

# Compensation for Victims of Human Trafficking

22 July 2021

ASEAN-Australia Counter Trafficking



Photo by Eun Creative



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When survivors have lawyers,  
survivors have rights



**“I feel like the  
powerful people  
are on my side now.”**

Trafficking Survivor  
referred by HT Pro Bono

# Our Model





# International Standards

# The Palermo Protocol

## Requirements on States:

Art. 6: Compensation – Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.



# Criminal Prosecutions and Restitution

# U.S. Criminal vs. Civil Law

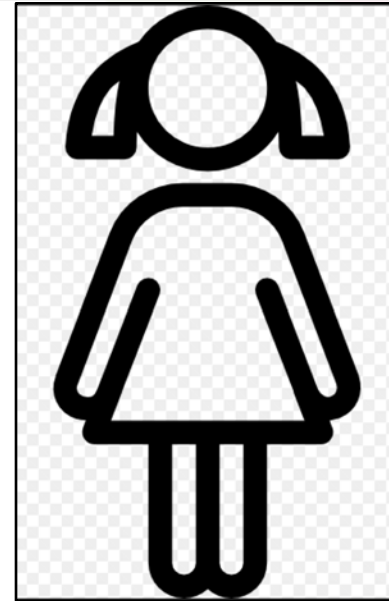


- Criminal restitution



- Civil damages

# 18 U.S.C. § 1591: Sex Trafficking of Children or by Force, Fraud, or Coercion



Adults: The use of force, fraud, or coercion to “cause the person to engage in a commercial sex act.”

Children: If the victim is under 18, federal law does not require “force, fraud, or coercion.”



# 18 U.S.C. § 1589: Forced Labor



PHOTOS: GETTY IMAGES AND URBAN INSTITUTE

# General Elements of Human Trafficking (18 U.S.C. § 1590)

## ACTION

Recruit  
OR  
Harbor  
OR  
Transport  
OR  
Provide  
OR  
Obtain

## MEANS\*

BY  
Force  
OR  
Fraud  
OR  
Coercion

## PURPOSE

FOR  
Involuntary  
Servitude  
OR  
Debt Bondage  
OR  
Slavery  
OR  
Forced Labor  
OR  
Commercial Sex  
Acts



\*Under Palermo, force, fraud, or coercion not required for a child under 18 in the commercial sex industry.

# 18 U.S.C. § 1593: Mandatory Restitution “full amount of the victim’s losses”

**Past Losses**



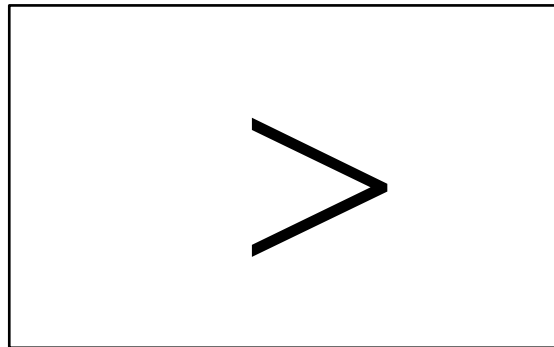
**Future Losses**

# Mandatory Restitution: Out of Pocket

- ▣ Medical services (including psychological care);
- ▣ Physical rehabilitation;
- ▣ Transportation, housing, and childcare;
- ▣ Lost income;
- ▣ Attorneys' fees; and
- ▣ "any other losses suffered . . . as a proximate result of the offense."

# Mandatory Restitution: Earnings

1. Fair Labor Standards Act
2. Defendant's earnings





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## Four accused of aiding slave-labor ring on Ohio egg farms

### Trillium Farms



By [Holly Zachariah](#)

*The Columbus Dispatch* • Thursday July 2, 2015 8:06 PM

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A federal indictment unsealed today accuses four people of running or aiding a slave-labor ring that smuggled Guatemalan teenagers as





