

# HUMAN TRAFFICKING: Modern Enslavement of Immigrant Women in the United States

## What is human trafficking?

Human trafficking is a modern form of slavery. It is an extreme form of labor exploitation where women, men and children are recruited or obtained and then forced to labor against their will through force, fraud or coercion. Trafficking victims are often lured by false promises of decent jobs and better lives. The inequalities women face in status and opportunity worldwide make women particularly vulnerable to trafficking.

Federal law defines “severe forms of trafficking in persons” as 1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such an act is under 18; or 2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjecting that person to involuntary servitude, forced labor, peonage, debt bondage, or slavery.<sup>1</sup>

While some trafficking victims are forced to work in the sex trade, many others are forced to perform other types of labor, such as domestic servitude, factory work or agricultural work. Trafficking victims commonly experience physical and psychological abuse, including beatings, sexual abuse, food and sleep deprivation, threats to themselves and their family members, and isolation from the outside world.

Trafficking victims can be foreign nationals and they can also be native U.S. citizens trafficked within U.S. borders.

- The U.S. Department of State estimates that 14,500 to 17,500 people are trafficked into the United States each year.

## What are involuntary servitude, forced labor, peonage and debt bondage?

A trafficked victim may be subjected to various conditions of modern day slavery such as forced labor, involuntary servitude, debt bondage or peonage.

Under U.S. law, a person is placed in conditions of forced labor if they are forced to work against their will through actual or implied threats of serious harm, physical restraint or abuse of the law.<sup>2</sup> If the person is forced to work through physical force or threats of physical force, they are victims of involuntary servitude.<sup>3</sup> A person is subjected to peonage if that person is compelled by force, threat of force or abuse of the law to work against their will in order to pay off a debt.<sup>4</sup> If the value of a person’s work is never reasonably applied towards payment of the debt, the person has been subjected to debt bondage.<sup>5</sup>

The term “forced labor” is also often used to describe all of these forms of modern day slavery.<sup>6</sup>

## How many people are victims of forced labor and trafficking?

The hidden nature of forced labor and trafficking makes it extremely difficult to calculate the actual numbers of victims, but some estimates do exist.

The International Labor Organization (ILO) estimates that at least 12.3 million people are victims of forced labor at any given time, 2.4 million of whom toil in forced labor as a result of trafficking.<sup>7</sup> The U.S. Department of State estimates that 14,500 to 17,500 people are trafficked into the United States each year.<sup>8</sup> However, these numbers do not include the many individuals trafficked within U.S. borders.

The Human Rights Center at the University of California, Berkeley estimates that at least ten thousand people are working as forced laborers at any one time in the United States.<sup>9</sup>

## Who are the victims of human trafficking?

Worldwide, women and children suffer disproportionately from trafficking. Poverty, gender discrimination, illiteracy and low levels of education, regional conflicts, and a lack of job opportunities affect women in great numbers.

Such conditions pressure women to migrate and make them particularly vulnerable to trafficking – that is, to unscrupulous recruiters or employers who, through force, fraud, or coercion, place women in job situations to which they did not consent and from which they cannot freely escape. Accordingly, an estimated 80 percent of trafficking victims worldwide are women and children.<sup>10</sup>

In the United States, victims of trafficking are almost exclusively immigrants, and mostly immigrant women.<sup>11</sup> The average age of trafficking victims in the U.S. is 20.<sup>12</sup> In the U.S., immigrant women and children are particularly vulnerable to the deceptive and coercive tactics of traffickers because of their lower levels of education, inability to speak English, immigration status, and lack of familiarity with U.S. employment protections. Further, they are vulnerable because they often work in jobs that are hidden from the public view and unregulated by the government.

## What are typical characteristics of trafficking?

Traffickers, usually a recruiter or the actual employer, will compel their victims to accept a job through various forms of deception, coercion or physical force. Traffickers deprive their victims of the ability to consent and use physical force or psychological, legal or economic coercion to trap their victims in forced labor situations from which they cannot freely escape.

In extreme situations, victims may be forced into an employment relationship because they were sold by a family member or physically abducted or kidnapped by traffickers. More commonly, traffickers lure their victims into employment relationships by making false promises about the nature and conditions of their future jobs. For example, a trafficker may promise a woman a job in the U.S. as a nanny earning minimum wage, but when she arrives she is instead forced to work in a sweatshop where her wages are withheld, she is forced to work eighteen hours a day and she is not allowed to leave the premises.

