

Human Trafficking and the T-Visa¹²

By Carole Angel and Leslye Orloff

Introduction³

Human trafficking is a relatively new name for an age-old human rights violation. The term trafficking encompasses labor and civil rights violations that are a modern day form of slavery. Because the modern form of trafficking has been regulated for less than a decade, the concepts are still poorly understood. The resources for trafficked people, while growing, remain limited and trafficking victims are among the most isolated types of victims. While sexual assault victims and trafficking victims share some of the same vulnerabilities, there are distinct differences in their experiences, as well as in the immigration protections and social services available to them. Despite the differences in experience, trafficking victims may not identify themselves as trafficking victims and could present as victims of sexual assault. This may occur not only because the crime of trafficking is not broadly understood, but because many trafficking victims come from circumstances in their home countries where they have already been exploited without legal or community protections. They are therefore unable to articulate the

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2 In this Manual, the term "victim" has been chosen over the term "survivor" because it is the term used in the criminal justice system and in most civil settings that provide aid and assistance to those who suffer from domestic violence and sexual assault. Because this Manual is a guide for attorneys and advocates who are negotiating in these systems with their clients, using the term "victim" allows for easier and consistent language during justice system interactions. Likewise, The Violence Against Women Act's (VAWA) protections and help for victims, including the immigration protections are open to all victims without regard to the victim's gender identity. Although men, women, and people who do not identify as either men or women can all be victims of domestic violence and sexual assault, in the overwhelming majority of cases the perpetrator identifies as a man and the victim identifies as a woman. Therefore we use "he" in this Manual to refer to the perpetrator and "she" is used to refer to the victim. Lastly, VAWA 2013 expanded the definition of underserved populations to include sexual orientation and gender identity and added non-discrimination protections that bar discrimination based on sex, sexual orientation and gender identity. The definition of gender identity used by VAWA is the same definition as applies for federal hate crimes – "actual or perceived gender-related characteristics." On June 26, 2013, the U.S. Supreme Court struck down a provision of the Defense of Marriage Act (DOMA) (*United States v. Windsor*, 12-307 WL 3196928). The impact of this decision is that, as a matter of federal law, all marriages performed in the United States will be valid without regard to whether the marriage is between a man and a woman, two men, or two women. Following the Supreme Court decision, federal government agencies, including the U.S. Department of Homeland Security (DHS), have begun the implementation of this ruling as it applies to each federal agency. DHS has begun granting immigration visa petitions filed by same-sex married couples in the same manner as ones filed by heterosexual married couples (<http://www.dhs.gov/topic/implementation-supreme-court-ruling-defense-marriage-act>). As a result of these laws VAWA self-petitioning is now available to same-sex married couples (this includes protections for all spouses without regard to their gender, gender identity - including transgender individuals – or sexual orientation) including particularly:

- victims of battering or extreme cruelty perpetrated by a U.S. citizen or lawful permanent resident spouse against a same sex partner in the marriage is eligible to file a VAWA self-petition; and
- an immigrant child who is a victim of child abuse perpetrated by their U.S. citizen or lawful permanent resident step-parent is also eligible when the child's immigrant parent is married to a U.S. citizen or lawful permanent resident spouse without regard to the spouse's gender.

3 The introduction is excerpted from a letter to the former INS on recommendations for T-visa implementation submitted by the National Network on Behalf of Battered Immigrant Women and the Freedom Network (USA) to Empower Trafficked and Enslaved Persons submitted April 2001.

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exploitation they have suffered because they have become accustomed to it. It is crucial that victim advocates learn to identify when a victim of sexual assault is also a trafficking victim because immigrant trafficking victims are able to access additional protections and benefits. Trafficking victims may also need different types of services than those most familiar to domestic violence and sexual assault victim advocates.

Human trafficking is a phenomenon of global magnitude that violates the human rights of millions of women and children. Victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. In particular, an individual's status in terms of race, class, ethnicity and/or gender in their home country may make them more vulnerable to traffickers. The selling of young women into sexual bondage is an issue about which awareness has grown considerably over the past two decades. It is a serious violation of their rights and threat to their health.

The total disregard for the basic human rights accorded to all persons is a key part of the international criminal industry in trafficking of human beings. The U.S. government estimates that 14,500-17,500 people are trafficked into the United States each year.⁴ Victims of trafficking are recruited, transported, or sold into all forms of forced labor and servitude, including prostitution, sweatshop labor, domestic labor, and farming. In many cases, the exploitation of the trafficking victims is progressive: a victim trafficked into one form of slavery may be further abused in another. Victims are frequently bought and sold many times over. In addition, they are often the victims of sexual assault by their traffickers or others exploiting their situation.

The Victims of Trafficking and Violence Protection Act

The centerpiece of the U.S. government's efforts to combat trafficking is the Trafficking Victims Protection Act (TVPA), which was signed into law in 2000.⁵ It enhanced three aspects of federal government activity to combat trafficking in persons: protection, prosecution, and prevention.⁶ The TVPA provided for a range of new protections and assistance for victims of trafficking in persons. In addition, the TVPA expanded the crimes and the penalties available to federal investigators and prosecutors pursuing traffickers, and expanded U.S. international efforts to prevent victims from being trafficked.⁷ Congress reauthorized the Trafficking Victims Protection Act (TVPA) in 2003,⁸ in 2005,⁹ and again in 2008.¹⁰ In particular, the TVPA and its reauthorizations:

- Created the T-visa as a new form of immigration relief available to trafficking victims who suffer severe forms of human trafficking;¹¹
- Included victims of human trafficking among immigrant crime victims eligible for the U-visa.¹²
- Created stronger criminal penalties and enhanced sentencing for traffickers;¹³

⁴ [Trafficking in Persons Report 2004](#), Released by the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State (2004).

⁵ Victims of Trafficking and Violence Protection Act of 2000 (TVPA), Pub. L. 106-386 (Oct. 28, 2000).

⁶ [Trafficking in Persons Report 2005](#), Released by the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State (2005).

⁷ [Trafficking in Persons Report 2005](#), Released by the Office to Monitor and Combat Trafficking in Persons, U.S. Department of State (2005).

⁸ Trafficking Victims Reauthorization Act of 2003 ("TVPRA 2003"), Pub. L. 108-193, 117 Stat. 2875 (2003) (codified as amended in scattered sections of the U.S.C.).

⁹ Trafficking Victims Reauthorization Act of 2005 ("TVPRA 2005"), Pub. L. 109-164, §§ 101, 201, 119 Stat. 3558, 3560, 3567 (2005) (codified as amended in scattered sections of the U.S.C.).

¹⁰ William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457 (2008). (It is important that those working with trafficking victims provide assistance to victims based upon the most up to date version of the statute and be aware that there exist some inconsistencies between the statute and regulations issued prior to the 2008 amendments. This is particularly true of the T and U visa regulations governing access to lawful permanent residency for T and U visa holders. 73 Fed. Reg. 75,550 (December 12, 2008). NIWAP offers technical assistance to advocates and attorneys working with trafficking victims and can provide up to date information. (202) 274-4457; <mailto:niwap@wcl.american.edu>

¹¹ Victims of Trafficking and Violence Protection Act of 2000 ("TVPA") § 107(e)(1); 8 USC §1101(a)(15)(T)(2000).

¹² Violence Against Women Act of 2000, Pub. L. No. 106-386 (2000) §1513. For further information on immigrant victim eligibility for the U-visa and application procedures see the U-visa chapter of this manual. The U-visa helps immigrant trafficking victims who may have difficulty proving that the acts of human trafficking they suffered can meet the definition of "severe forms of human trafficking" as well as trafficking victims who have difficulty proving that removal to their home country will cause extreme hardship involving severe and unusual harm.

¹³ Victims of Trafficking and Violence Protection Act of 2000 ("TVPA") § 112; 22 USC §7109(2000).

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- Extended T-visa immigration relief to trafficking victims assisting in either state or federal criminal investigations and prosecutions of human traffickers; 14
- Created a new civil action that allows trafficking victims to sue their traffickers in federal district court; 15
- Expanded U.S. criminal jurisdiction for felony offenses committed by U.S. government personnel and contractors abroad to ensure that any involved in human trafficking activities will be held accountable for their crimes; 16
- Addressed the needs of vulnerable populations in post-conflict settings, as well as domestic trafficking by preventing the trafficking of U.S. citizens and nationals; 17 And
- Ensured that trafficking victims could seek fee waivers with regard to any fees associated with the victim's T-visa case from filing through receipt of lawful permanent residency.

The T-Visa

The TVPA created the trafficking “T-visa” that allows victims of severe forms of trafficking to live, receive services and work legally in the United States for up to four years. T-visa recipients may apply for lawful permanent residency if they meet eligibility requirements. The T-visa provides a path to permanent residence to trafficking victims who cooperate with the federal and/or state authorities and the criminal justice system.¹⁸ The first section of this chapter provides basic information on T-visa eligibility, and lists the requirements that must be met by an applicant. The second section discusses T-visa victim eligibility to apply for lawful permanent residency. The chapter concludes with an overview the option for victim repatriation to his/her home country and a list of additional resources for trafficking victims.

Eligibility Requirements:

To be eligible for a T-visa, a non-citizen trafficking victim must show that he or she:

- Is or has been a victim of a severe form of trafficking (as defined by the TVPA);¹⁹
- Is physically present in the United States²⁰, American Samoa, or the Mariana Islands or at a port of entry on account of trafficking;²¹
- Has complied with any reasonable request for assistance in investigating or prosecuting trafficking (if 18 or older),²² and;
- Would suffer extreme hardship involving unusual and severe harm upon removal.²³

The following section will address and discuss each eligibility requirement in depth.

14 Trafficking Victims Protection and Reauthorization Act of 2003 (TVPA 2003) § 4(a)(3); TVPA § 107(b)(1)(E)(iv); (22 U.S.C. 7105(b)(1)(E)); TVPRA 2003 §4(b)(2); INA 214(n)(6); 8 U.S.C. 1184(n)(6).

15 *Id.*

16 Trafficking Victims Reauthorization Act of 2005 (“TVPRA 2005”) §103; 18 USC §3271(2005).

17 Trafficking Victims Reauthorization Act of 2005 (“TVPRA 2005”) §101; 22 USC §7104(2005).

18 INA §245(l); 8 U.S.C. §1255(l).

19 INA §101(a)(15)(T)(I); 8 U.S.C. §1101(a)(15)(T)(I) (2000).

20 The Victims of Trafficking and Violence Protection Act of 2000 defines the United States as including “the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Mariana Islands, and the territories and possessions of the United States.” Victims of Trafficking and Violence Protection Act of 2000 § 103(12); 22 U.S.C §7102(12) (2000).

21 INA §101(a)(15)(T)(II) ; 8 U.S.C. §1101(a)(15)(T)(II) (2000).

22 INA §101(a)(15)(T)(III) ; 8 U.S.C. §1101(a)(15)(T)(III) (2000)..

23 INA §101(a)(15)(T)(IV); 8 U.S.C. §1101(a)(15)(T)(IV) (2000).; 8 CFR §214.11(b) (T-visa regulations effective on March 4, 2002). Those who DHS has “substantial reason to believe” have committed acts of severe forms of trafficking are ineligible. 8 CFR §214.11(c) (2002).

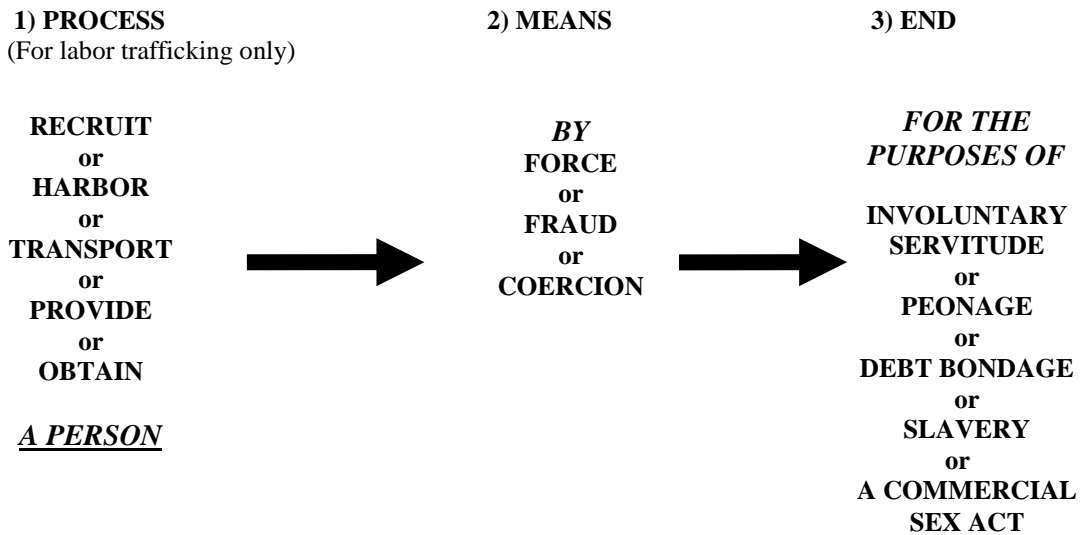
1. Victim of a Severe Form of Trafficking

The TVPA defines a “severe form of trafficking” as:

- (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or
- (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery²⁴.

