Trafficker Profile According to US Federal Prosecutions

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In June 2021, the Human Trafficking Institute (HTI) completed its review of every federal human trafficking prosecution in the United States since Congress enacted the *Trafficking Victims Protection Act* (TVPA) in 2000. Data collected through this exhaustive analysis of court documents, press releases, and news articles provide insight into who is implicated in trafficking crimes, how they are connected to their victims, and at what point they become traffickers.[1] This article focuses on the latest information from 2020, bolstering more limited datasets with twenty-year trends.

Who Are Human Traffickers?

A universal human trafficker profile does not exist. Under both international and United States (US) law, traffickers can be corporations or other legal entities, or they can be private persons.[2] Even when looking exclusively at US federal prosecutions—a relatively small subset of all human trafficking data—it is clear that private individuals who traffic can be of various ages, genders, nationalities, and races; members of criminal networks or lone actors.

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[1] K Feehs and A Currier Wheeler, *2020 Federal Human Trafficking Report*, Human Trafficking Institute, June 2021, retrieved 15 July 2021, https://www.traffickinginstitute.org/2020-federal-human-trafficking-report.

[2] UN General Assembly, *United Nations Convention Against Transnational Organized Crime*, 15 November 2000, Article 10(1); 18 U.S.C. § 1591 (e)(6).

Corporate Traffickers

The TVPA authorises prosecutors to charge both individuals and entities as traffickers.[3] However, since 2000, prosecutors have charged only nine entities—less than one per cent of all defendants. In contrast, every year, plaintiffs sue hundreds of corporations, hotels, websites, farms, and other entities for sex trafficking and forced labour, which indicates some entities are, indeed, engaged in these forms of exploitation.

Demographics

The vast majority of defendants in federal human trafficking prosecutions in the United States are natural persons. The average defendant in 2020 was a 36-year-old man. In fact, 81 per cent of all defendants in human trafficking cases in 2020 were men, including 82 per cent of defendants in sex trafficking cases. Women are much more likely to be defendants in forced labour cases, comprising 43 per cent in 2020. The US data on defendants' gender track with global trends insofar as governments everywhere prosecute more men than women. In 2018, men made up 63 per cent of trafficking offenders prosecuted worldwide.[4]

US federal data on defendants' nationality and race are extremely limited due to how demographic information is categorised and reported in public records. With these limitations in mind, the data indicate that, since 2000, at least 55 per cent of all defendants in federal human trafficking cases have been US citizens or lawful permanent residents, and at least 15 per cent have been foreign nationals.[5] Moreover, public sources related to these prosecutions, constrained as they are by few and ambiguous categories,[6] have identified defendants of all races and ethnicities.

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[3]   18 U.S.C. §§ 1589, 1591.

[4]   K Kangaspunta *et al.*, *Global Report on Trafficking in Persons 2020*, United Nations Office on Drugs and Crime, 2021, p. 37, https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf.

[5]   The remaining 30 per cent of defendants' nationality is unknown.

[6]   The Federal Bureau of Prisons classifies all inmates' race as either Asian, Black, Native American, or White, and all inmates' ethnicity as either Hispanic or Non-Hispanic. See https://www.bop.gov/about/statistics/statistics_inmate_race.jsp.

Criminal Networks

Finally, despite popular perceptions of large-scale human trafficking rings,[7] only about five per cent of prosecuted human trafficking cases in 2020 involved exploitation directed by gangs or organised crime groups. Instead, most cases involve individual traffickers acting as 'pimps', operating without direction from or connection to a larger criminal network, some even exploiting victims within their own families.

How Are Traffickers Connected with Their Victims?

Before a person becomes a trafficker, they often have a pre-existing relationship with the victim, including as an employer, partner, friend, or someone else the victim trusts. In sex trafficking cases in 2020, at least 43 per cent of defendants knew one or more of their victims prior to trafficking them. Of these defendants, 31 per cent knew at least one victim as a social media contact, 21 per cent as a spouse or intimate partner, 13 per cent as a migrant smuggler, 10 per cent as a friend or classmate, and seven per cent as a drug dealer.

Turning to 2020 labour trafficking cases, at least 57 per cent of defendants knew one or more of their victims prior to trafficking them. Co-defendants in one case (representing thirty-five per cent of these defendants) were religious leaders to their victims. Additionally, 16 per cent of defendants in forced labour cases were smugglers to their victims; 14 per cent were extended family, including partners of parents or guardians; and 11 per cent were friends or classmates.

