



**The perfectly  
imperfect victim:**  
the undocumented migrant



# The perfectly imperfect victim: the undocumented migrant

Why should the United States put more effort into protecting undocumented Latina immigrants who are survivors of human trafficking?

By Xochitl Fuentes

## Introduction

Under international law, human trafficking is defined as “the recruitment, transport, transfer, harboring, or receipt of a person by such means as threat or use of force or other forms of coercion, abduction, fraud, or deception for the purpose of exploitation.”<sup>1</sup> Unfortunately, human trafficking has become a dire transnational issue in North America. According to the 2022 Global Report on Trafficking in Persons, there were about 2.7 victims of trafficking per 100,000 people in North America compared to the global average of one.<sup>2</sup> In the same report, data shows that adult women victims represent 61% of the total victims of all types of trafficking in North America and 69% of sex trafficking victims. In North America, sex trafficking is the most common form of exploitation: 73% of all trafficking victims are victims of sex trafficking. It is important to note that due to statistics referring only to cisgender women, this paper will be using the term “Latina” to represent women from Latin America. However, this is not to undermine the abuse that non-binary, gender non-conforming, and transgender Latin@s experience.

The United States has become a popular destination country for human trafficking.<sup>3</sup> According to the U.S. Department of State, about 15,000-50,000 people are trafficked to the U.S. every year.<sup>4</sup> Immigration scholars believe the U.S. has become an attractive hub for traffickers because of strict immigration control leading migrants to seek entry through a smuggler. This drives demand for smugglers, which traffickers then take advantage of. It is important to note that while smugglers are in the business of transporting people, it is considered trafficking only when consent

1 <https://www.unodc.org/unodc/en/human-trafficking/faqs.html>

2 [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf)

3 <https://www.dhs.gov/hsi/investigate/human-trafficking#:~:text=According%20to%20the%20U.S.%20Department,of%20sexual%20and%20labor%20exploitation.>

4 <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/60964/2017-Dirks.pdf?sequence=1&isAllowed=y>



is not given and exploitation occurs.<sup>5</sup> For example, when migrants are forced to take illicit and dangerous routes, they are taking a risk by entrusting the smuggler to take them to their new destination. The situation can become exploitative if the smuggler coerces the migrant to work for them to pay off the transportation. However, not all survivors of trafficking are transported into the country. A spokesperson from The U.S. National Human Trafficking Hotline notes that in most cases, individuals come to the U.S. legally, but are victimized by human traffickers by being promised jobs that are deceptive or being sold by a person who promised marriage.<sup>6</sup> These survivors are then coerced to remain in the situation, leading them to overstay their visa.

## Literature review

### Theories of human trafficking

There are two theories that explain best why human trafficking occurs. In Bronfenbrenner's Ecological Theory, individuals who have marginalized identities have a higher risk of being trafficked.<sup>7</sup> For example, those who experience poverty would be considered an at-risk population due to their vulnerability. In Conflict Theory, human trafficking thrives when there is a presence of social inequality and power imbalance.<sup>8</sup> Inequality can also be present between countries: a developing country providing the supply of victims to a more developed country, which has the financial means to fuel a demand.<sup>9</sup>

On the other hand, there are theories that explain the survivor side of human trafficking. In Labeling Theory, victims start to view themselves as a criminal. Because these survivors do not fit the "forced" or "kidnapped" narrative, they do not believe they deserve services that can help their situation.<sup>10</sup> These individuals do not depict themselves as the "perfect victim," which then makes it difficult to correctly identify them and give them the proper services needed. Additionally, when society also sets exclusionary standards of the "perfect victim," it may result in criminalization of the victim rather than the trafficker.<sup>11</sup> Maslow's Hierarchy of Needs states that victims who lack basic living essentials are more likely

