



Understanding the Legal Definition of Human Trafficking

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As a supplementary resource to CAST's [Human Trafficking Defined](#) e-learning course, this advisory offers legal definitions and analytical tools to support practitioners in applying the [Ends-Means-Process \(EMP\) model](#) to trafficking case assessments.

It offers context for the legal term *severe form of trafficking* and compiles key definitions necessary for analyzing trafficking cases. Drawing from the Trafficking Victims Protection Act (TVPA), the U.S. Code, immigration regulations, policy guidance, and legal and English dictionaries, it organizes these definitions into three core areas: “ends,” “means,” and “purpose.” By clarifying the precise legal definition of severe trafficking, this advisory helps practitioners avoid uncertainty and misinterpretation.

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1. Federal Definition of Human Trafficking

Numerous remedies hinge on the federal legal definition of human trafficking, legally termed *severe forms of trafficking in persons*.¹ This definition is provided in the Trafficking Victims Protection Act (TVPA) of 2000 and codified at [22 USC § 7102\(11\)](#). According to the TVPA, *severe forms of trafficking in persons* is defined as:

¹ This advisory uses the terms *severe forms of trafficking in persons*, *a severe form of trafficking*, *human trafficking*, and *trafficking* synonymously.

(A) Sex trafficking, where a commercial sex act is induced through force, fraud, or coercion, or when the person induced to perform such an act is under 18 years of age; **OR**

(B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, accomplished through force, fraud, or coercion with the intention of subjecting the person to involuntary servitude, peonage, debt bondage, or slavery.²

To help practitioners better understand this definition and apply it to the facts of a client's case, CAST developed the **Ends-Means-Process (EMP) Model**. Each column in the EMP model aligns with a component of the federal definition to help practitioners assess whether an individual meets all the required elements of the trafficking definition and craft an effective legal theory.³

2. What are the *Ends*?

The *ends* refer to the perpetrator's intended purpose—why the perpetrator obtained or held the victim—which must be for either sex or labor trafficking to meet the trafficking definition. If the perpetrator's goal did not involve subjecting the individual to sex or labor trafficking as defined by the statute, then the individual does not meet the federal definition of a trafficking victim.

The *severe form of trafficking* definition encompasses six potential ends: *commercial sex acts*, *involuntary servitude*, *peonage*, *debt bondage*, or *slavery*. The following table offers definitions for each of these possible *ends* along with additional agency guidance and case law that clarifies the statutory and regulatory definitions.

In the analysis, defining the *means* or *process* is contingent on first identifying the reason behind the perpetrator's actions. According to the legal definition of trafficking, the perpetrator's actions must be carried out “. . . for the purpose of subjection to involuntary servitude, peonage, debt bondage, slavery, or a commercial sex act.”⁴ The “for the purpose of” language in the trafficking definition is key, as it distinguishes between a general abusive or exploitative situation and one where the perpetrator intends to place the individual in a condition of servitude, therefore constituting human trafficking.

² Victims of Trafficking and Violence Protection Act of 2000 (“TVPA”), Public Law No. 106-386, 22 U.S.C. § 7102(11), available at <https://www.congress.gov/106/plaws/publ386/PLAW-106publ386.pdf> (last visited Dec. 8, 2023).

³ CAST previously utilized the Process-Means-Ends (PME) model but has since revised it to create a more effective tool for trafficking analysis. For further details on the EMP model, please refer to CAST's [free EMP toolkit](#). Other counter-trafficking organizations use a similar tool called the Action Means Purpose (A-M-P) Model. See, e.g., Polaris Project, *Understanding the Definition of Human Trafficking: the Action-Means-Purpose Model*, available at <https://humantraffickinghotline.org/sites/default/files/AMP%20Model.pdf> (last visited Dec. 8, 2023).

⁴ 22 U.S.C. § 7102(11). See also the T visa regulations at [8 C.F.R. § 214.201](#).