In order to constitute a “severe form of trafficking” in persons, three elements must be present in cases involving labor or services. First, there is the *process* through which the labor is attained: by recruiting, harboring, transporting, providing, or obtaining a person for labor. Second, is the *means* used to procure the labor: was force, fraud, or coercion used in the procurement? Third, the labor has to be procured for a certain *end* purpose: involuntary servitude, peonage, debt bondage, or slavery. For cases involving sex trafficking, it is only necessary to establish that the commercial sex act (the *end*) was induced through force, fraud, or coercion (the *means*). Moreover, where the victim of sex trafficking is under the age of 18, no force, fraud, or coercion is required for it to be classified as a severe form of trafficking. These elements of proof must be established before a victim can qualify as a victim of severe form of trafficking under the law.²⁵

THREE PRONGS OF “A SEVERE FORM OF TRAFFICKING IN PERSONS”²⁶



Defining Force, Fraud, and Coercion

To meet the "means" requirement a victim must show that her labor, services or participation in a commercial sex act was procured through the use of force, fraud or coercion. While the meaning of the terms “force” and “fraud” is fairly self-evident, the term coercion is more ambiguous and was, therefore, defined in the statute. Psychological

²⁴ Victims of Trafficking and Violence Protection Act of 2000 (“TVPA”) § 103(8); 22 USC §7102(8) (2000).

²⁵ As an alternative, some trafficking victims may not fulfill the T-visa requirements but may still qualify to be granted a U-visa for crime victims. Trafficking was explicitly listed among the forms of criminal activity for which U-visas are available to provide an alternate form of immigration relief for trafficking victims. Trafficking victims may file for and receive a U-visa and later file for, receive, and switch to T-visa status if they later become eligible for a T-visa.. INA § 248(b), 8 USC § 1258 (2006).

²⁶ This diagram is an adaptation of a chart developed by the Freedom Network Training Institute whose membership of experts who have been leaders in the field of human trafficking. The work of the Freedom Network Training Institute in developing a nationally recognized human trafficking curriculum served as a foundation for many aspects of the approach adapted in writing this chapter. The authors and Legal Momentum are grateful for their leadership in training and service provision for human trafficking victims, particularly those eligible for immigration benefits and other supportive services in the United States.

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coercion is included as a form of coercion under the TVPA and T-visa regulations. The statutory definition of coercion includes:

- (a) Threats of serious harm to or physical restraint against any person,
- (b) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against the person, and
- (c) The abuse or threatened abuse of the legal process.²⁷

Exploring the ways in which a trafficker exerted control over his or her victim is an important step in collecting the evidence necessary to establish that there was force, fraud, or coercion. Was the victim kept locked in a factory, prevented from leaving the house alone, or in some other way physically bound to the trafficker? All would be examples of physical restraint that could be used to establish the means element. Likewise, threats of beatings or other physical harm to the victim or their family members or another person would also be persuasive evidence. While some traffickers do in fact use or threaten the use of physical restraint in order to control their victims, many traffickers are careful not to create evidence of physical force or coercion and instead employ more subtle forms of psychological coercion, often preying upon the particular vulnerabilities of the victim.

Psychological coercion includes any patterns or schemes that would make a person feel like they may suffer harm.²⁸ It is very important to carefully explore with a victim exactly what the trafficker did to make her afraid and why that created fear for her. The explanation of why the victim was afraid is often equally important as what the trafficker did in establishing that psychological coercion took place. For instance, a victim may report that the trafficker controlled her by cutting her hair. Alone, this does not establish a powerful picture of psychological coercion. However, if it is revealed that the victim believes that possession of a piece of hair gives the possessor certain powers over the owner of the hair, the act of cutting the victim's hair takes on a new meaning and could paint a picture of psychological coercion.

Distinguishing Trafficking vs. Smuggling

It is important to note that while many people use the terms trafficking and smuggling interchangeably, there are distinct differences. Smuggling is the process whereby an individual contracts with a transporter to be brought into the United States illegally. It is essentially a business transaction in which the immigrant pays the transporter to facilitate her illegal entry. Trafficking is about control --one person exerting control over another to extract labor or commercial sex acts. The preamble to the T-visa interim regulations issued on July 24, 2001 discusses the difference between being smuggled and being trafficked.²⁹ It recognizes that many victims may agree initially to be smuggled into the United States, but end up being trafficked through force, fraud or coercion. Under the T-visa regulations, victims who voluntarily entered the country unlawfully, but are subsequently victimized are not penalized for that unlawful entry in that they are still eligible to apply for T-visa relief.³⁰

Trafficking³¹

- Crime or violation against a person
- May or may not include an unauthorized border crossing
- Subsequent exploitation after entry and/or Forced labor requiring force, fraud, or Coercion³²
- Trafficked persons seen as **victims** by the law

Smuggling

- Unauthorized border crossing
- No subsequent exploitation
- Facilitated illegal entry of person from one country to another
- Smuggled persons seen as **criminals** by the law

²⁷Victims of Trafficking and Violence Protection Act of 2000 ("TVPA") § 103(2)(C); 22 USC §7102(2)(C) (2000).

²⁸ 8 C.F.R. §214.11(a) (2002).

²⁹ Protection and Assistance for Victims of Trafficking, 66 Fed. Reg. 38514 (July 24, 2001).

³⁰ See INA §212(d)(13); 8 U.S.C. § 1182(d)(13). (2000)

³¹ These two charts are adapted from training materials and a curriculum developed by the Freedom Network Training Institute whose membership of experts who have been leaders in the field of human trafficking.

³² Victims of Trafficking and Violence Protection Act of 2000 ("TVPA") § 103(8); 22 USC §7102(8) (2000).

Practice Pointers

Victims often are under such duress during their trafficking experience that they may suffer severe post-traumatic stress disorder or other forms of psychological trauma. Furthermore, victims have been instructed by their trafficker not to trust anyone and it may be difficult for an advocate to immediately elicit the information needed to determine whether a person is a trafficking victim. Advocates should be prepared to be patient and expect to develop trust slowly over time.

Human trafficking is still a relatively misunderstood term. Victims are unlikely to self-identify both because they may be unfamiliar with the terminology and because they may not understand that human trafficking is a criminal act in the United States. Therefore advocates and attorneys working on behalf of victims are in a position to make a primary assessment that a person has been trafficked. As such, advocates should explore whether their clients are victims of severe forms of trafficking as defined under the law³³ by examining the following issues:

Process: Was the victim recruited, harbored, moved, provided or obtained?

- Physical movement or control of an individual
- Movement across the border is not necessary to qualify as trafficking
- Can qualify even if the victim initiated contact with a broker
- Can qualify even if voluntarily crossed the border illegally if then victimized
- The entry may have been be under a lawful visa

Means: Was the labor or the commercial sex act procured through the use of force, fraud, or coercion?

- Was the victim --
 - Physically restrained?
 - Abducted?
 - Locked into a location?
 - Prevented from leaving the house or worksite alone?
 - Under video surveillance?
- Was physical force used to make the victim work?
 - Beatings?
 - Sexual assault?
- Was the victim threatened if she did not participate?
 - Threats of harm against the victim?
 - Threats of harm against family members?
 - Threats of harm against others, such as fellow victims?
- Did a recruiter or agent promise different work conditions than actually existed?
- Was the victim or her family members threatened with legal action as a means of control?
 - With deportation?
 - With arrest?
- What are the victim's particular vulnerabilities?
 - Age?
 - Mental status?
 - Cultural beliefs and taboos?
 - How was the victim exploited?
- Were the victim's identity documents taken from her?
- What other means of control were exerted?
 - Was food withheld?
 - Was health care withheld?

³³ *Id.*

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- Were there implied threats of violence e.g. making an example of someone else?

End: Was the victimization for the purpose of procuring labor under conditions of involuntary servitude³⁴, debt bondage³⁵, peonage³⁶, or slavery or for commercial sex³⁷?

- Were the perpetrator's actions designed to make the victim believe that she had no choice but to perform the labor or commercial sex act or she or another person would suffer harm or adverse legal action?
- What other means of control were exerted?
- Was the victim deeply in debt with the perpetrator (perhaps for a smuggling debt or other debt)?
 - Was she working to pay off that debt?
 - Was she being paid a fair wage?
 - Was that wage being assessed against the debt?
 - How large was the debt?
 - How long would she have to work for the perpetrator to pay off the debt?

Each application must include a statement from the victim describing the facts of the victimization. In addition, each application must include additional corroborating evidence. The Department of Homeland Security (DHS) considers the following two documents to be primary evidence of victimization.

- The Law Enforcement Agency endorsement (DHS Form I-914B); or
- Proof of Continued Presence³⁸

All victims filing for immigration relief under the Trafficking Victims Protection Act and the Violence Against Women Act are allowed under the law to prove eligibility for the T-visa by submitting any credible evidence they can muster to support their claim.³⁹ An applicant who cannot provide primary evidence may submit any credible secondary evidence. This secondary evidence must include an explanation as to why the applicant is not submitting a law enforcement endorsement and what efforts were made to obtain an endorsement. In addition, the applicant should submit any additional available evidence.⁴⁰

2. Physically Present On Account of Trafficking

³⁴ The regulations define involuntary servitude as a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of legal process. 8 CFR §214.11(a) (2002).

³⁵ Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. 8 §CFR 214.11(a) (2002).

³⁶ Peonage means a status or condition of involuntary servitude based upon real or alleged indebtedness.

³⁷ A commercial sex act means any sex act on account of which anything of value is given to or received by any person. 8 §CFR 214.11(a) (2002).

³⁹ Federal law enforcement officers may request that DHS authorize "Continued Presence" for a trafficking victim who is cooperating with their investigation or prosecution. Continued presence protects trafficking victims from deportation, allows them to remain in the U.S., and includes work authorization and access to public benefits. It is not a form of permanent immigration status. Trafficking and Violence Prevention Act of 2000 §107(c)(3), 22 U.S.C. §7105(c)(3) (2000) Continued Presence will be fully discussed later on page 18 of this chapter

³⁹ See generally, Leslye E. Orloff, Kathryn C. Isom, and Edmundo Saballos, *Mandatory U-Visa Certification Unnecessarily Undermines The Purpose Of The Violence Against Women Act's Immigration Protections And Its "Any Credible Evidence" Rules—A Call For Consistency*, XI Georgetown Journal of Gender and the Law 619, 641 (2010).

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³⁹ See generally, Leslye E. Orloff, Kathryn C. Isom, and Edmundo Saballos, *Mandatory U-Visa Certification Unnecessarily Undermines The Purpose Of The Violence Against Women Act's Immigration Protections And Its "Any Credible Evidence" Rules—A Call For Consistency*, XI Georgetown Journal of Gender and the Law 619, 641 (2010).

⁴⁰ 8 CFR § 214.11(h)(2) (2002).

