

HUMAN TRAFFICKING IN THE US

The definition of human trafficking is central in guiding actions by counter-trafficking stakeholders. It provides direction on which cases to prosecute as human trafficking crimes and determines which individuals receive services. In the United States, the Trafficking Victims Protection Act (TVPA) of 2000 and its subsequent amendments set forth the federal law governing human trafficking into two main categories, namely sex trafficking and forced labor.

DEFINITION OF HUMAN TRAFFICKING: TVPA OF 2000 (AS AMENDED)¹

Sex trafficking is defined as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting a minor under 18 years of age for the purpose of a commercial sex act, or any persons regardless of age, by force, fraud, or coercion.”¹ A commercial sex act occurs when the sex act is exchanged for anything of value, such as food, shelter, drugs, etc., and is not limited to the exchange of money. Under the law, a minor is not able to consent to being bought or sold.

Forced labor is defined as “[t]he 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.”² Human trafficking through forced labor can also occur by creating a “climate of fear” by any of these means. Federal law also explicitly criminalizes the act of confiscating or destroying anyone’s passport or other immigration documents in furtherance of labor exploitation.³

Individual states often have their own human trafficking statutes, which may be broader or narrower than the federal definition. A way to simplify the definition is to look at its three component parts: the **act**, the **means**, and the **purpose**.⁴

ACT

to induce, recruit, harbor, transport, provide, or obtain persons.

MEANS

the use of force, fraud, or coercion.

PURPOSE

for commercial sex or labor or services.

At a minimum, one element from each category must be present to establish a situation of human trafficking. However, in the case of sex trafficking of a minor, force, fraud, or coercion (the means) does not need to be established.

1. See generally, 18 U.S.C. § 1591

2. U.S. Department of Justice National Strategy to Combat Human Trafficking, January 2022 at page 3 <https://www.justice.gov/opa/press-release/file/1467431/download#:~:text=The%20Justice%20Department's%20new%20National, and%20survivors%3B%20and%20partnership%20at> [accessed August 11, 2022].

3. Federal statutes prohibit involuntary servitude, slavery, and forced labor. These violations are codified in 18 U.S.C. § 1581, et. seq.

4. Polaris, <https://humantraffickinghotline.org/sites/default/files/AMP%20Model.pdf> [accessed 30 September 2021].

PROSECUTIONS AND INVESTIGATIONS

Despite significant numbers of labor trafficking victims being identified, the Department of Justice (DOJ) has prosecuted a comparatively low number of labor trafficking defendants.⁵ In 2021, the DOJ conducted 577 investigations that were predominantly sex trafficking and only 26 investigations that were predominantly labor trafficking (619 and 41 in 2020, respectively). Similarly, there are significantly more DOJ sex trafficking prosecutions than labor trafficking (221 and seven in 2021 and 195 and 15 in 2020, respectively).⁶

CONSENT

Often, victims of human trafficking may appear to have consented to be in their situation or have agreed to the intended exploitation. For example, a person may have willingly traveled to another country to accept a job offer that turned out to be exploitative and seemingly “chose” to remain there. In these situations, it is important to note that the perceived “consent” of the victim is irrelevant if obtained by improper means (force, fraud, or coercion). Furthermore, an individual may independently engage in consensual sex work, but after entering into a supposed romantic relationship with a trafficker, the trafficker takes all of the income and the victim continues to stay in that “relationship.” While this may appear to be consensual, a deeper dive will usually reveal elements of force, fraud, or coercion. In another common example, a victim may seemingly have consented to engage in prostitution as her pimp provides her with cocaine for engaging in commercial sex acts; however, upon closer inspection, it may be revealed that the trafficker is coercing the victim to engage in commercial sex by manipulating the victim’s substance use disorder.

Any consent obtained under pressure or duress is void, and there may be many factors that explain why victims are unable to leave an exploitative situation. For example, victims may be unable to leave because their passports were taken away or they were subject to threats if they tried to escape or report their concerns. Additionally, a person may stay in exploitative conditions if their work visa can not be transferred to a different employer. Ultimately, the existence of any force, fraud, or coercion would then negate any “consent” given.

MOVEMENT & ISOLATION

While “[h]uman trafficking is a crime of exploitation committed against an individual that requires no transportation or physical movement, either internationally or domestically,”⁷ traffickers often move victims in an effort to isolate them from familiar surroundings and support systems. This tactic applies to both foreign national and domestic victims. The status of victims as foreign nationals gives traffickers more control over any subsequent movement, often through the confiscation of identity documents or through the use of unfamiliar surroundings in a different country. This includes language barriers and lack of support. Traffickers also employ this same methodology in the domestic sex trafficking of US victims by transporting the victim to a different part of the US where the victim is neither familiar with the surroundings nor has a support system. Through such tactics, the trafficker increases control over the victim and decreases the likelihood of escape.

