
ARTICLE

KEY ISSUES IN THE RESETTLEMENT OF FORMERLY
TRAFFICKED PERSONS IN THE UNITED STATES

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INTRODUCTION

Carmen came to the United States with an Ecuadoran family for whom she had been working as a child-care provider and domestic.¹

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¹ I have changed the names of all the T visa recipients, such as Carmen, throughout this Article. Nor do I identify names of social service organizations (or specific social workers or case managers) that oversee the resettlement of formerly trafficked persons. Additionally, in some cases I do not make clear exactly where someone lives now or where specifically she/he had been in forced labor. Rather, at times I write general-

Although they had treated her fairly in Ecuador, the wife, explains Carmen, “turned into the devil” once they got to the United States. They did not pay her, took her passport, forbade her from leaving the house, kept food from her, and forced her to sleep in the children’s room. A neighbor suspected that Carmen was being held against her will and contacted the police. The police, aware that Carmen’s case may qualify as “trafficking,” called a large social service provider whose social workers oversaw her care and whose lawyers began to put together Carmen’s application for a T visa. The U.S. Citizenship and Immigration Services (USCIS) eventually determined that Carmen had been “trafficked.”² After initially living in a domestic violence shelter, Carmen lived in a series of apartments that she shared with other migrants to the United States. Her daily concerns were like those of her migrant roommates working low-wage jobs: how to pay bills while also sending remittances to her parents; how to find time to attend ESL classes while she worked the night shift cleaning hotel rooms; and how to make new friends so far from home. As someone who was designated “trafficked,” however, aspects of her life were dif-

ly of “a social worker in New York” who helped “resettle a woman who was trafficked to the Midwest,” so that it is not easy to identify the case about which I am writing. However, I name migrant-rights organizations (with their permission) as part of their organizing strategy to get the word out about their issues and programs.

² The Trafficking Victims Protection Act of 2000 (TVPA) defines “severe forms of trafficking in persons” as follows:

(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.

Pub. L. No. 106-386, § 103(8), 114 Stat. 1466, 1470 (2000) (codified in scattered sections of 18 and 22 U.S.C.). A recent State Department report notes that “[a] victim need not be physically transported from one location to another in order for the crime to fall within these definitions.” U.S. DEP’T OF STATE, *TRAFFICKING IN PERSONS REPORT 6-7* (2009), available at <http://www.state.gov/documents/organization/123357.pdf>. A nonimmigrant T visa is available to a person “who (1) is a victim of a severe form of trafficking in persons; (2) is physically present in or at a port-of-entry to the United States (as defined in the immigration laws), American Samoa, or the Commonwealth of the Northern Mariana Islands on account of human trafficking; (3) has complied with reasonable requests for assistance in the investigation and prosecution of acts of trafficking or is less than 18 years old; and (4) would suffer extreme hardship involving unusual and severe harm upon removal.” 2009 ATT’Y GEN. ANN. REP. TO CONGRESS & ASSESSMENT OF U.S. GOV’T ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS FISCAL YEAR 2008, at 34, available at <http://www.justice.gov/ag/annualreports/tr2008/agreporhumantrafficking2008.pdf> [hereinafter ATT’Y GEN. 2008 TRAFFICKING REPORT].

ferent from those of her roommates. She enjoyed benefits they did not, such as eventual legal status through a T Visa, health care (for about a year), and the support of a case manager with whom she still stays in touch.³ Yet, even with these benefits, Carmen and other T visa recipients still struggle. Like many migrants, they work in low-paying and insecure jobs. These positions are usually the only work that they can find with limited formal education, English-language skills, and social networks.

This Article, along with the larger book project of which it is a part,⁴ examines how individuals who have been in forced labor in the United States rebuild their lives.⁵ This research focuses on the struggles and successes with the everyday tasks of resettlement of persons whom the U.S. government has officially recognized as having been trafficked. It asks how these individuals, whose lives were controlled by violence or threats of violence, regain control of their lives and begin the process of resettlement in the United States. I explore ways in which they confront the same daily challenges in their resettlement as their fellow migrants as they build new lives in a new country. Yet, I also ask how the intrinsic violence of trafficking into forced labor—which subjects individuals to a profound loss of control over their lives, including where and when they eat, sleep, and work—shapes the course of their resettlement.

While many formerly trafficked persons who experienced human rights abuses warily engage new situations and friends, the individuals I have met are committed to making a life in the United States and to crafting ways to improve the conditions of their lives and those of their families back in their home countries, albeit to different degrees and in different ways. Their interest in finding jobs soon after their escape or rescue is particularly striking. Formerly trafficked persons seek to work right away and strive to build new networks of friends and colleagues, behaviors that challenge the simplistic media portray-

³ “The TVPA authorizes the ‘certification’ of adult victims to receive certain federally funded benefits and services, such as cash assistance, medical care, food stamps, and housing. Though not required to receive certification, minors who are found to be victims receive ‘Eligibility Letters’ from [Health and Human Services] to obtain the same types of benefits and services.” ATT’Y GEN. 2008 TRAFFICKING REPORT, *supra* note 2, at 10.

⁴ The book is tentatively called, *Settling In: Life After Trafficking into Forced Labor in the United States*.

⁵ Since the term “trafficking” has been misused—often with sensational effect in the media—I use the term forced labor throughout the Article (unless I am referring to the legal term “trafficking”).

als of “trafficking victims” as passive dupes that make easy prey for traffickers.⁶ Work is the reason they came to the United States in the first place⁷ and finding new jobs after forced labor allows them to carry out the plans their exploiters interrupted. This Article thus pays particular attention to ways formerly trafficked persons forge plans to get ahead economically as they settle into new communities.

Yet, even after they leave situations of forced labor, these individuals risk reexploitation. This Article emphasizes that labor exploitation structures not just the lives of individuals in forced labor, but also the lives of migrants working in low-wage sectors. The theoretical framework of this Article follows a central premise around which the Coalition of Immokalee Workers (CIW), an agricultural workers’ membership-based advocacy organization in Immokalee, Florida, organizes both its farmworkers’ rights and antislavery campaigns.⁸ I situate trafficking along a continuum of exploitative labor practices that migrants experience in work sites throughout the United States.⁹ Through this particular examination of extreme abuses that qualify as “trafficking,” I hope to call attention to how exploitative practices are a regular feature in work sites where undocumented migrants labor. Low pay, no pay, unsafe working conditions, job insecurity, and a lack

⁶ See generally Jacqueline Berman, *(Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State*, 9 EUR. J. INT’L REL. 37 (2003) (discussing the problems resulting from oversimplified and distorted media coverage of trafficking in persons in Europe).

⁷ Of course, not all trafficked persons voluntarily come to the United States for work. Some are transported against their will, while others come as the girlfriends or wives of their eventual traffickers.

⁸ For a discussion of one particularly publicized slavery case, see JOHN BOWE, NO-BODIES: MODERN AMERICAN SLAVE LABOR AND THE DARK SIDE OF THE NEW GLOBAL ECONOMY 64-72 (2007), and Candace Rondeaux, *Fear and Knowing in Immokalee*, ST. PETERSBURG TIMES, Dec. 1, 2002, available at 2002 WLNR 12948137. For a description of the campaigns against fast food restaurants that use subcontractors that pay tomato pickers poverty wages, see Steven Greenhouse, *Campaign to Raise Tomato Pickers’ Wages Faces Obstacles*, N.Y. TIMES, Dec. 24, 2007, at A10; Kris Hundley, *Fast Food Fight: Tomato Pickers vs. Big Mac*, ST. PETERSBURG TIMES, Mar. 5, 2006, available at 2006 WLNR 3726545; Evelyn Nieves, *Fla. Tomato Pickers Still Reap “Harvest of Shame,”* WASH. POST, Feb. 28, 2005, at A3; and Eric Schlosser, Op-Ed., *Penny Foolish*, N.Y. TIMES, Nov. 29, 2007, at A31. See also Dick Durbin et al., Op-Ed., *Florida Tomatoes: We Must Treat Farmworkers Fairly*, MIAMI HERALD, Apr. 21, 2008, available at 2008 WLNR 7384830 (advocating legislative change following a Senate Health, Education, Labor & Pensions Committee hearing on the poor working conditions and low wages in Florida’s tomato fields).

⁹ Laura Germino, the Antislavery Campaign Coordinator with the CIW, pointed out to me that it is important to note that some migrants exploited in farm labor have documentation. Throughout this piece, I discuss how a lack of documentation generates additional fear and greater vulnerability to exploitation.

of clear channels through which employees can bring grievances to their employers are part of doing business on many work sites where migrants labor.¹⁰ With minimal labor protections for low-wage workers in the informal economy and in jobs created through subcontracting,¹¹ 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 cannot only flourish, but can blend into a background of abuse. Trafficked persons are typically restrained not 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 coworkers. 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 work. All trafficked persons—regardless of their particular circumstances of exploitation—live in fear and silence.

