

HUMAN TRAFFICKING: Modern Day Slavery



Photo by J. Maillard, International Labour
Organization

Kavitha Sreeharsha, IWP/Legal Momentum

Adapted and amended from Freedom Network Institute on Human Trafficking curriculum by Florrie
Burke and Maria Jose T. Fletcher

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Human Trafficking

Some rough estimates of the scope of the problem

- In the U.S. 18,000-20,000 women and children trafficked annually, plus thousands of men
- Two million people trafficked worldwide annually
- Twenty seven million people in slavery around the world
- Nine billion dollar business



Victims of Trafficking and Violence Protection Act - 2000

- A comprehensive law
 - Prevention
 - Prosecution
 - Protection



Photo by the Coalition of Immokalee Workers

Reauthorization Act of 2003 and 2005
Amendments under VAWA 2005

Trafficking vs. Smuggling

Trafficking

- Crime or violation against a person
- Contains element of coercion (cannot consent to enslavement)
- Subsequent exploitation and/or forced labor
- Trafficked persons seen as victims by the law

Smuggling

- Unauthorized border crossing
- No coercion
- Facilitated illegal entry of person from one country to another
- Smuggled persons seen as criminals by the law

Modern-Day Slavery: A Prison Without Walls

- Threats of deportation
- Withholding documents
- Threats to family members in home country
- Isolation
- Verbal abuse
- Psychological coercion is often coupled with threatened or actual physical violence and sexual assault

Some Examples of Trafficking and Slavery

- Domestic service
- Prostitution
- Marriage
- Factories
- Peddling/Begging
- Agriculture
- Criminal activity
- Restaurant work
- Construction
- Hotel/motel housekeeping
- Other informal labor sectors

Who Are Trafficked and Enslaved Persons?

- Men, women and children
- Varying ages
- Varying levels of education
- Voluntary migrants
 - Seeking to improve their situation



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Why People Decide to Migrate

- Economic
- Social
- Personal
- Civil unrest
- Political persecution
- Escape from gender-based discrimination
- Adventure/opportunity

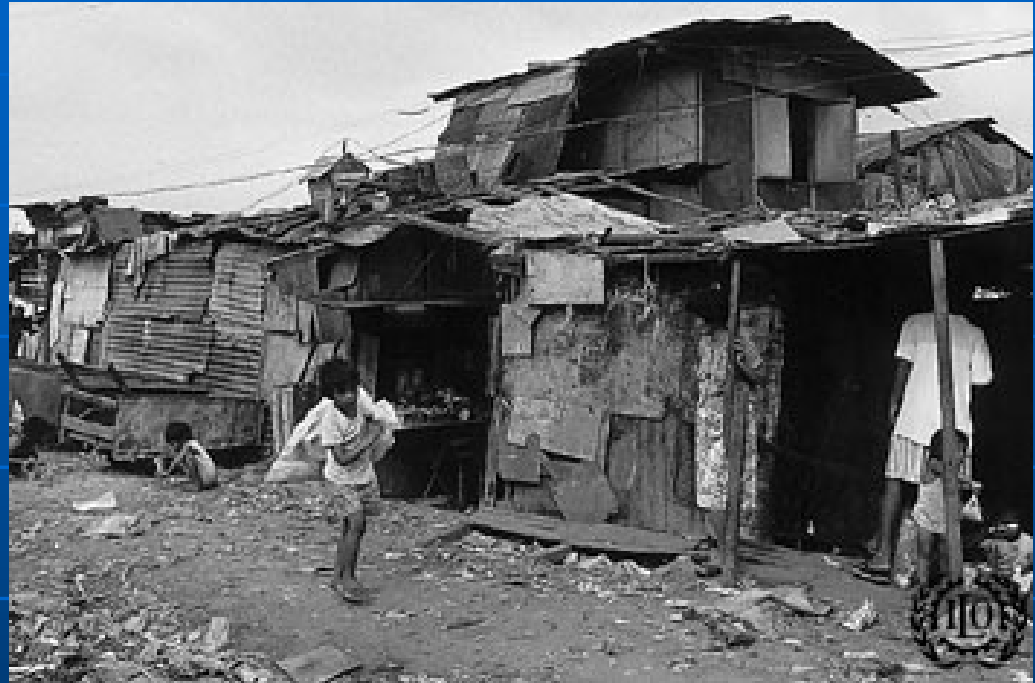


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Why Migrants Are Vulnerable to Human Traffickers

- Immigration laws/policies
 - Demand for migrant work, but lack of safe, legal ways to migrate
 - Seeking marriage
- Ethnic, religious, national discrimination
- Dependence on third parties for information about migration

Who Are The Human Traffickers and Slaveholders?

