

Abstract This article draws from interviews with formerly trafficked persons who have resettled in the USA. It has not been easy finding trafficked persons in the USA. The author contends that this is due, in part, to a focus of most anti-trafficking activities on one industry – the sex industry – to the exclusion of investigations into exploitation of migrant workers in other labor sectors. At the same time, undocumented workers stay quiet about workplace abuses because of a fear of deportation. ICE raids on workplaces where undocumented migrants may labor and the passage of local ordinances that empower local police officers to enforce immigration laws (287g agreements), have increased distrust between law enforcement and migrant communities. Forced underground, migrants working in vulnerable situations will be harder to find and to assist. This environment of threat shapes the resettlement of formerly trafficked persons since they typically enter the same low-wage, insecure and possibly exploitative work after being trafficked. More meaningful rights-based alliances with community-based organizations that focus on migrants' rights is a critical step to preventing forced labor and to assisting formerly trafficked persons. The fight *against* trafficking is a fight *for* migrants' rights.

Keywords forced labor, resettlement of formerly trafficked persons, trafficking, USA

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Thoughts on Finding and Assisting Individuals in Forced Labor in the USA

Since 2004 I have been interviewing individuals whose migration strategies to the USA went awry. These interviews with formerly trafficked persons¹ are part of ethnographic fieldwork for an ongoing book project, *Starting Over: Life after Trafficking into Forced Labor in the United States*. The book documents the lives of individuals whose migration veered drastically off course into situations of forced labor. Whether called trafficking, forced

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labor, indentured servitude, or debt peonage, labor exploitation occurs regularly and with impunity within migrant communities throughout the USA today.

While the media has focused on the spectacular – the horrors of life in trafficking and dramatic stories of escapes and rescues – my research picks up where these sensationalistic accounts leave off. Life after trafficking is a series of private daily struggles; it is usually not the stuff of press conferences or headline-grabbing news. Their daily concerns about work, housing and schooling resemble those of other migrants. This connection between formerly trafficked persons' and other migrants' experiences with resettlement – particularly with labor issues – is my main research focus. In fact, I assert that the place to begin to understand brutal forms of labor exploitation is with the everyday labor practices in work sites where migrants – undocumented and documented – work. Forced labor exists today in part because a range of other exploitative labor conditions exist and are allowed to proliferate. When exploitation is the norm, forced labor not only can flourish, but also blend into a background of abuse. Trafficked persons are not typically restrained with physical chains, but through mental or physical coercion. As a result, trafficked persons, whether they pick tomatoes or wash dishes or sew clothes alongside other migrant workers, may appear to be working under the same conditions as their co-workers. What distinguishes these severely exploited workers from those who have experienced less-severe forms of exploitation is their belief that they – or their families – will be hurt if they leave their trafficker. These practices of intimidation are effective. All trafficked persons – regardless of their particular circumstances of exploitation – live in fear and silence.

Thus, I place formerly trafficked persons' situations of extreme abuse in trafficking, and their experiences in new worksites after trafficking, along a continuum of exploitative labor practices that migrants experience in worksites throughout the USA. With this continuum in mind, in this essay I examine two aspects of forced labor in the USA: the factors that make it difficult to find trafficked persons and how these factors continue to shape these individuals' post-trafficking resettlement in the USA. Finding trafficked individuals – and their economic well-being after forced labor – involves many of the same issues as ending less severe forms of exploitation of migrant workers. Two recent political developments have affected profoundly the fight against forced labor in the USA today: increased efforts to arrest and to deport undocumented migrants; and increased efforts to 'rescue' US citizens – some underage – from work in the sex industry. Both trends make it more difficult than ever before to find and to assist foreign nationals in situations of forced labor. They move us further away from the long-term, time-intensive

approach of building partnerships within migrant communities that could prevent trafficking.²

Finding Trafficked Persons in the USA

It has not been easy finding trafficked persons in the USA. Although there is widespread consensus – among law enforcement, migrant labor organizers and attorneys, and social workers – that large numbers of individuals are held in situations of forced labor, finding them has been a challenge. Since trafficking legislation was passed in 2000 – the Trafficking Victims Protection Act (TVPA) – fewer than 2000 persons have been designated as ‘trafficked’ (US Department of State, 2009). Yet the US Department of State has estimated that 14,500 to 17,500 persons are trafficked annually from all over the world into the USA (US Department of State, 2004). With the TVPA allowing up to 5000 T visas to be issued every year, technically, by the end of 2009 as many as 45,000 persons could have received T visas. The large gap between the number of people assisted as formerly trafficked persons and the number allegedly entering the USA every year has been noticed in many quarters – including in Congress.³ Throughout the TVPA’s reauthorization process in 2005 and the 2007 reauthorization (which was not passed until 2008), members of Congress had been asking why government agencies have not found more individuals in forced labor. Consequently, there has been a scramble to produce trafficked persons.⁴