## How do traffickers coerce and exploit their victims?

Traffickers use various physical and psychological tactics to coerce an individual to labor against her will.

*Physical Abuse:* Trafficked victims are often beaten and brutalized, raped and sexually abused.<sup>13</sup> Victims also frequently are deprived of adequate food, shelter and sleep.

*Psychological Abuse:* Traffickers commonly subject their victims to psychological abuse through threats, deprivation and isolation. Traffickers may threaten to kill or harm victims or their family members if they do not do as they are told. Very often traffickers deprive victims of freedom of movement by isolating them in the workplace and cutting off their contact with the outside world. Traffickers may subject their victims to patterns of abuse intended to cause fear and disorientation. For example, traffickers often employ severe verbal abuse and insults, intended to exacerbate feelings of isolation, shame, and betrayal that victims experience.<sup>14</sup>

*Abuse of Legal Process:* Traffickers sometimes use legal mechanisms to enforce their control over victims. For example, traffickers may deprive victims of their passports or identification documents or threaten victims with arrest or deportation if the victims do not continue to labor for the traffickers.

#### **In what industries do forced labor and trafficking victims work?**

Forced labor and trafficking is an endemic problem in those industries that lack government regulation or oversight and where, as a result, employers often fail to comply with U.S. labor laws.

As the “informal economy” grows in the U.S. – that is, remunerative work that is not recognized, regulated or protected by existing laws or regulations – so do the occurrences of forced labor or trafficking. Forced labor and trafficking in the United States are most prevalent in domestic service, agriculture, sweatshop and factory work, restaurant and hotel work and in the sex industry. The majority of trafficking cases in the U.S. have been reported in New York, California, and Florida, states with high concentrations of immigrants.<sup>15</sup>

## **What drives the trafficking industry?**

**Trafficking of humans is driven by a global demand for cheap, unskilled, exploitable labor. Global profits from forced labor total an estimated \$44.3 billion annually. Human trafficking is now the second largest criminal industry worldwide, after drug trafficking, and the fastest growing criminal industry.**<sup>16</sup>

**A number of factors contribute to the supply of trafficking victims. According to the U.S. Department of State, these include:**

- Poverty
- The attraction of perceived higher standards of living elsewhere
- Lack of employment opportunities in the immediate area
- Organized crime
- Violence against women and children
- Discrimination against women
- Government corruption, political instability, and armed conflict.<sup>17</sup>

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## **What conditions allow trafficking to persist in the United States?**

Despite legislation that punishes traffickers and provides services and assistance to victims,<sup>18</sup> human trafficking continues to exist in the United States. Legal reform and enforcement of existing labor and employment protections would bolster current efforts to address trafficking:

*Increased Enforcement of Existing Protections of Workers:* Many workers in communities vulnerable to trafficking are actually protected by federal and state labor and employment laws setting minimum wages, requiring safety measures, prohibiting discrimination and protecting the right to organize for better work conditions. Increased and more widespread enforcement of these legal protections in such communities would reduce the vulnerability of workers to trafficking and other forms of exploitation.

*Reforming Legal Exclusions of Vulnerable Workers:* Workers employed in certain professions or by certain employers are excluded from some labor and employment laws. Unsurprisingly, these communities of workers tend to have high incidences of trafficking and exploitation. For example, a large number of trafficking cases involve trafficking of live-in domestic workers.<sup>19</sup> Live-in domestic work is one of the professions effectively excluded from many legal protections such as anti-discrimination laws, overtime laws, health and safety regulations and protections for workplace organizing.<sup>20</sup> Reforming these laws so as to include such workers would significantly reduce their vulnerability to trafficking.

*Protecting Undocumented Immigrants from Trafficking:* Undocumented immigrants are extremely vulnerable to trafficking because of fear of law enforcement and deportation. Current laws extend most labor and employment protections to undocumented immigrants.<sup>21</sup> Unfortunately, unaware of their rights and often fearful of the consequences of attempting to seek assistance, these workers remain extremely vulnerable and isolated. Increased outreach to vulnerable communities, enforcement of current protections and reform extending all labor and employment protections to this group will greatly reduce their vulnerability to trafficking and other forms of exploitation.

