

The Degradation of Work

Trafficking in Persons from a Labor Perspective:
The Kenyan Experience



Solidarity Center

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Author: Neha Misra, Program Officer, Solidarity Center

Editors: Marc Bayard, Regional Program Director for Africa, Solidarity Center
Cathy Feingold, Director of Public Outreach and Global Programs, Solidarity Center

Copy Editor: Joan Welsh, Communications Program Officer, Solidarity Center
Production Editor: Tristan Masat, Legal Fellow, Solidarity Center

Researchers: Jacob Omolo, Kenyan Institute for Policy Analysis and Research (IPAR)
Dr. John Akoten, IPAR
Dr. Jane Mariara, University of Nairobi, School of Economics
Dr. Tabitha Kiriti, University of Nairobi, School of Economics

IPAR Report Co-Editor: Peter Mathuki, Researcher-HTUR, ITUC-AFRO

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SOLIDARITY CENTER
888 16th Street NW, Suite 400
Washington, DC 20006
www.solidaritycenter.org

The Solidarity Center is an international non-profit allied organization of the AFL-CIO established to provide assistance to workers around the world. Working with trade unions, non-governmental organizations, other community partners, and governments, the Solidarity Center supports programs and projects to advance worker rights and promote broad-based, sustainable economic and democratic development in 60 countries. The Center engages in a wide range of technical assistance, educational and other activities to promote human and worker rights around the world, and to help workers build democratic and independent trade unions.

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Foreword By Ellie Larson - Executive Director, Solidarity Center

With more than fifteen years experience combating child labor and migrant worker exploitation, the Solidarity Center is a recognized leader in raising awareness of the prevalence of trafficking in persons for labor exploitation around the world. We conduct anti-trafficking and migrant worker rights programs in Indonesia, Thailand, Sri Lanka, Bangladesh, Pakistan, the Philippines, Bahrain, Oman, United Arab Emirates, Kenya, the Dominican Republic, and other countries. Our programs include activities and initiatives that address the three elements of anti-trafficking: prevention, protection, and the rule of law.

In the course of our work in East Africa over the last decade, the Solidarity Center learned of the increasing abuse and exploitation of workers placed by labor recruitment agencies and employers in cities or countries far from their homes. We heard of Kenyan women who were recruited to work in export processing zone factories in Uganda, which were flourishing with the implementation of the African Growth and Opportunity Act (AGOA). Once in Uganda, many of these women were vulnerable to being trafficked for forced and other exploitative labor, including the sex trade. The women were particularly defenseless because of their migrant status and often left feeling hopeless. With the lack of adequate labor law protections in Uganda, they had little recourse. Anecdotal evidence indicates they endured confiscation of their passports, confinement, physical violence, sexual assault, and debt bondage.

While Kenyan workers and unions did not call such exploitation “human trafficking” or “trafficking in persons” (the terms are interchangeable), the experiences they described were clearly just that. Given our extensive experience implementing programs to combat trafficking in persons, we began investigating the situation. Scant research, particularly on trafficking for labor exploitation, was available—much less than in countries like Sri Lanka and Indonesia.

Recognizing the effect of trafficking on the women of their country, the Central Organization of Trade Unions - Kenya (COTU) in collaboration with the Solidarity Center commissioned a study of the problem. Funded

by the U.S. Embassy in Nairobi, the study was conducted in 2006 by the Kenyan Institute for Policy Analysis and Research (IPAR), an independent and non-partisan organization that conducts research-based public policy analysis to promote Kenyan development. The charge of the study was to collect information and to analyze the extent of trafficking in persons for labor exploitation in Kenya. This report, *Trafficking in Persons from a Labor Perspective: The Kenyan Experience*, is careful to describe human trafficking for labor exploitation, and then to apply the results of the IPAR study to the particular situation in Kenya.

Our hope is that Kenyan trade unions, the government, and other civil society organizations will use this information as a resource in developing initiatives against trafficking in persons to combat this modern form of slavery.



Glossary

A **Migrant** is a person who leaves his or her country or community of origin for political, economic, social, religious, or other reasons. There are different types of migration: documented or undocumented (sometimes referred to as legal or illegal, or regular or irregular), urban and rural, international and domestic. An **Irregular Migrant** is a person who migrates outside the regularized system of migration set out by a particular country in its laws and regulations. Such a migrant may also be referred to as an **Undocumented Migrant** as the person migrates without the protection of government-issued documents, such as travel visas and employment permits.

A **Migrant Worker**, also referred to as an **Immigrant Worker**, is a person who travels from one area to another in search of work. A migrant worker may also be referred to as an **Economic Migrant**. The term **Immigrant Worker** often connotes some sort of long-term right to residency. A **Foreign Worker** is a person who works in a country other than the one of which he or she is a citizen.

A **Foreign Contract Worker** is a person who works in a foreign country under contract with a third-party labor broker to work at a particular workplace for a specified timeframe. Contract workers are often employed in the informal economy and thus are often exempt from labor laws and legal protections.

A **Temporary or Guest Worker** is a person with temporary permission to work in another country. Temporary workers are not granted any rights to residency or citizenship, usually cannot migrate with their family, and their employment is tied to a particular employer.

A **Sending Country**, also referred to as a **Home or Source Country**, is the **Country of Origin** for a migrant worker. It is the country the migrant worker leaves.

A **Destination Country**, also referred to as a **Host Country** or a **Receiving Country**, is the country that receives a migrant worker. It is the country to which a migrant worker travels.

Labor Exploitation is profiting from the labor of others without giving a just return (e.g., fair wages, reasonable working conditions, acceptable labor standards).

Debt Bondage, also known as **Bonded Labor**, is demanding a person's labor as a means of repayment for a loan or other form of debt.

Involuntary Servitude is laboring against one's will to benefit another, under some form of coercion.

Forced Labor is work or service exacted from a person under threat or penalty, which includes penal sanctions and loss of rights and privileges, where the person has not offered him/herself voluntarily

Slavery is the ownership of one person by another.

Child Labor refers to work for children under age 18 that is mentally, physically, socially, and/or morally dangerous or harmful to children and that interferes with their schooling. Under international standards, developing countries may allow children over 15 years of age to work under certain conditions.

Smuggling is the facilitation of the illegal entry of a person into a State of which the person is not a national or permanent resident, in order to obtain, directly or indirectly, a financial or other material benefit (UN Protocol).

