

The New Standard (Syracuse, NY)

July 5, 2005

Slavery Slips Through Cracks in U.S. Policy (Part 1 of 2)

By Michelle Chen

Even though Americans are increasingly aware that human trafficking takes place, an array of circumstances conspire to protect the trade, and a weak social response leaves freed victims in need.

Nearly sixty years after the international community declared it a crime against humanity, slavery today is far from banished. Involuntary servitude persists in developed and underdeveloped regions, and the United States remains one of the major destinations for traffickers and their captives. But according to activists and researchers, despite recent progress in anti-trafficking policies and enforcement, what many consider the basest form of human exploitation continues to thrive in the US.

Pointing to inadequate enforcement of human rights laws, lagging community awareness, and a dearth of resources for victims, anti-slavery advocates say that behind the crime of forced labor is a societal failure to protect the most deeply subjugated.

According to the research and advocacy group Free the Slaves, forced labor is largely concentrated in illegal or minimally regulated industries: nearly half of trafficking cases involve forced prostitution, about 27 percent involve domestic service, and manufacturing and farm work collectively account for approximately 15 percent.

According to government estimates, each year, 14,500 to 17,500 people are trafficked into the US.

Public awareness of the issue has risen slowly with the landmark federal anti-trafficking law, the Victims of Trafficking and Violence Protection Act, passed in 2000. The act provides funding for anti-trafficking programs and offers legal protections for survivors, including legal resident status. The legislation defines its target, “severe trafficking,” as the commercial trade of human beings for purposes of labor or sexual services that involves “force, fraud or coercion.”

But grassroots advocates for forced labor victims have a simpler definition. “We use the word ‘trafficking,’ but that’s really a euphemism,” said Bill Bernstein, deputy director of the Texas-based social service group Mosaic Family Services. “What we’re really talking about is modern-day slavery.”

Bernstein, whose group handles a constant flow of slavery cases, listed some typical scenarios: an offer to earn good wages and study lures a teenage girl abroad, where she is forced to work eighteen hours a day as a housekeeper. Aided by a smuggler, a young man’s passage across the US-Mexico border ends with a crushing debt, to be repaid through captive manual labor.

“There is no such thing as a typical trafficking case,” said Bernstein, but he noted a common thread among victims: “They’ll be promised something, which ends up being very different when they end up where they’re going.”

According to government estimates, each year, 14,500 to 17,500 people are trafficked into the US. Though more trafficking victims are being uncovered each year, so far, only about 600 victims have been officially “certified” under the statutes of the federal anti-trafficking law.

The public’s knowledge of the issue is still too weak to inspire community vigilance.

To anti-slavery activists, the gap between the official records and the vague estimates reveals that the slave labor market continues to defy both the law and efforts to quantify the problem. According to Jolene Smith, executive director of Free the Slaves, “We have failed miserably as a country in rooting out trafficking victims and traffickers.”

Intimidation, Lack of Awareness Keep Forced Labor Victims Shackled

Sometimes, release from captivity comes when a vigilant neighbor alerts a social service organization. Or police might discover a victim unexpectedly when they raid an underground operation, such as a brothel. Service providers say that in any case, for victims who are stifled by fear and overlooked by the public, the prospect of escape depends largely on luck.

In Smith’s view, the public’s knowledge of the issue is still too weak to inspire community vigilance. “We know that people ... are not asking hard questions of what’s going on in their own communities,” she said. “They’re not demanding that there be investigations, because they don’t know that it could happen in their community.”

Layli Miller-Muro, executive director of the Tahirih Justice Center, a social service organization serving immigrant women, finds it alarming that despite the group’s outreach campaigns in immigrant communities, they currently serve only a few “lucky” trafficking survivors. Organizations that offer assistance for survivors, she said, are still unable “to reach the ones who most need to be reached.”

Yet advocates say that in addition to a lack of public awareness and outreach, walls of fear and cultural repression also stand between service providers and people in captivity.

Since traffickers often enjoy high social status in their communities, said Miller-Muro, victims may be “worried about how they will look if they oppose this powerful person [or] this well-known diplomat.” Service providers have observed that even some organizations embedded in local ethnic communities are afraid to publicly advocate for victims, fearing public backlash.

Class lines have run through several high-profile cases involving foreign dignitaries or businesspeople charged with abusing workers they brought into the country. In the case of Lakireddy Bali Reddy, for example, a wealthy California businessman was charged in 2000 with importing young girls from his home village in India, forcing them to work in the buildings and restaurants he owned, and repeatedly sexually abusing them.

Reddy ultimately received a plea bargain involving \$2 million in restitution and an eight-year prison term. Although activists decried the sentence as too lenient, the millionaire’s public image had nearly enabled him to elude law enforcement completely. The Immigration and Naturalization Service investigated Reddy’s immigration record in 1997, but, as an immigration official told reporters after the allegations finally surfaced, the agency determined only that he was a “professionally educated gentleman, with widespread corporate interests, financial interests. There was nothing to indicate any criminal conduct.”