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A victim must demonstrate physical presence in the United States on account of the trafficking.⁴¹ It is important to note that an individual need not have been trafficked into the United States (i.e. crossed the border as part of the trafficking scheme) in order to fulfill this requirement. Federal law recognizes that some trafficking victims are trafficked into the United States, some trafficking victims illegally enter the U.S. and then are victimized, and some victims enter the country legally and then are victimized. When a victim is physically present in the U.S. for the purposes of participating in an investigation or prosecution of trafficking, the victim is considered under the statute to be present on account of trafficking.⁴² Therefore, rather than focusing on the manner of entry into the country when analyzing whether presence is on account of the trafficking, federal law requires applicants for T-visas to establish that he or she:

- Is being subjected to trafficking now;
- Was recently liberated from such trafficking; or
- Is here because of past trafficking and his or her current presence in the United States is directly related to the original trafficking incident.⁴³

Victims who escape their traffickers without federal law enforcement assistance, must demonstrate that they did not have a clear chance to leave the United States in the time between escaping their traffickers and coming in contact with a law enforcement agency.⁴⁴

When the applicant's trafficking experience did not recently occur, proving physical presence also requires a including proof of "trauma, injury, lack of resources, or travel documents that have been seized by the traffickers"⁴⁵ to demonstrate that the applicant did not have an opportunity to depart. The T-visa application Form I-914⁴⁶ poses questions such as "what have you been doing since you were separated from the traffickers?" and "Why were you unable to leave the United States after you were separated from the traffickers?" to help applicants respond to this requirement. Though regulations do not differentiate between primary and secondary evidence, possible evidence includes explanations regarding trauma, financial resources, and lack of travel documents connected to the incident of trafficking.⁴⁷

3. Complied with Reasonable Requests for Assistance with Investigations or Prosecutions

Each T-visa applicant must also show that he or she has complied with any reasonable request for assistance made by law enforcement officials with regard to the investigation or prosecution of the trafficking act. DHS interprets a reasonable request for assistance as one made to a victim of a severe form of trafficking in persons to assist law enforcement authorities in the investigation or prosecution of acts of trafficking. DHS assesses the reasonableness of the request based on the totality of the circumstances in light of general law enforcement and prosecutorial practices, the nature of the victimization, and the specific circumstances of the victim, including fear, severe trauma (both mental and physical) and the age and maturity of young victims.⁴⁸

One of the ways that Congress placed limits on law enforcement agencies' ability to influence a victim's ability to obtain a T-visa was by imposing reasonableness limitations on the cooperation requirement. Limiting the victims' obligation to comply only with "reasonable requests for assistance" accomplished two equally important goals. It encourages trafficking victims to come forward by offering victims protection from deportation while also creating limits to protect victims. It also balances law enforcement interests against the danger of re-victimization that might

41 INA § 101(a)(15)(T)(i)(II); 8 U.S.C. § 101(a)(15)(T)(i)(II).

42 William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457, § 201(a)(2008). Law enforcement officials should be encouraged to request continued presence for trafficking victims present in the United States to participate in trafficking investigations and prosecutions. This will provide victims access to benefits and work authorization while their applications for T-visas are pending.

43 8 CFR §214.11(g) (2002).

44 8 CFR §214.11(g)(2) (2002).

45 8 CFR §214.11(g)(2) (2002).

46 Applicants for T-visa status must apply using the Form I-914. 8 CFR §214.11(d) (2002).

47 8 CFR §214.11(g)(2) (2002).

48 See 8 CFR §214.11(a) (2002) for definition of "reasonable request for assistance".

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occur from the victim's cooperation. DHS has clarified that evidence of cooperation may include, but does not require a statement from the investigating or prosecuting law enforcement agency.⁴⁹

There are two general exceptions to the compliance requirement. First, children under age eighteen⁵⁰ need not prove compliance with reasonable requests for cooperation, but must prove their age. Primary evidence of the victim's age is a certified copy of their birth certificate, passport or certified medical opinion.⁵¹ Secondary evidence may include church or school records, two sworn affidavits or other credible evidence.⁵²

Second, assistance is not required where the victim can establish that physical or psychological trauma impedes their ability to cooperate with law enforcement.⁵³ Possible evidence of physical trauma suffered includes photographs of bruises and injuries, police reports, medical reports and affidavits by witnesses. Evidence of psychological trauma suffered may include affidavits for victim advocates, a statement from a mental health treatment provider, medical records, affidavits by medical personnel, expert witness affidavits, forensic examinations of the victim, or other credible evidence of psychological trauma.

For ease of application, DHS has created the Law Enforcement Agency⁵⁴ endorsement form (DHS Form I-914B) which the applicant may submit as primary evidence of cooperation.⁵⁵ The law enforcement agency endorsement is not, however, a mandatory part of the T-visa application, although its submission will most easily satisfy the evidentiary requirements. If the applicant does not provide a law enforcement endorsement, secondary evidence may be submitted. Such evidence must include an affidavit explaining why the primary evidence is not available and outlining a good faith attempt to obtain an endorsement from a law enforcement agency.⁵⁶ It should also include any other witness statements that are available. To be eligible for the T-visa, the regulations require that an applicant have had some contact with a law enforcement agency regarding the acts of severe forms of trafficking in persons. At a minimum reporting the crime the victim must file a police report regarding crimes related to the act(s) of trafficking.⁵⁷ If a law enforcement endorsement is furnished as part of the T-visa application, but for some reason DHS questions the endorsement and believes an applicant has not complied with a reasonable request, DHS must contact the law enforcement agency and attempt to resolve the matter.⁵⁸

There are various scenarios in which a victim may be unable to provide a law enforcement endorsement, including but not limited to the law enforcement agency:

- Has not responded to a victim's report of a trafficking incident
- Has not been able to complete interviews needed for law enforcement agency to determine that the victim is a trafficking victim
- Has a policy not to provide endorsements or certifications
- Has significant delays in the timing of their provision of certifications or endorsements
- Does not have the resources to initiate a trafficking investigation

⁴⁹ 8 CFR §214.11(h) (2002).

⁵⁰ Under the TVPA as originally enacted, the exception to the compliance requirement applied only to children under the age of fifteen. The exception was expanded to include children under the age of eighteen by the TVPRA of 2003. See Trafficking Victims Reauthorization Act of 2003 ("TVPRA 2003"), §4(b)(1)(A) (amending INA § 101(a)(15)(T), 8 U.S.C.1101(a)(15)(T)(i)); U.S. Citizenship and Immigration Services, *Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status* (June 29, 2010) Available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnnextoid=a53dc7f5ab548210VgnVCM10000082ca60aRCRD&vgnnextchannel=02ed3e4d77d73210VgnVCM10000082ca60aRCRD>

⁵¹ 8 CFR §214.11(g)(3) (2002).

⁵² 8 CFR §214.11 (9) (3); 8 CFR §103.2(b)(2)(i) (2002).

⁵³ See INA § 101(a)(15)(T)(iii); 8 U.S.C. § 1101(a)(15)(T)(iii). This provision was added by VAWA 2005, and provides that such determinations of unreasonableness must be made by DHS in consultation with the Attorney General. However, DHS has not yet published regulations indicating how this provision will be implemented.

⁵⁴ A Law Enforcement Agency ("LEA") is defined as a Federal law enforcement agency charged with detection, investigation or prosecution of trafficking cases. LEAs include U.S. Attorney's Offices, Department of Justice's Criminal and Civil Rights Divisions, the Federal Bureau of Investigation (FBI), Investigations and Customs Enforcement of the Department of Homeland Security, the United States Marshals Service, and the Department of State's Diplomatic Security Service. 8 CFR §214.11(a)

⁵⁵ 8 CFR §214.11(h)(1) (2002).

⁵⁶ 8 CFR §214.11(h)(2) (2002).

⁵⁷ 8 CFR §214.11(h)(2) (2002).

⁵⁸ 8 CFR §214.11(h)(1) (2002).

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- Chooses not to prioritize the investigation because the trafficker (this may occur where the trafficker is known to have fled the country or is no longer alive).

Many trafficking victims who qualify for T-visa immigration relief, are unable to provide law enforcement endorsements to support their T-visa applications. This should not deter victims from applying. In such cases, however, it is important to document that the trafficking offense was reported to a law enforcement agency, any ongoing communication with the law enforcement agency regarding the victim, efforts to obtain an endorsement, and to provide and any other credible evidence documenting the victims efforts to obtain the endorsement.⁵⁹

4. Extreme Hardship Involving Unusual and Severe Harm

An applicant for a T-visa must also show extreme hardship to herself if she were to return to her home country.”⁶⁰ The hardship need not be related to the trafficking. However, DHS will consider both factors associated with the trafficking, as well as more traditional extreme hardship factors. Hardship to people other than the applicant such as family members the victim has included in the T-visa application will not be considered. ⁶¹ “Nor will current or future economic detriment, or the lack of, or disruption to, social or economic opportunities” be sufficient to establish extreme hardship involving unusual and severe harm.⁶² No particular factor guarantees a finding of extreme hardship but regulations do not differentiate between primary or secondary evidence.⁶³ Applicants are encouraged to fully document all sources of hardship. The regulations include the following non-exhaustive list of hardship factors that can be considered in cases of trafficking victims⁶⁴:

- The age and personal circumstances of the applicant;
- Serious physical or mental illness of the applicant that necessitates medical or psychological attention not reasonably available in the foreign country;
- The nature and extent of the physical and psychological consequences of severe forms of trafficking in persons;
- The impact of the loss of access to the United States courts and the criminal justice system for purposes relating to the incident of severe forms of trafficking in persons or other crimes perpetrated against the applicant, including criminal and civil redress for acts of trafficking in persons, criminal prosecution, restitution, and protection;
- The reasonable expectation that the existence of laws, social practices, or customs in the foreign country to which the applicant could be returned would penalize the applicant severely for having been the victim of a severe form of trafficking in persons;
- The likelihood that the trafficker in persons or others acting on behalf of the trafficker in the foreign country would severely harm the applicant; and
- The likelihood that the applicant’s individual safety would be seriously threatened by the existence of civil unrest or armed conflict as demonstrated by the designation of Temporary Protected Status, under section 244 of the Act, or the granting of other relevant protections.

Applicants may also seek to support the extreme hardship by providing evidence of the “traditional” and “VAWA related” types of extreme hardship typically used in VAWA suspension of deportation and VAWA cancellation of removal cases.⁶⁵ This type of evidence is most helpful when the applicant can make a strong connection between the particular hardship and the human trafficking and its consequences. The following is a list of traditional and VAWA related factors used to assess extreme hardship:⁶⁶

Traditional:

⁵⁹ 8 CFR §214.11(h)(2) (2002).

⁶⁰ 8 CFR §214.11(i)(1) (2002).

⁶¹ 8 CFR §214.11(i)(2) (2002).

⁶² 8 CFR §214.11(i)(1) (2002).

⁶³ 8 CFR §214.11(i)(2) (2002).

⁶⁴ 8 CFR §214.11(i)(1) (2002).

⁶⁵ New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for “T” Nonimmigrant Status; Final Rule, 67 Fed. Reg. 4799 (January 31, 2002); Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed.Reg. 75,543 (December 12, 2008).

⁶⁶ Petitioning for Certain Battered or Abused Spouses and Children, 61 Fed. Reg. 13,067 (Mar. 29, 1996)

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- Age (youth/old age) of the applicant;
- Ages and number of the applicant's children;
- The children's ability to speak the native language of the foreign country and the children's ability to adjust to life in another country;
- Serious illness of the person or her child that necessitates medical attention not adequately available in the foreign country;
- A person's inability to obtain adequate employment in the home country;
- The person and her children's length of residence in the United States;
- Existence of other family members residing legally in the United States (including lack of family in the home country);
- Irreparable harm arising from a disruption of educational opportunities;
- The adverse psychological impact of removal;
- The extent to which deportation would interfere with court custody, visitation, and child support awards;
- The extent to which the battered woman is an asset to her community in the United States (i.e., involvement in church/temple/mosque, children's school, community, other service programs); and
- Impact of separation on both mother and children if the mother is removed and the children do not accompany her.

VAWA

- The nature and extent of the physical and psychological consequences of the battering or extreme cruelty;
- the impact of the loss of access to the U.S. courts and criminal justice system (including, not limited to, the ability to obtain and enforce: orders of protection; criminal investigations and prosecutions: **and** family law proceedings or court orders regarding child support, maintenance, child custody and visitation);
- the applicant and/or the applicant's child's need for social, medical, mental health, or other supportive services which would not be available or reasonably accessible in the foreign country;
- the existence of laws, social practices, or customs in the foreign country that would penalize or ostracize the applicant or the applicant's child for having been the victim of abuse, for leaving the abusive situation, or for actions taken to stop the abuse;
- the abuser's ability to travel to the foreign country and the ability and willingness of foreign authorities to protect the applicant and/or the applicant's child from further abuse; and
- the likelihood that the abuser's family, friends, or others acting on behalf of the abuser in the foreign country would physically or psychologically harm the applicant and/or the applicant's child.

