



Judicial Perspectives on Trying Human Trafficking Cases in the US: The Victim-Centered Approach, Trial Issues, and Restitution

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Good morning. It is an honor to be here today with so many esteemed judges, prosecutors, government officials, and religious leaders, all united in their desire to use the legal system to make a difference in combating human trafficking. My boss Secretary of State John Kerry has called the fight against trafficking “an issue of extreme moral clarity,” and I couldn’t agree more.

The combined power and influence of this audience can go a long way to eradicating human trafficking, which is nothing less than slavery in the 21st century.

Human trafficking is an issue to which I have dedicated my career, first as an Assistant U.S. Attorney prosecuting human trafficking cases in my home state of Georgia, and now at the State Department as Ambassador-at-Large to Monitor and Combat Trafficking in Persons.

As a former federal prosecutor, it is especially rewarding to travel to this Summit with four United States federal judges, with specialized expertise when it comes to trying human trafficking cases, and who believe in the importance of the victim-centered approach, the rule of law, and seeing justice accomplished.

Before we hear their judicial perspectives on human trafficking cases and learn from their experiences, I’d like to share a little bit about my office: the State Department’s Office to Monitor and Combat Trafficking in Persons.

The TIP Office, as we refer to ourselves for short, was established in 2000 by the United States’ comprehensive anti-trafficking law, the Trafficking Victims Protection Act, to both:

lead the U.S. global engagement on human trafficking, and support the coordination of the federal government’s efforts to combat human trafficking

As Ambassador of the TIP Office, I lead the State Department’s efforts to combat all forms of human trafficking through bilateral and multilateral diplomacy, targeted foreign assistance, and engagement with civil society to raise global awareness and prevent trafficking in persons.

While we may be best known for issuing the annual *Trafficking in Persons Report*, we also leverage our foreign assistance to help governments that wish to enhance their efforts to combat trafficking but lack the fiscal resources to do so. As of 2015, my office had more than 85 active anti-trafficking projects in more than 65 countries.

For purposes of today’s Judges’ summit, I’d like to highlight some of our key training and technical assistance programs that focus on enhancing the rule of law, by building both government and civil society capacity to combat human trafficking. Last year, my office provided technical assistance to develop or improve laws, national actions plans, and/or victim identification and referral mechanisms in several countries through implementing partners like UNODC and the International Organization for Migration.

For example, we have funded efforts to:

assist with the drafting of legislation in Chad, Djibouti, Kenya, and Malaysia; develop and improve national action plans in Guinea and the Republic of Congo; and enhance victim identification and referral mechanisms through workshops in Brazil, Madagascar, and Malawi.

We seek to use our foreign assistance to train and equip criminal justice and security sectors to better investigate, prosecute, and punish the crime of trafficking, and to teach officials in these sectors how to effectively protect victims. In 2015, our grantees trained more than 200 criminal justice practitioners, including judges, magistrates, prosecutors, and law enforcement, in ten countries.

Judges have been a core audience in our trainings in countries including Algeria, Barbados, Haiti, Jordan, Malaysia, Mongolia, Montenegro, Morocco, and Togo. For instance, we recently supported multidisciplinary training for Mongolian judges, prosecutors, law enforcement, law enforcement university instructors, and civil society participants on victim-centered investigations and prosecutions, including techniques for interagency coordination and cooperation between law enforcement and NGO service providers.

This training and technical assistance is paramount, but so is coordination and collaboration across agencies.

As a former member of Atlanta, Georgia's Human Trafficking Task Force, I know from experience that governments and NGOs must work together to better stabilize and protect victims. As a federal prosecutor, I could not have brought successful criminal cases without partnering with providers of essential victim services.

In one case that you will hear about shortly, we asked the NGO service provider to assist the young women who were recovered when their traffickers were arrested. A year later, that same service provider sat in court as the survivors testified, a familiar and friendly face at a time when the young women needed them.

My time prosecuting cases also taught me that we must be sure not to criminalize trafficking victims for nonviolent crimes committed as a result of their being trafficked. This is a persistent and pressing issue, both here in the United States and around the world. I have already been fortunate enough to press this issue as part of my message in my travels to Mexico, Cuba, Botswana, South Africa, and India.

It is essential that prosecutors and judges do their utmost to ensure that trafficking victims are treated as survivors of trafficking and afforded the dignity of being assisted, not harmed by systems meant to protect them.

This is at the heart of the victim-centered approach to combating trafficking. And to assist in their recovery, we must also vacate the criminal records of victims wrongly convicted.

It is equally important that officials – including police, prosecutors, judges, immigration officials, and social services staff – be trained to identify trafficking victims, prevent further victimization, and start the process toward recovery as soon as possible. And this is hard – as often trafficking victims do not self-identify. They have been threatened by the trafficker, often physically abused, psychologically manipulated, and told that if they speak up more harm will come to them or their loved ones. These tactics are the hidden forms of subtle violence outlined by Monsignor Sancez-Sorondo in the Introduction Papers to the Summit.

