

Ambassador Luis CdeBaca

Testimony before the House Foreign Affairs Subcommittee on Africa, Global Health and Human Rights

Monday, June 13, 2011

I'd like to thank Chairman Smith and Ranking Member Payne for the invitation to testify today, and I'd like to commend both of you for your leadership in our fight against modern slavery. As we approach the reauthorization of the Trafficking Victims Protection Act, I look forward to working with you and your colleagues on crafting an effective bill that will sustain the United States' anti-trafficking efforts.

More than ten years ago, a group of women who had been enslaved in the commercial sex trade testified before this committee. As a federal prosecutor, I had the honor of speaking as these women's voice in court, and we succeeded in putting their abuser behind bars. But before Congress, the women spoke for themselves and told us all that we could do more. We needed to seek out the victims of modern-day slavery, offer them stronger protections, and bring traffickers to justice. Their voices and their courage helped lead the way to the path-breaking legislation that updated our century-and-a-half old anti-slavery laws and renewed the United States' commitment to the fight against emerging, modern forms of slavery.

A decade later, we find ourselves at a point to ask, "What lies ahead?" In the last ten years, we have seen more than 130 countries enact modern anti-trafficking laws consistent with the 3P Paradigm of prevention, protection and prosecution originally enshrined in the UN Palermo Protocol. More victims are being identified, more prosecutions are taking place, and we have begun to forge effective partnerships among governments, the private sector, and civil society that will improve our ability to prevent and respond to this crime.

Across our country, states from Washington and Hawaii to Vermont and Tennessee are among the most recent to pass anti-trafficking legislation that tracks with the TVPA. We hope in the next year to see universal adoption of modern anti-trafficking statutes by all states and territories.

I am personally proud of the progress we have made in combating modern slavery. Having worked on the original TVPA and subsequent reauthorizations, I know all too well that while nobody favors human trafficking, good people who care deeply sometimes disagree about how best to fight this crime. Mr. Chairman, you have worked to bring together those diverse voices and ensure that the United States continues to innovate and drive meaningful change to combat trafficking. Indeed, the careful compromises that you helped shepherd in 2008 ensured that both the TVPA's definition of trafficking in persons and the application of minimum standards tracked international norms. They have enabled us to credibly advance the fight against contemporary forms of slavery both overseas and here at home. There is no doubt that more can and should be done, but the challenges before us may not be as much issues of authorization so much as the often more difficult activities of implementation. As Congress considers reauthorization this year, the vision of the TVPA and the carefully crafted compromises of the 2008 bill deserve the continued support of this body.

Today I hope to outline a range of promising practices and forward-looking innovations that will help governments live up to the commitments they have made and shape the next ten years as a decade of delivery.

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As has been the case throughout the early years of this movement, strong and effective government action will continue to be central to this fight. Our best tool for assessing those efforts is the State Department's annual *Trafficking in Persons Report*. This report currently ranks more than 180 countries, including the United States, according to a set of minimum standards set forth by Congress in the TVPA and consistent with the 3P Paradigm. In the report every country is ranked against itself in terms of its progress, and against its capacity to deal with this crime. A particularly relevant example for this subcommittee is the case of Nigeria. Though that country lacks the capacity of many countries in the developed world, its government has nonetheless developed innovative structures and partnerships for dealing with this crime. For the last two years, Nigeria has merited placement on Tier 1 in our report. I was happy to learn that the Association of Southeast Asian Nations has asked a Nigerian delegation to demonstrate their innovative practices at a conference in Singapore next month.

Leaders around the world have credited the *Report* as a motivating factor for government action. As Congress considers reauthorization, it is important that we maintain and strengthen this diagnostic and diplomatic tool.