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- 5 [https://www.hrw.org/news/2015/07/07/smuggling-and-trafficking-human-beings?gad\\_source=1&gclid=CjwKCAjw4\\_K0BhBsEiwAfVVZ\\_4-0tgOI\\_RXOS-p4pNLYchsvt-UDmH2sVuLxHcR5Jb495ka2\\_mYYSRoCDcgQAvD\\_BwE](https://www.hrw.org/news/2015/07/07/smuggling-and-trafficking-human-beings?gad_source=1&gclid=CjwKCAjw4_K0BhBsEiwAfVVZ_4-0tgOI_RXOS-p4pNLYchsvt-UDmH2sVuLxHcR5Jb495ka2_mYYSRoCDcgQAvD_BwE)
  - 6 <https://polarisproject.org/blog/2021/05/trafficking-vs-smuggling-understanding-the-difference/>
  - 7 Bronfenbrenner, U. (1994). Ecological models of human development. *International Encyclopedia of Education*, Vol. 3, 2nd. Ed. Oxford: Elsevier.
  - 8 Rössel, J. (2013). Conflict theory. Oxford Bibliographies in Sociology.
  - 9 <https://ohiostate.pressbooks.pub/humantrafficking/chapter/chapter-3-theories-and-human-trafficking/#:~:text=In%20this%20section%2C%20the%20authors%20discuss%20a%20range,theory%2C%20labeling%20theory%20and%20Maslow%E2%80%99s%20hierarchy%20of%20needs>
  - 10 Brunovskis, A., & Surtees, R. (2012). *Leaving the past behind? When victims of trafficking decline assistance: Summary report*. Fafo AIS (OSLO) & Nexus Institute.
  - 11 Dempsey, M. M. (2015). Decriminalizing victims of sex trafficking. *American Criminal Law Review*, 52(2), 207-230.



to be pulled by traffickers. This is because traffickers are able to manipulate victims by offering them what they need to survive, which also makes it difficult for them to leave.<sup>12</sup> This theory highlights the importance of addressing basic needs such as housing and financial security in order to give survivors safety from their traffickers.

### Human trafficking in the undocumented Latina community

Undocumented immigrants are one of the many vulnerable groups susceptible to human trafficking. For an undocumented Latina immigrant, several vulnerabilities exacerbate the risk of being trafficked. One of the vulnerabilities that puts this particular population at risk is a language barrier. For an immigrant who does not speak English as their first language, reporting abuses and seeking protection becomes extremely difficult, thus making them an easy target for trafficking.<sup>13</sup> Another vulnerability is the unstable immigration status. Traffickers will use the “bait and switch” method, a coercive tactic used to trap victims.<sup>14</sup> An example of this method is if a migrant used the services of a trafficker with the false promise of safe migration, they could become a victim of debt bondage, leaving them to have no other choice but to do sex work for them. With no legal documents, being in economic desperation, and the threat of deportation, women have a difficult time leaving the situation. The usage of debt bondage for sex trafficking is increasing due to the rise of women and children migrating on their own from Latin America.<sup>15</sup>

Aside from the various identities that undocumented female migrants hold, Latinas have an added factor that puts them at risk for human trafficking. With the U.S.'s increasingly xenophobic immigration laws, Latin@ hate has been rising, creating harmful impacts on immigrant survivors.<sup>16</sup> The reality for them is to choose between staying in their current abusive situation or risk being deported. Anti-immigration laws instill fear of law enforcement and justice systems in immigrant survivors, making their undocumented status a tool for abuse.

The intersection of vulnerabilities – non-English speaking, undocumented status, female gender, and Latin American origin – creates conditions conducive to sex trafficking. This system is driven by multiple factors: U.S. economic opportunities, socioeconomic inequalities in Latin America, restricted legal

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12 Hopper, E. (2016). Trauma-informed psychological assessment of human trafficking survivors. *Women & Therapy*, 40(1-2), 12-30

13 <https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/60964/2017-Dirks.pdf?sequence=1&isAllowed=y>