Ends	Definition
<p>Involuntary Servitude</p> <p>TVPA: 22 USC § 7102(6)</p> <p>T Visa Regulations: 8 CFR § 214.201 “Involuntary Servitude”</p>	<p>The TVPA defines <i>involuntary servitude</i> as:</p> <p>“a condition of servitude induced by means of—</p> <p>(A) 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</p> <p>(B) the abuse or threatened abuse of the legal process.”</p> <p>The USCIS T Visa Policy Manual provides additional context:</p> <p>“Involuntary servitude also occurs when the victim is forced to work for the perpetrator by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through the law or the legal process. This definition includes those cases in which the perpetrator holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion. Coercion may also be established if the perpetrator uses psychological abuse.”⁵</p>
<p>Peonage</p> <p>TVPA: N/A</p> <p>T Visa Regulations: 8 CFR § 214.201 “Peonage”</p>	<p>The TVPA does not define <i>peonage</i>, but the T visa regulations do, stating that <i>peonage</i> “means a status or condition of involuntary servitude based upon real or alleged indebtedness.”⁶</p> <p>Additionally, the T Visa Policy Manual provides this explanation:</p> <p>“In other words, the perpetrator compels the victim into involuntary servitude in order to satisfy a real or imagined debt.</p> <p>When a debtor voluntarily enters into a contract to pay off a debt, that debtor, like any other contractor, can choose at any time to break the contract. It does not matter that a debtor entered into a contract agreeing to perform services or labor for the creditor. There is a clear distinction between peonage and voluntarily agreeing to perform labor or provide services in payment of a debt.</p> <p>In determining whether an applicant has been a victim of peonage, officers should follow the guidance above related to involuntary servitude, with the added element that the victim was held in involuntary servitude in order to satisfy a real or artificially-created debt. If the facts support a finding that the applicant was a victim of peonage,</p>

⁵ 3 USCIS-PM [B.2.B.4](#) (emphasis added). [Chapter 2.B.4](#) also sheds light on how USCIS views involuntary servitude in the smuggling and domestic violence contexts and discusses how non-traditional types of work, duration of labor, and payment for labor performed may or may not impact the analysis in a particular case. [Chapter 2.B.7](#) offers an explanation of the distinction between trafficking and smuggling.

⁶ 8 C.F.R. § [214.201 “Peonage”](#) (emphasis added).

Ends	Definition
	USCIS officers should also consider the applicant a victim of involuntary servitude.” ⁷
Debt Bondage TVPA: 22 USC § 7102(7) T Visa Regulations: 8 CFR § 214.201 “Debt Bondage”	<p><i>Debt bondage</i> is defined by the TVPA and the T visa regulations as “the status or condition of a debtor arising from a pledge by the debtor of the personal services of the debtor or those of a person under the debtor’s 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 limited and defined.”⁸</p> <p>The T Visa Policy Manual includes the following case example and analysis:</p> <p>United States v. Farrell, 563 F.3d 364, 372-73 (8th Cir. 2009) (The workers’ relationship with their employers was more akin to one of debt bondage rather than simple debt. Given the continually mounting expenses, at no point was the value of the workers’ labor sufficient to liquidate the debt and there was, in effect, no limit to the length of the services required to satisfy the obligation or even a limit on the amount owed.).⁹</p>
Slavery TVPA: N/A T Visa Regulations: N/A	<p><i>Slavery</i> is not defined in the TVPA or the T visa regulations. However, the T Visa Policy Manual provides some explanation:</p> <p>“The term slavery is not defined in the TVPA or regulations, but is generally understood to mean the state of being held under the complete and total ownership or control of another person or entity and being deprived of liberty, autonomy, and independence for the purpose of subjecting the victim to forced labor or services.”¹⁰</p>
Commercial Sex Act TVPA: 22 U.S.C. § 7102(4) T Visa Regulations: 8 CFR § 214.201 “Commercial sex act” U.S. Criminal Code:	<p>The TVPA and T visa regulations define a <i>commercial sex act</i> as “any sex act on account of which anything of value is given to or received by any person.”</p> <p>Case law interpretation:</p> <ul style="list-style-type: none"> • United States v. Maneri, 353 F.3d 165, 168 (2d Cir. 2003) (defining “thing of value” in the context of 18 U.S.C. § 2252’s sentencing guidelines to include intangibles, specifically “the opportunity for a sexual encounter” as a “thing of value.”). • United States v. Cook, 782 F.3d 983, 989 (8th Cir. 2015) (acknowledging the “extremely broad” nature of the term “anything of value,” and holding defendant’s receipt of sexual

⁷ 3 USCIS-PM [B.2.B.4](#) (emphasis added).

