

Migration and Human Trafficking: Tracing Root Causes & Seeking Intensional Solutions

Working Group Recommendations July 25-29, 2022

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■ Preamble ■

On July 25-29, 2022, participants from coast to coast and around the world attended the 2022 Human Trafficking Academy, *Migration and Human Trafficking: Tracing Root Causes & Seeking "Intensional" Solutions*, at St. Thomas University College of Law in Miami, Florida.

In 2022, unparalleled times left the world watching as a war of aggression was followed by the most devastating humanitarian crisis in the heart of Europe since WWI, with millions of Ukrainian refugees crossing international borders. In the United States, the CBP Southwest border enforcement numbers for July 2022 alone marked 162,792 unique encounters nationwide, bringing the total to over two million encounters since the beginning of the year. The 2022 Academy was designed to address these signs of the times – the implications of such movement of people as it intersects with human trafficking.

During the intensive week of 15 courses, the Academy examined the amassing refugee and migration crisis through exercises on law and policy, coupled with practical engagement in identifying and delving into the root causes of irregular migration, its intersections with human trafficking, past trends in decision, and their conditioning factors. The multidisciplinary participants consisted of a distinguished delegation of officers from U.S. Customs and Border Protection who serve and protect in the Human Trafficking Units of our airports and various Ports of Entry, a cohort of child protective investigators and other specialists at Florida Department of Children and Families who work on the frontlines of preventing the human trafficking of migrant children, various representatives from educational institutions in Africa and beyond, as well as other government officials, attorneys, academics, students, case managers, health care professionals, nonprofit organizations, faith-based institutions, and survivors of human trafficking. These participants' respective expertise and perspectives vastly added to the rich, high-level discussion, leaving all involved immersed with critical knowledge to address the issues in their respective fields and challenged as change agents to explore creative, intensional solutions.

The final Module of the Academy consisted of three distinct Working Groups aimed at developing *intensional* solutions to problems examined throughout the week. During these plenary sessions, Working Groups comprised of leading experts in the field discussed pressing challenges facing the U.S. such as the future of unaccompanied children, gaps in labor practices and respective protections, the role of worker-driven responsibility, and gaps in policies and services facing survivors of human trafficking. This document consists of the final recommendations resulting from the deliberations of these Working Groups.

Working Group: The Future of Unaccompanied Children

The first Working Group focused on the future of unaccompanied children. **Dr. Regina Bernadin**, Senior Technical Advisor, Protection and Anti-trafficking, International Rescue Committee, **Jennifer Podkul**, **Esq.**, Vice President Policy and Advocacy, Kids in Need of Defense, and **Dr. Vanessa Ramirez**, **Psy.D.**, Chief Program Officer, Kristi House Children's Advocacy Center, discussed the journey and experiences of unaccompanied children from their home country through their adjustment in the U.S., highlighting individual and system vulnerabilities for trafficking. While highlighting cultural and familial dynamics of unaccompanied children, the group's expertise provided participants with working knowledge on the legal status of unaccompanied children as well as the legal options and social services available for those who are trafficked. The Working Group concluded with a discussion of recommendations for creating a better future for unaccompanied children and decreasing vulnerabilities for trafficking.

I. Policy Changes Towards Increasing Protections against Human Trafficking for Unaccompanied Children

WORKING GROUP MEMBERS:

Dr. Regina Bernadin, Senior Technical Advisor, Protection and Anti-trafficking International Rescue Committee

Jennifer Podkul, Esq., Vice President Policy and Advocacy, Kids in Need of Defense

Dr. Vanessa Ramirez, Psy.D., Chief Program Officer, Kristi House Children's Advocacy Center

- 1. Legal Counsel: The U.S. government should ensure that all unaccompanied children in immigration proceedings have attorneys. Legal counsel is essential to ensuring due process for unaccompanied children. It is virtually impossible for children to navigate the U.S. immigration system alone. The U.S. government must support and take robust measures to maximize funding for children's counsel and postpone children's immigration court hearings until they obtain lawyers.
- 2. Post Release Social Services: The Office of Refugee Resettlement (ORR) should support congressional funding for and facilitate linguistically and culturally appropriate post release case management services to all unaccompanied children for at least 180 days following their release from ORR custody. Certain particularly vulnerable children should receive post-release services for the duration of their removal proceedings. Consistent with statute, unaccompanied children subject to mandatory home studies must continue to receive post-release services until they turn 18 or upon termination of their proceedings.

