WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

Human Rights Initiative of North Texas (HRI) serves victims of international human trafficking, which is the "second largest criminal industry in the world."[1] It occurs when people are moved across borders, with or without their consent, and then forced to engage in labor, sex or some other form of servitude and are denied the right to self-determination and often cannot escape. International trafficking differs from domestic trafficking in which persons are trafficked within a country.

This paper will first set forth how international human trafficking is defined by the United States and international communities, and provide some statistics on the number of people trafficked across borders. Then we will explain various types of international trafficking and provide two case studies which will illustrate how a person may become an international trafficking victim and what relief the United States can provide for them. Finally, this paper will explore how the international community has addressed trafficking.

Definitions and Statistics

The United States has defined trafficking in the Trafficking Victims Protection Act ("TVPA"). Trafficking is "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* 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." (emphasis added).[2] The United Nations describes trafficking as "the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of

[1] "International Trafficking." Polarisproject.org. 24 July 2009 <http://www.polarisproject.org/content/view/62/83>.
[2] US Code of Federal Regulations, Title 8, Section 214.11(a) (2009).

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."[3]

Although statistics related to international trafficking are difficult to obtain or are unavailable due to the clandestine nature of the act, the U.S. State Department estimates that 800,000 people are trafficked worldwide across international borders annually.[4] Of these, it is estimated that between 14,500 and 17,500 individuals are trafficked into the United States each year.[5] The United States government believes that 80% of transnational trafficked persons are women and around 50% of them may be minors.[6] Furthermore, the International Labor Organization (ILO) "estimates that there are at least 12.3 million adults and children in forced labor, bonded labor, and commercial sexual servitude at any given time" and "of these victims, the ILO estimates that at least 1.39 million are victims of commercial sexual servitude, both transnational and within countries."[7] Moreover, the ILO has reported that 56% of trafficking victims engaged in forced labor are women and girls.[8] Additionally, UNICEF's 2006 report states that upwards of 8.4 million children are forced into labor or sexual servitude with approximately

[3] United Nations. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime: Article III." (2000): 3. 24 July 2009 <http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf>.
[4] US Department of State. "Trafficking in Persons Report: June 2008." (2008): 7. 24 July 2009 <http://www.state.gov/documents/organization/105501.pdf>.
[5] US Department of Justice. "Assessment of U.S. Government Activities to Combat Trafficking in Persons: September 2005." (2005): 4. 24 July 2009 <http://www.usdoj.gov/ag/annualreports/tr2005/assessmentofustipactivities.pdf>.
[6] US Department of State. "Trafficking in Persons Report: June 2008." (2008): 7. 24 July 2009 <http://www.state.gov/documents/organization/105501.pdf>.
[7] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 8. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[8] Id.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

2 million facing acute physical and mental dangers in the commercial sex trade.[9] Indeed, trafficking may be on the rise: as the global demand for labor decreases due to the worldwide economic recession, individuals from impoverished regions find themselves in dire situations and are willing to take greater risks and desperate for any work.[10] The ILO predicts that a rise in human trafficking as result of the economic downturn will be particularly acute in Asia where it is estimated that 113 million people will be unemployed in 2009.[11]

What Does Human Trafficking Look Like?

International human trafficking is usually classified as either labor trafficking or sex trafficking, although the two often intersect. Although the movement of a person is not necessary for an act to constitute trafficking, both forms of trafficking often include migration in search of economic opportunity and this is why international human trafficking—in which the victim has crossed a nation's borders—is so prevalent.[12] Regardless of whether an individual is trafficked for some form of labor or sexual servitude, victims usually start their journey in the same fashion—looking for better economic prospects but instead falling victim to severe exploitation.[13]

Labor Trafficking

Labor trafficking comes in a variety of forms that may or may not include sexual exploitation. A person can become a victim of international labor trafficking when he or she becomes financially indebted to another person in exchange for the benefit of working abroad.

[9] UNICEF. "Children Out of Sight, Out of Mind, Out of Reach." London (14 December 2005). 24 July 2009 <http://www.unicef.org/sowc06/press/release.php>.
[10] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 9. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[11] Id. at 33.
[12] US Department of State. "Major Forms of Trafficking in Persons." (4 June 2008). 24 July 2009 <http://www.state.gov/g/tip/rls/tiprpt/2008/105377.htm>.
[13] Id.