Training is essential because often well-intentioned law enforcement and judicial officers do not understand the many forms of human trafficking or the circumstances that keep victims from coming forward to report the crime. Ideally, training is specialized and institutionalized. It is tailored to the specific audience, but also integrated into existing law enforcement training so it can outlive any change of personnel.

While judicial and law enforcement institutions will never be able to fully reverse the trauma of human trafficking, we can review and improve our laws and policies to strengthen our identification efforts and aid an individual's recovery by providing support to each victim on their journey toward becoming a survivor. To borrow the language from the Introduction – to promote human dignity, freedom, happiness and peace.

I had the opportunity in February to address the U.S. States Attorneys General while they were all gathered in DC for their annual conference. I encouraged them to look at the laws in their states to vacate, or expunge, the criminal records of trafficking victims. And I encourage those lawmakers and judges here to provide survivors the ability to seek a court order vacating or expunging criminal convictions entered against them that resulted from their trafficking situation.

In 2010, New York became the first state in the United States to pass a law allowing survivors of trafficking to vacate their convictions for prostitution offenses. In 2013, Florida's law went even further providing for the expungement of "any conviction for an offense committed while ... a victim of human trafficking."

These laws not only correct past injustices, but also help survivors move forward with their lives. It improves a survivor's ability to find work and housing; it reduces economic vulnerabilities and the risk of being re-trafficked.

In the United States we are listening to survivors and empowering them to draw upon their experiences and make recommendations to guide our government as it develops policies and programs to combat modern slavery.

Last year, President Obama appointed the first U.S. Advisory Council on Human Trafficking. The entire Council, 11 survivors of sex and labor trafficking will release a report later this year with recommendations to improve our federal anti-trafficking policies.

We strive for a holistic approach to combat human trafficking that also includes targeted public awareness campaigns within communities – events with medical professionals, educators, and community organizations. This has a dual benefit: it increases the number of individuals who might report the crime to law enforcement and addresses demand. Further, awareness efforts can increase the number of individuals who refuse to purchase commercial sex. Informed consumers are also more apt to ask companies where and how their goods are being made, and to insist that such companies effectively monitor and evaluate their global supply chains.

Forced labor is found in supply chains around the world and it is essential that governments and businesses examine their operations, work with their suppliers, and take steps to prevent forced labor in their global supply chains. As the largest purchaser of goods and services globally, the U.S. government has sought to

ensure that its procurement practices are not contributing to modern slavery through an Executive Order to strengthen protections against human trafficking in government contracts. Even without a Transparency in Supply Chains law similar to the one in the UK, each government can review its own procurement practices, and each government can implement the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons or the Palermo Protocol.

Last year marked the 15th anniversary of the Palermo Protocol, and its central tenants of preventing the crime, protecting victims, and prosecuting traffickers continue to frame our work. We have seen the evolution of the Protocol as some 169 countries have become party to it. We have also witnessed the establishment of a Special Rapporteur on Trafficking in Persons and a working group on trafficking in persons to facilitate implementation of the Palermo Protocol and make recommendations to States parties.

Before we segue into the Judges' presentations, we will hear over the next two days, I want to highlight how we all can integrate the lessons learned from the cases that have been prosecuted around the world and the survivors we have met. One case I worked on involved two Nigerian girls who were lured to the United States, one after another, to be nannies in exchange for the opportunity to go to school and send money back home.

Their trafficker kept them isolated, did not pay them, held their travel documents, deprived them of sleep and food, and forced them to sleep on the floor and bathe out of a bucket even though she had plenty of rooms in her spacious home. Their isolation and lack of familiarity with the United States, as well as their own cultural sense of the respect owed to their trafficker as a community elder, increased their vulnerability to being trafficked by this woman, on whom they were completely reliant.

Cases like this demonstrate how many variables are at play in any given trafficking scheme and also give us an idea of how challenging it is to uncover trafficking crimes. I mention this case in particular, because it came to light when the second victim sought help from a church. The pastor there referred her to an anti-trafficking NGO, who, with her permission, called the FBI to report the crime.

And standing here today in this holy city, I note that faith and values can play a big role in motivating us to solve some of the world's most urgent problems. I believe this is true of human trafficking. I want you to hear from two survivors in their own words, from a case I tried before United States District Court Judge Richard Story who will address you shortly. First, the dreams of one victim, that she wrote down during the midst of her trafficking ordeal. Rosalina wanted to be a teacher – until she was tricked into coming to the United States and forced into prostitution.

And Lorena, who prayed to God for strength during what she described as her torture – the almost two years she was forced to have sex with 20-30 men a night. So we begin these two days of sharing best practices, of listening to and learning from each other. Please keep these survivors' dreams and prayers in your heart while we put our minds to the task of how best to use our systems of justice to eradicate human trafficking.

The implementation of strong legal instruments with a victim-centered approach makes a true difference. As my boss Secretary Kerry, also a former prosecutor has said: "...justice is not simply a matter of having the right laws on the books; we have to back those words with resources, strategies, and actions that produce the right results."

Thank you for being part of the solution and I look forward to hearing the wisdom and practical advice from the judges and other officials during the summit.