To determine rankings, the *Report* looks to government action as opposed to the successes of civil society or NGOs in a particular country, because governments must not outsource their responsibility for combating trafficking. The first steps a government must take in the fight against modern slavery are to acknowledge that the problem exists and to pass laws that criminalize all forms of human trafficking and prescribe sentences commensurate with the severity of the crime. Again, much of the international community has laid this groundwork, but now it is incumbent upon governments around the world to go farther. Moving forward, our measure of success—whether we are assessing foreign governments or our own—can no longer be just whether a governmental enactment of a law that looks good on paper, but whether that law is implemented broadly and effectively.

All governments can and must do more. Even if a country has a well established rule of law and sufficient economic resources, that does not mean its government can stand by and presume that the mere existence of an anti-trafficking law will be adequate to meet this challenge. In such cases where general legal and social systems function well, we must ask whether those systems are serving the victims of this crime, or excluding them. Victims are often unwilling or unable to self-identify, and because of cultural expectations or unfamiliarity with their rights, many do not even know they are victims of trafficking. That's why it is incumbent upon such governments not only to aggressively prosecute traffickers, but to couple effective law enforcement with robust victim identification and protection efforts, and proactive attempts to prevent this crime.

Effective implementation of a legal framework also means refining and strengthening available tools to adapt to a growing and changing understanding of modern slavery. For instance, in recent years we have learned about the particular vulnerability to trafficking among migrant populations, and the practices of unscrupulous labor recruiters who may move their victims across borders. We have recognized the widespread sexual abuse experienced by women in labor trafficking. While governments in the receiving countries must prosecute traffickers,

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engage in careful screening of potential victims, and protect survivors, it is also necessary for governments in sending countries to crack down on fraudulent recruitment practices. The future of this struggle must be informed by our evolving knowledge of this crime and the different ways to fight it.

Of course, we know that prosecution alone will never be enough to provide justice to the victims of trafficking; that requires a comprehensive system of victim services that ensures survivors are able to return to society. Around the world, governments struggle to identify victims, and fewer victims have access to the programs necessary to deliver the support and resources they need after being liberated from enslavement. In the United States, Federal Government agencies partner with nongovernmental organizations throughout the nation, including the territories, to help ensure that victims of trafficking receive the benefits and services they need to restore their lives and achieve self-sufficiency. In addition to these successful efforts, we—like all countries—can and must do more. And so, pursuant to Congress’s mandate in the TVPA to “measure and evaluate progress of the United States and other countries in the areas of trafficking prevention, protection, and assistance to victims of trafficking,” Secretary Clinton asked the President’s Interagency Task Force to Monitor and Combat Trafficking in Persons to pay particular attention to this critical issue over the coming year.

Beyond traditional approaches to the 3Ps, in the years ahead, private-public partnerships will give us new ways of looking at this crime and new, sophisticated ways of fighting it. Recent innovations and commitments from the private sector have given us renewed hope of making inroads when it comes to prevention.

Prevention has long been the afterthought of the 3Ps in comparison to its seemingly more tangible counterparts of prosecution and protection. Prevention has either been relegated to the realm of poster campaigns in airports and train stations, or regarded as an abstract goal tied to massive structural problems such as gender inequality and poverty. That thinking is quickly changing, and that change must begin by considering the way those of us in the United States interact with trafficking on a day-to-day basis, which we all do. Forced labor is prevalent in the production of a wide range of raw materials, from cotton and chocolate and coffee to steel and rubber and tin. All of us come in contact with products tainted by labor trafficking, and even reputable and responsible corporate citizens can profit from abuse. It is this knowledge that has enabled us in recent years to focus on the importance of supply chain monitoring and to call for increased leadership from the private sector.

Consumer spending and corporate investment in business are significant motivators that can turn around a system that has allowed traffickers and economies to operate with impunity. There is an increasing push for consumer transparency, certification, and more rigorous regulation. Research suggests companies investing in fair labor practices and labeling their products accordingly improve conditions on the ground and drive up the demand for their products.

A new push for corporate accountability is emerging, which demands companies focus their attentions beyond the places where their products are manufactured or processed, and look

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additionally at the sources of their human capital and the methods of recruitment tied to their supply chains, as well as the places where the raw materials are collected, harvested, or mined. Effective supply chain monitoring must go all the way down to raw materials. Such research will lead to an understanding of supply and demand factors that affect the workers whose labor contributes to downstream profits.

