

CONFRONTING CHILD TRAFFICKING*

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*Virtual Grand Rounds Summer Series Lecture****

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Good afternoon everyone, or good morning for those of you who are on the West Coast. I want to thank the Hall Center for Law and Health, Indiana University, Nicolas Terry, and Brittany Kelly for inviting me to be part of this series. I also want to thank each of you for joining today. I know that you are busy. And, these days, many of us are dealing with additional obligations, as we simultaneously attempt to balance work and childcare duties during a pandemic. I appreciate that you have taken the time today to show your interest in this issue and join us for this event.

I want to talk about where we are today on human trafficking, and on child trafficking in particular. I will begin with an overview of the current response to human trafficking, which is largely grounded in a criminal justice framework.¹ I then will discuss briefly a range of other possibilities or additional frameworks that could be drawn upon and have been used to a limited extent, including human rights frameworks. Then, the bulk of my presentation will focus on the public health approach: what can public health methodologies add to our responses to human trafficking? Toward the end of the presentation, I will talk about a “toolkit” that a colleague and I developed.² This toolkit is a starting point, or set of questions, that we believe can help build a more robust response to human trafficking. Finally, I will talk briefly at the end about the impact of

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1. Jonathan Todres, *Widening Our Lens: Incorporating Essential Perspectives in the Fight Against Human Trafficking*, 33 MICH. J. INT'L L. 53, 57-67 (2011). See also Janie A. Chuang, *Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-Trafficking Law and Policy*, 158 U. PA. L. REV. 1655, 1725 (2010); Jennifer M. Chacon, *Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement*, U. PA. L. REV. 1609, 1617-20 (2010).

2. This public health toolkit was first developed and published in JONATHAN TODRES & ANGELA DIAZ, *PREVENTING CHILD TRAFFICKING: A PUBLIC HEALTH APPROACH* 198-207 (2019).

COVID-19, which is having a significant impact on human trafficking and responses to human trafficking. So, with that plan, let's get underway.

Human trafficking is regularly in the news.³ Media stories on the topic are a weekly, if not daily, occurrence. In addition, agencies and organizations at all levels—from local, to national, to international—are actively pursuing anti-trafficking agendas.⁴ That level of attention to human trafficking is a relatively recent phenomenon.

When I started researching this issue as a law student in the late 1990s, more than 20 years ago, there was no federal law on human trafficking. The Trafficking Victims Protection Act, known as the TVPA, which is the cornerstone of federal anti-trafficking law, did not exist in the 1990s. It was adopted in 2000.⁵ The same is true at the international level; the Trafficking Protocol was not adopted until 2000.⁶ And closer to home, no state had an anti-trafficking law twenty years ago.⁷

In the last twenty years, we have seen dramatic changes from a legislative perspective. The Trafficking Victims Protection Act has been reauthorized five times since 2000, and it has spurred other federal law and policy aimed at

3. See, e.g., Aisha Salaudeen, *New Nollywood Film Shines a Light on Human Trafficking in Nigeria*, CNN (Oct. 7, 2020), <https://www.cnn.com/2020/10/07/africa/human-trafficking-film-nigeria/index.html> [<https://perma.cc/L6N3-2RG9>]; Margie Mason & Robin McDowell, *Palm Oil Labor Abuses Linked to World's Top Brands, Banks*, N.Y. TIMES (Sept. 24, 2020), https://www.washingtonpost.com/business/palm-oil-labor-abuses-linked-to-worlds-top-brands-banks/2020/09/24/2bdbfbac-fed8-11ea-b0e4-350e4e60cc91_story.html [<https://perma.cc/QT3P-PZZN>]; Alexis Stephens, *Marietta Hotel the Latest Named in Federal Sex Trafficking Lawsuits*, ATLANTA J.-CONST. (Aug. 17, 2020), <https://www.ajc.com/news/marietta-hotel-the-latest-named-in-federal-sex-trafficking-lawsuits/46KKRAPS DZCZ5AA7WLOJBOLDTM/> [<https://perma.cc/NEY8-PDNR>].

