



Uniquely Vulnerable:

The Nexus between Human Trafficking and Immigration

Executive Summary

The Faith Alliance Against Slavery and Trafficking (FAAST) is a Christian alliance working collaboratively to eradicate human trafficking and restore survivors. FAAST's commitment to the Biblical value of human dignity informs our approach to advocating on behalf of the vulnerable and exploited, regardless of their ethnicity, country of origin, gender, religion, legal status, or any other factor.

In the United States, immigrants are especially vulnerable to human trafficking due to disproportionately lower socio-economic status, limited education, linguistic and cultural unfamiliarity, and fear of law enforcement. In order to ensure immigrants' equal protection from exploitation, these vulnerabilities must be mitigated. Current immigration laws contribute to vulnerabilities by precluding access to the protections of legal status and creating a climate of fear of punitive treatment among the undocumented.

This compels us to advocate for reform of United States (U.S.) immigration policy to increase the number of lawful status options and increase regulation of existing options. Reform could improve accuracy in distinguishing between perpetrators and victims, increasing immigration relief options, protections, and access to services for survivors. Improvements to the immigration system can prevent human trafficking and catalyze identification and restoration of survivors.

Guided by our commitment to eliminating slavery and human trafficking, as well as by the other values of our Christian faith, the member organizations of the Faith Alliance Against Slavery and Trafficking urge the U.S. Congress to enact reforms to our nation's immigration laws as urgently as possible.

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Introduction

For Christians, the commitment to abolish slavery and human trafficking is driven by our conviction that all human beings are made in the image of God (Genesis 1:27). This means that every human being possesses inherent dignity and the right to freedom. When Jesus, quoting from Isaiah, described his mission on earth, it included “to set the oppressed free” (Luke 4:18). As his followers, we believe we are called to seek the abolition of all slavery, involuntary servitude, and cruel treatment of people, regardless of their ethnicity, country of origin, gender, religion, mode of entry into the country, or any other factor.

As Christians fighting human trafficking, we believe that the Church is the most powerful agent of hope, restoration, and prevention. The past decade in particular, awareness about human trafficking issues has increased exponentially among evangelical churches in the United States, a development that we find encouraging. However, awareness in itself is insufficient: the Faith Alliance Against Slavery and Trafficking was established to help equip Christians to holistically respond to human trafficking, including providing support and healing to victims, preventing situations of trafficking by reducing demand, and supporting and encouraging public policies that may reduce the prevalence of human trafficking and other contemporary versions of slavery, both in the United States and internationally.

While human trafficking is not synonymous with human smuggling—many victims of human trafficking within the United States are U.S. citizens who have never crossed an international border—the foreign born are disproportionately at-risk of human trafficking. The U.S. Department of Justice has estimated that the number of foreign-born individuals trafficked into the United States from abroad each year may be as high as 17,500.¹ Immigrants present in the United States without valid legal status are, for a variety of reasons, uniquely vulnerable to situations of trafficking. This brief seeks to examine the intersection between immigration issues and the problem of human trafficking within the United States. FFAST hopes that it will be a helpful guide both to lawmakers and to those within local churches who want to better understand these issues so as to be able to encourage appropriate public policy changes.

Background on Human Trafficking

Nearly 150 years after the abolition of slavery, the practice of human trafficking—a modern-day version of slavery—is tragically common within the United States. Trafficking in Persons occurs when a person is made to work against their will or is sexually exploited so that another can profit.

¹ Clare Seelke and Alison Siskin, “Trafficking in Persons: U.S. Policy and Issues for Congress,” U.S. Department of State: Foreign Press Centers, last modified August 14, 2008, accessed June 23, 2014, <http://fpc.state.gov/documents/organization/109559.pdf>.

In 2000, the Trafficking Victims Protection Act (TVPA) was put in place to fight human trafficking. The TVPA definition rests upon basic human rights and the principles of the 13th Amendment protections against slavery and involuntary servitude. The TVPA criminalizes human trafficking and defines the crime of “severe form of trafficking in persons” as:

- 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 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 purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery, (22 USC § 7102; 8 CFR § 214.11(a)).

The act also establishes that non-citizen victims of human trafficking who participate in the investigation and prosecution of trafficking cases, or who are under 18 years of age, can qualify for benefits usually available to refugees. They also have the opportunity to remain in the country through a special visa created for trafficking victims (T-visa) or through a certification of continued presence.

Human Smuggling and Human Trafficking

Human trafficking and human smuggling are not the same crimes, but situations can involve both and determining which crime has occurred is not always easy. While some people are smuggled into the United States in search of greater opportunity, their subsequent enslavement by traffickers violates both their fundamental human rights and U.S. anti-slavery principles.