As with its consideration of VAWA extreme hardship in the context of VAWA cancellation, DHS will evaluate each case individually and consider all credible evidence submitted, including relevant country condition reports and any other public or private sources of information.⁶⁷

Referrals to Immigration Attorneys and Advocates With Expertise Working With Human Trafficking Victims and the Importance of Local Collaborations

An application for a T-visa should only be undertaken with the assistance of an immigration attorney well verse on the topic. Not all immigration lawyers have the training, experience and expertise to effectively represent victims of human trafficking. If you have identified a potential trafficking victim, make a prompt referral to an attorney with expertise on trafficking cases.⁶⁸ **It is crucial that a referral to an attorney specializing in human trafficking laws be made as early as possible after the person has been identified as a potential victim of trafficking. Her ability to cooperate with law enforcement and prosecution officials will be enhanced when she is already working with an anti-trafficking attorney or victim advocate at the time her trafficking case is referred to government officials.**

Successful representation of trafficking victims requires collaboration and cooperation between different government agencies (including DHS, DOJ, and HHS), victims, advocates, and federal, state and local law

⁶⁷ 8 CFR §214.11(i)(3) (2002).

⁶⁸ A list of organizations with experience representing immigrant human trafficking victims is included at the end of this chapter.

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enforcement and prosecutors. Effective communication between government agencies, community members, direct service providers, shelters, and other advocates is essential to ensure that victims are protected and traffickers are brought to justice. A trafficking victim must be properly informed about the process that is involved in the criminal investigation and prosecution of human traffickers so that the victim can make an informed choice about whether and how she will cooperate and what protections she will need for her safety. Nongovernmental Organizations (NGOs) are in an ideal position to receive referrals from the community, screen immigrations for trafficking victim eligibility and provide services, assistance, and care for trafficking victims. NGOs can assure that victims understand the law and their rights, and provide the social and emotional support needed to help victims be more effective witness cooperating with law enforcement and prosecution officials in the investigation and prosecution of traffickers under federal and state anti-trafficking laws and other criminal statutes. Many NGOs with anti-trafficking expertise have ongoing relationships with trafficking units of local government agencies through their participation in local anti-trafficking taskforces and/or collaborative community response teams working on issues of violence against women in their communities. These NGOs are familiar with referral and case protocols that should be used to protect victim safety and enhance access to immigration relief and other forms of legal protections and services that human trafficking victims need and are eligible to receive.

Faith-based organizations, health care workers, shelters, detention facilities, community leaders, business owners and subcontractors, and concerned community members, may be the first to interact and identify a trafficking victim. Advocates are encouraged to educate these and other community-based a wide range of groups in the community to help identify victims of human trafficking and refer victims to service providers.

Filing the T-Visa Application:

A victim of human trafficking may apply for a T-visa by filing a DHS Form I-914.⁶⁹ *Application for T Nonimmigrant Status*⁷⁰ and supporting documents with the Vermont Service Center.⁷¹

Application packages should be marked “T-visa unit” in red pen on the outside of the envelope and sent to:

U.S. Citizenship and Immigration Services
Victims and Trafficking Unit

Vermont Service Center
75 Lower Welden St.
Saint Albans, Vermont 05479-0001

T-visa applicants should keep a copy of everything they submit to DHS including the application, accompanying documents, and the proof of mailing. Copies, not original documents (such as birth certificates, legal documents, and photographs) should be sent with the petition. Within a few weeks after mailing the application and fees, the T-visa applicant should receive an acknowledgement or Notice of Receipt.

Fee waivers are available for all fees associated with the filing of a trafficking victim T-visa holder’s application for lawful permanent residency.⁷² Victims may request that DHS grant fee waivers of the costs associated with any matter or form related to the adjudication of the T-visa.⁷³

Note that under the T-visa regulations, applicants whose victimization occurred before October 28, 2000 were required to file by January 31, 2003.⁷⁴ Those who were trafficked as children must have filed by January 31, 2003

⁶⁹ The form is available at http://www.uscis.gov/graphics/formsfee/forms/i_914.htm or by contacting the DHS forms request line at 1-800-870-3676.

⁷⁰ “Non-immigrant” visas are issued to persons granted permission to remain temporarily (not permanently) in the United States. If an immigrant is granted permission to live permanently in the United States they will receive an “immigrant” visa.

⁷¹ The Vermont Service Center has a special T-visa unit where adjudicators are specially trained on issues of human trafficking. In 1997, the Immigration and Naturalization Service consolidated adjudication of VAWA self-petitions and VAWA-related cases in one specially trained unit. The VAWA unit staff has been trained to adjudicate VAWA self-petitions T-visa and U-visa applications for those who claim to be victims of battery, extreme cruelty, sexual assault and trafficking or other U-visa listed crime.

⁷² INA §245(l)(7).

⁷³ 8 CFR §103.7(c) (2008). All fees associated with any of the forms described below on the list of documents a T-visa victim may file in support of their lawful permanent residency application may be waived by DHS in trafficking victim's cases. INA §245(l)(7).

or within a year after their twenty-first birthday, whichever occurs later.⁷⁵ However, an exception is available for applicants who can demonstrate that exceptional circumstances prevented them from filing by the deadline.⁷⁶

Applying for Family Members of the Trafficking Victim:

T-visa applicants may request immigration benefits for themselves and certain family members whether they are residing in the United States or in another country. Immigration attorneys and DHS officials often refer to T-visa eligible family members included in an application as derivative beneficiaries. T-visa status can be given to spouses and children of T-visa adult victim applicants. Child trafficking victims under the age of 21 may also request T-visa status for their parents and their siblings under the age of 18. All that is necessary to establish eligibility for eligible family members is a showing of the requisite family relationship -- family members do not have to show extreme hardship.⁷⁷ Additionally, parents and siblings who are under the age of 18 may receive T-visa immigration benefits if the family member is in danger of a trafficker's retaliation as a result of the victim's cooperation with law enforcement.⁷⁸⁷⁹

The trafficking victim applying for a T-visa may also apply to receive a T-visa for a family member using a Form I-914 Supplement A (Form I-914A). A separate form must be filed for each family member being sponsored for a T-visa. The Form I-914A may be filed concurrently with the applicant's T-visa application, or at a later date. If the family member is physically present in the United States that family member must sign the I-914 Supplement A;

Trafficking victims who receive T-visas also receive employment authorization. T-visa eligible family members may also apply for employment authorization at the same time that they file their T-visa application if the applicant is in that United States⁸⁰ at the time of filing. To apply for work authorization each family member must submit:

- an Application for Employment Authorization, (Form I-765) ;
- two passport photos, and
- the Employment Authorization filing fee or fee waiver application..

Family members receiving T-visas while abroad, may apply for work authorization after entering the United States with T-visa status by filing the documents listed above along with a copy of his/her passport, and a copy of the Form I-94 evidencing entry into the U.S. in T-visa status..

T-visa regulations do not allow for petitioning by victims for family members who are traffickers. A T-visa holder may not file an application on behalf of a family member who committed the trafficking that created the individual's original T-visa eligibility.⁸¹

T-Visa Application Package

T-visa application packages should contain the following:

- A Cover Letter: The letter should explain how the applicant meets the requirements for the T-visa. The letter should be a roadmap to the exhibits filed in support of the application requirements. It should also provide identification information, including applicant's full name and date and place of birth. If the applicant's spouse, child, sibling, or parent, will also be seeking T-visa status, the cover letter should state this and should list information including each family members' name, date of birth, and relationship to the applicant.
- A signed statement from the applicant: A detailed declaration should describe the crime victimization and how the applicant meets each T-visa requirement.
- Form I-914 Application for T Nonimmigrant status

⁷⁴ 8 CFR §214.11(d)(4) (2002).

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Prior to the enactment of VAWA 2005, it was necessary for derivatives to show extreme hardship in order to establish eligibility for T status. VAWA 2005 eliminated that requirement, although as of the publication date of this manual, DHS regulations had not yet been updated to reflect this change in law.

⁷⁸ William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457, § 201(a)(2008).

⁸⁰ 8 CFR §214.11(o)(10) (2002).

⁸¹ INA § 214(o)(1); 8 U.S.C. § 1184(o)(1) (2000).

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- Form I-914 Supplement A *Application for Immediate Family Member of T-1 Recipient* for any family members included (may be added later)
- Form I-765 *Application for Work Authorization* is not required for the applicant but is required for all family members present in the U.S. who desire work authorization
- Form I-192 *Application for Advance Permission to Enter as a Non-Immigrant if the applicant is inadmissible*⁸²
- A copy of the applicant's passport or Form I-193 Application for Waiver for Passport and/or Visa with accompanying fee or fee waiver request⁸³
- Fees: There are no filing fees associated with the Form I-914. However, a biometrics (fingerprinting) fee is required, but applicants may qualify for a fee waiver. In addition, the Form I-765 and Form I-192 require filing fees. ⁸⁴
- Any additional evidence to support the applicant's eligibility

The following is a list of suggested documents that may be submitted to prove each element of a T-visa case. This list is meant to serve as a guide, and additional types of evidence may also be submitted in support of the application. Furthermore, not all documents listed below will be available in every case.

In addition to a signed statement, an application for a T-visa should include evidence of the following:

Evidence of victimization:

- Primary Evidence:
 - Form I-914B *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons*
 - Evidence the applicant was authorized Continued Presence as a trafficking victim
- Secondary Evidence:
 - Statement by applicant describing the victimization, what has been done to report the crime to law enforcement, and what records for the time and place of the crime are available. This statement is a required piece of evidence if the applicant does not submit primary evidence of victimization.
 - Trial transcripts
 - Court documents
 - Police Reports
 - News articles
 - Reimbursement forms for travel to and from court
 - Witness Affidavits

Evidence of Physical Presence on Account of the Trafficking

- Evidence of the date, place, manner and purpose for which the applicant entered the country
 - Applicant statement
 - Form I-914B *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons*
 - Evidence applicant was authorized for Continued Presence as a trafficking victim
- Evidence victim is now present on account of the trafficking
- Records from a health care provider documenting physical or psychological trauma making them unable to leave the country

⁸² Grounds of **Inadmissibility (INA section 212(a))** – An individual who seeks admission into the United States or to receive lawful permanent residency must meet certain eligibility requirements to receive a visa and eventually be legally *admitted* into the United States. Grounds for *inadmissibility* include health related grounds, criminal and related grounds, security and related grounds, likelihood of becoming a public charge, not meeting labor certification and qualifications, and illegally entering the country. An immigration officer deciding cases including T and U-visa applications for the Department of Homeland Security will make inadmissibility determinations on cases they are adjudicating.

⁸³ Fee waivers are available for all fees associated with a T-visa case from filing through the victim's receipt of lawful permanent residency. William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457, § 201(d)(2008).

⁸⁴ *Id.*

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- Affidavits from victim advocates, shelter workers, counselors, or mental health professionals detailing any physical or psychological trauma and the effect it had on the applicant's ability to leave the country
- Affidavits from friends, neighbors, social service providers, etc, about the applicant's financial inability to travel.
- Information showing that the applicant's travel documents were seized by the traffickers, such as affidavits from the victim, other victims, or other witnesses

Evidence of Cooperation for Applicants Age 18 and Older:

- Primary Evidence: Form I-914B *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons*
- Secondary Evidence:
 - Statement by applicant explaining why the law enforcement endorsement is not available and outlining good faith efforts to obtain an endorsement. The statement show that the victim reported the crime and has complied with all reasonable requests for assistance. This statement is a required piece of evidence if the applicant does not submit a Form I-914B LEA endorsement.
 - Trial transcripts
 - Court documents
 - Police Reports
 - News articles
 - Reimbursement forms for travel to and from court
 - Witness Affidavits

Evidence of Extreme Hardship

- Affidavit from the victim detailing the victimization, including the nature of the emotional, physical and sexual abuse and the consequences to her physical and psychological well-being if she's removed from the United States;
- Affidavits from experts, such as social workers, shelter workers, counselors, or psychologists about the impact of the trafficking on the victim and her children;
- Documentation on the impact of the loss of access to the U.S. courts, both the civil and criminal systems (including, but not limited to, the ability to secure criminal investigations and prosecutions, bring civil suits, obtain restitution, and secure protection);
- Court records;
- Police records (including police reports and copies of all call tapes);
- "Victim impact statements" provided by the victim for sentencing in a criminal case;⁸⁵
- Evidence of the applicant's needs for social, medical, mental health, victim, or other supportive services that would not be available or reasonably accessible in the foreign, including the following:
 - Records of counseling programs in which the VAWA applicant or her children have participated and affidavits from the counselors describing the program and the benefit of the program to the applicant;
 - Copies of medical and mental health records that document the abuse;
 - Affidavits from battered women's advocates and shelter workers who have worked with the VAWA applicant or her children;
 - Affidavits from advocates, experts, university professors, or women's groups and other documentation confirming that services parallel to those she is receiving in the United States are lacking in her home country;
- Documentation on the existence of laws, social practices, or customs in her home country that would penalize or ostracize the applicant for having been the victim of sexual assault, including the following:
 - Documentation of customs and practices in the victim's home country that would harm her or make recovery or healing difficult;

⁸⁵ Victim impact statements, which are used in criminal cases, provide the crime victim with an opportunity to address the sentencing judge about the effect the crime has had on the victim's life and the victim's opinion about the sentence.