The post-release services that ORR facilitates should include, but not be limited to, are legal services referrals, medical, mental, and dental health services, assistance with school enrollment and positive educational and vocational training outcomes, assistance with community integration, parent education and support, and family counseling.

- **3.** Access to Quality Care: The United States should focus on creating standards of care that are trauma-informed, evidence-based, and culturally responsive. The funding should reflect a commitment and investment in quality care. Additionally, access to appropriate mental health and social services should not be limited due to immigration status and the funding for this supportive programming should be expanded. These services should also extend to not only the minor but their sponsor and other household members. By increasing access to these safety nets, factors that increase the risk of human trafficking are minimized.
- **4. Safe and Orderly Border Reception:** The U.S. government should adopt a fundamentally humanitarian approach at the U.S-Mexico border that recognizes unaccompanied children's need for protection and ensures their appropriate reception, screening, and care. This includes ending the Centers of Disease Control and Prevention's (CDC) order barring the entry of unaccompanied children and asylum seekers; adhering to all Trafficking Victims Protection Reauthorization Act requirements; enlisting humanitarian and child welfare experts at the border; and ending all measures that needlessly restrict children's access to humanitarian protection at the border.
- **5. End Family Separation:** The Department of Homeland Security (DHS) should immediately halt all parent-child and guardian-child separations. In the exceptional case where separation is deemed necessary due to child welfare concerns, a child welfare professional should be responsible for determining its necessity before separation occurs. The U.S. government should also provide an independent process for challenging such separations and for promptly reunifying families who had previously been separated by the government.
- **6. Prioritize Education about Gender-based Violence:** The United States government must develop a whole-of-government strategy to respond to and prevent gender-based violence and serve survivors at all levels of government. While gender-based violence (GBV) is one of the leading drivers of child migration, its prevalence and severity among migrant children is not well known by many U.S. government officials. Any strategy must include specific recommendations and actions for U.S. agencies and staff who work with unaccompanied children and child survivors of GBV, including guidelines and trainings for how to better serve their protection needs.

Working Group: Worker-Driven Responsibility -Addressing Gaps in Labor Protections

The next Working Group consisting of Gerardo Reyes Chavez, Staff Member and Farmworker, Coalition of Immokalee Workers (CIW), Ariadna Rico, Senior Human Rights Investigator and Auditor, Fair Food Standards Council; and Daniel Werner, Esq., Attorney, Radford & Keebaugh, LLC, Co-Founder, Workers' Rights Law Center of New York, and Founding Board Member, Freedom Network USA, focused on worker-driven responsibility and gaps in labor protections. Each Member described examples of strategies used in their own work and provided collective recommendations to mitigate labor exploitation in a changing nation. Drawing on 25 years of experience as an attorney advocating for workers and victims of egregious civil rights abuses, Werner discussed how to shape workers' rights litigation into a tool for organizing and change, and what pro-worker legislative solutions may be viable in the face of deep political divisions and misinformation. Chavez and Rico discussed the Fair Food Program's worker-driven social responsibility model that is widely recognized as the gold standard of social responsibility in U.S. agriculture, including its success in eliminating and preventing human trafficking and forced labor, sexual violence, systemic wage theft, and other human rights violations on participating farms.

II. Recommendations Towards Addressing Gaps in Labor Protections: Worker-Driven Responsibility

WORKING GROUP MEMBERS:

Gerardo Reyes Chavez, Staff Member and Farmworker, Coalition of Immokalee Workers

Ariadna Rico, Senior Human Rights Investigator and Auditor, Fair Food Standards Council

Daniel Werner, Esq., Attorney, Radford & Keebaugh, LLC; Co-Founder, Workers' Rights Law Center of New York Founding; and Board Member, Freedom Network USA

- 1. Training: Continue to develop curriculum and training for local and state law enforcement on how to identify labor trafficking cases in their communities and encourage multi-sectoral collaboration of law enforcement and NGOs in victim-centered investigations.
- **2. Resources:** Increase mental health counseling resources and access to legal services for trafficking victims and the creation of outreach materials in indigenous languages.
- **3. Fair Food Program—Growers:** Encourage participation in the Fair Food Program the gold standard of social responsibility by as many growers as possible, in order to eliminate and prevent human rights abuses in agriculture, including forced labor, sexual assault, wage theft and serious health and safety violations.
- **4. Fair Food Program–Retailers:** Encourage other large food retailers to join the Fair Food Program, thereby lending their market power to the protection of workers' human rights and protecting them against retaliation.