This is called debt bondage.[14] Someone pays for the worker's initial expenses, such as travel, fees, and room and board, and then the worker must pay off the debt through labor. While incurring a debt to work abroad is not initially illegal nor a form of trafficking, this practice makes workers highly vulnerable to becoming trapped in a situation in which they cannot get out of debt and must continue to work to pay off the balance of what they owe.[15] Often, the debt grows with fraudulent fees and room and board charges. The victim finds him or herself unable to pay off the debt and in a very vulnerable position to unscrupulous traffickers.[16] Female workers may also be subjected to sexual exploitation in the context of debt bondage.[17]

Involuntary domestic servitude is an acute problem, especially within migrant communities in more affluent parts of Asia and the Middle East, but also occurring in the United States.[18] Children are often victims.[19] Because domestic servitude occurs in private homes, it is very difficult for law enforcement to detect.[20] Migrant workers may find themselves hidden and trapped in a cycle of sexual, physical and emotional abuse.[21] In addition, people are often

[14] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 16. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[15] US Department of State. "Major Forms of Trafficking in Persons." (4 June 2008). 24 July 2009 <http://www.state.gov/g/tip/rls/tiprpt/2008/105377.htm>.
[16] See, e.g., "Case Studies," *infra*.
[17] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 22. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[18] US Department of State. "Trafficking in Persons Report: June 2008." (2008): 21. 24 July 2009 <http://www.state.gov/documents/organization/105501.pdf>.
[19] US Department of State. "Major Forms of Trafficking in Persons." (4 June 2008). 24 July 2009 <http://www.state.gov/g/tip/rls/tiprpt/2008/105377.htm>.
[20] Id.
[21] US Department of State. "Trafficking in Persons Report: June 2008." (2008): 21. 24 July 2009 <http://www.state.gov/documents/organization/105501.pdf>.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

trafficked internationally to work in factories in low- or even high-skilled jobs. This type of trafficking has been and is present in the United States.[22]

While children are vulnerable to numerous forms of debt bondage and servitude, child soldiers present a unique and particularly gruesome form of human trafficking found in places ranging from Colombia to sub-Saharan Africa and Afghanistan.[23] According to Amnesty International, there are approximately 250,000 child soldiers worldwide under the age of 18 who are believed to be currently engaged in armed conflicts, and hundreds of thousands more who are combat-ready.[24] Recently, Mexican drug cartels have used Mexican youths as child assassins.[25] Indeed, the number of groups using child soldiers rose from 40 to 57 between 2006 and 2007 and child soldier recruitment may begin with children as young as 7. [26] Beside the grave danger child soldiers face in war, many experience acute psychological problems, are exposed to sexually transmitted diseases, engage in drug use and are subject to torture and gross sexual abuse.[27]

Sex Trafficking

The enormous demand for commercial sex throughout the world is the primary reason that sex trafficking is such a big business. International sex trafficking may take place when an individual is lured across borders by promises of work or even sold by a family member or

[22] See, e.g., *Chellen v. John Pickle Co.*, 446 F.Supp.2d 1247 (N.D. Okla. 2006); "Case Studies," *infra*.
[23] IRIN. "In Depth: Child Soldiers." (December 2003). 24 July 2009 <http://www.irinnews.org/IndepthMain.aspx?IndepthId=24&ReportId=66280>.
[24] "About Child Soldiers." Amnestyusa.org. 24 July 2009 <http://www.amnestyusa.org/children/child-soldiers/about-child-soldiers/page.do?id=1021176>.
[25] Leonard, Tom. "Mexico Drugs War: Cartels Recruit Child Assassins." Telegraph.co.uk 25 March 2009. 24 July 2009 <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/mexico/5044633/Mexico-drugs-war-cartels-recruit-child-assassins.html>.
[26] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 20. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[27] Id.

boyfriend.[28] Often, victims are trafficked from places such as the former U.S.S.R., Central and South America and Southeast Asia, to places like Europe, North America and the Middle East.[29] Prostitution networks using trafficked women can be found throughout the United States.[30] For example, in one instance a San Jose prostitution ring held women in debt bondage to cover the $40,000 debt for passage from Southeast Asia.[31] Once in the custody of a handler, the victim is usually subjected to various forms of abuse and may be forced into a debt bondage scenario in which she is forced to work off her debt through prostitution.[32]

Child sex tourism (CST) occurs when individuals cross international borders to engage in commercial sex with children.[33] These destination countries often have weak law enforcement networks which enable CST to thrive.[34] The ease of travel and the internet have been equally influential in the rise of CST.[35] CST customers come from a variety of backgrounds including professionals.[36] CST, like child soldiering, places children at a high risk of contracting sexual diseases and enduring grave physical and psychological trauma, social ostracism and death.[37]

Victims of both labor and sex trafficking share the characteristic of being unable to escape their situations. Often they are physically or sexually abused or "literally held captive,"

[28] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 7 "The Role of Parents in Child Trafficking" and 22 "China" inset. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[29] US Department of Justice. "Trafficking and Sex Tourism." Usdoj.gov. 24 July 2009 <http://www.usdoj.gov/criminal/ceos/trafficking.html>.
[30] "United States: Trafficking." Catwinternational.org. 24 July 2009 <http://www.catwinternational.org/factbook/usa1.php>.
[31] Id.
[32] Id.
[33] US Department of State. "Major Forms of Trafficking in Persons." (4 June 2008) 24 July 2009 <http://www.state.gov/g/tip/rls/tiprpt/2008/105377.htm>.
[34] Id.
[35] Id.
[36] Id.
[37] Id.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

but are trapped by psychological abuse, intimidation, coercion and threats to themselves and family members.[38] The traffickers train the victims not to talk to law enforcement and often get them to "buy into the system of exploitation and see it as being normal."[39]

Case Studies

The following case studies more fully describe how international trafficking has and is occurring in the United States and describes the legal relief available in the United States to victims of trafficking.

