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Child Labor Trafficking in the United States

An Overview

The labor trafficking of children is modern slavery. The International Labor Organization estimates that 5.5 million children are in forced labor worldwide.[1] The Bureau of International Labor Affairs (ILAB) within the United States Department of Labor (DOL) classifies forced labor of children as a subset of child labor. ILAB defines child labor as "work that interferes with the physical and mental development of children … [and] also often interferes with children's opportunities to attend school fully or requires them to drop out of school entirely".[2]

In the United States, the Trafficking Victims Protection Act (TVPA) defines child labor trafficking as a situation where a person younger than 18 years of age is compelled to perform labor or services by force, fraud, or coercion.[3] While child employment is legal in the U.S., with some restrictions[4], not all forms of child labor and exploitation constitute human trafficking. Labor exploitation becomes labor trafficking when the employer uses force, fraud, or coercion to compel labor or services from a child.

While many children are vulnerable to human trafficking, there are certain factors that heighten their risk for labor trafficking. These factors include undocumented status, separation from families and support networks, homelessness, poverty, lack of educational opportunities, and feelings of obligation to support themselves and their families.

Industries where child labor trafficking occurs in the U.S. include agriculture, domestic servitude, peddling and begging rings, traveling sales crews, health and beauty services, and restaurant work. Child labor trafficking can also occur in informal and illicit settings. An example of child labor trafficking occurring beyond the scope of a formal workplace might involve an organized criminal network that compels a child into providing labor or carrying illegal drugs. Also, child labor trafficking can coincide with sex trafficking. For example, a child who is forced to work in a strip club or cantina may also be forced to engage in commercial sex acts with customers.

Relevant Laws

The Trafficking Victims Protection Act includes protections against child labor trafficking in the United States. The Fair Labor Standards Act (FLSA) and the Occupational Safety and Health Act (OSH Act) also contain labor protections for workers in the United States. While FLSA and the OSH Act do not directly address human trafficking, they prohibit and regulate many abusive and unsafe conditions that may be present in human trafficking situations or may escalate to labor trafficking.

- Trafficking Victims Protection Act (TVPA): The TVPA is the first comprehensive law in the U.S. to combat human trafficking. It was originally passed in 2000 and reauthorized in 2003, 2005, 2008, and 2013. Labor trafficking is defined as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery."[5]

[1] ILO Global Estimate of Forced Labour: Results and Methodology by International Labour Organization (ILO). Geneva, 2012; http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf.
[2] U.S. Department of Labor, Bureau of International Labor Affairs, Child Labor, available at http://www.dol.gov/ilab/issues/child-labor/
[3] Trafficking Victims Protection Act of 2000, 22 USC § 7102 (8).
[4] U.S. Department of Labor, Child Labor, available at http://www.dol.gov/whd/childlabor.htm
[5] Trafficking Victims Protections Act of 2000. 22.USC §7102.

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- Fair Labor Standards Act (FLSA): The FLSA is the federal law governing minimum wage, recordkeeping, overtime pay, and child labor in the United States. The FLSA applies to most workers unless their employer can claim an exemption from coverage. Under this law, children working in nearly all industries must be at least 14 years old to work. However, children can perform agricultural work at younger ages if certain statutory criteria are met. In most industries, protections exist to limit the number of hours a child can work, with the exception of the agricultural sector, which imposes no limit on hours worked other than the requirement that the work be performed outside of school hours. Similarly, overtime pay is not required for agricultural workers or some domestic workers who reside in the household, regardless of their age.[6] This act is administered by the DOL Wage and Hour Division (WHD).
- Occupational Safety and Health Act (OSH Act): The OSH Act establishes standards of safety for work environments, authorizes the enforcement of those standards, and provides for the outreach, education, and training on workplace health and safety issues and the law prohibits the use of certain equipment. Because live-in domestic workers are excluded from these federal protections, several states have established their own Domestic Workers' Bill of Rights to extend them these protections. This act is administered by DOL, Occupational Safety and Health Administration (OSHA) and WHD.[7]

Prosecuted Cases of Child Labor Trafficking by Industry

Child labor trafficking occurs in a variety of situations and industries. These victims may be exploited by small businesses, organized crime, traveling sales crew leaders, farmers or growers, and even families. The following list is not exhaustive, but includes industries in which there are prosecuted cases of child labor trafficking in the U.S. or in which the National Human Trafficking Resource Center (NHTRC) hotline has received reported cases of child labor trafficking.