This threatening environment influences not only the experiences of individuals in forced labor and less severely exploited low-wage workers, but also the prospects for effective resettlement of trafficked persons, their opportunities for long-term well-being, and possibly their chances at economic mobility. These socialized and normalized exploitative conditions among migrant workers spill over into the resettlement process.¹² The primary vehicle for posttrafficking resettlement in the United States is the T visa. Created by the TVPA, this category of legal status for formerly trafficked persons grants legal residence to persons identified as trafficked and makes them eligible for a range of social services funded by the federal government. To qualify, exploited workers must prove that they were victims of “force,

¹⁰ See generally JENNIFER GORDON, *SUBURBAN SWEATSHOPS: THE FIGHT FOR IMMIGRANT RIGHTS* (2005) (describing immigrant life and activism to improve working conditions).

¹¹ See generally KEVIN BALES & STEVEN LIZE, *TRAFFICKING IN PERSONS IN THE UNITED STATES* (2005), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/211980.pdf> (explaining the varying challenges for workers in different industries). The dearth of labor protections and the insufficient number of Department of Labor inspectors allow rampant labor abuses to go unchecked. *Id.* at 5-40.

¹² See PETER KWONG, *FORBIDDEN WORKERS* 33-36 (1997) (revealing the widespread acceptance of a range of labor abuses that occur within a highly orchestrated, profitable, violent, and underground system of indentured servitude among Chinese communities in the United States).

fraud or coercion.”¹³ A T visa recipient may be eligible for permanent residence after three years if he or she “has complied with reasonable requests for assistance in the investigation and prosecution of acts of trafficking” during the three years.¹⁴

A critical question emerges: how much of a difference does a T visa make in an individual’s posttrafficking resettlement strategy? After all, it certainly does not render one immune from the kind of exploitative labor conditions that many migrants in low-wage labor sectors face.¹⁵ 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 and mobility in the long term.

¹³ ADMIN. FOR CHILDREN & FAMILIES, U.S. DEP’T OF HEALTH & HUMAN SERVS., FACT SHEET: HUMAN TRAFFICKING 1 (2009), available at http://www.acf.hhs.gov/trafficking/about/fact_human.pdf.

¹⁴ See ATT’Y GEN. 2008 TRAFFICKING REPORT, *supra* note 2, at 34-35 (“Victims who receive T nonimmigrant status are eligible to remain in the United States for up to four years, and their status may be extended if the law enforcement authority investigating or persecuting activity related to human trafficking certifies that the presence of the alien in the United States is necessary to assist in the investigation or prosecution of such activity. After three years, T non-immigrants are eligible to apply for adjustment of status to lawful permanent residence subject to certain statutory criteria.”).

¹⁵ There is excellent scholarship on exploitative labor practices in a number of industries in which migrants work. For a review of labor practices in factories, see generally EDNA BONACICH & RICHARD P. APPELBAUM, BEHIND THE LABEL: INEQUALITY IN THE LOS ANGELES APPAREL INDUSTRY (2000); MIRIAM CHING YOON LOUIE, SWEATSHOP WARRIORS (2001); NO SWEAT: FASHION, FREE TRADE, AND THE RIGHTS OF GARMENT WORKERS (Andrew Ross ed., 1997); and ELLEN ISRAEL ROSEN, MAKING SWEATSHOPS: THE GLOBALIZATION OF THE U.S. APPAREL INDUSTRY (2002). For a discussion of exploitative practices in domestic work, see generally GRACE CHANG, DISPOSABLE DOMESTICS: IMMIGRANT WOMEN WORKERS IN THE GLOBAL ECONOMY (2000), and PIERRETTE HONDAGNEU-SOTELO, DOMÉSTICA: IMMIGRANT WORKERS CLEANING AND CARING IN THE SHADOWS OF AFFLUENCE (2001). For observations on abuses in the agricultural industry, see generally DAVID GRIFFITH & ED KISSAM, WORKING POOR: FARMWORKERS IN THE UNITED STATES (1995), and DANIEL ROTHENBERG, WITH THESE HANDS: THE HIDDEN WORLD OF MIGRANT FARMWORKERS TODAY (1998). For information on abuses faced by migrant workers in poultry processing, see generally LEON FINK, THE MAYA OF MORGANTON: WORK AND COMMUNITY IN THE NUEVO NEW SOUTH (2003); STEVE STRIFFLER, CHICKEN: THE DANGEROUS TRANSFORMATION OF AMERICA’S FAVORITE FOOD (2005); and DONALD D. STULL & MICHAEL J. BROADWAY, SLAUGHTERHOUSE BLUES: THE MEAT AND POULTRY INDUSTRY IN NORTH AMERICA (2004). Day-labor conditions are detailed in THE HOMELESS PERSONS REPRESENTATION PROJECT & CASA DE MARYLAND, BALTIMORE’S DAY LABORER REPORT: THEIR STOLEN SWEAT (2004), and ABEL VALENZUELA, JR. ET AL., ON THE CORNER: DAY LABOR IN THE UNITED STATES (2006).

I. METHODOLOGY AND DESCRIPTION OF T VISA RECIPIENTS

My work draws primarily from in-depth interviews with T visa recipients and the social workers and attorneys who oversee their resettlement in the United States. I am indebted to these social workers and attorneys, who have introduced me to their clients in California, New York, Florida, Maryland, Washington, D.C., and Virginia.¹⁶ To date, there are no geographical communities of resettled trafficked persons in the United States.¹⁷ Even those who were resettled after the largest human-trafficking case in the United States, the “American Samoa” case, are not living together in any one place.¹⁸ When possible, I keep in touch with T visa recipients who live in communities near me—Washington, D.C., Virginia, Maryland, and New York. Over the past five years, we have met in informal settings, such as for meals, and I also accompany them to events at community-based organizations with which they are involved. In this way, I have followed how they have been settling into their new communities and jobs, as well as how they negotiate the issue of trust as they create and maintain new social networks of friends, neighbors, and co-workers.

I cannot underscore enough how much my communication with social workers throughout the country has helped me to understand the resettlement of such a diverse population in such diverse contexts. These social workers have generously shared their insights, concerns, and successes as they, too, learn about the resettlement issues facing individuals with a new legal designation and accompanying benefits. I

¹⁶ See Denise Brennan, *Methodological Challenges in Research with Trafficked Persons: Tales from the Field*, 43 (1/2) INT’L MIGRATION (Special Issue) 35, 45 (2005) (discussing the ethical dilemmas that arise and safeguards that must be in place to assure this particularly vulnerable population’s safety, privacy, and well-being).

¹⁷ See *id.* at 39-40 (explaining that since resettled persons are geographically dispersed, a researcher must choose whether to focus on one resettlement site or conduct multisite interviews).

¹⁸ *Id.* The “American Samoa” case involved Kil Soo Lee, a Korean national who was sentenced on January 29, 2004, for conspiracy, extortion, money laundering, and holding individuals in involuntary servitude in a factory he owned in American Samoa. See Civil Rights Div., U.S. Dep’t of Justice, *Attorney General Announces Sentences in Soto and Kil Soo Lee Prosecutions*, ANTI-TRAFFICKING NEWS BULL., Feb. 2004, at 1, 1-3, available at http://www.justice.gov/crt/crim/trafficking_newsletter/antitraffnews_feb04.pdf (describing the convictions of Kil Soo Lee and his accomplices, the Soto brothers). From 1999 through November 2000, Lee “used threats, arrest, deportations, starvation, confinement, and beatings to hold over 200 Vietnamese and Chinese garment workers in servitude.” *Id.* at 2. The conviction of Lee and his co-conspirators is the largest human-trafficking case the Department of Justice has prosecuted. *Id.* at 1. I have interviewed some of the resettled T visa recipients from this case in Northern Virginia and in Orange County, California.

also have been in an ongoing dialogue with migrant-labor organizers and immigration attorneys as well as individuals who have experienced a range of workplace violations but whose exploitation does not qualify them as “trafficked.”¹⁹ I have met these exploited (but not “trafficked”) workers through migrants’ rights organizations, whose community meetings, celebrations, potluck dinners, and protests I have attended.

Anthropologists’ focus on “the particular” can help begin to document just how different each trafficking case is.²⁰ These ongoing

¹⁹ See Frank Laczko, *Introduction*, 43 (1/2) INT’L MIGRATION (Special Issue) 5, 10-11 (2005) (explaining how the definition of “trafficking” has changed over time).

