Child Labor Trafficking in the United States

The following document provides a brief overview of child labor trafficking in the United States. The definition, relevant Federal law, and sample prosecutions are included below. The document is intended to provide a basic understanding of this issue and should not be viewed as exhaustive.

An Overview of Child Labor Trafficking

Labor trafficking of children, is a form of modern-day slavery, and occurs when a person younger than 18 is induced by force, fraud, or coercion to perform labor or services. Some industries where child labor trafficking exists include agriculture, domestic servitude, peddling and sales crews, and various service industries such as restaurants. Occasionally, labor trafficking of children overlaps with sex trafficking, such as when children are forced to work in strip clubs or in cantinas, where they may be required to provide commercial sex in addition to dancing or waiting on customers.

Laws Relevant to Child Labor and Child Labor Trafficking

- **Trafficking Victims Protection Act (TVPA)** Originally passed in 2000 and reauthorized in 2003, 2005 and 2008, this law is the first comprehensive U.S. law combating human trafficking. Labor trafficking is defined as "the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery."[1]
- **Fair Labor Standards Act (FLSA)** is the federal law governing minimum wage, recordkeeping, overtime pay and child labor. FLSA applies to workers unless the employer can claim an exemption from coverage. Pursuant to FLSA, children working in most industries must be at least 14 years old to work, but in agriculture workers may be as young as 12. In agriculture there are no limits to the number of hours a child can work outside the school day.[1] In other industries, protections exist to limit the number of hours a child can work. For both agricultural workers and domestic workers, overtime pay is not required, regardless of age.[2]
- **Occupational Safety and Health Act (OSHA)** sets standards for safe work environments, authorizes the enforcement of those standards, and provides for outreach, education and training on workplace health and safety.[3] The protections afforded by the Act are not extended to domestic workers who live in the home where they work.[4]
- **National Labor Relations Act (NLRA)** protects the right of workers to organize, strike or bargain collectively,[5] but explicitly excludes agricultural workers and domestic workers.[6]

Types of Child Labor Trafficking

Although child labor trafficking may occur within a wide range of situations, it is often found in the following forms. This list is not exhaustive nor is it a fixed indicator that trafficking is taking place without further investigation.

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1 22 U.S.C. § 7102.

2 29 U.S.C. §§ 213(a)(15); (b)(21)

3 29 U.S.C. § 651(b).

4 29 C.F.R. § 1975.6

5 29 U.S.C. § 151-169.

6 29 U.S.C. § 152(3).

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- **Agricultural Work:** Children working in agriculture may work very long hours for little to no pay harvesting crops, potentially alongside parents with whom they have travelled to find work. Agricultural work is seasonal and transient and workers may face unsuitable and unsanitary living conditions. Victims of this form of trafficking include U.S. citizens and Lawful Permanent Residents, undocumented immigrants, and the children of foreign nationals with temporary worker H-2A visas.
- **Domestic Servitude**: Minors who are victims of domestic servitude perform work within their employers' households, such as cooking, cleaning, childcare, elder care, gardening and other household work. Domestic workers may or may not live in their employer's homes; they may work for a single employer or family, or several employers or families. Victims of human trafficking in domestic work commonly work 10 to 16 hours a day or more for little to no pay, may or may not attend school, may be kept indoors or have very restricted interaction with others, and may be subject to verbal, physical, and sexual abuse. Victims of domestic servitude in the U.S. are most often foreign national adult women, but are also sometimes foreign national female minors.
- **Restaurants/Cantinas:** Some child labor trafficking victims are forced to work long hours for little or no pay in restaurants or cantinas/bars. These victims may be male or female and are usually foreign nationals. This form of labor trafficking may happen in urban, suburban or rural settings. Victims may face squalid living conditions, threats by their traffickers, and confiscation of their identifying documents or they may be kept in situations of involuntary servitude through a system of debts that they are required to pay off through their labor. In cantina bars, young women and girls must encourage the male clientele to buy drinks and they may also be forced to engage in commercial sex with customers.
- **Traveling Sales Crews:** Young adults and teenagers with few opportunities for work are recruited into traveling sales crews with a promise of travel, meeting interesting people and enjoyable, outdoor work. Many sales crews impose quotas for the sale of goods, whether magazines, candy, cleaning supplies or other items. Crew members are paid on commission or promised a wage that is rarely provided, with crew leaders deducting expenses for motel rooms, fast food and transportation. Crew leaders can be verbally, physically, and sexually abusive, and use the threat of abandoning members penniless in unknown cities as coercion to keep members working. These crews operate throughout the United States.
- **Peddling/Begging Rings**: These rings may recruit adult or minor foreign nationals or U.S. citizens, and tend to operate in a local area. Individuals may appear to be begging on their own behalf or on behalf of a charity or religious organization. For example, some local peddling rings recruit younger children ages 9-14 to sell various items and front as youth leadership development programs. Peddling/begging rings may offer token items in exchange for donations, such as trinkets, candy, or water bottles. Not every ring is committing human trafficking, however they rarely have proper licensing and may violate child labor laws.