5. [Department of Justice, National Strategy to Combat Human Trafficking, January 2022, <https://www.justice.gov/opa/press-release/file/1467431/download#:~:text=The%20Justice%20Department>]

6. [U.S. Department of State, Trafficking in Persons Report 22nd Ed., July 2022, <https://www.state.gov/reports/2022-trafficking-in-persons-report/>.]

7. USDOJ National Strategy at page 3.

TYPES OF TRAFFICKING

▶ SEX TRAFFICKING

Forcing, deceiving, or coercing a person to perform a commercial sex act; where a minor is being trafficked, force, deception, or coercion need not be present.

▶ FORCED LABOR

Forcing a person to work for little or no pay.

▶ DOMESTIC SERVITUDE

Forcing a person to work and live in a private residence as a cook, cleaner, nanny, or domestic worker for little or no pay.

Sex Trafficking

Sexual exploitation or sex trafficking is a form of modern slavery where individuals are forced, coerced, or deceived into sexual exploitation for profit. While most victims of sexual exploitation are female, men and boys can also be victims. Coercive control is common in sexual exploitation cases, where traffickers use power and control to dominate their victims through physical or emotional violence, manipulation, isolation, or threats. Traffickers commonly recruit victims in two primary ways, and there is often a distinction between how traffickers recruit domestic and foreign national victims of sex trafficking. Firstly, traffickers may recruit victims via the “Romeo pimp” scheme, where a romantic relationship is formed with victims to exploit them sexually. Domestic adult and minor victims may knowingly engage in sex work before being approached by a “Romeo pimp” who convinces them to work for him and offers his protection. Eventually, this trafficker takes all the victim’s money and uses coercive methods, both overt and covert, to keep exploiting the victim. Covert methods of control are more subtle, but are often more manipulative and just as powerful. For example, the trafficker may make light of the situation so the victim doesn’t comprehend the reality of the situation. They also may engage in “love bombing,” where the perpetrator gives the victim a large amount of attention and affection in an attempt to control and build co-dependency. This usually occurs in a short period of time. Through falsified relationships, victims feel an emotional attachment to the exploiter. They can appear to be a “willing victim” by “agreeing” to do anything that is asked in an attempt to please the “romantic partner.” Alternatively, foreign national victims do not typically enter sex work situations knowingly, and fraud is a more prevalent recruitment tactic. For example, a recruiter may deceive a victim with immigration promises or a job opportunity that turns out to be false. The illicit massage industry is separate from the commercial sex trade, where victims are often exploited through debt bondage.

Forced Labor

Labor trafficking, also called forced labor, refers to situations where a person is forced, coerced, or tricked and manipulated to work against their will for little or no pay. Forced labor can occur in many different industries and sectors. The most common industries for forced labor in the US are agriculture, hospitality, construction, beauty services/spas, and forced begging.⁸ Victims are typically recruited through seemingly legitimate job opportunities. Despite being aware of their exploitative situations, victims of forced labor are often restricted from leaving due to threats, violence, or simply because their income and livelihoods are at stake. Other methods of control might also be present, such as isolation or the withholding of payment or confiscation of identification documents. Exploiters retain a power imbalance through imposing accumulating debts, known as “debt bondage,” as a means of control to force the victim to stay in the situation.

In the US, foreign national victims of labor trafficking may have the correct H2-A/H2-B visa, but the work, pay, or conditions do not equate to the visa stipulations. When working conditions or pay differ from what was initially agreed to, workers cannot leave their situation for alternative employment as their H2-A/H2-B visa cannot be transferred to a different employer.

Domestic Servitude

Domestic servitude is a form of forced labor that occurs when a domestic worker is exploited while working in a private residential home. Workers might be coerced or forced to work as nannies, cooks, cleaners, caregivers, or other roles. This situation is notoriously difficult to detect as residential homes are private, which isolates victims and reduces their opportunities to seek help. Moreover, as victims of domestic servitude are often foreign nationals, language barriers may also significantly impede their ability to access assistance. At first, a job offer might seem legitimate, but after traveling to the destination, it turns out to be exploitative. Victims may be controlled and forced to stay in the situation through physical or emotional violence, manipulation, isolation, or other threats. Exploiters often confiscate the victims’ passports or other identification documents to prevent escape. This sector is susceptible to exploitation because it is poorly regulated. Those working in private residences often lack access to the same labor protections as other workers. Victims of domestic servitude may also be subjected to sexual abuse by their trafficker. While not a form of sex trafficking, unless the abuse is commercialized, it is a separate, serious offense.

8. According to data from A21 and the U.S. Department of State, Trafficking in Persons Report 22nd Ed., July 2022, <https://www.state.gov/reports/2022-trafficking-in-persons-report/>.