Methodology

The Degradation of Work, Trafficking in Persons from a Labor Perspective: The Kenyan Experience provides readers with a general overview of human trafficking in persons from a labor perspective, with a focus on universal and global themes. The report utilizes the experiences of Kenya to exemplify the universal and global themes. Each subsection of the report begins with an explanation of a global human trafficking theme that may apply to any or many countries around the world. Then, below each subsection in a blue box, Kenya is used as an example of the theme.

The global themes include:

- *Human Trafficking from a Labor Perspective*
- *Human Trafficking Defined*
- *Human Trafficking for Labor Exploitation*
- *The Particular Vulnerability of Migrant Workers to TIP*
- *Debt Bondage*
- *Causes of Trafficking in Persons*
- *The Impact of Human Trafficking on Labor*
- *Workers, HIV/AIDS and Human Trafficking*
- *Gender-Based Violence and Human Trafficking*
- *Trade Unions' Role in Combating Human Trafficking*

The examples based on the Kenyan experience come from the IPAR research study, entitled, *Trafficking in Persons: The Case of Kenya*. The IPAR study relied primarily on secondary sources and interviews with Kenyan and international anti-human trafficking activists in Kenya. The IPAR researchers also interviewed 25 victims of trafficking who were trafficked both abroad and within Kenya. Some of these victim stories are highlighted in this publication. The IPAR report shows that there is still a misunderstanding in Kenya about the scope and definition of human trafficking. Some of the research results are related to smuggling or exploitation of workers, but do not rise to the level of human trafficking. The report however is one of the first of its kind in Kenya, and is useful to gauge where Kenya is in combating this issue.

The full version of the IPAR study is available on the Solidarity Center website at: www.solidaritycenter.org.

Human Trafficking from a Labor Perspective

Human trafficking is modern-day slavery. It is the buying and selling of human beings for the purpose of exploitation. The International Labor Organization (ILO) estimates that at any given time, 12 million men, women, and children worldwide are deceived or coerced into forced and bonded labor, involuntary servitude, and sexual slavery.¹ Studies have shown that human trafficking (also called trafficking in persons, or TIP) generates more than \$9.5 billion annually for international organized crime, second only to trafficking in weapons.² TIP, however, is not only a problem of organized crime. It involves a much broader relationship among workers, unscrupulous employers, labor recruiting agencies, and governments.

Globalization has wrought a system where work continues to be degraded and workers are more and more vulnerable to abuse. In the context of worker rights and the global economy, workers who are simply trying to find a way to support their families and make a living are often caught in the trafficking trap.

Human trafficking is a labor issue for three key reasons:

- It is often linked to exploitation in labor.
- It is one of the worst forms of labor exploitation.
- Many of its root causes relate to violations of worker rights, lack of labor standards and protections for workers (especially migrant workers), and globalization forces that displace workers and encourage competition for low-wage jobs.

Many people equate human trafficking with prostitution. In reality, trafficking encompasses a range of abuse

and exploitation, including debt bondage, forced labor, and other forms of slavery in a variety of economic sectors. At its core, TIP is often about labor exploitation in the context of labor migration. Many people who become victims of trafficking start out as someone in search of work. Trafficking in persons is often linked to exploitation in labor. Whether someone is trafficked for sexual exploitation in prostitution, forced labor as a domestic worker, or bonded labor in construction work, most likely that person began as a worker who left home to find a job.³

Globalization exacerbates trafficking in persons for exploitative labor practices. The global economy creates push and pull factors for labor migration, increasingly forcing workers to leave their homes to find work. As conditions of work and benefits erode under global economic policies, there are fewer social safety nets to catch vulnerable workers. Workers are increasingly moving from the formal to the informal economy, and from permanent to contract jobs. This “degradation of work” is an important factor in TIP. Whether workers migrate from rural areas to urban areas within their country or from one country to another, globalization has contributed to an environment that makes them more vulnerable to exploitation and trafficking.

Human trafficking has a devastating impact on labor markets. It contributes to depressed wages for all workers, weakened workforce productivity, loss of remittances, and an undereducated and undertrained generation of workers. It also contributes to the degradation of labor standards, support, and benefits for workers. As human trafficking encompasses so many underlying labor issues, trade unions and other organizations that promote worker rights have a key role to play in fighting it.

Human Trafficking and Labor in Kenya

On the basis of interviews in the IPAR study, most Kenyan trafficking victims seem to be lured by the promise of good jobs. Juliet, a cross-border TIP victim, revealed that a Tanzanian man took her from Mombasa to Tanzania with the promise to help her get a job. When she arrived, she was taken to a brothel and forced to engage in commercial sex work. According to Juliet, while her Tanzanian trafficker required her to negotiate with customers the fees for her services, she was not allowed to keep any part of that money. Other interviewees noted employment agencies’ use of fake job advertisements through the Internet and newspapers promising jobs, attractive salaries, and many benefits that end up being non-existent.

Many interviewees observed that traffickers or their agents lure most TIP victims with offers of marriage and job opportunities that collapse once the victims arrive at their destinations, where they are forced into unpaid labor and/or prostitution and are often sexually abused.

Human Trafficking Defined

The United Nations defines human trafficking as:

[T]he recruitment, transportation, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

(2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime)

Most countries and counter-trafficking advocates use this definition of human trafficking.

The chart below, extrapolated and simplified from the UN Protocol definition, is a useful tool for analyzing individual cases to determine whether or not they constitute trafficking. In order for a situation to be trafficking, it must have at least one of the elements within each of the three criteria of Process, Means, and Goal.

Human trafficking is:

Process	+	Way/Means	+	Goal
Recruitment or Transportation or Transferring or Harboring or Receiving	A N D	Threat or Coercion or Abduction or Fraud or Deceit or Deception or Abuse of Power	A N D	Prostitution or Pornography or Violence/Sexual Exploitation or Forced Labor or Involuntary Servitude or Debt Bondage (with unfair wages) or Slavery/Similar practices

(Chart developed by Solidarity Center and International Catholic Migration Commission)

If one condition from each category is met, the result is trafficking. For adults, victim consent is irrelevant if one of the Means is employed. For children, consent is irrelevant with or without the Means category.

The following scenarios, based on real-life cases of Kenyan workers, exemplify how to tell whether or not a situation of exploitation is trafficking. While Kenya has not yet passed an anti-trafficking law, the major stakeholders in the fight against trafficking in persons in Kenya concur with the broad definition of trafficking in the UN Protocol.