Castillo-Serrano: 15 years



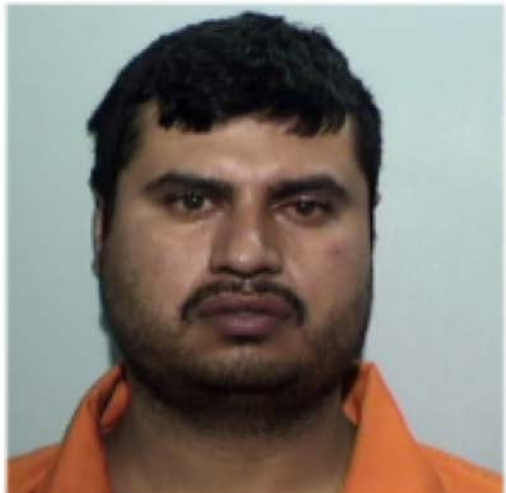
Pedro Juan: 10 years



Dominguez: 12 mths



Salgado Soto: 51 mths



Salgado-Borbon: 6 mths



Duran: 15 mths

**Restitution: \$67,230**



# U.S. v. Huang

SECTIONS | 🔍



★ StarTribune

EAST METRO

## Woodbury woman admits to abusing, forcing Chinese nanny into labor

Victim suffered broken bones, malnourishment.

By Stephen Montemayor Star Tribune | MAY 31, 2017 — 9:34PM



Lili Huang, charged with assault and imprisonment of Woodbury nanny.

A Woodbury woman arrested last year after her Chinese nanny was found beaten and malnourished agreed Wednesday to plead guilty to both federal and state charges that include elements of forced labor and assault.

Lili Huang's plea canceled a federal trial scheduled for next week in Minneapolis. As part of the agreement, federal prosecutors said that they agreed to request a one-year sentence to be followed by deportation to China.

Huang, 36, admitted to withholding a passport "in furtherance of [the] forced labor" of a nanny she brought from Shanghai to work for her last year. Speaking through an interpreter, Huang told U.S. Senior District Judge David Dotv that she had confiscated the 58-

▣ Sentenced to 12 mths & 1 day, followed by immediate removal

▣ Final restitution award: \$123,289.53



# U.S. v. Kizzy Kalu

- Trafficked nurses into the U.S. using a fake “university” to obtain H-1B visas;
- Demanded that nurses pay \$800 - \$1200 per month or face deportation;
- Threatened nurses with a \$25,000 fine for absconding;
- Sentenced to 10 years and 8 months in prison;
- Ordered to pay \$3.7 million in restitution.

# Mandatory Restitution Orders?

United States Federal Courts'  
Continuing Failure to Order  
Mandatory Criminal  
Restitution for Human  
Trafficking Victims

27%



WILMERHALE 

WILMER CUTLER PICKERING HALE AND DORR LLP

# U.S. v. Shackelford, No. 3:11-cr-9 (W.D.N.C.)

## Woman 'kept starving illegal immigrant, 17, as slave who cleaned yards at trailer park'

By **DAILY MAIL REPORTER**

UPDATED: 11:05 EST, 25 January 2011

- 25 years in prison
- \$500,000 fine
- No restitution



# Mandatory Restitution Orders?





# Restitution Collection

Fiscal Year	# of Dfts who have paid	Restitution Collected	Restitution Ordered
2015	7 out of 32	\$987.00 (0.025%)	\$3,945,949.27
2016	24 out of 76	\$190,107.02 (1.77%)	\$10,771,433.97
2017	9 out of 60	\$155,174.33 (2.12%)	\$7,324,557.88
2018	30 out of 62	\$552,220.94 (9.49%)	\$5,819,701.51

# Forfeited Assets: United States v. Medeles-Arguello

U.S. Attorneys » Southern District of Texas » News

**Department of Justice**

U.S. Attorney's Office

Southern District of Texas

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FOR IMMEDIATE RELEASE

Wednesday, January 20, 2016

## **Sex Trafficking Ring Leader Gets Life in Federal Prison**

HOUSTON – The 68-year-old woman behind a 14-defendant sex trafficking ring operating in Houston has been ordered to federal prison for life, announced U.S. Attorney Kenneth Magidson along with FBI Special Agent in Charge Perrye K. Turner, Special Agent in Charge Brian Moskowitz of Immigration and Customs Enforcement – Homeland Security Investigations (ICE-HSI), and Special Agent in Charge Richard Goss of IRS-Criminal Investigation (CI).