Child Sexual Exploitation

Child sexual exploitation is a form of child abuse in which an adult or older adolescent uses a child for sexual stimulation.⁹ Forms of child sexual exploitation include, but are not limited to, engaging in sexual activities, child sex trafficking, the sale of a child, and online child sexual exploitation. While some forms may involve a commercial element to the exploitation, there is almost always some form of abuse of power or vulnerability. Perpetrators may use physical, emotional, or sexual abuse as a form of control.

Child Sex Trafficking differs from adult trafficking in that due to the power dynamics involved with children, trafficking can occur without the presence of force, fraud, or coercion.

Online Child Sexual Exploitation The United States has distinctly separated the crimes of online child sexual exploitation from human trafficking, as opposed to other countries which may have an expansive definition of human trafficking to include some forms of online child sexual exploitation. However, understanding the use of the internet to exploit children can assist in understanding the vulnerabilities of children to potential trafficking. Online child exploitation covers a range of illicit activities, including the creation, distribution, and possession of child sexual abuse images (CSAM), sextortion, and enticing a child to engage in sexually prohibited activity, among others.

Online Sextortion of a Minor is a fairly new phenomenon. Within the last decade, perpetrators have been using the internet to coerce, persuade, and threaten children. They use tactics to get minors to engage in sexual activity through the use of preexisting, incriminating sexual content, or with new materials created during their manipulative scheme. For example, a perpetrator may have accessed an embarrassing sexual image of a child and is now threatening to distribute it to others if they refuse to create more explicit content.

9. For more information on child exploitation in the United States, including online child sexual exploitation, please refer to the U.S. Department of Justice National Strategy on Child Exploitation Prevention and Interdiction, available at <https://www.justice.gov/psc/file/842411/download>.

RECRUITMENT METHODS

FALSE JOB ADVERTISING

Many victims are recruited through a job advertisement that turns out to be false or exploitative.

EXAMPLE *A person is contacted on social media and is offered a job opportunity abroad. This job offers high wages and the travel is stated to be “covered” in the agency fees. However, once accepted, the job is not what was advertised.*

PROMISE OF A BETTER LIFE

Some victims are coerced or deceived into a situation of exploitation simply through the promise of a better standard of living or higher pay. The trafficker, who may be a stranger, acquaintance, or family member, usually promotes the fantasy of a lavish lifestyle, dream job, or opportunity that seems too good to be true. The victim, persuaded by this alluring picture, will agree to the opportunity on the basis of this false promise.

EXAMPLE *A friend shares about an opportunity to earn triple their income in another country. This promise of a better life often lures individuals to seek new opportunities where they are at risk of exploitation.*

SOLD BY FAMILY

In some situations, friends or family members themselves recruit and sell victims. This might be due to chronic poverty or financial hardship. In the United States, substance misuse is often the reason individuals sell their children or friends to traffickers.

EXAMPLE *A mother agrees to sell her daughter for sex to a local drug dealer in exchange for “free” drugs.*

FALSE RELATIONSHIPS

Victims may be recruited through perceived “friends” who befriend them with the sole purpose of exploiting them. It might be the case that someone the victim has known for some time offers an opportunity that the victim is willing to take without a thorough check due to the trust in the “friend.”

EXAMPLE *A trafficker uses his “bottom” who is 18 years old to ask her friends if they would like to make money with her. The false friendship method of recruitment is used when these friends unknowingly enter a trafficking situation and are then forced to give their money to the trafficker.*

FALSE RELATIONSHIPS/“ROMEO PIMP”

The “Romeo pimp” recruitment method involves traffickers who seduce or manipulate someone to exploit at a later date. Victims form emotional attachments to their traffickers through these falsified “relationships.” While the traffickers may shower the victims with love and affection at the start of the relationship, as trust is built, they often become volatile and violent to coerce their victims into exploitation. Often, victims are ultimately forced into sexual exploitation or other criminal activities.

EXAMPLE *A victim meets a man online and they soon enter a romantic relationship. Once they meet in real life her “boyfriend” starts to turn violent and puts pressure on her by saying if she loves him she will agree to have sex with men for money. Because she loves him and doesn’t want to disappoint him, she “agrees.”*

ABDUCTION

It is an often misconceived stereotype that those who are trafficked are abducted or kidnapped. While abduction into exploitation by a complete stranger can happen, it is much more likely that victims will be recruited through deception or coercion.

FOR MORE INFORMATION

For more information about specific forms of exploitation, refer to A21's *Can You See Me?* videos which depict everyday situations where human trafficking exists, either as forced labor, sexual exploitation, domestic servitude, or online child sexual exploitation.

The accompanying resource *Can You See Me?* Scenario Guide provides further insight into the specific scenario from the videos as well as general information about the featured type of trafficking, including key indicators.

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