Scenario #1: *Atieno is a 12-year-old girl. A family friend takes her to the city to find work so that she can help support her family. The family friend takes her to a restaurant, where she lives and works as a servant. Her salary is paid directly to her family.*

This is trafficking. Atieno is removed from her support network, is transported to the city (Process), suffers an abuse of power from her family (Means), and is in a state of forced labor (Goal).

Scenario #2: Asha is 20 years old. She pays an agent to arrange for her to go to Uganda to work in a factory. She does not have legal documentation to migrate, but the agent helps her move without proper documentation. In Uganda, the agent arranges for her to work in a factory. The conditions are as she was promised. She sends her earnings home to her family.

This is not trafficking. Asha is an undocumented migrant and the agent smuggles her into Uganda. In this case, there is no exploitation in Uganda.

Scenario #3: Kamau is 14 years old. He works with his father and older brother on a coffee plantation in Nyeri. He works 12 hours a day, and his salary is given to his father. Kamau is unable to attend school, but he does not mind because he likes to help his family earn income.

This is not trafficking. This is child labor according to internationally recognized labor standards. Kamau is under 15 (the legal working age) and cannot attend school. The fact that he agrees to this work is irrelevant, because it is internationally recognized that a child does not have the capacity to form “consent.”

Scenario #4: Kanini, a migrant worker from Kitui, is recruited by an agent to work as a domestic worker (housemaid) in Lebanon. When she arrives in Lebanon, her employer forces her to work long hours, seven days a week, confiscates her passport, and withholds her wages.

This is trafficking. Kanini is outside her support network. She is transported (Process), is deceived by her employer (Means), and is forced to work in involuntary servitude (Goal).

The Story of Salome

Salome, a 15-year old girl, lived in a poor tea-growing village in Kericho, Kenya. When her family could not pay her school fees, she dropped out of school and worked as a casual laborer. The money she received was not enough for her and her parents. A neighbor offered to help Salome and introduced her to an old acquaintance, Theresa, who promised to get her a good job in Nairobi’s industrial area. In August 2005, Theresa took Salome to Kikuyu town in Nairobi and a few days later forced her to work for her in Theresa’s house on the pretext that there was still no vacancy in the industrial area “at the moment.” Salome was forced to take care of Theresa’s two children, aged 7 months and 3 years, because she had to “pay” for the food and accommodation that she received. Days turned to weeks and weeks to months, and there was still no job in the industrial area. Her daily chores, which ran from 5 am to 11 pm, consisted of washing diapers and clothes/bedding, ironing, cleaning the house, and cooking breakfast and dinner. Her employer did not leave any food for lunch and all food



was kept under lock and key. During mealtime, Salome would be the last person to eat and usually ate meager leftovers. At the end of every month she received no pay. Her employer said that she was keeping the money for Salome’s parents on their instructions, but that was a lie. In January 2006, with assistance from a neighbor, Salome managed to escape and boarded a bus for her rural home in Kericho.

Source: From the Kenya IPAR study, based on interviews with Salome.

Human Trafficking For Labor Exploitation

While trafficking for labor exploitation can exist in any economic sector or industry, most trafficking victims tend to be low-wage workers or workers in the informal economy. Some common forms of human trafficking for labor exploitation around the world include:

- **Agriculture:** Migrant workers travel within their own country or to destination countries to work on plantations and in agricultural fields. Children are especially vulnerable to trafficking for forced labor or bonded labor on plantations or farms.
- **Child Labor:** Some children who work in brick kilns, make rugs, toil on cocoa and tea plantations, or work as camel jockeys have been trafficked. Children are also trafficked as street beggars.
- **Commercial Sex Work, Including Pornography:** In many cases, women and children are promised employment as domestic helpers, restaurant workers, shopkeepers, or other low-wage jobs but then are forced into



prostitution once they arrive at their destination. In other circumstances, women are aware that they will enter the sex industry but are deceived about the conditions of work and are then forcibly confined and not allowed to refuse the work.

- **Construction:** Male migrant workers dominate this sector in many developed countries around the world. Many migrant construction workers are vulnerable to trafficking, especially in the form of debt bondage, forced labor, or involuntary servitude. Migrant construction workers also face dangerous working conditions and are often deceived about their wages and conditions of work.
- **Cultural Dancers/Entertainers:** Women and girls are promised work as cultural dancers, singers, or entertainers in a foreign country. Upon arrival, some women and children are forced into prostitution or other slave-like working conditions.
- **Domestic Work:** Many countries have a high demand for low-wage domestic workers to serve as housekeepers, nannies, caregivers, and cleaning staff. Domestic workers are trafficked into abusive labor conditions that include forced long working hours, illegal confinement, non-payment of wages or reduced wages, debt bondage, physical and psychological abuse, sexual assault, and denial of food or insufficient food. Some employers and agents confiscate passports and other documents to ensure that workers do not try to run away from exploitative working conditions.
- **Manual Labor:** Many migrant workers are promised low-wage jobs in restaurants, cottage industries, or small shops. Some workers are trafficked into abusive and hazardous working conditions with little to no pay. Many are trapped in such work through debt bondage, coercion, or violence.

- **Manufacturing Work / Export Processing Zones:** Increasingly, employers in destination countries use recruiting agencies to find migrant workers to fill low-wage jobs in factories that produce textiles, garments, electronics, and other goods for export to countries such as the United States and Europe. Many of these workers end up in factories in Export Processing Zones (or Qualified Industrial Zones), where they are isolated, segregated, and easily exploited.

Human Trafficking for Labor Exploitation in Kenya

Kenya is a source, transit, and destination country for women, men, and children trafficked for forced labor and commercial sexual exploitation. According to the IPAR study, internal trafficking mostly involves children and young women being trafficked from rural to urban areas for domestic work and prostitution. A combination of unemployment, poverty, gender inequality, inadequate legislation, and poor law enforcement has enabled trafficking in girls to thrive in Kenya. This practice has developed slowly from traditional foster arrangements whereby poor rural families would send their children to live (and work) with wealthier relatives or acquaintances, often in urban centers. Today, traffickers have exploited the tradition so that many such children are in fact child domestic workers with no access to education, no freedom of movement, and little or no pay after working long hours in hard conditions.

Many Kenyan children are trafficked internally from rural areas to urban centers into involuntary servitude as domestic workers, street vendors, day laborers, and commercial sex workers. Children are also trafficked internally for agricultural labor. In addition, children are trafficked to Kenya's coastal areas, where they are sexually exploited, mainly by tourists. However, children also move to urban centers and to coastal resorts independently to earn money. They find themselves living on the streets or in slum areas and become vulnerable to abuse and sexual exploitation.