²⁰ See Nancy Foner, *Introduction to AMERICAN ARRIVALS* 3, 5 (Nancy Foner ed., 2003) (explaining that the authors tackle “particular issues” and thereby “show the broad range of anthropological concerns” in immigration issues); Jeremy MacClancy, *Introduction to EXOTIC NO MORE* 1, 2 (Jeremy MacClancy ed., 2002) (focusing on how anthropology can make a contribution by “exposing the weaknesses in grand policy programs, acting as advocates for the unvoiced, championing the downtrodden, and so on”); Nina Glick Schiller, *The Centrality of Ethnography in the Study of Transnational Migration: Seeing the Wetland Instead of the Swamp* (contrasting an ethnographic approach to studying transnational migration with the broad-based social survey approach), in *AMERICAN ARRIVALS*, *supra*, at 99. This issue calls out for both more macro- and micro-level research. Migration and labor researchers across disciplines “could work collaboratively to produce comparative research across sites within the United States, particularly since [severely exploited persons who have qualified for T visas] show up in large cities and small towns.” Brennan, *supra* note 16, at 40. Scholars have joined forces in a number of substantial migration studies. One large, collaborative migration project in the United States combined macro- and micro-level data. See Louise Lamphere et al., *Introduction to NEWCOMERS IN THE WORKPLACE* 1, 4-5 (Louise Lamphere et al. eds., 1994) (describing their research as drawing on individual ethnographic studies, as well as data on larger economic forces); see also Philip Kasinitz, John H. Mollenkopf & Mary C. Waters, *Worlds of the Second Generation* (describing a study of second-generation New Yorkers conducted by combining telephone surveys of 400 eighteen- to thirty-two-year olds from the five largest immigrant groups with both loosely structured in-depth interviews and the researchers’ own ethnographic field projects), in *BECOMING NEW YORKERS* 1, 1-3 (Philip Kasinitz, John H. Mollenkopf & Mary C. Waters eds., 2004); Peggy Levitt & Mary C. Waters, *Introduction to THE CHANGING FACE OF HOME* 1, 19-24 (Peggy Levitt & Mary C. Waters eds., 2002) (focusing their large collaborative study on the second generation); Douglas S. Massey & Rene Zenteno, *A Validation of the Ethnosurvey: The Case of Mexico-U.S. Migration*, 34 INT’L MIGRATION REV. 766, 766-67 (2000) (discussing the ethnosurvey, “a multimethod data-gathering technique that simultaneously applies ethnographic and survey methods within a single study”). Studies that combine research from across fields help maximize the breadth and depth of research on trafficking in the United States. See, e.g., CTR. FOR THE ADVANCEMENT OF HUMAN RIGHTS, FLA. STATE UNIV., *FLORIDA RESPONDS TO HUMAN TRAFFICKING* (2003), available at http://www.abanet.org/irr/enterprise/tip/resources/FSU-Report_on_Trafficking_Response.pdf (acknowledging that their study represents an “unprecedented statewide collaboration of people, resources and information on human trafficking”); FREE THE SLAVES & HUMAN RIGHTS CTR., UNIV. OF CAL., BERKELEY, *HIDDEN SLAVES: FORCED LABOR IN THE UNITED STATES* 6-7 (2004), available at <http://digitalcommons.ilr.cornell.edu/forcedlabor/8> (describing the collaborative combination of research methodologies used to study “the nature and scope of forced

conversations have proven critical to understanding the range of contexts in which forced labor unfolds. T visa recipients are from all over the world and were in different forms of forced labor in small towns and big cities throughout the United States.²¹ They speak different languages and have varying education and work histories, as well as differences in age, sex, race, and ethnicity.²² The length of time they were in forced labor varies from weeks to years, and while most experienced psychological coercion others also underwent physical brutality. As a Victim Assistance Coordinator for Immigration and Customs Enforcement (ICE) describes, “ICE Agents ask me for profiles of traffickers and their victims. I tell them there is no one m.o. of a typical trafficker, there is no typical victim, and the paths that lead them here are varied. I’ve never seen anything like this before.”

II. FINDING TRAFFICKED PERSONS AMIDST EVERYDAY EXPLOITATION

It has been a challenge finding individuals in forced labor in the United States who would qualify for T visas. Since the TVPA was passed in 2000, around 2300 persons have received T visas.²³ Yet, because the TVPA authorizes the issuance of up to 5000 T visas every year,²⁴ technically, by the end of 2008 as many as 40,000 persons could have received T visas. With forced-labor cases slow to surface, and virtually no rigorous scholarship available on forced labor in the United States, it is not clear if there are 14,500 to 17,500 trafficking cases in the United States every year, as the State Department Trafficking in Persons Office asserts.²⁵ What is more certain is that there is wide-

labor in the United States”); HUMAN RIGHTS CTR., UNIV. OF CAL., BERKELEY, FREEDOM DENIED: FORCED LABOR IN CALIFORNIA 6 (2005), available at <http://hrc.berkeley.edu/pdfs/freedomdenied.pdf> (listing several distinct sources of data and methods of data collection).

²¹ See Brennan, *supra* note 16, at 38 (citing the diversity of trafficking victims and contexts as a challenge to research).

²² *Id.*

²³ See ATT’Y GEN. 2008 TRAFFICKING REPORT, *supra* note 2, at 35 (“Since 2001, the United States government has granted more than 2,300 T visas to victims of human trafficking and their immediate family members.”).

²⁴ 8 U.S.C. § 1184(o)(2) (2006).

²⁵ U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 23 (2004) available at <http://www.state.gov/documents/organization/34158.pdf>. Estimates of the scope of trafficking to the United States have fluctuated significantly. The U.S. Department of State’s Office to Monitor and Combat Trafficking in Persons has revised its own estimate downward from 50,000 in 2000 to 18,000 to 20,000 in 2003, and to 14,500 to 17,500 in 2004. Compare U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 3 (2000), available at <http://www.state.gov/documents/organization/4107.pdf>, with U.S.

spread exploitation in work sites where migrants typically labor—in restaurant kitchens, fields, and factories. If we look at sites where migrants work and where wage and hour violations abound, we are likely to find settings in which forced labor can flourish. The range of “acceptable” exploitation in work sites dominated by migrant workers obscures and effaces the number of individuals who are in situations of forced labor.

Since fear and intimidation can characterize work sites dominated by migrant workers even when there is no forced labor, it is not hard to imagine other factors that may discourage brutally exploited workers from seeking help from community-based organizations or law enforcement. Cases of labor exploitation that do not qualify as trafficking can nonetheless involve daily forms of abuse and intimidation.

DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 7 (2003), *available at* <http://www.state.gov/documents/organization/21555.pdf>, and U.S. DEP'T OF STATE, TRAFFICKING IN PERSONS REPORT 23 (2004), *available at* <http://www.state.gov/documents/organization/34158.pdf>. The U.S. Government Accountability Office (GAO) released a report that finds the U.S. government's estimates of global trafficking “questionable” because of “methodological weaknesses, gaps in data, and numerical discrepancies.” U.S. GOV'T ACCOUNTABILITY OFFICE, HUMAN TRAFFICKING: BETTER DATA, STRATEGY, AND REPORTING NEEDED TO ENHANCE U.S. ANTITRAFFICKING EFFORTS ABROAD 2 (2006), *available at* <http://www.gao.gov/new.items/d06825.pdf>. And, domestically, a 2007 GAO report notes that “pursuing trafficking in persons crimes continues to present special challenges to federal investigators and prosecutors” since “victims are often hidden from view, employed in legal or illegal enterprises, do not view themselves as victims, or are considered to be criminals or accessories to crimes.” U.S. GOV'T ACCOUNTABILITY OFFICE, HUMAN TRAFFICKING: A STRATEGIC FRAMEWORK COULD HELP ENHANCE THE INTERAGENCY COLLABORATION NEEDED TO EFFECTIVELY COMBAT TRAFFICKING CRIMES 2 (2007), *available at* <http://www.gao.gov/new.items/d07915.pdf>. Consequently, “trafficking in persons cases are difficult to pursue because they are multifaceted, complex, and resource intensive.” *Id.* As a report from the Immigration Policy Center notes,

The large discrepancy between the number of trafficking victims estimated to be present in the United States and the total number of victims receiving protection under the TVPA is the result of several factors: (1) the imperfect nature of trafficking estimates; (2) misidentification of victims by law enforcement; (3) the conditional nature of victim protections; and (4) overly restrictive eligibility requirements for the T-visa.