## What judicial remedies are available to victims of trafficking?

*Criminal:* Victims of trafficking can receive restitution and their traffickers can be subject to fines and/or imprisonment as a result of criminal prosecution under the Trafficking Victims Protection Act of 2000 (TVPA).<sup>22</sup> The TVPA criminalizes trafficking with respect to forced labor, involuntary servitude, peonage, and slavery. The TVPA also makes it a criminal offense to confiscate a victim's documents in furtherance of a trafficking crime. Many states have also now adopted their own trafficking laws.

*Civil:* Victims of trafficking can also seek compensation for their economic losses and suffering by bringing a civil claim against their trafficker for trafficking violations under a civil cause of action added to the TVPA in 2003. Victims can also claim relief under various federal and state labor and employment laws.

## What services and government benefits are available to survivors of trafficking?

Under the Victims of Trafficking and Violence Protection Act of 2000 (TVPA), victims of trafficking are eligible for the services and benefits available to refugees in the United States, such as cash assistance, food stamps, Medicaid and SSI. In order to receive these services and benefits the U.S. Department of Health and Human Services (HHS) must certify that an individual is a victim of trafficking.<sup>23</sup> In addition, some government-funded programs and services are available to trafficking victims, such as crisis counseling, short-term housing assistance, and mental health assistance necessary for their safety.<sup>24</sup>

## What kinds of immigration relief are available to victims of trafficking?

**Continued Presence** provides temporary immigration relief to victims of trafficking to enable them to lawfully remain in the United States to effectuate prosecution of their traffickers. "Continued presence" can only be requested for a victim by a law enforcement agent and is conditioned on a victim's cooperation with law enforcement in a criminal investigation. Continued presence is issued for no more than one-year increments.

**T Visa** provides immigration relief to victims of trafficking. Victims can self-petition for a T Visa if they agree to cooperate with law enforcement in a criminal investigation. In order to receive a T-visa the applicant must cooperate with any requests for assistance in the investigation or

prosecution of any acts of trafficking.<sup>25</sup>

**U Visas** are issued to aliens who have suffered substantial physical or mental abuse as a result of being a victim of certain crimes designated by the TVPA, including trafficking, that violate domestic laws or occurred while in the United States.<sup>26</sup> In order to be eligible for the U Visa, a victim must have cooperated or be willing to cooperate in a criminal investigation.

**Asylum** relief may be available to victims of trafficking if they fear they may be persecuted if returned to their home country. An asylee may adjust to permanent resident status one year after being granted asylum.

Recipients of these forms of immigration relief are eligible for employment authorization and the benefits and services available to victims of trafficking. The T Visa and U Visa provide temporary lawful immigration status to victims of trafficking, with the option of adjusting to legal permanent resident status.

Only 5,000 T visas and 10,000 U visas are available annually. These limits do not apply to family members.<sup>27</sup>

## Assistance for Victims of Trafficking

- **To report a trafficking in persons situation to law enforcement, contact the police at 911 or the Trafficking in Persons and Worker Task Force complaint line at (888) 428-7581 or your District Attorney's office.**
- **To report a trafficking situation, obtain information and access supportive services available to a victim of trafficking, contact the Trafficking Information and Referral Hotline of the Department of Health and Human Services at (888) 3737-888.**
- **To file a complaint for violations of wage and hour laws, contact the Wage and Hour Division of the Department of Labor at (866) 487-9243.**
- **To file a complaint for violations of anti-discrimination laws, contact the EEOC at 1-800-669-4000.**
- **To find legal representation to pursue immigration relief, contact your local Legal Aid office.**
- **To find legal representation to pursue a civil case against a trafficker, contact the ACLU Women's Rights Project at (212) 549-2644 or your local ACLU affiliate to help connect you to legal services in your area.**

