

PART I

Work Visa Loopholes for Traffickers

Theoretically, no government actually encourages traffickers to traffic; yet those in need of inexpensive labor often create work visas that do just that. Among them are the United States, Japan, and the United Arab Emirates (UAE).

The U.S. State Department publishes the globally acknowledged annual Trafficking in Persons Report, and as a result some experts regard the United States as a front-runner in the crusade against human trafficking. Yet the country's failure to monitor and enforce its H-2 guestworker visa program has created ample opportunities for traffickers to exploit and enslave legal migrants. Thus in the aftermath of the 2005 natural disasters Hurricanes Katrina and Rita, high demand for cheap labor to rebuild New Orleans resulted in rampant labor exploitation and human trafficking. Legal migrant workers in the Gulf Coast region were forced to live and work in labor camps surrounded by armed guards, and some had to cook with contaminated water and kill and cook pigeons to survive.

Unlike the United States, Japan has not enacted a comprehensive anti-trafficking law. Although the government took a strong step forward in its 2009 Action Plan to Combat Trafficking in Persons by acknowledging that sex trafficking is not the only form of human trafficking, forced-labor victims continue to be marginalized. As a result of ethnocentric policies, the government prohibits foreign unskilled laborers from working in Japan. But the disparity between the nation's immigration posture and its labor needs has created a quandary. With a demand for inexpensive labor but without an adequate low-wage labor force, Japan uses the government-run Industrial Training Program

and Technical Internship Program to create a temporary and low-cost migrant workforce for employers. The stated purpose of the program is to transfer skill, technology, and knowledge to persons of other nations and thereby play a central role in the economic growth of developing nations, specifically those in East Asia. Instead, it has created opportunities for exploitation and human trafficking.

In the UAE, the astonishingly rapid rate of urban development has come at a cost. Migrant workers make up more than 90 percent of the UAE's private-sector workforce. Although workers are promised high-paying jobs, upon arrival in the UAE many earn less than half of what they were promised or are not paid at all. Furthermore, the recruitment of foreign workers involves a system of brokers and agents who charge workers a continual flow of exorbitant fees that they simply cannot pay back, placing them in positions of debt servitude. Although it is illegal for employers in the UAE to withhold worker passports, the common method used by an employer to trigger the deportation of a worker is to turn in the worker's passport to the Ministry of Interior. Thus the law and common practice regarding legal migrant workers contradict each other.

In the United States, Japan, and the UAE, foreign workers' dependence on legal employment is tied to one employer, creating the opportunity for unfair treatment, abuse, and human trafficking. Unscrupulous employers take advantage of the system by withholding worker passports, charging outrageous fees that place workers in positions of debt bondage, forcing laborers to work excessive hours, restricting their movements, and paying them little or not at all. Victims often face the threat of deportation, the threat of bodily harm to themselves or family members, and psychological, physical, and/or sexual abuse at the hands of their employers or the employers' agents.

CHAPTER 1

United States

No one is raiding a factory looking for trafficking victims;
they are looking for illegal immigrants.

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The United States, through the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) and other statutes, prohibits all forms of human trafficking as well as many of the activities that surround it, such as confiscating or withholding a person's documents or committing fraud in forced-labor contracting. Those convicted of labor trafficking face imprisonment ranging from 5 to 20 years for involuntary servitude, forced labor, peonage, and domestic servitude. In aggravated circumstances offenders face up to life imprisonment. Sex-trafficking offenders face up to life imprisonment with a mandatory minimum sentence of 10 years for the sex trafficking of minors and a minimum sentence of 15 years for trafficking a minor under the age of fourteen through force, fraud, or coercion (U.S. Department of State, 2000, 2011). Although U.S. anti-trafficking laws are adequately stringent, the nation's visa programs reflect conflicts between its anti-trafficking and immigration agendas (discussed later). The H-1B temporary visa program is designed to attract foreign workers in specialized fields such as technology, engineering, and medicine; the H-2A visa program allows for the temporary hire of nonimmigrant foreign workers to perform agricultural labor; and the H-2B visa program allows for the hire of temporary nonimmigrant workers to perform nonagricultural labor on a onetime, seasonal, peak-load, or intermittent basis (U.S. Department of Labor, 2012a, 2012b, 2012c). The government, however, does not adequately monitor its visa