- **5. Supply Chains:** When human trafficking cases are discovered it is critical that the entire supply chain be disclosed so that organizations like the Coalition of Immokalee Workers, that provide consumer education and mobilization, can harness the highest levels of the market to make abuse less likely to occur in that channel again.
- **6. Expedite Immigration Authorizations:** Expedite T visa, U visa, and Continued Presence processing so that immigrant workers confronting severe labor exploitation are not hindered by threats of deportation.
- **7. Organized Labor:** Harness the power of organized labor to fight exploitation of non -unionized workers. Build alliances so unionized workers understand the existential threat that unchecked severe exploitation of non-unionized workers poses to all workers.
- **8. Government Procurement:** All government entities national, state, and local should incorporate purchasing preference for produce from Fair Food Program farms into their procurement policies.
- **9. Forced Arbitration:** Pass federal legislation to exclude human trafficking survivors' civil claims from forced arbitration.
- **10. Anti-retaliation Protections:** Support strong federal and state anti-retaliation protections for workers who organize and/or bring legal action to resist labor exploitation.
- 11. Voting: Support candidates at all levels of government who are committed to combatting the erosion of the rule of law, who are committed to a judiciary and government agencies that are not compromised by corporate interests, and who support the right of workers to organize and seek justice.

Working Group: Identifying Gaps in Policies and Services; Developing Intensional Solutions

As the last course of the Academy and to commemorate World Day Against Trafficking in Persons, an extraordinary event involving three former and current Council Chairs and a Member of the U.S. Advisory Council on Human Trafficking who collaborated from around the nation presented: Identifying Gaps in Policies and Services; Developing "Intensional" Solutions. The Working Group was spearheaded by some of the foremost survivor leaders in the world: the Honorable Harold D'Souza, President and Co-Founder, Eyes Open International, Co-Chair (2016-2017) and Member (2015-2020), U.S. Advisory Council on Human Trafficking, the Honorable Bella Hounakey, Member, U.S. Advisory Council on Human Trafficking, and Program Specialist, U.S. Department of Health and Human Services, the Honorable Robert R. Lung, District Court Judge, 18th Judicial Circuit of Colorado, and Chair (2020) and Member (2018-2020), U.S. Advisory Council on Human Trafficking, and the Honorable Suleman Masood, Council Chair, U.S. Advisory Council on Human Trafficking. The course examined the unique gaps in policies and service provision affecting migratory

populations who may face instances of sex and/or labor trafficking and provided strategies for meaningful engagement between migrant survivors of human trafficking and service practitioners, while identifying resilience factors to strengthen access to responsive service provision. The Working Group also identified the root causes of revictimization facing migrant survivors of human trafficking and how a community-based approach may instill protective factors for these underserved populations.

III. Recommendations on Identifying Gaps in Policy and Services: Developing Intensional Solutions

WORKING GROUP MEMBERS:

The Honorable Harold D'Souza, President and Co-Founder, Eyes Open International; and Co-Chair (2016-2017) and Member (2015-2020), U.S. Advisory Council on Human Trafficking

The Honorable Bella Hounakey, Member, U.S. Advisory Council on Human Trafficking; and Program Specialist, U.S. Department of Health and Human Services

The Honorable Robert R. Lung, District Court Judge, 18th Judicial Circuit of Colorado; and Chair (2020) and Member (2018-2020), U.S. Advisory Council on Human Trafficking

The Honorable Suleman Masood, Council Chair, U.S. Advisory Council on Human Trafficking