4. See, e.g., *Human Trafficking*, N.Y. ST., <https://www.criminaljustice.ny.gov/pio/humantrafficking/humantrafficking.htm> [<https://perma.cc/E9JM-UM4R>] (last visited Dec. 21, 2020); *Office on Trafficking in Persons*, ADMIN. FOR CHILD. & FAM., <https://www.acf.hhs.gov/office-on-trafficking-in-persons> [<https://perma.cc/2Y7Q-W4P5>] (last visited Dec. 21, 2020); U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT 3* (2020), <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> [<https://perma.cc/DFP3-GYLC>]; *Human Trafficking Knowledge Portal*, U.N. OFF. ON DRUGS & CRIME, <https://sherloc.unodc.org/cld/en/v3/htms/index.html> [<https://perma.cc/TB8D-EETU>] (last visited Dec. 21, 2020).

5. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386.

6. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, art. 6(3), *opened for signature* Dec. 12, 2000, S. Treaty Doc No. 108-16, 2237 U.N.T.S. 319 [hereinafter *Trafficking Protocol*]. A second important treaty in this context was also adopted in 2000. See *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, G.A. Res. 54/263, U.N. Doc. A/RES/54/263 (May 25, 2000).

7. *Human Trafficking State Laws*, NAT'L CONF. ST. LEG., <https://www.ncsl.org/research/civil-and-criminal-justice/human-trafficking-laws.aspx> [<https://perma.cc/F6J7-VJZD>] (last visited Dec. 21, 2020).

addressing human trafficking.⁸ All major federal agencies now have a task force, group, or initiative that addresses human trafficking.⁹ All states now have anti-trafficking laws, and many of the states have further revised their anti-trafficking laws in recent years.¹⁰

In addition, when I started in the 1990s, there was very little in the way of services for survivors of human trafficking, either children or adults. To the extent services were available, they typically were social services available to the general population; they were not tailored to the specific needs of survivors of human trafficking. In the past twenty years, the number of shelters for survivors has grown, as have the number of human trafficking related training programs for social service providers, health care professionals, and others who can play a role in addressing to human trafficking.¹¹ These are notable improvements, though much more is still needed.

Finally, when I started on this topic in the 1990s and would tell people that I was working on trafficking, most people immediately assumed that I worked on drug trafficking issues. Every now and then, someone would respond by telling me about their morning commute, somehow thinking that I could solve that problem. These responses reflected how little people knew about human trafficking and how it simply wasn't in the public consciousness.

As I noted earlier, human trafficking is now regularly in the news. And, there are probably hundreds, if not thousands, of organizations working on human trafficking today. All these developments—new legislation, progress on social services, and greater public awareness—are important and suggest progress. But, for me, when we pause to ask whether we are making progress, it should compel us to return to our goals. What is the goal? I submit that the goal must be to prevent human trafficking from occurring. By that measure, we haven't made as

8. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193; Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164; William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457; Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4; Trafficking Victims Protection Reauthorization Act of 2017, Pub. L. No. 115-427 (2019).

9. See, e.g., *What is Human Trafficking*, U.S. DEP'T HOMELAND SECURITY, <https://www.dhs.gov/blue-campaign/what-human-trafficking> [<https://perma.cc/ALT4-GGEY>] (last visited Dec. 21, 2020); *Human Trafficking*, U.S. DEP'T JUST., <https://www.justice.gov/humantrafficking> [<https://perma.cc/2YGC-T5RS>] (last visited Dec. 21, 2020); U.S. DEP'T OF STATE, *supra* note 4; *Office on Trafficking in Persons*, *supra* note 4; *USDOT Steps Up Fight Against Human Trafficking*, U.S. DEP'T TRANSP., <https://www.transportation.gov/dot-effort-to-stop-human-trafficking> [<https://perma.cc/9G7A-CP6A>] (last visited Dec. 21, 2020).

10. See *A Look Back: Building a Human Trafficking Legal Framework*, POLARIS PROJECT, <https://polarisproject.org/wp-content/uploads/2019/09/2014-Look-Back.pdf> [<https://perma.cc/8829-HJZJ>] (last visited Dec. 21, 2020); *2014 State Ratings on Human Trafficking Laws*, POLARIS PROJECT, <https://polarisproject.org/wp-content/uploads/2019/09/2014-State-Ratings.pdf> [<https://perma.cc/24PK-5A27>] (last visited Dec. 21, 2020).

