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### SYMPOSIUM ISSUE

**Human Trafficking: A Growing International and Domestic Criminal Enterprise**

<table>
<thead>
<tr>
<th>Authors</th>
<th>Page</th>
<th>Feature Title</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Darci Jenkins and Miguel Keberlein Gutiérrez</em></td>
<td>169</td>
<td><strong>FEATURE:</strong> While You Were Eating: The Unspoken Human Cost of Putting Food on our Tables</td>
</tr>
<tr>
<td><em>Margaret O'Donoghue</em></td>
<td>185</td>
<td>A Proposed Overhaul of the State Department’s Summer Work Travel Program to Prevent Labor Violations and Human Trafficking</td>
</tr>
<tr>
<td><em>Sabena Auyeung</em></td>
<td>191</td>
<td><strong>FEATURE:</strong> “How Much are You Worth?” The Effects of Human Trafficking on the Sex Trade in Illinois and the Remedies Designed to Eliminate It</td>
</tr>
<tr>
<td><em>Rachelle Sico</em></td>
<td>199</td>
<td>In the Name of “Love”: Mail Order Brides – The Dangerous Legitimization of Sex, Human, &amp; Labor Trafficking</td>
</tr>
<tr>
<td><em>Michael T. Tien</em></td>
<td>207</td>
<td>Human Trafficking: The Missing Male Victim</td>
</tr>
</tbody>
</table>
FEATURE

WHILE YOU WERE EATING: THE UNSPOKEN HUMAN COST OF PUTTING FOOD ON OUR TABLES

by Darci Jenkins and Miguel Keberlein Gutiérrez

“It has to do with the men, women, and children who harvest the crops in this country of ours, the best fed nation on earth. These are the forgotten people, the under protected, the under educated, the under clothed, the underfed.”

INTRODUCTION

The vastness of the agricultural system in the United States has a tendency to obscure some of the underlying issues regarding how food is brought to dinner tables all across America. A nationwide survey indicates that 72 percent of consumers know nothing or very little about farming. The reality is that hundreds of thousands of migrant and seasonal agricultural workers are recruited to farms across the country to plant, cultivate, harvest, or tend to livestock each year. U.S. farms produce over $297 billion in sales, with Illinois ranking as number six in value of agricultural products in the states. Farmworkers are the backbone of the U.S. agricultural system and vital to the economies of states such as Illinois, yet their plight is too often ignored.

Illinois is a significant state within the overall agricultural economy of the United States, with over 80 percent of the state’s geographical area dedicated to farming. The United States is the world’s largest corn producer, and corn is the largest cash crop in the U.S., accounting for over $76 billion. Illinois, although affected by a severe drought in 2012, is still a leading producer of corn. Seven of the top ten agribusinesses in the United States have operations in Illinois, including Cargill, Archer Daniels Midland Company (ADM), and Monsanto. Most of the large companies are in the hybrid corn seed business, either directly or indirectly, and hire thousands of farmworkers each year to rogue and detassel corn. Farmworkers are mostly recruited by Farm Labor Contractors (FLCs) working at the direction of companies needing cheap labor. Although FLCs are required under the law to register with the U.S. Department of Labor (USDOL), hundreds of FLCs operate without a license or continue to operate even though they have been debarred and appear on the USDOL’s Ineligible Farm Labor Contractor list. Unfortunately, even as Congress currently debates an overhaul of the immigration system that would include key measures for farmworkers, scant attention is given to an ever-increasing problem that continues to grow within the farmworker community: human trafficking.

WHO IS A MIGRANT FARMWORKER?

Farmworkers generally fall into one of three categories: migrant, seasonal, or H-2A foreign guest worker. Under the Migrant and Agricultural and Seasonal Workers Protection Act (AWPA), a migrant farmworker is defined as a worker
who must be away from his place of residence overnight in order to perform the agricultural job, whereas a seasonal farmworker is not required to be away from his place of residence overnight. An H-2A foreign guest worker is someone who is recruited abroad to fulfill agricultural jobs U.S. eligible workers are unwilling to accept and are brought to the United States on a special visa that ties them to a single employer for a period of time not to exceed one year. No matter what category a farmworker may fall into, few legal protections exist that prevent the exploitation of this very vulnerable group.

The search for a cheap, seasonal, farm labor force to produce America’s food while maximizing the profits of landowners and businesses has historically begun abroad. The system in place today, which excludes farmworkers from many of the federal labor, wage, and social statutes meant to protect mainstream workers, can be traced back to the time of slavery.

The first migrant farmworkers in America were brought to the United States from Africa through the Trans-Atlantic Slave Trade and forced to work on plantations in the South. Although slavery ended with President Lincoln's Emancipation Proclamation of 1863 and the Thirteenth Amendment of 1865, former slaves continued to work on plantations as farmworkers. Growers in the North also began recruiting and hiring former slaves migrating north. Coinciding with the abolition of slavery was also a rise in the recruitment of Mexican workers in the early twentieth century.

Whether it was slaves or voluntary migrants, the agricultural system in the U.S. has been built on the backs of the most vulnerable. Racism and bigotry were not only part of the social fabric, but part of governance. When Franklin Roosevelt sought to pass his New Deal legislation in the 1930s, he faced an oligarchy in the South that demanded that the economic supremacy of Whites be upheld. As Roosevelt put it, “Even in the treatment of national problems there are geographic and industrial diversities which practical statesmanship cannot wholly ignore.” Consequently, farmworkers were excluded from the National Labor Relations Act (now called the Labor-Management Relations Act), the Social Security Act, the Fair Labor Standards Act, and other important legislation that followed.

It was not until 1960, when Edward R. Murrow’s television documentary Harvest of Shame aired, that a new generation of Americans took notice of the plight of migrant farmworkers. By then, the modern system of using “hawk-
“crew leaders” had taken hold. The United States saw first-hand how the best fed nation on earth exploited its most vulnerable workers, crowding them into buses or piling them onto trucks like cattle and moving them thousands of miles from Florida to New Jersey, Mexico to California, and Texas to Illinois. Crew leaders were paid by farmers to supply them with labor necessary to work their crops, and crew leaders took full advantage of the system. Promises of good wages, free housing and transportation to and from the job, and the hope for a better future, proved more than illusive. Instead, crew leaders operated as independent contractors, pocketing much of the money meant for workers, and workers could do little to combat these abuses. This “recruitment” system continues today in several forms. Domestically, many growers, such as Monsanto, use farm labor recruiters to bring workers into many northern states, including Illinois.

Americans’ first taste of a food system based on the backs of farmworkers forced into poverty elicited a weak attempt at remedying the situation. In 1963, Congress enacted the Farm Labor Contractor Registration Act (FLCRA); however, it failed to meet its stated goal of protecting “agricultural workers whose employment had been historically characterized by low wages, long hours and poor working conditions.” The FLCRA attempted to hold FLCs, or crew leaders, more responsible for the promises made to workers at the time of recruitment. It required FLCs to register with the U.S. Department of Labor before engaging in contracting, stripped FLCs of their licenses to recruit if they provided false and misleading information, and required FLCs to pay workers promptly and provide proper documentation for the hours paid. However, it failed to provide farmworkers with any private right of action, and thus its shortcomings became quickly apparent. Twenty years later, Congress attempted a second fix. The AWPA was enacted on January 14, 1983, and designed to “remove the restraints on commerce caused by activities detrimental to migrant and seasonal agricultural workers.” While the AWPA does provide a private right of action for farmworkers, it limits damage recovery to $500 per violation, per worker, per year or actual damages. The AWPA, while more robust than the FLCRA, still provides little incentive for employers and FLCs to improve the employment conditions for farmworkers and serious shortcomings remain.
THE PERFECT COVER FOR HUMAN TRAFFICKING

Human trafficking typically conjures up images of young girls engaged in prostitution; individuals from other countries being smuggled into the United States in crates or handcuffed, or the all too common impression of Liam Neeson’s daughter in the movie Taken.\textsuperscript{37} The reality is that a victim of human trafficking is anyone who is compelled by force, fraud, or coercion for the purpose of labor, including but not limited to prostitution.\textsuperscript{38} Victims are U.S. citizens, legal immigrants, migrant workers, and undocumented individuals. They are men, women, transgender individuals, and children from all different races, socioeconomic backgrounds, sexual orientations, and education levels. Certainly, the media plays a significant role in how society perceives the issue of human trafficking. As a result, many people are not aware that human trafficking is highly prevalent throughout the United States, nor do they understand that human trafficking permeates a wide range of industries besides the commercial sex trade, including: restaurants; hotels; nail and hair salons; construction work; and agriculture.\textsuperscript{39}

Congress provides a Federal definition of human trafficking in the Trafficking Victims Protection Act of 2000:

“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.”\textsuperscript{40}

Just as slave holders in the nineteenth century used cheap or free labor for profit, traffickers are often motivated by the lure of easy money.\textsuperscript{41} Human trafficking is estimated to be one of the most profitable criminal enterprises, second only to drugs, with an estimated profit of $32 billion world-wide.\textsuperscript{42} Victims who are trafficked share two common characteristics: vulnerability and the pursuit of economic opportunity. Many victims of human trafficking have formerly been living in poverty. Some have been displaced by natural disaster or armed conflict, yet others are victims of sexual assault and/or domestic violence. Many are runaway youth, undocumented, or from marginalized populations.\textsuperscript{43}
These factors have increased labor movement both within countries and across international borders. The decision for an individual to relocate is based on the perception that wages and opportunities in other areas are greater than those where he or she is currently residing. As a result, when offered what is promised to be a well-paying job, many do not hesitate to take the opportunity because poverty has left them with little choice: they are in need of economic stability. Others are given no choice at all: they are simply taken against their will. Traffickers exploit victim’s desperation, knowing that these individuals are highly vulnerable and are without the resources to flee or escape once they have been trafficked.