In East Africa, there is significant cross-border movement for domestic labor, both male and female, and prostitution. Many counter-trafficking activists in Kenya believe that women and children are trafficked from Burundi and Rwanda to Kenya's coastal areas for sexual exploitation in the growing sex tourism industry. Some women and children work in massage parlors, where they are coerced into bonded labor in prostitution for provision of "escort services."

Kenyan victims are trafficked to other countries for various purposes, mostly through employment agencies that deceive victims about working conditions in destination countries. According to the IPAR study respondents, the main destination countries for Kenyan trafficking victims are Australia, Europe, the Americas (the United States, Canada, and, to a limited extent, Latin America), other African countries outside East Africa (Botswana and South Africa), and the Middle East/Gulf countries. The main destinations in Europe are the United Kingdom, Italy, Portugal, Spain, the Netherlands, and Germany. The main destinations in the Middle East include Kuwait, Saudi Arabia, United Arab Emirates, Lebanon, and Bahrain.

The key sending countries of victims trafficked into Kenya are in Asia (Bangladesh, India, Pakistan, Indonesia, and China) and in Africa (Ethiopia, Burundi, Democratic Republic of the Congo, Nigeria, Ghana, Uganda, Tanzania, Sudan, and Rwanda). Victims from Southeast Asia en route to Europe are trafficked through Kenya as a transit country. The *Kenyan Daily Nation* reported that young immigrants from Ethiopia transit through Kenya as a gateway to the United States, Canada, Australia, and South Africa. Somalis also transit through Kenya on their way to India.

The occurrence of poor families giving their children to rich relatives was cited as a dominant means of domestic TIP. For cross-border and international TIP, false promises of marriage and jobs were the dominant forms of deception used in Kenya.

According to the *U.S. Department of State 2007 Trafficking in Persons Report*, "Foreign employment agencies facilitate and profit from the trafficking of Kenyan nationals to Middle Eastern nations, notably Saudi Arabia, the U.A.E., and Lebanon, as well as Germany."

The Particular Vulnerability of Migrant Workers to TIP

Migration and trafficking in persons are often distinguished from one another by the notion that migration is characterized by choice and trafficking by coercion, deception, or force. But in today's global economy, migration and trafficking exist along a continuum. Men, women, and children may start out migrating for the promise of well-paid jobs and end up being coerced to work under exploitative conditions such as in sweatshops, in construction, on plantations, in domestic work, or in prostitution. Given the large numbers of workers who migrate for work globally, this peculiar vulnerability of migrant workers to trafficking is significant.

Many people assume that trafficking victims are undocumented migrants who were smuggled into a country illegally. This is only part of the picture. Many trafficking victims end up in situations of forced labor, involuntary servitude, or debt bondage even when

they migrate through legal channels. Large numbers of migrant workers accept contracts to work in low-wage jobs in construction, agriculture, domestic work, and manufacturing. These workers are recruited legally in their home country, and they travel and enter the destination country legally. Often, only after arrival do unscrupulous labor agents or employers exploit workers. Such exploitation includes:

- Deceit about conditions or type of work or changing the wages and conditions of work from those in the contract signed by the migrant worker
- Violations of worker rights
- Unsafe working conditions
- Confiscating identification and immigration documents
- Physical, psychological, and sexual abuse
- Illegal confinement, detention, and imprisonment
- Debt bondage or involuntary servitude
- Reduction or non-payment of wages



Debt Bondage

The nature of labor migration in today's global economy makes workers vulnerable to debt bondage—whereby a worker's labor is demanded as a means of repayment for a loan or other form of debt. Debt bondage is internationally recognized as a form of exploitation for trafficking in persons. Workers in debt bondage are forced to stay at a particular job for a particular employer to pay off a debt. If the employer abuses or exploits the worker, the worker often cannot leave because of the huge debt, leading to involuntary servitude.

Increasingly, migrant workers rely on individual recruiters or recruiting agencies to help them find work abroad. Employers who demand the services of low-wage migrant workers pay these agencies commissions to cover the costs of a worker's migration. But

recruiters often charge the migrants additional inflated fees (sometimes referred to as "employment fees"), double-billing them for such necessities as passports and visas, medical tests, transportation, and even food and housing in transit centers. Employment fees can range in the thousands of dollars. Many migrant workers do not have the funds to pay them, so they borrow the money at exorbitant interest rates from the agency or local loan brokers. Often without the consent of the worker, employers pay the migrant's wages directly to the recruitment agency as repayment for the worker's debt. Some migrant workers do not receive a salary for 8 to 10 months or even a year in order to repay the illegal labour recruiter's fees. Although employment fees are usually illegal in sending countries and are prohibited by international covenant, enforcement is lacking, and the practice continues to thrive.

Causes of Trafficking in Persons

Human trafficking has many causes. In the context of worker rights, the following are significant causes that make workers around the world vulnerable to trafficking⁴:

- **Corruption and Weak Enforcement of Laws:**

Traffickers may bribe corrupt law enforcement and immigration officials to overlook criminal activities. Public administrators may also be bribed to falsify information on ID cards, birth certificates, and passports, making migrant workers more vulnerable to trafficking due to illegal migration. Labor recruiters and recruiting agencies may bribe labor inspectors and other Ministry (or Department) of Labor officials to overlook violations in the labor recruitment process. Lack of state funds budgeted for counter-trafficking efforts hampers law enforcement's ability to deter and prosecute traffickers. Law enforcement officials often are not trained to recognize trafficking victims and do not know how to treat them.

- **Cultural Factors:**

- **Women's Role in the Family:**

Today, women are important wage earners for their families. A global feminization of migration is occurring. Unable to find adequate job opportunities at home, many women migrate for work in order to support their families or to escape discrimination or violence at home. Some women may be vulnerable to exploitation due to marginalization or discrimination.

- **Children's Role in the Family:**

Obedience to parents and an obligation to support the family make children vulnerable to trafficking. Child labor, child migration for work, and child bonded labor are deemed acceptable family financial strategies to survive.

- **Early Marriage:**

Early marriage has serious implications for girls (some as young as 12 or 13), including health hazards, end of schooling, limited economic opportunities, disruption of personal development, and often, early divorce. Divorced girls are vulnerable to trafficking due to their economic vulnerability.