- Organized crime
- Neighbors, friends, family members, village chiefs, returnees
- Agricultural operations
- Owners of small or medium-sized businesses
- Families (including diplomats)

How People Are Recruited

- Acquaintances or family
- Newspaper/internet ads
- Fake employment agencies
- Front businesses
- Word of mouth
- Abduction



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A Human Rights Approach To Human Trafficking and Slavery

- Focuses on situation, needs and rights of trafficked and enslaved persons
- Respects individual autonomy and rights
- Is empowering and non-judgmental
- Connects rights of the individual to prosecution of traffickers and slaveholders

Approaches to Human Trafficking: An Organized Crime Problem

- Focus on detecting and prosecuting criminals
- Effects. Victims become:
 - “Disposable” witnesses
 - Criminals
 - Vulnerable to re-trafficking and re-enslavement

Approaches to Human Trafficking: An Immigration Problem

- Focus on stopping irregular migration
- Migration ban of women/girls
- Effects:
 - Stricter visa regulations and border controls, especially for young women
 - Migration industry forced underground
 - Illegal migrants deported immediately
 - Strengthens role and power of traffickers

NGOs and Government: What NGOs Can Bring To The Table

- Care for victim's human service needs
- Coordination between agencies and victims during criminal or civil proceedings
 - Work to ensure trafficked person understands legal processes
 - Provide cultural info and language assistance
- Social and emotional support to help victim be an effective witness or plaintiff
- Referrals of cases from the community

NGOs and Government: What Government Can Bring To The Table

- Access to justice for victims
- Access to safety and protection
- Dedication and determination to apprehend the traffickers
- Resources to investigate cases

Common challenges

- Law enforcement and social services sometimes speak different “languages”
- Willing and unwilling witnesses
- Emergency vs. planned response

Three Elements of Trafficking

PROCESS

Recruiting
OR
Harboring
OR
Moving
OR
Obtaining
a person,

MEANS

by
Force
OR
Fraud
OR
Coercion

END

For the purposes of
Involuntary Servitude
OR
Debt Bondage
OR
Slavery
OR
Sex Trade

- How did the person migrate?
- How did the person find out about the job?

- What happened when they arrived in the destination country?
- What was it like when they started to work?

- Was the person paid? How much? How often?
- Did the person try to leave his/her job? What happened?
- Is the person afraid of his/her employer? Why?

Child Victims of Trafficking

- Children are not required to cooperate with law enforcement but must be interviewed in order to receive benefits
- If safe and appropriate, children may return to their families
- Children are eligible for services if they remain in the U.S.
 - Through the unaccompanied refugee minor (URM) program of the US Conference of Catholic Bishops or Lutheran Immigrant and Refugee Services (LIRS)
 - Through community services for youth
 - Through state child welfare system
- Custody issues are different in each situation and there are advantages and disadvantages to different programs
- Cases can be very complicated, contact an attorney to help assess all of the options in a case
- Children can also apply for the T visa and immigrate their parents and siblings to the U.S.

Child identified as victim of trafficking may have to interact with:

State Child Welfare agency

URM Program

Local/State Police

Federal law enforcement (DOJ, FBI, ICE,
AUSA, DOL)

Social and legal services agencies

Therapy/support/trauma relief providers

Guardians Ad Litem

Courts: Dependency, Family, Criminal
Family

Information Needed

LANGUAGE

Do you need an interpreter?

SAFETY CONSIDERATIONS

- Are the traffickers in custody?
- Where was the site of the trafficking?
- Is the victim ready to cooperate with law enforcement?

Assessing Immediate Needs

- Housing
- Food, clothing and personal necessities
- Medical care
- Mental health care
- Life skills
- Legal representation

A Coordinated Service Plan

- Who is involved?
 - Victim Witness Coordinators
 - Social Service Provider
 - Legal Advocate
 - Shelter Advocate

Confidentiality and Communication

A Victim-Centered Approach



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Preparing for Ongoing Services

- Conduct a thorough intake and assessment
- Use a client centered approach
- Empower the client
- Develop a comprehensive service plan
- Don't forget legal representation, law enforcement collaboration and government benefits!

Timing is everything

- Cooperation issues
- Keeping someone safe
- Temporary support
- Pre/post certification
- A journey of support and information

“I want to work”

- Vocational assessment
- Interest, aptitude and choice
- What is the financial burden in the home country?
- Linkages
- EAD
- DOL workers rights

Role of the service provider

- Be the point person
- Be a stable person for the client
- Help rebuild trust
- Laid the ground work for referrals
- Help navigate difficult systems
- Provide supportive counseling always

The Goal

- Restoration of dignity
- Understanding of human rights
- Having options and making choices
- Independence

Victims Of Human Trafficking and Slavery Are Entitled To:

- Safety
- Privacy
- Information
- Legal representation
- Be heard in court
- Compensation for damages
- Medical assistance
- Social assistance
- Seek residence
- Return

What Are The Options For Relief And Recovery?

- Criminal prosecution
- Civil law remedies
- Repatriation
- Immigration

Even without documentation, every person in the United States is protected by US labor & criminal law.

Overview: What Is Your Client's Status?

- United States Citizen/Legal Permanent Resident (Green Card)
- Immigrant Visa
- Non-immigrant Visa
- Undocumented

What Is Continued Presence?