Historically, farmworkers in the U.S. have suffered a fate similar to that of other trafficking victims. The system that was in place before the airing of *Harvest of Shame* prospers to this day—and it is in many ways worse. In Illinois, as in much of the Midwest, the majority of farmworkers are recruited from the Texas Rio Grande Valley and Mexico. Farm labor recruiters are tasked with providing transportation and housing for the workers and use many different tactics to induce workers to make the trek north. These workers are recruited by crew leaders wielding promises of well-paying jobs, free housing, and free transportation. Traffickers, in these cases recruiters, strategically prey upon vulnerable populations. Many farmworkers are second- and third-generation laborers, illustrating the limited social mobility in countries such as Mexico and the perpetration of generational poverty. Additionally, many farmworkers are children. On average, most workers have only attained a seventh grade education, are monolingual Spanish speakers, and lack skills that might allow them to find work in other sectors of the workforce. About half of all migrant farmworkers in the United States are undocumented aliens. They have endured public scapegoating for working jobs that most people are not willing to do. As a result, many migrant farmworkers are unaware they are being exploited; and when they realize they are, they are unable to seek appropriate help from law enforcement, an attorney, and/or a social service agency because they are trapped in a system that flies under the radar and is geographically isolated from quality services.

The challenges facing migrant farmworkers are legion. Farmworkers are the lowest paid occupational group in the country, with most living in poverty. While farmworkers are likely to work between 60 to 80 hours per week during peak season, they are still exempt from being paid overtime. Additionally, workers commonly suffer workplace injuries, as farming consistently ranks as
one of the most dangerous occupations in the United States. For example, farmworkers, including children, are routinely exposed to toxic pesticides. Workplace injuries are common but go untreated. Employers, most of whom are required to carry worker’s compensation insurance, know that they are unlikely to be sanctioned for failing to adhere to the processes that allow farmworkers to seek medical treatment. Wage theft, labor law violations, and general abuse are regular offenses endured by farmworkers in the United States. However, it is important to distinguish labor law violations from human trafficking. This distinction can be made by assessing a worker’s situation through the three pillars of human trafficking: force, fraud, and coercion. In order to meet the Federal definition of human trafficking, a potential victim must have experienced at least one of them.

**FORCE**

The most straightforward and easily identifiable pillar of the human trafficking definition is “force.” It can include physical violence, sexual assault, isolation, confinement, and restrictive mechanisms such as handcuffs, heavy locks, etc. Force is often used at the beginning stages of victimization to decrease the victim’s resistance. Using force against one victim often serves a secondary purpose: to intimidate and threaten other workers.

**FRAUD**

Another element of human trafficking is fraud. Fraud is legally defined as “some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury.” In the context of human trafficking, traffickers often make false promises (e.g. advertising a higher wage or salary than what is ultimately paid; hours of work an individual can expect to work; great living conditions; and hope for a better life).

Although an individual may know and agree to tasks involved in tending livestock, he or she is purposefully kept ignorant of the deplorable conditions awaiting him or her. Migrant farmworkers are often promised a certain wage or salary over a specified period of time (e.g., three or four months), yet these conditions are often not upheld by the agriculture employer or FLC. Instead, migrant farmworkers may find themselves living in abhorrent labor camps.
with hundreds of other migrant workers; having minimal access to food or water working 12-16 hours per day with limited breaks; and being paid inconsistent amounts that do not mirror the quantity of work they are completing.63

In Illinois, one of the largest migrant labor camps is a former hospital on an abandoned Air Force base, referred to as the “Nightengale Camp,” which houses up to 450 farmworkers in the dead of summer each year.64 The aging building lacks enough bathrooms and hot water, is over crowded and dirty, and has rodents.65 It is also licensed for use by the state of Illinois.66

Additionally, traffickers often create fraudulent documents, such as passports or government identification materials, for victims in order to get him or her into the U.S. to work.67 These documents are used freely and often accepted; however, the identity portrayed does not match the laborer’s true identity.68 Traffickers may also withhold workers’ legitimate documents once they are in the United States to intimidate workers and ensure that the worker will not try to escape. Not only does withholding documentation keep a worker tied to an employer, but workers are led to believe Immigration and Customs Enforcement (ICE) will arrest and deport them if they do not have their documents on their person.

COERCION

The Trafficking Victims Protection Act of 2000 (TVPA) noted that involuntary servitude statutes were meant to be used for cases in which victims were “held in condition of servitude through nonviolent coercion.”69

As defined by the TVPA of 2000 coercion includes:

(A) threats of serious harm to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(C) the abuse or threatened abuse of the legal process.70

It has been argued that migration of workers to the U.S. has been primarily coercive due to the fact that the workers are attempting to flee economic devastation.71 As a result, this can have implications that the worker acted as his or
her own agent and exercised free will. Indeed, fleeing poverty does not imply physical force or even deception. Still, viewing migration among farmworkers through a re-conceptualized framework, as Kim & Chang recommend, would recognize such activity as “coercion created by the destruction of subsistence economies and social service states.”

**Female Farmworkers and Gender Discrimination**

Female migrant farmworkers clearly illustrate Kim & Chang’s argument. Women often are forced to migrate for labor, particularly in agriculture and domestic servitude, for several reasons. Due to patriarchal traditions, women lack work opportunities and do not have inheritance rights. Additionally, women are removed from their families when they marry, eliminating ties to family and friends who typically would contribute to her well-being.

Although more women are seeking opportunities outside of their home countries, they do not necessarily have the funds to get to the country in which they are seeking work. Human traffickers offer new options for those needing to migrate for employment by assisting with illegal border crossings and providing false documentation as well as covering the costs to travel or relocate. Indeed, as legal immigration in the United States is made more difficult, the profit made by traffickers rises proportionately. Because traffickers cover the costs and burden for the worker to relocate to the U.S., the worker is automatically in a symbiotic relationship underpinned by power and control, which is often manifested through physical and sexual abuse as well as harassment and emotional abuse.

Female migrant farmworkers are not the only workers in debt bondage with their employer. Male farmworkers are highly susceptible to exploitative situations due to the fact that they also are seeking opportunity because of economic factors in their home countries. In *John Doe I v. Moises and Maria Rodriguez*, the defendants smuggled workers across the U.S.-Mexico border to work on a farm in Colorado. The workers were then brought to the labor camps in which they would be living and told they each owed $1,300 to the employer to cover transportation costs. Laborers in debt bondage face an ongoing cycle of added debt that includes transportation costs, housing costs, food and clothing costs, and the cost to obtain documentation if applicable. The accruing of debt is continual; the chance to be free of it often impossi-
ble. If a debt bonded individual dies or is unable to pay off the debt himself or herself, the debt is often passed on to his/her children, contributing to the cycle of poverty and exploitation.

Traffickers also strategically instill fear in farmworkers to maintain them as laborers. In *John Doe I v. Moises and Maria Rodriguez*, the plaintiffs believed that if they tried to escape the labor camp or the farm, they would be severely harmed and the workers left behind would incur the debt of those who escaped. While working under hostile, hazardous, and exploitative conditions, workers often form a deep bond with each other; therefore, the threat of passing on debt is legitimate and strategic. Employers can and do discharge employees who are costing them more than the revenue they generate.

While employers obtain the highest return on investment by providing the minimal level of well-being for laborers, this often leads to medical and mental health issues that take away from a worker’s ability to be optimally productive. Factors such as discrimination, language inadequacy, reduced self-esteem, financial stress, and lack of family or social supports often lead to high rates of anxiety and depression among farm workers. Further, farmworkers who voluntarily migrated for work are less likely to be depressed than those who did not have a choice. Such labor is also physically harmful as migrant farmworkers experience health concerns due to the occupational hazards of their work. Workers experience respiratory problems, severe allergic reactions, heat stroke and dehydration due to lack of drinkable water and urinary tract infections due to lack of access to sanitary toilet facilities for workers to use while in the fields.