In order to better protect victims of trafficking, the United States Congress enacted the TVPA in October of 2000.[40] The purpose of this legislation is to prosecute traffickers effectively, and to protect the victims, predominantly women and children.[41] Toward this end, Congress created the "T-Visa," which allows victims of human trafficking to legally stay in the United States, procure work authorization, and ultimately become a Legal Permanent Resident (otherwise known as having a green card) if he or she meets certain criteria (discussed in detail below).[42] Ultimately an individual may become a United States Citizen. Immediate family members (called "derivatives") of trafficking victims may also receive these benefits.[43]

Our first case study is that of a Vietnamese woman who was subjected to debt bondage labor and was trafficked from Vietnam to American Samoa to work in a Korean-owned garment

[38] US Department of State. "Trafficking in Persons Report: June 2008." (2008): 21 (see inset). 24 July 2009 <http://www.state.gov/documents/organization/105501.pdf>.
[39] Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html> quoting Katherin Chon, then co-executive direction of Polaris Project Polarisproject.org.
[40] Abriel, Evangeline, and Sally Kinoshita. The VAWA Manual: Immigration Relies for Abused Immigrants. San Francisco: Immigrant Legal Resource Center, 2006: 13-1.
[41] Id.
[42] Id.
[43] Id. at 13-1-2.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

plant.[44] The second study is also an example of debt bondage but takes place in the middle of the United States. It is the story of a Korean woman seeking better opportunities who was trafficked from Korea to Canada and finally to Dallas, Texas, where she worked with other Korean woman as a hostess at a nightclub. Although the women are from different countries and were forced into labor in different environments, their stories are similar. Both women were offered better job prospects abroad and gladly accepted the offers only to pay exorbitant fees, have their identification documents confiscated and fall into debt bondage. As the work became more grueling, the debt continued to rise and the women essentially became slaves.

Ahn from American Samoa

The Vietnamese trafficking victim, whom we will call Ahn, was part of a group of Vietnamese workers who were trafficked via "tour companies" established by the Vietnamese government to export labor. In January of 1999, Ahn was 25 years old and was recruited by an acquaintance to work at a garment factory. Initially, Ahn was offered $1000 per month but later was informed she would be paid $390 per month with incentives for overtime and holidays. The employment agency also told her that food and board would be included. The three year contract also contained a default clause, which was a $5,000 penalty if Ahn prematurely terminated the agreement. Her mother co-signed the agreement—guaranteeing that she would be financially responsible if Ahn did not fulfill her obligations. Ahn also paid the employment agency $1,015.00 for a ticket to American Samoa—money she borrowed from her uncle.

A few weeks later Ahn arrived in American Samoa. Upon arrival, Lanh, the company owner and plant manager, took her passport and travel documents. This is typical in international trafficking cases and is often a tip to law enforcement that trafficking may be

[44] The following case studies are based on information in the files of clients of Human Rights Initiative of North Texas in Dallas. The names have been changed and certain minor details altered or omitted to protect the clients' confidentiality.

occurring.[45] The accommodations were poor. Sixteen women lived in each room but there were just eight beds so the women had to share. The room had two windows and only one fan, and soon became infested with rats. There was one shower for 32 women, with no hot water, no toilet paper and no soap. Initially the meals were fine, but as the number of employees grew there was less food. It was not uncommon to find maggots in the food and sometimes employees were not fed at all.

The abuse started as soon as the work began at the garment factory. Ahn often suffered verbal abuse at the hands of her supervisors who called her "son of a bitch" and "dog." In addition, when employees requested their back-pay, the management threatened to send them home—terminating their contracts and triggering the liquidation penalty. Once, when a group of three women requested to be paid, police were brought in bearing guns and night sticks. The police escorted the three women out as Lanh threatened the rest of the women, warning them that if anyone else made such requests they would be sent home. That night there was no food and the management refused to allow the workers to leave the plant. Despite this, Ahn left to find food. When she came back she was informed she would not be allowed to leave the plant anymore. For her work between early February and late March 1999, she was paid $100.

Conditions continued to deteriorate. Eventually the workers were forced to sign a new contract which required them to pay for food and housing. The more money they made, the more was deducted to cover basic living expenses. Again, this is typical. When Ahn and some others refused to sign the contract, they were separated from the rest of the workers. On July 1,

[45] Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html>.