11. See, e.g., HEAL TRAFFICKING, <https://healtrafficking.org/> [<https://perma.cc/CD9J-REV2>] (last visited Dec. 21, 2020).

much progress as you might think, or hope.

Indeed, it is widely understood and agreed upon among those working in the field that human trafficking has not declined in the last twenty years.¹² That is, despite all these efforts and the tireless work of many people in the field, we do not see a decline in prevalence. Now, in fairness, that is a bit of an unfair statement because we do not have good baseline data or reliable estimates on the number of individuals trafficked every year.¹³ We know that human trafficking is a widespread problem both globally and in the United States, but we do not have exact numbers. That said, most experts in the field agree that there is no evidence of a decline. This should challenge us to rethink what we are doing.

A lot of the great work being done in the field focuses on addressing harm after it occurs—that is, prosecuting perpetrators after harm has occurred, or assisting survivors after harm has occurred. These are essential components of a response. I am not minimizing their importance. But if our goal is to reduce and ultimately end human trafficking, this “after the harm has occurred” approach is not going to get us there.

As I have written about in other settings,¹⁴ a criminal justice framework has been the cornerstone of our response to human trafficking to date. There are several rationales for a criminal justice response. First, criminal justice’s core functions are to apprehend perpetrators of criminal acts and deter future crimes, so it is not surprising that we would use a criminal justice framework to confront criminal activity such as the exploitation of human beings.

Second, there are practical reasons why we have relied on a criminal justice framework in our response to human trafficking. Criminal justice institutions are well-positioned to respond. Moreover, using the criminal justice system allows us to build on already-existing institutions and processes.

Third, there is an expressive component.¹⁵ Through criminal law, we can say that, as a society, we deem certain behaviors unacceptable. We can say that we believe these acts are among the worst that one can perpetrate; in some respects, that’s some of what we’ve seen, as legislative amendments at the federal and state level have increased penalties for human trafficking over the years.

Although there are rationales for a criminal justice framed approach to human

12. See, e.g., U.N. OFF. ON DRUGS & CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 2018, 7 (2018), http://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf [<https://perma.cc/34ES-2Z4X>] (finding no evidence of a decline in prevalence of human trafficking); Maria Tavano, *Trafficking in Persons: A Focus on Preventing Forced Labor*, 32 WOMEN’S RTS. L. REP. 324, 351 (2011) (“[W]hile more and more countries have joined the war on human trafficking, there is no evidence of a decrease in the prevalence of the crime.”).

13. TODRES & DIAZ, *supra* note 2, at 19-21.

14. See, e.g., Todres, *supra* note 1, at 55.

15. See generally Carla Spivack, *The Dilemma of the Transgender Heir*, 33 QUINN. PROB. L.J. 147, 148 (2020); Danielle Keats Citron, *Law’s Expressive Value in Combating Cyber Gender Harassment*, 108 MICH. L. REV. 373, 377 (2009); Cass R. Sunstein, *On the Expressive Function of Law*, 144 U. PA L. REV. 2021 (1996).

trafficking, there are also some limitations. When I say “limitations,” I mean it as less of a critique of the criminal justice framework than I do as a critique of our over-reliance on a criminal justice framework. Criminal justice frameworks do certain things well, and other things they are not designed to do. Today, we rely on the criminal justice system to do much more than it is really designed or equipped to do.

Let me start with the scope of the harm. Survivors of human trafficking have experienced physical, emotional, and often sexual violence. A criminal justice system is not designed to remedy that. The criminal justice system is not a health care intervention. It is not designed to address the harms individuals suffer as a result of human trafficking. Therefore, we cannot rely solely on criminal justice for an effective response.

In addition, the criminal justice system does not address the root causes of the problem. It does not address why some individuals are more vulnerable to exploitation than others, or what is driving the demand for goods and services produced by exploited individuals.

Further, even with respect to the core goals of criminal justice—deterrence and apprehending perpetrators—criminal justice acting alone has limitations. What we see is that only a relatively small number of traffickers are arrested and prosecuted in any given year.¹⁶ As there is no evidence of a decline in prevalence, then in terms of deterrence, it is not working as we would hope. This should not surprise us completely. If you think about the war on drugs and other issues where we rely heavily on a criminal justice response, we often do not see the results we would want.¹⁷ In other words, we cannot prosecute our way out of the problem of human trafficking. We must prosecute perpetrators, but we cannot rely on that as the exclusive means of solving the problem.