Alexandra Webber & David Shirk, *Hidden Victims: Evaluating Protections for Undocumented Victims of Human Trafficking*, IMMIGR. POL'Y IN FOCUS, Dec. 2005, at 1, 1. The authors thus conclude that

providing more resources to combat an ill-defined problem is not the answer. First and foremost, government assessments of human trafficking into the United States need to be seriously re-evaluated, both in terms of the numerical estimates and the type of human trafficking cases (either labor or sex) occurring on U.S. soil.

Id. at 10.

Forced labor is just one part of a larger story of rampant migrant labor exploitation—particularly in the informal economy and in jobs created through subcontracting. Legal scholar Jennifer Gordon writes about a kind of “super exploitation” that happens to most undocumented workers who, at some point, are cheated out of their wages in what she calls “everyday sweatshops.”²⁶ They do not report these abuses for fear of being fired or deported. An organizer for PCUN (Pinos y Campesinos Unidos del Noreste—Northwest Treep-lanters and Farmworkers United) in Woodburn, Oregon, for example, explains that “exploitation happens in small companies and large companies. There are multiple avenues to rip off workers, especially because of a lack of English. This is so common, these things happen all the time, to all the workers.” And, an organizer for the United Farm Workers (UFW) in Oxnard, CA, also describes widespread practices of intimidation in the nearby strawberry fields, “We hear of bad pay or no pay all the time. But if workers complain, they get fired.” Another UFW organizer explains how farm contractors warn the workers that they will be fired if they go to the local UFW office. “So the few who do come here to the office are literally scared to be here. It’s easier to meet folks out and about in town and to tell them what I do, than to get them to come here.” Many fear not just for themselves, but for their co-workers. Contractors threaten that they will fire an entire crew (around forty people in the case of strawberry picking) if a worker persists with a complaint.

It is in this environment of abuse and silence that it has been difficult finding individuals in forced labor. There are a number of other factors, in addition to concern for one’s co-workers (many of whom may be family members or neighbors from their home communities) that discourage exploited workers from reporting their abuse. Brutally exploited individuals may not come forward if they work and live among coethnics. They may not only have a well-founded fear of reprisals from their abuser and his or her associates, but may also fear law enforcement, which may be corrupt and violent in their home countries. Of course, the possibility of not qualifying for a T Visa and thus risking deportation prevents exploited migrant workers from seeking help. And there are workers who do not want help but rather dedicate themselves to paying off their debts.²⁷

²⁶ GORDON, *supra* note 10, at 15.

²⁷ See KWONG, *supra* note 12, at 38 (quoting a worker stating, “I hate to owe people money. These debts are hurting me like nails stuck into my body”).

Rights-based outreach in sites where migrants work and live is one approach to creating safe channels to report abuses. Everyday “rights work” that informs and empowers migrant workers is critical to finding—and possibly preventing—forced labor. The Coalition of Immokalee Workers in Immokalee, Florida, provides a model of how to prevent forced labor and to protect against less-severe forms of migrant worker exploitation by engaging in labor organizing and investigative work.²⁸ Through their drop-in center, weekly meetings, radio show, block parties, and ongoing outreach in places where farmworkers work and live, they learn of labor conditions on nearby farms while informing workers of their rights. CIW members who drive vans that ferry laborers between farms also have served as sources of information. These kinds of ground-up streams of ongoing documentation of exploitation are essential not only to bringing more cases of forced labor to light, but also to exposing exploitative labor practices against which migrant workers can be fearful of speaking.

Recent anti-immigrant policies in communities throughout the United States have intensified this atmosphere of chronic intimidation. ICE raids in workplaces where undocumented migrants are assumed to work, in combination with 287(g) agreements, have deepened distrust between migrant communities and law enforcement.²⁹

²⁸ The Coalition of Immokalee’s investigative work has resulted in the identification of over a thousand tomato and orange pickers held in debt bondage. Their work has also led to prosecutions by the U.S. Department of Justice of traffickers who both threatened workers if they tried to leave and pistol-whipped passenger-van-service drivers who gave rides to farm workers leaving the area. See Rondeaux, *supra* note 8 (noting that the CIW “play[s] a key role in pressing criminal cases”). For examples of such prosecutions, see *United States v. Flores*, No. 98-4178, 1999 WL 982041, at *1-2 (4th Cir. Oct. 29, 1999); *United States v. Evans*, No. 05-00159 (M.D. Fla. Feb. 5, 2007); *United States v. Cuello*, No. 99-00050 (M.D. Fla. Sept. 20, 1999).

²⁹ Virginia’s Prince William County is one example of the deleterious effects of local law enforcement targeting migrant communities. See N.C. Aizenman, *In N. Va., a Latino Community Unravels*, WASH. POST, Mar. 27, 2008, at A1 (observing that law enforcement targeting of migrant communities, combined with the mortgage crisis and displacing construction, transformed once vibrant Latino communities into ghost towns); Karin Brulliard, *Crackdown on Illegal Immigration Quiets Soccer Fields in Pr. William*, WASH. POST, Mar. 12, 2008, at A1 (reporting that fears of being detained led migrant workers to avoid attending local soccer games); Theresa Vargas, *Team Will Track Pr. William’s Illegal Immigration Crackdown*, WASH. POST, Mar. 17, 2008, at B1 (describing the work of sociologists to document the effects of the crackdown). Federal actions have also caused problems. See Adam Nossiter, *Hundreds of Factory Workers Are Held in Immigration Raid*, N.Y. TIMES, Aug. 26, 2008, at A12 (documenting criticisms of an ICE raid on a factory in Mississippi); Julia Preston, *After Iowa Raid, Immigrants Fuel Labor Inquiries*, N.Y. TIMES, July 27, 2008, at A1 (noting that pervasive labor violations, such as employing children as young as thirteen years old, were found after a raid at an Iowa meatpacking plant).

At the same time that much-needed partnerships between law enforcement and migrant communities have been damaged, “anti-trafficking” policies under the Bush Administration focused on one labor sector—the sex industry.³⁰ “Sex trafficking” was conflated with trafficking into all forms of labor, and voluntary sexual exchanges for money between adults were described as sex trafficking.³¹ Such a narrow conceptualization of “trafficking as sex trafficking” explains, in part, why so few T visas have been issued to date. These contemporary sex panics have diverted attention away from serious discussions about—and investigations into—the relationship between migrants’ undocumented status and exploitative labor conditions in the underground economy. Threatened, intimidated, and frequently isolated, individuals in forced labor are difficult to reach even with ongoing investigative efforts. The creation of forty-two task forces in sites throughout the United States brings together law enforcement and community partners with the intent of finding more persons in forced labor.³² Yet there is little indication that these task forces are investigating exploitative labor practices in work sites beyond massage parlors or brothels. 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.³³

However, ongoing partnerships between local law enforcement and migrant organizations and leaders have been critically damaged by local law enforcement’s participation in immigration-related arrests through 287(g) agreements.³⁴ Administered through the Department

³⁰ Denise Brennan, *Competing Claims of Victimhood? Foreign and Domestic Victims of Trafficking in the United States*, 5 SEXUALITY RES. & SOC. POL’Y 45, 49 (2008).

³¹ For an examination of adult women’s use of the sex industry with foreign tourists as an “advancement strategy” through the possibility of out-migration through marriage, see DENISE BRENNAN, WHAT’S LOVE GOT TO DO WITH IT? TRANSNATIONAL DESIRES AND SEX TOURISM IN THE DOMINICAN REPUBLIC (2004).

³² These task forces partner local U.S. Attorney Offices with state, local, and territorial law enforcement agencies and with community-based organizations “to create a victim centered human trafficking task force 2007 ATT’Y GEN. ANN. REP. TO CONGRESS & ASSESSMENT OF U.S. GOV’T ACTIVITIES TO COMBAT TRAFFICKING IN PERSONS FISCAL YEAR 2006, at 6, available at <http://www.justice.gov/archive/ag/annualreports/tr2006/agreporthumantrafficking2006.pdf> [hereinafter ATT’Y GEN. 2006 TRAFFICKING REPORT].

³³ See Brennan, *supra* note 30, at 49 (arguing that subsuming all trafficking into sex trafficking and equating all sex work with sex trafficking diverts attention away from investigation into migrants’ labor conditions and undocumented status).