1999, company representatives came with what they called an "INS representative."[46] Ahn did not believe the man was an INS representative but rather part of a ploy designed to make the workers think that the company's actions were within the law. Those who refused to sign the employment contract were forced to sign a document written in English, a language most employees were unable to read. Ahn thinks the document authorized their deportation back to Vietnam which constituted a breach of their employment contracts. For five months of work Ahn was paid $930.00. This paltry sum of $6.20 per day was spent entirely on surviving in American Samoa.

Because Ahn refused to sign the new contract, she was deported back to Vietnam and faced a massive $5,000 default debt upon return. The Vietnamese police harassed her about the debt and her troubles at the American Samoa factory, and called her mother to tell her that her daughter had instigated a strike. She was branded a "troublemaker." Ahn believed that there was no future for her in Vietnam. In fact, friends in the government told her that the government entered her name into a "black book"—which labeled her as "dangerous" and subjected her to constant government supervision.

On January 10, 2000, the United States Secretary of Labor filed a lawsuit against the company which owned the American Samoa plant and Mr. Lanh, enjoining them from violating various Fair Labor Standards Act ("FLSA") provisions. The Department of Labor also sued for nonpayment of wages at the garment factory. The Vietnamese plaintiffs also brought suit against the company and Lanh under the FLSA.

[46] INS stands for Immigration & Nationality Service and is the name of the United States' government agency that enforced immigration laws until it was superseded in March 2003 by different divisions of the Department of Homeland Security.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

Ahn heard that her presence was requested to testify in a Honolulu federal court against her former employer. She traveled to the United States where government officials interviewed her various times in the fall of 2002 as a witness for the criminal trial.

However, Ahn's problems did not cease when she arrived in the U.S. The Vietnamese police continued harassing her mother and found out that Ahn had testified in the case. In Vietnam, Ahn's employment prospects were bleak. Because the Vietnamese government runs the "tour agencies" to which Ahn fell prey, her breach of contract with the agency amounts to a breach of contract with the Vietnamese government—putting her freedom in severe danger. Even with a job, Ahn would have only made about $90 per month and would not have been able to pay off the exorbitant default debt of $5,000 to the government. Indeed, her only hope was legal relief and protection in the United States. After receiving her T-visa, Ahn applied for and received permanent resident status in the spring of 2009.

Mina in Dallas, Texas

Mina's story began in Korea where she worked at a clothing store. Mina was interested in improving her education and finding a more lucrative job. One day, a man called "Broker" came into the store and asked Mina's co-workers if they were interested in going to America. He told them that as bartenders they could make up to $8,000 per month and attend college. Mina and three friends decided to do it. The women paid a man named Kwan, who was in the United States, a $12,000 fee. Because the woman did not have that much money, they borrowed the money from "Broker" who told them it would cover travel expenses and other fees. From Korea, the women would travel to Canada and then on to the United States.

The women left Korea and landed in Vancouver. The four women were met by a man in Canada. When she first saw him, Mina knew "something was wrong… [she] had a very bad

feeling."[47] The group was ferried from motel to motel for a few days in Canada and then finally smuggled over the Canadian/U.S. border. Mina never saw any border patrol agents during this time. Once over the border, the group, which now included other smuggled Koreans, stayed at the house of a woman named Chung for a week. There they watched television, rested and were given vague descriptions of what work they would be performing for Kwan. When a week had passed, the group was driven to Kwan's house in Dallas and the work began.

Kwan operated a venue called The Zen Club. He made Mina and the other Korean women sell liquor to the customers. Mina was forced to sell multiple bottles to the customers and to drink with them. When Mina realized what was happening, "[she] wanted to die." Because the workers were forced to drink, it was apparent to Mina that everyone who worked there had become an alcoholic. If she did not drink or secretly discard of the alcohol, the manager would curse at her after the customers had gone. There were no wages for this work. Although Mina received tips, that small sum of money went toward basic essentials such as food and clothing. Moreover, Mina was not even allowed to buy her own personal items; instead, she had to give the money to the bar's owner and someone else bought the items for her.

The living situation was like a prison. The workers lived on the second floor of Kwan's house while he and his family were on the first floor. Cameras watched every part of the house and alarms went off when doors were opened. "I was held in the house like a slave" and "we were treated like animals." People guarded the workers and transported them to and from work. The workers could not venture outside without permission and their identification documents were confiscated. Kwan told the woman they had to work off their debts, but they were charged

[47] The quotations in this case study are from the affidavit June filed with the United States government when she applied for a T-Visa.

for room and board and assessed penalties for, among other things, leaning on a patron's shoulder, falling asleep and fighting with other employees. In this way, it is doubtful that the debt would have ever been repaid and the women would have remained stuck in a form of modern-day slavery in the middle of the United States.

One day, Mina woke up to a raid by U.S. Immigration Officials on the Kwan residence. Kwan was arrested and the workers were questioned. On June 12, 2006, Kwan pled guilty to several charges including forced labor. Because Mina cooperated with the investigation, on November 13, 2006, she was granted a T-Visa.