Abuses in the recruitment of foreign workers are endemic. The Federal H-2A guest worker program is similar to the better known Bracero guest worker program, which was terminated due to its notorious labor issues. H-2A employers and their recruiting agents in Mexico and other countries exploit the vulnerability of foreign citizens living in poverty. Under the H-2A guest worker program, employers are legally allowed to bring in workers from abroad under a special visa that ties workers to a single employer for a period of time up to one year. However, H-2A workers have even fewer protections than other workers and in fact have no rights at all under the AWPA. As a result, farmworkers are fearful of speaking out against issues such as wage violations, hazardous working conditions, or illegal activity by the employer because the risk of losing everything is so great.
Moreover, the threat of deportation facing these guest workers qualifies as coercion because it is an abuse of the legal process. Further, guest workers are excluded from the AWPA and have fewer legal protections than even domestic farmworkers. Consequently, H-2A workers are not privy to disclosure of job terms during recruitment, transportation, safety requirements, or access to federal courts. The H-2A recruitment system has led to numerous documented cases of debt-peonage, human trafficking, and forced labor. In fact, the law that governs the H-2A program uses the term “import” when referring to the human beings who are brought to work in the United States on temporary work visas. While the term “import” is associated with commodities, the U.S. Constitution used that term to refer euphemistically to chattel slavery.

**CONCLUSION**

Edward R. Murrow’s introduction to his most famous documentary, *Harvest of Shame*, is still as poignant today as it was in 1960; only today Murrow might add to his list of descriptors, “the trafficked”. The exploitation, abuse of power, and trafficking occurring within the agriculture industry in the U.S. has existed for over a century and yet minimal attention and no resolution has been provided.

Our agricultural system offers human traffickers the ideal cover under which to operate. Agricultural work is often isolated and transient, and income can be irregular. Unscrupulous crew leaders exploit these conditions of vulnerability, adding debt, violence and threats to hold farmworkers in conditions of servitude. FLCs and employers capitalize on the very definition of migrant farmworker – these workers are only in the U.S. temporarily and they are isolated from resources, therefore avoiding becoming identified as a victim. Instead, farmers continue to be abused and exploited while the agricultural industry exponentially profits.

The reality remains that the agricultural system built on the backs of farmworkers is the most productive in the world. The general public has historically seen agricultural work as something reflective of the American ethos of hard work, and therefore most people do not think about farming as an inherently dehumanizing kind of labor. In the Midwest, where several large metropolitan areas are within a few hours’ drive of fields where farmworkers toil (e.g., Chicago, St. Louis, the Quad-Cities, and Indianapolis),
labor trafficking does not garner the same attention as sex trafficking. Recently, a Davenport jury awarded $240 million to 32 disabled men that were labor trafficked to work at West Liberty Foods in Iowa. It was the largest trafficking case in the state’s history. Yet the case received much less national attention compared to several recent sex trafficking cases across the country.

Society’s unwillingness to confront a system that so perfectly lends itself to human trafficking may have much to do with the psychic discomfort required to acknowledge this uneasy fact: the exploitation of workers is what puts food on dinner tables across America.

NOTES

1 Harvest of Shame (CBS Television Broadcast 1960).
3 29 U.S.C. § 1802(8) (2013) (defining the term migrant agricultural worker as an individual who is employed in agricultural employment of a seasonal or other temporary nature, and who is required to be absent overnight from his permanent place of residence, but not including any immediate family member of an agricultural employer or a farm labor contractor or any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii)3 and 214(c) of the Immigration and Nationality Act); James R. Smerbeck, Note, The Impact of Prohibiting Legal Service Corporations Offices from Representing Undocumented Immigrants on Migrant Farmworker Litigation, 45 IND. L. REV. (2012).
6 U.S. DEP’T OF AGRIC., supra note 4.
11 Id.
19 Kosegi, supra note 17 at 269.
20 Norton, supra note 17 at 193.
21 Norton, supra note 16 at 191.
24 Harvest of Shame, supra note 1.
25 29 U.S.C. § 1802(7) (2013) (defining the term farm labor contractor as any person, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who, for any money or other valuable consideration paid or promised to be paid, performs any farm labor contracting activity).
26 Harvest of Shame, supra note 1.
27 Id.
28 Id.
33 Smerbeck, supra note 3.
34 Migrant and Seasonal Agricultural Workers Protection Act, 29 U.S.C. §§ 1801-1872.
35 Smerbeck, supra note 3.
36 Id.
37 Taken (EuropaCorp 2008). Liam Neeson plays Bryan Mills, a retired CIA agent, who travels to Paris in an attempt to rescue his daughter who was kidnapped and trafficked while traveling in France.
45 Id.
49 29 USC §213(c)(4)(A).
50 Nat’l Ctr. for Farmworker Health, About America’s Farmworkers, supra note 46.
52 Steven Gray, Convicts or Illegals: Georgia Hunts for Farmworkers as Tough Immigration Law Takes Hold, TIME, June 26, 2011, available at http://www.time.com/time/nation/article/0,8599,2079542,00.html#ixzz2Qg8hBw2Q.
53 Norton, supra note 16 at 181.
56 Smerbeck, supra note 3.
58 Id.
59 United States v. Warren, 772 F.2d 827, 834 (11th Cir. 1985).
62 Wheaton, supra note 44 at 122.
63 National Center for Farmworker Health, Inc., Farmworker Health Factsheet, http://www.ncfh.org/docs/fs-Migrant%20Demographics.pdf (stating that many farmworkers are not earning even the federal minimum wage for all hours worked; most farmworkers make less than $15,000 a year).
66 ILL. DEP’T OF PUB. HEALTH, MIGRANT LABOR CAMPS, supra note 64.
68 Id.
70 Id.
72 Grace Chang & Kathleen Kim, Reconceptualizing Approaches to Human Trafficking: New Directions and Perspectives from the Field(s), 3 STANFORD J. OF CIV. RTS. & CIV. LIBERTIES (2007).
73 Richards, supra note 71.
75 PETER KWONG, FORBIDDEN WORKERS (The New Press 1997).
76 Richards, supra note 71.
78 Id.
80 Id. at 7.
81 Id.
83 Wheaton, supra note 44 at 128, 129.
84 Id.; Joseph D. Hovey & Cristina Magana, Acculturative Stress, Anxiety, and Depression Among Mexican Immigrant Farmworkers in the Midwest United States, 2 J. OF IMMIGRANT HEALTH 119, 128 (2000).
88 Kosegi, supra note 17 at 271.
91 Kosegi, supra note 17 at 269.
93 *Id.*
95 FARMWORKER JUSTICE PROJECT, *No Way to Treat a Guest Worker*, supra note 15 at 82.
96 *Id.*
98 Norton, supra note 16 at 177.
A PROPOSED OVERHAUL OF THE STATE DEPARTMENT’S SUMMER WORK TRAVEL PROGRAM TO PREVENT LABOR VIOLATIONS AND HUMAN TRAFFICKING

by MARGARET O’DONOGHUE

The United States State Department’s Summer Work Travel Program (SWT) has been the object of serious media scrutiny over the last several years. This cultural exchange program affords foreign university students the opportunity to work for a summer in the United States each year and benefit from a cultural exchange under the non-immigrant J-1 visa. While the State
Department contends that the vast majority of student exchange visitors have been pleased with their experience, several investigations and media reports have brought to light incidents of abuse and deception on the part of employers eager to exploit these temporary workers. Student workers have alleged withheld wages, long working hours, apartments with deplorable living conditions, lack of transportation, threats of deportation, and even in some instances sex trafficking. There are various systemic abuses that occur within this program that a variety of advocates are seeking to address by overhauling the program to create more transparency and safety for these student workers.

Lack Of Cultural Opportunities

The SWT program, which runs year-round to accommodate summer holidays globally, is designed to allow foreign post-secondary students, who could not otherwise afford to visit the United States, the opportunity to experience American culture by subsidizing part of their travel and living expenses. Over time, however, it has become the nation’s largest temporary guest worker program, managing more than 300,000 participants employed in the U.S. labor market each year. By the State Department’s own admission, it is essentially a job placement program with minimal to no focus on cultural opportunities. Employers are more than willing to take advantage of these students since they are exempt from paying Social Security, Medicare, and federal and state unemployment taxes for exchange visitor employees.

In marketing the SWT Program to employers, sponsors have openly advertised these cost savings. One website even included a “Payroll Tax Savings Calculator” which estimated that an employer would save a total of $2,317 on a J-1 employee earning $8.00 an hour over a U.S. worker. Due to the undeniable economic benefit of choosing these temporary laborers over U.S. workers, it is not at all surprising that many employers get involved in the SWT program solely for profit rather than to facilitate cultural exchange.