- **History of Debt Bondage:**

The practice of selling one's labor or that of a family member to pay off a loan is an accepted family survival strategy. People placed into bonded labor are especially vulnerable to abusive and slave-like work conditions.

- **Globalization and Neo-liberal Economic Policies:**

Today's global economy leads to increased flexibility of the workforce and the "degradation of work," whereby workers move from formal to informal economic sectors and from permanent to temporary and contract work, receiving fewer employer-provided benefits such as healthcare and pensions and fewer government entitlements such as unemployment insurance and social security. Such a situation puts workers into a more vulnerable position, as the safety net that used to catch them when they were laid off, injured, or unable to find work no longer exists. For example, the 2005 phase-out of the World Trade Organization Multifiber Arrangement, a 30-year-old system of international textile and garment trade quotas that had provided incentives for multinational corporations to invest in developing countries, left thousands of female textile and garment contract workers in places such as Swaziland, Indonesia, and Bangladesh without jobs, almost overnight. Without adequate severance pay, unemployment insurance, and employment opportunities, many of these young female workers were vulnerable to exploitation by labor recruiters trying to take advantage of their precarious situation by offering them jobs abroad that they had little choice but to accept.

- **Global Trade Agreements:**

Such agreements, which rarely include adequate labor standards and protections, often contribute to the exploitation of migrant workers. For example, the U.S. African Growth and Opportunity Act (AGOA) enabled increased investment in Africa, leading to the growth of textile and garment factories in Export Processing Zones in countries such as Uganda. To fill the low-wage jobs in these factories, in addition to hiring young Ugandan women, Ugandan and Kenyan agents recruited young women workers from Kenya. Once in Uganda, according to Kenyan trade union leaders, many of these women were exploited and even trafficked for forced labor and other exploitative labor and sexual practices. Some of these women workers were in a particularly vulnerable situation due to their migrant status and the lack of labor law protections in Uganda. Similar movements of workers have been seen in places such as Jordan, where large numbers of Bangladeshi workers, for example, migrate through recruitment agencies to work in textile and garment factories in Qualified Industrial Zones, which developed as part of a trade agreement between the U.S. and Jordanian governments. While the official line is often that there are not enough trained

Jordanians to fill such jobs (in a country where unofficial unemployment rates reach 30 percent), recent reports of exploitation and abuse of migrant workers in these factories indicate other motives.

- **Lack of Awareness:**

Many people who migrate for work are unaware of the dangers of trafficking and the ways in which migrant workers are deceived or pushed into abusive or slave-like labor.

- **Lack of Birth Registry:**

People without proper identification are easier prey for traffickers, because their age and nationality may not be documented. Older children who are trafficked, for example, may be easily passed off as adults.

- **Lack of Education:**

People with limited education have fewer viable job skills and opportunities and are thus more prone to trafficking as they seek to migrate for low-wage work.

- **Lack of Labor Standards and Protections:**

Often, migrant workers fill positions that workers in the domestic workforce refuse because of low wages or harsh working conditions. Worldwide studies of various economic sectors show a pattern of increasing demand for cheap migrant labor accompanied by declining wages, benefits, and labor and safety standards. Moreover, migrant workers, especially those in the informal economy, are often exempt from labor laws and are outside the protection of labor regulations or inspection. This precarious situation increases their vulnerability to trafficking in persons. Migrant workers are also often denied the freedom of association and

right to organize and thus are less able to work together to combat trafficking for labor exploitation.

- **Lack of Viable Economic Opportunities at Home:**

Despite its general economic benefits, globalization has created an ever widening wealth gap between countries and between rural and urban areas within countries.⁵ The lack of viable economic opportunities at home often pushes workers to migrate in search of better options. Global economic policies, initiated through market liberalization and World Bank and International Monetary Fund structural adjustment policies, are major causes of the gap in income and employment opportunities that displaces workers from their local livelihoods. All of these factors push workers to migrate in search of a better living. But high migration fees, strict immigration laws, and low-wage and dangerous jobs make workers vulnerable to trafficking in persons.

- **Material Expectations:**

Globalization, through exposure to TV shows and movies from around the world, has fueled the desire for consumer products and higher standards of living, leading many workers in poorer nations to migrate through any means to countries with higher wages and more job opportunities, thus rendering migrants vulnerable to trafficking.

- **Poverty:**

Poverty has forced many households to devise survival strategies that have included migrating for work and bonded labor.



Causes of Trafficking in Persons in Kenya

The 2006 IPAR study found the most common causes of TIP in Kenya were:

Benign Tolerance of Poor Work Conditions: Weak application and enforcement of labor standards and working conditions in countries of destination and origin provide a strong incentive for trafficking in persons. Tolerance of restrictions on freedom of movement, long working hours, poor wages, and substandard housing contribute to an expanding market for trafficked migrants, who have no choice but to labor in conditions intolerable for legal employment. Worse still is the absence of worksite monitoring, particularly in such marginal sectors as agriculture, domestic service, sex work, EPZs, and transport.

Corruption: Corruption facilitates TIP. The Office of the Registrar of Societies inconsistently registers employment bureaus, which contribute to human trafficking by advertising fake jobs. Corruption also makes it easy for trafficking agents and unsuspecting TIP victims to obtain travel documents, including registration of false marriages to aid acquisition of passports.

Gender Differences: Gender inequality in most African countries contributes to trafficking in women and children. In Kenya, limited access to education, cultural practices such as female genital mutilation and early marriages, and domestic violence make women more vulnerable to trafficking. Violence, a key factor in the subordination of women, occurs in the economic, political, social, and private arena. Traffickers take advantage of women's desire to escape violence at home by promising a better life in the city or overseas. Some TIP victims said that domestic violence had pushed them into situations that made them more vulnerable to TIP.

Ignorance: The finding that illiteracy and ignorance are major factors in trafficking, especially of children, concurs with that of ICFTU-AFRO (2005), which established that parents' and TIP victims' illiteracy and ignorance facilitate trafficking.

Poverty and Inequality: TIP is exacerbated by regional and continental disparities in economic development, compounded by the "better life syndrome" in the minds of people seeking jobs abroad. More than half the victims of international TIP interviewed were lured with promises of better paying jobs in the destination countries. Poverty and famine have also contributed to trafficking. Harsh living conditions, mostly characterized by poverty, unemployment, and a lack of alternative means of survival, make people vulnerable to TIP. About 49 percent of Kenyans live below the poverty line. Children are particularly at risk, and cases have been reported of parents giving their children to relatives in exchange for money or food.

