



## Migration and Refugee Service

### Office of Migration Policy and Public Affairs

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## Reforming Foreign Labor Recruitment: Eliminating Exploitation

**Background:** Internationally recruited workers come to the United States to work in the high and low wage sectors of the US economy. Foreign labor recruiters are increasingly relied upon to facilitate the migration of laborers from their respective home countries to their destination country. They normally operate in the workers' home country and interface with individuals who desire to work in the US and other labor destination countries. While many foreign labor recruiters behave ethically and are engaged in lawful conduct, a growing percentage are often complicit with, or directly involved in, trafficking of workers. Unscrupulous recruiters exploit temporary workers from US visa programs including H2A, H2B, H1, and J1 programs and also can engage in illicit recruitment fee extortion of irregular migrants as well. International labor recruiters have been known to charge workers high fees for the opportunity to work in the US or other destination countries. The debt that workers take on to secure employment and to travel to the US sometimes places workers in situations where they are vulnerable to human trafficking and other forms of exploitation such as wage and hour theft and inhumane living conditions.

The prevalence of known human trafficking cases involving foreign labor recruiters has increased within the US in recent years. For example, in 2008 approximately 500 workers from India were trafficked to the US through the federal government's H-2B guestworker program to work in shipyards after Hurricane Katrina. These workers were subjected to squalid living conditions, fraudulent payment practices, and threats of serious harm upon their arrival. Recruiting agents hired by the marine industry company Signal International held the guestworkers' passports and visas and coerced workers into paying extraordinary fees for recruitment, immigration processing, and travel. The cases against Signal International are currently ongoing in US federal courts.<sup>1</sup>

In a recent study of H-2 workers, Centro de los Derechos del Migrante, Inc. (CDM) found that 58% of workers reported paying recruitment fees to come to the United States to work, and 47% of them took out loans to cover recruitment expenses.<sup>2</sup> The US government has also recognized this as an issue of concern, addressing it in its 2013 Trafficking in Persons Report<sup>3</sup> and also making changes in visas created for trafficking victims. In early 2015, the Wage and Hour

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<sup>1</sup> See *David, et al. v. Signal International, LLC, et al.* Press Release available at <http://www.eeoc.gov/eeoc/newsroom/release/4-20-11a.cfm>

<sup>2</sup> The American Dream Up for Sale: A Blueprint for Ending International Labor Recruitment Abuse, The International Labor Recruitment Working Group, February 2013, <http://www.cdmigrante.org/wp-content/uploads/2013/02/Final-E-version-ILRWG-report2.pdf>.

<sup>3</sup> See 2013 Trafficking in Persons Report, US Department of State at 20 (2013) available at <http://www.state.gov/j/tip/rls/tiprpt/2013/>

Division (WHD) of the Department of Labor will begin exercising its authority to certify applications for trafficking victims seeking T-visas. In addition, WHD will expand its existing U-visa program by certifying such requests when it detects one of three additional qualifying criminal activities in the course of its workplace investigations: extortion, forced labor, and fraud in foreign labor contracting. These efforts should help qualifying victims of these crimes receive immigration relief from the Department of Homeland Security and access the range of victim services that they need to recover and rebuild their lives.

**The Catholic Church's Crusade to Eliminate Trafficking and Exploitation** The right to work is an extremely important value reflected in Catholic social teaching and Scripture. The Catholic faith views work and meaningful employment as more than merely a way to make a living; it is instead a form of continuing participation in God's creation. Accordingly, the Church's social teachings state that if the dignity of work is to be protected, then the basic rights of workers must be respected--the right to productive work, to decent and fair wages, to the organization and joining of unions, to private property, and to economic initiative. This respect for the dignity of work and the right to work in safe and dignified conditions finds inspiration both in the Bible and in Papal teaching. For example, Deuteronomy states that "the Lord blesses our work so that we may share its fruits with others." (14: 28-29) In his encyclical *Centesimus Annus*, St. John Paul the Great declared that "the obligation to earn one's bread by the sweat of one's brow also presumes the right to do so. A society in which this right is systematically denied, in which economic policies do not allow workers to reach satisfactory levels of employment, cannot be justified from an ethical point of view, nor can that society attain social peace." (#43) Earlier in his pontificate he emphasized the central role that work plays in advancing "the cultural and moral level of the society within which he lives in community with those who belong to the same family."<sup>4</sup> Human trafficking undermines the value of work by making the person trafficked a commodity rather than an actor laboring for the benefit of himself, his family, and his community.