State Department’s Failure to Regulate

Another core problem with the SWT Program is that it is administered by the U.S. State Department and is understaffed and underfunded as a result. All other guest worker programs are administered by either the Department of
Labor or the Department of Homeland Security, which have more experience and capital for regulating such matters. Furthermore, over the past 21 years, the Government Accountability Office (GAO) and the State Department’s own Inspector General published three reports with evident criticisms of the lack of oversight, data to make meaningful assessments, and accountability to student workers for abuses. While the State Department has taken this criticism more seriously due to recent media attention, the crux of the problem remains due to the insufficient personnel available to oversee sponsors and test for abuses of the system. For instance, the State Department issued remedial interim final rules in 2011 and 2012, and sponsors have since been required to provide annual reports with cost schedules to the State Department, contact student participants monthly to stay in touch, actively assist participants in finding initial work and replacement work, and require a cultural component to an employer’s work amongst other requirements. However, because the issue of understaffing has not been resolved, only 1 percent of sponsors are ever visited and State Department employees are not even able to get through all of the annual reports from these sponsors, which totaled more than 1,400.

An impression is thus created that the rules are meant to be broken as the State Department remains completely reliant on the sponsors themselves to report their own non-compliance or the non-compliance of the employer. Since the State Department has no jurisdiction over individual employers and the only authorized sanction it has is to remove a sponsor for lack of compliance, sponsors who turn themselves or their employers in to the authorities stand to lose profits, relationships with employers who favor J-1 visa holders, and their very existence. In one particularly egregious case, a sponsor was eventually given this removal sanction after receiving significant media criticism. However, such enforcement of the SWT regulations in every case should arguably not be dependent upon students and labor organizers to publicize their experiences to the media.

Types of Abuses and Violations

The lack of regulation of a large scale unskilled work force with little knowledge of their legal rights has created a program rife with exploitation and abuse. The most well publicized example of such abuse occurred in 2011, when 300 J-1 visa holders went on strike at a Hershey’s distribution plant in Pennsylvania. As part of their protest, these students described to human
rights groups how they were forced to work at punishing speeds under abusive supervision.\textsuperscript{18} They spoke about how deductions were taken out of their pay for employment related costs and how subpar, overcrowded housing left them with no money to recuperate their visa costs or travel—the purpose for many of coming to the United States in the first place.\textsuperscript{19} More recently, in March 2013, 17 SWT workers went on strike at a McDonald’s in central Pennsylvania charging similar abuses.\textsuperscript{20} The visiting students each paid over $3,000 for the chance to work and were promised full-time summer jobs at McDonald’s.\textsuperscript{21} However, some ended up only receiving a handful of hours, some were forced to work over 25 consecutive hours without overtime, and many were forced to share a bedroom with seven co-workers with rent being taken out of their paychecks.\textsuperscript{22}

Other examples ranged from mere disappointment to nefarious tales of kidnapping and sex trafficking.\textsuperscript{23} In one instance reported to the press, a visiting student was forced along with other women at gunpoint to work in a strip club and was subsequently raped by one of the employers.\textsuperscript{24} Overall, one of the most common complaints SWT workers have is that employers will include housing as an employee benefit and then attempt to reduce wages accordingly, regardless of whether that particular employee requested company housing or not.\textsuperscript{25} Because there are no retaliation provisions in Exchange Visitor Program visas, and because of the lack of enforcement by the State Department described above, student workers have been reportedly threatened with deportation, job termination, inability to re-enter the U.S., and even harm to their families if they dare to complain about sub-standard work conditions.\textsuperscript{26}

\textbf{Conclusion}

The SWT program needs real structural change in order to provide a safe working environment to university students around the world. The State Department final rules appeared to constitute an impressive and comprehensive overhaul, but it seems that sponsors will not be persuaded to follow the government rules and work to protect the students they recruit until there is a concrete economic incentive. If the State Department is going to continue to manage the SWT program, it should follow the advice of its own Office of Inspector General and create a team of government personnel that is responsible for these students as they spend a limited amount of time in the United States. The horrific experiences of foreign students should compel the U.S.
government to better monitor the actions of current sponsors and employers, and only fund those that are credible.

NOTES


2 Id.; Patricia Medige and Catherine Griebel Bowman, U.S. Anti-Trafficking Policy and the J-1 Visa Program: The State Department’s Challenge from Within, 7 INTERCULTURAL HUM. RTS. L. REV. 103, 115 (2012).


5 State Department, supra note 3, at 7.

6 Costa, supra note 4, at 30.

7 Id. at 31.

8 Id. at 29.

9 Id. at 30.


11 Medige and Bowman, supra note 2, at 124.

12 State Department, supra note 4, at 4.

13 Costa, supra note 4, at 17.

14 Medige and Bowman, supra note 2, at 107.


16 The Council of Exchange and Travel USA (CETUSA) was removed as a program sponsor after negative press from the student worker strike in Hershey, PA in the summer of 2011; Medige and Bowman, supra note 2, at 142.


18 Id.
21 Id.
22 Id.
24 Mohr, supra note 1.
25 Under the guidelines, an employer is allowed to deduct wages for bona fide employee benefits, which can include housing if voluntary. The employer must, however, itemize the costs of housing exactly and is not allowed to collect a profit; see also Exchange Visitor Program - Summer Work Travel, 77 FR 27593-01, Friday, May 11, 2012, at 14.
FEATURE

“HOW MUCH ARE YOU WORTH?” THE EFFECTS OF HUMAN TRAFFICKING ON THE SEX TRADE IN ILLINOIS AND THE REMEDIES DESIGNED TO ELIMINATE IT

by Sabena Auyeung

Millions were there for the game. Some were there for the sex. This was the reality for Indianapolis while they were hosting the Super Bowl in February 2012. For an event so largely publicized, it is hard to believe there is
a hidden commercial sex industry operating alongside it. But the fact remains that the excitement of the games overshadowed a gruesome, hidden illegal subculture of human trafficking victims forced into the sex industry. While fans and game-goers were being entertained by the Super Bowl, hundreds of young women and children, smuggled from their homes abroad, were forced to provide sexual services for those who wanted it.

Indiana has since worked to eliminate the problem by creating new laws. Governor Mitch Daniels signed into law tougher penalties on sex traffickers, making it a felony to recruit, transport, or harbour anyone under the age of 16 for prostitution or other sexual conduct, and those who carry out this felonious act will face 20 to 50 years in prison. In the wake of this growing illegal epidemic, many states have started a statewide campaign to eliminate the human trafficking problem altogether. In Illinois, new legislation has been enacted in response to the demand to end the statewide human trafficking problem and to dismantle the sexual exploitation that accompanies it.

**MODERN-DAY SLAVERY**

Human trafficking is defined as a form of modern-day slavery where people profit from the control and exploitation of others. Human trafficking for the purpose of facilitating the sex trade has been a troubling issue in Illinois for quite some time. Studies have shown that in Chicago especially, the sex trade industry is a very lucrative and abusive enterprise, often controlled by third parties who operate out of legitimate, regulated business.

“Illinois is a source, transit, and destination state for transnational trafficking as well as the internal trafficking of U.S. citizens and foreign nationals. Chicago’s central geographic location, regionally divided and often insular ethnic communities, transportation infrastructure, and the O’Hare International Airport make the city an ideal location for traffickers to bring victims into Illinois and transport them to other cities and states. Labor and sex trafficking cases have also been reported in suburban communities and rural areas throughout Illinois. Due to the covert nature of the crime and high levels of under-reporting, the total number of trafficking victims in Illinois is difficult to determine.”

Though certainly considered a hub for human trafficking, Chicago is but one of the cities in this country facing an overwhelming surge in this industry. Human trafficking, particularly for the purpose of fueling the sex trade, is a
rapidly spreading crime affecting much of the United States. Over the years, those who are involved in the sex trade have traveled beyond Illinois’ borders, an indication of the magnitude of the trafficking issue facing policy makers and government officials in every state. Moreover, human trafficking for the purposes of sexual exploitation is not a singular crime. In fact, those who are involved are generally linked to various other criminal acts. Often times, those who profit from human trafficking are also heavily involved in the drug business, and have affiliations with community gangs.

A CRIME UNSEEN

“Human trafficking can exist among us, and we don’t really recognize it.” As Ohio Attorney General Mike DeWine stated during the Human Trafficking Commission in 2011, one of the biggest challenges surrounding the issue of human trafficking involves building awareness, as many people in America still do not believe human trafficking exists in this country. In 2010, there were a total of 411 calls made to the National Human Trafficking Resource Center (“NHTRC”) that referenced potential trafficking situations. In Chicago alone, an estimated minimum of 16,000 to 25,000 women and girls are victims of commercial sexual exploitation every year. In the past, a lack of recognition of the problem of human trafficking has made it difficult to tackle the issue in Illinois. However, developing awareness has prompted the enactment of state legislation to curb human trafficking for the sex trade.

With the assistance of local agencies and alliances, the stories of sexually exploited trafficking victims are slowly rising to the surface. One such local agency, the Chicago Alliance Against Sexual Exploitation (“CAASE”), specializes in a multi-year statewide campaign that seeks to transform the community’s response to the sex trade. By working with elected officials, public opinion shapers and community allies, CAASE is pushing to promote policy and advocacy reforms to assist victims and prosecute perpetrators. CAASE is working to alleviate the penalties for the women and children of the sex trade and focus on providing tools to assist law enforcement in arresting, charging, and prosecuting the traffickers.
In Illinois, recent legislative victories are finally bringing relief to those affected by the ongoing plague that is human trafficking.