Push and Pull Factors: Unemployment is a major "push" factor in trafficking. Important "pull" factors include the demand for cheap and malleable labor in the informal sector and the rapidly growing demand for children for commercial sexual exploitation and sex tourism in Kenya.

Restrictive Barriers: Migration policies do not address the gap between the continued demand for cheap labor and the increased supply of such labor in other countries. Most developed countries have imposed restrictive immigration laws and policies with little consideration of domestic labor demand and supply conditions. Trafficking of job seekers would be greatly reduced if the job seekers had more freedom of geographical movement and freedom of access to employment. TIP occurs not only when borders are barriers to meeting the demand for labor, but also when no knowledge is available about proper migration channels, when employment itself is illegal and/or underground, and when conditions of work below legal standards are tolerated or ignored. With few options available for legal migration in the face of strong pull-push pressure, irregular migration channels become the only alternative. They also present lucrative "business" opportunities for assisting in travel arrangements, obtaining documents, crossing borders, and finding jobs in destination countries.

Social and Economic Change: Breakdown of traditional family structures, the death of one or both parents, or greed may contribute to a family's decision to place a child in the hands of relatives, friends, or acquaintances who may traffic the child. Success stories, including displays of wealth, and remittances back to villages by relatives working in urban areas or overseas, provide a powerful incentive for parents to consider sending their children away from the home or village for work. Migration to urban areas for employment has led to the breakdown of nuclear and extended family systems, leaving children especially vulnerable. The HIV/AIDS epidemic has also orphaned more than 90,000 Kenyan children. These children must fend for themselves and are easy prey for traffickers.

Unemployment and the Demand for Cheap Labor: Unemployment and employers' quest for cheap labor, especially in manufacturing, building and construction, and tourism, may make Kenya a destination for trafficking victims.

The Impact of Human Trafficking on Labor

When sectors employ primarily migrant workers, the employers' profit potential, particularly in the case of trafficked persons, is much higher than would be the case if local labor were employed.⁶

Migrant workers, especially those in the informal economy, are invariably paid at a lower rate than local workers and usually do not receive benefits, such as healthcare or pensions, that would raise the costs to employers. Employers may prefer migrant workers to local workers because of their "vulnerability and lack of choice that results from their foreign status. Employers perceive them as more 'flexible' and 'cooperative' with respect to longer working hours, more vulnerable to 'molding' . . . and less likely to leave their jobs."⁷ Such a situation increases migrant workers' vulnerability to exploitation and trafficking. The ability to exploit trafficked workers increases the employer's control and profits. Thus, trafficking in persons has a direct effect on depressing wages in the local economy.

Trafficking in persons for labor exploitation thrives in an environment in which labor standards, laws, and protections are ignored. It contributes to the degradation of labor standards, social safety nets, and benefits for workers. Such an environment has an adverse effect on all workers.

Human trafficking also has a devastating impact on labor markets and affects the labor force. As countries lose human resources, they can no longer develop skilled or trained workers and the cycle of poverty continues. TIP contributes to depressed wages for all workers, weakened workforce productivity, loss of remittances, and an undereducated and undertrained generation of workers.

The Impact of Human Trafficking on Labor in Kenya

According to the IPAR study respondents, especially workers, trade union officials, and Ministry of Labor staff, TIP distorts labor market conditions, particularly in terms of wage levels and working hours. TIP can drive down wages and increase working hours, since trafficking victims are forced to work longer hours for little or no pay. Human trafficking for labor exploitation may cause tension in industrial relations and can jeopardize effective enforcement of labor regulations, including the collective bargaining framework. Garment, hotel, domestic, service and road transport workers mentioned these problems. Most workers interviewed noted that the effects have the potential to cause a loss of future productivity and earning power. Interviews with officials from the Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) noted that the use of forced child labor depresses wages for all workers. Kenyan unions noted that employing cheap or trafficked labor also results in a loss of bargaining power for trade unions as well as difficulties in enforcing labor regulations.

Trafficked workers are vulnerable to debt bondage in the destination countries. In addition, employers' use of trafficked workers prevents all workers from finding and keeping jobs.

Trafficking has a negative impact on labor markets by contributing to an irretrievable loss of skilled labor and human resources when people are trafficked from the country or region. Most respondents in the study noted that TIP leads to a loss in human resources, especially when young people are trafficked abroad. Victims who are deceived into going abroad never receive the jobs promised, nor do they have the opportunity to get back to their home countries. All of the victims of international TIP interviewed recounted that when they were rescued and subsequently deported to Kenya, they were not paid for the labor that they had been coerced into performing.

Kenya loses skilled workers because of human trafficking, as well as opportunities to create growth, increase employment, and reduce poverty.

Forcing children to work at an early age and subjecting them to long hours of work denies them access to the education necessary to break the cycle of poverty and illiteracy. It also denies them a healthy childhood development, both socially and physically. Children's inability to acquire the skills necessary to compete in Kenya's labor market translates into a national labor force that is not equipped to compete in the global economy.

Workers, HIV/AIDS and Human Trafficking

The HIV/AIDS epidemic has had a devastating impact throughout the world, and it permeates every aspect of life, including work. HIV/AIDS affects individuals' ability to work and earn a living. It deprives families of the ability to make enough money to support themselves with even the basic necessities. It affects productivity, profits, and the numbers of organized workers.

Migrant workers in particular may be more vulnerable to HIV/AIDS. They are often away from their families and support networks for long periods and may turn to prostitution. They work in dirty, dangerous, and difficult jobs, often without adequate safety equipment, education, or information about health and safety. They may also have less access to health care and medical services away from home. Stigma and discrimination against HIV positive individuals may push them to migrate.

Often before migrant workers travel abroad, employment agencies provide training in such areas as language skills, how to use modern appliances, and how to be an "ideal employee." Rarely does training involve education about HIV/AIDS and other communicable diseases. Another frequent pre-migration requirement is a medical test that includes an HIV screening. It is not uncommon for workers who test positive not to be told the result. They may be denied a work permit on the basis of their positive status, but this is not revealed to them, so even if they end up staying in their home city

or village, they do not know to seek treatment or adopt behaviors to stop the spread of the disease to others. Migrant workers' vulnerability to exploitation creates an obvious link between HIV/AIDS and trafficking in persons. Trafficked workers are rarely given access to medical services, let alone testing for HIV/AIDS or other sexually transmitted diseases (STDs). The type of work they engage in makes them vulnerable to the disease, with no resources or ability to seek assistance. Workers who are trafficked into sexual exploitation and prostitution have a high prevalence rate of HIV and other STDs.



