Tariff Act.

7. *Supply chain accountability:*

- a. Congress should increase pressure on companies to map their supply chains and make such information public. Companies argue that it is too difficult or expensive to completely map their supply chains. If NGOs and the media can do it, however, companies can too. There needs to be a change in business practices.
- b. To that end, Congress should pass supply chain transparency legislation, similar to HR 4842, *the Business Supply Chain Transparency on Trafficking and Slavery Act of 2014*, which was introduced on a bipartisan basis by Representatives Maloney and Smith on June 11, 2014. Such legislation would require companies to report annually to the Securities and Exchange Commission and on their websites on the measures they have taken to address forced labor, human trafficking and the worst forms of child labor within their business operations, including supply chains and labor management, in a way that is consistent with the obligations of businesses as outlined by the UN Guiding Principles on Human Rights. While such legislation would purely be a transparency measure, we see it as a first step toward ensuring forced labor-free supply chains.
- c. As an effective way to monitor supply chains for trafficking and forced labor, Congress, the executive branch, other governments and businesses should promote freedom of association and the right to organize, worker agency and worker

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<sup>14</sup> “U.S. Can Help End Child Labor by Amending 1930 Tariff Act: View”, *Bloomberg View*, January 2, 2012, <http://www.bloombergvew.com/articles/2012-01-03/u-s-can-help-end-child-labor-worldwide-by-amending-1930-tariff-act-view>.

representation, over codes of conduct and third party monitoring. The *Bangladesh Accord on Fire and Building Safety* and Coalition of Immokalee Workers' *Fair Food Program* are promising models of how to do this.

#### 8. *U.S. government bilateral and multilateral support*

- a. Congress and the executive branch should provide support to origin countries (like Cambodia, Indonesia and Bangladesh) to negotiate multilateral agreements with more powerful destination countries (like Qatar, the United Arab Emirates, and Malaysia) to level the playing field for migrant workers. Because of unequal bargaining power and developing countries' desire for remittances and employment abroad for their citizens, bilateral agreements are often weak and provide few worker rights protections. Multilateral agreements may provide more avenues for labor standards.
- b. Congress should authorize and appropriate sufficient long-term resources to the Department of State's Bureau of Democracy, Human Rights and Labor (DRL) and Office to Monitor and Combat Trafficking in Person (J/TIP), as well as the Department of Labor's International Labor Office (ILAB) to support government efforts in high-risk countries around the world in their efforts to combat forced labor and other forms of trafficking for labor exploitation. All three agencies have an important role to play in this effort to provide technical assistance to governments and moral and financial support for civil society (including Solidarity Center long-term local partners) to enhance monitoring and implementation of anti-trafficking capacity building programs.
- c. Congress should continue to call for the Department of State to strengthen the labor reporting function in its embassies abroad.

#### 9. *Victim Protection*

- a. Promote better protection measures for victims. This includes training government officials to recognize and identify victims of forced labor and other forms of labor trafficking, and not detain or deport them as undocumented migrants.
- b. Provide compensation to victims, including payment of withheld or back wages.

Thank you, again, for the opportunity to testify and for your help to combat labor trafficking in the United States and around the world. I welcome your questions.