14 King, G. (2004). *Woman, child for sale: The new slave trade in the 21st century*. New York: Chamberlain Brothers

15 <https://heinonline.org/HOL/LandingPage?handle=hein.journals/jihr4&div=21&id=&page=>

16 [https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1976&context=fac\\_articles](https://repository.law.miami.edu/cgi/viewcontent.cgi?article=1976&context=fac_articles)





migration options, intensified border control, increasing reliance on smugglers, and economic interdependence between the two regions. In their research on trafficking, Ribando states: “It is estimated that within the Western Hemisphere, Latin America, specifically Mexico, is the primary source for women trafficked into the United States.”<sup>17</sup> For these reasons, the undocumented migrant from Latin America makes the “perfect victim,” here the perfect target for traffickers.

## Policy

In 1994, Congress passed the Violence Against Women Act (VAWA). VAWA is the first federal legislation package designed to end the violence against women.<sup>18</sup> In 2000, the Trafficking Victims Protection Act (TVPA) was passed, then became the first federal law to address the trafficking of persons.<sup>19</sup> As part of the TVPA, the T nonimmigrant statute, also known as a T visa, was introduced as a relief program that grants survivor of human trafficking a path toward lawful permanent residency.<sup>20</sup> To be eligible to apply, a person must be a victim of a severe form of human trafficking, be physically present in the U.S., cooperate with law enforcement agencies for investigative purposes, and have evidence that they would “suffer extreme hardship involving unusual and severe harm” if they were removed from the U.S.<sup>21</sup>

The T visa program has been one of the more effective tools in combating human trafficking in the U.S. When approved, survivors receive several protections, such as a four-year renewable residence and eligibility to work legally. Additionally, the T visa program has helped law enforcement prosecute traffickers by having survivors provide information for the investigation. However, not all survivors of human trafficking receive a T visa due to its complex nature and process.

One of the limitations of the T visa is the long processing time. According to the U.S. Citizenship and Immigration Services (USCIS), the current processing time for a T visa application is between 17.5 to 36.5 months.<sup>22</sup> While waiting for their applications to get

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17 Ribando, C. M. (2008). Trafficking in persons in Latin America and the Caribbean. In D. V. Stickle (Ed.), *Women's issues: Economic, societal, and personal*. Hauppauge: Nova Science.

18 <https://www.legalmomentum.org/history-vawa>

19 <https://humantraffickinghotline.org/en/human-trafficking/federal-law#:~:text=The%20Trafficking%20Victims%20Protection%20Act,prevention%2C%20protection%2C%20and%20prosecution.>

20 <https://www.aila.org/blog/t-nonimmigrant-visas-an-opportunity-to-provide-a-path-forward#:~:text=T%2Dvisa%20processing%20times%20are,the%20administrative%20burden%20upon%20a%20applicants>

21 <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-t-nonimmigrant-status>

22 [https://www.uscis.gov/sites/default/files/document/questions-and-answers/National\\_Human\\_Trafficking\\_Prevention\\_Month\\_Webinar-Q%26A.pdf](https://www.uscis.gov/sites/default/files/document/questions-and-answers/National_Human_Trafficking_Prevention_Month_Webinar-Q%26A.pdf)



approved, survivors are not authorized to work.<sup>23</sup> This economic vulnerability and financial desperation can place survivors in a situation where they can be easily abused, exploited, or forced to stay with their trafficker. In a qualitative research study, Her Justice found that without Employment Authorization Documents (EAD), 100% of the women interviewed did not feel financially stable or have enough income to meet their basic needs and 81% stayed with their exploiters because they lacked safe, alternative housing.<sup>24</sup> However, with EAD, average weekly income rose from \$260 to \$590 (a \$330 or 127% increase) for the women interviewed in 2018 and 2019. For the women interviewed in 2022, average weekly income rose from \$230 to \$390 (a \$160 or 70% increase). Overall, 82% felt financially stable with EAD, which highlights how important employment authorization is to keep human trafficking survivors safe. Additionally, the International Organization of Migration reports that trafficking victims are highly likely to be re-trafficked, especially women and children, within two years or less of exiting their original trafficking situation, due to a lack of economic stability.<sup>25</sup>