HIV/AIDS and Human Trafficking in Kenya

According to the IPAR study, an estimated 1.8 million children are orphans in Kenya, about 90,000 of whose parents died of HIV/AIDS. These children must fend for themselves and are easy prey for traffickers. A majority of the study respondents believed that HIV/AIDS, which leads to orphanhood and poverty, plays a substantial and increasing role in TIP in Kenya. The large population of street children in Kenya is also at risk of joining the ranks of trafficking victims. Their precarious situation leaves them vulnerable to HIV/AIDS.

TIP also violates children's right to grow up in a protective family environment and to be free from sexual abuse and exploitation. Victims of trafficking for sexual exploitation face physical and emotional damage from forced sexual activity, forced substance abuse, exposure to STDs including HIV/AIDS, and other health-related problems. In-depth interviews with 25 girls aged 9-16 years who were domestic workers in Nairobi revealed that 18 were HIV positive. Most of the 18 girls had worked in several homes and reported being sexually abused in all or most of them (www.humanrights.net/reports/af.html). Some victims also had permanent damage to their reproductive organs.

Victims forced into prostitution who have contracted HIV/AIDS or another STD find reintegration into their home areas difficult, if not impossible. The counterpart to this finding is that stigma and discrimination may force HIV positive persons to migrate.

Gender-Based Violence and Human Trafficking

Some commentators see human trafficking as a form of gender-based violence, because most trafficking victims are women and young girls. Gender-based violence, whether in the home or at the workplace, increases women's and young girls' vulnerability to exploitation. Many women and girls flee violence at home without any financial support, shelter, or other protections. Desperate to get by, they are easy targets for traffickers and unscrupulous employers.

Violence is also used as a way to control women and young girls and to force them into exploitative situations such as prostitution or involuntary servitude as domestic workers. It is often used to traffic women and keep them in exploitative situations.

Caroline's Story: Gender-Based Abuse and TIP in Kenya



I am 18 years old. Both of my parents died in a road accident along Nakuru-Kericho highway in 2001 when I was in class 8. My paternal uncle took me with him to Mombasa, promising to follow up with the insurance about my parents' compensation and use it to take me to school. Immediately when we came, my aunt sent away her house help and demanded that I help in doing the household chores. I did as much as I could but she could not be satisfied. She would quarrel with me every day and would at times refuse me food, even after I had prepared it. One day, she picked a quarrel with me and hit me with a cooking stick. Not knowing what to do, I ran to a neighbor's house for help. The neighbor, who was a single lady, welcomed me and after a few days, she told me to accompany her to the Serena beach so that I could also fend for myself. It is at the beach where I met the person who took me to Canada.

Source: *The Kenya IPAR study, based on interviews with Caroline.*

Trade Unions' Role in Combating Human Trafficking

“Where labor standards are rigorously adhered to, workers are well unionized and labor laws are monitored and enforced - for all workers, indigenous or migrant -- the demand for trafficked people and services is likely to be low.”

International Labor Organization

Trade unions have an important role to play in combating trafficking in persons. As human trafficking encompasses so many underlying labor issues, trade unions, as grassroots worker organizations, are uniquely situated to address many root causes and factors that make workers vulnerable to trafficking. Trade unions, through their membership, can reach into communities and target entire families. Moreover, trade unions' advocacy role with governments enables them to influence anti-trafficking policies. Trade unions also have experience in negotiating and developing relationships with employers.

Trade union initiatives to combat trafficking may take many forms. Here are a few examples:

- **Awareness Raising:** Using their grassroots networks and ties to workers in workplaces, unions raise awareness about the danger signs of trafficking, how to migrate safely, what to do in case you are a victim, and other important information. Unions also help workers, local and migrant, understand their rights.

- **Labor Inspection:** Unions work with law enforcement, including Department (or Ministry) of Labor inspectors, to ensure that workplaces and labor recruiting agencies are monitored and inspected.

- **Labor Standards and Protections:** Trade unions work around the world to ensure that labor laws and regulations cover all workers, regardless of immigration status, nationality, gender, or other characteristics. Trade unions also work to ensure that all international labor standards apply equally to all workers, that all countries incorporate these standards into their laws and policies, and that international trade agreements and global economic policies include ILO core labor standards.

- **Legal Aid and Victim Protection:** Unions provide legal aid and other victim protection services to exploited and trafficked workers to help them get back pay, avoid deportation, and access government and non-governmental services.

- **Organizing:** Trade unions around the world, in both sending and destination countries, are working to help migrant workers organize themselves into unions or associations such as the Indonesian Migrant Worker

Union in Hong Kong. Migrant workers are much less likely to be exploited or trafficked if they are allowed the freedom of association and the right to organize.

- **Safe Migration:** Trade unions have been successful in working with governments, civil society, and even recruiting agencies to develop legal frameworks (laws and regulations) and policies aimed at ensuring that migrant workers can migrate safely, thus rendering them less vulnerable to trafficking. Trade unions also conduct pre-departure training for migrant workers so that they know their rights before they leave home.

- **Sectoral Unions:** Unions often use their unique presence in economic sectors to combat trafficking. For example, transportation unions (of truckers, taxi drivers, and other transport workers) serve as watchdogs along transit routes. Hotel union workers watch for sexual exploitation in tourist areas. Teachers' unions have developed curricula and programs to increase children's awareness about the danger signs of trafficking and how to migrate safely.

Below are examples of best practices from around the world:

- **AFL-CIO Advocacy:** Trade unions advocate nationally and internationally for the rights of migrant workers. By protecting migrant worker rights, trade unions help to reduce the vulnerability of migrant workers to trafficking. Restrictive immigration laws are a factor in increasing the vulnerability of migrant workers to trafficking. The U.S. government continues to debate immigration law reform, and many proposed policies deny migrant workers basic worker rights. The AFL-CIO is leading the United States labor movement's effort to ensure that immigration law reform makes protecting workers a main priority. The AFL-CIO has also developed a partnership with the National Day Laborer Organizing Network to further protect the rights of documented and undocumented migrant workers in the United States.