³⁴ Denise Brennan, Woodrow Wilson Int’l Ctr. for Scholars, Ending Forced Labor by Securing Immigrant Workers’ Rights (Dec. 2009), http://www.wilsoncenter.org/index.cfm?fuseaction=sf.item&news_id=565874. These 287(g) agreements have been widely criticized. An editorial in the *New York Times* denounced President Obama’s

of Justice, these agreements empower local police officers to check the immigration status of individuals stopped for other violations. The deputization of local police to enforce immigration laws and ICE raids on workplaces where undocumented immigrants may labor have clearly chilled the relationship between law enforcement and migrant communities.³⁵ It is not clear, however, what kind of success law enforcement would have if they attempted to investigate labor issues in work sites where fear reigns—both fear of one’s employers/traffickers and also of law enforcement and the possibility of deportation. There are more disincentives to come forward than ever before. With trust eroded between law enforcement and migrant communities, service providers have criticized the requirement that those seeking a T visa assist law enforcement as undermining a “victim centered approach.” For example, one report by the Women’s Commission for Refugee Women and Children, documents service providers’ concerns that “trafficked persons are refusing to report to law enforcement when they learn of what the process entails,” which “forces trafficked persons to pursue an alternative form of immigration relief than the T Visa and struggle without the federal benefits.”³⁶

Yet, even with a broader understanding of “trafficking”—beyond the limits of the sex industry—under the new administration, finding individuals in forced labor will require new collaborations with migrant leaders at their center.

Department of Homeland Security’s decision to expand “old, bad Bush administration ideas about immigration enforcement.” Editorial, *Move Immigration Non-Solutions*, N.Y. TIMES, July 13, 2009, at A18. A number of reports call for an end to 287(g) programs. See ANITA KHASHU, POLICE FOUND., THE ROLE OF LOCAL POLICE: STRIKING A BALANCE BETWEEN IMMIGRATION ENFORCEMENT AND CIVIL LIBERTIES 31 (2009) (arguing that the costs of the 287(g) program outweigh the benefits); see also AARTI SHAHANI & JUDITH GREENE, JUSTICE STRATEGIES, LOCAL DEMOCRACY ON ICE: WHY STATE AND LOCAL GOVERNMENTS HAVE NO BUSINESS IN FEDERAL IMMIGRATION LAW ENFORCEMENT 1 (2009) (contending that the 287(g) program has failed); NAT’L COMM’N ON ICE MISCONDUCT AND VIOLATIONS OF 4TH AMENDMENT RIGHTS, RAIDS ON WORKERS: DESTROYING OUR RIGHTS 1 (2009) (describing ICE actions as a “dramatic departure from our nation’s ideals”). The membership of the National Commission on ICE Misconduct includes Tom Vilsack, the current U.S. Secretary of Agriculture. NAT’L COMM’N ON ICE MISCONDUCT AND VIOLATIONS OF 4TH AMENDMENT RIGHTS, *supra*, at 73.

³⁵ See *supra* note 29 and accompanying text.

³⁶ WOMEN’S COMM’N FOR REFUGEE WOMEN & CHILDREN, THE U.S. RESPONSE TO HUMAN TRAFFICKING: AN UNBALANCED APPROACH 4 (2007).

III. LIFE AFTER TRAFFICKING

A. *Trust and Social Networks of Coethnics*

Given the limited resources available for the resettlement of trafficked persons in the United States, I ask how their resettlement needs may look similar to or different from those of their fellow coethnic migrants, with whom they often work and live.³⁷ After all, they confront the same daily resettlement tasks as other migrants who are building new lives in a new country. They also have the burden of coping with the loss of control over their lives, and possibly, with having been beaten and raped. But formerly trafficked persons are not the only group of migrants who wrestle with past traumas. Other migrants, refugees, and asylees may also have experienced traumatic events (for example, violent conflicts or state-sponsored persecution). Moreover, since every case of trafficking has unique characteristics, it is not possible to assert that trafficking causes a particular set of traumas. I assume, therefore, that formerly trafficked persons have had different experiences in forced labor and thus face different challenges regaining control and rebuilding their lives in the United States. I also approach this project with the limitations of the “trauma concept” in mind. I do not assume that suffering renders someone “traumatized,” but rather possibly profoundly sad, scared, or lonely.³⁸

Research on other populations that have experienced violence—such as refugees displaced after war or genocide—provides some insights for understanding the resettlement challenges for formerly trafficked persons. But it also has limitations, since it does not specifically

³⁷ According to a “needs assessment” survey of social service providers, formerly trafficked persons “have fewer resources available to them” than do battered immigrant women, and they “lack basic resources, such as [places] to eat, sleep, or live. They are more vulnerable to exploitation.” HEATHER J. CLAWSON, ET AL., CALIBER ASSOCS., INC., NEEDS ASSESSMENT FOR SERVICE PROVIDERS AND TRAFFICKING VICTIMS 19 (2003).

³⁸ See generally ELZBIETA M. GOZDZIAK, REFUGEE WOMEN’S PSYCHOLOGICAL RESPONSE TO FORCED MIGRATION: LIMITATIONS OF THE TRAUMA CONCEPT 10 (2005) (describing “[t]he trauma model” as based on values that “are very different from the values of many refugee women”); ARTHUR KLEINMAN, WRITING AT THE MARGIN: DISCOURSE BETWEEN ANTHROPOLOGY AND MEDICINE 174 (1995) (“The suffering that results from political violence includes a range of traumas: pain, anguish, fear, loss, grief and the destruction of a coherent and meaningful reality.”); ALAN YOUNG, THE HARMONY OF ILLUSIONS: INVENTING POST-TRAUMATIC STRESS DISORDER 229-63 (1995) (describing the diverse symptoms and treatment of individuals diagnosed with post-traumatic stress disorder).

address the experience of being held against one's will.³⁹ Furthermore, research on rebuilding communities after violence usually focuses on violence that occurred in a particular locale, involving multiple members of the community.⁴⁰ By contrast, most formerly trafficked persons did not endure their human rights abuses and suffering because of their group or ethnic identity, nor are they undergoing their resettlement collectively, as members of a group that experienced violence.⁴¹ In fact, most formerly trafficked persons have never met another individual who also had been in forced labor. To add to their isolation, most T visa recipients—both those who were in forced labor alone, as well as those who worked alongside others (for example, in sweatshops or in agricultural fields)—describe telling neither their families back home nor their new friends in the United States about their experience in forced labor.⁴² In this sense, they remain alone in their silence about their abuse.

Some formerly trafficked persons meet one another for the first time through workshops offered by social service agencies and community-based organizations. These meetings, ostensibly designed to teach specific skills (such as money management, resumé writing, or

³⁹ See generally LIISA H. MALKKI, *PURITY AND EXILE* 2 (1995) (detailing the experiences of Hutu refugees that fled from Burundi to Tanzania); Beatriz Manz, *Terror, Grief and Recovery: Genocidal Trauma in a Mayan Village in Guatemala* (describing the psychological effects of genocide in a Guatemalan village), in *ANNIHILATING DIFFERENCE: THE ANTHROPOLOGY OF GENOCIDE* 292, 301-04 (Alexander Laban Hinton ed., 2002); Kimberly Theidon, *Intimate Enemies: Toward a Social Psychology of Reconciliation* (surveying the “social afflictions” that lingered in Peruvian villages after the armed conflict of the late twentieth century), in *2 THE PSYCHOLOGY OF RESOLVING GLOBAL CONFLICTS* 211, 217-23 (Mari Fitzduff & Chris E. Stout eds., 2006).

⁴⁰ See, e.g., LINDA GREEN, *FEAR AS A WAY OF LIFE* 4 (1999) (focusing on “the lives of some Mayan widows who live in Xe’caj,” a Guatemalan village). While the violence in trafficking is often hidden, cases of state-sponsored violence and terror have been spectacularly public, creating an atmosphere of fear. Green describes “[h]orror, fear, and spectacle, along with murder and brutality” as “weapons of control” used against the Mayan population living in the western highlands of Guatemala. *Id.* at 173 n.2. Disappearances, “scorched earth campaigns” that burn and raze villages and displace entire communities, and massacres are all public acts of horror meant to scar the survivors. *Id.* However, while communities may have been caught up in a kind of public violence together, this does not mean that they talk about it. Green found such silence in Guatemala, where the civil war was referred to in “public discourse simply as *la violencia* or *la situacion*” and “public discussions about widows or orphans were nonexistent.” *Id.* at 3.

⁴¹ As an example of efforts to publicly heal and break the silence about violence, members of a community in Guatemala wrote and performed a play about the violence they experienced as a community. See BEATRIZ MANZ, *PARADISE IN ASHES: A GUATEMALAN JOURNEY OF COURAGE, TERROR, AND HOPE* 233 (2005).