# U.S. Federal Criminal Trafficking Cases

FY	2016	2017	2018	2019	2020
Sex	228	266	213	208	195
Labor	13	16	17	12	15
Total	241	282	230	220	210



Source: Department of State Trafficking in Persons Report, 2017-2021



# Global Law Enforcement Data

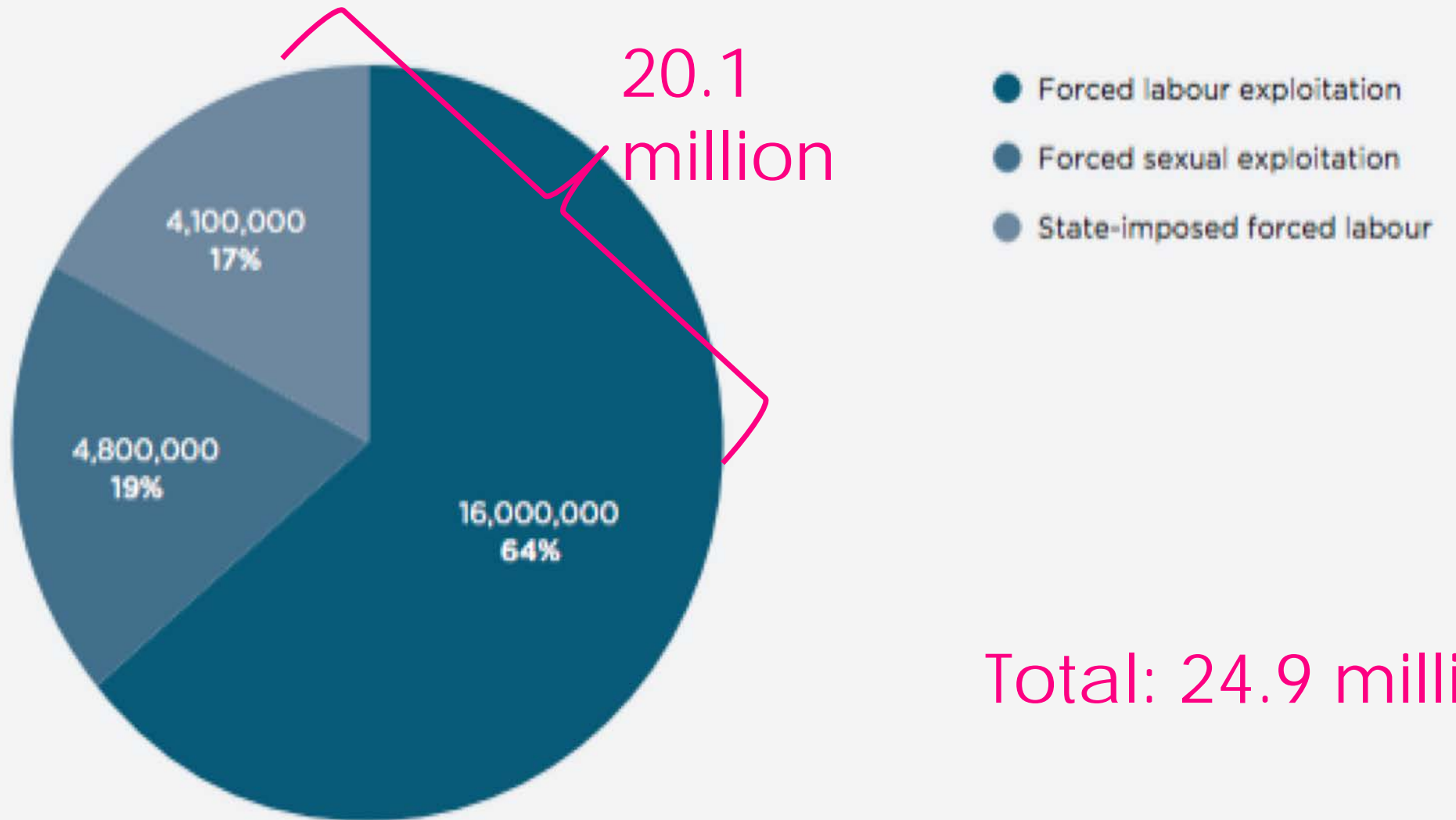
YEAR	PROSECUTIONS	CONVICTIONS	VICTIMS IDENTIFIED
2014	10,051 (418)	4,443 (216)	44,462 (11,438)
2015	19,127 (857)	6,615 (456)	77,823 (14,262)
2016	14,939 (1,038)	9,072 (717)	68,453 (17,465)
2017	17,471 (869)	7,135 (332)	96,960 (23,906)
2018	11,096 (457)	7,481 (259)	85,613 (11,009)
2019	11,841 (1,024)	9,548 (498)	118,932 (13,875)
2020	9,876 (1,115)	5,271 (337)	109,216 (14,448)