⁸ [22 U.S.C. § 7102\(7\)](#); [8 C.F.R. § 214.201 “Debt bondage”](#).

⁹ 3 USCIS-PM B ([Appendices](#)).

¹⁰ 3 USCIS-PM [B.2.B.4](#) (emphasis added).

Ends	Definition
18 USC § 1591(e)(3)	<p>photographs, as well as the sex acts in which he participated, “could constitute things of value under [18 USC § 1591].”) </p> <ul style="list-style-type: none"> • United States v. Rivera, No. 12-cr-121, (M.D. Fla. Dec. 18, 2012) (finding, in the context of 18 USC § 1591, that the term “anything of value” encompasses more than just monetary gain.)

2.A. Ends Supplemental Definitions

2.A.1. Servitude

Often, in the analysis of the *condition of servitude*, practitioners tend to overlook that trafficking, in its broadest interpretation, constitutes a form of forced labor where labor and work play a crucial role in the assessment, even if the work isn’t a traditional type of labor. Understanding the legal framework’s definition of servitude can enhance our analysis, helping us discern whether the perpetrator’s actions were aimed at placing the victim in a condition of servitude or whether these actions were instead in furtherance of other goals, such as blackmail, extortion, or domestic violence. Black’s Law Dictionary definitions of *servitude* and *servant* contain recurring themes of work, employment, and labor.

Black’s Law Dictionary Definition	
Servitude ¹¹	The condition of being a servant or slave.
Involuntary Servitude ¹²	The condition of one forced to labor – for pay or not – for another by coercion or imprisonment.
Servant ¹³	A person who is employed by another to do work under the control and direction of the employer.

2.A.2. Sex Act

The term *sex act* is not separately defined in the TVPA, but it is defined in [18 U.S.C. § 2246\(2\)](#), which provides a specific legal framework for identifying sexual acts in federal criminal law. However, in the context of [18 U.S.C. § 1591](#) (sex trafficking), courts have interpreted the phrase any sex act more broadly to align with congressional intent to enhance protections for trafficking victims.¹⁴ Black’s Law

¹¹ *Servitude*, BLACK’S LAW DICTIONARY (11th ed. 2019).

¹² *Involuntary Servitude*, BLACK’S LAW DICTIONARY (11th ed. 2019). see also 22 U.S.C. § 7102(6) (defining involuntary servitude under the TVPA); 8 C.F.R. § 214.201 (“Involuntary Servitude”) in the “[What are the Ends?](#)” section of this advisory.

¹³ *Servant*, BLACK’S LAW DICTIONARY (11th ed. 2019).

¹⁴ See [United States v. Jungers](#), 702 F.3d 1066, 1070 (8th Cir. 2013) (holding that the phrase “any sex act” should not be read restrictively); see also [Noble v. Weinstein](#), 335 F. Supp. 3d 504, 522–23 (S.D.N.Y. 2018) (interpreting Jungers to

Dictionary provides a broader, general definition of “sex act,” but practitioners may want to rely primarily on statutory and regulatory definitions when conducting legal analysis.

Statutory Definition of “Sexual Act” ([18 U.S.C. § 2246\(2\)](#))

“The term ‘sexual act’ means:

- (A) Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph, contact involving the penis occurs upon penetration, however slight.
- (B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus.
- (C) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- (D) The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.”

Black’s Law Dictionary Definitions

Black’s Law Dictionary definitions of *sex act*, *sexual relations*, and *commercial sex act* provide useful context for understanding sex trafficking. These definitions can help illustrate broader interpretations and common understandings of these concepts.

