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HUMAN TRAFFICKING CLINIC
UNIVERSITY OF MICHIGAN

Human Trafficking: Identification and Advocacy

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What does the Clinic do?

Represent approximately 60 clients, regardless of:

- Type of victimization
- Gender
- Age
- Nationality

Provide Comprehensive Legal Services:

- Immigration
- Family
- Public Benefits
- Post Adjudication Criminal Relief
- Tax
- Identity Protection

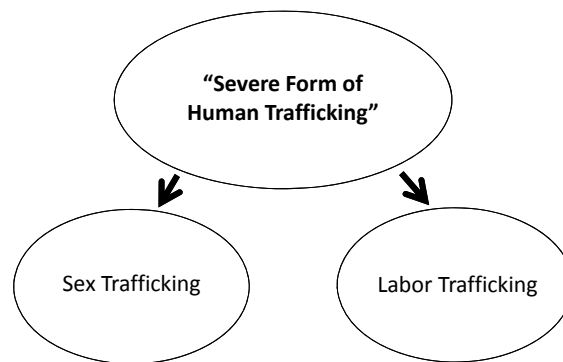


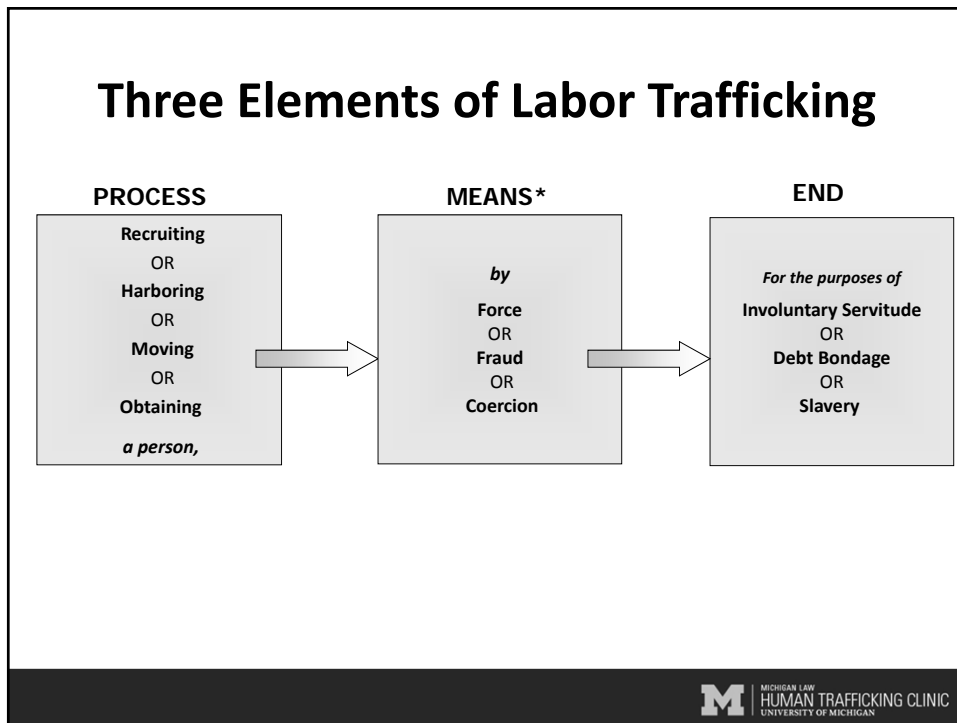
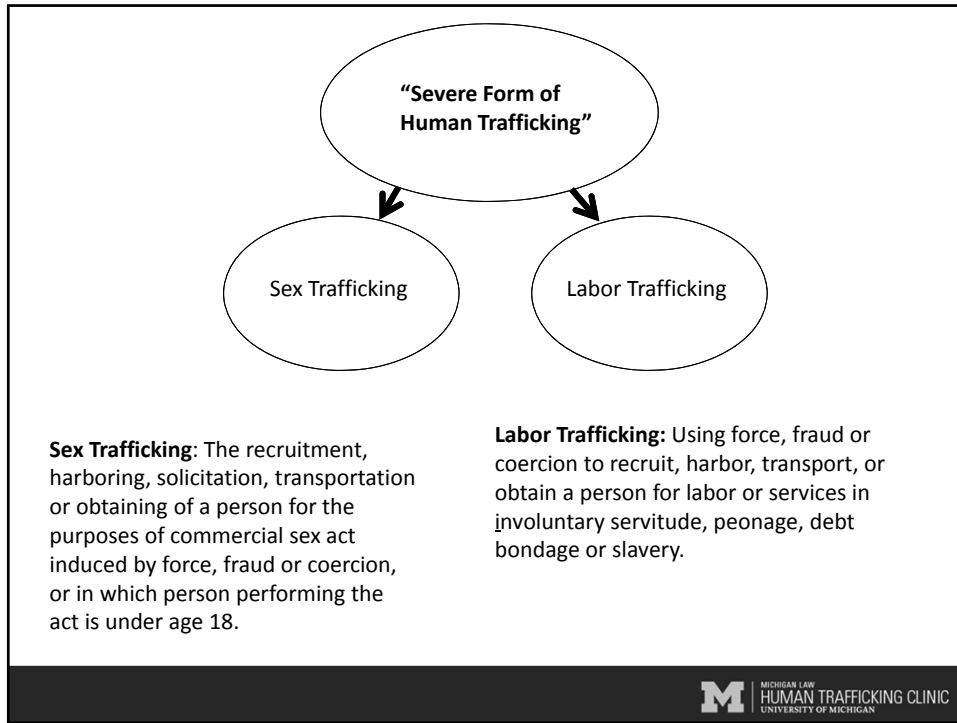
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What is Human Trafficking?