- 1. Background: Migratory communities represent some of the most underserved populations when it comes to both sexual and labor exploitation. Although migratory communities serve in our most essential workforces, our policies in service provision and support are not equipped to "meet them where they are at" and meet their basic needs. Basic needs may include but are not limited to housing, health care, family planning services, and even access to equitable educational services and programming. The purpose of these recommendations is to better support migratory families by employing a community-based approach. Recommendations include addressing vulnerabilities, policies, cultural and linguistic barriers, and inclusivity.
- 2. Addressing Vulnerabilities: During the 2022 Human Trafficking Academy presentation, this Working Group recognized being "vulnerable" (in the context of exploitation) as an adjective to describe those who may be at a higher risk of being targeted by traffickers looking to exploit victims for labor. Still, we would like to be clear about our belief that no group is inherently vulnerable. Instead, if a vulnerability exists, it exists because of a situation, setting, system, or society that produces that vulnerability. Without the people or systems that look to exploit, there would be no conversation of vulnerability, even if inherent differences were present. The vulnerability is produced through systemic injustice, racism, xenophobia, mental health, and intergenerational oppression which can impact safety and access to protective elements like legal rights, stable housing, and jobs that pay a living wage. No group would be vulnerable to labor trafficking without labor traffickers or systemic, legal, societal, and intergenerational influences that cause people to have increased needs. For example, an individual with a cognitive difference would not be victimized if there was not a perpetrator looking to exploit them. Similarly, being a non-English speaking Latino man does not create vulnerability.

We recommend that as St. Thomas University College of Law continues its work on human trafficking advocacy as a legal provider of services to survivors and stakeholders, there should be special consideration on the language and adjectives that are used in policy spaces as they eventually become theories and become policies which then impact the trajectory of a victim's life.

- **3. Policy Considerations for Migrant Survivors:** Working continuously to change the system to combat human trafficking is the key to save victims and to cultivate fear on perpetrators to be prosecuted. Engaging "survivors to thrive" and to share their experiences, builds confidence in victims and survivors to rise and shine. Many victims are silent for fear of stigma or justice. Second, it reduces the gap for law enforcement agencies to identify red flags, when survivors share their expertise. Education is the step to freedom. Awareness is the key to happiness. Teamwork makes the dream work. This model was cultivated by St. Thomas University. The same should be showcased and practiced across the globe in schools, universities, law enforcement agencies, NGO's, faith-based organizations, and community members. Consistency, continuity, change, creativity, compassion, courage, and community are the seven Cs to combat human trafficking St. Thomas University is practicing these principles. St. Thomas University should have a tab on their university website on problems, resources, and solutions on human trafficking and to highlight the National Human Trafficking Hotline Number: 1-888-373-7888.
- 4. Cultural and Linguistic Barriers: One of the most difficult moments in a migrant's life is adjusting to the new culture and language that surrounds them. Despite the cultural burden placed on a migrant's life to work hard and send money back home because they were the "lucky" ones to make it out of their home country to pursue the "American Dream," the entire adjustment to the American work life can be one of the more traumatic experiences a migrant may experience while fulfilling their cultural and societal expectations to provide for their loved ones. When these vulnerabilities are exposed out in the open, it becomes much easier for an employer to take advantage of their migrant workers. The lack of signage notifying employees of their rights mixed with the constant brainwashing that law enforcement is the enemy whose sole purpose is to deport those who do not share the same citizenship as them only increases the distance between a migrant worker receiving the help that they desperately need from the services who are trying to "meet them where they are at."

To truly be effective, anti-trafficking organizations must establish meaningful partnerships with community organizations based on the type of exploitation and demographic population who are most affected by trafficking. By tailoring partnerships based on which populations in the community are being affected, service providers are able to take a proactive approach to prevent instances of human trafficking within their respective communities. For example, creating worker rights campaigns for migrants who may or may not be able to articulate their victimization may greatly assist migrants in "buying" into the services provided and may help generate advocacy for better treatment or accountability within their place of employment.

Second, establishing workforce programs aimed at targeting migrant populations where trainings/seminars on management may greatly assist migrant populations in better understanding what a healthy work environment looks like, which may lead to increased reporting.

Finally, addressing the "machismo" burden placed on migrant workers to endure their trauma in exchange for low wages should be addressed to avoid further normalization. For males specifically, sharing feelings of shame and fear should instead be supported and heard by service providers so that equitable solutions may be in place in how the individual can be further supported. Service providers who take the extra steps necessary to ensure migrant families feel supported may in-turn directly influence how our country's workforce as a whole can be improved and set up for healthy longevity.