- Provides temporary immigration relief to potential witnesses who are victims of severe forms of trafficking
- Provides work authorization
- Victim receives a new I-94 with certification
- Leads to certification as a trafficking victim to receive benefits

How does one Obtain *Continued Presence*

- Individual must be determined to be a victim of a severe form of trafficking by a federal law enforcement agency.
- Individual is willing to assist in the investigation or prosecution of a trafficking and/or slavery case or be under the age of 18.
- Only federal law enforcement may request continued presence on behalf of a victim.

Severe form of trafficking in persons means:

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) 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 subjection to involuntary servitude, peonage, debt bondage, or slavery.

What Is Certification?

Adult and child victims of a severe form of trafficking who have been certified by HHS eligible for benefits to the same extent as a refugee

Who Is Eligible For Certification?

- Has received a bona fide T Visa determination letter *or*
- has been granted Continued Presence

What Is A T Visa?

- Form I-914
- Enables certain victims of human trafficking and/or slavery to live and work in U.S. for three years (VAWA 2005 – 4 years)
 - Can apply for adjustment of status to lawful permanent resident
- Can petition to have spouses and children accompany (and parents and siblings if under 21)
- Cap of 5,000 visas annually

Who Is Eligible For A T Visa?

- Is or has been victim of severe form of trafficking in persons
- Is physically present in U.S., American Samoa, Northern Marianas *on account of trafficking*
- Has complied with reasonable request for assistance in investigation or prosecution of acts of trafficking
 - Children under 18 do not need to meet this criterion
- Would suffer extreme hardship if to return to home county

Proving Severe Form of Trafficking

- Law enforcement (LEA) certification using for I-914B if available
- Proof of continued presence if available
- Secondary evidence

Physical Presence

Post-trafficking, did the applicant have a clear opportunity to leave?

Complied with reasonable request for assistance

- Can be from local, state, or federal law enforcement
- “reasonableness” must take into account the specific circumstances of the victim, including fear, trauma, age, and maturity
- Exception under VAWA 2005 for physical or psychological trauma impeding ability to cooperate

Complying with requests

- Contact either federal point person or police department to investigate (with client's permission)
- Document contact for the purpose of evidence for the T visa
- Coordinate with the investigators and prosecutors immediately after a raid to establish status as a victim and to ensure cooperation
- Cooperate with law enforcement interviews and be present at every interview

What Does Cooperation Mean?

- Attending interviews?
- Always telling the truth?
- Testifying for a prosecution?
- Risking Safety

Extreme Hardship

- Higher standard than VAWA cancellation
- Also easier to prove for trafficked people because of danger of networks inherent to trafficking

Extreme Hardship factors

- Age and personal circumstances
- Physical or mental illness unavailable in home country
- Physical and psychological consequences of trafficking
- Lack of access to criminal and civil courts for redress
- Social stigma of trafficking
- Re-victimization and lack of home country protection
- Threats of safety from traffickers
- Civil unrest or armed conflict (TPS designation)

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Extreme Hardship

- Can't take into account economic detriment or opportunities
- Should be crafted carefully in case a T visa holder later wants to request advanced parole to visit home country

T visa Application process

- I-914s submitted to Vermont Service Center/T Visa Unit
- Standard of proof- “all credible evidence”
- Safety precautions- the applications can and will be subpoenaed by defense counsel

Application Packet

- Use the cover letter as a roadmap to all the exhibits
- On the form I-914, list attorney's address and list only the applicant's zip code for biometrics scheduling
- Fee waiver or fees
- 3 photographs
- I-914B (law enforcement certification) if available
- I-192 if necessary
- Evidence to support requirements
- G-28
- I-914A with fees for family members (under VAWA 2005, extreme hardship no longer required)

Trafficking victims in removal

- An applicant or the government may on their own initiative administratively close or terminate (depending on the status of the T visa application)
- For final orders of removal, an applicant can apply for a stay; the government should automatically stay execution if a bona fide determination of the T is made

Adjustment of Status

When T visa expires (three years after grant) or 3 years after being issued continue presence, a T visa holder may apply file an adjustment of status application if the petitioner:

- Maintained continued physical presence in the U,S,
- Possesses good moral character
- Complied with reasonable request for assistance in the investigation or prosecution
- Is not inadmissible

There is no penalty for unlawful presence connected to the trafficking

Other Forms of Immigration Relief

■ U Visa

- Victims of certain criminal activity who suffered substantial physical or mental abuse

■ S Visa

- Person is in possession of information concerning criminal organization or enterprise

■ Asylum

- Person has suffered or fears persecution based on race, religion, nationality, political opinion or membership in a particular social group in country of origin

Other Forms of Immigration Relief, cont'd

- Special Immigrant Juvenile Status
 - Children eligible for long-term foster care due to abuse, neglect or abandonment when return to home country not a viable option
- Violence Against Women Act
 - Allows certain battered immigrants to file for immigration relief without abuser's assistance or knowledge



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