



IMMIGRATION AND HUMAN TRAFFICKING: TIPS FOR ATTORNEYS AND ADVOCATES



Special Considerations When Assisting Foreign National Victims of Trafficking:

- Foreign nationals without citizenship, legal permanent residence, or other stable immigration status can be particularly vulnerable to human trafficking. Traffickers often recruit victims abroad with promises of employment or other opportunities in the United States, or they may target and exploit vulnerable migrants already in this country.
- Traffickers often confiscate victims' identity and travel documents, and—in addition to other forms of force, fraud, and coercion—may threaten victims with deportation and/or harm to family in their home country if they try to leave or report the trafficking situation.
- Human trafficking is distinct from smuggling (which involves aiding a person crossing an international border in violation of the law); however, smuggling can turn into human trafficking if the person is later subject to force, fraud, or coercion to make them work or engage in commercial sex.
- Trafficking survivors without stable immigration status may not be aware of protections available under U.S. law and/or be fearful of contacting law enforcement agencies. Vulnerable migrants may also face language barriers when reaching out for help and lack knowledge of social and legal service providers in their area.
- When working with foreign nationals that may be trafficking survivors, be sure to do a holistic needs assessment that looks at safety, basic needs (including shelter, clothing, and food), medical care, and legal services.

Protections and Benefits Available to Immigrant Survivors:

The Trafficking Victims Protection Act (TVPA) created specific protections for foreign national survivors, including:

- **T Non-Immigrant Status (T Visa)** - Legal status available to victims of severe forms of trafficking who: 1) are physically present in the United States on account of the trafficking; 2) comply with reasonable requests for assistance by law enforcement during investigation or prosecution (with exceptions for minors and victims unable to cooperate due to psychological or physical trauma), and 3) would suffer extreme hardship upon removal. If granted, the survivor may live and work in the United States for four years, access government benefits (including cash assistance, food stamps, job training, and health care), and apply for permanent residency, among other benefits.
- **Continued Presence (CP)** - A temporary status that may be requested by law enforcement for trafficking survivors that are potential witnesses to prosecutions in the United States. While CP provides temporary work authorization, it does not provide an option for permanent residency and usually ends when the criminal case is over.

Certain foreign national survivors may also be eligible for **U Non-Immigrant Status (U Visa)**, which is available to victims of certain crimes (including trafficking) who have suffered substantial mental or physical abuse as a result of the crime and agree to cooperate with law enforcement.

If you are assisting a foreign national survivor of human trafficking, please consult with an expert immigration legal service provider prior to applying for any visa—**recent changes to the adjudication process can place survivor at risk of deportation if a visa application is denied!** Resources in Maryland include the Tahirih Justice Center (www.tahirih.org) and the Multi-Ethnic Domestic Violence Project at the Women's Law Center of Maryland (www.wlcmd.org).

This tipsheet was created as part of the Human Trafficking Prevention Project (HTPP), a collaboration between the University of Baltimore School of Law and Maryland Volunteer Lawyers Service. For more information about the HTPP, please contact:

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