This pressure has had two significant effects. The first has been to make more money available to find trafficked persons. Forty-one anti-trafficking task forces were put in place throughout the USA to identify and to assist trafficked persons.⁵ The second effect of this pressure to produce ‘trafficking victims’ has been to increase attention and resources to one part of the TVPA that grants protections to domestic youth in sexual exploitation.⁶ While abuses within the sex industry – in particular for young people – are horrific and need attention, one kind of abuse and one kind of victimhood should not be privileged over others (Brennan, 2008). Common sense suggests that with rhetoric focused on and resources directed to finding domestic youth in prostitution – as well as non-US citizens in prostitution – fewer efforts will be made to reach foreign workers in industries outside of the sex industry. I contend that the low numbers of persons found thus far in forced (non sexual) labor nationwide has been, in part, a consequence of not looking. With ending prostitution a clear priority of government officials, attorneys for foreign nationals who were severely exploited in other industries are frustrated that investigations and prosecutions have been more aggressively sought in cases classified as ‘sex trafficking’. In 2004,

for example, there was an overwhelming focus on cases involving sexual exploitation. Of the 59 prosecutions initiated against traffickers in fiscal year 2004, 'all but one of those cases involved sexual exploitation' (US Department of Justice Assessment of US Government Activities, 2005: 15).⁷

It is not clear, however, what kind of success law enforcement would have if they attempted to investigate labor conditions in work sites where fear reigns – both fear of one's employers/traffickers and also of law enforcement and the possibility of deportation. Threatened, intimidated, and frequently isolated, individuals in forced labor are difficult to reach even with ongoing investigative efforts. It is little surprise that workers stay quiet in settings where unsafe working conditions, wage violations, or abuse thrive – especially in the underground economy and in the hidden supply chain that subcontracting creates. There are more disincentives to come forward than ever before. The current atmosphere of Immigration and Customs Enforcement (ICE) raids on workplaces where undocumented migrants may labor, and the passage of local ordinances that empower police officers to check the immigration status of individuals stopped for other violations (287[g] programs) have clearly chilled the relationship between law enforcement and migrant communities (Aizenman, 2008; Brulliard, 2008; Nossiter, 2008; Preston, 2008; Vargas, 2008).⁸ As the raids and arrests continue, labor abuses are less likely to get reported.⁹

While undocumented migrants go further underground, and trust erodes between migrant communities and law enforcement, new 'trafficking victims' – domestic youth – have attracted much attention. Fighting trafficking has become a way to crack down on sex work. As one journalist observed, during the Bush years, the administration had 'an obsession with prostitution' (Brinkley, 2008). As a result, fighting trafficking in the USA has been 'pervert(ed)' such that 'under Bush it (was) largely a campaign to abolish prostitution' (Brinkley, 2008). Anti-prostitution views have shaped not only who 'trafficking victims' are, but also who is deemed worth rescuing, and which organizations will assist with rescues and aftercare.¹⁰ Domestic youth in prostitution are assumed to be easier to find than non-US citizens in situations of forced labor. Some attorneys at the US Department of Justice and staff at organizations that are anti-prostitution have described domestic youth in prostitution as the 'low-hanging fruit' in the fight against trafficking in the USA.¹¹ Thus, two connotations have come to dominate discussions of trafficking to the USA. First, as evidenced in many stories in the media and in the Bush Administration's position on trafficking, sex trafficking has come to stand in for trafficking into all forms of labor.¹² That is, the broader category of labor trafficking has been subsumed by a significant subcomponent.

Second, voluntary sexual exchanges between adults for money have been described as sex trafficking, thereby linking voluntary prostitution to sex trafficking.¹³ This in turn, has produced a kind of moralizing sex panic within the trafficking debate. Both of these conflation (subsuming all trafficking into sex trafficking, and equating all sex work as sex trafficking) diverts attention away from serious discussions about – and investigations into – the relationship between migrants’ undocumented status and exploitative labor conditions – particularly through the practice of subcontracting.

As localities enact new policies that target undocumented migrants, more and more foreign nationals working in or vulnerable to situations of forced labor are likely to mistrust law enforcement, local and federal. Forced underground, they will be harder to find and to assist. It remains to be seen how the Obama administration proceeds. The recent expansion of the 287(g) agreements and no progress on immigration reform, do not help repair the current atmosphere of fear and silence around labor abuses. Together, these factors allow unscrupulous – or abusive – employers to threaten, exploit and even harm their undocumented employees. Without looking much beyond the sex industry for exploitation of migrant workers, of course, we will not find it.