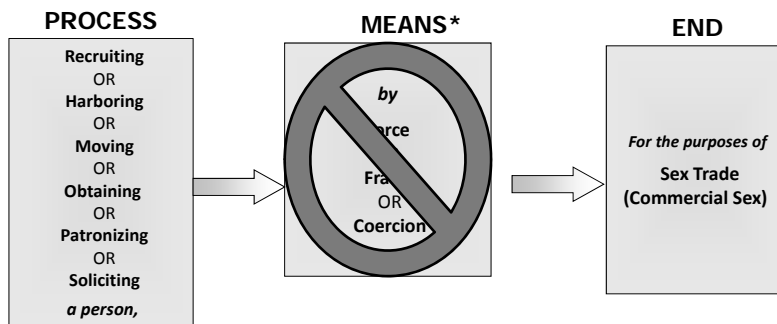
What is Human Trafficking?

22 USC § 7102





Three Elements of Sex Trafficking



*No force, fraud, or coercion required when a child is induced to perform a commercial sex act.

Trafficking vs. Smuggling?

- Trafficking is exploitation-based.
- Smuggling is transportation-based.

Depending on when one decides to categorize the offense being committed, situations can evolve from smuggling to trafficking, or, seemingly, from trafficking to smuggling.

HUMAN TRAFFICKING OCCURS REGARDLESS OF BORDERS!

Myths: Is it still human trafficking?

- *What if the victim isn't physically hurt?*

Force, fraud, and coercion don't have to be physical at all. Psychological coercion is enough.

Force or Fraud or Coercion

- Force – common definition: physical violence, sexual violence, physical confinement, starvation
- Fraud – common definition: any offer or commitment that is not fulfilled.
- Coercion – threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm, or the abuse or threatened abuse of the legal process

Myths: Is it still human trafficking?

- *What if the victim took the job voluntarily?*

Many victims of trafficking take a job or consent to be smuggled only to later discover the true nature and conditions of the work.

- *What if the victim has performed an illegal act?*

Initial consent to engage in an illegal act does not mean they are free to be exploited. They are still protected by the law.

Myths: Is it still human trafficking?

- *What if the victim can leave?*

Just because the victim can leave doesn't mean the victim is staying by choice. A lapse of freedom doesn't mean trafficking never happened.

- *What if the victim doesn't identify their experience as trafficking?*

Many victims do not recognize that what is happening is exploitation - whether due to trauma, mental illness, intellectual disabilities, personal conviction, or other reasons.

Assessing for Human Trafficking

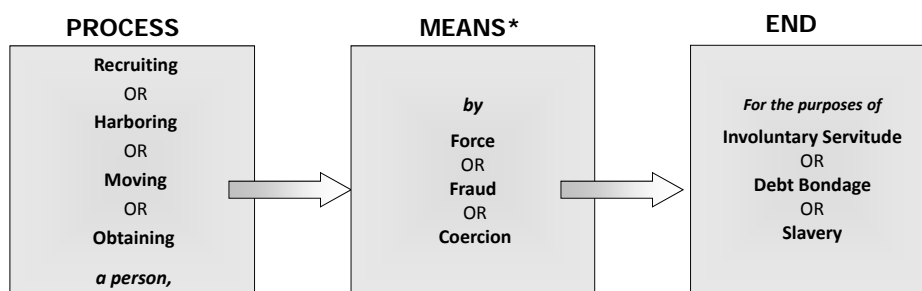
Jose

- Jose and other undocumented, foreign nationals working on a Michigan farm
- They live on the farm in a home with no running water
- They are exposed to pesticides without proper precautions
- Paid minimum wage, but only about half the time

Jose: Is it HT?