Case Study. As an example of a recent case highlighting the relationship between trafficking and smuggling, the following is an excerpt from a case prosecuted in Pennsylvania:²

The Botsvynyuk Organization recruited workers from Ukraine with the promise of a better life in the United States. The Organization promised to arrange for transportation and lawful admission to the United States, housing, food and a monthly wage of \$500 each. Victims were told that they would work off the cost of their transportation and accommodation for three years, and then be free to seek their own employment. Instead, their passports and immigration papers were confiscated upon arrival and they were prohibited from attending their immigration hearings. Victims typically worked long overnight shifts, seven nights a week, cleaning offices and stores (such as Walmart). Payments for the victims’ labor went exclusively to the Organization, and the victims were only given limited funds for food and rent. The Organization compelled the victims’ labor through threats, violence, and dependence, creating a climate of pervasive fear. The victims were in the United States illegally, spoke little or no English, had no passports or immigration papers, and had little or no

² Excerpt from *United States of America v. Omelyan Botsvynyuk, Stepan Botsvynyuk, Mykhaylo Botsvynyuk, Dmytro Botsvynyuk, and Yaroslave Churuk*, Case 2:10-cr-00159-PD (2010).

money. The Organization warned them that if they went anywhere, police would arrest them.

In this case, even though their intent was to come lawfully to the United States, they were defrauded and coerced into a situation that involved both smuggling and trafficking. As with many immigrants in the United States, their lack of legal status increased their vulnerability to trafficking.

Immigrants and Trafficking by the Numbers

It is difficult to estimate the number of trafficking victims who are immigrants (or immigrants who are trafficking victims). We know that in 2010, the U.S. Census Bureau reported there were almost 40 million foreign-born people living in the United States.³ Of those, 17.5 million were naturalized citizens and 22.5 million were noncitizens. Of these noncitizens, the Pew Research Center's Hispanic Trends Project estimates that 11.7 million are unauthorized immigrants, approximately 3.7% of the total population living in the United States in 2012.⁴

Inadequate capacity for identifying and tracking human trafficking victims complicates systematic data collection on trafficking activities.⁵ However, given what is known, a 2011 Department of Justice report presents data on the legal status of confirmed victims, divided between labor trafficking and sex trafficking.⁶ Based on the numbers presented in that report, excluding those for whom legal status is "unknown":

- At least 95% of labor trafficking victims were foreign-born.
- At least 17% of sex trafficking victims were non-citizens, which given that immigrants compose 13% of the overall U.S. population, means that immigrants are disproportionately likely to be victims of sex trafficking.
- At least 79% of *foreign-born* victims of sex trafficking were undocumented (while undocumented immigrants represent a total of about 31% of the overall foreign-born population).
- At least two-thirds of labor trafficking victims were undocumented.

A study by Hofstra University of human trafficking victims in New York, which included many more sex trafficking victims than labor trafficking, notes that 20.5% of victims were

³ Elizabeth Grieco et al., "The Foreign-Born Population in the United States: 2010," United States Census Bureau, May, 2012, accessed June 23, 2014, <http://www.census.gov/prod/2012pubs/acs-19.pdf>.

⁴ Jeffrey S Passel, D'vera Cohn, and Ana Gonzalez-Barrera, "Population Decline of Unauthorized Immigrants Stalls, May Have Reversed," Pew Research: Hispanic Trends Project, September 23, 2013, accessed June 23, 2014, <http://www.pewhispanic.org/2013/09/23/population-decline-of-unauthorized-immigrants-stalls-may-have-reversed/>.

⁵ Office for Victims of Crime et al., "2012 National Crime Victims' Rights Week Resource Guide," National Criminal Justice Reference Service, 2012, accessed June 23, 2014, https://www.ncjrs.gov/ovc_archives/ncvrw/2012/.

⁶ Duren Banks and Tracey Kyckelhahn, "Characteristics of Suspected Human Trafficking Incidents, 2008-2010," Bureau of Justice Statistics, April, 2011, accessed June 23, 2014, <http://www.bjs.gov/content/pub/pdf/cshti0810.pdf>.

undocumented immigrants. Again, these data show the unique vulnerability of undocumented immigrants, since they are only about 3.7% of the total U.S. population.