On August 6, 2012, the Illinois General Assembly passed, and the governor approved, amendments to the Illinois Human Trafficking Act. The purpose of the amendments was to expand the definition of involuntary servitude to include physical and mental coercion, as well as redefine the methods in which traffickers are prosecuted. Previously, the punishment for human trafficking for the sex trade often fell on those being trafficked, leaving the traffickers without blame. Felony sentences in Chicago create “significant barriers to survivors of the sex trade who are trying to find employment and become productive members of the community.” Such charges function only to punish the people who are in need of the most support and do not deter the sex crimes that stem from human trafficking violations.

However, with the passing of the amendments to the Illinois Human Trafficking Act, those who are vulnerable to the traffickers’ intimidation will now be afforded an extra level of protection, since the act further punishes traffickers for their manipulative and coercive tactics. Furthermore, the barriers to effective prosecutions are now lifted because the amendments simplify statutory language.

The Illinois Justice for Victims of Sex Trafficking Crimes Act is another legislative victory, as the act enables victims to clear their records of prostitution convictions, thereby creating a fresh start in renewing their lives. Young girls and women, who are typically the victims of human trafficking, often have criminal records relating to sex crimes. Once marked with a record, they are denied access to employment opportunities, medical attention, and other public benefits. Moreover, statistics show an unnerving rate of recidivism, as women released from prison for sex offenses stemming from trafficking are likely to be arrested again for the same crimes. Studies also show that re-arrests happen more frequently with sexual offenses than any other offense. They are forced into a trade that forecloses any possible chance of rehabilitation. This act is the third in the nation to address the problem, “and is a part of a larger statewide campaign by law enforcement and local advocacy groups...”
to hold pimps, customers, and traffickers accountable for the sex trade, while supporting the survivors.”

The success of these acts demonstrates that, in Illinois particularly, awareness of human trafficking victims being funneled into the sex industry has prompted a wave of action to address the issue.

OTHER REMEDIES

Numerous organizations within Chicago are also currently engaged in assisting victims of human trafficking who are often girls from broken homes. The Chicago Dream Center is a collaboration of different ministries within Chicago working to help victimized women break away from the sex trade, often a direct result of being trafficked. The STOP-IT initiative with the Salvation Army works to aid victims of human trafficking by providing human and family services. Within the Cook County Sheriff’s Department, the Women’s Justice Program is a program dedicated to helping women brought into the criminal justice system, usually for crimes of prostitution. End Demand, a campaign in Chicago providing support for survivors of the sex trade, has had some success, especially recently when the organization worked to pass a bill through the Illinois Senate eliminating felony prostitution.

Like Illinois, states all around the country are working to adopt legislation to eliminate human trafficking, particularly the high demand for human capital in the sex trade. In New York, several bills are pending before the Senate that are focused on educational remedies, such as promoting the education of human trafficking information and the referral hotline to assist persons in freeing themselves from severe acts or forms of sex trafficking. Another act targets the close relationship between gangs and prostitution by criminalizing certain gang practices that promote the sex trade. Recently, Kentucky passed a bill designed specifically to help victims of human trafficking, by including several key provisions that will provide victims with protective custody and protection from prosecution for forced sexual crimes. Together, several states are forming a collective unit that is moving towards the hope that human trafficking will soon be eradicated in this country.

New York and Kentucky can serve as an example for future policy in Illinois to tackle the issue of human trafficking for purposes of feeding the sex trade.
Currently, Illinois’ approach to ending human trafficking is to bring justice to the victims and prosecute the traffickers. The Illinois Human Trafficking Act and the Illinois Justice for Victims of Sex Trafficking Crimes Act are by no means a preventative measure, but it is certainly a step towards reform. Honorable Judge Virginia M. Kendall of the Northern District of Illinois advocates a more holistic approach when dealing with human trafficking. “On the educational side, more programs should be enacted in schools to teach students self-respect, independent choice, and a strong will. To move towards ending human trafficking, the number one preventative means is to have task force training, where local law enforcement agencies work with grass-roots organizations to help victims. Healthcare and immigration organizations should also be involved in the process.”42

CONCLUSION

Though there is much more work to be done, Illinois has taken its first steps in recognizing the magnitude of the problem and creating solutions to resolve the problem of human trafficking and the sex trade. Daria Mueller, associate director of state affairs for Chicago Coalition for the Homeless states, “For survivors of the sex trade, this is further evidence that our elected officials care about them and want to hold perpetrators accountable.”43 Whether or not the new legislation will effectively curb the issue of human trafficking for the sex trade, one thing is certain: that Illinois has made great strides in tackling the problem and bringing justice to the victims.

NOTES

2 Id.
3 Bergen, supra note 1.
9 \textit{Id}.
11 \textit{Id}.
12 \textit{Id}.
16 While it is true that human trafficking involves both the sex trade and labor trade, in Illinois, the adults and children who are trafficked are often forced into the sex trade. See Charles Hounmenou, \textit{Human Trafficking In Illinois Fact Sheet}, \textsc{University of Illinois at Chicago}, May 16, 2012, available at http://www.uic.edu/jaddams/college/research_public_service/files/TraffickingInPersonsInIllinois_FactSheet09202010.pdf.
20 More information on the Chicago Alliance Against Sexual Exploitation can be found at http://caase.org/policy-and-advocacy.
21 \textit{Id}.
22 Ohio Attorney General, supra note 15.
24 The amended Act took effect January 1, 2013.
26 \textit{Id}.
27 End Demand Illinois, supra note 8.
31 Id.
32 Id.
33 Id.
34 See supra note 29.
40 Id.
42 Interview with the Honorable Judge Virginia M. Kendall, Northern District of Illinois, Feb. 12, 2013.
IN THE NAME OF “LOVE”: MAIL ORDER BRIDES – THE DANGEROUS LEGITIMIZATION OF SEX, HUMAN & LABOR TRAFFICKING

by Rachelle Sico

The age-old concept of the mail order bride hinges on the fantasy of a handsome western man playing savior to a beautifully exotic Asian woman by lifting her out of a world of poverty and destitution. However, cultural, social, economic, and legal issues lay the foundation for an industry that merges sex and labor trafficking across the globe. The stereotypical Filipina
mail order bride is portrayed as a young and obedient woman who connects with a Caucasian man through an online international marriage brokerage (IMB) firm that facilitates the process of establishing a “pen-pal” relationship for a year, which guides the men towards processing the marriage legally. These men are hardly the virtuous, romantic, knights-in-shining-armor shown in Western films and projected across the world.

These relationships do not live up to the fantasy. Mail order brides are often subject to physical and sexual abuse once they arrive in the U.S., which they are especially vulnerable to due to their immigrant status. This common occurrence contributed to the re-authorization of the Violence Against Women Act (VAWA 2013), which will increase protections and resources for immigrant women subjected to the adverse effects of these marriages.

CASE STUDIES: IMMIGRANT BRIDES

Control, abuse, and exploitation are industry standards in the mail order bride business, and are clearly demonstrated through the case studies of two Filipino mail order brides. Emelita Reeves was a Filipina woman from the town of Cebu who connected with her husband, Jack Reeves, through an IMB called Cherry Blossoms. She left her home in the Philippines when she was just 18 years old to marry Reeves, a retired U.S. Army Officer thirty years her senior. She became pregnant after marrying him, but Reeves was convinced the child was not his. The day before she was going to leave him, she mysteriously went missing and her body was later found near Lake Whitney. Emelita was his fourth wife, and his previous two wives; also mail order brides, both died allegedly from accidental and suicidal causes, respectively. Reeves was later convicted for the murder of Emelita and his third wife.

Despite the horrifying risks of physical and sexual abuse that mail order brides face, the hope for a better life in America still encourages families to participate. “Male” brides are not often discussed and are not considered a commercial commodity like Filipina brides, but they deal with similar experiences as their female counterparts. Ray was 21 years old and living in the Philippine province of Cavite when his family encouraged him to marry the Filipina American daughter of a family friend in California.
Seeking greener pastures, Ray left his eight brothers and sisters to come to America and marry a virtual stranger. He lived with his Filipina American wife for a total of eight years and they had a daughter. He obtained permanent resident status from this marriage and obtained a position with the U.S. Navy that expedited his citizenship process. His relationship with his wife and her family deteriorated after he received multiple promotions and his new family commanded that he sign over his paychecks to pay for their expenses. They claimed he was indebted to them for life because he was just a "piece of trash that they picked up from the Philippines." In the middle of the night, he woke up with a gun to his head and his wife standing over him. She threatened to kill him because she was convinced he was cheating on her in addition to not providing her with his entire paycheck. The next day, he tried to access his joint bank account and found it completely empty. He did not have a penny to his name, and when he tried to return home, he found his wife and daughter gone and the locks changed on all of the doors.