Through our extensive programs throughout the world, the Catholic Church recognizes and serves large numbers of temporary workers globally who migrate legally to work in the United States as well as those who arrive to work through irregular migration. The Church aims to protect those workers who labor in the US from unscrupulous recruiters and exploitative fees and to help create conditions where the dignity of work can be respected and honored.

**USCCB Advocacy to End Foreign Labor Recruitment Abuse and Exploitation** USCCB, through its Migration and Refugee Services (MRS) Anti-Trafficking and Policy offices attempt to address foreign labor recruitment abuse through grass-roots advocacy and outreach and legislative advocacy. MRS Anti-Trafficking has created a cutting-edge program to educate immigrant leaders in the fight against human trafficking within communities that are frequently vulnerable to trafficking and exploitation: the [Amistad program](#). This initiative aims to engage recent immigrant communities who are vulnerable to trafficking, exploitation, and slavery within agricultural, domestic, hospitality, and service work. Many members of these communities also have experienced foreign labor recruitment fraud, exploitation, and abuse. In

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<sup>4</sup> Saint John Paul the Great, *Laborem Exercens*, See [http://www.vatican.va/holy\\_father/john\\_paul\\_ii/encyclicals/documents/hf\\_jp-ii\\_enc\\_14091981\\_laborem-exercens\\_en.html](http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_14091981_laborem-exercens_en.html)

its administration of the Amistad program, the Anti-Trafficking Program staff trains leaders in immigrant communities to conduct outreach and educate their peers on human trafficking and connect them to local coalitions and other resources. Thus far, West African, Haitian, and Central American communities have been engaged. Recently, USCCB Anti-Trafficking program staff also worked with agricultural workers from a number of parishes in Central California.

In its legislative advocacy, MRS Policy supported anti-labor trafficking and foreign labor recruitment provisions in the Senate comprehensive immigration reform bill, S.744, which passed the US Senate in June 2013. MRS Policy also engaged in advocacy efforts to support a corresponding bill in the House of Representatives, HR 3344, the FORTE Act (Fraudulent Overseas Recruitment and Trafficking Elimination), sponsored by Representative Ed Royce (R-CA) and Representative Karen Bass (D-CA) during 2014. HR 3344 aimed to prohibit foreign labor recruiters from charging overseas workers large recruitment or job fees to apply for legal jobs within the United States. Going forward, MRS Policy will continue to advocate for greater protection of both high and low wage workers as well as irregular migrants and for reforms to the current foreign labor recruitment system and an end to labor trafficking and exploitation along the labor continuum.

### **Best Principles for Reform to Foreign Labor Recruitment**

- Require increased transparency by and registration of foreign labor contractors/recruiters in order to prevent exorbitant fees that result in situations of debt bondage or create vulnerability to other forms of modern-day slavery.
- Businesses and workers need to be provided with helpful tools to facilitate the identification and utilization of legitimate foreign labor recruiters.
- Federal government actors should make better efforts to leave open lines of communication with NGOs and faith-based organizations, recognizing their role as natural first responders and trend indicators.
- Foreign labor contractors or recruiters would be required to disclose to the worker full and complete information about the terms and conditions of work in the United States. No foreign labor contractor should knowingly provide false or misleading information to workers.
- No foreign labor contractor could charge a worker any fee related to recruiting activities
- Foreign labor contractors would be subject to administrative, civil and criminal penalties for violations of this provision. Administrative remedies assist in covering the costs of the program.

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