Immigrants and Trafficking Risk Factors

Several risk factors can “push” a person into trafficking. Possessing more than one of these characteristics can lead to a compounding of vulnerability. Those that are most relevant to immigrants include: a lack of access to work due to barriers such as limited education, linguistic and cultural proficiency, and lack of legal documentation. Factors contributing to lower socio-economic status include gender, ethnic minority status, and economic insecurity (including debt and homelessness). Additional threats to stability related to legal status include incarceration or deportation of family members. These factors drive immigrants further into poverty and desperation, forcing them to risk safety and security for survival. Once preyed upon, immigrants are further deterred from seeking help because of a general mistrust of law enforcement and fear of deportation.^{7,8}

Not only are undocumented immigrants particularly vulnerable for the reasons listed above, but also the family members of undocumented immigrants face similar vulnerabilities by association. A recent Urban Institute fact sheet shows that almost 9 million family members who are U.S. citizens or legal permanent residents live with these undocumented people.⁹ Most of these individuals (5.2 million or 60%) are children under the age of 18 and most of these children (4.1 million) are younger than 13. Thus, the human impact of immigration policy (or the lack thereof) is nearly double the estimated number of unauthorized immigrants.

The United States offers limited options for the foreign-born to enter legally. Nonimmigrant visa programs, such as the H2A, H2B, H1, and J1 programs,¹⁰ facilitate the migration and exchange of students and workers between countries. These programs increasingly rely upon foreign labor recruiters; while many of these recruiters behave ethically, others use it as an opportunity to bring people into the United States for exploitive purposes. These contractors lure desperate foreign workers to the United States, promising jobs described as plentiful and lucrative, and rely on coercive tactics, charging fees that often force workers to stay in abusive or exploitative working conditions under debt bondage or other forms of slavery.

⁷ Beth Grant et al., *Hands That Heal: International Curriculum to Train Caregivers of Trafficking Survivors* (Springfield: Life Publishers, 2007).

⁸ Maria Enchautegui, “Immigration Reform: How to Turn a Path to Citizenship into a Path to Prosperity,” MetroTrends, 2012, accessed June 23, 2014, <http://www.metrotrends.org/commentary/immigrationreform.cfm>.

⁹ Maria Enchautegui, “More Than 11 Million: Unauthorized Immigrants and Their Families,” Urban Institute, 2012, accessed June 23, 2014, <http://www.urban.org/UploadedPDF/412979-more-than-eleven-million-fact-sheet.pdf>.

¹⁰ Alliance to End Slavery and Trafficking, “Subtitle F - Prevention of Trafficking in Persons and Abuses Involving Workers Recruited Abroad,” [endslaveryandtrafficking.org](http://www.endslaveryandtrafficking.org/sites/default/files/ATEST%20FLR%20Support%20Letter%20to%20HOR%20(FINAL%20-%20June%2014,%202013).pdf), 2013, accessed June 23, 2014, [http://www.endslaveryandtrafficking.org/sites/default/files/ATEST%20FLR%20Support%20Letter%20to%20HOR%20\(FINAL%20-%20June%2014,%202013\).pdf](http://www.endslaveryandtrafficking.org/sites/default/files/ATEST%20FLR%20Support%20Letter%20to%20HOR%20(FINAL%20-%20June%2014,%202013).pdf).

Immigrants and Protection from Trafficking

The TVPA currently offers several protections to non-citizens who have been victims of trafficking:

- **T Visas** – The T nonimmigrant status provides immigration protection to victims of severe forms of trafficking who assist federal, state, local, tribal, and territorial law enforcement in the investigation and prosecution of human trafficking cases.
- **U Visas** – The U nonimmigrant status provides immigration protection for victims of certain qualifying crimes who assist federal, state, local, tribal, and territorial law enforcement in the investigation or prosecution of certain crimes, including but not limited to trafficking-related crimes.
- **Continued Presence (CP)** – refers to a temporary relief provided to immigrants identified by federal, state, local, tribal, or territorial law enforcement as victims of human trafficking. This allows trafficked persons to stay within the United States during the investigation and prosecution of perpetrators. CP also allows trafficked individuals to legally live and work within the U.S.

To date, approximately 2,300 victims of human trafficking have received T-visa certification¹¹ and more than 700 trafficking suspects have been prosecuted federally for trafficking-related crimes.¹² U-Visas are limited to 10,000 per year, a cap that has been reached every year since 2008.¹³

Despite some success, the current immigration system limits effective enforcement of the TVPA. Trafficking identification is hindered by the following limitations:¹⁴

- Increased local enforcement of immigration laws is often at odds with efforts to train local law enforcement agencies to identify human trafficking cases.
- Long-term detention/sanction further exploits workers, who often experience post-traumatic stress disorder as a result of labor exploitation and who do not have access to desperately needed services while in detention.

¹¹ Office of the Citizenship and Immigration Services Ombudsman, “Improving the Process for Victims of Human Trafficking and Certain Criminal Activity: The T and U Visa,” U.S. Department of Homeland Security, January 29, 2009, accessed June 23, 2014, http://www.dhs.gov/xlibrary/assets/cisomb_tandu visa recommendation 2009-01-26.pdf.