Less commonly, defendants in human trafficking cases were, *inter alia*, victims' fellow gang members, parents or legal guardians, mutual friends, or landlords.

When Does Someone Become a Trafficker?

It can be difficult to discern at what point a person transitions from a social media contact, smuggler, or friend to trafficker. This difficulty is due, in part, to the fact that the nature of coercion a trafficker uses to compel a victim to perform labour or commercial sex acts is highly personalised. Accordingly, the legal determination differs based on the type of human trafficking and unique fact patterns underlying each prosecution.

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[7] A Rajan, *et al.*, *Countering QAnon*, Polaris, February 2021, p. 3, retrieved 15 July 2021, https://polarisproject.org/wp-content/uploads/2021/02/Polaris-Report-Countering-QAnon.pdf.

Sex Traffickers of Children

For perpetrators of commercial sexual exploitation of children (CSEC), the threshold for criminal prosecution hinges on whether a defendant knew, recklessly disregarded, or had reasonable opportunity to observe that the victim who engaged in a commercial sex act was under the age of 18.[8] In 2020, 55 per cent of defendants in sex trafficking cases were charged in prosecutions involving exclusively child victims, and victim age was the sole grounds for 53 per cent of sex trafficking charges filed. In the United States, both sellers and buyers of CSEC can be criminally culpable for sex trafficking.[9] Accordingly, most of these defendants became traffickers either by facilitating CSEC or being a buyer of commercial sex who engaged or attempted to engage in CSEC.

Sex Traffickers of Adults and Labour Traffickers

In the context of trafficking in persons for the commercial sexual exploitation of adults or labour trafficking of victims of any age, coercion is key. The point at which a person becomes a trafficker under US federal law is when they use coercive tactics sufficient to compel a person to engage in labour or commercial sex. In 2020 human trafficking prosecutions, this usually meant defendants began withholding pay from or physically abusing their victims. Indeed, defendants withheld pay to control their victims in 75 per cent of sex trafficking cases and 74 per cent of forced labour cases. Similarly, defendants employed physical abuse in 59 per cent of sex trafficking cases and 65 per cent of labour trafficking cases. Another common method of coercion were threats of physical abuse, used by defendants in 44 per cent of sex trafficking cases and 61 per cent of labour trafficking cases.

Between the commercial sexual exploitation and labour trafficking contexts, there are some notable differences in the coercive tactics used against victims. In 2020, defendants induced or exploited a victim's substance dependency in 48 per cent of sex trafficking cases, compared to just 10 per cent of forced labour cases. Conversely, defendants in labour trafficking cases threatened victims with deportation in 29 per cent of cases, withheld victims' immigration documents in 41 per cent of cases, and took advantage of victims' language barriers in 16 per cent of cases. By comparison, defendants utilised each of these methods of coercion in just two per cent of sex trafficking cases.

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[8]   18 U.S.C. § 1591(a)(2), (c).

[9]   In 2015, the US Congress added the terms 'patronizes' and 'solicits' as prohibited acts under 18 U.S.C. § 1591(a)(1) with the express intent of providing criminal liability for human trafficking for buyers of commercial sex with adults who have been trafficked by force, fraud, or coercion, or with children. The text of the amendment is available at https://www.congress.gov/bill/114th-congress/senate-bill/178.

Traffickers Who Are Victims

In some circumstances, individuals engaged in trafficking conduct may also be victims themselves, or might have been trafficked in the past. The federal case data on this phenomenon is extremely limited.[10]

Since 2000, at least two per cent of defendants in sex trafficking cases were adults (all women) who provided commercial sex while assisting their employer or 'pimp' in facilitating commercial sex transactions between buyers and human trafficking victims. Such an arrangement between a pimp and a so-called 'bottom girl' indicates those two per cent of defendants may have been victims either prior to or during their alleged trafficking offenses.

Conclusion

This brief exploration of the data pertaining to defendants in federal human trafficking cases gives a glimpse into a world that is usually hidden. The data reveal how entities and individuals of various backgrounds employ coercion to exploit victims, turning from trusted employers, social media contacts, and friends to traffickers. Collecting this and other detailed defendant data enables HTI to share in-depth analysis of fact patterns and trends to inform and enhance the anti-trafficking response of justice sector professionals and victim service providers. Further analysis of defendant demographics as they correlate with conviction and sentencing trends will provide even more meaningful insights.

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10   HTI collects data on whether sex trafficking defendants were sex workers because of the known phenomenon of victims becoming exploiters in this particular context. There is not a parallel data point for HTI to track in labour trafficking cases.