Black’s Law Dictionary Definition	
Commercial Sex Act ¹⁵	Sexual relations for which something of value is given to or received by any person. [Compare to] <i>sexual relations</i> .
Sex Act ¹⁶	See <i>sexual relations</i> ; <i>commercial sex act</i> .
Sexual Relations ¹⁷	<ol style="list-style-type: none"> 1. Sexual intercourse — Also termed <i>carnalis copula</i>. 2. Physical sexual activity that does not necessarily culminate in intercourse. Sexual relations [usually] involve the touching of another’s breast, vagina, penis, or anus. Both persons (the toucher and the person touched) are said to engage in sexual relations. — Also termed <i>sexual activity</i>; <i>sex act</i>.

conclude that Congress’s use of “any” in 18 U.S.C. § 1591(e)(3) expands the definition beyond acts limited to genital contact or penetration).

¹⁵ *Commercial Sex Act*, BLACK’S LAW DICTIONARY (12th ed. 2024). See also 22 U.S.C. § 7102(4); 8 C.F.R. § 214.201 (“Commercial sex act”); 18 U.S.C. § 1591(e)(3) in the “[What are the Ends?](#)” section of this advisory.

¹⁶ *Sex Act*, BLACK’S LAW DICTIONARY (12th ed. 2024).

¹⁷ *Sexual Relations*, BLACK’S LAW DICTIONARY (12th ed. 2024).

2.B. Involuntary Servitude and Coercion in the Federal Statute

This advisory will delve further into the definition of *coercion* below. However, it is important to note that while the federal definition of *severe form of trafficking* includes *force*, *fraud*, and *coercion*, *fraud* alone is generally inadequate to establish *involuntary servitude* and *peonage*. This is because this statutory definition of *involuntary servitude* necessarily includes *coercion*.

Additionally, since *peonage* incorporates the definition of *involuntary servitude*, it follows that, at the very least, *peonage* requires *coercion*.¹⁸ Consequently, when analyzing *involuntary servitude* or *peonage* in the context of potential trafficking cases, practitioners must recognize that identifying *fraud* alone will not suffice. They must, at a minimum, substantiate the presence of legal *coercion*. The table below illustrates the intersection of *involuntary servitude* and *coercion*.

Involuntary Servitude 22 U.S.C. § 7102(8)	Coercion 22 U.S.C. § 7102(3)
Subparts (A) and (B) of the <i>coercion</i> definition under 22 USC § 7102(3) are encompassed within the <i>involuntary servitude</i> definition at 22 USC § 7102(8). Subpart (A) of the <i>involuntary servitude</i> definition is substantially similar to subpart (B) of the <i>coercion</i> definition.	
<p>“[A] condition of servitude induced by means of</p> <p>(A) 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</p>	<p>“(A) threats of serious harm to or physical restraint against any person;</p> <p>(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 any person; or</p>
Subpart (B) of the <i>involuntary servitude</i> definition is identical to subpart (C) of the <i>coercion</i> definition.	
(B) the abuse or threatened abuse of the legal process.”	(C) the abuse or threatened abuse of the legal process.”

¹⁸ [8 CFR § 214.201 “Peonage”](#) (“Peonage means a status or **condition of involuntary servitude** based upon real or alleged indebtedness.”). [Emphasis added.]

2.C. Involuntary Servitude and the T Visa Regulations

The T visa regulations at 8 CFR § 214.201 offers an expanded definition of *involuntary servitude*. Similar to the federal definition of *involuntary servitude*, this expanded definition necessarily requires either *coercion* or *force*. Notably, the regulatory definition explicitly includes *force*, as demonstrated by the language, “the use... of physical restraint[,]” in addition to similar *coercion* language as in the statute.

Furthermore, since the *peonage* definition in the T visa regulations integrates the definition of *involuntary servitude*, it logically follows that, at the very least, *peonage* requires *coercion* or *force*.¹⁹

Involuntary Servitude 22 U.S.C. § 7102(8)	Involuntary Servitude 8 C.F.R. § 214.201 (T visa regulations)
Both definitions are substantially similar at the outset.	
“[A] condition of servitude induced by means of (A) 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	“[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
(B) the abuse or threatened abuse of the legal process.”	a condition of servitude induced by the abuse or threatened abuse of legal process.
The T visa regulations <i>involuntary servitude</i> definition includes labor extracted by physical restraint or physical injury. This means that in the T visa context, <i>involuntary servitude</i> necessarily includes either <i>force</i> or <i>coercion</i> , as compared to the statute, which only necessarily includes <i>coercion</i> .	
	<p>Involuntary servitude includes a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through the law or the legal process.</p> <p>This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.</p>

¹⁹ 8 CFR § 214.201 “*Peonage*” (“*Peonage* means a status or **condition of involuntary servitude** based upon real or alleged indebtedness.”). [Emphasis added.]