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- Documentation of the trafficker or his associate's ability to travel to the victim's home country and the ability and willingness of foreign authorities to protect the applicant or her from future harm,
- Affidavits from the victim's family members and others who have been threatened by the trafficker or the trafficker's agents in the home country;
- Documentation of any serious illness of the victim or and, if appropriate, description of how the illness was caused by or exacerbated by the abuse;
- Description of whether similar medical treatment is available to the victim in the victim's home country or why alternative healthcare services there are likely to be less effective;
- Documentation of the victim's inability to obtain adequate employment in the foreign country if the victim's inability to obtain any employment or to obtain adequate employment was a result of or connected to the trafficking. Examples might include:
 - (1) the victim's status as a survivor of sexual assault precludes employment;
 - (2) the trafficker's level of power and influence in the home country prevent employers from hiring the immigrant victim; or
 - (3) adequate employment sufficient to support the victim is not open to women in her home country.

Practice Pointers for Preparing the Application Package:

When working with a T-visa applicant, trafficking victims may not necessarily initially trust their attorneys and advocates. They also may struggle to self-identify and articulate their experiences in a way that fits the requirements of a T-visa. Though the benefits are critical, take time to develop that trust. Meet with the victim several times to review the facts of the declaration and application. When you meet with her, use open-ended questions and collecting affidavits and documents corroborating the elements of proof. Anti-trafficking service providers are experts and their affidavits will be considered as critical supporting evidence. These affidavits are extremely valuable when the victim is submitting an application without a law enforcement endorsement..

The victim's affidavit is one of the most important pieces of evidence in the T-visa application. It is important to make sure the T-visa applicant's affidavit provides as much detail as possible *in the applicant's own words*. It may be organized according to element of proof, but legal jargon implies the attorney wrote the affidavit, undermining its value to the adjudicators and triggering fraud concerns in some cases. The affidavit should address the omission of any "primary" evidence.⁸⁶ The affidavit's credibility is enhanced when the affidavit is detailed, contains objective factual information, and includes a description of the victim's actual experiences and feelings. . A victim should clearly articulate her fears. The crime of human trafficking has both subjective and objective elements that need to be covered in the victim's affidavit. It is important that they reader of the affidavit understand that how a person in the same position and circumstances as the victim would feel compelled to work.

The cover letter or brief should organize supporting documents by element of proof so adjudicators may easily find these documents. Each exhibit should be briefly described with an explanation of why the document supports a particular element. It is also helpful to highlight the relevant portion of each document so that adjudicators may easily navigate the document... Send the application by certified mail and mark the outside envelope and your cover page in big red letters with "T-visa Unit." This helps ensure it is routed to the right unit and assures that the application is handled as required by VAWA confidentiality.

Number of T-Visas Available, Visa Duration and Lawful Permanent Residency For T-visa recipients

The maximum number of T-visas available in any one-year is 5,000 for the primary trafficking victim applicants⁸⁷. There is no limit on the number of visas available for qualifying spouses, children or parents of T-visa applicants.

⁸⁶ Refer to the documentary requirements described under each T-visa requirement for a list of primary evidence satisfying each requirement.

⁸⁷ INA § 214(o)(2); 8 U.S.C. § 1184(o)(2) (2000).

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If the annual cap is reached, a wait list will be created and the applicants' T-visa status will be granted once a visa becomes available.⁸⁸

T-visas are statutorily granted for up to four years. After three years of T-visa status, or at the conclusion of the criminal case against the human trafficker, T-visa holders are eligible to apply for lawful permanent residency.⁸⁹ T-visa holders should apply for lawful permanent residency within the 90 days immediately preceding the date their T-visa status expires.⁹⁰ Pursuant to statute, if the Attorney General determines that the investigation or prosecution is complete, the T-visa holder may apply for lawful permanent residency sooner than three years.⁹¹ Those who apply for lawful permanent residency retain T-visa status until DHS adjudicates their application for lawful permanent residence.⁹²

An applicant must meet the following requirements to receive lawful permanent residency as T-visa victims:

- (1) physical presence for a continuous period of three years or during the course of the investigation or prosecution;⁹³ and
- (2) good moral character;⁹⁴ and
- (3-A) continued compliance with any reasonable request for assistance in investigating or prosecuting traffickers; or
- (3-B) the victim must show that she would suffer extreme hardship involving unusual and severe harm if removed.⁹⁵

As with the T-visa, there is a 5,000 annual cap on T-based applications for lawful permanent residency, but the cap only applies to T-visa victims not to their derivatives.⁹⁶

Benefits for Victims of Trafficking

In addition to providing victims the protection of immigration relief, the TVPA makes available certain services and benefits to victims of trafficking.⁹⁷ The Office of Refugee and Resettlement ("ORR") at the Department of Health and Human Services issues certification letters to victims of trafficking. Upon receipt of HHS Certification trafficking victims are eligible to receive the same range and level of federal and state public benefits and social and legal services as refugees.

In order to be eligible, one must be certified as a victim of trafficking. There are two ways to be certified as a trafficking victim. Any person to whom continued presence is granted will automatically receive certification from ORR. The other way to receive certification is through the T-visa application process. A T-visa applicant who has established basic eligibility for a T-visa will receive a bona fide letter.⁹⁸ Once an applicant receives a bona fide letter from Vermont Service Center, ORR will receive notice of and will issue a certification letter.

⁸⁸ 8 CFR §214.11(m)(2) (2002).

⁸⁹ 8 CFR §214.11(p)(1) (2002).

⁹⁰ 8 CFR §214.11(p)(2) (2002).

⁹¹ INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A) (2000). The provision allowing T status holders to apply for lawful permanent residence prior to the completion of 3 years in T status in cases where the Attorney General determines the investigation or prosecution is complete was added by VAWA 2005. DHS has not yet updated regulations to implement this provision.

⁹² INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A) (2000).

⁹³ INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A) (2000). Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75544 (December 12, 2008)

⁹⁴ INA § 245(l)(1)(B); 8 U.S.C. § 1255(l)(1)(B) (2000).

⁹⁵ INA § 245(l)(1)(C); 8 U.S.C. § 1255(l)(1)(C) (2000).

⁹⁶ INA § 245(l)(4)(B); 8 U.S.C. § 1255(l)(4)(B) (2000).

⁹⁷ Trafficking victims with prima facie determinations in T-visa cases are qualified immigrants eligible to receive federal public benefits. William Wilberforce Trafficking Victims Protection Act, Pub. L. 110-457, § 211(a) (2008). These benefits are in addition to the benefits trafficking victims receive to the same extent as refugees under TVPA 2000 § 107(b)(1)(A); 22 U.S.C. 1705(b)(1)(A).

⁹⁸ ORR State Letter #01-13. A Bona fide application is one in which DHS determines to be complete, include a law enforcement certification or other credible secondary evidence, includes fingerprints and backgrounds checks, appears to be absent fraud, and meets basic eligibility requirements. 8 C.F.R. § 214.11(a) (2002).

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Certified trafficking victims and their eligible family members, are entitled to the same benefits as refugees.⁹⁹ They are eligible for cash benefits as well as food stamps for a period of 6-8 months after being certified. In addition, certified victims receive Medicaid-funded medical coverage under state medical programs. These benefits are all administered through refugee benefit programs. These programs also include job training classes and ESL.

Continued Presence

The TVPA created the special status of *continued presence*¹⁰⁰ to provide trafficking victims with immediate protection while victims are waiting for their T-visa applications to be filed and adjudicated. It allows a trafficking victim to remain in the United States to facilitate a victim's participation in an investigation or prosecution of trafficking including when the victim is a potential witness.¹⁰¹ Continued presence is not a long-term option and does not lead to any type of permanent legal immigration status. Victims who wish to remain in the United States will have to pursue some other form of lawful immigration status which for trafficking victims includes the T-visa or the U-visa. A trafficking victim cannot apply for lawful permanent residence unless she has a T-visa and meets other requirements to apply for lawful permanent residence.

There has been an increase in state and local law enforcement efforts to address human trafficking. Thirty-eight states currently have anti-trafficking statutes.¹⁰² The Bureau of Justice Assistance (BJA) at the Department of Justice has funded 42 local taskforces across the country with the goal of forging alliances between local law enforcement, federal law enforcement, and nongovernmental organization (NGO).¹⁰³ As a result state and local law enforcement are playing a larger role in investigating and prosecuting human traffickers. However, state and local law enforcement cannot provide victims with continued presence. Only federal law enforcement or prosecutors may make requests of DHS to grant victims continued presence.¹⁰⁴ State and local law enforcement officials must secure the assistance of federal law enforcement to file requests for continued presence for human trafficking victims involved in state prosecutions of traffickers.¹⁰⁵ In adjudicating the continued presence request filed by federal officials, DHS may grant a victim continued presence and/or may grant an alternative form of temporary immigration remedy for the victim which may include¹⁰⁶:

- Deferred Action¹⁰⁷
- Parole¹⁰⁸
- Voluntary departure¹⁰⁹
- Stay of removal¹¹⁰

Most of these forms of temporary immigration relief will allow the victim to also receive work authorization.

DHS has the authority upon written request by a law enforcement official to parole certain family members of trafficking victims granted continued presence into the United States.¹¹¹ For under 21 year old victims receiving continued presence, qualifying relatives may include a spouse, child, parent, or unmarried sibling under the age of 18. For victims receiving continued presence over 21, qualifying relatives may be a spouse or child of the victim.

⁹⁹ Trafficking and Violence Prevention Act of 2000 §107(b)(1)(A); 22 USC §7105(b)(1)(A) (2000).

¹⁰⁰ Trafficking and Violence Prevention Act of 2000 §107(c)(3), 22 U.S.C. §7105(c)(3) (2000).

¹⁰¹ Trafficking and Violence Prevention Act of 2000 §107(b)(1)(E)(i)(II)(bb) (2000); §107(c)(3)(2008).

¹⁰² Fact Sheet on State Anti-Trafficking Laws from US PACT [Policy Advocacy to Combat Trafficking], Center for Women Policy Studies, December 2008.

¹⁰³ www.ojp.usdoj.gov/BJA/grant/06HTTFmap.ppt

¹⁰⁴ 28 C.F.R. §1100.35 (2002).

¹⁰⁵ www.ojp.usdoj.gov/BJA/grant/06HTTFmap.ppt

¹⁰⁶ 28 CFR §1100.35(b) (2002).

¹⁰⁷ Deferred action is not an immigration status but a designation that assigns those in this designation a lower priority for removal from the United States. 8 CFR §274a.12(c)(14) (1987).

¹⁰⁸ 8 C.F.R. §212.5 (1982). Parole is a mechanism for bringing people into the United States from another country without evaluating or granting *admission*, for which individuals would have to overcome an extensive list of grounds of inadmissibility.

¹⁰⁹ 8 C.F.R. §240.25 (1997). Voluntary departure is an order that may be requested from an individual who are in removal (deportation) proceedings in order to facilitate return to her country of origin.

¹¹⁰ 8 C.F.R. §241.6 (2000). A Stay of removal is an order issued by an immigration judge to an individual who has a final order of removal from the United States. The stay allows the individual to remain in the United States temporarily and prevents authorities from requiring the removal of the individual from the United States,

¹¹¹ The qualifying family relationship must have existed at the time the trafficking victim was granted continued presence.