Similar to the stigma and scrutiny which Ahn would have suffered in Vietnam, if Mina were forced to return to Korea, she would face bleak prospects. In Korea, people know about the Kwan trafficking ring and its breakup by U.S. officials. If Mina's family and friends knew that she was trafficked, she would be ostracized and her chances at marriage would disappear. Moreover, Mina believes the Korean government would also blame her for being trafficked and she would never be able to recover her back wages from the Kwan trafficking ring. In short, whether it be marriage, work, school or family, Mina would have nothing were she returned to Korea, but in the U.S. she can create a new life for herself.

Mina and the women with whom she was trafficked are just a small part of a massive Korean trafficking web that is present in major cities throughout the United States. [48] A large part of this network deals in sex trafficking. Like Mina, these women incur large debts to come to the United States in hopes of finding employment or education but instead are forced to work as "sexual sharecroppers, working off the balance [of their debt] at hundreds of Korean brothels

[48] Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html.>

across the country."[49] In one sting at a Dallas brothel, federal agents and Dallas police found 42 women who worked as sex slaves. The women were forced to work even when "sick, sore and bleeding."[50] Room, board, clothes and even condoms were charged to their overall debt, perpetuating the cycle of slavery and mental and physical torture.[51]

With the help of HRI, Ahn, Mina and other victims of the American Samoa and Dallas labor trafficking rings were able to obtain T-Visas and green cards.[52] Within 5 years of receiving their green cards these trafficking victims can become U.S. citizens.

T-Visa Requirements

In order to be granted T-visa non-immigrant status, the applicant must prove that he or she: (1) has been a victim of a severe form of human trafficking; (2) is physically present in the United States or certain U.S. territories because of that trafficking; (3) is either under 15 years old or has complied with any reasonable request for assistance in the investigation or prosecution of the trafficker[53] and (4) would suffer extreme hardship[54] if removed from the country.[55] An immigrant is ineligible for a T-Visa if he or she participated in trafficking others.[56]

---

[49] Id.
[50] Id.
[51] Id.
[52] In order to apply for a T-Visa an immigrant must file Form I-914 and can apply for derivative protection of family members using Form I-914, Supplement A. An applicant must file a Form I-765 to receive employment authorization for family members.
[53] The "reasonableness" of the law enforcement request depends on the totality of the circumstances taking into account general law enforcement and prosecutorial practices, the nature of the victimization, and the specific circumstances of the victim, including fear, severe traumatization (both mental and physical), and the age and maturity of young victims. US Code of Federal Regulations, Title 8, Section 214.11 (a) (2009).
[54] Extreme hardship involving unusual and severe harm may be determined based on, but not limited to, the following:

(i) The age and circumstances surrounding the victim;
(ii) Physical or mental impairments that require medical attention unavailable in the applicant's home county;

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

Thus, a trafficking victim who is 15 or older must assist law enforcement in the investigation or prosecution of the trafficker and show extreme hardship if deported. Most victims meet this last criteria because they often need medical attention, and, as indicated in the case studies, cannot prosecute the traffickers in their home nations, but instead could be stigmatized by society or harmed by the trafficker's associates.

In addition to the T-Visa, the United States also offers an alternative form of relief to trafficked persons known as Continued Presence.[57] Continued Presence is usually appropriate in two situations: first, where the trafficked person does not want to remain in the United States but needs to stay to participate in the trafficking investigation or bring civil suit against the trafficker, or is not capable of traveling due to physical or psychological damage and requires treatment.[58] Second, when prosecutors of a trafficking case have not yet closed their case against the trafficker, they may be hesitant to give out a T-Visa for fear it may look like there was a *quid pro quo*, or improper exchange of the T-Visa for the testimony, between the

(iii) the nature and extent of the physical and psychological consequences of severe forms of trafficking in persons;
(iv) Lack of redress for crimes committed against the applicant in the victim's home country;
(v) The expectation that the victim's status as a trafficked person would be a source of great stigma in the applicant's home country;
(vi) The probability that the applicant could become victimized again in his or her home country and the likelihood the home country could protect against such victimization;
(vii) The probability that the victim could be harmed by the trafficker or agents of the trafficker in his or her home country;
(viii) The possibility that the applicant could be harmed by unrest or conflict in his or her home country.

US Code of Federal Regulations, Title 8, Section 214.11 (i)(1)(i-viii) (2009).

[55] Id. at Section 214.11 (b).

[56] Id. at Section 214.11 (c).

[57] Abriel, Evangeline, and Sally Kinoshita. The VAWA Manual: Immigration Relies for Abused Immigrants. San Francisco: Immigrant Legal Resource Center, 2006: 13-9.