3. What are the Means?

In trafficking analysis, the *means* refers to the actions the perpetrator takes to keep the victim in a situation of forced labor or *commercial sex*, compelling them to feel that they had no choice but to remain. In essence, it addresses why the person stayed or how the trafficker controlled their labor.

The severe form of trafficking definition includes three types of means: *force*, *fraud*, or *coercion*. The means utilized by the perpetrator must be “for the purpose” of the ends described in the previous [Ends section](#)—for the purpose of getting the individual to engage in *commercial sex*, *involuntary servitude*, *peonage*, *debt bondage*, or *slavery*. In other words, proving that there was *force*, *fraud*, or *coercion* alone—without demonstrating that the perpetrator used *force*, *fraud*, or *coercion* to subject the victim to a condition of servitude or *commercial sex*—will be insufficient to establish that the victim suffered a severe form of trafficking.

In analyzing the means, practitioners often utilize colloquial definitions of *force* and *coercion*. However, it is crucial to recognize that *coercion*, in trafficking analysis, has a legal definition with three sub-parts. Generally, *coercion* is conceptualized as the non-physical actions that keep someone in a situation, such as threats of harm. In contrast, *force* generally refers to physical actions such as physical or sexual abuse, as opposed to the threat of abuse.

Means	Definition
Force TVPA: N/A T Visa Regulations: N/A	<p><i>Force</i> is not explicitly defined in the TVPA or T visa regulations. When contrasting <i>force</i> with the legal definition of <i>coercion</i>, however, it can be inferred that <i>force</i> pertains to physical force in the trafficking context.</p> <p>A definition of <i>force</i> is available in Black’s Law Dictionary:</p> <ul style="list-style-type: none"> • <i>Force</i> is power, violence, or pressure directed against a person or thing.²⁰ • <i>Actual force</i> is force consisting in a physical act, esp. a violent act directed against a...victim. – Also termed <i>physical force</i>.²¹
Fraud TVPA: N/A T Visa Regulations: N/A	<p><i>Fraud</i> is not explicitly defined in the TVPA or T visa regulations. Similar to <i>force</i>, here we rely on Black’s Law Dictionary to provide context to the term.</p> <p>In Black’s Law Dictionary, the <i>fraud</i> definitions include:</p> <ul style="list-style-type: none"> • A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her own detriment.²²

²⁰ *Force*, BLACK’S LAW DICTIONARY (11th ed. 2019).

²¹ *Actual Force*, BLACK’S LAW DICTIONARY (11th ed. 2019).

²² *Fraud #1*, BLACK’S LAW DICTIONARY (11th ed. 2019).

Means	Definition
	<ul style="list-style-type: none"> • A misrepresentation made recklessly without belief in its truth to induce another person to act.²³ • Unconscionable dealing, the unfair use of the power arising out of the parties' relative positions resulting in an unconscionable bargain.²⁴ • <i>Actual Fraud</i>: A concealment or false representation through a statement or conduct that injures another who relies on it in acting.²⁵ <p>Remember that, as discussed above, while <i>fraud</i> is listed alongside <i>force</i> and <i>coercion</i> in the severe <i>form of trafficking</i> definition, <i>fraud</i> alone is insufficient to establish <i>involuntary servitude</i> or <i>peonage</i>.</p>
<p>Coercion</p> <p>TVPA: 22 USC § 7102(3)</p> <p>T Visa Regulations: 8 CFR § 214.201 "Coercion"</p>	<p>The term <i>coercion</i> means:</p> <p>(A) threats of serious harm to or physical restraint against any person;</p> <p>(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 any person; or</p> <p>(C) the abuse or threatened abuse of the legal process.²⁶</p>