Another limitation of the T visa is the approval rate. Since the program was implemented, only 5,000 T visas are available each year. In fiscal year 2018, a total of 1,613 applications were received, but only 576 were approved.<sup>26</sup> This means that just 35.7% of applications in 2018 were approved. In 2023, a total of 8,598 applications were received, but only 2,181 were approved. Since the program's installment, it has never reached its cap of 5,000 and has not been adapted to meet the needs of the growing number of trafficking victims.<sup>27</sup> Additionally, presidential administrations' immigration policies can affect T visa approval rates. T visa denials increased from 2017 to 2020, reaching their peak in 2020 when the U.S. government rejected 778 out of 1,110 applications.<sup>28</sup> During that period, President Trump's anti-immigrant rhetoric and policies affected how law enforcement agencies and the justice system treated immigrants, resulting in survivors being denied the help and resources they needed. On April 30, 2024, the U.S. Department of Homeland Security and USCIS passed a Final Rule on the T visa statute, taking effect on August 28, 2024.<sup>29</sup> While the Final Rule clarified the eligibility and application requirements for the T visa, no changes were made to the application process.

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23 <https://www.wgbh.org/news/local/2022-10-24/for-labor-trafficked-immigrants-t-visas-are-a-life-saving-but-flawed-relief>

24 <https://herjustice.org/wp-content/uploads/2024/04/Her-Justice-Policy-Report-Impact-of-Work-Authorization.pdf>

25 [https://publications.iom.int/system/files/pdf/causes\\_of\\_retrafficking.pdf](https://publications.iom.int/system/files/pdf/causes_of_retrafficking.pdf)

26 [https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic\\_id%5B%5D=33694&ddt\\_mon=&ddt\\_yr=&query=&items\\_per\\_page=10](https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic_id%5B%5D=33694&ddt_mon=&ddt_yr=&query=&items_per_page=10)

27 <https://www.aila.org/blog/t-nonimmigrant-visas-an-opportunity-to-provide-a-path-forward#:~:text=T%2Dvisa%20processing%20times%20are,the%20administrative%20burden%20upon%20applicants>

28 [https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic\\_id%5B%5D=33694&ddt\\_mon=&ddt\\_yr=&query=&items\\_per\\_page=10](https://www.uscis.gov/tools/reports-and-studies/immigration-and-citizenship-data?topic_id%5B%5D=33694&ddt_mon=&ddt_yr=&query=&items_per_page=10)

29 <https://leitf.org/2024/06/leitf-explainer-t-visas-final-rule/#:~:text=On%20April%2030%2C%202024%2C%20the,requirements%20of%20T%20visa%20applications>



## Methodology

The data collection method used for this qualitative research was semi-structured interviews conducted over Zoom. The interviews consisted of three questions, and lasted between thirty to forty minutes. The following questions were asked to each interviewee:

1. In your current role, what have been some barriers and challenges with advancing justice for immigrant survivors of trafficking?
2. How do we fix the problems mentioned in the previous question?
3. What are your recommended changes to ensure that immigrant survivors of trafficking have access to justice, safety, and opportunity?

The interviewees consisted of two attorneys, a policy specialist, a victims' advocate, and a VAWA declaration writer. These individuals work directly with survivors and have a deep understanding of their needs, their challenges, and the realities they face. The interviews gave a deeper insight into the gaps and shortcomings of the T visa process and how policy can further support immigrant survivors of human trafficking.

