



WHAT IS TRAFFICKING IN PERSONS?

Over the past 15 years, “trafficking in persons” and “human trafficking” have been used interchangeably as umbrella terms for activities involved when someone obtains or holds a person in compelled service.

The United States government considers trafficking in persons to include all of the criminal conduct involved in holding someone in compelled service. It is a crime involving the exploitation of someone for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. Where a person younger than 18 is induced to perform a commercial sex act, however, it is a crime regardless of whether there is any force, fraud, or coercion.

Under the Trafficking Victims Protection Act (TVPA), as amended, and consistent with the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol)*, individuals may be trafficking victims regardless of whether they once consented, participated in a crime as a direct result of being trafficked, were transported into the exploitative situation, or were simply born into a state of servitude. Despite a term that seems to connote movement, at the heart of the phenomenon of trafficking in persons are the many forms of compelled service, not the activities involved in international transportation.

SEX TRAFFICKING

When an adult engages in a commercial sex act, such as prostitution, as the result of force, threats of force, fraud, coercion, or any combination of such means, that person is a victim of trafficking. Under such circumstances, perpetrators involved in recruiting, harboring, enticing, transporting, providing, obtaining, or maintaining a person for that purpose are guilty of sex trafficking of an adult. Sex trafficking also may occur within debt bondage, as individuals are forced to continue in prostitution through the use of unlawful “debt,” purportedly incurred through their transportation, recruitment, or even their crude “sale”—which exploiters insist they must pay off before they can be free. An adult’s consent to participate in prostitution is not legally determinative: if one is thereafter held in service through psychological manipulation or physical force, he or she is a trafficking victim and should receive benefits outlined in the Palermo Protocol and applicable domestic laws.

Child Sex Trafficking

When a child (under 18 years of age) is recruited, enticed, harbored, transported, provided, obtained, or maintained to perform a commercial sex act, proving force, fraud, or coercion is not necessary for the offense to be characterized as human trafficking. There are no exceptions to this rule: no cultural or socioeconomic rationalizations alter the fact that children who are prostituted are trafficking victims. The use of children in the commercial sex trade is prohibited both under U.S. law and by statute in most countries around the world. Sex trafficking has devastating consequences for minors, including long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and even death.

FORCED LABOR

Forced labor, sometimes also referred to as labor trafficking, encompasses the range of activities—recruiting, harboring, transporting, providing, or obtaining—involved when a person uses force or physical threats, psychological coercion, abuse of the legal process, deception, or other coercive means to compel someone to work. Once a person’s labor is exploited by such means, the person’s prior consent to work for an employer is legally irrelevant: the employer is a trafficker and the employee a trafficking victim. Migrants are particularly vulnerable to this form of human trafficking, but individuals also may be forced into labor in their own countries. Female victims of forced or bonded labor, especially women and girls in domestic servitude, are often sexually exploited as well.

Bonded Labor or Debt Bondage

One form of coercion is the use of a bond or debt. U.S. law prohibits the use of a debt or other threats of financial harm as a form of coercion and the Palermo Protocol requires states to criminalize threats and other forms of coercion for the purpose of forced labor or services or practices similar to slavery or servitude. Some workers inherit debt; for example, in South Asia it is estimated that there are millions of trafficking victims working to pay off their ancestors' debts. Others fall victim to traffickers or recruiters who unlawfully exploit an initial debt assumed as a term of employment.

Debts taken on by migrant laborers in their countries of origin, often with the support of labor agencies and employers in the destination country, can also contribute to a situation of debt bondage. Such circumstances may occur in the context of employment-based temporary work programs in which a worker's legal status in the destination country is tied to the employer and workers fear seeking redress.

Involuntary Domestic Servitude

Involuntary domestic servitude is a form of human trafficking found in unique circumstances—work in a private residence—that create unique vulnerabilities for victims. It is a crime in which domestic workers are not free to leave their employment and are often abused and underpaid. Many domestic workers do not receive the basic benefits and protections commonly extended to other groups of workers—things as simple as a day off. Moreover, their ability to move freely is often limited, and employment in private homes increases their vulnerability and isolation. Authorities cannot inspect homes as easily as formal workplaces, and in many cases do not have the mandate or capacity to do so. Domestic workers, especially women, confront various forms of abuse, harassment, and exploitation, including sexual and gender-based violence. These issues, taken together, may be symptoms of a situation of domestic servitude.

Forced Child Labor

Although children may legally engage in certain forms of work, children can also be found in situations of forced labor. A child can be a victim of human trafficking regardless of the location of that exploitation. Some indicators of possible forced labor of a child include situations in which the child appears to be in the custody of a non-family member who requires the child to perform work that financially benefits someone outside the child's family and does not offer the child the option of leaving. When the victim of forced labor is a child, the crime is still one of trafficking. Anti-trafficking responses should supplement, not replace, traditional actions against child labor, such as remediation and education. When children are compelled to work, their abusers should not be able to escape criminal punishment by taking the weaker administrative responses to child labor practices.

UNLAWFUL RECRUITMENT AND USE OF CHILD SOLDIERS

Child soldiering is a manifestation of human trafficking when it involves the unlawful recruitment or use of children—through force, fraud, or coercion—by armed forces as combatants or other forms of labor. Some child soldiers are also sexually exploited by members of armed group. Perpetrators may be from government armed forces, paramilitary organizations, or rebel groups. Many children are forcibly abducted to be used as combatants. Others are unlawfully made to work as porters, cooks, guards, servants, messengers, or spies. Young girls can be forced to marry or have sex with male combatants. Both male and female child soldiers are often sexually abused and are at high risk of contracting sexually transmitted diseases.