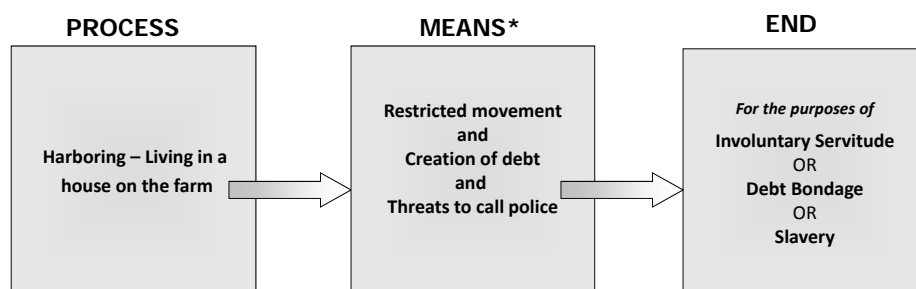
- He was not allowed to have visitors or ever leave the farm, except to buy groceries.
- Subsistence rate of pay workers were forced to borrow money from the owners for food, clothing, and other items.
- Whenever Jose questioned the pay, the owners threatened to call immigration.

Three Elements of Trafficking



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Jose: Is it HT?



*No force, fraud, or coercion required when a child is induced to perform a commercial sex act.

Involuntary Servitude

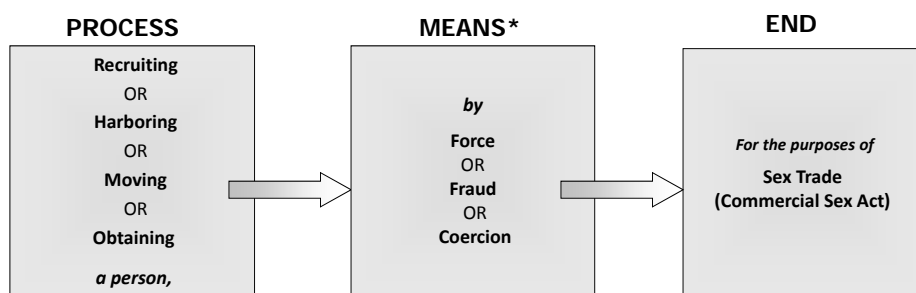
Servitude induced by means of –

- Any scheme, plan, or pattern intended to cause a person to believe, that if they did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
- The abuse or threatened abuse of the legal process.

Maria

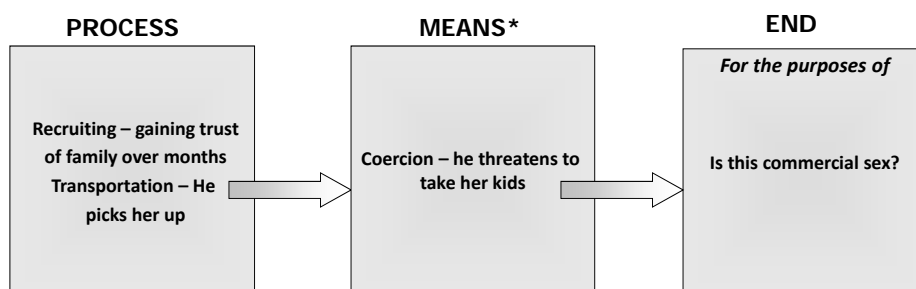
- Mother and wife living in Jackson is befriended by a neighbor
- Neighbor gains the trust of the family
- Eventually neighbor tells Maria she needs to have sex on tape or he will have her children removed by the state
- Maria never sees any money exchanged
- Neighbor will usually pick up Maria and take her to his home

Three Elements of Sex Trafficking



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Maria: Is it HT?



*No force, fraud, or coercion required when a child is induced to perform a commercial sex act.