Service providers point to retaliation, against a survivor or family members, as one of the major threats that silences victims. According to Florrie Burke, senior director of international programs at the New York-based victims’ services group Safe Horizon, among the cases tracked by the organization, “We have had family members kidnapped, threatened, harassed, in many different countries.”

The psychological grip of enslavement is typically compounded by a terror of government authority that traffickers seed in their captives.

A vendetta could easily outlive a prison term; the Department of Justice reports that sentences for convicted traffickers in 2003 ranged from 33 to 270 months.

Fear of Authority Strengthens Slavery’s Grip

According to researchers and advocates, the psychological grip of enslavement is typically compounded by a terror of government authority that traffickers seed in their captives, convincing them that any attempt to escape would lead to jail or deportation.

“I [was] afraid of police,” recalled “Kim,” who was forced to work in captivity in a sweatshop in American Samoa (see below for Sidebar: “Captive Workforce”). She thought she might be arrested if she left the factory, she said, because “I don’t have my passport, I don’t have my work

permit. ... He keep everything.” Her boss, like many other traffickers, had deterred escape by confiscating the immigration documents of the more than 250 Vietnamese and Chinese workers enslaved in the operation.

Complicit local officials helped stoke the workers’ fear of government, according to an investigation by the advocacy group Vietnam Labor Watch. The organization reported that the American Samoan government detained and deported employees who tried to seek help. Furthermore, during the period of enslavement from 1999 to 2001, government authorities took little action to enforce labor laws against the factory, even when investigations by the US Department of Labor uncovered severe mistreatment.

Although in general, government authority might not directly abet traffickers, as it reportedly did the American Samoa case, victims’ advocates say that immigrant survivors do face a very real danger of being treated as criminals by law enforcement. Amid increasingly aggressive policies against undocumented immigration, they argue, fear of the law is not unjustified.

Although federal law entitles trafficking victims to special immigration status, bureaucratic missteps could be leaving an untold number of victims overlooked. Given the high possibility that an immigration official could take notice of a victim’s undocumented status but not the underlying forced labor situation, Smith speculated that in all likelihood, “there are trafficking victims being deported every day.”

Negotiating with Law Enforcement

The gulf of distrust and uncertainty between government institutions and people in forced labor situations poses an obstacle both for law enforcement – which requires cooperation from witnesses in order to prosecute traffickers – and for survivors – who must commit to cooperating in order to obtain their entitlements as victims.

Some victims’ advocates express concern that in the criminal process, repeated interrogations could be extremely stressful for victims, who frequently suffer deep psychological scars.

Kavitha Sreeharsha, a staff attorney with the advocacy group Asian Pacific Islander Legal Outreach, said that for many survivors, the investigation process could be “revictimizing ... many of them find it very hard to recount what has happened to them.”

Amid increasingly aggressive policies against undocumented immigration, fear of the law is not unjustified.

Service providers have also complained that investigators are at times reluctant to communicate with advocates about developments in a case, for fear of disclosing legally sensitive information. Some advocates are urging a more “victim-centered” approach to anti-trafficking police work, helping train local officers to be more sensitive to victims’ needs – for instance, by delaying the interrogation process to allow survivors time to recover.

To help officers more readily identify and help provide assistance to victims, the Department of Health and Human Services has administered trainings in various communities under the “Operation Rescue and Restore” anti-trafficking program.

“Our task in the trafficking program,” said Program Director Steven Wagner, “is to get any law enforcement official, at the federal and the local level, to be aware of the phenomenon of trafficking and to screen for victims.” But he conceded: “Training federal and local law enforcement is not like throwing on a light switch. ... We’re in a long term project, here.”

To advocates, the rate of progress seems glacial compared to the urgency of the problem. “There is still a huge gap in education,” said Smith. “Most local law enforcement officials have no idea what watch signs to look for, for trafficking victims.”

Freed, but Not Compensated

Although federal aid for trafficking survivors under the anti-trafficking act is contingent on cooperation with a criminal investigation, a stark legal reality is that the vast majority of cases never enter a courtroom.

From fiscal years 2001 to 2004, the federal government launched 340 investigations and charged 162 defendants under federal trafficking statutes. The State Department reported 32 formal charges under the anti-trafficking act in 2004.

Namju Cho, policy and communications director of the California-based social service group Coalition to Abolish Slavery and Trafficking (CAST), said that after going through the rigors of a criminal investigation only to have their cases rejected by prosecutors, “the clients are sometimes devastated. ... They’re wondering what they did wrong.”

Critics argue that prosecutors are biased in selecting cases to prosecute, focusing primarily on cases involving large groups of victims, or sex trafficking crimes, which tend to capture greater public attention.

“Prosecutors have a lot on their plate,” remarked Miller-Muro of Tahirih. “And unfortunately they haven’t been considering trafficking cases that are not as sexy as mass raids on brothels.”

The nature of the informal economy could also undercut the legal grounding of a trafficking case. Anti-trafficking activists point out that enslaved domestic workers, like workers in unregulated industries in general, have difficulty accessing the legal system because they are not covered by the protections of the National Labor Relations Act.