3.A. Coercion in Detail

Term	Definition
<p>Abuse or Threatened Abuse of the Legal Process</p> <p>TVPA: 22 USC § 7102(1)</p> <p>T Visa Regulations: 8 CFR § 214.201 "Abuse or threatened abuse of the legal process"</p>	<p>The TVPA defines the term <i>abuse or threatened abuse of the legal process</i> as "the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action."²⁷</p> <p>The T Visa regulations incorporate the criminal code definition of <i>abuse or threatened abuse of the legal process</i>.</p> <p>While the T visa regulations do not include a definition, the T Visa Policy Manual provides a non-exhaustive list of the types of threats that could</p>

²³ *Fraud* #2, BLACK'S LAW DICTIONARY (11th ed. 2019).

²⁴ *Fraud* #4, BLACK'S LAW DICTIONARY (11th ed. 2019).

²⁵ *Actual Fraud*, BLACK'S LAW DICTIONARY (11th ed. 2019).

²⁶ [22 USC § 7102\(3\)](#); [8 CFR § 214.201 "Coercion"](#) (emphasis added).

²⁷ 22 U.S.C. § [7102\(1\)](#).

Term	Definition
U.S. Criminal Code: 18 USC § 1589(c)(1) (forced labor)	establish abuse or threatened abuse of the legal process, along with an appendix of cases that offers examples. ²⁸
Serious Harm TVPA: N/A T Visa Regulations: 8 CFR § 214.201 “Serious harm” U.S. Criminal Code: 18 USC § 1589(c)(2) (forced labor); 18 USC § 1591(e)(5) (sex trafficking)	The U.S. Criminal Code provides the legal definition of <i>serious harm</i> as it applies to trafficking analysis: “any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.” ²⁹ The T Visa regulations incorporate the criminal code definition of serious harm. The T Visa Policy Manual T Visa Policy Manual at Vol. 3, Part B, Chap. 2.B.3 refers to this definition, provides a non-exhaustive list of types of serious harm, and includes an appendix of cases that offer examples of threats of serious harm. ³⁰
Scheme, Plan, Pattern TVPA: N/A T Visa Regulations: N/A	The definition includes three possible forms of coercion. The broadest of the three types is (B), which involves a “scheme, plan, or pattern,” suggesting that instead of direct threats or overt violence, perpetrators may use a series of behaviors or threats that collectively operate to coerce a victim into a condition of servitude. While there is no definition of “scheme, plan, or pattern,” the T Visa Policy Manual provides a non-exhaustive list of factors that may contribute to identifying a scheme, plan, or pattern. ³¹

4. What are the Processes?

The *process* refers to the methods the perpetrator(s) employed to obtain the victim for the purposes of human trafficking including the recruiting, harboring, transportation, providing, or obtaining of a victim. In essence, the *process* explains how the victim ended up in the trafficking situation. Similar to the means, the process must be “for the purpose” of putting the victim in a condition of servitude or a *commercial sex act* to meet the trafficking definition. The *process* can capture various potential perpetrators within the overall scheme. For example, *providing* may capture the seller in a commercial sex scenario and *obtaining* may capture the purchaser of the sex act.

²⁸ 3 USCIS-PM [B.2.B.3](#).

²⁹ 18 USC § [1589\(c\)\(2\)](#) (emphasis added).

³⁰ 3 USCIS-PM [B.2.B.3](#).

³¹ 3 USCIS-PM [B.2.B.3](#).

Neither the TVPA nor the T visa regulations provide legal definitions for *process*-related terms, but we can refer to the U.S. Code, the T Visa Policy Manual, or Black’s Law Dictionary for definitions. In some circumstances, however, only the plain English language definition is available.