Last, relying on the criminal justice system has an anchoring effect. One of the things we have seen is that it gets very hard to move towards other frameworks when you have built a response around one framework. From the world of administrative law, and specifically, multiple goals theory, we learn that an entity, when faced with multiple goals, will return over time to its primary functions and whatever it is incentivized to do.¹⁸ Here’s how that is relevant in responses to human trafficking. For a number of years, advocates have been urging law enforcement to be more victim centered. That’s an important step, because we should give greater priority to survivors’ needs and interests. And some law enforcement personnel and prosecutors do that very well. However, the incentive structure in law enforcement typically is not designed to prioritize sensitivity towards victims. Ask yourself, who is more likely to get promoted—a police officer who has successfully arrested a high number of perpetrators, or the police officer who has arrested no one but is known for being particularly sensitive to crime victims? I think we know the answer. We must be attuned to

16. U.S. DEP’T OF STATE, *supra* note 4, at 20.

17. *See generally* HUMAN RIGHTS WATCH, EVERY 25 SECONDS: THE HUMAN TOLL OF CRIMINALIZING DRUG USE IN THE UNITED STATES 1 (2016).

18. Todres, *supra* note 1, at 64-65.

this anchoring effect, and if we want to change behaviors of particular stakeholders, then we need to account for institutional incentives.

In a nutshell, we need to broaden our approach and consider other perspectives or frameworks that can strengthen our response. There are four other frameworks listed on the slides here.¹⁹ Although I have researched all these frameworks, I have worked most often with human rights and children's rights perspectives. In addition, prior to entering the law, I worked in international development. And then, for the past decade, I have focused on what public health methods and perspectives can add to our efforts to address human trafficking. Let me touch briefly on the other perspectives, before focusing on public health methods for the remainder of this presentation.

Human rights perspectives and human rights approaches offer the opportunity to reduce vulnerability. In marginalized communities, vulnerable individuals often have less access to health care. Those individuals may be ill more often and have illnesses that last longer. How does that affect children? Well, it may mean higher absenteeism rates in school. In turn, children who miss school more often tend to fall behind their peers. And when they fall behind their peers, they are at an increased chance of dropping out. If you drop out earlier, and you are a thirteen, fourteen, or fifteen-year-old kid with limited skills, you are a prime target for exploitation. So, human rights approaches—which include securing health care, education and housing rights among other issues—can help reduce vulnerability to exploitation.

An international development perspective helps us understand the economic realities of many communities. One of the things we know about trafficking globally is that many individuals start out by migrating and then end up in trafficking situations. One of the reasons they migrate is because there are no opportunities where they live, and socioeconomic development is inadequate where they live. Drawing upon development perspectives can help us better understand how to develop sustainable programs and policies that strengthen communities. International development also teaches us about partnering with local communities.

Labor perspectives are important as well. They help us understand human trafficking as part of a spectrum of labor. On the one end of the spectrum, there is safe and secure employment with a decent living wage. The other end of the spectrum is exploitation, including trafficking and other harms. If we see human trafficking on a spectrum, we can start to understand how sometimes people are pushed to the margins. Their vulnerable circumstances may push them into risky employment settings, and after that, it does not take much before that risky employment setting turns into something much worse—exploitation through trafficking, for example.

Finally, there is a public health approach. This is where we will spend the rest of our time. On this slide, you see the cornerstones of a public health approach listed: an emphasis on evidence-based research, a focus on prevention, addressing

19. Human rights perspective, international development perspective, labor perspective, and public health perspective.

the underlying causes, partnering with relevant stakeholders, and using the socioecological model.²⁰ Let's start with the last one first, and then we will go in order after that.

The socioecological model is used to address the interplay between individual, relationship, community, and societal factors.²¹ In the human trafficking context, this means identifying the risk factors at each level and how they interact with each other. For example, we know that a history of child maltreatment is an individual level risk factor for trafficking. We also know that certain unhealthy relationships increase risk, and that unsafe schools and neighborhoods add to risk. Also, societal factors such as discrimination and marginalization of certain communities, tolerance of gender-based violence and discrimination, and the sexualization of young girls all contribute to the problem. So, by taking a socioecological approach to this issue, we can better understand all that is happening to make one individual or a group of individuals vulnerable. In our response to human trafficking, we must account for the risk factors at every level of the socioecological model. Equally important, we need to identify protective factors that build or strengthen resilience. Ultimately, it is critical that we design law, policy, and programmatic interventions that address all levels of the socioecological model.

