Human Trafficking:  
A Victim-Centered Legal Update  
Overview and Relevant  
International Law

Judy Hale Reed, MPA, JD  
halereedj@wcspittsburgh.org  
Western PA Anti-Trafficking Coalition  
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Palermo Protocol

• 2000 United Nations Convention against  
Transnational Organized Crime, with Protocol to  
Prevent, Suppress and Punish Trafficking in Persons,  
Especially Women and Children
• 117 Signatories, 173 Parties (of 193 current UN members)  
• U.S. was a leading state in negotiating terms and  
ratification
• U.S. Trafficking Victims Protection Act (TVPA) is  
part of U.S. ratification

Federal Trafficking Law

• Trafficking Victims Protection Act (TVPA)  
• Defines human trafficking  
• Makes human trafficking a federal crime  
• Created sentencing guidelines for traffickers  
• Provided victims (“survivors”) with access to  
federal benefits  
  • Including T and U visas for foreign nationals who are  
victimized in the U.S.
The TVPA

- The “3P’s”
  - Prevention
  - Protection
  - Prosecution
  - 4th P, Partnership
    - 2010, Best Practice; removed now
- The TIP Report
  - In 2010, began to include U.S.

Trafficking Defined

- Bifurcated Definition
- Commercial sex acts induced by force, fraud, or coercion, or in which the person induced to perform such acts is under 18 years old (sex)
- Recruitment, harboring, transportation, provision, or obtaining of a person for labor or services using force, fraud, or coercion to subject the individual to involuntary servitude (labor)

Force

- Kidnapping
- Physical violence, rape, sexual abuse, harassment
- Confinement, use of restraints
- Denial of food, water, medical care, contraceptives, condoms, communication, etc
- Removal of children
- Concealment of whereabouts to friends/family
Fraud

• Promises of immigration or travel documents
• Required to perform work other than agreed upon
• Promises of salary or compensation that never materializes
• Misrepresentation of work/conditions of work
• PSA Example: http://www.youtube.com/watch?v=lfdW5WOYL_0

Coercion

• Debt bondage
• Threats of serious harm to victim or victim’s friends/family
• Trafficker controls victim’s contact with friends/family
• Threatening to use pictures against victim
• Withholding documents
• Punishment of others
• Quotas
• Verbal or psychological abuse

Pennsylvania Law

• 2006: Criminal Code for Labor Trafficking
  • One conviction
• 2012: Hotline Posting Bill, 1-888-3737-888
  • Implementation & Enforcement issues
• 2014: Robust Human Trafficking State Law
  • Defines many forms of trafficking
  • Provides increased victim services and legal protections
  • Training for increased enforcement
• No Safe Harbor provision (in state legislature)
• Forms of Trafficking Identified in PA
  • By numbers, more labor trafficking victims identified in PA
• PA Attorney General Office
  • Dedicated resources for child sexual exploitation
Legal Consent & Identification

“There is no such thing as a child prostitute . . . These children are victims who cannot give their consent.”
- U.S. Attorney David Hickton (Trib, 7/22/2015)

• Consent for sex is a state law question
• PA Law on consent for sex
  o Under age 13, cannot consent
  o Age 13-15, can consent with someone within 4 years of age
  o Age 16, consent to sex with person of any age

Barriers to Identification & Assistance

• Lack of information and resources for victims, for professionals, and for awareness-raising
• Trafficking follows legal and smuggled migration flows
• Charges and incarceration for sex-related crimes
  o Including for minors in many states
  o “Safe harbor” laws to not charge, or to vacate convictions for victims (SB 554)
• Charges and incarceration for non-sexual crimes that victims were forced to commit
• Immigration charges for costly “legal” travel documents
• Charges for trafficking offenses where victim helped trafficker (for improved status or release/escape)
  o “Brides get” or supervisor recruiter
• Globally, TIP Report pressure to increase convictions

Push and Pull Factors

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<thead>
<tr>
<th>Push (“Supply”)</th>
<th>Pull (“Demand”)</th>
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<tr>
<td>• Abuse in family of origin</td>
<td>• “Loving” partner/recruiter</td>
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<td>• Youth in dependency &amp;/or juvenile justice systems</td>
<td>• Food, shelter, material possessions</td>
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<td>• Homelessness (esp LGBT+)</td>
<td>• Availability of drugs/alcohol</td>
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<td>• Addiction; Mental health</td>
<td>• Global refugee crisis</td>
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<td>• Low education</td>
<td>• Better paying jobs/pay off debt</td>
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<td>• Criminal background, esp. felony conviction</td>
<td>• (economic security)</td>
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<td>• War, Repression, Environmental Disaster, Economic conditions</td>
<td>• Promises of better life</td>
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<td>• Visa issues, legal status, language &amp; culture barriers</td>
<td>• False marriages, false job offers</td>
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<td>• Adventure/travel/Hollywood</td>
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<td>• Cultural beliefs (“big win”)</td>
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Sexual Assault as Control

- Department of Justice Office for Victims of Crime collects data on sex, labor, and sex and labor.
- Traffickers use whatever coercive tools they have at their disposal, and sexual abuse is common.
- Prosecution (and awareness campaigns) often focus on the commercial activity, but the theoretical designation of labor trafficking as inherently less sexually exploitative than sex trafficking is false.