## Stories from advocates of human trafficking

When asked, the interviewees stated that there are several barriers and challenges to advancing justice for immigrant survivors of trafficking. One of the barriers mentioned was how difficult it is to extend protections to survivors who are immigrants because they are not viewed as the "perfect victims." While trafficking movements might have success, it clashes with immigration initiatives. For example, the policy specialist said, "Trafficking focuses on incarceration and criminalization. Immigrants are most likely to get caught up in those things, leading to survivors getting arrested. This becomes an issue of forced criminality." Once a victim is detained and in the process of getting deported, protections become even more limited. One of the attorneys interviewed said that it is difficult to advocate for survivors who have been detained. In their interview, they said, "Most of the time, they [survivors] don't even know that they were victims when they are detained. Until they have access, they won't even know what trafficking is, and by that time, they have had to navigate through the immigration system, ICE [U.S. Immigration and Customs Enforcement], and border control." Another barrier mentioned during the interview is the waiting time for the T visa process. One of the attorneys interviewed said, "Clients want to move on with their lives but are stuck with the process." The victims' advocate said that the waiting period can lead to survivors feeling retraumatized due to the lack of resources, especially mental





health services. USCIS does offer bona fide determination for the T visa, however, there has been a backlog for survivors getting their employment authorization, federal benefits, and protections from removal.

The interviewees had several recommendations on how to minimize challenges and barriers. One of the solutions mentioned during the interviews was securing funding. Nonprofit organizations that offer services for immigrant survivors need to have their grants protected and allocated toward legal support and benefits. With the right amount of funding, these nonprofit organizations can extend support to communities that are harder to reach. Another recommendation was to increase immigrant survivors' trust in law enforcement. The victims' advocate offered their insight by saying, "We need to educate them (survivors) on their rights and protections. They need help understanding that law enforcement is here to help and not just deport, so we also need to teach them how to talk to law enforcement agencies through workshops." This is indicative of how immigrant survivors are still fearful of calling the police, even if they are in an exploitative and abusive situation. On the other end, there were recommendations for law enforcement to have mandatory training sessions so they can better assist immigrant survivors and provide adequate resources. The victims' advocate shared their experience: "I took a client to make a (trafficking) statement to law enforcement, but the officer had no idea what to do and didn't know what a mandated reporter was." In the U.S., police officers are legally obligated to report suspected instances of neglect and abuse, including human trafficking.<sup>30</sup> There also needs to be mandatory training for border patrol agents. One of the attorneys said:

"There needs to be a similar intake for victims of trafficking as there is for those seeking asylum. Border patrol agents need to learn how to ask the right questions because victims of trafficking do not know they are victims. There needs to be questions that prompt them (survivors) to see if they might be a victim. Training for border patrol agents who work at the checkpoints, those who have the first initial contact with the victim before they get detained, can prevent that. They also need to better utilize victim specialists that work at the border."

When asked what advocates can do for immigrant survivors of trafficking to have access to justice, safety, and opportunity, the interviewees offered several suggestions. One of the attorneys said, "Once victims of trafficking are identified, we need to keep them safe. Without housing or the proper resources, they become vulnerable to get trafficked again." Similarly, the VAWA declaration writer said, "The migration system is not set up to help victims apply [for the T visa]. This is why it is important to increase support for nonprofits that can provide legal assistance." On top of securing

30 <https://mandatedreporter.com/blog/what-does-a-mandated-reporter-have-to-report/#:~:text=Mandated%20reporters%2C%20such%20as%20teachers,of%20suspected%20abuse%20and%20neglect>





funding for organizations and nonprofits, they suggested that services for the clients need to be longer for them not to fall through the cracks. On the policy side, the policy specialist has been working on the Continued Presence Improvement Act of 2024. With Continued Presence, immigrant survivors can apply for Supplemental Nutrition Assistance Program (SNAP) and housing services and temporarily work and live in the U.S. while waiting for their T visa application to be approved. The policy specialist emphasized the importance of the act:

“Not only will this protect immigrant survivors from removal, but it will also put them in a safer position to live in the US and work safely, preventing them from being trafficked again. Continued Presence offers stability to lessen the vulnerability of being trafficked again.”

