

**Testimony of Ambassador John Cotton Richmond**

**Tom Lantos Human Rights Commission**

**The Trafficking Victims Protection Act at 20: A Look Back – and a Look Ahead**

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Congressman Smith, Congressman McGovern, and members of the Commission, thank you for the invitation to appear before you today. It is an honor to represent the State Department's Office to Monitor and Combat Trafficking in Persons at this important hearing. I am grateful for the opportunity to reflect on the Trafficking Victims Protection Act (TVPA) and discuss how we might continue this fight together.

Human trafficking, what some call "modern slavery," should have no place in our world. As both a grave crime and a human rights abuse, it compromises national security, undermines the rule of law, and harms the well-being of individuals and communities everywhere. It is a heinous crime that is an assault on human dignity. The United States government is resolute in its commitment to stop traffickers, protect victims, and prevent this crime by building systems that make trafficking human beings a difficult and risky criminal enterprise. We will also continue to encourage and assist foreign governments to implement their anti-trafficking laws, convict traffickers, and protect victims.

The year 2020 is a noteworthy marker for the U.S. Government's fight to combat trafficking in persons, as it marks the 20<sup>th</sup> anniversary of the enactment of the TVPA. To mark this historic milestone, we are declaring the year 2020 the year of "Freedom First," in recognition that human dignity and freedom are essential to the exercise of our other rights and liberties. Delivering on the promise of freedom for the millions of people whom traffickers exploit must remain one of our top priorities.

It is appropriate that I am before members of Congress today to remember the passage of the TVPA. This movement is indebted to the Members of Congress and their staff who worked determinedly to enact the TVPA. In particular, I would like to thank Congressman Chris Smith, Ambassador Sam Brownback, and the late Senator Paul Wellstone for leading efforts in Congress to enact this landmark law, which is based on the fundamental principle that trafficking in persons is an affront to the dignity and worth of all people.

I am also particularly grateful that members of Congress continue to strengthen U.S. efforts to combat this crime in a bipartisan manner. Your leadership and engagement are essential, and I encourage you to remain steadfast.

The enactment of the TVPA in 2000 was transformational to the U.S. legal framework and our ability to combat all forms of human trafficking. At the same time, passage of the TVPA ensured that this issue would be an integrated part of our foreign policy and diplomatic engagement. Allow me to highlight three ways the TVPA dramatically shifted the movement to combat trafficking in persons.

First, the TVPA embedded a victim-centered approach throughout its provisions. A victim-centered approach requires that we keep victims informed and honor their participation and opinions throughout the criminal justice and recovery process. A victim-centered approach impacts everything from how law enforcement officials conduct investigations to requiring judges to order traffickers to pay restitution to victims. One particularly helpful victim-centered innovation in the TVPA was the T visa, which provides temporary protections for victims to remain in the United States, receive necessary services, and help the government hold traffickers accountable. From my time as a federal prosecutor with the Department of Justice, I know that this is an essential component for law enforcement as we gathered witness statements to build a strong case in order to prosecute the traffickers. The T visa and the Continued Presence provisions are a best practice that the United States encourages other countries to replicate in their anti-trafficking efforts.

Secondly, the TVPA introduced the idea of non-violent coercion that was reinforced by the United Nations' Palermo Protocol. Although Palermo used slightly different language, both instruments sought to address how modern traffickers actually operate. The TVPA's remarkably broad definition of "coercion" to include threats of "serious harm" explicitly includes non-physical harm, psychological harm, and reputational harm. The expanded definition of coercion was a game-changing advancement in the legal framework.

Prior to the TVPA and Palermo, most governments outlawed human trafficking only when traffickers used force, the threat of force, or physical restraints against a person to compel them to work or engage in a commercial sex act. But, as we know, this is a limited understanding of the "means" that traffickers employ. Traffickers exploit family history, educational background, language skills, immigration status, and other unique vulnerabilities to coerce their victims.

However, the full implementation of criminalizing traffickers' use of non-violent coercion remains a global challenge. As I travel, I consistently hear reports of police, prosecutors, judges, social workers, and other government officials refusing to hold accountable traffickers because their trafficker did not use physical force. What this retreat to a pre-TVPA and pre-Palermo view practically means is that we are failing to identify most of the world's trafficking victims. The best global estimate of human trafficking victims comes from the International Labour Organization (ILO), which estimates there are 24.9 million victims in the world. According to the 2019 TIP Report, governments and other sources reported identifying 85,613 victims of trafficking. Based on these global numbers, we are only identifying three-tenths of one percent (0.3%) of global victims, and I believe this overly narrow view of what constitutes coercion is a contributing factor. This prevents governments from identifying victims, providing trauma-informed services to victims, and criminally prosecuting traffickers. I welcome and value your insights and contributions on how we can address this issue so we can better fulfill the promises of the TVPA.

Finally, but significantly, the TVPA created the Trafficking in Persons Report, an annual effort by the State Department to assess over 185 countries and territories – including the United States – on their efforts to meet the minimum standards to combat trafficking in persons. As my colleagues prepare to write our 20<sup>th</sup> TIP Report, its impact over the last 20 years is undeniable.