Agriculture and Animal Husbandry

Children who work to harvest crops and care for domestic animals as part of the nation's migrant and seasonal workforce in agriculture may work long hours for little or no pay (often alongside their parents with whom they have traveled to find work).[8,9] Since this work is seasonal, these families are often transient. They may face unsuitable and unsanitary living and work conditions, and lack access to supportive services. Child trafficking victims in agriculture typically include undocumented immigrants and foreign nationals with temporary H-2A work visas.

- U.S. v. Maria Garcia Botello, et al. (2004)
  In 2002, Maria Garcia Botello and five other defendants were charged with forced labor related to a recruiting scheme in which they targeted over 40 Mexican farmworkers, including children, to work on farms near Buffalo, New York. The defendants who worked as labor contractors threatened the victims with deportation if they tried to escape; forced them into debt bondage by coercing them into working to pay off illegal debts for their transportation, food, housing, and electricity; and denied them access to potable water and food. The victims were assisted by Farmworker Legal Services of New York and the U.S. Department of Justice (DOJ) led an investigation. The defendants pled guilty and were sentenced to a minimum of three years imprisonment.[10]

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[6]The Fair Labor Standards Act of 1938. 29 U.S.C. 213(b)(12). http://www.dol.gov/compliance/laws/comp-flsa.htm.
[7] OSH Act, https://www.osha.gov/index.html. More information about young workers at https://www.osha.gov/youngworkers/
[8] Human Rights Watch. "Tobacco's Hidden Children: Hazardous Child Labour in the United States Tobacco Farming," (2014). Retrieved from http://www.hrw.org/sites/default/files/reports/us0514_UploadNewNew.pdf.
[9] Southern Poverty Law Center. "Who Are Farmworkers?" (2015). Retrieved from http://www.splcenter.org/sexual-violence-against-farmworkers-a-guidebook-for-criminal-justice-professionals/who-are-farmworke.
[10] "Six Indicted in Conspiracy for Trafficking and Holding Migrant Workers in Conditions of Forced Labor in Western New York." June 19, 2002. US Department of Justice (DOJ), Javier H. v. Maria Garcia-Bello, No. 02-CV-532S. Retrieved from http://www.justice.gov/archive/opa/pr/2002/June/02_crt_360.htm.

Domestic Work

Child domestic workers often provide services such as cooking, cleaning, childcare, elder care, gardening, and other household work. They may or may not live with their employer and may work for a single family or multiple families. These children often work long hours with little or no pay; are prevented from attending school; have their external interactions limited, controlled, or restricted; and may be subjected to verbal, physical, or sexual abuse by their employer. These victims typically include undocumented immigrants or foreign nationals who have come to the U.S. on a temporary, derivative visa.