The aim of supply chain monitoring is to find trafficking wherever it occurs, whether in manufacturing, harvesting of raw materials, or the commercial sexual activity aimed at business travelers. This knowledge will allow companies to staff and source their supply chains in a manner that diminishes the demand traffickers satisfy through violence and exploitation.

We have already seen private-sector actors take the first steps by embracing the notion of supply-chain monitoring. A conference last winter produced the Luxor Implementation Guidelines to the Athens Ethical Principles. The Athens Ethical Principles are the product of a 2006 meeting of NGOs, governments, businesses, international organizations, and individuals, and they express a set of values opposed to trafficking in persons. But it was the Luxor conference that put in place standards for implementing those principles. According to the guidelines, they seek “to help move beyond aspirational statements to the development of standard operating procedures – a way to move beyond principles to practice and implementation.” To date nearly 600 companies have adopted the guidelines.

The Luxor Guidelines represent the future of the way we look at demand for forced labor. If there were no demand for the cheap goods tied to forced labor, then suddenly the profit motive for traffickers would no longer be worth the risk of engaging in a criminal enterprise.

And though the success of this approach requires motivated and willing private-sector actors, the government side of partnerships is critical as well.

California recently enacted a law that serves as a good example of legislation encouraging the private sector to look at their supply chains and consider their impacts on labor trafficking. California now requires its largest retailers and manufacturers to make public whatever efforts, or lack thereof, they have made to eliminate human trafficking from their supply chains. This is not a burdensome piece of legislation; it does not require corporations to adopt sweeping new policies for monitoring their supply chains. It just requires transparency.

Beyond legislating, governments can use their leverage as consumers to curb the demand for forced labor. We have already taken steps in the US government’s procurement and contracting policies to protect against both sex and labor trafficking. The Department of Homeland Security and the Equal Employment Opportunity Commission co-chaired a temporary working group on implementation of the Federal Acquisition Regulation to combat modern slavery and its contributing factors like the demand for commercial sex. The group is developing a training program for the federal acquisition workforce to be considered for adoption by all agencies and deployment at the Federal Acquisition Institute.

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Additionally, if government at all levels made commitments to reduce their slavery footprint—to support private-sector partners that had adopted anti-trafficking practices—the ripple effect could be tremendous. Forging partnerships to raise awareness about slavery footprint issues holds great potential. The State Department Trafficking in Persons Office is currently working with civil society and private sector partners to develop a tool that will allow individuals to determine not only their slavery footprint in their purchasing habits, but the steps they can take to reduce it.

This idea—how an individual can reduce his or her slavery footprint—may guide the next ten years of this struggle more than anything else. Because at the end of the day, ambassadors and lawmakers telling people, governments, or corporations what they should be doing isn't going to be enough to make meaningful progress against human trafficking. Of course, governments must remain diligent. But the solutions we seek will emerge as more and more of us ask, “How are we going to hold ourselves accountable for the way we contribute to modern slavery?” Part of this will happen through innovations such as our Slavery Footprint tool, which will make the reality of modern slavery much more identifiable and personal to the public.

Last week, an attorney for those trafficking survivors who testified here a decade ago joined me at a Presidential working group. It strikes me that the lessons and examples of the Cadena case years ago continue to measure how we fight this crime today. The strength of those women—and their success, having been reintegrated into society as survivors—must continue to serve as a call to action. We must continue to be a strong voice for them, for other survivors, and for the millions of victims who remain lost in the shadows, unable to break free or speak out. In that way, we can deliver on the unique American promise of freedom.

In the coming months, I look forward to working with Congress as you craft legislation to reauthorize the TVPA, and take us into the next ten years of this struggle. I hope that we can all embody the leadership necessary to deliver on our promise to combat this horrific crime.

Thank you again for the invitation to testify, and I'm happy to answer your questions.

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