**Prostitution, Human Trade, or the Only Viable Way Out of Destitution?**

These Filipino men and women are essentially sold as commodities in transactions that are legitimized through the recognition of the legal binding of marriage. Millions participate in variations of this transaction despite the risks. Filipina women are at a high risk for exploitation because thousands leave to work legitimate jobs and enter into legal marriages, only to be forced into some form of prostitution. Now, with advances in technology, human trafficking organizations are able to effectively mobilize because of the Internet. On their websites, the IMBs project the stereotypical image of a Filipino woman being sweet, submissive, traditional, virginal, Christian, and familiar with the English language in their ads, making them the most popular ethnic group for mail order brides in the world.

However, the mail order bride industry is a unique form of exploitation because it attempts to legitimize human trafficking through the respectable guise of marriage. The inclusion of marriage is what prevents Filipino families from realizing that this process is a form of prostitution, human trafficking, or exploitation. Emelita Reeves’ father was so desperate for her to have a better life than what he could provide her in the Philippines that he placed his daughter’s
ad in Cherry Blossom. The mail order bride industry capitalizes on the destitute conditions of the poor in the Philippines.

LIVING THE “AMERICAN DREAM”

Once these individuals are transported to the U.S., they are subject to the will and control of their consumer spouse. Filipino women and men are vulnerable to abuse because the situation places them at a great disadvantage. Some IMBs do not even pretend to protect the mail order brides. Instead, they adopt the angle that they are “selling” subservient women that are ready to please their new husbands. Once the transaction is complete, these consumer spouses believe that they have bought and own a person. These individuals do not have the ability to support themselves because they lack language skills, family support, and employment opportunities to live financially independent lives in the U.S.

Mail order brides often feel like they owe their consumer spouse everything because he saved her from a life of poverty. An imbalance of power exists in these households, and often times this is exactly what the consumer spouse wants. These individuals are locked into abusive situations because they are continuously threatened with deportation. So, although statistics state that the rate of divorce is low for mail order bride marriages, the reason may be due to the lack of awareness of immigrant rights in abusive marriage. Many endure abuse because they fear that if they retaliate they will lose their American “dream” lives and go back to a life of poverty and destitution.

GLOBAL ACCOUNTABILITY: U.S. LEGAL PROTECTIONS FOR IMMIGRANT BRIDES

The legal trajectory of this industry began by identifying that many brides were being subjected to involuntary servitude, which is prohibited by the 13th Amendment. The U.S. first issued the Mail Order Bride Act. Then, the International Marriage Broker Regulation Act (IMBRA) repealed the previous act and was enacted to stop spouses from threatening deportation while inflicting long-term physical and sexual abuse. IMBs have not been shut down because they have modified their services to fit the loophole in IMBRA, which allows Internet sites like Match.com to exist. However, the process for get-
ting cleared to participate in these services is much more stringent for Filipina women than it is for potential consumer husbands.\textsuperscript{\textit{39}}

These individuals arrive in the United States through either a K-1 or K-3 visa.\textsuperscript{\textit{40}} They endure a two-year waiting period to switch from conditional permanent residency status to permanent resident status. The abuse typically manifests in the first two years because the consumer spouse can threaten deportation and withhold financial resources if the bride retaliates or attempts to leave.\textsuperscript{\textit{41}} There has been an expansion of protections for victims of violence and human trafficking, including stricter regulations of IMBs and the western men that subscribe to their services.\textsuperscript{\textit{42}} With the passage of VAWA 2013, this statute reauthorized federal anti-trafficking provisions and programs for the next four years.\textsuperscript{\textit{43}} Federal programs such as the U.S. Department of Health and Human Services (HHS), the U.S. Citizenship and Immigration Services (USCIS), and Immigration and Customs Enforcement (ICE) actively protect immigrant spouses subject to violence and abuse from this form of trafficking.\textsuperscript{\textit{44}} However, these laws and programs only apply within the jurisdiction of the U.S.

**CONCLUSION**

The desperation to escape poverty and political pressures greatly increases the likelihood that a Filipino individual would risk taking part of the mail order bride process. The realities do not match up with the fantasy American life many hoped to achieve for themselves and their families. Much of the abuse that these immigrants endure lies beneath the surface of a respectable and legally binding marriage, but the U.S. must work in collaboration with nations globally to closely monitor this dangerous legitimization of sex, human and labor trafficking.

**NOTES**

and courting her briefly by showering her family with money and gifts, before he returns back to
the United States and processes the paperwork so that she is able to join him).
3 *Bride Trafficking Unveiled*, supra note 1. (interviewing an Asian woman: “Western men are
very romantic, I’ve seen in TV’s and Movies [. . .] Western men are honest and sincere. When a
Western man has a girlfriend or a wife, he is faithful to just that one person. He doesn’t go
playing around”); *see also* Filipino Kisses: An International Dating Service, (May 3, 2013), *available
(majority of men are Caucasian; hailing from the U.S., Australia, and the UK, and are portly,
considerably older and have less than virtuous motives).
4 Bowes, *supra* note 2, at 13; *see also Id.* at 15 (intensifying the abuse is the fact that immi-
grants; with a conditional permanent resident status for two years, are continually being sub-
jected to the fear of deportation, extreme isolation, lack of knowledge of viable resources for
their safety, and complete unfamiliarity with the language).
5 Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-14, 127 Stat. 54
(2013); *see also VAWA 2013 & TVPRA: What Practitioners Need to Know, ASISTA* (April 25,
VAWA_2_6C6195F9009A0.pdf.
6 *But I Own You: 2 True Crime Short Stories About Murdered Mail Order Brides*, *TRUE CRIME
ZINE* (May 31, 2012), *available at* http://truecrimezine.com/murdered-mail-order-brides/ (post-
ing Emelita’s name and picture as an advertisement was her father’s idea).
8 *TRUE CRIME ZINE, supra* note 9 (in addition to inflicting physical and sexual abuse upon
her, he sent her back to the Philippines only to bring her back two years later).
9 *The New York Times, supra* note 11 (later her body was found near Lake Whitney, with
enough evidence to place Reeves in the area).
10 *Id.*
11 *Id.*
12 Telephone Interview by Rachelle Sico with Ray*, Filipino Immigrant (April 25, 2013)
(name withheld for privacy and Ray was an engineering student and activist against the Marcos
dictator regime, at the height of Marshall Law).
13 *Id.*
14 *Id.*
15 *Id.* (obtaining his citizenship enabled him to bring his entire family over from the Philip-
pines to the US within a span of five years)
16 *Id.*
17 *Id.*
18 *Id.*
19 *Id.*
20 *Id.*
21 *Id.* (happily, Ray ended up remarrying and has a loving and supportive family).
html (many Filipinos work in the health care industry in the US, or as domestic helpers in large
households all across the world); *see also INT’L LABOUR ORG., Labour Migration*, (May 2, 2013),
*available at* http://www.ilo.org/manila/areasofwork/labour-migration/lang—en/index.htm (an-
nually more than 1 million Filipinos leave the Philippines to work abroad and 10 million are
currently working abroad, adhering to this process allows the Philippines to collect considerable remittances from Filipino workers across the world, which bolsters the Philippine economy).

23 Id.; see also Filipinokisses.com supra note 3 (accessing a Filipina woman’s profile is as easy as adding them to their cart, thus increasing the notion that these women are products; a commodity that can be purchased and controlled); see also What is a Good Site for Mail Order Brides?, ASKVILLE: AMAZON (May 2, 2013), available at http://askville.amazon.com/site-mail-order-brides/AnswerViewer.do?requestId=440956, (posing a question on the Internet, “What is a good site for mail order brides? Do these sites warrant their product? Like if it can’t cook or is bad in bed, can I return it? [. . . ] what ethnicities or nationalities should I look for? I need: (1) Good in bed, (2) Submissive, (3) Good cooking, (4) Doesn’t mind what husband looks like. Serious responses only please”).

24 Filipinokisses.com, supra note 3.

25 Telephone Interview with Ray, supra note 18, (engaging in pre-marital sex is highly frowned upon and normally young men and women live with their parents until they move in with their spouses; Filipino parents encourage this process because they believe that marriage is a respectable process, rooted in love, responsibility, and legal implications.); see also Central Intelligence Agency, World Fact Book: Philippines (May 3, 2013), available at https://www.cia.gov/library/publications/the-world-factbook/geos/rp.html (encourages strict adherence to Catholicism, the dominant religion, which is influential in Filipino government and culture).

26 TRUE CRIME ZINE, supra note 9.

27 Telephone Interview with Ray, supra note 18 (government corruption is rampant and there is little to no chance for upward mobility; there are enormous expectations on the young to provide money for their entire family and the fantasy of establishing an emotional and physical connection with a western individual; who is affluent and could provide entry into the US, is a legitimate hope).