Resettlement After Forced Labor

This environment of threat in which many migrants labor presents a daunting challenge to preventing forced labor. It also shapes the resettlement of formerly trafficked persons and their opportunities for long-term well-being, and possibly economic mobility. These exploitative conditions, which can become normalized among migrant workers, spill over into the resettlement process.¹⁴ The primary vehicle for post-trafficking resettlement in the USA is the T visa. This category of legal status for formerly trafficked persons was enacted in the 2000 Trafficking Victims Protection Act and grants legal residence to persons identified as trafficked and makes them eligible for a range of social services, funded by the federal government.¹⁵ Yet, a T visa does not render them immune from the kind of exploitative labor conditions that many migrants in low-wage labor sectors face.¹⁶ Since T visa recipients typically enter low-wage, insecure, and possibly exploitative work even after being trafficked, the challenges that they face in the short term threaten to preclude opportunities for economic security or mobility in the long-term. Few have significant savings to get them through rough financial patches. Nor do they have extensive social networks outside of the industry in which they may be working to find new jobs with better wages, greater security, or opportunities for mobility. And for those who want to acquire new skills or

degrees, balancing work and school presents more challenges. In short, they face the same struggles that have been well explored in scholarship on the working poor.¹⁷ Often the first in their immediate family and kin-networks to migrate to the USA, as ‘pioneers’ they struggle to secure a toehold – let alone to move ahead – in the US economy. And, they confront the same limited social networks that may have shaped their border-crossing strategy in the first place.

Thus, life after forced labor is life on the margins. As one social worker in California noted, the T visa can only do so much; without more benefits the current program may be creating ‘a new subset of poor immigrant workers’. Turning to co-ethnics is an obvious route to open up new opportunities; co-ethnics could provide just the kind of leg up that many formerly trafficked individuals need. Indeed, social networks of co-ethnics have been much studied – and heralded – as a source of help for new migrants and refugees (Alba and Nee, 2003; Fong, 1994; Repak, 1995; Waldinger and Lichter, 2003). Yet, if someone were being exploited by co-ethnics whose friends and family were still living in a particular community, she or he may want to resettle in a different community not comprised of co-ethnics. This is a population that remains silent about their abuses – not only do they often not reach out to co-ethnic communities, but they also describe not telling their families back home, nor their new friends about their abusive experiences in forced labor.

Concluding Comments

I wanted to end with a few comments on workshops offered by social-service agencies and community-based organizations through which formerly trafficked persons are meeting one another for the first time. Ostensibly designed to offer specific skills (such as money management, resumé writing, or computer classes), these workshops have an ancillary result: formerly trafficked persons who have never had a chance to meet other formerly trafficked persons learn that they are not alone in experiencing abuse. These meetings also lay the groundwork for more leaders – much like those at the Coalition of Immokalee Workers in Florida – to emerge to work on issues related to trafficking in particular, as well as on migrants’ rights more broadly.

With the sex industry receiving the most attention, more meaningful rights-based alliances with community partners are sorely needed to address the needs of migrant workers (Brennan, 2008). In contrast to start-up anti-prostitution organizations, migrants’ rights organizations that were around before the passage of the TVPA (2000) are well-situated both to find trafficked individuals and to facilitate migrant activists in taking leadership roles in the fight for better working conditions at sites

where migrants labor.¹⁸ This everyday rights work through outreach in migrant communities is a critical first step to preventing forced labor. The fight against trafficking is inextricably tied up with the struggle for migrants' rights and greater workplace protections for migrants. The fight *against* trafficking is a fight *for* migrants' rights.

