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Melynda Barnhart

New York Law School, melynda.barnhart@nyls.edu

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Labor Trafficking

Melynda Barnhart
New York Law School, New York, NY, USA

Synonyms

Forced labor; Human trafficking; Modern-day slavery

Definition

Labor trafficking is a subset of human trafficking, involving the exploitation of a person's labor by a variety of means whereby the person does not believe he or she is free to leave his or her work. Trafficking usually begins with the transportation, harboring, recruiting, or procuring of a person by means of force, deception or fraud, coercion, confiscation of identity documents, debt, or abuse of power or vulnerability, ending with the person in a form of labor servitude. Labor trafficking is more than the condition of servitude, slavery, or exploitation, as it also includes the process by which a person was placed in that servitude. It is a form of modern-day slavery.

Detailed Description

Labor trafficking is a form of human trafficking involving the exploitation of workers who are forced, defrauded, or coerced into a condition of servitude. Labor trafficking encompasses all forms of labor or services except sexual exploitation. Labor traffickers often target migrants, finding their victims at various stages of the migration process. Labor trafficking victims may be migrating for a variety of reasons, but most seek better employment or working conditions than what is available at home. While travel from home is not a necessary component of trafficking, labor trafficking commonly occurs in internal and external migration. The International Labor Organization reports that almost half of forced labor victims migrate within their country or across borders before enduring forced labor (International Labor Organization, Questions and answers on forced labor, http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_181922/lang--en/index.htm. Last visited 18 Dec 2012), also confirming the connection between movement and labor trafficking. The cost of labor trafficking exploitation is estimated to be \$20 billion annually in the amount of wages, and other benefits denied enslaved migrant workers (United States Department of State).

The separation of human trafficking into two forms, sex and labor, does not have a clear defining line. In general, any form of sexual

exploitation, commercial or not, is considered to be sex trafficking rather than labor trafficking. Some forms of legal commercial sex work, such as erotic dancing, may be included in labor trafficking definitions rather than sex trafficking, depending upon the relevant laws. For the most part, labor trafficking is a catchall definition that encompasses all nonsexual labor exploitation.

Legal definitions of what precisely encompasses the crime of labor trafficking vary at the state and international levels, but most include all forms of nonsexual labor or services, wherein the person's services are procured initially through various methods and the person is kept in servitude by a variety of means. Labor trafficking shares many aspects of forced labor, but such terms are usually not legally synonymous. At the international level, forced labor focuses only on the conditions of servitude at the site of labor, while labor trafficking also encompasses the methods of recruitment and the means of controlling the victims. The methods of trafficking commonly include transporting, obtaining, recruiting, harboring, or selling a person for his or her services. These methods commonly involve deception and fraud, as many trafficking victims are willing migrants and trust their recruiters. The common means of control once the person is at the labor site involve restriction of movement and harmful living and working conditions. These means of labor trafficking encompass physical force or restraint, psychological coercion, fraud or deceit, abuse of power or vulnerability, confiscation of identity or travel documents, and threats against the person or their loved ones.

Labor trafficking situations manifest in a variety of ways, but there are common patterns. The stereotypical migrant labor trafficking case involves traffickers who have established themselves in the foreign country or region and then recruit others in their hometown with promises of helping newer migrants to successfully migrate just as the trafficker did. The trafficking usually begins with recruitment for a "good job" elsewhere, such as a job with better pay, benefits, or working conditions than may be available to that person at home. The recruiter establishes trust with the victim, such that the victim usually

willingly undertakes migration. Recruiters may be friends, relatives, or neighbors of the victim and approach them individually, or recruiters may set up storefronts advertising jobs in other countries, just like legitimate labor recruiters. Some recruiters are trafficked people themselves, who are offered the opportunity to "purchase" their freedom by recruiting others. Some trafficking recruiters find victims after they have entered or been smuggled into the destination country and may be crew foremen or recruiters paid by legitimate employers to hire laborers. Due to the constant market for workers in many parts of the world, traffickers usually have no difficulty recruiting their victims. Because this recruitment mimics usual migration patterns and traffickers often insert themselves into active migration paths, most victims are not aware that they are being trafficked until it is too late.

Once the worker arrives at the worksite, the falsity of the "good job" is revealed. The promised job is instead labor exploitation, from which there is no apparent escape. Typically the migrant arrives at the foreign destination only to have his or her identification and travel documents confiscated, to be threatened and physically or sexually abused, and to be forced to perform work that is either unpaid or severely underpaid. Debt bondage is quite common, in which a manufactured fraudulent debt is required to be "repaid," which can be a highly effective form of coercion. This debt is often in the form of a smuggling or recruiting fee, set so high that the person can never pay it. Labor trafficking cases may also involve indentured servitude, wherein the person is held in servitude for a certain period of time, but this is less common than debts. Time periods may be a harvest season or a term of years or months. The trafficking ends when the person frees himself or herself from the exploitative situation.