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For all trafficking victims, irrespective of age, qualifying relatives may also include parents or siblings who are in present danger of retaliation as a result of the trafficking victim's escape or cooperation with law enforcement. DHS may extend parole until the latest date that one of the following occurs:

- final adjudication date of a T-visa application;
- the expiration of the victim's continued presence; or
- the date on which a civil action filed by the trafficking victim is concluded.

Relatives of trafficking victims granted parole into the United States will have parole revoked if the trafficking victim fails to exercise due diligence in promptly filing a T-visa petition for the victim's qualifying relatives. DHS will deny parole to a relative if DHS or DOJ determines that the relative is complicit in the trafficking or is inadmissible or deportable on criminal or security grounds.¹¹²

In addition to these short-term immigration benefits that provide protection from removal and work authorization, victims granted continued presence are also eligible to receive HHS certification as victims of human trafficking.¹¹³ The Office of Refugee and Resettlement is notified of the grant of continued presence status and issues a certification letter. With this certification letter, a victim is able to obtain access to public benefits including cash assistance, food stamps, health coverage, English as a Second Language (ESL) classes, and job training.

T-Visa Recipients Applications for Lawful Permanent Residency¹¹⁴

To be eligible to attain lawful permanent residency, an applicant must:

- have been admitted to the United States;
- have current T-visa status;
- have maintained continuous physical presence for 3 years (may be less if an investigation or prosecution is complete) exempting any individual absence of 90 days or less or an aggregate of 180 days or less¹¹⁵;
- be admissible at the time of application (this provision may be waived)¹¹⁶;
- have good moral character during his or her continuous physical presence¹¹⁷;
- have complied with any reasonable request for assistance during continuous presence¹¹⁸ or show extreme hardship upon removal¹¹⁹; and
- offer evidence to support a favorable grant¹²⁰

Family members' applications for lawful permanent residency may be submitted along with the victim's application for lawful permanent residency.¹²¹ There is a 5,000 annual cap on T-visa based applications for lawful permanent residency, but the cap only applies to T-visa victims and not to their spouses, children, or siblings who may also apply to receive lawful permanent residency along with the T-visa victim.¹²²

Admission and Current Status as a T-Visa Holder

Immigration and Nationality Act Section 245(l) provides that trafficking victims lawfully admitted to the United States as T-visa holders must apply for lawful permanent residency while they are still in T-visa status.¹²³ T-visas are granted for up to four years. After three years, T-visa holders are eligible to apply for lawful permanent

¹¹² William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §205(b) (2008).

¹¹³ Trafficking and Violence Prevention Act of 2000 §107(b)(1)(E)(i)(II)(bb), 22 U.S.C. §7105(b)(1)(E)(i)(II)(bb) (2000).

¹¹⁴ INA §245(l) governs applications for lawful permanent residency filed by T-visa holders. This provision is separate and distinct from other forms of access to lawful permanent residency that may be available under other provisions of INA section 245.

¹¹⁵ 8 CFR § 235.23(a)(3) (2008).

¹¹⁶ 8 CFR § 245(1)(4), (b)(4), (c)(2) and (3) (2008).

¹¹⁷ 8 CFR §245.23(g) (2008).

¹¹⁸ 8 CFR § 245.23(d), § 245.23(f)(1) (2008).

¹¹⁹ 8 CFR § 245.23(d), § 245.23(f)(2) (2008).

¹²⁰ 8 CFR § 245.23(e)(3) (2008).

¹²¹ 8 CFR § 245.23(b)(1) (2008)(Family members' applications for lawful permanent residency may not be filed before the T-visa victim's application has been filed).

¹²² INA § 245(l)(4)(B); 8 U.S.C. § 1255(l)(4)(B).

¹²³ 8 CFR § 245.23(a)(2), 8 CFR § 245.23(b)(2) (2008).

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residency.¹²⁴ T-visa holders should apply for lawful permanent residency within the 90 days immediately preceding the date that their T-visa expires.¹²⁵ Those with T-visas that expired prior to the promulgation of the T-visa lawful permanent residency (“adjustment of status”) rule,¹²⁶ were given until March 2009 to file lawful permanent residency applications.¹²⁷ T-visa holders can apply for lawful permanent residency without having to wait three years if the Attorney General or their designee (e.g. a federal prosecutor) provides information and DHS determines that the investigation or prosecution is complete.¹²⁸ Those who timely apply for lawful permanent residency retain T-visa status until DHS adjudicates their application for lawful permanent residence.¹²⁹

Continuous Physical Presence For 3 Years

All T-visa recipients who apply for lawful permanent residency must prove either:

- that they have had continuous physical presence in the United States for 3 years; or
- that the investigation or prosecution of the qualifying trafficking violation is complete.¹³⁰

If the applicant files for lawful permanent residency with less than three years physical presence based on a completed investigation or prosecution, the applicant must submit a request in writing to an authorized designee of the Attorney General.¹³¹

For applicants applying based upon 3 years continuous presence, the applicant will not qualify if the applicant left the United States for a single period of 90 days or more or for an aggregate period of 180 days¹³² or more, unless the victim’s leaving the United States was for the purposes of assisting in an investigation or prosecution.¹³³ The “entry” date used to calculate continuous presence will be the date of admission to the U.S. as a T-visa holder.¹³⁴ When a T-visa holder travels abroad the date of their reentry to the U.S. (date on form I-94) will be used as evidence of the duration of their absence from the U.S. and will not be used to restart the counting of continuous presence.¹³⁵

Documents submitted to prove continuous presence should be sufficiently detailed to establish continuity of presence. Proof of presence on every single day is not required.¹³⁶ All government-issued documents submitted should include a seal or other authenticating instrument if such a seal or indicia would normally be on the agency’s documents.¹³⁷ In addition to documents from official government agencies, the petitioner may also submit non-governmental documents including college transcripts, employment records, state or federal tax returns showing school attendance or employment, or installment period documents like rent receipts, bank statements, or utility bills.¹³⁸

Documents that are already in the applicant's DHS file do not need to be resubmitted. However, the lawful permanent residency application should describe each document in the DHS file upon which the victim is relying as evidence supporting their application. A list describing each document by type and date of the document should be included.¹³⁹ These documents could include the written copy of a sworn statement to a DHS officer, law

¹²⁴ 8 CFR §214.11(p)(1) (2008).

¹²⁵ 8 CFR §214.11(p)(2) (2008).

¹²⁶ Effective January 12, 2009.

¹²⁷ 8 CFR § 245.23(a)(2)(ii) (2008).

¹²⁸ INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A); 8 CFR 245.23(e)(2)(i)(B).

¹²⁹ INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A).

¹³⁰ INA § 245(l)(1)(A); 8 U.S.C. § 1255(l)(1)(A); 8 CFR 245.23(e)(2)(i)(B).

¹³¹ As of December 2010 the designees is the Civil Rights Division of the U.S. Department of Justice, Criminal Section, Human Trafficking Offenses.

¹³² Section 201(d), allows absences from the U.S. for longer than 90 days or in aggregate 180 days if the absence was to assist with an investigation or prosecution or is otherwise justified by an investigatory or prosecutorial agent. William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §201(d) (2008).

¹³³ INA §245(l); 8 CFR § 235.23(a)(3)). The exception was created by TVPRA 2008 and guidance is not yet available. William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §201(d) (2008).

¹³⁴ 8 CFR 245.23(a)(3).

¹³⁵ 8 CFR § 235.23(a)(3), § 235.23(e)(2)(i) (2008). This is true even when there is an annotation on the victims form I-94

¹³⁶ 73 Fed. Reg. 75,543 (2008-12-12).

¹³⁷ 8 CFR § 245.23(e)(2)(i) (2008).

¹³⁸ 8 CFR § 245.22 (2008).

¹³⁹ 73 Fed. Reg. 75,544 (2008-12-12).

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enforcement agency documents, hearing transcripts, or other evidence originally submitted as part of the T-visa application.¹⁴⁰ Evidence of continuous presence must also include a copy of the victim's passport and/or alternative travel documents showing entries into and departures from the United States.¹⁴¹ When the victim has left and reentered the United States, a signed statement by the applicant as the only evidence submitted will not be sufficient proof.¹⁴² If documentation is not available, applicants can submit an affidavit explaining why documentation is not available and applicants should also submit affidavits of persons who can attest to the physical presence of the trafficking victim in the United States.¹⁴³

Admissible to the United States or Unless Victim Receives a Waiver

To receive lawful permanent residency a T-visa holder must be "admissible" to the United States at the time of their interview with DHS.¹⁴⁴ When a victim has one of more of the following grounds for *inadmissibility*, they will be required to file for a waiver of inadmissibility. Grounds include: a communicable disease¹⁴⁵, many types of criminal convictions,¹⁴⁶ security related grounds¹⁴⁷, likelihood of becoming a public charge,¹⁴⁸ violating the terms of a visitor or student visa by unlawfully working or staying beyond the time authorized by the visa,¹⁴⁹ illegally entering the country,¹⁵⁰ or other grounds.¹⁵¹ An immigration officer who is adjudicating a T-visa applicant's case has the authority to make inadmissibility determinations and the discretion to grant waivers.

Applicants who are inadmissible must file an Application for a Waiver of Grounds of Inadmissibility (Form I-601). This application requires payment of a fee or a fee waiver.¹⁵² Any inadmissibility grounds that were waived during adjudication of the victim's T-visa application will not be addressed again in the T-visa victim's lawful permanent residency application. Thus, DHS does not require that a second waiver application for the same inadmissibility charges be filed. However, waivers must be filed if any new inadmissibility charges arose after the victim received his or her T-visa. Denials of requests for waivers of inadmissibility may be appealed to the DHS Administrative Appeals Office.¹⁵³ DHS maintains the authority to revoke its approval of a waiver of inadmissibility.¹⁵⁴

One possible ground for inadmissibility is the likelihood of the applicant will become a public charge. Immigrants can be denied lawful permanent residency based on public charge when DHS believes that an immigrant at the time of admission is likely to become primarily dependent on the U.S. government for subsistence because of their health, education, assets, or family status.¹⁵⁵ DHS regulations state further that the best evidence that an immigrant is primarily dependent on the government for subsistence is either receipt of cash assistance for income maintenance or long term institutionalization at government expense.¹⁵⁶ It should be noted that a T-visa holder's receipt of refugee benefits as a certified trafficking victim is not conclusive proof of the likelihood of becoming a public charge. Receipt of refugee benefits is not sufficient proof of public charge under the public charge regulations. Thus, DHS does not require filing of a waiver of inadmissibility if the victim's only inadmissibility ground is the T-visa victims who received certification and benefits. Similarly, unlawful presence does not require a waiver if caused by or incident to trafficking.¹⁵⁷

¹⁴⁰ 73 Fed. Reg. 75,543 (2008-12-12).

¹⁴¹ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁴² 8 CFR § 245.23(e)(2)(i) (2008).

¹⁴³ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁴⁴ 8 CFR § 245(1)(4), (b)(4), (c)(2) and (3) (2008).

¹⁴⁵ INA § 212(a)(1)(A)(i)

¹⁴⁶ INA § 212(a)(2).

¹⁴⁷ INA § 212(a)(3).

¹⁴⁸ INA § 212(a)(4).

¹⁴⁹ INA § 212(a)(9)(B).

¹⁵⁰ INA § 212(a)(6)(A).

¹⁵¹ For a full list of inadmissibility grounds see INA § 212. See also VAWA Red Flags available at:

http://iwp.legalmomentum.org/immigration/vawa-self-petition-and-cancellation/tools/VAWA_Red%20Flags.pdf/view?searchterm=red+flag

¹⁵² 8 CFR § 212.18(a), 8 CFR 103.7(1), 8 CFR 103.7(b)(1) (2008).

¹⁵³ 8 CFR 245.23(i).

¹⁵⁴ 8 CFR § 103.5 (2008).

¹⁵⁵ Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28,689 (March 26, 1999)

¹⁵⁶ Field Guidance on Deportability and Inadmissibility on Public Charge Grounds, 64 Fed. Reg. 28,692 (March 26, 1999)

¹⁵⁷ 8 CFR § 245.23(c)(3) (2008).