- 5. Inclusivity: Stay in your lane, be aware of your blindspot, and be aware of alternative paths. Anti-trafficking organizations and supportive non-profit or faith-based organizations should "stay in their lane," but not ignore the other lanes. An organization that specializes in services to sex trafficking survivors should not perceive that labor trafficking victims will have the same needs, and should refer survivors with whom they have no experience to another organization with experience or consult with an expert. Similarly, a faith-based organization may not be well-equipped to provide direct services to a victim or survivor, but could build a referral directory for such services or consult with experts on those needs. It simply cannot be overstated - consulting with individuals with lived experience is critical at every stage of an organization's efforts to combat human trafficking. Aside from being survivor-informed, consulting with an advocate/expert with lived experience provides the expert with a consultant experience and potentially enables survivors to support and educate survivors. Additionally, if an organization chooses to limit the individuals they serve, for instance, based on gender or sexual orientation, this choice should be respected, however, that organization should at least have the ability to refer the victim or survivor to organizations that may provide services to those particular individuals. Lastly, it is critically important that organizations have a broad and flexible definition of a trafficking victim that experienced migration during the victimization. In a recent seminar at St. Thomas University, two of the four survivor contributors were citizens of the U.S. prior to their trafficking experiences and one of these two contributors was trafficked from in the U.S. to outside of the U.S. A limited and inflexible definition of human trafficking would result in missing potential victims or misperceiving their service needs.
- **6. Caretakers Take Care:** It is critical that employees, support staff, and even executive level members of an organization be trauma-informed and victim-centered to ensure they are able to provide the best services for their clients. However, it is equally critical that employees, support staff, and executive level members of an organization practice self-care. It is not enough that an organization provides resources and pathways to resiliency for survivors, the organization itself must ensure its employees, staff, and executives are also practicing self-care and maintaining their own support systems internally. An organization that does not practice what it preaches will inevitably experience a high turnover rate of employees from burnout, which, in the end, will require training and retraining of those individuals and potentially be fatal to the organization itself in the long term.
- 7. Conclusion: Working continuously to change the system to combat human trafficking is the key to save victims and to cultivate fear on perpetrators to be prosecuted. Engaging "survivors to thrive" and share their experiences builds confidence in victims and survivors to rise and shine. Many victims are silent for fear of stigma or justice. Second, it reduces the gap for law enforcement agencies to identify red flags.

► THE JOHN J. BRUNETTI HUMAN TRAFFICKING ACADEMY

Mission Statement

The John J. Brunetti Human Trafficking Academy upholds and advances the inherent *value*, *worth* and *dignity* of each *human being*. To this end, it develops education programs, conducts research, and instructs law and policy to fight human trafficking throughout the world and to empower survivor leadership in our global community.

■ The Academy ■

The Academy offers specialized training and technical assistance to countries, government entities, academic institutions, the private sector, faith-based organizations, and the community at large on issues related to the crime of trafficking in persons. To date, the Academy has impacted over 16,000 leaders and community members domestically and abroad. As part of St. Thomas University College of Law's LL.M./ J.S.D. Program in Intercultural Human Rights, the Academy addresses human trafficking from the perspective of human rights law, and the integral human development of every person and the whole person.

St. Thomas University College of Law through its LL.M./J.S.D. Program in Intercultural Human Rights is the first academic institution in South Florida to shed light on the magnitude and scope of human trafficking. It is also one of the pioneer institutions in the field of human trafficking nationwide, and the first law school to offer a doctrinal course on human trafficking law in its J.D. curriculum.

Since 2004, the Program has hosted numerous symposia, seminars and roundtables locally and internationally. In 2010, international scholar and expert, Prof. Dr. Roza Pati, formally founded the Academy with the support of a grant of the U.S. Department of Justice, Bureau of Justice Assistance. In 2017, the late John J. Brunetti, a successful businessman and philanthropist, donated a generous gift to the Academy enabling its continued work as a premier institution for training and education on human trafficking, and the Academy now proudly bears his name. Today, the Academy continues its legacy as a cutting-edge leader in the field and remains a champion in the fight against modern day slavery. For more information visit: www.humantraffickingacademy.org.

Facilitators

Prof. Dr. Roza Pati

Founder & Director, The John J. Brunetti Human Trafficking Academy Professor of Law & Executive Director, Graduate Program Intercultural Human Rights St. Thomas University College of Law 305.474.2447 | rpati@stu.edu

Liza E. Smoker, Esq.

Managing Director, The John J. Brunetti Human Trafficking Academy St. Thomas University College of Law 305.623.2320 | lsmoker@stu.edu

► MASTER OF LAWS (LL.M.) PROGRAM IN INTERCULTURAL HUMAN RIGHTS

Mission Statement

The LL.M. Program in Intercultural Human Rights aims at providing students with top-level knowledge and expertise in the conception, prescription and application of human rights law from an intercultural perspective, and preparing them for their effective participation in the quest for a world order of peace, justice and respect for human dignity.

