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HUMAN TRAFFICKING AND THE T VISA PROCESS: INSIGHTS FROM LEGAL REPRESENTATIVES WORKING WITH VICTIMS FROM LATIN AMERICA

I became aware of human trafficking around 2006 while working at a local non-profit who specialized in immigration legal services. I was providing direct legal services to immigrant victims of intimate partner violence and I came across several cases of women who had not only experienced family violence, but also human trafficking. However, they never used that specific verbiage. I also vividly recall a situation while traveling in Florida that further sparked my curiosity about these crimes. I was at an open-air beach restaurant and met a young woman who very casually told me how she came to Florida from New Zealand as a Polynesian dancer but was now being forced to work as an exotic dancer and her boss was “holding” her passport. She was a bit annoyed and a little concerned, but never once did she mention trafficking. All I could think about were the only three elements of trafficking I was aware of: force, fraud, coercion.

I dedicated the remainder of my graduate work to understand human trafficking and ultimately completed my master’s thesis on the trafficking of foreign-born Latinos in Nebraska. Almost a decade later, it is time to revisit the question: What does human trafficking look like in Nebraska? In 2020, I was privileged to continue this work with Dr. Teresa Kulig and Dr. Cristián Doña-Reveco. We recently released OLLAS Report #15: Human Trafficking and the T Visa Process: Insights from Legal Representatives Working with Victims from Latin America. This report describes human trafficking through the unique perspective of legal representatives in Nebraska who represent immigrant victims from Latin America. The following provides some background, the purpose of our study, our findings, and lastly our policy implications.

Human trafficking occurs when traffickers use force, fraud, or coercion to compel individuals to provide labor or services—broadly known as labor or sex trafficking. Traffickers often take advantage of individuals who are perceived as vulnerable, including those lacking immigration status. In response, the United States

Congress created a T nonimmigrant status (also referred to as a T visa) in October 2000 to protect immigrant victims and to strengthen law enforcement’s ability to investigate these crimes. Although thought to be vital in responding to trafficking victimization, limited information is known about this process of applying for a T visa and the outcomes for those individuals who would benefit from their implementation.

Our study sought to examine the trafficking experiences of foreign national victims from Latin America by interviewing legal representatives who assist these individuals in Nebraska. These representatives were selected due to their intimate knowledge of the T visa process and their unique position to identify human trafficking victims during legal consultations. For three months, we conducted interviews via Zoom with six individuals who provided rich insights into 22 cases involving victims of human trafficking from Latin America.

We interviewed Nebraska immigration attorneys and Department of Justice Representatives who all spoke English and Spanish; a majority were female, with half self-identifying as Latino/Hispanic and half as White. On average, the representatives had an impressive six years of experience working with human trafficking victims, specifically from Latin America.

The experiences of the 22 human trafficking clients that they represented sheds light on what trafficking looks like for foreign born Latinos in Nebraska. The majority of victims were from Mexico or Guatemala. The majority of cases were labor trafficking (59%), followed by sex trafficking (36%). Multiple victims were trafficked more than once prior to filing their T visa, suggesting that recurrent victimization is a concern in trafficking cases. One of the most notable findings is that no victims recognized their experience to be “human trafficking” even if they knew what happened to them was wrong.

Clients first came into contact with these legal representatives in a number of ways including referrals by law enforcement personnel,

hospitals, U.S. Immigration and Customs Enforcement (ICE), family members, and even existing clients. There were some cases where victims sought assistance on their own for other legal issues such as domestic violence, custody, and unpaid wages. Most of the victims had filed their application and were waiting on the results (41%), with the remaining individuals having already received approval (27%), only seeking consultation and not having filed yet (23%), or were denied (10%).

Our study found several challenges legal representatives face, including a lack of support from law enforcement to investigate human trafficking cases or certify that victims have complied with reasonable requests from a law enforcement agency for assistance in the investigation or prosecution—a stipulation oftentimes helpful for successful T visa application submissions. Legal representatives also face inadequate funding to support services and do not have enough culturally sensitive providers to refer clients to for services such as therapy- a common practice among legal representatives so that victims can discuss their past trauma. They also noted that other providers have limited education about human trafficking and the existence of the T visa- this ultimately prevents victims from receiving timely legal services.

Our study also unearthed some barriers in responding to victims. This includes a lack of collaborative investigations with partner agencies, anti-immigrant sentiments toward victims, and missed identification of victims. Missed identification includes authorities neglecting certain types of cases because they do not fit a specific perception of human trafficking and can result in victims being overlooked entirely (e.g., labor trafficking in a local restaurant) or being treated as a perpetrator (e.g., arresting and charging a sex trafficking victim with prostitution). Education and trainings may provide more widespread education to reduce the burden off any one institution (e.g., law enforcement) and create multiple bystanders who could possibly notice these cases. In addition, due to the lengthy processing times (approximately two years) of the T visa application, victims

are still vulnerable after filing their T visa application since they are unable to work and provide for themselves for some time. A factor that oftentimes contributed to their initial exploitation.

Based on our findings we recommend the following:

1. Increase screening across multiple agencies to facilitate identification of victims (e.g. law enforcement, business owners, legal representatives, medical settings, schools, etc.).
2. Provide law enforcement and immigration authorities the tools, training, and resources needed to actively stay up-to-date so they can intervene as needed.
3. Train first responders, legal representatives, and any providers who might come into contact with these populations on the basics of the T visa so the application process can be initiated as soon as possible so victims can gain access to the necessary benefits and services.
4. Ensure multiple follow-ups from referral sources and from public servants so victims are connected to the resources they need.
5. United States Citizenship and Immigration Services (USCIS) should grant employment authorization while T visa applications are pending and use increased discretion for what cooperation consists when approving or denying the immigration benefit.

We feel strongly that our research has practical applications for individuals or institutions who are interested in anti-trafficking initiatives. Our research confirms the presence of both labor and sex trafficking in Nebraska and describes the experience of human of foreign-born Latin Americans. As a community we might need to re-think screening and education if victims do not self-identify. It would behoove us to evaluate our current policies including how we investigate and treat victims. We can also support the difficult work legal representatives are already doing by addressing the aforementioned barriers and challenges.