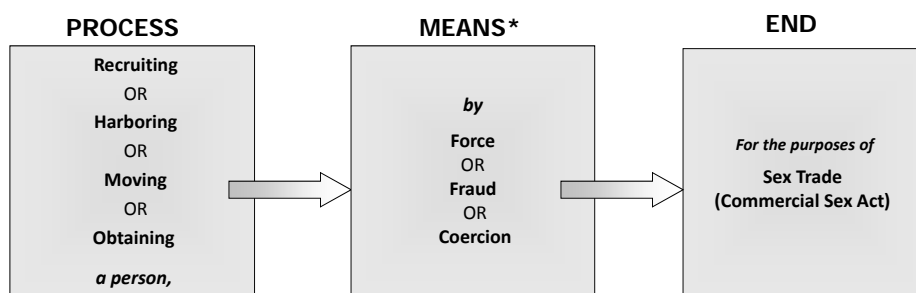
Commercial Sex

- Any sex act on account of which anything of value is given to or received by any person.
- So, was Maria engaged in commercial sex?
- Servitude induced by means of the abuse or threatened abuse of the legal process.

Tina

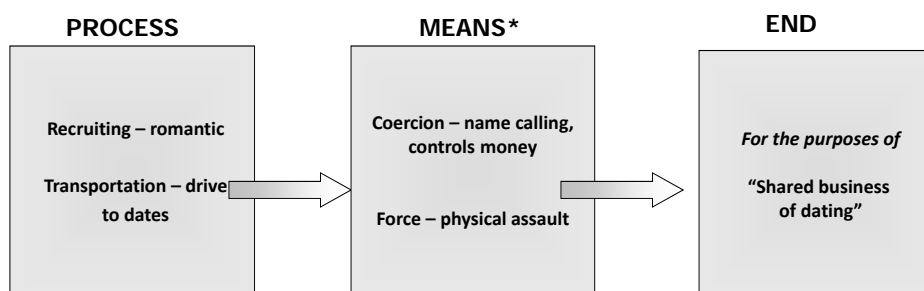
- 19 year old US citizen, single mother meets Ed
- Ed proposes a “business arrangement” with Tina – he will post on websites, drive her to dates, and she will engage in commercial sex, she is to earn 40%
- They begin a romantic relationship and Ed tells her that soon she can stop and they will start a business
- Ed keeps all of the money and Tina must ask for permission to access money
- Ed hits Tina and insults if she argues with him
- They have a child in common
- Tina is arrested and charged with prostitution

Three Elements of Trafficking



*No force, fraud, or coercion required when a child is induced to perform a commercial sex act.

Tina: Is it HT?



*No force, fraud, or coercion required when a child is induced to perform a commercial sex act.

Intersections with Sexual Assault

- By definition victims of sex trafficking are victims of sexual assault because they are induced into a sexual act without their consent.
- Sexual assault is a common forceful and coercive tactic used by traffickers in both sex and labor trafficking to control victims.

BOTH ARE RELATIONAL CRIMES!

Intersections with Domestic Violence

HUMAN TRAFFICKING

The recruitment, harboring, transportation, provision or obtaining of a person for labor or services or a commercial sex act by **force, fraud or coercion**

COMPARED TO:

DOMESTIC VIOLENCE

A pattern of **coercive, controlling behavior** against a current or former intimate partner that can include **physical, sexual, emotional, psychological or financial abuse.**

Domestic Violence and human trafficking can co-exist. Intimate partners using violence and coercion both to control and to exploit.

Push-Pull Relationship: Individuals escaping domestic violence are vulnerable to trafficking, and vice versa.

BOTH ARE RELATIONAL CRIMES!

Assessing for Human Trafficking

- Ensure basic needs are met.
- Remove any third parties.
- Get a translator if needed
- Do you have access to your identification and/or travel documents?
- Does it seem to you that the individual was coached/stating a rehearsed response?

Assessing for Human Trafficking

- How much do you see or talk to family/friends?
- Do you move frequently? Why?
- What is your address? Can you tell me a few major intersections close by?
- Does the victim have few or no personal belongings?
- Can the victim socialize or attend religious services?
- Has the individual lost his/her sense of time?

Assessing for Human Trafficking

- Does the individual avoid eye contact and exhibit a flat affect?
- Can you leave where you live/work? Why not?
- Has anyone ever told you they would call immigration/police on them?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Does the individual have control of their documents?

BE AWARE that members of a household, other than children, may be victims – parents, nanny.

Legal Remedies for Victims of Human Trafficking

Federal Law: Immigration Benefits

- Continued Presence – short term, temporary status in the U.S. that includes work authorization. Only requires that law enforcement believe a person is a victim, does not require any evidence.
- Trafficking Visa – four year visa for victims of human trafficking. After three years eligible for green card and allows reunification with certain family members

Federal Law: Public Benefits for Foreign Nationals

An adult victim of human trafficking that has continued presence or a T Visa, and any minor victim of human trafficking is eligible for:

- Food stamps
- Cash assistance
- English as a Second Language
- Case management through network of federal contractors
- Federal financial aid

Federal Law: Public Benefits for U.S. Citizens

Let's discuss...