From its inception, the TIP Report quickly became one of the most authoritative and reliable sources of information on human trafficking around the world. I can tell you from my extensive global travel to meet with foreign governments that there is one concern they share in common: they care about their ranking in the Report. The Report is an irreplaceable resource to foster dialogue with foreign governments and guide our strategy for foreign assistance and training and technical assistance to strengthen governments' efforts to stop traffickers and protect victims.

While the TVPA was a monumental bipartisan legislative effort to codify the protection of some of the most vulnerable people in our society and hold human traffickers accountable for their egregious abuses, our work is not yet finished. Although laws are foundationally important for this work, we must also ensure successful implementation of those laws. Governments must turn words into action by investing in effective systems of justice and protection. Indeed, the effective implementation of the TVPA and the Palermo Protocol remains the current challenge before us. I would like to highlight several areas within the 3P paradigm—prosecution, protection, and prevention—for all of us to focus our efforts and attention.

I am grateful there is increased discussion and momentum around prevention efforts. It is an essential component to effectively addressing trafficking in persons. I am worried, however, that prevention of trafficking is often conflated with first ending poverty or attempts to generally reduce all vulnerability. While governments and NGOs certainly should invest in global efforts to end poverty, we should dispel the notion within the anti-trafficking field that poverty causes trafficking. It does not. Poverty, droughts, conflict, lack of education, dysfunctional families, and other social ills increase individuals' vulnerabilities. But the critical distinction with human trafficking is that it is a crime driven by opportunistic criminals who prey on vulnerable people because they are easier to exploit. Simply put, vulnerabilities are not the root cause of human trafficking. Traffickers are the root cause. They are the ones who make the intentional decision to treat inherently valuable people as a disposable commodity.

In a world of finite resources, we should prioritize programs that directly address holding traffickers accountable and meeting the needs of victims rather than allowing these funds to drift into general poverty alleviation efforts, safe migration programs, or other laudable initiatives. We must work with precision in our prevention efforts to focus on groups of people whom traffickers are actually targeting, such as children aging out of the foster care system in the United States, workers laboring under the kafala sponsorship system in the Middle East, or those fleeced by unscrupulous recruiters worldwide. We must be as targeted and vigilant in our noble efforts as traffickers are in their criminal efforts.

One area that I believe deserves re-energized attention is ending the impunity of traffickers. Human trafficking is a high reward-low risk crime, and traffickers know it. According to the TIP Report, the leading global source of information about victim identification and prosecutions, there has been a 42% drop in global prosecutions since 2015. Deemphasizing criminal accountability only allows traffickers to operate with impunity. We need all 3Ps of the three-P paradigm. Prosecution, protection, and prevention are all essential aspects of a comprehensive approach. Any efforts to delete or deemphasize any of the Ps only benefits traffickers.

While traffickers face little risk of jail time, I am deeply worried that governments continue to prosecute victims for the unlawful acts their traffickers compel them to engage in. I am worried that you are more likely to be prosecuted as a trafficking victim than as a trafficker. As you read various narratives in the TIP Report, this issue is consistently raised and often forms the basis of a recommendation for improvement. Where convictions exist, we want to prioritize removing those offenses from the victims' records so their traffickers' actions do not continue to prevent them from renting an apartment or getting a job. We must make good on our commitment to protect victims and ensure the promise of non-penalization of victims becomes a reality.

For the past twenty years, we have tested the provisions within the TVPA and its subsequent authorizations. And the good news is, it works. We have identified some interventions and initiatives that serve as models to be emulated worldwide.

I would encourage you to consider ensuring the sustainability of the U.S. Advisory Council on Human Trafficking. The members of this Council are essential guiding voices in the U.S. government's efforts. We are also looking forward to the first report from the Public-Private Advisory Council to End Human Trafficking and their important contributions to the U.S. Government's anti-trafficking efforts. I strongly encourage Congress to extend their authorizations.

Likewise, I look to the Anti-Trafficking Coordination Team Initiative within the Department of Justice as a successful anti-trafficking investigative model. The ACTeam Initiative convenes interagency teams of federal agents and prosecutors in select jurisdictions across the country to develop high-impact trafficking prosecutions in close coordination with national anti-trafficking subject matter experts from all participating agencies. The ACTeams have been extremely effective in increasing the number of cases filed, defendants charged, and defendants convicted.

Finally, the TIP Office's Child Protection Compact Partnerships (CPC) were originally authorized in the 2013 reauthorization. These multi-year plans developed jointly by the United States and a particular country document the commitment of the two governments to achieve shared objectives aimed at strengthening the country's efforts to prosecute and convict child traffickers, provide comprehensive trauma-informed care for child victims of these crimes, and prevent child trafficking in all of its forms. In 2016, Congress authorized the Program to End Modern Slavery (PEMS) to fund transformational projects in targeted jurisdictions seeking to reduce the prevalence of the crime. The CPC and PEMS funding are some of the most promising foreign assistance that the TIP Office administers.

Thank you for putting freedom first by holding this hearing. I am happy to answer any questions you may have, and I look forward to our discussion.