[58] Id.

trafficking witness and the prosecutor's office.[59] In this instance, officials may grant Continued Presence.[60] An individual granted Continued Presence may receive employment authorization and public benefits similar to those of refugees, but may not become a permanent resident green card holder (as a T-Visa recipient can).[61] An alien granted Continued Presence is allowed to seek T-visa status eventually.[62] In fiscal year 2008, the Department of Homeland Security (DHS) and the United States Immigration and Customs Enforcement (ICE) Law Enforcement Parole Branch granted 225 Continued Presence requests and extended 101 other Continued Presence requests.[63]

Despite the fact that the United States is authorized to grant 5,000 T-Visas annually, it only granted 247 T-Visas and 171 T-visas to derivative family members in fiscal year 2008.[64] The Department of Justice has acknowledged a disparity between estimates of trafficking victims in the United States and those located and aided.[65] Helga Konrad, Special Representative on Combating Trafficking in Human Beings for the Organization for Security and Co-operation in Europe, noted that the United States T-Visa levels were remarkably low in 2003, with 328 granted, and fell in the year 2004 to 136.[66] Additionally, she criticized the United States government's requirement that trafficking victims assist law enforcement agencies in

[59] Id. at 13-8.
[60] Id. at 13-9.
[61] Id.
[62] Id.
[63] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 57. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[64] Id.
[65] Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html>.

[66] Konrad, Helga. "Assessment of the United States Human Trafficking Situation and the Anti-Trafficking Activities." (June 2005): 6. 27 July 2009 <http://www.osce.org/documents/cthb/2005/06/17862_en.pdf>.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

prosecuting traffickers as "benign coercion."[67] Thus, while the United States is taking decisive legislative and enforcement measures to prevent and curb trafficking, more efforts could be made to find, protect and rehabilitate victims.

One reason why so few T-Visas have been issued is that trafficking victims are often hidden from public view and difficult to locate.[68] This is especially true in the context of labor trafficking which may involve one person performing domestic labor in a private home or a few hundred people working under what appear to be legitimate circumstances in a factory.[69] In addition, victims may not view themselves as such, instead believing that they are obligated to pay off their debt regardless of the circumstances or feeling guilty that they are in the United States illegally.[70] Victims may also have become so psychologically abused that they are dependent on their traffickers, who often train the victims to give certain answers to police and tell them they will be deported to their home counties in shame if they report their situations to authorities.[71] On the other hand, law enforcement may not always sympathize with the victims because they are uncooperative or have some limited freedoms, or because officers have not

[67] Id.
[68] US Department of State. "Major Forms of Trafficking in Persons." (4 June 2008)19. July 2009 <http://www.state.gov/g/tip/rls/tiprpt/2008/105377.htm>.
[69] Id.
[70] Dalrymple, Marla, "The Nightmare of Human Trafficking," Macon County News, June 19, 2008, 29 July, 2009 < http://www.maconnews.com/index.php?option=com_content&task=view&id=2764&Itemid=34 >. See also Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html.>
[71] Pathy Salett, Elizabeth "Human Trafficking and Modern Slavery," Background <http://www.nmci.org/news/news_items/trafficking.html>

been trained to spot trafficking victims.[72] There have been reports of the government deporting victims after receiving assistance from them.[73]

International and Domestic Anti-Trafficking Efforts

In 2004, in an effort to combat criminal networks that defy borders, the United Nations ratified the "The Convention Against Transnational Organized Crime and the Protocols Thereto."[74] The United Nations established the Convention to present a united front against the transnational criminal problems facing the world's citizens, especially human trafficking.[75] The Convention promulgated a set of guidelines aimed at severely undermining human trafficking networks, protecting the victims of this heinous trade and punishing those who seek to exploit others. It was ratified as the "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children" ("The Protocol").[76] Because there is no international law enforcement body that can prosecute trafficking, the Protocol's authors sought to erect a unified framework that all nations could try to build within their countries to better confront global trafficking and other forms of organized crime.[77] There are currently 117 signatories to the Protocol, including the United States.[78]

---

[72] Meyer, Paul. "Sex Slaves of Capitalists?" dallasnews.com 7 May 2006. 24 July 2009 <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/DN-sexslaves_07met.State.Bulldog.7eae7bb.html>.

[73] Id.

[74] United Nations. "United Nations Convention Against Transnational Organized Crime and the Protocols Thereto." (2004): iii. 27 July 2009 <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

[75] Id. at iv.

[76] Id.

[77] Id. at iii-iv.