28 Bowes, supra note 2 at 12.


30 Id. at 85, 88 (engaging themselves in the process of visiting the immigrant bride in her home country and then the IMB facilitates the process to obtain the required visa to allow the woman to enter the U.S.); see also Bowes, supra note 2 at 16.

31 Bowes, supra note 2 at 19.

32 Id.

33 Id. (testifying about his foreign bride: “She is spoiling me, though, with all of the attention I get, all of my nails manicured, gives me a shower daily, body massage nightly, shines my shoes. . . . She is well worth the price of your catalog”); see Id. at 14; see also Marcia Zug, The Latest Victim of GOP Intransigence? Mail Order Brides, THE NEW REPUBLIC (May 17, 2012) available at http://www.newrepublic.com/article/politics/103338/vawa-brides-violence-women-adams# (commonly many individuals deal with abuse, forced labor, coercion, and rape within their own homes, inflicted by a person that they are legally married to; it isn’t long before these women realize that their new consumer spouse has sexually perverted tendencies, are physically and verbally abusive, or have a controlling nature where they limit their spouse’s ability to do anything on their own).

34 Bowes, supra note 2 at 20.


36 Bowes, supra note 2 at 13; see also U.S. CONST. amend. XIII, § 1, (stating, “Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction”).
38 International Marriage Broker Regulation Act of 2005, Pub. L. 109-162 § 1375, Subtitle D of Title VIII (Sec.831-834) (regulating IMBs by prohibiting underage marketing and doing extensive background searches of the consumer husband and sharing that knowledge with the bride before obtaining her consent); see also Bowes, supra note 2 at 10; Filipinokisses.com, supra note 3 (seemingly consensual IMB online services portray both the men and women participating in these sites. Western men are advertised on the site as well, so Filipina women have the chance to reach out to them and read their profiles); Bowes, supra note 2 at 6.
39 Bowes, supra note 2 at 5 (subjecting Filipina women to evasive personal questions, medical examinations and background checks, while conversely potential consumer husbands only have to pay a fee to sign up for the service; unless the IMB is within the jurisdiction of the U.S.).
40 U.S. Citizenship and Immigration Services, Information on the Legal Rights Available to Immigrant Victims of Domestic Violence in the United States and Facts About Immigrating on a Marriage-Based Visa (April 25, 2013), available at http://www.uscis.gov/USCIS/Humanitarian/Battered%20Spouse,%20Children%20Parents/IMBRA%20Pamphlet%20Final%2001-07-2011%20for%20Web%20Posting.pdf (K-1 visa requiring an individual that is a fiancée of a US citizen to (1) marry within 90 days or depart the US, (2) file an Application to Register Permanent Residence, (3) Wait 2 years as a conditional permanent resident. If individual does not marry or marries someone other than the designated fiancée, they will be in violation of the terms of the visa and can be subject to deportation or other penalties; K-3 visa requiring an individual that is a spouse of a US citizen they are allowed to enter temporarily while waiting for approval of a family-based visa petition that will garner green card status, or permanent residence).
41 Bowes, supra note 2 at 15.
44 Office of Refugee Resettlement, U.S. Dep’t of Health & Human Services, Fact Sheet: Federal Efforts to Assist Victims of Human Trafficking (September 27, 2012), available at http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-federal-efforts-to-assist-victims-of-human-trafficking (HHS funding is provided to trafficked victims to be eligible for benefits and services provided to refugees and community action groups address the problem of trafficking within their own communities; USCIS provides relief to trafficked victims through the T Visa, which allows victims to remain in US for up to four years, and the U Visa, which provides immigration protection to trafficked victims who have suffered from mental or physical abuse from a criminal act; and ICE actively investigates cases of trafficking and provides Continued Presence (CP) that grants relief for victims of trafficking that could be potential witnesses).
HUMAN TRAFFICKING: THE MISSING MALE VICTIM

by Michael T. Tien

One of the great legacies of [the Violence Against Women Act] is that it didn’t just change the rules, it changed our culture. It empowered people to start speaking out.

–President Barack Obama

On March 7, 2013, President Barack Obama signed a bill reauthorizing the Violence Against Women Act (VAWA). The reauthorization of VAWA was a bipartisan effort—despite a tumultuous political dynamic—and undeniably makes strides for survivors of domestic violence. Interestingly, the Trafficking Victims Protection Reauthorization Act (TVPRA) was added as an amendment to VAWA’s reauthorization.
In the past, the TVPRA has been called “landmark legislation,” and even the “centerpiece for all U.S. anti-human trafficking laws.” Simply put, the TVPRA’s reauthorization was critical to help build awareness around anti-trafficking and those at risk of being trafficked, strengthen services for victims, bring traffickers to justice, and overall, “protect the human rights of children and adults in the [U.S.] and around the world.”

However, more troubling than this important legislation remaining expired since September 2011 may be that it was embedded in VAWA, an act aimed at “putting a stop to violence against women and other vulnerable groups.”

This time around, VAWA was broadened to protect “Native Americans, LGBT women and illegals who are victims of domestic violence, rape and sex trafficking.” Such an expansion makes it seem relevant, if not practical, to place TVPRA in VAWA, as a codification of a universal stereotype that human trafficking happens only to women and children. However, this approach to human trafficking is problematic, at best, because it ignores the prominence of male victims of human trafficking in the U.S. and abroad.

The Existence of the Male Victim

It is clear that a disproportionate number of trafficking victims are women—comprising about two-thirds of reported victims—while men make up the majority of traffickers. In fact, over 90% of the prison population worldwide is comprised of men; many of these men behind bars for violent crimes. However, like the trafficking of women, the trafficking of men is also universal. While “[s]ome reports indicate that women may be subject to more exploitative conditions or more vulnerable to becoming victims of forced labor or trafficking . . . [and] more subject to violence and sexual exploitation than men . . . [there are] few gender differences when it comes to vulnerabilities to exploitation and abuse.” The response to human trafficking victims, based on their sex, is universal as well. While scholars rightfully focus much of their attention on the male demand perpetuating a vicious cycle of trafficked women, there is little discussion concerning the male victim himself.

It is important to first dispel any belief that location, age, familial status, or lack of education is determinative of a male’s susceptibility to being trafficked. While the desire to earn money has been a “common denominator” in men’s decisions to migrate—“most studies show that the vast majority of
victims of trafficking and exploited migrants consider themselves to be poor at the time of migrating”—this, too, is not determinative of susceptibility to being trafficked.\textsuperscript{17} This is because male victims are generally recruited and trafficked by use of deceptive tactics.\textsuperscript{18} Male victims are often controlled by psychological, physical and sexual abuse.\textsuperscript{19}

Male victims exist in every country. For example, Cambodian men and boys have been “deceived onto long-haul fishing boats . . . out to sea for up to two years or more [in] virtual prisons on which the trafficking victims endure inhuman working conditions, and physical abuse.”\textsuperscript{20} Further, while “[e]veryone knows that Afghanistan is one of the world’s worst places to be female . . . [f]ewer people realize that Afghanistan is one place in the world where boys are more likely to be trafficked than girls.”\textsuperscript{21} Additionally, the Salvation Army reports that 41\% of the adult victims of human trafficking that it assists in England and Whales are men.\textsuperscript{22} These worldwide occurrences should be no surprise as they have been recognized and documented in the U.S. State Department’s 2012 “Trafficking in Persons Report,” which further detailed the stories of men or boys trafficked in India, Brazil, and Burma - Thailand.\textsuperscript{23}

Male victims are seen in the U.S. as well, often in child pornography. “[T]he sex trafficking of young boys feeds the high demand for child pornography in the [U.S.], more than half of which features boys rather than girls.”\textsuperscript{24} In addition to child pornography, the rising demand for discounted labor combined with men from poverty-stricken nations migrating to the U.S. for work has resulted in the labor trafficking of males domestically.\textsuperscript{25} These male victims are not just from abroad; they are comprised of U.S. citizens, legal residents, and lawful visitors, too.\textsuperscript{26}

\textbf{The Male Victim Is Missing}

Overall, male victims of human trafficking are relatively under-detected.\textsuperscript{27} The trafficking of males has been “rarely represented in official national statistics” likely because the major form of male exploitation is for labor purposes, and this is already an “extremely underreported” form of trafficking.\textsuperscript{28} Experts believe forced labor is less frequently detected and reported than sexual exploitation for three reasons.\textsuperscript{29} First, the criminalization of forced labor is a relatively recent development, as many countries have only recently expanded trafficking definitions beyond sexual exploitation.\textsuperscript{30} Second, the public and law enforce-
ment tend to relate human trafficking only to the sexual exploitation context. And third, sexual exploitation—especially in the form of prostitution—is more easily detected than forced labor because it is more “visible”; it occurs in public spaces within urban areas where clientele exists, whereas forced laborers are generally “hidden” in rural agricultural fields, mines, factories, or even in closed homes as domestic servants.