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Certain grounds for inadmissibility can't be waived. The non-waivable inadmissibility grounds include security-related grounds, international child abduction, and renouncing citizenship to avoid taxation.¹⁵⁸ Health-related and public charge grounds are waivable if in the national interest.¹⁵⁹ All of the remaining inadmissibility grounds are waivable if in the national interest and the inadmissible activities were caused by, or were incident to, the victimization.¹⁶⁰

The unlawful presence ground does not apply if the T-visa victim establishes that trafficking was at least one central reason for his or her unlawful presence. Trafficking need not be the sole reason but the nexus between trafficking and unlawful presence must be more than tangential, incidental, or superficial. Victims who include in their application for lawful permanent residency information about the relationship between trafficking and their unlawful presence are not required to file a request for waiver of inadmissibility based on unlawful presence with DHS.¹⁶¹ If the victim's unlawful presence was unrelated to trafficking, the victim will be required to file a request for waiver of inadmissibility. Family members who are T-visa holders may also seek waivers of inadmissibility in their applications for lawful permanent residency. To receive a waiver the family member just demonstrate that their inadmissibility was caused by or incident to the trafficked family member's victimization and that the waiver is in the national interest.¹⁶²

Good moral character during continuous presence¹⁶³

An applicant must have good moral character from the date on which the victim received their T-visa, through the date of the victim's lawful permanent residency is granted.¹⁶⁴ The Immigration and Nationality Act¹⁶⁶ enumerates categories of actions that preclude a finding of good moral character. However, this list is not exclusive and an act falling outside the enumerated categories could still preclude establishment of good moral character. Also, there are some exceptions to a bar of good moral character if the act at issue is caused or incident to the victimization.

Primary evidence of good moral character includes local police clearance letters or state issued criminal background checks from all the jurisdictions where an applicant lived for more than 6 months over the course of their time in continuous presence.¹⁶⁷ If police clearances, state background checks, or other similar evidence is unavailable, applicants should submit an affidavit explaining efforts to obtain clearances, why clearances cannot be obtained and should submit alternate evidence which may include fingerprints or state background checks.¹⁶⁸ If a T-visa holder is under 14, s/he is presumed to have good moral character and need not submit proof of good moral character. If DHS has reason to believe that the applicant does not have good moral character, it may request evidence.¹⁶⁹

Complied With Any Reasonable Request For Assistance During Continuous Presence¹⁷⁰ or Would Suffer Extreme Hardship¹⁷¹

In filing for lawful permanent residency the T-visa holder must prove that they complied with reasonable requests for assistance from law enforcement or prosecutors investigating and/or prosecuting traffickers.¹⁷² Victims may

¹⁵⁸ 8 CFR § 245.23(c)(1) (2008).

¹⁵⁹ INA §245(l)(2)(A); 8 U.S.C. § 1255(l)(2)(A).

¹⁶⁰ 8 CFR 212.18(b)(3) (2008).

¹⁶¹ 8 CFR § 245.23(c)(3) (2008).

¹⁶² 8 CFR 245.23(a)(4), 245.23(b)(4), 245.23(c)(2); and (3); *see* INA sec. 245(l)(2), 8 U.S.C.1255(l)(2); INA sec. 212(a), 8 U.S.C. 1182(a).

¹⁶³ 8 CFR § 245.23(g) (2008).

¹⁶⁴ 8 CFR § 245.23(a)(5) (2008).

¹⁶⁵ William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §201(d) (2008).

¹⁶⁶ INA §101(f)

¹⁶⁷ 8 CFR § 245.23(g) (2008).

¹⁶⁸ 8 CFR § 245.23(g) (2008).

¹⁶⁹ 8 CFR § 245.23(g)(4) (2008).

¹⁷⁰ 8 CFR § 245.23(d), § 245.23(f)(1) (2008).

¹⁷¹ 8 CFR § 245.23(d), § 245.23(f)(2) (2008).

¹⁷² William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §201(e), (2008) overruling 8 CFR § 245.23(d) (2008) which would have required that T-visa applicants for lawful permanent residency submit a U.S. Department of Justice issued

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submit any credible evidence to provide their assistance or willingness to assist with investigations and/or prosecutions of human trafficking. This evidence might include a certification from a federal prosecutor or a statement or other evidence from a federal, state or local law enforcement official.

Victims are who can not prove compliance with reasonable requests for assistance may alternately prove that extreme hardship involving unusual and severe harm upon removal would result if the victim is removed from the United States. Advocates working with trafficking victims should collect the same types of extreme hardship evidence that was required in the original T-visa application.¹⁷³

No one piece of evidence guarantees a finding of extreme hardship. Extreme hardship can be based on serious physical or mental illness necessitating medical or psychological assistance or support unavailable in the home country, nature of the psychological or physical consequences of the victimization, and the likelihood of harm from the trafficked in the home country.¹⁷⁴ There is no need to resubmit evidence on extreme hardship already submitted with the T-visa application. The applicant should however, establish that the hardship is ongoing.¹⁷⁵ The fact that a T-visa recipient already proved extreme hardship in order to receive the T-visa is helpful, but DHS is not bound by any previous extreme hardship determinations when issuing the T-visa.¹⁷⁶

Child trafficking victims under the age of 18 applying for T-visas are exempt from the requirement that they cooperate with reasonable requests for assistance from law enforcement.¹⁷⁷ This same exemption has been extended so as to not require proof of cooperation when victims who were under age 18 when they became trafficking victims file applications for lawful permanent residency based upon their T-visa.¹⁷⁸

Applicant's Burden to Convince DHS Exercise Discretion To Grant Victim Lawful Permanent Residency¹⁷⁹

Lawful permanent residency is a benefit that requires DHS exercises its discretion to grant or deny to an individual immigrant applicant. Thus, trafficking victims should submit sufficient evidence to convince DHS that the trafficking victim applicant deserves a favorable exercise of discretion to award lawful permanent residency. In making this determination,¹⁸⁰ DHS, , may consider factors other than eligibility which may weigh in favor of the grant of lawful permanent residence.¹⁸¹ Such factors include:

- family ties;
- hardship; and
- length of residence in the United States.

DHS may also take in to account adverse or negative facts or circumstances which are unfavorable to the victim's application for lawful permanent residency.¹⁸² When adverse factors exist in a trafficking victim's case the victim is permitted to introduce evidence to offset negative facts. Victims should submit supporting documentation establishing mitigating equities that DHS should consider in the applicant's case...¹⁸³

document stating that the victim has complied with any reasonable requests of assistance in an ongoing Federal, State, or local investigation or prosecution of acts of trafficking.

¹⁷³ See the discussion of extreme hardship above and 8 CFR 214.11(i).

¹⁷⁴ 8 CFR § 214.11(i) (2008).

¹⁷⁵ 8 CFR § 245.23(f)(2) (2008).

¹⁷⁶ 8 CFR § 214.11(i) (2008).

¹⁷⁷ INA §101(a)(15)(T)(i)(III)(bb)

¹⁷⁸ INA §245(l)(C)(iii) The TVPRA 2008, section 201(d), clarifies that T-visas based on trafficking while they were minors do not have to comply with reasonable requests for cooperation from law enforcement. William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §201(d) (2008). This statutory amendment overruled the DHS practice and regulation at 8 CFR § 245.23(a)(6)(ii) (2008), that previously required child victims to prove cooperation or extreme hardship in order to attain lawful permanent residency as T-visa recipients.

¹⁷⁹ 8 CFR § 245.23(e)(3) (2008).

¹⁸⁰ Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75545 (December 12, 2008).

¹⁸¹ 8 CFR § 245.23(e)(3) (2008).

¹⁸² 8 CFR § 245.23(e)(3) (2008)

¹⁸³ 8 CFR § 245.23(e)(3) (2008).

If there are sufficient unfavorable or adverse factors present, applicants may be required to show that the denial of lawful permanent residency will result in exceptional and extremely unusual hardship. Depending on the case, even such a showing may still not overcome unfavorable factors.¹⁸⁴ Examples of adverse factors include convictions for violent crimes, crime of sexual abuse against a child, multiple drug-related crimes, and security or terrorism concerns.¹⁸⁵

Application Procedures for T-Visa Victims Seeking Lawful Permanent Residency

A T-visa victim's application for lawful permanent residency must include a completed Application for Lawful Permanent Residence (Form I-485) along with "initial evidence" supporting the victim's eligibility for lawful permanent residency.¹⁸⁶ If the victim's application is not supported by sufficient evidence DHS may deny an application or issue a Request for Evidence if it deems the application incomplete.¹⁸⁷ A documents list for a complete T-visa based lawful permanent residency application includes:

Document List for T-Visa Victim Applying for Lawful Permanent Residency

- Form I-485 *Application for Lawful Permanent Residence* with fee or fee waiver¹⁸⁸
- Form I-765 *Application for Employment Authorization* based on category (c)(9) with an application fee or fee waiver
- Form I-601 *Application for Waiver of Grounds of Inadmissibility*, if necessary with fee or fee waiver
- Form I-797 *Notice of Action* containing proof of T-visa status¹⁸⁹
- Passport/Travel document or reason why passport is unavailable¹⁹⁰
- I-94 *Arrival-Departure Record* documenting a T-visa victim's entry into the United States ¹⁹¹
- Evidence of continuous presence¹⁹²
- Evidence of the nexus between victimization and unlawful presence¹⁹³
- Medical examination
- Evidence of good moral character (police clearance letters and/or other evidence)
- Documentation of continued cooperation from the U.S. Department of Justice or from state or local prosecutors or law enforcement officials or documentation of extreme hardship
- Evidence in support of a favorable exercise of discretion that may include but is not limited to: family ties, hardship, length of US residence; adverse factor may require proof of exceptional and extremely unusual hardship)

Document List for T-Visa Victim's Family Members Applying for Lawful Permanent Residency

- Proof of relationship to the T-visa victim
- Form I-485 *Application for Lawful Permanent Residence* with fee or fee waiver¹⁹⁴
- Form I-765 *Application for Employment Authorization* based on category (c)(9) with fee or fee waiver
- Form I-601 *Application for Waiver of Grounds of Inadmissibility* if necessary with fee or fee waiver

¹⁸⁴ 8 CFR § 245.23(e)(3) (2008).

¹⁸⁵ 73 Fed. Reg. 75,545 (2008-12-12)

¹⁸⁶ 8 CFR 103.2(b)(1).

¹⁸⁷ 8 CFR § 103.2(b)(8) (2008).

¹⁸⁸ 8 CFR § 245.23(a)(1) (2008).

¹⁸⁹ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹⁰ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹¹ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹² 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹³ 8 CFR § 245.23(c)(3) (2008).

¹⁹⁴ 8 CFR § 245.23(a)(1) (2008).

Human Trafficking and the T-Visa

- Form I-797 *Notice of Action* containing proof of T-visa status¹⁹⁵
- Passport/Travel document or reason why passport is unavailable¹⁹⁶
- I-94 *Arrival-Departure Record* documenting a T-visa victim's entry into the United States ¹⁹⁷
- Evidence of the nexus between the victimization and unlawful presence¹⁹⁸
- Medical examination
- Receipt of T- visa victim's *Application for Lawful Permanent Residence* (Form I-485) if the family member is not filing their application for lawful permanent residence concurrently with the T-visa victim..¹⁹⁹

DHS Adjudication

DHS will grant up to 5,000 T-1 visa holder applicants lawful permanent residency per year. Family members receiving T-visas are not counted as part of the 5,000 visa cap. T-visa applications are adjudicated in the order they are received. Any applications in line after the cap is reached in any fiscal year will be carried over to the subsequent fiscal year and will be adjudicated in the order received.²⁰⁰ New filings received by DHS after the cap has been reached will be processed in the same manner as all T-visa applications, but no T-visas will be granted until the next fiscal year when new T-visas become available.²⁰¹

Once the applicant's case has been adjudicated, DHS will issue a written notice of approval and the notice will instruct the applicant on how to obtain temporary lawful permanent residency documentation.²⁰² The trafficking victim's date of admission to the United States will be the date the victim's application was approved by DHS. Applicants must complete a form from which DHS will produce a green card (Form I-89) ²⁰³ If the victim has family members living abroad included in the victim's application, notice of the approval of the family member's application will be sent to National Visa Center that prepares the paperwork that will be needed for the family member's case to be processed by officials at the American Consulate responsible for the country in which the family member is residing for consular processing.