Michigan Law on Minors

- A combination of criminal and child protection laws
- Individuals under 16 years of age cannot be arrested for prostitution and rather are referred to CPS
- Individuals that are 16 and 17 years of age are presumed to be victims and therefore goes into the care of CPS. A prosecutor can overcome the presumption and charge a 16 or 17 year old with prostitution.
- A 16 or 17 year old “who fails to substantially comply with court-ordered services” is not eligible for the presumption

Michigan Law: Set Aside

- Can remove from record any prostitution offense that occurred as a result of human trafficking
- No waiting period
- Does not matter how many other convictions you have

Victims Rights

If a victim is involved in a criminal prosecution:

- Right to protection
- Right to reasonable disclosures about proceedings and involved parties
- Right to be heard at plea, discharge, release or parole hearing.
- Right to be present at all proceedings where the defendant is present
- Right to confer with prosecution
- Right to privacy and respectful treatment
- Right to restitution (specifically for human trafficking)
- Michigan Crime Victim Compensation Fund

HOWEVER, THERE IS LIMITED ENFORCEMENT.

Human Trafficking in the U.S. & Michigan

Scope: What you will see and hear

- 27 million - Number of people in **modern-day slavery** across the world (Free the Slaves, 2010)
- 21 million - Number of adults and children in **forced labor** around the world (ILO, 2012)
- 2.4 million victims worldwide (UNODC, 2012; taken from ILO)
- 79% of reported cases are sex trafficking (UN, 2010)
- 1:9 - Ratio of sex trafficking victims to labor trafficking victims, globally (ILO & U.S. Dept. State, 2010)

Industries

Sex Trafficking

- *Massage Parlors*
- *Brothels
(commercial & residential)*
- *Strip Clubs*
- *Escort Services*

Labor Trafficking

- *Domestic Servitude
(nannies or maids)*
- *Sweatshop Factories*
- *Janitorial Jobs*
- *Construction Sites*
- *Beauty Industry*
- *Farm Work*
- *Restaurants*
- *Panhandling*

Scope: What we really know

“Due to the underground nature of trafficking, the number of victims is unknown.”
National Institute of Justice

Hotline tips of U.S. cases:

- 2009 – 975 cases indicated
- 2010 – 1053 cases indicated
- 2011 – 2165 cases indicated
- 2012 – 3279 cases indicated
- 2013 – 4884 cases indicated
- 2014 – 5042 cases indicated
- 2015 – 5544 cases indicated

Hotline tips of MI cases:

- 2009 – 14 cases indicated
- 2010 – 26 cases indicated
- 2011 – 37 cases indicated
- 2012 – 69 cases indicated
- 2013 – 118 cases indicated
- 2014 – 131 cases indicated
- 2015 – 152 cases indicated

HTC Clients (approximations)

- 115 clients served since 2009 (cases are open for years)
- 80% female vs. 20% male
- 70% adult vs. 30% minor
- 55% labor vs. 45% sex (skewed)
- 68% foreign national vs. 32% U.S. Citizen (skewed)
- 36% have experienced domestic violence
- 14% have experienced stalking
- 57% have experienced sexual assault

Known cases in:

- Adrian
- Ann Arbor
- Battle Creek
- Bloomfield Hills
- Chelsea
- Dearborn
- Detroit
- Dexter
- Eastpointe
- Flint
- Grand Rapids
- Howell
- Jackson
- Lansing
- Romeo/New Baltimore
- Romulus
- Saginaw
- Southfield
- Ypsilanti
- And every other state in the U.S.



What can you do to help?

If you think you have come in contact with a victim of human trafficking, contact the

Trafficking Resource Center and Referral Hotline:

CALL: 1.888.3737.888

TEXT: 233733

The hotline will help you determine if the person is a victim and identify local resources to help. They also have a robust set of outreach and training materials at <http://www.traffickingresourcecenter.org/>

US Government Website: www.acf.hhs.gov/trafficking



Bibliography:

Trafficking Victims Protection Act

Immigration Relief Legal Assistance for Noncitizen Crime Victims. E.A. Campbell, R. G. Settlege and V. T. Thronson, co-authors. American Bar Association, 2014.

Human Trafficking Law and Policy. Bridgette Carr et al. LexisNexis, 2014.

The National Human Trafficking Resource Center, www.traffickingresourcecenter.org