In addition to this lack of awareness, other factors to consider in the general oversight of the male victim include deportation and gender biases. It has been shown internationally that male victims are often deported without consideration of such activity as “irregular migrants.” Additionally, male victims may not identify themselves as victims due to gender roles:

While female vulnerability is often highlighted in contemporary media discourse, male vulnerability is consistently obscured by modern-day media expressions of male dominance and invulnerability perpetuated under the guise of masculinity. To some extent, men and boys have become the victims of this media-driven, socially constructed conception of maleness.

Finally, men that are exploited, deprived of freedom and control, or subjected to physical abuse and threats, are generally not identified as “trafficked,” whereas women of similar circumstances are. Consequently, these women are afforded support and protection, and the men are often not.

**Finding and Aiding the Male Victim**

Even if men may be more reluctant to accept help or assistance than women due to gender or cultural roles, support must be tailored to male victims to alleviate these concerns. Male victims must understand that combatting human trafficking itself is more significant than the male victim’s status as a male or immigrant. Once identified, male victims must be accommodated with shelter, the same medical services that women victims may need, counseling to address later symptoms (e.g., stress, depression, shame, insecurity, low self-esteem, hopelessness, and alcoholism), and assistance in finding economic opportunities in order to return to their countries of origin. Most importantly, like all trafficking victims, male victims must be afforded justice.

While all of these reactionary measures are important to assist the male victim himself, the value of preventative measures cannot be ignored. It has been
found that when countries specifically raise awareness of male victims, including how to identify such demographic, the identification of trafficked males has increased.43 Further, the international monitoring, exchange and sharing of human trafficking information is vital in gaining insight into the topic, as much can be learned through such a “collective experience.”44 Finally, although between 2003 and 2008, the number of nations with some form of legislation criminalizing human trafficking rose from 35% to 80%, all countries must adopt more comparable and succinct legislation to battle and criminalize human trafficking of all forms.45

CONCLUSION

Although the TVPRA has gender-neutral text, “its implementation is unlikely to protect [male victims] because the [TVPRA] is largely interpreted and enforced as a law primarily designed to protect women and girls from sexual exploitation.”46 Therefore, adding the TVPRA to the recently reauthorized VAWA further perpetuates the common belief that trafficking and violence happens exclusively to women and children. In the words of President Obama, it is time to “change our culture” and “empower people to start speaking out,” but this time about male victims of human trafficking. We must learn first how to identify male victims, and then find the most effective way to provide restorative services and afford male victims justice. In order to bring awareness to a “missing” component of the human trafficking scheme, the U.S. and international community must do better at giving male victims the time and attention they truly deserve. Specifically, in the U.S., the first step may be doing more than obscuring them—and other victims of human trafficking—in the words of a sheer amendment to legislation, thus overshadowing them in their entirety.

NOTES

Loyola Public Interest Law Reporter

2013) (highlighting the features of the reauthorization of VAWA). The original act had expired in September 2011. Sink, supra note 1.

3 In President Obama’s own remarks: “On behalf of everybody here, and all of the lives that you have had a positive impact and touched through the Violence Against Women’s Act, the survivors who are alive today because of this law, the women who are no longer hiding in fear because of this law, [and] the girls who are growing up aware of their right to be free from abuse because of this law . . . .”

4 Sink, supra note 1. See Breaking News: Violence Against Women Act & Trafficking Victims Protection Reauthorization Act Passed, NOT FOR SALE, Feb. 28, 2013, http://www.notforsalecampaign.org/news/2013/02/28/breaking-news-violence-against-women-act-passed (“Through the TVPRA, the United States government is able to fund law enforcement as well as services for survivors. The TVPRA combats both national and international trafficking in persons. Furthermore, the TVPRA defines the penalties for trafficking and promotes interagency cooperation. By reauthorizing this legislation Congress has renewed its commitment to identifying human trafficking, punishing those perpetrating the crimes, and helping the survivors move beyond their victimization.”).


6 CdeBaca & Perez, supra note 5.


9 See id. (calling VAWA “historic legislation granting all U.S. women greater protections,” and the addition of the TVPRA to its reauthorization made the new bill a “powerhouse”).

10 U.N. OFFICE ON DRUG & CRIME, Factsheet on Human Trafficking (2012), available at http://www.unodc.org/documents/human-trafficking/UNVTF_fs_HT_EN.pdf. See U.N. OFFICE ON DRUG & CRIME, Global Report on Trafficking in Persons, 11 (Feb. 2009), http://www.unodc.org/documents/Global_Report_on_TIP.pdf [hereinafter Global Report] (discussing a study of 61 countries where women comprised two thirds of identified victims). However, it is important to note that women are often traffickers: “In Europe, for example, women make up a larger share of those convicted for human trafficking offences than for most other forms of crime.” Id. at 10.


13 See Id. at 16.

14 See, e.g., id. at 6 (“Researchers in Serbia found a case where men and women, identified in the same group and under the same circumstances, were treated differently, with the men being charged with immigration violations while the women were not only not charged with such violations, but were also given temporary residence permits.”).
15 See, e.g., Iris Yen, Of Vice and Men: A New Approach to Eradicating Sex Trafficking by Reducing Male Demand Through Educational Programs and Abolitionist Legislation, 98 J. OF CRIM. L. & CRIMINOLOGY 653 (detailing the male demand’s impact on the sex trafficking of women); see generally U.S. AGENCY, supra note 12 (exploring the global trafficking of adult men).
16 See, e.g., U.S. AGENCY, supra note 12, at 8–13 (detailing the demographic trends of male victims throughout Europe and how men from all countries in the region, of any age and marital status, education levels, employment, and race).
17 Id. at 12, 13 (citing to Russia where many of the trafficked men were employed and as high as “well off” in wealth before migration).
18 Id. at 13, 14 (describing how the male victim is most often trafficked through personal contacts, recruiting agents or agencies, and newspaper advertisements). It is important to note that abduction and forcible recruitment occurs too.
19 Id. at 21, 22 (stating that while “violence and threat of violence [is] a key element in controlling victims,” rumors of abuse, public beatings, and rape can be “used to make an example to the others” or “control victims.”)
22 See David Batty, Two-Fifths of UK Trafficking Victims are Male, Survey Reveals, THE GUARDIAN, Apr. 25, 2012, http://www.guardian.co.uk/world/2012/apr/26/two-fifths-human-traficking-male (summarizing the charity’s survey of victims it has assisted from all over the world). In the article, United Kingdom’s Minister for Justice, Crispin Blunt, stated: “Human trafficking is often seen as predominantly affecting women—meaning that male victims are often overlooked and are forced to go without the support they so desperately need.”
23 U.S. DEPT. OF STATE, TRAFFICKING IN PERSONS REPORT (2012).
25 Id. at 1153.
26 Id. at 1154.
27 See Global Report, supra note 10 at 11.
28 Id. at 49.
29 Id. at 51.
30 Id.
31 Id.
32 Id. “[M]any may victims of trafficking work in construction in large cities, working in plain sight of authorities and the general public and often side by side with other non-trafficked workers, both citizens of the destination country and foreigners.” U.S. AGENCY, supra note 12, at 7.
33 Id. at 6 (“People find what they look for, and as efforts have been primarily focused on trafficked women and children, they are the victims who have been found). This has resulted from campaigns, trainings, and other efforts to combat human trafficking being heavily focused on trafficked women and children. Id.
34 Id. (describing how cases of trafficked men “are often covered up” with the “irregular migration” deportation scheme). See, e.g., id. (describing how 18% of men identified in the
Ukraine as male victims were deported as “irregular migrants,” and 16% interviewed in Georgia were deported).
35 Jones, supra note 24, at 1149.
36 See U.S. AGENCY, supra note 12, at 6.
37 Id.
38 Id. at 24.
39 Id. ("[M]ale victims of trafficking and exploitation are often seen in countries of destination as, first and foremost, illegal migrants who knowingly worked in (and often entered) the country illegally. As a result, time is not taken to find out what abuses they may have suffered at the hands of local employers . . . .").
40 Id. at 25–30 (detailing the many services that may assist male victims once they are actually identified as being trafficked).
41 Id. at 30. “Providing justice for victims of trafficking is in everyone’s interest. It ensures that the laws of the state are respected and the rights of the victims are protected. However, few cases of trafficking of men go to the courts and very few cases could be found in which men were awarded compensation. . . . Rather than receiving justice, many male victims of trafficking are charged with crimes committed while trafficked, especially for illegal border crossing or illegal stay in the destination country. This is in sharp contrast to trafficked women who are now far less likely to be charged with such crimes.”
42 Id. at 32. (“Prevention is an important element of any anti-trafficking program.”) (emphasis added).
43 Id. at 6. (citing to Uzbekistan as an example where the identification of male trafficking victims outnumbered women in 2009 due to increased attention and investigation).
44 See Global Report, supra note 10, at 69.
45 Id. at 36. See also Id. at 71 (“Countries without legislation criminalizing trafficking persons cannot be expected to return any convictions in this area.”).
46 Jones, supra note 24, at 1146.