Process	Definition/Explanation
Recruiting	<p>In the TVPA, the T visa regulations, and other areas of the U.S. code, <i>recruiting</i> is used in its plain English language understanding.</p> <p>Merriam-Webster defines “recruit” as “to secure the services of.”³²</p> <p>CAST typically defines “recruiting” as encouraging or soliciting a person to take a job or provide services.</p>
Harboring	<p>Black’s Law Dictionary provides the following definition for harboring: “[t]he act of affording lodging, shelter, or refuge to a person.”³³</p> <p>The T Visa Policy Manual explains: “[w]hile the term harboring is most commonly understood to mean actively hiding or concealing a fugitive, harboring within the trafficking context refers to the series of actions a trafficker takes to exert and maintain control over a victim by substantially limiting or restricting a victim’s movement or agency.”³⁴</p> <p>Additionally, “[h]arboring does not require a preexisting relationship between the victim and the trafficker. However, harboring may occur within a variety of consensual relationships, including employer-employee, parent-child, smuggler-smugglee, landlord-tenant, and marriages and other intimate partner relationships.</p> <p>Harboring may occur for any period of time, but generally must endure long enough to substantially limit or restrict the victim’s movement or agency.”³⁵</p>
Transportation	<p>Black’s Law Dictionary defines transportation as the movement of goods or persons from one place to another by a carrier.³⁶</p> <p>It is important to note that the trafficking definition includes no transportation requirement; there is no requirement that a victim be transported any particular distance, nor do they need to cross country, city, or county borders.</p>

³² *Recruit*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/recruit> (last visited Dec. 5, 2023) (scroll down to the third definition).

³³ *Harboring*, BLACK’S LAW DICTIONARY (11th ed. 2019).

³⁴ 3 USCIS-PM [B.2.B.2](#).

³⁵ *Id.*

³⁶ *Transportation*, BLACK’S LAW DICTIONARY (11th ed. 2019).

Process	Definition/Explanation
Provision	<p>In the TVPA, the T visa regulations, and other areas of the U.S. Code, <i>provision</i> is used in its plain English language understanding.</p> <p>Merriam-Webster defines <i>provision</i> as “the act or process of providing.”³⁷ <i>Providing</i> or <i>provide</i> is defined as:</p> <ul style="list-style-type: none"> to supply or make available;³⁸ to make something available to.³⁹
Obtaining	<p>In the TVPA, the T visa regulations, and other areas of the U.S. Code, “obtain” is used in its plain English language understanding.</p> <p>Merriam-Webster defines <i>obtain</i> as “to gain or attain usually by planned action or effort.”⁴⁰</p>
Inducing/ Patronizing/ Soliciting	<p>Inducing, patronizing, and soliciting apply only to sex trafficking analysis.⁴¹</p> <p>In Black’s Law Dictionary, inducing falls under the term “inducement” and is defined as “the act or process of enticing or persuading another person to take a certain course of action.”⁴²</p> <p>In Black’s Law Dictionary, patronizing falls under the term “patronizing a [sex worker]” and is defined as “the offense of requesting or securing the performance of a sex act for a fee.”⁴³</p> <p>In Black’s Law Dictionary, soliciting falls under the term “solicitation” and is defined as “an offer to pay or accept money in exchange for sex.”⁴⁴</p>

³⁷ *Provision*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/provision> (last visited Dec. 5, 2023).

³⁸ *Provide*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/provide> (last visited Dec. 5, 2023) (defining “provide” as “to make available”).

³⁹ *Provide*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/provide> (last visited Dec. 5, 2023) (defining “provide” as “to supply or make something available”).

⁴⁰ *Obtain*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/obtain> (last visited Dec. 5, 2023).

⁴¹ “Patronizing” and “soliciting” are relevant to the definition of “sex trafficking” under 22 USC § 7102(12). “Inducing” is only referenced in 22 USC § 7102(a). To simplify the analysis, CAST merged both 22 USC §§ 7102(11) and (12) in the EMP model. We excluded *inducing*, *patronizing*, and *soliciting* from the EMP model solely because it does not apply to the labor trafficking portion of the definition and to make the model easier to follow and apply.

⁴² *Inducement*, BLACK’S LAW DICTIONARY (11th ed. 2019).

⁴³ *Patronizing a Prostitution*, BLACK’S LAW DICTIONARY (11th ed. 2019). The Black’s Law Dictionary definition uses the phrase “patronizing a prostitute.” CAST does not use the term “prostitute” outside of its specific use in statutory or legal definitions and does not employ it to refer to any person.

⁴⁴ *Solicitation*, BLACK’S LAW DICTIONARY (11th ed. 2019).