[78] United Nations Office on Drugs and Crime. Country List for "The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime." 28 July 2009 <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

Prevention

The Protocol urges signatories to enter into programs, studies, and human aid projects to understand better how trafficking networks develop and fester, and how to prevent these networks by reducing poverty worldwide.[79] Countries are encouraged to engage in bilateral and multilateral efforts in economic, cultural, social and educational development projects that are targeted at promoting the well-being of at-risk segments of the population—particularly women and children.[80] Additionally, because trafficking is an international trade with no respect for national borders, it is essential that nations cooperate in law enforcement endeavors and effective border control while treating those subjected to trafficking with dignity and respect.[81]

Protection

In keeping with the United Nation's mission of global respect for human rights, the Protocol asks that signatories develop a legal framework aimed at not only ensuring the protection of trafficked persons but also providing them with housing, counseling, medical care, training and opportunities for work.[82] Furthermore, special education and health care programs for youths may need to be implemented since many exploited persons are minors.[83]

The work to construct safety nets, promote awareness and provide viable protections to victims of trafficking has begun. The Protocol urges signatories to criminalize any attempt to traffic persons, including prosecuting accomplices and others who are involved in organizing or

[79] United Nations. "United Nations Convention Against Transnational Organized Crime and the Protocols Thereto." (2004): 46. 27 July 2009 <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.
[80] Id.
[81] Id.
[82] Id. at 44.
[83] Id.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

directing trafficking.[84] The United States, which became a signatory to the Protocol on December 13, 2000,[85] enacted the TVPA in 2000 and the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2008. Under the 2000 legislation, the State Department issues an annual Trafficking in Person's ("TIP") report.[86] The United States 2009 TIP report highlights some of the innovative programs around the world being used to provide protection for victims of trafficking.[87] For example, an Uzbek organization called Isteqbali Avlad operates in the United Arab Emirates, a major destination for trafficked Uzbek women.[88] Between September 2008 and February 2009, Isteqbali Avlad had successfully used cultural and language outreach to repatriate most of the 41 Uzbek women the organization found incarcerated in U.A.E. jails.[89] Similarly, the Jordanian ministry of labor has created a fund to provide humanitarian assistance to trafficking victims and even to pay for the legal costs of civil and criminal suits against traffickers.[90]

Criminalization

The TVPRA also asks foreign governments to supply information related to trafficking investigations, convictions, prosecutions and sentences to the United States government.[91] For instance, in 2008, country reports to the United States recorded a total of 5,212 prosecutions

[84] Id. at 43.
[85] United Nations Office on Drugs and Crime. Country List for "The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime." 28 July 2009 <http://www.unodc.org/unodc/en/treaties/CTOC/countrylist-traffickingprotocol.html>.
[86] *Victims of Trafficking and Violence Prevention Act of 2000* 22 U.S.C §7107(b) (2009).
[87] US Department of State. "Trafficking in Persons Report: June 2009." Publication 11407 (2009): 42. 24 July 2009 <http://www.state.gov/documents/organization/123357.pdf>.
[88] Id.
[89] Id.
[90] Id. at 42-43.
[91] Id. at 47.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

and 2,983 convictions worldwide.[92] The TIP Report includes a tier ranking system that is categorized into the three focus areas of trafficking prevention: Prosecution, Protection and Prevention.[93] Once a government's activity in combating human trafficking is assessed, countries are ranked as Tier 1, Tier 2, or Tier 3.[94] Countries that are fully compliant with TVPA minimum standards receive Tier 1 status; nations ranked as Tier 3 do not meet the TVPA minimum standards and have taken no steps toward achieving those standards.[95] These countries may be subject to non-humanitarian sanctions and U.S. opposition to other benefits from organizations such as the World Bank.[96] In between these tiers, there are Tier 2 and Tier 2 watch list nations. Tier 2 countries do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance.[97] Nations are placed on the Tier 2 watch list when the absolute number of trafficking victims is very significant or is significantly increasing or the country fails to provide evidence that it is increasing its efforts to combat human trafficking from the previous year.[98] This includes increased investigations, prosecutions, and convictions of trafficking crimes and greater assistance to victims.[99] It also includes an effort to decrease complicity by government officials in human trafficking.[100]

The Tier System at a Glance

[92] Id.
[93] Id. at 25, 27.
[94] Id. at 49.
[95] Id.
[96] Id. at 13, 15.
[97] Id. at 49.
[98] Id. at 12-13.
[99] Id. at 13.
[100] Id.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

The following are summaries of three randomly selected countries listed in the 2009 TIP reports. The summaries detail each country's efforts to prevent trafficking, including prosecution of traffickers and protection of trafficking victims.

Tier I Australia:

Australia continued developing anti-trafficking law enforcement measures and established the Trafficking and Sexual Exploitation Task Team to increase the country's efforts to combat trafficking.[101] Australia provides for criminal penalties ranging from 12-25 years for trafficking violations and may assess fines against guilty parties up to $140,000.[102] As in the U.S., victims who help the criminal prosecutions against the traffickers may get a visa along with their family members.[103] Those who do not receive a trafficking visa generally receive a protection visa available to refugees.[104] In addition, Australia undertook a publicity campaign to spread awareness about Australia's anti-sex laws among tourists.[105] The Australian government also has begun funding domestic non-governmental organizations ("NGO's") specializing in protecting victims and educating the public about trafficking.[106] Australia prosecuted a criminal ring that broadcast on the internet images of children being sexually and physically abused. [107]

Tier 2 Armenia:

Armenia is a source country for the sexual exploitation of women in the United Arab Emirates and Turkey.[108] Boys and girls within Armenia are often victims of sexual exploitation.[109]

[101] Id. at 68.
[102] Id. at 67-68.
[103] Id. at 68.
[104] Id.
[105] Id.
[106] Id.
[107] Id. at 67-68.
[108] Id. at 66.
[109] Id.