Next, evidence-based research is essential to designing effective responses. We are starting to develop a robust body of research that gives us insight into risk factors. This is still emerging, but it has improved. We know less about protective factors. It is important to note that the absence of a risk factor is not necessarily a protective factor. For example, a history of child maltreatment is a risk factor, but the fact that you were not abused as a child does not mean that is a protective factor. In addition, we do not know a lot about the efficacy of assistance programs. There are more programs for survivors today, but we have limited evidence on which programs work best for which individuals. Finally, we are well behind in our research on labor trafficking. Evidence-based research is so critical today because many data points reported widely in the media are not necessarily rooted in evidence-based research and may be inaccurate. Without evidence-based research, there is a risk that policies will be designed, and resources allocated, based on inaccurate pictures of the problem.²²

Next is prevention. Prevention is what public health does—it aims to prevent harms to populations. In the context of a disease outbreak, it would not make sense from a public health perspective to allow an outbreak to occur and try to figure out who is responsible for it later. From a public health perspective, success is a fully immunized population so that there is no disease outbreak in the first place. That is how we must approach human trafficking. What will reduce

20. TODRES & DIAZ, *supra* note 2, at 91-96.

21. *The Social-Ecological Model: A Framework for Prevention*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/violenceprevention/publichealthissue/social-ecologicalmodel.html> [<https://perma.cc/BZ6W-WKEG>] (last visited Oct. 24, 2020).

22. See Jonathan Todres, *Human Trafficking and Film: How Popular Portrayals Influence Law and Public Perception*, 101 CORNELL L. REV. ONLINE 1 (2015).

vulnerability and demand so that we do not have these cases of exploitation in the first place?

Next, in terms of addressing the underlying causes, public health has a lot of experience confronting harms and thinking about the attitudes and behaviors that drive those harmful outcomes. Consider the issue of smoking. Public health campaigns helped change attitudes toward smoking; as a society, we went from thinking of it as an activity that makes you cool to recognizing it as a harmful activity. Obviously, smoking is different from human trafficking in many ways, but the point is that public health campaigns can teach us a lot about what works in terms of changing attitudes and behaviors relevant to human trafficking.

For example, think about labor trafficking. We all want to pay as little as possible for the food we eat and the clothes we wear. But, if we do that, chances are somebody is getting exploited in the supply chain. So, the question is: how do you motivate people to act altruistically? There is good research on this. People will act altruistically. Typically, this works better if there is some sort of threat or negative consequences associated with the bad behavior *and* if they know that choosing the right option will make a difference. So, back to labor trafficking, how do you know that choosing to purchase the more expensive shirt will ensure that no one is exploited in the supply chain? At this moment, you probably don't. But can we develop a response that would make it possible for consumers to make more informed choices? And can we motivate businesses not only to ensure their supply chains are free of trafficked labor but also to pressure their suppliers to ensure the same? This is just one piece of the puzzle, but by viewing this issue through a public health lens, we can start to see how to unpack the issue of human trafficking and what types of interventions must be developed so that we can reduce vulnerability and reduce demand.

Last, partnering with all stakeholders is essential. I mentioned this in the context of international development. It is also a point of emphasis in the human rights world. In the context of human trafficking, this means two things. First, we need to continue to broaden partnerships to involve all sectors of society. This means going beyond law enforcement and social services to involve health care, transportation, education, media, the private sector, and a whole host of other entities. Second, we must engage and work with local communities that are at risk of, or affected by, human trafficking. Critically, this also means listening to survivors.

For example, if you are working on child trafficking, you must partner with young people at every stage of the process. This does not mean merely checking in with them after you have designed an anti-trafficking response. *Who* is at the table from the very beginning is crucial. Otherwise, we are going to design interventions that will not work very well for the populations they are intended to serve.