⁴² Cf. Brennan, *supra* note 16, at 42 (“There are many pressures on trafficked persons to maintain silences about their status.”).

computer proficiency), have an ancillary result: formerly trafficked persons who have never met other formerly trafficked persons can identify commonalities in their experiences. One Spanish-language series of “empowerment” workshops for formerly trafficked persons at a social service provider in New York City, for example, provided a forum for formerly trafficked persons to lead discussions. One of these facilitators, Eva, having earned her GED, was pursuing a degree in a nursing assistance program at the time. She became an inspiration to other women in the group. While waiting on the sidewalk outside of the social service organization with a woman who was part of this group, we ran into Eva, who was on her way to see her case manager. Seeing Eva dressed in her blue scrubs and carrying a book bag provoked this fellow group member to remark on how amazing Eva was and how she, too, was looking into different degree programs. Yet, most formerly trafficked persons never get to meet, share stories, or offer advice, support, or inspiration to other formerly trafficked persons.

Meeting others with similar experiences can be particularly helpful since trusting others has been a central theme in formerly trafficked persons’ narratives. I use the term “trust” in ways similar to Daniel and Knudsen, who write about how refugees both “mistrust” and are “mistrusted.”⁴³ I ask how someone who was profoundly exploited begins to trust others again, and how community support plays a role in this process. Formerly trafficked persons are asked almost immediately after they escape or are rescued to trust a variety of individuals, such as local police, immigration officials, state and federal prosecutors, and their own lawyers. Julie, an Indonesian woman who was in forced domestic labor in California, explained, “You do not know any one. It is hard to trust other people. After I got out, everyone was asking me questions. I thought what if they do the same thing to me again?”

Formerly trafficked persons may not only distrust “officials” but coethnics as well. When formerly trafficked persons have been exploited by coethnics, coethnic communities become problematic as sources of comfort, assistance, or belonging. In fact, as much as social networks within “ethnic enclaves” can facilitate finding jobs and housing,⁴⁴ formerly trafficked persons who have been exploited by coethnics may forgo capitalizing on this assistance.

⁴³ See generally MISTRUSTING REFUGEES (E. Valentine Daniel & John Chr. Knudsen eds., 1995).

⁴⁴ See generally RICHARD ALBA & VICTOR NEE, REMAKING THE AMERICAN MAINSTREAM: ASSIMILATION AND CONTEMPORARY INTEGRATION 47-49 (2003) (noting that

Despite their efforts to put their situations of abuse behind them, some formerly trafficked persons tell stories of their past catching up with them. Rosa, a Mexican woman who was forced to have sex in Mexican-run brothels in New York City that cater to Mexican clients, ran into a former customer at her job in a restaurant. This former customer recognized her and told one of Rosa's friends that he had met her at a brothel. Since then she vowed to never work in a restaurant run or frequented by coethnics. Another woman, Flo, who is from Zimbabwe and was in forced domestic labor, ran into a friend of her trafficker in a store. The friend called Flo's trafficker (a diplomat who was not prosecuted), who spent the next week telephoning all of Flo's friends trying to locate her.

There are a variety of pressures on migrants who are working under abusive conditions to maintain silence about their status, even within coethnic community-based organizations.⁴⁵ While the community organizations that tend to the multiple needs of trafficked persons see themselves as trustworthy, there is no self-evident reason migrants who have been in forced labor would automatically regard them as such. An advocate with a community organization that assisted in the resettlement of Thai workers following the August 1995 raid of a sweatshop in El Monte, California, explains how the concept of having rights was new to these seventy-one migrants from rural Thailand.⁴⁶ After their liberation from being locked (some for seven

while social networks may help with "finding a first job, and other practical aspects of workaday lives," they can also have the effect of "giv[ing] rise to dependence on the ethnic community"); TIMOTHY P. FONG, *THE FIRST SUBURBAN CHINATOWN: THE REMAKING OF MONTEREY PARK, CALIFORNIA* 31 (1994) (discussing how the network of Chinese immigrants in Southern California contributed to their population increase in concentrated areas); TERRY A. REPAK, *WAITING ON WASHINGTON: CENTRAL AMERICAN WORKERS IN THE NATION'S CAPITAL* 78-83 (1995) (providing evidence of the strong ethnic networks operating among Central American immigrants in Washington, D.C.); ROGER WALDINGER & MICHAEL I. LICHTER, *HOW THE OTHER HALF WORKS: IMMIGRATION AND THE SOCIAL ORGANIZATION OF LABOR* 83-99 (2003) (discussing generally social-networking theory and its impact on job markets).

⁴⁵ Because a kind of learned silence often emerges as a survival strategy during civil war or genocide, refugees also are known not to speak about their past experiences. Aiwha Ong writes about Cambodian refugees who, while living under the terror of the Pol Pot regime, "[i]n the midst of life-and-death choices and the extremity of daily survival . . . depended on subterfuge, disguise, lying, and silence." AIHWA ONG, *BUDDHA IS HIDING: REFUGEES, CITIZENSHIP, THE NEW AMERICA* 47 (2003). Once resettled in Oakland and San Francisco, "[the refugees] tried to disappear into the local old people among whom they were settled." *Id.*

⁴⁶ Julie A. Su & Chanchanit Martorell, *Exploitation and Abuse in the Garment Industry: The Case of the Thai Slave-Labor Compound in El Monte* (detailing the history of the El Monte workers and their plight), in *ASIAN AND LATINO IMMIGRANTS IN A RESTRUCTUR-*

years) in the factory and being housed in El Monte,⁴⁷ they were placed in INS detention. Since this was 1995, five years before the TVPA was passed, these exploited garment workers were treated as criminals.⁴⁸ In accordance with INS procedure at the time, they were brought to a detention center, put in prison uniforms, and shackled whenever transported.⁴⁹ The community advocate describes the challenge of getting this twice victimized group to trust her and other advocates⁵⁰ who were lobbying for the Thai workers release:

To be stuck the way they were, they came to accept it as fate. Buddhists can be very fatalistic. So they were accepting what was handed to them. We talked about being independent, thinking for yourself, and having rights. At first they did not understand a single thing we were saying. First and foremost we had to work on the trust issue. We tried to explain that we were trying to get them out, bring their traffickers to justice, and to get back their wages.

In the midst of this confusing time for the jailed Thai workers, a local official of the Thai government reminded them of their class status. The community advocate explains, “They were told: ‘This is your

ING ECONOMY: THE METAMORPHOSIS OF SOUTHERN CALIFORNIA 21, 25-26 (Marta Lopez-Garza & David R. Diaz eds., 2001). Su and Martorell argue that “Thai women[] are especially vulnerable to exploitation” since “[t]raditional Thai values confer on Thai women a social position that is inferior to that of males and thus predisposes many women to enter exploitative forms of labor.” *Id.* at 24. In the El Monte case, four workers were men and sixty-seven were women. *Id.* at 25.

⁴⁷ “The slave-labor compound in which the Thai workers were confined was a two-story apartment complex consisting of seven units, surrounded by a ring of razor wire and iron guardrails with sharp ends pointing inward.” *Id.* at 22. At the compound, “[a]rmed guards kept constant surveillance of their every movement and censored and monitored their actions, phone calls, and letters home.” *Id.* at 21.

⁴⁸ Since the TVPA, there have been cases in which those swept up in raids and rescues (particularly of massage parlors and brothels) were placed in immigration detention until their trafficking status could be determined. Those who are designated as trafficking “victims” begin receiving legal and social services (including housing assistance), while those who are designated as “not trafficked”—and who are undocumented—are deported. *See, e.g.,* Allan Lengel, *31 Arrested in Reputed Korean Sex-Slave Trafficking Along East Coast*, WASH. POST, Aug. 17, 2006, at B8 (describing the breaking up of a trafficking ring that resulted in sixty-seven Korean women being “rounded up and interviewed to determine whether they were involuntarily part of the ring”); Paul Meyer, *Asian Spa Arrests Fuel Debate on Human Trafficking*, DALLAS MORNING NEWS, May 7, 2006, available at 2006 WLNR 8309083 (describing a nationwide sting that included a Dallas spa where many of the women were working, who had been illegally smuggled into the country, were classified as nonvictims and sent to immigration court).

⁴⁹ Su & Martorell, *supra* note 46, at 27-28.

⁵⁰ For example, Sweatshop Watch, a statewide network “dedicated to eliminating the exploitation and illegal and inhumane conditions that characterize garment industry sweatshops,” “reacted immediately to secure the release of the Thai workers from continued detention.” *Id.* at 28.

lot in your life. You are an embarrassment to the Thai government. There is nothing we can do, let the U.S. government deport you. How can you seek redress and wages—you can't afford a lawyer. It will be like fighting a brick wall. So, when an official comes who is appointed by the King, you will do exactly what he tells you.”