- U.S. v. Theresa Mubang (2004)
  Theresa Mubang coerced a family from Cameroon into sending their nine-year-old daughter to the U.S. to work for her family in exchange for the child receiving an education. Mubang transported the victim using false documents; forced her to clean, cook, and care for her children; kept her isolated; and subjected her to physical and verbal abuse until the victim was able to escape. Mubang was found guilty of harboring for financial gain and involuntary servitude, and sentenced to a minimum of 17 years imprisonment and ordered to pay $100,000 in restitution. The defendant fled the U.S. before sentencing took place, but the Cameroon authorities apprehended Mubang in 2005 and sent her back to serve out her sentence.[11]
- U.S. v. Abdelnasser Eid Youssef Ibrahim (2006)
  Abdelnasser Ibrahim and his wife pled guilty to multiple charges, including forced labor, after they purchased a 10-year-old girl from Egypt to work in their Irvine, California household. Upon arrival, the couple confiscated the young girl's documents and forced her to clean, cook, and care for their children. The defendants verbally and physically abused the victim, forced her to sleep in the family's garage, denied her access to school and religious services, and never paid her for her work. The defendants were ordered to pay more than $100,000 in restitution and sentenced to a minimum of two years imprisonment.[12]
- U.S. v. George Udeozor, et al (2008)
  George Udeozor and his wife smuggled a 14-year-old girl into the U.S. from Nigeria to work for them as a domestic servant. They promised her an opportunity to attend school, learn English, and receive payment for her services to the family. However, once she arrived, the couple forced her to work and abused her physically, emotionally, and sexually. They threatened her with deportation if she tied to escape; withheld her pay; and denied her access to education or any other external interactions. The couple pled guilty and was sentenced to a minimum of seven years imprisonment.[13]

Health and Beauty Services

Children forced to work in the health and beauty industry may be employed in beauty parlors, hair and nail salons, or spas that provide services such as hairstyling and braiding, massage therapy, or manicures and pedicures. These victims may face long hours of working without pay and typically include undocumented immigrants and foreign nationals on temporary work visas.

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[11] "United States v. Theresa Mubang." 2015. The United Nations Office on Drugs and Crime (UNODC), Human Trafficking Case Law Database. Retrieved from http://www.unodc.org/cld/case-law doc/traffickingpersonscrimetype/usa/2004/united_states_v._theresa_mubang.html.

[12] "Two Egyptian Nationals Plead Guilty to Holding Domestic Worker in Involuntary Servitude." June 29, 2006. US Department of Justice (DOJ). Retrieved from http://www.justice.gov/usao/cac/Pressroom/pr2006/089.html.

[13] "Former Montgomery County, Maryland Man Pleads Guilty to Holding Teenage Nigerian Girl in Involuntary Servitude." July 16, 2008. US Department of Justice (DOJ). Retrieved from http://www.justice.gov/archive/opa/pr/2008/July/08-crt-614.html.

- U.S. v. Akouavi Kpade Afolabi, et al. (2009)
  In 2007, Akouavi Afolabi and several family members were charged with smuggling 20 young girls from Togo to work in the U.S. at hair braiding and nail salons throughout Newark and East Orange, New Jersey. The victims ranged between 10 and 19 years old. Upon arrival, the traffickers confiscated their documents; forced them to work up to 14 hours per day, seven days per week; and did not pay them for their work in the salons. Afolabi threatened the victims with deportation and voodoo curses if they tried to escape or refused to work. The defendants were sentenced from two to 24 years imprisonment and ordered to pay nearly $4 million in restitution to the victims.[14]

Restaurants and Other Small Businesses

Child victims of labor trafficking found in the restaurant and food service industry may be forced to work long hours with little to no pay as waiters, bussers, kitchen staff, or performers. These victims may be held in debt bondage, forced to live and work in unsafe or unsanitary conditions, have their documents confiscated, and suffer physical, emotional, or sexual abuse by their employer. These include undocumented immigrants and foreign nationals on temporary work visas.

- U.S. v. Oscar Mondragon (2008)
  Oscar Mondragon and seven other defendants were convicted of multiple charges including forced labor and smuggling. They smuggled the Central American women and girls into the United States and lured victims with promises of a better life and legitimate employment. Upon arrival, they forced the victims to work and provide commercial sex to male patrons in cantinas near Houston, Texas. The defendant threatened to harm the victims and their families, and they threatened to have the authorities deport them if they tried to escape or refused to work. Mondragon and the co-defendants were sentenced to a minimum of nine years imprisonment and ordered to pay $1.7 million in restitution.[15]

Traveling Sales Crews, Peddling, and Begging Rings

Children and young adults with limited opportunities may be recruited and forced to work in traveling sales crews, peddling, and begging rings, where they spend long hours soliciting money or selling products such as magazine subscriptions or cleaning products. These youth are often lured by the promise of travel and a commissioned wage, but then are not paid at all. Employers may confiscate their documents, force them to meet a daily sales quota through physical or sexual abuse, require them to turn over any earnings, and threaten them with abandonment in unfamiliar cities. These victims typically include U.S. citizens and some foreign nationals, both undocumented and those temporarily residing in the U.S. on student or work visas.