In terms of including and elevating survivors, we have seen some progress, but it is piecemeal. Too often, antitrafficking efforts continue to perpetuate an essentialized view of survivors. I have seen legislative briefings where they open the briefing by saying, "Today we will hear from three experts and one survivor." Now, why are they not describing those individuals as four experts? In those situations, they really brought the survivor to exploit their story and to create an

emotional impact. They are not really seeing how valuable that survivor can be to the design, implementation, and evaluation of laws, policies, and programs on human trafficking. We need to rethink how we work with survivors.

Our ultimate goal must be to design a response that is comprehensive and integrated. That means all sectors need to be involved. And, within each sector, it cannot just be the special task force on human trafficking. So, in law enforcement, there are lots of jurisdictions where law enforcement has a special task force on human trafficking. That is great, but it is often the beat cop in the neighborhood who encounters human trafficking first. So, they also need to be brought into the fold. The same with health care. It is frequently emergency departments and emergency rooms, but it is not only them. Pediatricians and others need to be aware of child trafficking, human trafficking, and how to identify it. It needs to be everyone across all sectors.

Equally important, our multi-sector response must be integrated. In other words, the services offered to those at risk of or exploited by human trafficking need to be seamless. Now, I say that knowing that is a really hard thing to do, but think about how hard it is for a survivor who has just experienced significant trauma to try to navigate different services simultaneously to address physical health issues, mental health concerns, housing insecurity, food insecurity, education, job training, and the legal consequences of trafficking. Public health has experience working with survivors of various harms. We can draw on the lessons from past public health campaigns—both good and those that were not as successful—to build a more comprehensive, integrated, and inclusive response to human trafficking.

Let's move now to discuss the "toolkit" that my colleague, Dr. Angela Diaz, and I developed and published in a book last year.²³ The toolkit is really a starting point. It is a set of questions that we can all use in our own work individually, with our organizations, or within a sector, to advance our efforts to prevent human trafficking.

If you are examining or contemplating a new or existing law, policy, or program, the first question you must ask is: does it help prevent human trafficking? It may sound simple, but most of what we have done to date does not address prevention. We need to start answering this question honestly. And if the answer is no, that does not mean that you cannot do it. There are lots of services for survivors that do not prevent human trafficking that we should still provide, but we ought to realize whether our actions actually make a difference in terms of prevention.

Second, what levels of the socioecological model does this initiative address? If it addresses only the individual level, it may help some individuals but miss the most vulnerable. If your initiative addresses only the individual level, can you add a component that addresses the community-based factors? Can you develop a more robust response? If you cannot, can you partner with an organization that is doing something to address the relationship or community level so that together you can build a more comprehensive response?

23. TODRES & DIAZ, *supra* note 2, at 198-207.

Third, what are the underlying attitudes and behaviors you need to address? We have talked about this already, but we must address the attitudes and behaviors that foster a culture of tolerance of exploitation. We must think about this both nationally and locally within our home communities. These can be tough conversations, but if we don't address the root causes of human trafficking, we will never reach our goal.

Fourth, is this initiative informed by evidence-based research? Again, this is still not happening in all development of law, policy, and programs on human trafficking. So, we really need to emphasize this. We need to figure out what the evidence shows and ensure that legislators at the state and federal levels and decisionmakers at the relevant agencies are relying on robust research when developing and implementing new policies.

Fifth, have you worked with survivors, youth, families, and other relevant communities in developing or evaluating this initiative? This is critical. Again, I see too often that youth are not consulted. Does it add challenges to developing policies to have consultations with young people? Of course, it does. But, too often after a policy or program is launched, young people say, "We knew right away this would never work. They didn't address X, Y, or Z." So, it is vital that we talk to young people. What we learn from them will help to develop more effective policies and programs. And as noted previously, we must do a better job listening to survivors.

Sixth, does your initiative have a strategy for collaboration with stakeholders? Who is involved? Who else needs to be at the table? And how do you ensure that everyone who should be in the room is in the room? Ensuring diverse representation is necessary but not sufficient. You also need to confront challenging issues that can affect how diverse stakeholders work together. Cultural humility is important.

At an agency level, this might mean addressing data sharing agreements, for example. Also, how will you navigate different approaches to work? For example, public health relies on public trust and requires transparency, while law enforcement, at times, cannot be as transparent, such as when they are engaged in undercover operations. How do you navigate these different approaches and make sure that stakeholders collaborate effectively?