Moreover, said Cho, since domestic labor conditions are largely shielded from public view, “It’s their word against the trafficker’s word ... There are no witnesses.”

Absent a full-fledged trial and criminal conviction, recourse can still be pursued through out-of-court settlements, or plea-bargains. In addition, the 2003 reauthorization of the anti-trafficking

law established a civil right of action, so victims whose cases are not heard in criminal court can sue for monetary restitution and back wages.

Nonetheless, formal compensation does not factor heavily into the recovery process for many victims: CAST, which has served hundreds of survivors, has reported that about half of clients choose not to pursue legal action. Often, said Smith, survivors “may just want help getting home, or just maybe want some counseling ... And then they move on.”

Struggling to Restore Survivors

Federal policy straddles the two pillars of anti-trafficking work: restitution and relief, and critics cite shortcomings in both aspects.

Even with federal funding, organizations are challenged by basic capacity issues, such as providing clients with appropriate language services or shelters that can accommodate the needs of people who have endured the trauma and isolation of slavery.

At CAST, which is unique among service providers in its exclusive focus on forced labor situations, each caseworker juggles about twenty clients, and the group’s all-female shelter is consistently packed.

“We’re getting calls almost on a daily basis to receive more clients,” said Cho, “and we’re just not able to.”

Miller-Muro said that assistance for victims is often “unnecessarily delayed or sometimes denied,” because the certification process entangles the work of service providers with the law enforcement system. According to Free the Slaves, the certification from law enforcement that is required for official victim status may take months. The application process for the T-visa, a special immigration document granted to trafficking survivors, may take up to a year.

The State Department recently reported that of the 520 T-visa applications the federal government received in fiscal year 2004, it approved just 136. Another 92 are still pending, but the rest were denied.

Some advocates are frustrated with the legal conditions attached to federal assistance under the anti-trafficking law, arguing that policies against forced labor should not muddle the goal of punishing traffickers with the relief of victims.

Service providers report that given few other options, many trafficking survivors eventually agree to endure the criminal investigation process in order to obtain federal assistance. However, noting that under the Violence Against Women Act, immigrant domestic abuse survivors receive immigration relief with no such restrictions, Cho argued, “We don’t agree that victims of trafficking should be held at a higher standard than any other kinds of victims of crime are.”

From the perspective of grassroots anti-slavery activists, justice for those who have endured forced labor and captivity is not limited to prosecuting wrongdoers; they say survivors need more than a court verdict to begin to heal.

“Victims need services,” said Burke. “And not just to make them good witnesses, but because they’re human beings, and they’ve had their human rights violated.”

SIDEBAR

Captive Workforce

By Michelle Chen

One among countless examples of “modern day slavery,” the harrowing ordeal survived by hundreds of workers at a factory has lasting effects.

The end of the day was always the hardest part for the workers.

Around nine o’clock, the guards would shut the gates of the factory compound, preventing employees from escaping. But the fences were only an extra precaution; starvation, threats and beatings had sapped many of even the hope of ever leaving.

The end of the day did not bring relief from the exhausting work, recalled “Kim,” a former employee who did not want her identity revealed. Packed into cramped dormitories, they slept in pairs, if at all. Some nights, she said, their boss “went inside of our room and lied on the bed,” and watched them as they undressed or showered.

Kim, who was initially hired as an interpreter for the Korean factory managers, recounted in an interview: “He didn’t give us anything. ... We had worked almost two months, but he didn’t pay us.”

This was how more than 250 men and women lived from 1999 to 2001 at the Daewoosa clothing plant in American Samoa, run by Korean businessman Kil Soo Lee. The workers, “imported” from China and Vietnam, had traveled to the island territory expecting to ascend into the booming global manufacturing workforce. They instead plummeted into an underground slave labor economy.

During their enslavement, workers produced clothes for major American name brands under slave labor conditions, subject to the withholding of wages, brutal violence at the hands of

factory security guards and food deprivation – mistreatment that was consistently ignored by local government authorities.

Last month, Lee was sentenced to a 40-year prison term for labor violations, extortion and other counts, capping one of the biggest forced labor operations in US history.

But for about 200 former employees, who have fanned throughout the United States since the closure of the factory in 2001, the legal redress brings only partial closure.

Kim was one of a group of more than twenty Daewoosa workers routed to Mosaic Family Services in Dallas, Texas, where they received federally funded social services, including counseling, legal assistance, and help finding employment and reuniting with their families. Kim has managed to find work at an electronics factory and hopes to attend college in the US.

“I feel very safe in the United States,” said Kim. “But sometime, when I have to talk with somebody about the American Samoa story, you know, I can [start to] cry.”

Still, the lingering emotional trauma has not kept Kim from talking. “I don’t want the other people [to] have that bad condition ... like ours in American Samoa,” she reflected. She mustered the will to testify against her enslaver in federal court, she said, with the hope of spurring action against forced labor: “The Vietnamese government and the US ... they have to do something.”

Copyright © 2005 The NewStandard.