B. Posttrafficking Experiences in the Labor Market

It is in this context of mistrust, fear, and lack of familiarity with “rights” that I now turn to formerly trafficked persons’ experiences in the labor market after trafficking. At this still relatively early point in posttrafficking resettlement, there is a disconnect between the stated goals of the government’s resettlement programs funded through the TVPA and what social workers who run these programs can do on the ground. Social workers and case managers cannot protect their clients from financial setbacks or exploitation in their new workplaces. These social workers and case managers are frustrated by the constant onslaught of challenges their clients face. For example, one woman from Malaysia who is the sole financial provider for herself and two children who were resettled with her in the metropolitan D.C. area worries constantly about how to stretch her paycheck. There is no room for any extras. Her salary as a child-care provider barely covers the family’s monthly expenses: rent, food, and her hour-long commute by bus and metro to her job. On the weekends, when buses do not run between her neighborhood and the metro station, she does not mind the one-hour walk to the metro. But she refused to follow a case manager’s suggestion to have her children wear their jeans more than once to save money at the Laundromat. Distraught, she asserted, “The laundromat is expensive. But I’m not sending my kids to school in dirty clothes.” These private—and often banal—daily struggles after trafficking are far from breathless media headlines about trafficked persons’ escape or rescue.

Consequently, social workers—who are on the front lines of working with formerly trafficked persons throughout the country—have been expressing their concerns that despite the package of benefits that T visa recipients receive, these resettlement programs nonetheless are producing new members of the working poor. 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.” Of course, legal documentation to work and live in the United States removes a source of significant stress. Yet, even with a T visa, these individuals still face many obstacles to

economic security, including minimal English skills, lack of social networks in well-paying jobs, and the pressure to send remittances home to family members. In addition, some are responsible for repaying their smuggling debts to banks or loan sharks back in their home communities. Carmen, whose story with which I opened, explained that “the T visa does not really give you much.” While waiting to adjust to permanent status, she cannot travel out of the country and has not seen her family in Ecuador since before she was trafficked. She regrets not suing her former traffickers for back wages: “Today I would sue, but I was so young at the time, twenty-one. I was scared and wanted to put it behind me.”

Chronic financial insecurity characterizes formerly trafficked persons’ lives in the United States not only in the short term, but also years into their resettlement. Few have extensive social networks outside of the industry in which they may be working that may help them find new jobs with better wages, greater security, or opportunities for mobility. And for those who want to acquire new skills or degrees, both paying for school and balancing work and classes present more challenges. In short, they face the same struggles that have been well explored in scholarship on the working poor.⁵¹ Often the first in their immediate family and kin networks to migrate to the United States, as “pioneers” it is difficult to secure a toehold—let alone move ahead—in the U.S. economy. I hear over and over from social service providers throughout the United States that their “trafficked” clients want to work right away. Work is the reason they came to the United States in the first place. Securing safe, well-paying jobs thus has become the shared project of many formerly trafficked persons and their case managers during the beginning stages of their resettlement process. It can be the linchpin to feeling in control of one’s life. One social worker in California elaborates, “Work helps them move ahead, they usually are fast planners. It keeps them from getting emotionally depressed. Even when there is a setback they say, ‘Ok, this was a setback, so now what do we do, what’s next?’” One T visa recipient, Maria, who is from the Philippines and who was in forced domestic labor, explains, “I make the decisions in my life now. No one else tells me what to do.” Carmen too, notes that “no one will ever tell me what to

⁵¹ For research on the difficulty of getting a jump out of poverty in the United States, see generally DANIEL DOHAN, *THE PRICE OF POVERTY: MONEY, WORK, AND CULTURE IN THE MEXICAN AMERICAN BARRIO* (2003); KATHERINE S. NEWMAN, *NO SHAME IN MY GAME: THE WORKING POOR IN THE INNER CITY* (1999); and WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS* (1997).

do again.” Work is also one way to give structure to the day; during those periods without it (most often immediately after release from forced labor and before receiving working papers), formerly trafficked persons have a lot of time on their hands and can replay their past experiences of their abuse in their minds. To keep busy, Maria, for example, wants to work even more hours: “Ever since my situation I wake up every morning at 4:30 or 5:00. I think about my past situation. I wish I could go to work early in the morning.”

Not only does work help Maria keep her mind off her past, but it also allows her to send remittances home to her teenage son and her sister- and brother-in-law with whom he lives in the Philippines. She proudly showed me pictures of the house she had built for them, pointing out a hand-carved table along with other furniture and electronic equipment for which she had sent money. She also financed a family business by purchasing a truck to transport the banana crops they grow, and she pays the tuition for several nieces and nephews to attend university. Maria’s varied and impressive investments in her extended family’s future have been possible in part because of a financial settlement she reached with her former employers. However, for T visa recipients who do not win large civil awards, most struggle to live off their earnings in low-wage jobs, let alone send remittances to their home countries.

T visa recipients’ families in their home countries often have high expectations that their loved ones who are lucky enough to work in the United States will send regular remittances. Families back home may have little understanding of how hard it is to make significant earnings in the low-paying jobs available. With these kinds of obligations hanging over them, T visa recipients frequently dedicate themselves to making as much money as they can—even if it means working under conditions that are only marginally better than when they were in situations of forced labor. Formerly trafficked persons are vulnerable not just to unsafe and dangerous working conditions but also to reexploitation. A social worker in California explains,

Even when our clients have T visas, their desperation to work is so high and their skill sets may not always be strong. So, if a client looks for a work in a restaurant she very well may be offered a job below minimum wage. There are ten other people waiting to take that job. It’s hard to

tell a client to not take this job and to hold out for a higher wage which may be hard for her to find.⁵²

She describes clients who have been exploited their whole lives:

They have come to normalize exploitation. Without the English language, education, and skills they can only find low-wage exploitative work. And this is their number one goal—to work. Many will choose to go back to a situation of exploitation. What can we do? We tell them this is not legal and that these are sweatshops with exploitative conditions. They go to places like restaurants and get paid under the table. It's a dilemma. But, they see their larger community of coethnics is in the same situation. If they did hold out for minimum wage and full benefits, they may be waiting a long time.

This same organization has battled with state agencies that have referred their clients to exploitative jobs in elder care with no minimum wage and no system for documenting how many hours employees work. In another case, it counseled a client who had been working (in a post-trafficking job) in a garment factory with no minimum wage. Although she quit this job, she decided not to file a report with the Department of Labor for back wages since the factory was owned by a member of her coethnic community and she did not want to be ostracized.

C. *Women in Forced Sexual Labor*

With many “antitrafficking” organizations throughout the United States engaging in activities to “rescue” all women—whether coerced or not—from the sex industry,⁵³ it is important to note that even those who were in forced sexual labor may elect to continue to earn money through paid sexual encounters. The pay is better in the sex industry—assuming that they keep all their earnings—than that in other jobs to which they have access. For example, Sofia, who is originally from Mexico, had worked in the sex industry in Mexico and the United States before she ended up in a situation of forced sexual labor.

⁵² In a report commissioned by the National Institute of Justice, the authors write about Emilio who, while waiting for a decision on his T visa application, had turned to “illegal work in unsafe conditions” since his “most important concern” was not “safety, health, housing, or food stamps,” but “to earn an income he can live on, and ideally, to send money home to his child.” BALES & LIZE, *supra* note 11, at 114.

⁵³ See Elizabeth Bernstein, *The Sexual Politics of “New Abolitionism,”* 18 DIFFERENCES 128, 130 (2007) (arguing that state and federal antitrafficking laws “equate prostitution with human trafficking”).

She explains why she decided to stay working in the sex industry after trafficking: “It took a lot of strength to not return to it. You get used to the money! And, life is very expensive here.” Women who were in forced sexual labor also may have access to a variety of forms of assistance from former clients to help them gain a secure economic toe-hold in the United States. Sofia, for example, lives with a boyfriend in New York City who used to be a client and who pays the household expenses. It was not until she moved in with him that she could afford to leave earnings in the sex trade behind her and enroll in English classes full time. Similarly, Tatiana, who had been trafficked into exotic dancing from Russia, pays her rent in Washington, D.C., through the financial assistance of a former client who lives in another city.