■ The Program ■

This innovative program is designed to offer in-depth instruction and practical application on the critical issue of our time: the protection of human dignity across political, social, economic and cultural lines. Lawyers, government officials, teachers, human rights activists, businessmen and women with a commitment to human rights and social justice are invited to St. Thomas University College of Law in Miami to pursue an advanced degree in one of the most dynamic fields of international law: intercultural human rights.

The excellence of instruction emanating from world-renowned faculty from the United Nations and eminent centers of scholarship create a highly stimulating learning environment and promise the most challenging academic experience of your career. Students develop the ability to evaluate the major theories, practices and fundamental concepts in international human rights law and policy, as well as to conduct effective research and advocacy in the field of human rights in a practical and interactive way.

The LL.M. degree is earned in one year upon completion of 24 academic credits. The program offers more than 20 mostly one-week compact courses in intercultural human rights. Human rights law and complaint procedures, international law, humanitarian law, human rights and terrorism will all be addressed as well as issues of refugees, women and children, indigenous peoples, religion, criminal law and international trade. Our courses exploring theoretical issues and practical applications guarantee that the program continues to excel since its inception in 2001.

Eligibility

Enrollment for the LL.M. degree is open to holders of a J.D. degree or similar foreign qualifications in the field of law.

On a highly selective basis, admission may also be granted to holders of a bachelor's degree or its foreign equivalent, who have shown an outstanding commitment to the cause of human rights and human dignity. Non-lawyers participating in this program are advised that the program does not prepare or qualify its students to engage in the practice of law and that the program is not intended to qualify students to take a bar examination.

Students may apply for full time or part-time status.

▶ DOCTOR OF THE SCIENCE OF LAW (J.S.D.) IN INTERCULTURAL HUMAN RIGHTS

Mission Statement

The J.S.D. Program in Intercultural Human Rights aims at providing a premier opportunity for budding human rights scholars to make a lasting contribution to the dynamic and action-oriented field of human rights through researching, analyzing and offering solutions to pertinent cutting-edge issues both globally and domestically.

■ The Program ■

As any thesis-based doctoral degree, the J.S.D. in Intercultural Human Rights is the capstone academic achievement indicating ultimate academic specialization and original contribution in the chosen field. Its emphasis is on the imparting, analysis, elaboration and dissemination of knowledge about human rights in the world social process, and the development of recommended solutions to societal problems through interdisciplinary, problem- and policy-oriented research. Intercultural dialogue facilitates this research; it is enhanced by the diversity conspicuous not only in the student body, but also the program faculty as established in the residential LL.M. Intercultural Human Rights Program.

The J.S.D. degree in Intercultural Human Rights is conferred upon successful completion of a dissertation, the passing of an oral defense examination, i.e. the *rigorosum*, and proof of publication of the dissertation.

Eligibility

Students must have graduated *with honors* from St. Thomas University's LL.M. Program in Intercultural Human Rights. In extremely rare cases, outstanding scholars from other institutions who hold an LL.M. degree in the field may be admitted as well, with the condition that they satisfy one year residency during which they take courses in human rights law.

Candidates for the J.S.D. program need to prove to the College of Law's J.S.D. Admissions Committee that they are outstanding scholars at or near the top of their class who are capable of producing a publishable thesis that adds to the knowledge in the field, and who are capable of doing so within the time frame of the J.S.D. program.

More information at: www.stu.edu/humanrights.

"The 2022 Human Trafficking Academy was a tour de force for the transformation of a reality that prejudices the least among us, in order to reach to the understanding that 'no one is expendable' and that the 'differences coexist, complementing, enriching, and reciprocally illuminating one another;' while being fully conscious that 'justice needs to be built up with patience, sacrifice, and determination,' as Pope Francis highlights. The recommendations of the working groups go to the heart of the efforts in seeking intensional solutions to fill in the gaps in three elemental areas of the intersection of migration and human trafficking: the unaccompanied minors, labor protections, overall policies and services. St. Thomas College of Law is grateful to the working groups, to all our speakers and the participants in this Academy for their genuine commitment to the betterment of a single human family, and for being bearers of hope."

- Prof. Dr. Roza Pati, Founding Director The John J. Brunetti Human Trafficking Academy

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