- **FLOC and Safe Migration:** The Farm Labor Organizing Committee (FLOC), AFL-CIO, which organizes and supports migrant workers in the U.S. agricultural industry, is another good example of the advancement of worker rights through organizing and collective bargaining for migrant workers. In 2004, FLOC helped Mexican migrant farm workers win a historic first union contract covering more than 1,000 farms throughout North Carolina. The groundbreaking contract between FLOC and the North Carolina Growers Association gave 8,500 seasonal workers from Mexico a voice on the job. The contract — the first ever signed by farmers in the notoriously anti-union state of North Carolina — also allows FLOC to recruit and hire the Mexican workers,

ensuring their safety and their legal ability to work in the United States. In less than four years, conditions for FLOC workers have changed dramatically. Wages are higher, and housing conditions are much better. Most important, the migrant farm workers have a direct voice in their conditions through a national labor union and an effective process for resolving grievances and problems.

- **ILO and ITUC Global Programs:** International labor organizations, such as the ILO and the International Trade Union Confederation (ITUC), are taking measures to address the problem of trafficking in persons for labor exploitation. The ILO has initiated a Special Action Program to Combat Forced Labor, whose mandate includes anti-trafficking initiatives. The ITUC is also implementing a Special Action Program. It is working with unions in both labor sending and receiving countries to develop bilateral agreements aimed at protecting migrant workers and reducing their vulnerability to trafficking. It also works with these unions to develop migrant centers that provide information to migrant workers to prevent exploitation and trafficking and offer support to abused workers.

- **IMWU and the Right to Organize:** Freedom of association and the right to organize are key protections for migrant workers. When migrant workers have the right to form or join a trade union, they receive better wages and protections in the workplace. Indonesian migrant domestic workers in Hong Kong came together and formed the Indonesian Migrant Workers' Union

(IMWU), now an affiliate of the Hong Kong Confederation of Trade Unions. Even though domestic workers are spread out in mostly private households throughout Hong Kong, the IMWU has organized more than 2,500 women members. The IMWU has also been able to influence government policy to the benefit of its members. With the right to organize, domestic workers in Hong Kong are better off than their counterparts in Singapore or Saudi Arabia, who are denied this right, and wages and working conditions for migrant domestic workers in Hong Kong are generally better than those of domestic workers in other countries.

- **MTUC and Migrant Worker Support Services:** Unions in labor receiving countries understand that the global economy is not structured to benefit workers and that without union solidarity, workers suffer. Unions also understand that by organizing migrant workers and ensuring that migrant workers benefit from the protection of labor standards and worker rights, wages and working conditions improve, benefiting all workers. The Malaysian Trade Union Congress (MTUC) has become a leading voice in the campaign to gain rights for migrant workers in Malaysia. As Malaysia is among the destination countries with the highest numbers of migrant workers, the recent MTUC initiative to protect migrant workers is significant. In addition to signing a cooperation agreement with the Indonesian Trade Union Confederation, the MTUC is organizing migrant workers, raising awareness through the media about migrant rights, and providing legal aid and support to migrant workers with employers and in court.

The Kenyan Labor Movement's Role in Combating Human Trafficking

The Central Organization of Trade Unions–Kenya (COTU) is leading the labor movement's growing involvement in combating human trafficking. COTU has organized seminars to educate members on TIP and to persuade migrants to join COTU-affiliated unions. In addition, COTU has lobbied the government to reform immigration and employment regulations, enact laws aimed at protecting and assisting workers and victims, and develop effective legislation to punish traffickers.

Unfortunately, in the past, low levels of coordination and networking among stakeholders hampered the fight against TIP. Until recently, COTU and other trade unions did not collaborate with other civil society actors on addressing the problem. COTU, however, has made efforts to collaborate regionally in East Africa with both trade union and NGO counter-trafficking activists. It is also cooperating more directly with the Kenyan government and other civil society actors to coordinate efforts and share information.

Three Kenyan sectoral unions have also begun to address the problem of human trafficking. KUDHEIHA, the Kenya Plantation and Agricultural Workers Union (KPAWU), and the Tailors and Textile Workers Union have all conducted counter-trafficking awareness-raising activities. KUDHEIHA will soon implement a counter-trafficking project with faith-based organizations in the tourist area of Mombasa. KPAWU has developed several initiatives to address the issue of child labor and child trafficking on Kenyan plantations.

Lower-level trade union activists (such as union organizers) tend to have more knowledge about TIP issues than union leaders. To ensure an effective role for trade unions in combating human trafficking in Kenya, union leaders need to be educated and lobbied to induce more union activism.

Conclusion

Human trafficking is one of the worst forms of labor exploitation. Whether someone is trafficked for sexual exploitation in prostitution, forced labor as a domestic worker, or bonded labor in construction work, most likely that person began as a worker who left home to find a job. For this reason, trafficking in persons is often linked to exploitation in the context of

labor. Any effective response to trafficking in persons must recognize this particular vulnerability of migrant workers to exploitation and trafficking. Given the labor movement's understanding of worker rights and leadership in protecting all workers, trade unions and other labor support organizations are uniquely positioned to play a role in combating modern slavery.

Notes

¹ Given the nature of human trafficking, exact numbers and statistics on trafficked persons are difficult to calculate. Although the Solidarity Center cannot confirm the ILO numbers, we believe that as an organization dedicated to worker rights, its estimate is reasonable.

² U.S. Department of State, Trafficking in Persons Report, June 2006, available at <http://www.state.gov/g/tip/rls/tiprpt/2006/>.

³ The term "migrant worker" is an internationally accepted term to describe any person who travels from one area to another in search of work. In the United States, the term "migrant worker" often connotes a seasonal worker, or someone who migrates back and forth for short periods of time or to do seasonal work (such as harvesting agricultural products) for a few months at a time. The term "immigrant worker" is used more often in the U.S. to describe a person who migrates for work. In keeping with international standards, however, this report uses the term "migrant worker" in its broader, internationally accepted sense.

⁴ Parts of this section of the report are taken from materials developed by the Solidarity Center and the International Catholic Migration Commission (ICMC) through their joint counter-trafficking program in Indonesia.

⁵ Chuang, Janie, "Beyond a Snapshot: Preventing Human Trafficking in the Global Economy," *Indiana Journal of Global Legal Studies* (2006), Vol. 13, No. 1.

⁶ *Id.*

⁷ *Id.*

⁸ See <http://www.floc.com/>.



SOLIDARITY CENTER
888 16th Street NW, Suite 400
Washington, DC 20006
www.solidaritycenter.org