5. Common Hurdles in Human Trafficking Analysis

Understanding “Severe” in *Severe Form of Trafficking*

In the legal definition of trafficking, the term *severe* does not denote the severity of abuse within the trafficking situation or the intensity of the labor or services performed. The *severe form of trafficking* definition consists of [two subparts](#): subpart (A), commonly referred to as the “sex trafficking” definition, and subpart (B), commonly referred to as the “labor trafficking” definition. The term *severe* solely indicates that the victim falls under at least one of the two subparts, without specifying which one.

Instead of analyzing the severity of abuse, practitioners should focus on ensuring that the facts align with the definitions cited in this guide. Attempting to solicit details about the severity of abuse can be retraumatizing for clients. Legal practitioners—or any professionals—should refrain from conducting forensic interviews or in-depth questioning to extract facts about trafficking severity as it is not required for legal analysis or for any legal remedies, and such practices are trauma-inducing. Instead, practitioners should formulate questions that elicit information aligning with the legal definitions, avoiding unnecessary probing for gratuitous details.

Overreliance on Intake Sheets, Sample Interview Questions, and Red Flag Indicators

Sample intake sheets and interview question lists, [including CAST’s](#), may serve as valuable tools to assist practitioners in posing questions to assess whether an individual falls under the trafficking definition. However, it is important to note that no single sample is exhaustive or fully captures the breadth of the legal definition. Crafting questions for all potential trafficking schemes or services is challenging.

Additionally, certain red flag indicators or intake sheets might excessively emphasize particular types of services or exploitative conditions. They could also overlook potential factors that fall within the legal definition of trafficking. For instance, numerous intake sheets place significant emphasis on issues such as lack of payment or poor working conditions, which, upon thorough analysis, may not meet the legal criteria for coercion. Likewise, some intake processes may classify anyone involved in the commercial sex industry as a trafficking victim without adequately considering the elements of *force*, *fraud*, or *coercion*.

A clear illustration of this challenge pertains to compensation. Many intake sheets and red flag indicators commonly reference lack of pay as an indicator of trafficking. However, the legal definition of trafficking does not consider compensation. The T Visa Policy Manual explicitly addresses this, stating that “[a] worker who is paid some or all the promised wages may still be a victim of trafficking. The fact that an applicant was paid a salary or wage for work is not determinative of whether the applicant was subjected to one of the federal trafficking crimes.”⁴⁵ It is important to recognize that lack of payment—or even payment as promised—is not determinative of whether an individual was trafficked, as was true even prior to the release of the Policy Manual. Instead, practitioners should examine the

⁴⁵ 3 USCIS-PM [B.2.B.6](#).

compensation issue solely to determine whether it aligns with the legal definition of coercion to make the victim feel as though they had no choice but to perform the labor.

Distinct Meanings of Force and Coercion in Human Trafficking Analysis

One habit CAST recommends breaking early is the use of *force* and *coercion* in the colloquial meaning. This advisory offers additional context to define *force* and *coercion* more precisely. *Force*, in the context of human trafficking analysis, refers to the physical ways that a perpetrator compels someone to work or provide services. On the other hand, coercion has a specific legal definition. CAST encourages practitioners to avoid framing facts as “my client was forced/coerced to do X” and instead, adopt a more precise approach like “my client was forced to do X because the perpetrator abused them/threatened them/etc.” This framing clarifies the specific *coercion* or *force* exerted by the perpetrator to make the victim perform the work or services.

6. Additional Resources

- Free CAST trainings about the definition of *Severe Form of Trafficking*
 - [Human Trafficking Defined E-Learning Course](#)
 - [Ends-Means-Process \(EMP\) Analysis Workshop for Legal Practitioners](#)
- [Ends-Means-Process Model Toolkit](#)
- [Intersection Between Domestic Violence, Sexual Assault, and Human Trafficking Toolkit](#)
- To review AAO cases on the severe form of trafficking requirement, check the [Pory database](#). In the side navigation, click “Severe Form of Trafficking” under Basis of Denial for relevant opinions. A Pory account is required—refer to [this guide](#) to create one.

7. Further Questions

If you have additional questions, please submit an individual technical assistance request using our [technical assistance request form](#).

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