If lawful permanent residence is denied, the applicant will receive written notice stating the reasons for the denial and will have the right to appeal the denial to the DHS Administrative Appeals Office.²⁰⁴ A denial of a victim's lawful permanent residency application based on T-visa status will result in the automatic denial of any pending applications for lawful permanent residency filed by the victim's family members.²⁰⁵

Extension of T-Visa Status

If a trafficking victim is not eligible for, has been denied, or chooses not to file for lawful permanent residency, before they reach the end four year T-visa, the victim may apply to extend his or her T-visa status. To be granted an extension of T-visa status a victim must prove that their continued presence in the U.S. is necessary for an investigation or prosecution of activity related to human trafficking. Applications for extension require certification from a federal, state or local law enforcement official that the victim's presence in the U.S. is needed for the investigation or prosecution.²⁰⁶

¹⁹⁵ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹⁶ 8 CFR §245.23(e)(2)(i) (2008).

¹⁹⁷ 8 CFR § 245.23(e)(2)(i) (2008).

¹⁹⁸ 8 CFR §245.23(c)(3) (2008).

¹⁹⁹ 73 Fed. Reg. 75,550 (2008-12-12). Family members may file lawful permanent residency applications either concurrently with the victim's T-visa application, when the T-visa victim's application for lawful permanent residency is pending, or has been approved. (8 CFR 245.23(b))

²⁰⁰ 8 CFR § 245.23(l)(2) (2008).

²⁰¹ 8 CFR § 245.23(l)(2) (2008).

²⁰² 8 CFR § 245.23(h) (2008) instructs .

²⁰³ 73 Fed. Reg. 75,546 (2008-12-12)

²⁰⁴ 8 CFR § 245.23(i) (2008).

²⁰⁵ 8 CFR § 245.23(i) (2008).

²⁰⁶ 8 CFR § 214.11(p)(1) (2008).

T-visa victims who file for lawful permanent residency before the expiration of their T-visa status are protected from harm should their T-visa expire prior to the victim being granted lawful permanent residence. The T-visa status of trafficking victims with pending applications for lawful permanent residency is automatically extended by law to cover the time between filing for and DHS adjudication of lawful permanent residency. In this way Congress ensured that trafficking victims would not be harmed should the DHS adjudication of the victim's lawful permanent residency application be delayed.²⁰⁷

Limitations on Travelling Outside of the United States On A T-Visa

A T-visa holder may travel outside of the United States once the victim has been awarded a T-visa. This ability to travel is limited in two ways if the victim wishes to apply for lawful permanent residency. First, should the victim travel abroad, the victim must be able to demonstrate that no trip abroad lasted for 90 days or longer and that the number of days of travel abroad did not amount to 180 days or longer.²⁰⁸ If a trafficking victim travels out of the United States for durations in excess of these limits, the victim loses their ability to file for lawful permanent residency based on having been awarded a T-visa.

The second limitation on a T-visa victim's ability to travel occurs on the date that the T-visa victim applies for lawful permanent residency. Generally, T-visa victims who have filed applications for lawful permanent residency cannot travel abroad unless they obtain from DHS legal permission to travel.²⁰⁹ The permission granted is called "advance parole." Advance parole must be received before a T-visa victim with a pending application for lawful permanent residency can travel abroad. If a victim with a pending lawful permanent residency application travels abroad without receiving advance parole, DHS deems the victim to have abandoned his or her application for lawful permanent residency as of the date the victim departed the United States²¹⁰ and their lawful permanent residency application will be denied.²¹¹

Anyone who travels, whether it is on the T-visa or with advance parole,²¹² will have to show admissibility every time they re-enter the United State.²¹³ Even T-visa holders whose prior acts were waived when their T-visa was granted may be challenged at a port of entry. A trafficking victim who travels abroad can be barred from reentry into the United States by any history inadmissibility factors. By remaining in the United States and not traveling abroad until after the trafficking victim obtains lawful permanent residency may be the safest option for many trafficking victims. DHS officials at U.S. borders or ports of entry have no authority to grant waivers of admissibility. Such waivers may only be granted by DHS officials during the adjudication of a T-visa application or a lawful permanent residency application filed by a T-visa holder. T-visa victims whose travel strands them abroad without the ability to reenter the United States, jeopardize both their T-visa status and the T-visa status of their family members.²¹⁴

Both T-visa victims with expired T-visas and victims with pending lawful permanent residency applications must obtain advance parole in order to travel outside the United States. Applicants who determine they can safely travel without triggering bars to reentry into the United States who seek advance parole should file an Application for Travel Document (Form I-131) and obtain advance parole before departing the U.S.²¹⁵

Removal Proceedings

²⁰⁷ INA § 214 (o)(7)(C).

²⁰⁸ Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75541 (December 12, 2008); 8 CFR § 245.23(a)(3) (2008)

²⁰⁹ Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75545-6 (December 12, 2008); 8 CFR § 245.23(j). These requirements also apply to T-visa holders applying for lawful permanent residency in removal, deportation or exclusion proceedings before an immigration judge. 8 CFR 245.23(i); 8 CFR 245.2(a)(4)(ii)(A).

²¹⁰ 8 CFR § 245.23(j) (2008).

²¹¹ Adjustment of Status to Lawful Permanent Resident for Aliens in T or U Nonimmigrant Status, 73 Fed. Reg. 75546 (December 12, 2008); 8 CFR § 245.23(j); 8 CFR 245.2(a)(4)(ii)(B)

²¹² 8 CFR § 245.23(j) (2008).

²¹³ 8 CFR § 245.23(j) (2008).

²¹⁴ 8 CFR § 245.23(j) (2008).

²¹⁵ 8 CFR § 245.23(j) (2008). The filing fee of \$305 for the advance parole petition may be waived for victims of human trafficking. INA § 245(l)(1)(A)(7) (overruling form instructions and DHS practice prior to December 23, 2008).

DHS has sole jurisdiction over INA §245(l) applications for lawful permanent residence. An immigration judge has no authority in removal proceedings to grant or review denials by DHS of lawful permanent residency to T-visa victims.²¹⁶ The grant of a T-visa to a trafficking victim automatically, by operation of law terminates any pending removal proceeding initiated against the victim.²¹⁷ Victims with final orders of removal will need to file motions to reopen their immigration case before the removal action can be terminated. Victims who have filed T-visa applications that DHS determines set forth a prima facie case for approval, may be granted an administrative stay of any final orders of removal issued against the trafficking victim.²¹⁸ DHS denial of an administrative stay of removal does not preclude an immigration judge from granting the trafficking victim a stay of removal.²¹⁹ A denial of a stay under this provision does not preclude an individual from applying for a stay, deferred action, or a continuance under other immigration provisions. This provision does not preclude DHS or DOJ from granting stays of removal or deportation under other immigration provisions.²²⁰ In reviewing any of these motions filed by a trafficking victim, the immigration judge may ask to review a copy of the T-visa victim's T-visa application or lawful permanent residency application filed with DHS.

Part 3: Repatriation, Collaboration and Additional Resources

Safe Repatriation

Though the T-visa and continued presence provide protection and allow trafficking victims to remain in the United States, some victims will elect to return to their home country. Victims may feel that they can safely return home because their trafficker is in prison or will not be able to find them if they return. Some victims may decide not to cooperate with law enforcement so that they do not antagonize their traffickers which may provide them an opportunity to return home. Other victims may elect to return home despite safety risks in order to rejoin family members not protected under the Trafficking Victim's Protection Act or family members who do not want to come to the United States. Financial issues may also motivate some victims to return to their home countries. Regardless of the reason, a victim should be able to choose which options may be the safest for themselves and their family members. Advocates and attorneys working with victims of human trafficking who is considering returning to their home country should contact the International Office of Migration and/or reputable local non-governmental organization in the human trafficking victim's home country to enlist their assistance in securing the trafficking victim's safe repatriation.

If there is an ongoing investigation or prosecution and the victim's cooperation is needed, advocates can advocate on victim's behalf with law enforcement officials. Law enforcement officers and prosecutors have the authority to allow a victim to return home and can work with DHS to bring the victim back to the United States if her testimony is needed at a later date. In order to return home, advocates will need to assist a victim in securing travel and identify documents as well as the financial resources needed for the victim to travel to her home country.²²¹

Resources for Victims of Human Trafficking

Technical Assistance for Advocates and Attorneys Working With Victims of Human Trafficking

For additional resources and Technical Assistance contact:

National Immigrant Women's Advocacy Project

telephone: (202) 274-4457 fax: (202) 274-4226, E mail: niwap@wcl.american.edu

Address: 4910 Massachusetts Ave NW – Suite 16, Lower Level – Washington, DC 20016

ASISTA

3101 Ingersoll Ave. • Ste 210 •

²¹⁶ INA §245(l).

²¹⁷ New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status; Final Rule, 67 Fed. Reg. 4793 (January 31, 2002);

²¹⁸ INA Section 237(d)(1).

²¹⁹ INA Section 237(d)(2).

²²⁰ William Wilberforce Trafficking Victims Protection Act, Pub. L. No.110-457, §204 (2008); INA §237(d).

²²¹ The International Office of Migration 202/862-1826 assists some trafficking victims with travel funds for repatriation.

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Des Moines, IA 50312
(515) 244-2469
questions@asistahelp.org
www.asistahelp.org

For referrals to non-governmental organizations with expertise providing services to human trafficking victims contact:

Freedom Network USA – National network of anti-trafficking advocates and service providers at <http://www.freedomnetworkusa.org/>.

Resources and Technical Assistance Available for Trafficking Victims²²²

- Arizona League to End Regional Trafficking (ALERT)
PO Box 57839
Phoenix , AZ 85079
(602) 433-2440
www.traffickingaz.org
- Asian Anti Trafficking Collaborative
C/o Asian Pacific Islander Legal Outreach
1188 Franklin Street, Suite 202
San Francisco, CA 94109
(415) 567-6255
www.apilegaloutreach.org
- Association of the Bar of the City of New York
Immigrant Women and Children Project
42 W. 44th Street
New York, NY 10036
(212) 382-6717
www.citybarjusticecenter.org
- Ayuda
1736 Columbia Road, NW
Washington, DC 20009
Tel: 202-387-2870, ext. 33
- Break the Chain Campaign
733 15th St, NW Ste 1020
Washington, DC 20005
202-234-9382
www.breakthechaincampaign.org
- Coalition to Abolish Slavery and Trafficking (CAST)
231 E. 3rd Street, Suite G104
Los Angeles, CA 90013
(213) 473-1611
www.castla.org
- The Door - A Center of Alternatives, Inc.
121 Avenue of the Americas

²²² For further information visit: <http://www.freedomnetworkusa.org/members/index.php>

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New York, NY 10013
(212) 941-9090
www.door.org

- VIDA Legal Assistance
27112 South Dixie Highway
Naranja, FL 33032
305-247-1057
<http://www.vidalaw.org/>
- Legal Aid Foundation of Los Angeles
1102 Crenshaw Blvd.
Los Angeles, CA 90019
(800) 399-4529
www.lafla.org
- MOSAIC Family Services, Inc.
4144 North Central Expressway, Ste 530
Dallas, TX 75204
214-821-5393
www.mosaicservices.org
- Calleen Ching – Hawaii Immigrant Justice Center at Legal Aid
P.O. Box 3950
Honolulu, Hawaii 96812
808-536-8826
www.naloio.org

Human Trafficking and the T-Visa

- National Immigrant Justice Center
208 S. LaSalle Street, Suite 1818
Chicago, Illinois 60604
(312) 660-1354
www.immigrantjustice.org
- American Gateways
314 East Highland Mall Boulevard, Suite 501
Austin, Texas 78752
(512)478-0546
<http://www.americangateways.org/>
- Safe Horizons
346 Broadway
New York City, NY 10013
(212) 577-3220
www.safehorizons.org
- Refugee Women's Alliance (REWA)
4008 Martin Luther King Jr. Way S
Seattle, WA 98108
(206) 721-0243
www.rewa.org
- SOS Boat People
P.O Box 2652
Merrifield, VA 22116
(703) 205-3916
<http://bpsos.org>
- TAPESTRI Inc.
PMB 362 3939 La Vista Rd. Ste. E
Tucker, GA 30084
(404) 299-2185
www.tapestri.org
- Urban Justice Center
Sex Workers Project 666 Broadway, 10th Floor
New York, NY 10012
(646) 602-5690
www.sexworkersproject.org

National Immigrant Women's Advocacy Project (NIWAP, pronounced *new-app*)
American University, Washington College of Law
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