As much as individuals who were trafficked into sexual labor may have access to financial resources that individuals trafficked into other industries do not, they also may struggle with issues around disclosing their past experiences in different ways than other formerly trafficked persons. Tatiana was overwhelmed, for example, by the many questions thrown at her by law enforcement and attorneys: “I had to start to trust people, the people trying to help me out.” After being under constant surveillance by the clubs’ owners, Tatiana had learned to be on guard. Just how much information individuals should reveal in order to make a legal case can be particularly difficult to gauge, especially since doing so reverses their instincts toward self-preservation: “It was hard to trust at first because I was thinking maybe I said too much. You have to keep information secret because you never know where it goes.” Tatiana’s impulse to keep information to herself is shared by many formerly trafficked persons across industries, particularly if law enforcement is untrustworthy in their home countries.

D. Friends, Romantic Partners, and Community-Based Organizations

Finding romantic partners with whom to share household and other expenses has helped many T visa recipients weather firings and other economic setbacks. Without sharing household expenses, formerly trafficked persons are unlikely to save enough money to go to school, which is an essential step many have taken toward economic mobility. Carmen was fired from a housekeeping job at a hotel after she was physically assaulted by a co-worker whose work Carmen—as a supervisor—had pointed out was sloppy. Unemployed for six months, Carmen was able to get by because she was living with her boyfriend who paid household expenses while Carmen looked for a new job. At the time, Carmen’s case-management file was closed (she had received

a T visa a couple of years earlier); nonetheless, her former case manager put her in touch with a lawyer at the ACLU to discuss her dismissal, and also helped her to enroll in computer classes. Ultimately, Carmen found a new housekeeping job—at a unionized hotel through a network of Spanish-speaking housekeepers that she had developed.

A community-based organization can evolve into a surrogate family, a way to build new “kin” and new social networks. Some of the Vietnamese workers from the American Samoa case who were resettled in a Vietnamese community in Orange County, California, for example, have capitalized on Vietnamese networks to work in Vietnamese-owned nail salons outside of their low-income communities.⁵⁴ Since these T visa recipients were resettled through a Vietnamese social service agency, they had immediate access to coethnic social networks. In contrast, Carmen had to build her own social networks since she was resettled through a large social service agency in New York City that is not affiliated with any one ethnic group. She began building new social networks the day she left forced domestic labor. Her closest friend to this day is a woman she met in the domestic violence shelter in which she was housed after she left her traffickers’ home. This friend introduced Carmen to her first posttrafficking roommates and helped her land her first job in housekeeping at a hotel. Without having any family or friends from Ecuador in the New York area, Carmen has had to create a new community. Gregarious and kind, she has built an extensive network of Spanish-speaking friends over the past few years, including several domestic workers from whom she learns of openings at other hotels. She is so willing to try new experiences and radiates such good will that it is easy to see why many friends have gravitated toward her. Her photo albums document holidays, weekends, and vacations spent with new friends: Thanksgiving at a boyfriend’s family’s house; the beach with roommates’ cousins visiting from the Dominican Republic; a co-workers’ traditional Mexican wedding in a hotel complete with a Mariachi band; and a smaller wedding celebration of Argentinian friends held in an apartment. All are testimony to Carmen’s willingness to begin to trust others again.

Similarly, Maria has tapped into an established network of Filipino domestic and child-care workers through a Philippine community-based organization in New York City. A well-run organization that

⁵⁴ As Suárez-Orozco notes, since immigrants to the United States often settle in areas of “deep poverty,” they may not find “meaningful work opportunities” in these communities. Marcelo M. Suárez-Orozco, *Right Moves? Immigration, Globalization, Utopia, and Dystopia*, in *AMERICAN ARRIVALS*, *supra* note 20, at 45, 65.

counts hundreds of members, it serves as both a social outlet—with potlucks and other festivities—and an information-swapping center for its members like Maria. This community organization’s activities also have helped to ignite Maria’s political consciousness. She now speaks out about her experiences in forced domestic labor at different events sponsored by this organization. Even with all of Maria’s support through this organization, however, luck still plays a major role in her working conditions. Accepting child-care and elder-care jobs in people’s homes, she must hope that her employers stick to the contract (usually oral) that was originally agreed upon.⁵⁵ When one of Maria’s former employers reneged on their oral agreement that they would pay her while they were on vacation (Maria was providing child care for their daughter), Maria quit, explaining, “I will not be taken advantage of again.” Like Carmen, Maria lives with her boyfriend and thus was in a position to be out of work for a while. She began looking for a new job through her social networks at the Philippine community-based organization. Thus, by trusting and being trusted by other members of this community organization, Maria not only has opened up social opportunities but professional ones as well.

E. Assistance to and from Family Members

Although most T visa recipients did not have family members in the United States before they sought to migrate there—a fact that shaped their vulnerability to traffickers in the first place—those who do, like Eva, experience both lessened social isolation and financial pressures. Eva and her son moved in with her brother in New York City. Her brother not only paid their rent, but watched her son while she worked the night shift bartending. With the money she was able to save on

⁵⁵ There has been a wide variety of literature on the lack of protections in domestic work. See generally CHANG, *supra* note 15 (examining the harms of excluding immigrant women from welfare benefits); NICOLE CONSTABLE, MAID TO ORDER IN HONG KONG: STORIES OF MIGRANT WORKERS (2d ed. 2007) (describing the plight of Filipina workers in Hong Kong); HONDAGNEU-SOTELO, *supra* note 15 (describing the experience of Latina domestic workers California); HUMAN RIGHTS WATCH, SWEEP UNDER THE RUG: ABUSES AGAINST DOMESTIC WORKERS AROUND THE WORLD (2006), available at <http://www.hrw.org/reports/2006/wrd0706/index.htm> (describing abuses against domestic workers around the world); RHACEL SALAZAR PARREÑAS, SERVANTS OF GLOBALIZATION: WOMEN, MIGRATION, AND DOMESTIC WORK (2001) (describing the work conditions for Filipina domestic workers in Rome and Los Angeles); Joy M. Zarembka, *America’s Dirty Work: Migrant Maids and Modern-Day Slavery* (describing how immigrant women are denied the protections of labor laws), in GLOBAL WOMAN: NANNIES, MAIDS, AND SEX WORKERS IN THE NEW ECONOMY 142, 146 (Barbara Ehrenreich & Arlie Russell Hochschild eds., 2002).

household expenses and child care, Eva put her long-term mobility plans into place. She paid tuition for English-language classes, preparation courses for her GED (which she obtained), and a nursing assistance program.

While Eva received help from her brother who had been established legally and financially in the United States before she arrived in the United States, T visa recipients who are the sources of assistance for dependent family members shoulder significant financial and emotional responsibilities. They become their family members' lifeline. When I met Gladys, a twenty-one-year-old Mexican woman who had been trafficked into forced domestic labor in the Midwest, her parents and siblings were about to arrive in the United States (as part of the benefits associated with her T visa). Social workers describe multiple pressures that their clients, the T visa recipients, take on. Gladys had begun not only to plan her future, but her family's as well. She was buzzing with ideas: "My goal is to make my family strong. I want to explore all kinds of new opportunities."

Like so many T visa recipients who express anger over the times their traffickers have stolen from them, Gladys wants to show her trafficker her independence, asserting that "I am not garbage. . . . He worked on my mind and tried to tell me I am nothing. He told me I would never learn English—that there are people who have been here twenty years and have not learned English. But I did it." T visa recipients who actively seek out new experiences like Gladys—for example, by putting themselves in unfamiliar social spaces; studying English; and taking chances by trusting new co-workers, managers, neighbors, and friends—will be able to call on these new social networks when needed. It is possible that T visa recipients who are particularly open to transforming their lives and taking risks will better navigate setbacks and disappointments. As Gladys looked at the uncertainty ahead of her, she was confident in herself and in the possibilities awaiting her—and now, her family. Her exuberance was palpable. She explained, "I want to eat New York."

CONCLUSION

Recounting Gladys's desire "to eat New York" would be a hopeful, and poetic, way to end this Article. But I would be romanticizing what is ahead of Gladys and other T visa recipients if I did not also underscore the number of challenges that they face. Carmen, with whose story I opened, lives paycheck to paycheck like many of her fellow migrant co-workers at the hotel. She too hopes to go to school—to work

as a hair stylist—but the fees are out of reach on her current salary. As T visa recipients like Carmen dedicate themselves to creating new lives in the United States, their bills and other responsibilities in the immediate term nibble away at their long-term plans.

As they confront many of the same obstacles to economic mobility as other low-wage migrants, their accounts of building lives in the United States after forced labor connect the everyday struggles of T visa recipients with those of other migrants. Research and policy on “trafficking” must be part of the ongoing national conversation about immigration reform and migrants’ rights. Labor protections for low-wage workers and undocumented migrant workers can help prevent forced labor and assist in the resettlement of “trafficked” individuals by ensuring against reexploitation. Activities that are antitrafficking are, at their core, also pro-migrants’ rights.