Finally, what are the potential unintended consequences of the initiative you are considering? We need to anticipate unintended consequences. I want to emphasize that it cannot be only about planning for what might go wrong. We ought to be thinking about what might happen if the plan works out as envisioned. What if everything goes right? I will give you an example. Some jurisdictions have identified strip clubs and similar adult venues as a gateway to trafficking. One intervention in response has been to raise the minimum age for working in such venues from eighteen to twenty years old.

Now, I recall one instance where this measure was celebrated as "saving" 2,000 girls and young women by raising the minimum age from eighteen to twenty-one. Upon closer look, however, anecdotal evidence suggests that many those girls and young women ended up in much worse situations in underground prostitution rings. Why? Because no one thought about and planned for what would happen once this change was made. If someone had considered unintended

consequences, they would have readily seen that raising the minimum age to get girls and young women out of strip clubs would leave many out of work. That doesn't mean it was wrong to raise the minimum age. The mistake was not anticipating the results and addressing them by also including programs and funding for education, job training, housing assistance, and other needs to provide genuine support for those they aimed to help. In short, it is vital that we think about unintended consequences as part of our starting point for assessing what we do.

Again, this toolkit is a starting point for ensuring that the conversations that we are having get us closer to identifying how we develop a more comprehensive response. If you continually return to these seven questions and use them to guide the development of antitrafficking responses, I believe it will help improve outcomes.

Before I conclude, I want to take a couple of minutes to talk briefly about the impact of COVID-19. We know that COVID-19 is not just revealing inequities but also exacerbating them in profound ways. This is also true with respect to human trafficking.²⁴

For example, two of the risk factors for the trafficking of children are time on the street, meaning homelessness, and a history of child maltreatment.²⁵ One of the things we know about COVID-19 is that it has caused significant job loss. This is putting people at risk of being evicted from their homes by failing to make rent or mortgage payments. We know some jurisdictions adopted a moratorium on evictions, but those do not cover everyone. And, in a number of those jurisdictions, those payments are due soon. This means a host of back payments will soon be confronting people who may still be unemployed. So, that runs the risk that more people will be pushed to the streets. If they are pushed to the streets, youth in particular will be at risk.

We also have evidence that child maltreatment has increased since March 2020. Now, what is interesting is that, in some places, reporting has gone down. The reason reporting has gone down, however, is because mandatory reporters, most notably teachers and pediatricians, are not seeing kids nearly as much. In many of those same jurisdictions, although reporting has gone down, hospitals are reporting that the number of kids coming to emergency departments with child abuse-related injuries has increased. So, child maltreatment is likely increasing. And, again, child maltreatment is a risk factor for human trafficking among children, as well as a harm itself. Thus, we must recognize that COVID-19 is actually creating circumstances that are increasing the likelihood of risk factors occurring in populations.

24. Jonathan Todres & Angela Diaz, *COVID-19 and Human Trafficking—the Amplified Impact on Vulnerable Populations*, JAMA PEDIATRICS (Sept. 21, 2020), <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2770536> [<https://perma.cc/N435-TSBP>] [hereinafter *COVID-19 and Human Trafficking*].

25. INST. OF MED. & NAT'L RESEARCH COUNCIL, CONFRONTING COMMERCIAL SEXUAL EXPLOITATION AND SEX TRAFFICKING OF MINORS IN THE UNITED STATES (Ellen Wright Clayton et al. eds., 2013).

In addition, when teachers and other mandatory reporters do not see children as often, it means fewer opportunities to identify individuals who are at risk of harm or are being harmed. In other words, COVID-19 has not only increased risk, it has created barriers to identifying those needing assistance and to providing comprehensive services to survivors.²⁶ We need to make sure that we recognize the impact of COVID-19 in the area of human trafficking and that we start to account for that.

Let me close with the following thoughts. Public health offers us the tools to strengthen our response to human trafficking. Equally, if not more, important, public health strategies give us a better chance of preventing harm. If we can incorporate these public health tools, perspectives, and methodologies into our work on human trafficking, we can start to make more significant progress toward achieving a comprehensive, integrated response that prevents harm from occurring in the first place. Thank you.

26. *COVID-19 and Human Trafficking*, *supra* note 24.