Recent Child Labor Trafficking Convictions

- 2004, U.S. v. Maria Garcia Botello: Four defendants charged with forced labor related to a scheme of recruiting approximately 40 Mexican farm workers, including minors, to work in agriculture in upstate New York pleaded guilty in 2004. The victims were held in debt, threatened, forced to live without sufficient food or water and paid virtually nothing for their work.[2]
- 2006, U.S. v. Ibrahim: Wife and ex-husband pleaded guilty to various charges, including forced labor, after purchasing a 10-year-old female in Egypt and bringing the child to their suburban California home. The child was forced to clean the home, cook, and care for the defendants' five children. The child was verbally abused and physically assaulted, never permitted to attend school or religious services, never compensated

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for her 20 months of work and forced to sleep on a dirty, fold-up mattress in a room in the defendants' garage. Defendants were required to pay more than $100,000 in restitution to the victim and each received prison sentences.[3]

- 2006, U.S. v. Ennassime: Wife and husband pleaded guilty to charges of forced labor after bringing their 12 year old niece to the United States. The victim was told that she would be able to attend school in exchange for childcare and house work for the defendants' child. The victim was instead forced to cook, clean, provide childcare and work at the defendants' coffee shop, sometimes for upwards of 14 hours a day. The child was physically abused, threatened with deportation, not paid for her work in the home and had her tips from work at the restaurant confiscated. With the help of friends and an immigrant rights group, the child escaped and the couple was prosecuted.[4]
- 2008, People v. Mondragon: Eight defendants were convicted of charges related to and including forced labor for their scheme of smuggling more than 100 Central American women and girls into the Houston area where they were forced to work in bars and cantinas selling drinks to male customers, and for some, providing commercial sex on demand. The victims were told they were being brought to America for a better life, but instead they were indebted to their traffickers and threatened with harm to themselves and their family members in order to compel their work. [5]

Challenges Facing Child Labor Trafficking Victims

The following are examples from a broad range of challenges faced by child victims of labor trafficking.

- **Immigration Status: Foreign national** child labor trafficking victims may be subject to visa fraud by employers who bring them into the country on a visa for tourism or use another person's documentation entirely. Traffickers often use the threat of deportation as well as document confiscation to maintain control over their victims. Children are particularly vulnerable to this manner of crime.
- **Isolation:** Victims of child labor trafficking may be physically, culturally and/or linguistically isolated and may have few, if any, local contacts. For domestic workers, employers may restrict the worker's movement outside of the home, not permitting the worker to leave at all, or only to attend church or take the employer's child to and from school, for example. The employer may limit or monitor the worker's communication with his/her family, or forbid the worker from speaking with neighbors. The domestic worker may not know his/her actual address or even the city and state where he/she is located. Child workers in agriculture are likely in rural areas with limited access to assistance. Youth working in sales crews can be particularly vulnerable to exploitation and trafficking because of isolation through removal from familiar surroundings and frequent travel.
- **Familial Labor Trafficking:** Parents or other family members may be traffickers, particularly in cases of domestic servitude and in restaurants. If the controller is a family member, it can be particularly difficult for the child to leave the situation or involve law enforcement due to increased shame, fear of repercussions within the family unit or fear of leaving, and emotional attachment to the family member. This creates much of the same complexity that exists with leaving an abusive relationship. Family members may also have arranged the domestic work situation in exchange for monetary compensation, and may also pressure the child to enter or remain in the situation to help support the family.

Polaris Project works to empower and mobilize people from diverse backgrounds and of all ages to take meaningful action against human trafficking. Register with www.polarisproject.org/signup to receive regular updates on human trafficking in the United States.

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1 Some states provide greater protection than FLSA requirements. For information on how state laws differ from FLSA hour requirements for children working in agriculture, see "State Child Labor Laws Applicable to Agricultural Employment." United States Department of Labor Wage and Hour Division. http://www.dol.gov/whd/state/agriemp2.htm (accessed December 17, 2011).

2 "Six Indicted In Conspiracy for Trafficking and Holding Migrant Workers in Conditions of Forced Labor in Western New York." United States Department of Justice.http://www.justice.gov/opa/pr/2002/June/02_crt_360.htm (accessed December 17, 2011); Javier H. v. Maria Garcia-Botello, No. 02-CV-523S (W.D. New York. Sept. 11, 2011).

3 "Two Egyptian Nationals Plead Guilty to Holding Domestic Worker in Involuntary Servitude." United States Department of Justice.http://www.justice.gov/usao/cac/Pressroom/pr2006/089.html (accessed December 17, 2011) and University of Michigan Human Trafficking Law Project Database,http://www.law.umich.edu/clinical/HuTrafficCases/Pages/CaseDisp.aspx?caseID=9

4(accessed December 17, 2011).

"Lakewood Couple Sentenced for Forced Labor and Harboring Alien." United States Department of Justice.http://www.justice.gov/usao/waw/press/2006/dec/ennassime.html (accessed December 17, 2011) and University of Michigan Human Trafficking Law Project Database,http://www.law.umich.edu/clinical/HuTrafficCases/Pages/CaseDisp.aspx?caseID=10(accessed December 17, 2011).

5"Two Men Sentenced for Human Trafficking and Alien Smuggling Charges." United States Department of Justice.http://www.justice.gov/opa/pr/2008/April/08_crt_350.html (accessed December 17, 2011) and University of Michigan Human Trafficking Law Project Database,http://www.law.umich.edu/clinical/HuTrafficCases/Pages/CaseDisp.aspx?caseID=250 (accessed December 17, 2011).