Source: Department of State Trafficking in Persons Report, 2020

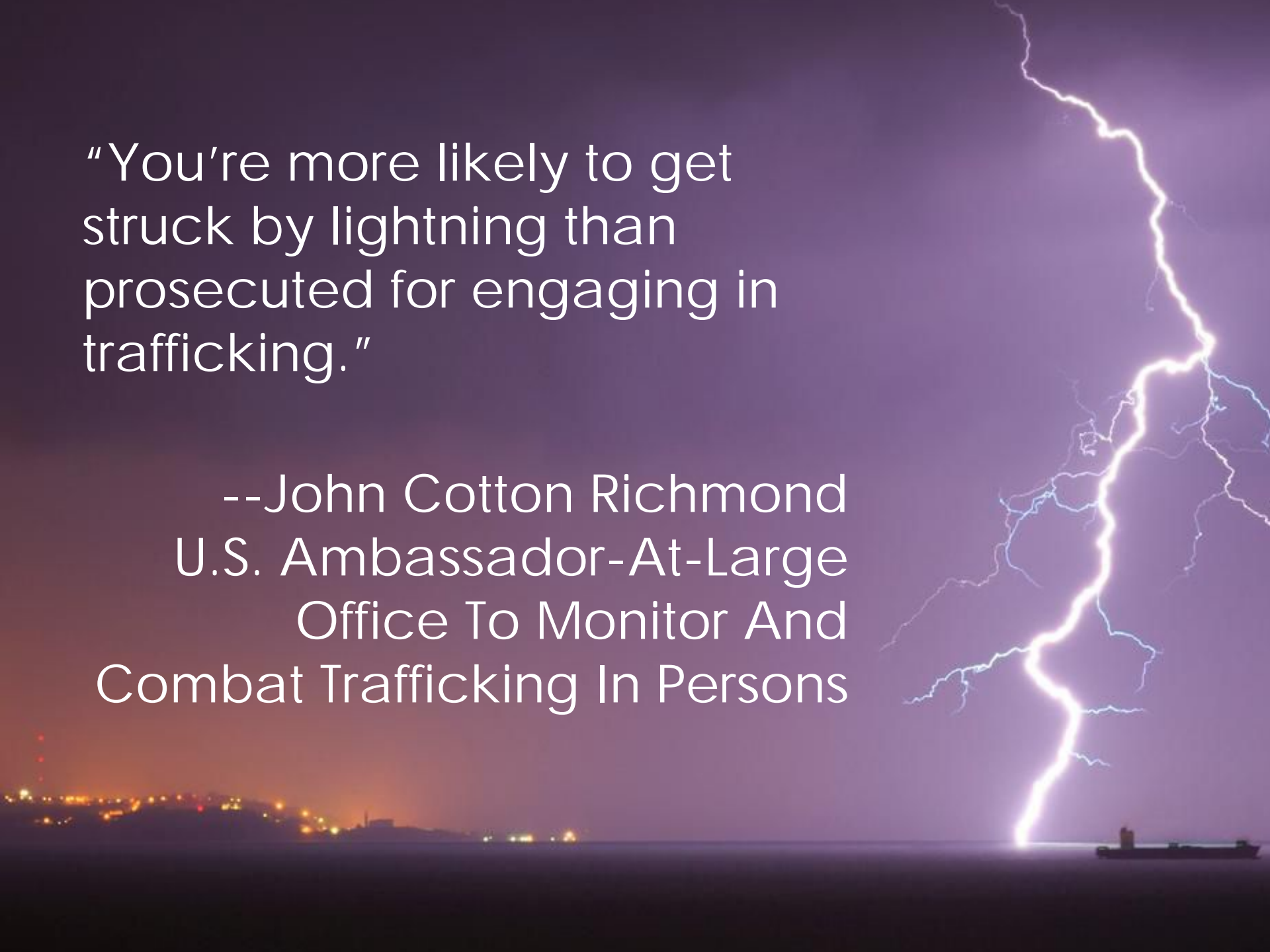
## Forced labour

Number and percentage distribution of victims of forced labour, by sub-category



"You're more likely to get struck by lightning than prosecuted for engaging in trafficking."

--John Cotton Richmond  