Additionally, laborers may be trafficked into Armenia from Russia and the Ukraine.[110] The 2009 TIP report noted that while Armenia showed progress in prosecuting trafficking, convictions of traffickers in Armenia decreased.[111] Armenia prosecuted 8 traffickers (out of a total of 13 investigations) in 2009 under laws which provide a 3-15 year prison sentence for trafficking.[112] NGOs, both Armenian and foreign, were active in Armenia and the Armenian government allocated $55,000 to fund an Armenian trafficking victims shelter and also provided funds for medical care to the victims.[113] Additionally, the Armenian government advertised to raise awareness among adolescents about the dangers of trafficking.[114] Out of 34 identified trafficking victims in 2008, 20 were referred by law enforcement to receive assistance.[115] Although all 34 victims cooperated with trafficking investigations, the 2009 TIP report stated that witness protection continued to be a concern among trafficked persons and may have hindered the prosecution of traffickers.[116] The Armenian government's attempts at prevention were mixed: while the government set aside $53,000 for trafficking prevention measures (up from $33,000 the previous year), border officials did not scrutinize emigration and immigration for signs of trafficking. [117]

Tier 3 Kuwait:

Annually Kuwait experiences a large influx of migrant workers, many of whom have come to find employment in the domestic and sanitation sectors.[118] These people are often

[110] Id.
[111] Id.
[112] Id.
[113] Id. at 67.
[114] Id.
[115] Id.
[116] Id.
[117] Id.
[118] Id. at 179.

WHAT IS INTERNATIONAL HUMAN TRAFFICKING?

By Christine Cooney Mansour, HRI Legal Director and Austen Swaim, HRI Legal Intern - SMU Dedman School of Law. Cite-checking by Lindzi Timberlake, HRI Intern - University of Texas Law School

abused by their "sponsors" and/or labor agents.[119] Sexual exploitation of women is common.[120] The 2009 TIP report noted that Kuwait does not comply with the minimum standards of the TVPA and shows no sign of doing so.[121] In 2007, the Kuwaiti government failed to enact legislation that would target trafficking and provide shelter for trafficking victims.[122] Although there are plans to build a trafficking shelter for up to 700 people, currently there is only a temporary women's shelter capable of housing 40 victims and there are no shelters for male victims.[123] Prosecuting traffickers in Kuwait is problematic because there are no laws that specifically prohibit trafficking.[124] Instead, offenders may be punished under laws punishing forced prostitution, transnational slavery and labor abuse.[125] Of particular concern was the Kuwaiti government's unwillingness to prosecute its own citizens.[126] Although in 2008 the Kuwaiti government did set up a Human Rights Commission to meet monthly and discuss the rights of domestic workers, the Commission has taken no action consistent with enforcing any such rights.[127]

Conclusion

International human trafficking is an abhorrent trade that destroys lives, tears apart families and communities, and destroys the social fabric of countries throughout the world. It is therefore of the utmost importance that the United Nations and developed countries such as the United States continue to spearhead global efforts to prevent trafficking by prosecuting

[119] Id.
[120] Id.
[121] Id.
[122] Id. at 180.
[123] Id.
[124] Id.
[125] Id.
[126] Id. at 179-80.
[127] Id. at 180.

traffickers and assisting the victims. The UN Protocol and the United States TVPA and TVPRA are productive steps, however, there is always more that could be done. It is evident from the case studies and TIP Reports that many countries not only ignore trafficking activity in their countries but support and profit from it. The United States and other countries that strive to end trafficking must engage in firmer dialogue with violator countries and emphasize that those nations who seek to perpetuate and profit from trafficking victims will not be permitted to share in global trade and other economic benefits they currently enjoy. The United States' anti-trafficking legislation threatens such sanctions for countries that do not demonstrate sufficient efforts to prevent trafficking within their borders. Though sanctions are a step in the right direction, other problems still remain, particularly in regard to the victims. Even in the United States where T-Visas are available to trafficking victims, only a small percentage of the actual quotas for such visas are granted every year. The United States must lead the global effort to end trafficking by demonstrating a greater commitment to protecting victims, not just prevention and prosecution. An emphasis on protection is especially important in light of the fact that so many trafficking victims are unable to return to their home countries because of the harsh stigma attached to being a trafficking victim. International human trafficking is a pervasive evil that does not respect borders, populations, or customs. Although institutionalized slavery has been mostly wiped out, human trafficking is a more clandestine form of slavery that is a global problem and can only be stopped with a united, global response.