¹² Amy Farrell et al., “Identifying Challenges to Improve the Investigation and Prosecution of State and Local Human Trafficking Cases,” National Criminal Justice Reference Center, April, 2012, accessed June 23, 2014, <https://www.ncjrs.gov/pdffiles1/nij/grants/238795.pdf>.

¹³ “USCIS Approves 10,000 U Visas for 5th Straight Fiscal Year,” U.S. Citizenship and Immigration Services, December 11, 2013, accessed June 23, 2014, <http://www.uscis.gov/news/alerts/uscis-approves-10000-u-visas-5th-straight-fiscal-year>.

¹⁴ “Human Trafficking and Immigrant Rights,” Freedom Network USA, January, 2013, accessed June 23, 2014, <http://freedomnetworkusa.org/wp-content/uploads/2012/05/Immigrant-Rights-Updated-January-2013-for-CIR.pdf>.

- Long-term detention also tears families apart and potentially leaves citizen children unattended.¹⁵

Additionally, it is difficult for law enforcement personnel to effectively identify cases of human trafficking. If police do not ask the right questions, they may not realize the encountered person is a victim.¹⁶

If law enforcement is unable to identify immigrant victims of trafficking, they may treat them as unlawful entrants, precluding them from accessing necessary services. Additionally, victims themselves often do not understand they are victims. They may be led to believe that they are criminals by their traffickers and that if they sought police, they would be prosecuted. Further barriers to identification include a lack of knowledge and/or prioritization in police departments to investigate and prosecute trafficking cases

Recommendations

While a number of helpful policies have been put in place at various levels of government in the past decade that have assisted in the prevention of human trafficking, the prosecution of traffickers, and the care of trafficking survivors, further public policy changes are needed. Those changes must include reforms to our nation's immigration laws. The dysfunction within our current immigration system facilitates human trafficking and keeps immigrants uniquely vulnerable to exploitation.

Guided by our commitment to eliminating slavery and human trafficking, as well as by the other values of our Christian faith, the member organizations of the Faith Alliance Against Slavery and Trafficking urge the U.S. Congress to enact reforms to our nation's immigration laws as urgently as possible.

Specifically, we believe that reforms should:

- Minimize the number of immigrants who are present unlawfully within the United States—and thus uniquely vulnerable to situations of human trafficking—by establishing a fair earned legalization process. Such a process need not be an “amnesty,” whereby violations of U.S. law are simply forgiven or ignored, but could include the payment of a reasonable penalty and satisfaction of other appropriate requirements by which undocumented immigrants could come out of the shadows (and out of the vulnerability to trafficking situations) and earn permanent legal status.
- Humanely secure the borders of the United States in ways that distinguish between those simply seeking to pursue economic opportunity in the United States and those with malicious intent, including those trafficking humans, drugs, or arms.

¹⁵ See also Ajay Chaudry et al., “Facing Our Future: Children in the Aftermath of Immigration Enforcement,” The Urban Institute, February, 2010, accessed June 23, 2014, http://carnegie.org/fileadmin/Media/Publications/facing_our_future.pdf.

¹⁶ Farrell et al., “Identifying Challenges.”

- Amplify the visa system so that more of those seeking employment, family reunification, or refuge from persecution in the United States are able to enter *lawfully*, reducing the dependency upon unlawful smugglers who, in many cases, have exploited the migrants' vulnerability and pressed them into situations of human trafficking.
- Increase the number of U visas for victims of particular crimes who provide assistance to law enforcement; the current cap of 10,000 per year is insufficient to adequately protect victims and could be made more useful to law enforcement agencies.
- Reform non-immigrant visa programs to ensure fair treatment of temporary workers and students.
- Ensure increased transparency by and registration of foreign labor contractors/recruiters in order to prevent the charging of fees that result in situations of debt bondage or create vulnerability to other forms of human trafficking.
- Immediately end exploitative labor practices within immigrant detention centers, whether publicly or privately operated, particularly the practice of paying detainees as little as \$1 per day for "volunteer" work opportunities within the detention centers and exploitative pricing for basic goods and services such as telephone cards.

About FFAST

FFAST was formed in 2003 when a number of faith-based organizations, each addressing human trafficking issues as individual organizations, came together to battle human trafficking and to minister holistically to survivors. Members of FFAST include The Salvation Army, World Hope International, World Relief, and the Assemblies of God's Project Rescue, the Global Center for Women and Justice, and Rescue: Freedom International.

More information about the Faith Alliance Against Slavery and Trafficking is available at www.faastinternational.org.

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