## Endnotes

- <sup>1</sup> Victims of Trafficking and Violence Protection Act ("TVPA") of 2000, 22 U.S.C. § 7102(8).
- <sup>2</sup> 18 U.S.C. § 1589.
- <sup>3</sup> 18 U.S.C. § 1584.
- <sup>4</sup> 18 U.S.C. § 1581.
- <sup>5</sup> 22 U.S.C. § 7102 (4).
- <sup>6</sup> See, e.g., Human Rights Center, Univ. of California, Berkeley & Free the Slaves, *Hidden Slaves: Forced Labor in the United States* (Sept. 2004) [hereinafter *Hidden Slaves*], available at [http://www.hrcberkeley.org/download/hidden\\_slaves\\_report.pdf](http://www.hrcberkeley.org/download/hidden_slaves_report.pdf).
- <sup>7</sup> Int'l Labor Org., *A Global Alliance Against Forced Labour*, 93<sup>rd</sup> Sess., Report I(B) at 10 (2005) [hereinafter ILO *Global Alliance*].
- <sup>8</sup> U.S. Dep't of State, *Trafficking in Persons Report, 2004* at 23 (2004) [hereinafter *2004 TIP Report*].
- <sup>9</sup> *Hidden Slaves* at 1.
- <sup>10</sup> U.S. Dep't of State, *Trafficking in Persons Report, 2006* at 6 (2006) [hereinafter *2006 TIP Report*].
- <sup>11</sup> *Hidden Slaves* at 5.
- <sup>12</sup> Amy O'Neill Richard, Center for the Study of Intelligence, *International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organized Crime* (Nov. 1999) [hereinafter Richard, *Int'l Trafficking in Women*], available at <https://www.cia.gov/csi/monograph/women/trafficking.pdf>.
- <sup>13</sup> Int'l Labor Org., *Forced Labour: Time for Action* at 5, available at [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD\\_BLOB?Var\\_DocumentID=1870](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.DOWNLOAD_BLOB?Var_DocumentID=1870).
- <sup>14</sup> *Hidden Slaves* at 37.
- <sup>15</sup> Richard, *Int'l Trafficking in Women* at 3.
- <sup>16</sup> H.R. Res. 55, 110<sup>th</sup> Cong. (2007).
- <sup>17</sup> *2006 TIP Report* at 16.
- <sup>18</sup> Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7101.
- <sup>19</sup> *Hidden Slaves* at 15; *2006 TIP Report* at 9.
- <sup>20</sup> National Labor Relations Act, 29 U.S.C. § 152(3) (stating "the term 'employee' shall include any employee [...] but shall not include any individual employed [...] in the domestic service of any family or person at his home"); Fair Labor Standards Act, 29 U.S.C. § 213(b)(21) (exempting from maximum hour limitations and overtime compensation requirements all "live-in" domestic workers); Occupational Safety and Health Act, 29 C.F.R. § 1975.6 (1972) (stating "as a matter of policy, individuals who, in their own residences, privately employ persons for the purpose of performing for the benefit of such individuals what are commonly regarded as ordinary domestic household tasks, such as house cleaning, cooking, and caring for children, shall not be subject to the requirements of the Act with respect to such employment").
- <sup>21</sup> However, in *Hoffman Plastic Compounds v. NLRB*, 535 U.S. 137 (2002), the United States Supreme Court held that undocumented workers are not entitled to remedies for violations of their rights to unionize under the National Labor Relations Act. Subsequently, some state courts have interpreted various state labor and employment rights and remedies as not extending to undocumented workers. *Crespo v. Evergo Corp.*, 366 N.J. Super. 391 (App. Div. 2004); *Renteria, et al. v. Italia Foods, Inc., et al.*, 2003 U.S. Dist. LEXIS 14698 (N.D. Ill., Aug. 21, 2003); *Sanchez v. Eagle Alloy Inc.*, 254 Mich. App. 651 (Mich. Ct. App. 2003); *The Reinforced Earth Co. v. Workers' Compensation Board (Astudillo)*, 810 A.2d 99 (Pa. 2002); *Rosa v. Partners in Progress, Inc.*, 152 N.H. 6 (N.H. 2005).
- <sup>22</sup> TVPA, 22 U.S.C. § 7101.
- <sup>23</sup> U.S. Dep't of Labor, *Trafficking in Persons: A Guide for Non-Governmental Organizations 2002* [hereinafter DOL, *Trafficking Guide*], available at <http://www.dol.gov/wb/media/reports/trafficking.htm>.
- <sup>24</sup> DOL, *Trafficking Guide*.
- <sup>25</sup> *Id.*
- <sup>26</sup> *Id.*
- <sup>27</sup> *Id.*

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### For more information about human trafficking, contact:



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