The ability to pursue civil remedies against trafficking perpetrators is an important and practical aspect of justice, providing survivors with the means to seek services and rebuild their lives. Civil remedies can serve as a valuable tool for trafficking survivors as the statutes surrounding victim’s compensation and restitution are often limited and fail to provide comprehensive relief. Restitution is tied to the successful prosecution of a trafficker and may rely on judicial discretion even when restitution is supposed to be mandatory. Crime victims’ compensation can also be tied to criminal proceedings by requiring victims to cooperate with law enforcement and report the crime in a timely manner, creating barriers that are particularly difficult to surmount for trafficking survivors. Awards under both restitution and crime victims’ compensation are typically limited to actual economic loss as a result of one’s victimization. Under the Trafficking Victims Protection Act (TVPA) (2003) and its 2008 Reauthorization, however, survivors were given the federal cause of action to recover actual damages, punitive damages, and reasonable attorney’s fees. The Uniform Law Commission published the Uniform Act on the Prevention of and Remedies for Human Trafficking (Uniform Act) in 2013 to encourage states to craft specific civil remedy statutes within their legislation for trafficking survivors. Federal actions of this nature allow survivors to regain ownership over their lives and provide avenues to hold traffickers accountable for their actions.

A civil cause of action allows victims to recover not only calculated economic losses but also compensation for emotional distress and punitive damages. Civil actions require a lower standard of proof to be successful compared to criminal prosecutions and can be brought against a variety of actors, including buyers, traffickers, and facilitators. Civil actions can, therefore, be utilized when prosecutors are unable or unwilling to bring charges against exploiters. In addition to providing another route for monetary compensation, civil cause of action is controlled by the survivor, providing the survivor with the autonomy to recover the profits of his or her victimization from the trafficker. Reclaiming one’s power in asserting their rights can be a powerful step toward healing. To promote the economic, social, and emotional recovery of child sex trafficking survivors, states should follow the standard set forth in the TVPA and provide a trafficking-specific civil cause of action that supports full restoration for damages suffered.
DRAFTING CONSIDERATIONS:

► Provide for a trafficking-specific civil remedy against all trafficking offenders.

RELATED ISSUES:

4.2 Ineligibility factors for crime victims’ compensation do not prevent victims of child sex trafficking or commercial sexual exploitation of children (CSEC) from accessing compensation.

4.4 State law mandates restitution for child sex trafficking and commercial sexual exploitation of children (CSEC) offenses.

4.6 Statutes of limitation for criminal and civil actions for child sex trafficking or commercial sexual exploitation of children (CSEC) offenses are eliminated to allow prosecutors and victims a realistic opportunity to pursue criminal action and legal remedies.

SUPPORTING RESOURCES:

► Protected Innocence Challenge Framework Brief (Section 5)