U.S. Ambassador-At-Large  
Office To Monitor And  
Combat Trafficking In Persons





# Civil Litigation

# Federal Civil Trafficking Litigation

Between 2003 and 2021,  
plaintiffs filed

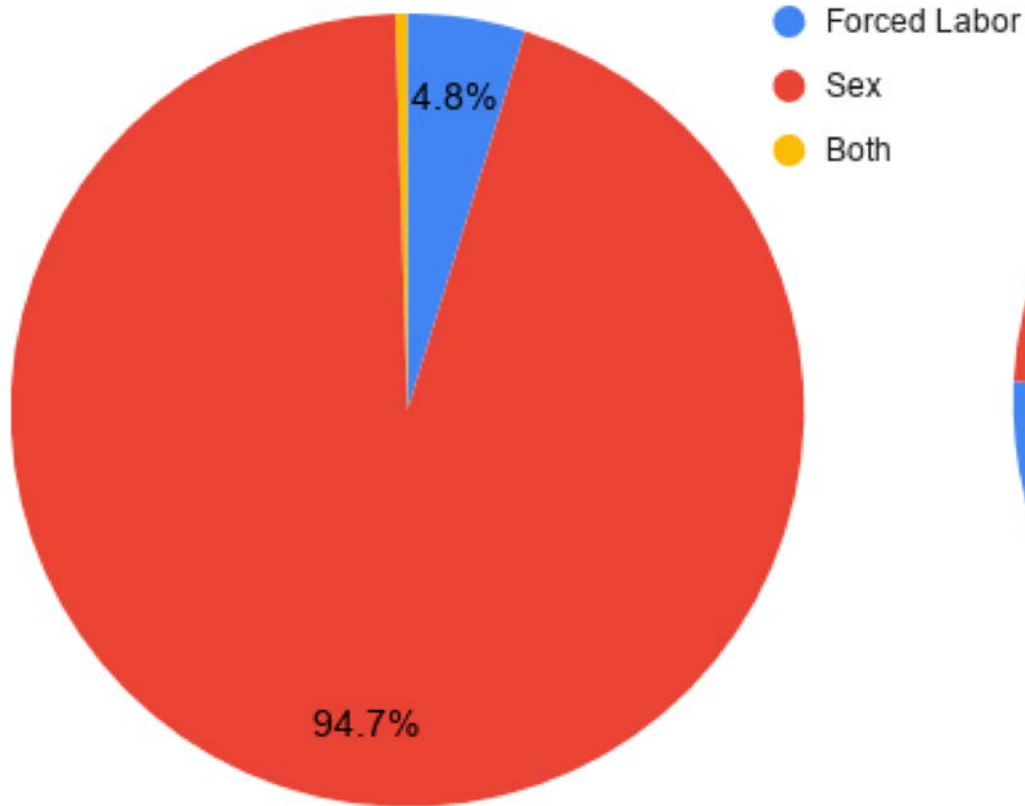
493 lawsuits

under the civil provision of the  
Trafficking Victims Protection  
Act.