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Notes

1. I use the terminology *trafficked person* rather than *victim* 'to underscore a rights-based rather than a criminal perspective' – except when I refer to the language used by certain agencies or the law – (Women's commission, 2007: 5). Throughout this essay I use the terms *trafficked persons*, *formerly trafficked persons*, *individuals in forced labor*, or *T visa recipients* to describe foreign nationals who work or have worked in forced labor in the USA.
2. Human Rights Commissions are one way to 'minimize friction and strengthen relationships between local police and immigrant communities' (Arboleda and Toma, 2008: 2). As 'governmental entities in dozens of US cities and counties', that generally focus on eliminating discrimination in housing and employment, they 'can fruitfully expand into addressing human rights issues relating to the criminal justice system, including selective local police enforcement of immigration laws, police activity at day-laborer sites, and police engagement with local immigrant gangs' (Arboleda and Toma, 2008: 2).
3. Congress commissioned the Government Accountability Office (GAO) to analyze US anti-trafficking efforts overseas (US GAO, 2006) and to examine interagency collaboration on trafficking cases in the USA (US GAO, 2007). The first report comments on the weak methodologies used to generate the government's estimates of human trafficking worldwide, while the second points to the need for more interagency cooperation when combating trafficking in the USA.
4. A Congressional Research Service Report for Congress in 2008 notes that since 'many US government agencies do not have a line item in their budget requests for trafficking programs and/or TIP-related operations, it is often difficult to calculate the exact level of funding that Congress appropriated for trafficking activities by agency' (Ribando Seelke and Siskin, 2008: 44). Nonetheless it estimates domestic costs: 'According to OMB, in FY2006, Congress appropriated \$113.5 for domestic anti-TIP activities' of which approximately \$20 million were used for trafficking victims' services' (Ribando Seelke and Siskin, 2008: 44). This means the 'majority of the appropriated monies funded the anti-TIP efforts of domestic law

- enforcement agencies including the Federal Bureau of Investigations (\$47.5 million) and Immigration and Customs Enforcement (\$11.9 million)' (Ribando Seelke and Siskin, 2008: 44). And, the most recent Trafficking in Persons Report (2009) reports that the US government's 'coordinated effort includes several federal agencies and approximately \$23 million in fiscal year 2008 for domestic programs to boost anti-trafficking law enforcement efforts, identify and protect victims of trafficking, and raise awareness of trafficking as a means of preventing new incidents' (The US Department of State, 2009).
5. These task forces partner local US Attorney Offices with state, local and territorial law enforcement agencies and with community-based organizations 'to create a victim centered human trafficking task force' (US Department of Justice: Attorney General's Annual Report to Congress on US Government Activities to Combat Trafficking in Persons Fiscal Year 2006 May 2007: 6).
 6. The early versions of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2007, redefined all prostitution as trafficking. As a federal crime, all cases of prostitution would have been prosecuted by the US Department of Justice, which the Department opposed (Benczkowski, 2007: 1).
 7. The 2004 Assessment also reveals an emphasis in fiscal year 2003 on prosecuting cases related to sexual exploitation, with 9 of the 12 cases filed for trafficking prosecutions charted in the category *sex* (US Department of Justice, 2004: 27). More recently, the prosecutions in sex cases have been close to double the prosecutions of labor cases. Of 32 cases filed in 2006, 22 were sex cases; of 32 in 2007 20 were sex cases; and of 40 cases in 2008, 27 were sex cases (Attorney General's Annual Report, 2009: 22).
 8. These 287(g) agreements have been widely criticized. An editorial in the New York Times (13 June 2009) denounced President Obama's Department of Homeland Security's decision to expand 'old, bad Bush administration ideas about immigration enforcement'. A number of reports call for an end to 287(g) programs such as one by The Police Foundation which details that the costs of the 287(g) program outweigh the benefits (2009). Other reports include: *Local Democracy on ICE: Why State and Local Governments Have No Business in Federal Immigration Law Enforcement* (Shahani and Greene, 2009) and *Raids on Workers: Destroying our Rights* (*Raids*, 2009) produced by the National Commission on ICE Misconduct, of which Tom Vilsack, the US Secretary of Agriculture was a part.
 9. Other models do exist: The Coalition of Immokalee Workers (CIW) in Immokalee, Florida provides an example of how to combat both forced labor and a range of migrant worker exploitation by engaging in labor organizing and investigative work. CIW members have gone undercover as farm workers to gather information on forced labor and debt bondage cases, many of which have been federally prosecuted. Through the Coalition of Immokalee Worker's drop-in center, weekly meetings, radio show, block parties, and ongoing outreach in places where farm workers work and live, they are well poised to learn of a range of abuses while they

also work daily to inform workers of their rights. See the following in which the CIW's work has been profiled: Bowe (2007) and (Rondeaux (2002) on the Ramos slavery case; Asbed (2003) and Nieves (2005) on the CIW's campaign against Taco Bell's use of subcontractors to pay tomato pickers poverty wages; Hundley (2006) on the CIW's negotiations with the McDonald's Corp; Schlosser (2007) and Greenhouse (2007) on the CIW's campaign to pressure Burger King to have their tomato suppliers pay more to their pickers; and Durbin, Sanders and Brown (2008) on the Senate Health, Education, Labor & Pensions Committee hearing on the working conditions and poverty wages in Florida's tomato fields.