Challenges and Service Needs

Identifying child labor trafficking victims can be particularly challenging. Similar to adult victims of human trafficking, children rarely step forward, self-identify, or seek help and may not understand that they have basic rights under the law. Their age may exacerbate this lack of awareness, and they may not know that they are a victim of a crime. They might fear repercussions from their trafficker, their families who are relying on them for financial support, or authorities.

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[14] Togolese Woman Sentenced to 27 Years In Prison for Forced Labor of Young West African Women." September 20, 2010. US Immigration and Customs Enforcement. Retrieved from https://www.ice.gov/news/releases/togolese-woman-sentenced-27-years-prison-forced-labor-young-west-african-women.

[15] "Two Men Sentenced for Human Trafficking and Alien Smuggling Charges." April 28, 2008. US Department of Justice (DOJ). Retrieved from http://www.justice.gov/archive/opa/pr/2008/April/08_crt_350.html.

Child trafficking victims have varied needs, ranging from clothing, food, transportation, education, and shelter to complex legal, emotional, and safety needs. In these cases, youth advocates and anti-trafficking service providers might consider working with local agencies in their community to meet the full spectrum of needs for these victims. For example, foreign national children might require the assistance of an immigration attorney to pursue immigration status in the United States. These children also require access to pediatric health services, school enrollment, custodial care, and/or counseling to rebuild supportive relationships with their loved ones.

HHS issues Eligibility Letters to foreign child victims of human trafficking and anyone can request assistance for them. Foreign national child victims of trafficking with Eligibility Letters are eligible to access benefits and services to the same extent as refugees such as medical screenings, Temporary Assistance for Needy Families (TANF), Medicaid, Children's Health Insurance Program (CHIP), Substance Abuse and Mental Health Services Administration (SAMHSA) Programs, Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), public housing,[16] and Job Corps[17].

To request assistance for a foreign national child victim of trafficking, please contact an HHS Child Protection Specialist at (202) 205-4582 or email Childtrafficking@acf.hhs.gov. If a child is in urgent need of assistance, please contact local law enforcement or child protective services to report abuse, neglect, or exploitation of a child.

Where Can You Find Help?

For more information on child labor, relevant law, or victim assistance, visit the following resources:

- U.S. Department of Health & Human Services (HHS), Administration of Children & Families (ACF)
  - Office of Trafficking in Persons Program (OTIP)
  - Office of Refugee Resettlement (ORR)
- U.S. Department of Labor (DOL)
  - Occupational Safety And Health Administration (OSHA)
  - Wage and Hour Division (WHD)
  - Employment And Training Administration (ETA) Job Corps
- U.S. Department of Justice (DOJ)
  - Civil Rights Division, Human Trafficking Prosecutions Unit (HTPU)
- Non-Governmental Organizations
  - Human Rights Watch
  - UNICEF USA
  - Child Labor Coalition

The National Human Trafficking Resource Center (NHTRC) maintains a database of service providers and resources throughout the United States, along with extensive training resources on a variety of topics related to human trafficking.

Report Online or Access Resources & Referrals: www.traffickingresourcecenter.org
Call: 1-888-373-7888 (24/7) Email: nhtrc@polarisproject.org

[16] Fact Sheet: Child Victims of Human Trafficking. August 8, 2012. US Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR). Retrieved from http://www.acf.hhs.gov/programs/orr/resource/fact-sheet-child-victims-of-human-trafficking#Officials.

[17] Youth between the ages of 16 and 24 and otherwise meet eligibility criteria may qualify for Job Corps. For more information, http://www.acf.hhs.gov/sites/default/files/orr/traffickingservices_0.pdf.