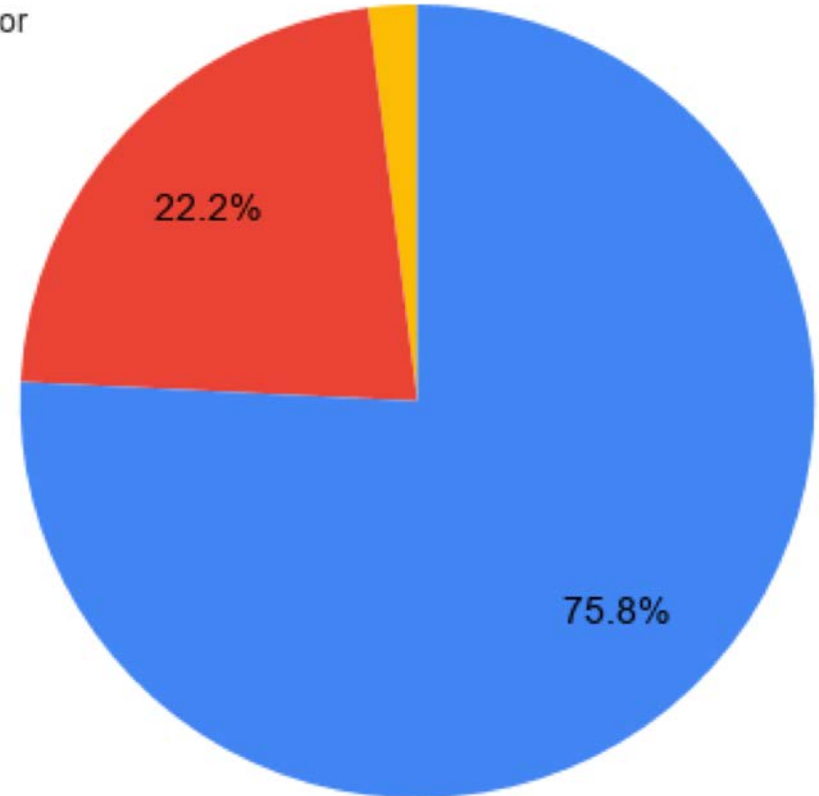


# U.S. Criminal vs Civil Cases

Trafficking Criminal Cases



Trafficking Civil Cases



Source: The Human Trafficking Legal Center 2021

# Civil Trafficking Case Outcomes

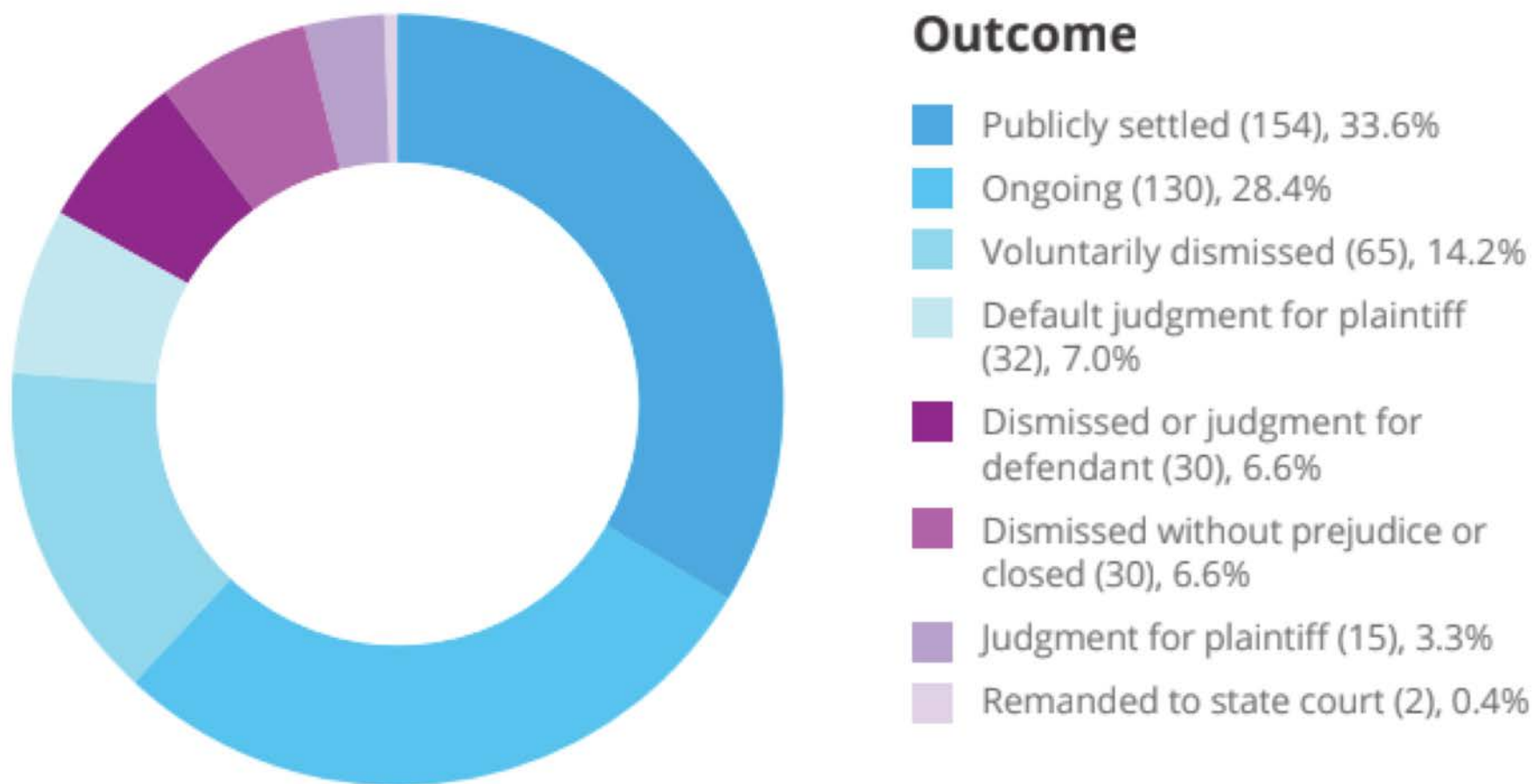


Figure 4: Cases by Outcome (2003-2020) (Total = 458)





 **BLUE CAMPAIGN**  
One Voice. One Mission. End Human Trafficking.



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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**ZIPORA MAZENGO,**

**Plaintiff,**

**v.**

**ALAN S. MZENGI, *et al.*,**

**Defendants.**

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**Civil Action No. 07-756 (RMC)**

**FURTHER ORDERED and ADJUDGED** that judgment is entered against Alan

and Stella Mzengi, jointly and severally, in the amount of \$1,059,348.79, which is allocated in the following manner:

\$510,249.21 in treble damages under the Maryland Wage and Hour Law;  
\$45,101.69 in compensatory damages for unjust enrichment;  
\$19,961.64 in compensatory damages for fraudulent inducement;  
\$250,000.00 in compensatory damages for emotional distress;  
\$150,000.00 in punitive damages; and  
\$84,036.25 in attorney's fees.

**SO ORDERED.**

# David v. Signal International



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## NEWS



**\$20 million settlement agreement reached in labor trafficking cases coordinated by SPLC on behalf of exploited Indian guest workers**



# Federal Civil Trafficking Damages

Between 2003 and 2020,  
courts have awarded at least  
\$255,298,933.50  
in damages as judgments or  
public settlements—not  
including confidential  
settlements.



## About The Human Trafficking Legal Center

The Human Trafficking Legal Center is a not-for-profit, national legal clearinghouse for survivors of human trafficking. HT Legal creates a bridge between trafficking survivors and highly-skilled pro bono legal representation. Standing with trafficking survivors, HT Legal partners with pro bono law firms nationwide to hold traffickers accountable for their crimes. Pro bono litigators trained by HT Legal win compensation for survivors. With these recoveries, trafficking survivors can reclaim their lives. Since 2012, HT Legal has trained more than 3,200 pro bono attorneys and placed more than 250 trafficking-related matters at top law firms.



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