10. Two camps, which have come to be known as anti-prostitution and pro-prostitution are divided over how to conceive of selling sexual services. The anti-prostitution position maintains that all forms of commercial sexual exchanges are not only exploitative but also coercive and that therefore the sex industry should be eradicated. In contrast, sex worker rights advocates (including me) acknowledge that although the sex industry can be exploitative, including being a site into which individuals are trafficked – it is also a form of labor that adult women and men may choose free from coercion (see Brennan, 2004). As a form of labor, sex work therefore should be granted greater labor protection to guarantee sex workers greater safety. Both camps agree that when minors are involved in the sex industry it is forced – never voluntary – prostitution.
11. Despite the new labeling of pimps as traffickers and youth as trafficking victims, police interventions can have perverse results. Police harassment of anyone – of any age – is commonplace in sites where sex workers have been known to work (Different Avenues, 2008). And while some young people have been rescued from abuse in the sex industry, others continue to be treated and processed as 'delinquents'. By rewriting 'street children, runaways, throwaways, or juvenile delinquents' as child victims affected by commercial sexual exploitation (CSEC), they move from 'stigmatized identity, for example, from child prostitute to this protective, neutral acronym' (Saunders, 2005: 168). The CSEC framework 'flounders', however, 'when confronted with youth who do not consider themselves victims or who do not view the harms done to them in the same way as the NGO advocates who intend to help them' (Saunders, 2005: 176). Saunders cautions that 'not all youth perspectives are afforded status as acceptable voices for change', but, rather, some 'nonconforming youth are pathologized and ultimately silenced by the framework of the CSEC' (Saunders, 2005: 168).
12. In President Bush's remarks at the signing of the TVPRA of 2005, for example, he placed ending sexual exploitation – of children and youth in particular – as the centerpiece of fighting trafficking: 'The Bill I sign today will help us to continue to investigate and prosecute traffickers and provide new grants to state and local law enforcement. Yet, we cannot put the criminals out of business until we also confront the problem of demand. Those who pay for the chance to sexually abuse children and teenage girls must be held to account' (Office of the Press Secretary 10 January 2006).

13. A fact sheet issued by the US Department of State's Office to Monitor and Combat Trafficking In Persons (TIP) during the Bush administration, 'The Link Between Prostitution and Sex Trafficking', enshrined the logic set out in a 2002 Presidential Directive that voluntary prostitution involving adults leads to sex trafficking of women and children. It asserted: 'The US Government adopted a strong position against legalized prostitution in a December 2002 National Security Presidential Directive based on evidence that prostitution is inherently harmful and dehumanizing, and fuels trafficking in persons, a form of modern-day slavery' (US Department of State, Bureau of Public Affairs, 2004). It claimed that 'ending demand' for prostitution is the 'clear solution to ending trafficking in women and children'.
14. Peter Kwong's research within Chinese communities in the USA (specifically with individuals from Fuzhou) reveals widespread acceptance of a range of labor abuses that occur within a highly orchestrated, profitable, violent, and underground system of indentured servitude (Kwong, 1997).
15. The Trafficking Victims Protection Act of 2000 (TVPA) defines 'severe forms of trafficking' as:
 - a. Sex Trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age or;
 - b. 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. (US Department of State June 2007: 7)

To qualify for a T visa, exploited workers must prove that they were victims of 'force, fraud or coercion'. A T visa recipient may be eligible for permanent residence after three years if he or she has complied 'with any reasonable request for assistance in the investigation during the three years' (Administration for Children & Families, 'Certification for Victims of Trafficking Fact Sheet').
16. There is excellent scholarship on exploitative labor practices in a number of industries where immigrants labor, for example on factories (Bonacich and Appelbaum, 2000; Louie, 2001; Rosen, 2002; A. Ross, 1997; R. Ross, 2004); domestic work (Hondagneu-Sotelo, 2001; Chang, 2000), agriculture (Griffith and Kissam, 1995; Rothenberg, 1998), poultry processing (Fink, 2003; Striffler, 2006; Stull and Broadway, 2004) and day labor (The Homeless Persons Representation Project and CASA de Maryland 2004; Valenzuela et al., 2006).
17. For research on the difficulty of getting a jump out of poverty in the USA see Dohan, 2003; Katz, 1989; Newman, 1999; Shipler, 2004; Wilson, 1997.
18. Ruth Milkman's edited volume *Organizing Immigrants* (2000), Zolniski's (2006) ethnography on the Justice for Janitors campaign, and Gordon's (2005) book on legal fights for low-wage migrant workers, all examine organizing opportunities within migrant communities.

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