## Call to action

### Recommendation #1: Continued Presence Improvement Act

Continued Presence grants noncitizens identified by law enforcement as victims of a “severe form of trafficking in persons” temporary protections from removal and work authorization while waiting for their T visa. However, Department of Justice data from the last decade indicates that fewer than 300 people were granted Continued Presence statuses every year. In 2020, only 117 individuals were granted Continued Presence, marking an all-time low.<sup>31</sup> With the Continued Presence Improvement Act of 2024, state and local law enforcement will be able to request Continued Presence. Additionally, individuals with it would be able to renew their status every two years until their visa application is adjudicated. With this act, immigrant survivors of trafficking would obtain stability in a timely manner and be less vulnerable to re-trafficking. For the Continued Presence Improvement Act to be approved, people need to contact their legislators for endorsements.

### Recommendation #2: Supporting organizations and nonprofits

Organizations and nonprofits that provide services to survivors need financial support. With the proper funding, entities aiding survivors in applying for the T visa can also provide access to financial services, mental health support, temporary housing, and legal assistance. Securing funding for these services and programs will provide more survivors with a safety net and reduce the risk of them being trafficked again. Organizations that support trafficking survivors receive their funding from the Office of Justice Programs, which is then allocated towards services such as legal access and housing assistance grants.<sup>32</sup>

31 [https://tracfed.syr.edu/tracker/dynadata/2023\\_05/R47404.pdf](https://tracfed.syr.edu/tracker/dynadata/2023_05/R47404.pdf)

32 <https://ovc.ojp.gov/pogram/human-trafficking/grants-funding>



Along with financial support, organizations that are leading survivor-centered outreach programs need allies. Getting people invested, such as legislative offices and different agencies in the government, will bridge the gap between policy work and community/survivor-led efforts.

Many survivors, specifically those who are foreign nationals or undocumented, may not be aware that they were victims of human trafficking, know of the existence of the T visa program, or of the available resources. With the support of allies and advocates, outreach programs can spread awareness to help survivors gain knowledge on their rights and protections, and then obtain the proper support for their T visa application.

### **Recommendation #3: Trafficking training**

Law enforcement agencies, border patrol agents, and ICE need extensive training on human trafficking. For border patrol agents and ICE, they need to be able to identify human trafficking victims to prevent survivors from being detained. Law enforcement agencies need education on how to better assist undocumented survivors, such as trauma-informed training and knowing how to provide resources for those survivors.

Advocates should conduct the trauma-informed and culturally responsive training, building trust between law enforcement and immigrant communities. To ensure that the training is effective, there should be intensive monitoring of the officers.

## **Conclusion**

Sex trafficking is a gendered issue that becomes even more perilous when additional layers of vulnerability – such as language barriers, lack of legal status, and economic disadvantage – are present. These factors not only exacerbate the risks but also disproportionately impact marginalized individuals and communities. On a societal level, undocumented immigrants are not viewed as the “perfect victim” because of their illegal status. Because of this reality, when anti-trafficking movements clash with U.S. immigrant initiatives, it is difficult for a policy such as the T visa to reach its full potential. This tension also makes it difficult for advocates to advance justice for immigrant survivors of human trafficking. However, this dynamic is exactly what puts undocumented immigrants from Latin America at risk because traffickers seek victims who have minimal protection.

While the T visa program is a critical tool in addressing human trafficking in the U.S., several gaps need to be filled to provide survivors protection from further abuse and exploitation. The first step is to design and instill extensive training for law enforcement, ICE, and border patrol agents to be able to identify possible survivors of human trafficking and provide them with the proper



resources. Once survivors are identified, the next step is to keep them safe from being trafficked again. By financially supporting organizations and nonprofits, we can ensure that more survivors receive the adequate services they need to apply for the T visa and have resources while they wait for the process. On the policy side, the Continued Presence Improvement Act needs to be passed. With Continued Presence, survivors will be able to legally reside and work in the U.S. while waiting for their T visa approval, further protecting them from revictimization. Through these recommendations, the U.S. can fulfill its mission in the fight to end human trafficking.