The psychological trauma involved in labor trafficking is a primary reason victims find it so difficult to escape, even if the person is not being literally restricted in his or her movement. Common emotional responses to trauma and victimization include emotional detachment and feelings of self-blame, anxiety and fear, and

difficulty in making decisions or concentrating. Many experience a loss of memory related to the traumatic event. Physical reactions, particularly where the person was physically or sexually abused, include weakened physical state, untreated medical conditions, and often hunger (2012 TIP report, p. 17). These traumas, combined with threats from traffickers, can cause a person to believe that he or she is not able to leave. Trafficked people often do not know that what they are experiencing is a crime, and many are unwilling to trust law enforcement or government officials in the country where they are. Modern-day slavery thus involves psychological chains more than physical ones.

Identified labor trafficking cases range in scale from single victims, most commonly in household domestic service as nannies or maids, to hundreds of victims, often occurring at sweatshops or factories. Labor trafficking has been discovered in regulated and unregulated forms of labor. Industries common to labor trafficking include domestic service, restaurants, agriculture, construction, manufacturing, and mining. Worldwide, very few industries have not included trafficked workers. Even occupations requiring extensive education have included trafficking victims, such as teachers and nurses. Certain industries may have higher incidence of labor trafficking in particular geographic regions, such as fisheries in Western Africa or brickmaking in South Asia.

The International Labor Organization (ILO), an international treaty organization, compiled the most accurate global statistics on forced labor in 2012. While the ILO's Global Estimate of Forced Labor report focuses on more broadly defined forced labor rather than human trafficking, all human trafficking is encompassed within the definition of forced labor ([International Labor Organization](#)). The ILO estimates the division of forced labor as 90 % by the private sector and 10 % by governments, in the form of work imposed by militaries or prisons in contravention of ILO agreements (ILO Global Estimate of Forced Labor, p. 13). Sixty-eight percent of victims are estimated to be in forced labor exploitation, with the remaining 22 % in sexual

exploitation (Id.). Forty-four percent of the total victims of forced labor had migrated either internally or internationally, although cross-border movement was more strongly associated with sexual exploitation than labor exploitation (Id. at 17).

Women and children are often the focus of anti-trafficking campaigns, but comprise about half of all victims of labor trafficking. This focus means that male trafficking victims are often overlooked by governments and law enforcement and are often not identified properly. Women are the most likely victims of forced labor through migration, but this is largely due to their overrepresentation in sexual exploitation cases. Women are 98 % of sexually exploited forced labor victims, while comprising slightly less than half of the labor exploitation victims (Id. at 14). Women's representation in labor trafficking cases is roughly consistent with their representation in migration overall ([United Nations Population Fund](#)). Children are also trafficked for labor; the type of labor and age of victims varies greatly by geographic region. Approximately 26 % of forced labor victims are children (ILO Global Estimate of Forced Labor at 14).

The current international definition of human trafficking is from the "Palermo Protocol," an anti-trafficking protocol to the United Nations' Convention Against Transnational Organized Crime (Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime ("Palermo Protocol"), Article 3(a), 25 December 2003, http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf). The convention also included a separate protocol against the Smuggling of Migrants by Land, Sea, and Air ([United Nations Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children](#)). Notably, the definition does not distinguish between labor and sex trafficking, focusing on the means and methods of trafficking for "exploitation" (Palermo Protocol, Article 3(a)). Exploitation

is given an inclusive definition, enumerating exploitation of “the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs. . .” (Id.). This protocol has been ratified by 154 countries (United Nations Treaty Collection database, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en. Last visited 18 Dec 2012). As well as providing a common definition of human trafficking, the Palermo Protocol mandates legal and physical protection for victims of trafficking in persons, including counseling, housing, employment opportunities, and protections in repatriation (Palermo Protocol, Articles 6–8). The protocol also details the measures governments must undertake to prevent trafficking in persons, detailing particular policies and programs and cooperation with other nations (Palermo Protocol, Articles 9–13).

In the wake of extensive political pressure from the United States, as well as to implement the ratification of the Palermo Protocol, most countries have adopted domestic criminal sanctions against labor trafficking as well as sex trafficking. Enforcement of these laws varies, but is relatively nonexistent. When most countries attempt to enforce anti-trafficking laws, the focus is almost exclusively on sex trafficking cases. Law enforcement officers are generally unfamiliar with enforcing labor laws, while prostitution crimes are quite familiar. Considering the estimates that most forced labor victims do not leave their country of origin, although they may move internally (ILO report at 16), the lack of enforcement of labor trafficking statutes in particular means that labor trafficking victims are unlikely to receive any assistance. Thus, implementation of domestic labor trafficking laws continues to be a widespread concern.

Labor trafficking falls within a continuum of migrant labor exploitation. Migrants are often vulnerable to exploitation, traveling to places with which they are unfamiliar, with few support networks, where they may have few legal protections as migrants. Thus, slavery, forced labor, and labor trafficking are only one end of the

continuum of abuses. The spectrum also includes difficult or dangerous working conditions, denial of safety equipment, underpayment or lack of payment, sexual harassment, overly long-working hours, no breaks, lack of union protections, the absence of promotion or advancement opportunities, etc. Just like with trafficking victims, exploited migrants may not seek the protections of labor or employment laws in the host country where such exist for fear of being deported, ignored, solicited for a bribe, or harmed. In many ways, migrants are perfect targets for labor exploitation because these are a group of willing workers who are less likely to demand fair treatment and may not have legal protections available to them. Until migration is made safer, labor exploitation of migrants is likely to continue.

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