Human Trafficking vs. Smuggling

<table>
<thead>
<tr>
<th>Smuggling</th>
<th>Human Trafficking</th>
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<tbody>
<tr>
<td>Cross international border</td>
<td>Domestic or international</td>
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<tr>
<td>Movement across border</td>
<td>No movement required</td>
</tr>
<tr>
<td>Ends after crossing</td>
<td>Exploitation continues</td>
</tr>
<tr>
<td>Consent</td>
<td>No consent</td>
</tr>
<tr>
<td>Crime against the state</td>
<td>Crime against person’s fundamental rights</td>
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Different Experiences Overlap
Numbers & Reporting

• Definitions vary among states and countries
• Reported/identified cases “tip of the iceberg” (UNODC)
• 24.9 million victims (2017, International Labor Organization and Walk Free Foundation)
  o 16 million (64%) labor exploitation
  o 4.8 million (19%) sexual exploitation
  o 4.1 million (17%) state-imposed forced labor
• $150 billion/annual profit a year (2014, ILO)

Numbers of Convictions

• Globally in 2016, only 14,894 prosecutions and 9,071 convictions (2017 US TIP report)
• In 2016 in the Western Hemisphere:
  o 1,513 prosecutions
  o 946 convictions
  o 8,821 victims identified
• US Department of Justice human trafficking convictions:
  o 439 in 2016
  o 297 in 2015
  o 184 in 2014

Pennsylvania Numbers & Reporting

• Polaris Cumulative Numbers for Pennsylvania (2007 to June 30, 2017):
  o Total Calls: 3,545
  o Total Cases: 831
  o Total Victims, Moderate Indicators: 1,190
  o Total Victims, High Indicators: 765
• Estimated 100s of victims and potential victims:
  o Agriculture, Energy Extraction, Construction, Food Service, Salons, Sexual Exploitation
Legal Cases in Pennsylvania

- State Prosecutions, State Attorney General
- Federal Prosecutions
- Institute to Address Commercial Sexual Exploitation (CSE Institute) at Villanova University Charles Widger School of Law
- Human Trafficking Data
  - http://www.humantraffickingdata.org/

Best Practices

- Do no harm
- Coordinated care, continuity of care
- Victim-centered
- Multidisciplinary
- Terminology
  - International matchmaking/marriage fraud
  - Sexually exploited child
  - "Survivor" vs. "Victim"
- Cultural Competence / Cultural Humility
  - Language, country/region of origin, race, class, ethnicity, traumas, instability, abuse

Indicators (1 of 2)

- Was the victim recruited for one job, but forced to engage in a different job?
- Was the victim paid what they were promised?
- Was the victim a juvenile?
- Was the victim compelled to perform sexual acts?
- Did the victim have freedom of movement?
- Did the victim have contact with family or friends?
More Indicators (2 of 2)

• Was the victim deprived of food, water, sleep, medical care, or other necessities?
• Was the victim or victim’s family threatened if the victim attempted to flee?
• Was the victim threatened with deportation or law enforcement action?
• Was the victim’s salary garnished to pay debts?
• Was the victim in possession of identification documents?

Western PA Human Trafficking Coalition

The coalition is a victim-focused, collaborative effort between social service organizations, government agencies, advocacy groups, religious organizations, academia, concerned citizens, and law enforcement to combat human trafficking.

Western PA Human Trafficking Coalition

Mission: To develop and maintain a network of people and agencies to educate the community about human trafficking and to provide and coordinate emergent support to survivors.
Western PA Human Trafficking Coalition

- Food
- Lodging
- Clothing
- Physical healthcare
- Mental healthcare
- Legal assistance
- Language/ESL classes, education support
- Transportation
- Coordination and relationships/network

Contact Information

Polaris Project
- Text "BeFree" (233733)
- TTY: 711
- Confidential help and information 24/7, non-government

Project to End Human Trafficking

FBI Pittsburgh Civil Rights Hotline
- 412-432-4122

Homeland Security Investigations (HSI)

In an emergency, call 911

Resources

- U.S. Department of State Annual Trafficking in Persons Reports, 2001-2017
  http://www.state.gov/j/tip/rlstrlrpt/
- U.S. Department of State resources for identification and assistance
  http://www.state.gov/j/tip/id/index.htm
- Human Trafficking Data
  http://www.humantraffickingdata.org/
- 2016 UNODC Global Report on Trafficking in Persons
Additional Resources

- Polaris Project: Recognizing the Signs
  https://polarisproject.org/human-trafficking/recognize-signs
- Polaris Project: Resources for Healthcare, Educators, Etc.
  https://polarisproject.org/resources
- Department of Homeland Security: Resources
  https://www.dhs.gov/blue-campaign/library
- Department of Homeland Security: Awareness Videos
  https://www.dhs.gov/blue-campaign/videos

Resource on Coordinated Care for Trafficking Victims
Burke, Mary; McCauley, Health L.; Rackow, Anne; Orsini, Bradley; Simunovic, Bridget; and Miller, Elizabeth (2015) "Implementing a Coordinated Care Model for Sex Trafficked Minors in Smaller Cities." Journal of Applied Research on Children: Informing Policy for Children at Risk: Vol. 6: Iss. 1, Article 7.

Resources for Ethical Consumption

- U.S. Department of Labor, List of Goods Produced by Child Labor or Forced Labor 2016
  https://www.dol.gov/ilab/reports/child-labor/list-of-goods/
- Better World Shopper
  http://www.betterworldshopper.org/
- Slavery Footprint
  http://slaveryfootprint.org/
“I freed a thousand slaves, I could have freed a thousand more if only they knew they were slaves.”

-Harriet Tubman