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New legislation would bring transparency to U.S. visa system and prevent human trafficking

Washington D.C., January 11, 2018: Today, on National Human Trafficking Awareness Day, U.S. Senators Richard Blumenthal (D-CT) and Ted Cruz (R-TX), and U.S. Representatives Lois Frankel (D-FL) and Ted Deutch (D-FL) introduced the Visa Transparency Anti-Trafficking Act, a bipartisan bill designed to shed light on the intersection of human trafficking and the temporary foreign worker visa system. The legislation is also co-sponsored in the House by U.S. Representatives Randy Weber (R-TX), Jim Himes (D-CT), Ted Poe (R-TX), and David Schweikert (R-AZ). The bill is supported by experts from the Economic Policy Institute, Justice in Motion, Mentari Human Trafficking Survivor Empowerment Program, and Polaris. If passed, this bill would create a uniform system for publicly reporting data that the government already collects on temporary visa programs, allowing an examination of temporary visa holder exploitation.

Every year, close to one million workers come to the United States on temporary work visas to fill jobs in a number of occupations, including farm labor, landscaping, hospitality, as well as information technology jobs and teaching jobs. Unfortunately, the system is sometimes leveraged by unscrupulous employers using these legal government programs to severely exploit workers and even enslave them. According to the Urban Institute, in a sampling of labor trafficking cases, 71 percent of victims of forced and coerced labor originally entered the United States on visas.¹

“It is extremely difficult to uncover basic facts about temporary work visa programs, including how many temporary migrant workers are currently employed in the United States,” said Daniel Costa, Director of Immigration Law and Policy Research at the Economic Policy Institute (EPI). EPI has attempted to publish the numbers of temporary migrant workers employed by visa classification based on the limited data that is available, but those are just estimates; no official government estimate data exists by visa class. “We also know that the migrant workers in these programs are exploited by their employers thanks to numerous reports in the media, from think tanks, as well as government auditors.” Costa added.

Work visa programs require that visa holders only work for the employer that solicited the visa. Often, when a work visa holder complains about employment conditions, employers retaliate

¹ Understanding the Organization, Operation, and Victimization Process of Labor Trafficking in the United States, 2014, page 23. The Urban Institute/Northeastern University report is based on a detailed review of 122 closed labor trafficking cases, supplemented by interviews with some of the victims involved in those case

with threats of deportation or by firing the worker. Once a visa holder no longer works for the sponsoring employer for whatever reason, he or she becomes instantly deportable. In a system that gives employers this type of control over their employees, human trafficking will continue to run rampant and unethical employers will be free to undercut the law-abiding competition.

“We cannot allow employers to continue manipulating the visa system,” said Cathleen Caron, Executive Director at Justice in Motion. “By doing so we are allowing them to commit heinous crimes against workers who come to this country on a legitimate visa expecting that the job they were recruited for is secure and that their employer can be trusted. This bill will give us access to the data we need to make sure that a job opportunity on a temporary work visa does not devolve to severe exploitation and human trafficking.”

From data published by the Human Trafficking Legal Center, a significant number of federal human trafficking cases involved victims holding non-immigrant work visas. From 2003 through 2017, 261 civil suits were filed in federal court that contained claims of human trafficking. Of those, 122 alleged the trafficking of a non-immigrant visa holder. According to this data, nearly half of the human trafficking victims that filed a federal lawsuit held a non-immigrant work visa in one of eleven visa classifications, from the more commonly known H-2A agriculture visa to the lesser known A-3 and G-5 domestic worker visas².

Those are just the cases that were officially filed, but human rights advocates indicate that the rate of exploitation is much higher and needs to be addressed. “Based on reports of labor trafficking and labor exploitation made to the National Human Trafficking Hotline, Polaris knows that the abuse of guest workers is relatively common. Unfortunately, except for these individual cases, that is about all we know,” said Joe Racalto, Polaris’s senior policy advisor. “This legislation will be critical to developing pointed interventions that will help end the abuse of temporary visa holders, and we are incredibly grateful for these Congressional leaders' making it a priority.”

“I came to the U.S. through Indonesian recruitment agency who promised me 6 months’ employment at a hotel in Chicago after I paid \$,3000 for the recruitment fee,” said Shandra Woworuntu, Founder and Vice-President of the Mentari Human Trafficking Survivor Empowerment Program. “They obtained the paper work to get the visa. The fact is, I didn't work in the hotel as promised. Instead, I was kidnapped, my passport was taken, the traffickers asked me to pay \$30,000 and forced me to be sex slave in the underground sex business in New York, Connecticut and surrounding areas until I escaped. I believe intervention without prevention in combating human trafficking and exploitation is not a complete solution. We need more transparency and better data about workers who come to the U.S., and the Visa Transparency Anti Trafficking Act will be perfect to prevent temporary workers who come to the U.S. from being exploited and trafficked like me,” she said.

If Congress passes and the president enacts the Visa Transparency Anti-Trafficking Act, we will gain insight into who the employers are and key workforce demographics such as where the workers come from, and the terms and conditions of employment. The data that this bill requires be made public is already collected by the government. For the first time, policymakers and the

² Data provided by The Human Trafficking Legal Center in Washington, D.C., October 2016.

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public will have access to the data needed to examine the impact that temporary visa programs have on the economy and the labor market, and advocates will have a valuable tool at their disposal to inform and reach out to potential victims of human trafficking.

About Justice in Motion:

Justice in Motion protects migrant rights by ensuring justice across borders. Legal and practical barriers prevent many migrants from asserting claims in a country when they are no longer present, or from collecting evidence in other countries. To address these challenges, Justice in Motion promotes “portable justice” to ensure that migrants can access justice across borders when they challenge an exploitative employer, denounce an abusive government action, or seek refuge from harm. Justice in Motion is dedicated to exposing and overcoming these injustices through legal, educational, and policy initiatives in the United States, Canada, Mexico, and Central America. Essential to this transnational model is our Defender Network, a unique partnership of on-the-ground human rights organizations in Mexico and Central America. Justice in Motion makes sure that wherever migrants go, their rights will follow.

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The legislation has the support of: AFL-CIO; Alliance to End Slavery & Trafficking (ATEST); American Federation of Teachers; Centro de los Derechos del Migrante; Coalition of Immokalee Workers; Coalition to Abolish Slavery & Trafficking (CAST); Economic Policy Institute, Freedom Network, Free the Slaves; Futures Without Violence; International Labor Recruitment Working Group (ILRWG); Justice in Motion, National Domestic Workers Alliance; National Employment Law Project; National Guestworker Alliance; Polaris; Safe Horizon; Service Employee International Union (SEIU); Southern Poverty Law Center; UniteHERE; Verité; and Vital Voices.