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Office on Trafficking in Persons



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INTRODUCTION

Every country is affected by extreme weather and the subsequent risk of trafficking. As natural disasters throughout the world increase in severity and number, understanding the nexus between trafficking and natural disasters has become more imperative than ever. Destruction of homes and communities following a disaster can increase an individual's risk of trafficking as locals and residents are displaced and as reconstruction efforts lure at-risk populations to assist in the recovery effort. Understanding the push and pull factors of trafficking after a disaster is useful in helping governments mitigate the trafficking risk of local residents and responding labor forces. Efforts to prevent trafficking in disaster areas requires the collaboration of governments, private businesses, and social service providers by implementing laws, guidelines, and policies to assist in the recognition of trafficking after a crisis and how to respond effectively.

Organization of This Report

This report is organized to include:

- An introduction to trafficking and natural disasters
- A discussion on the nexus of trafficking and natural disasters
- An examination of the effect of Hurricane Katrina on trafficking in the region
- A summary of existing federal laws and regulations
- Recommendations for factsheets
- A conclusion

Summary of Literature Review Approach

This literature review includes research on trafficking, natural disasters, and trafficking following Hurricane Katrina. Searches included journal articles, laws and regulations, and news articles.

Searches included the following key terms:

- Natural disasters and trafficking
- Hurricane Katrina and trafficking
- Trafficking risk factors
- Labor needs and natural disasters

Research and information was used to address the following key questions:

1. What are the skills needed (in addition to construction and welding) during the recovery and rebuilding phases after a disaster? For example, what skills were needed after Katrina?
2. In the trafficking cases identified in relation to Katrina, what were the source countries and what visas did the trafficked individuals use? How did language impact their work environment?
3. What are the federal regulations on contractor/subcontractor oversight for government procurement that we can apply to training and technical assistance (T/TA) targeting disaster response procurement personnel?
4. Does the Federal Emergency Management Agency (FEMA) currently provide training on trafficking to personnel? Which ones? Is training on trafficking mandated for FEMA contractors/subcontractors?
5. What information would need to be included in a resource on disaster response trafficking risk management for labor trafficking (businesses/private sector as primary audience)?



6. What would a resource to support a trafficking risk assessment for communities post disaster need to include?
7. What are the model guidelines to prevent/identify trafficking in supply chains or other procurement of goods and services, including contract compliance plans and certification models?
8. Is there a public database of H-2B visa applicants?

TRAFFICKING AND NATURAL DISASTERS

Trafficking

Trafficking, as defined by the U.S. Department of State, is the “act of recruiting, harboring, transporting, providing, or obtaining a person for compelled labor or commercial sex through the use of force, fraud, or coercion” (U.S. Department of Homeland Security, 2017). The International Labor Organization (ILO) estimated in 2012 that 20.9 million individuals were trafficked globally, of which 14.2 million faced forced labor exploitation in activities such as agriculture, construction, domestic work, and manufacturing, and 4.5 million faced situations of sexual exploitation (ILO, 2012). In the private economy, forced labor generates an estimated \$150 billion in illegal profits every year (Deloitte, 2016). In the United States, the U.S. National Human Trafficking Hotline has identified trafficked individuals in cities, suburbs, and rural areas in all 50 states and Washington, D.C. (National Human Trafficking Hotline, 2017).

The United States is a known “source, transit and destination country” of trafficking. Trafficked individuals can be U.S. citizens or foreign nationals with or without legal status and represent all genders and range from children to adults. They have been forced to work in both legal and illegal industries, including in “commercial sex, hospitality, traveling sales crews, agriculture, seafood, manufacturing, janitorial services, construction, restaurants, health care, care for persons with disabilities, salon services, fairs and carnivals, peddling and begging, drug smuggling and distribution, and child care and domestic work” (U.S. Office to Monitor and Combat Trafficking in Persons, 2017).

Trafficked persons frequently come from backgrounds with high rates of illiteracy, little social mobility, and constrained economic opportunities. Traffickers prey on the social and economic instabilities of individuals who may later face difficulties in communicating with traffickers and understanding their rights in the workplace. Women and children may face additional difficulties for their “relative lack of power, social marginalization, and overall status as compared to men” (Office on Trafficking in Persons, 2012). In general, factors that increase the risk of labor trafficking include competition for employment, closures of plants or facilities, an individual’s immigration and work status, and the present International Organization of Migration, 2016ce of workplace discrimination (Blecker & Sexias, 2007). Factors that increase the risk of sex trafficking include increased social and economic pressures. Women in economically stressed communities experience increased risk in the presence of poverty, unemployment and ignorance as traffickers take advantage of these susceptibilities (Okech et al., 2012). For example, promises of well-paying jobs, coupled with force, fraud and coercion can lead some individuals into sex trafficking (U.S. Department of Homeland Security, 2016). Populations at risk of trafficking include migrant workers, immigrants, refugees, asylum seekers, runaway and homeless youth and unaccompanied children, racial/ethnic minorities, gender minorities in regard to commercial sex trafficking, and other at-risk populations (International Organization for Migration, 2015; U.S. Department of State, 2015).



Natural Disasters

A natural disaster is an event such as extreme weather and climate, including droughts, wildfires, hail storms, severe weather, hurricanes, tornados, freezes, and flooding (NOAA National Centers for Environmental Information, 2017) that result in significant damages or loss of life. From 1980 to 2017, the United States experienced more than 218 weather and climate disasters with damages and costs reaching or exceeding \$1 billion each and resulting in overall damages exceeding \$1.2 trillion, not including Hurricanes Harvey, Irma, and Maria (NOAA National Centers for Environmental Information (NCEI), 2017). Additionally, from its inception in 1979 until November 2007, FEMA has provided federal assistance to more than 2,7000 “presidentially declared disasters” (FEMA, 2008), available only to states that require federal assistance and meet requirements as outlined in the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (FEMA, 2014). This is significant because, according to the U.S. Global Change Research Program, since the 1980s there has been a noticeable increase in the intensity, frequency, duration, and strength of Atlantic hurricanes (Walsh et al., 2014). The United States Geologic Service has also documented a dramatic increase in seismic activity: Earthquakes with a magnitude of 3.0 and above averaged 24 from 1973–2008; from 2009–2015, the average number of earthquakes of the same magnitude was 318 (Fitzpatrick & Petersen, 2016). From 1980–2015, 9 out of the 10 largest wildfires per acreage have occurred since 2000, peaking in 2015 (U.S. Environmental Protection Agency, 2016). As the number of severe weather and natural disasters increase in severity and number, the resources required to recover will increase in response.

The Nexus of Trafficking and Natural Disasters

Trafficked individuals are not a homogenous population. Some are U.S. citizens, other have entered the country with work visas, and others obtained entry through illicit means. While there is no single identifying criteria, typical trafficking techniques include fraudulent recruitment, violence, or imposing debt bondage. Traffickers can make fraudulent statements about the job, including working conditions, wage expectations, or an individual’s legal status (U.S. Department of State, 2015). In situations with immigration and work status issues, trafficked individuals may be concerned about deportation, which can result in supervisors and employers having a “certain means of control that can sustain exploitation” and intimidate “desperately poor workers into accepting many forms of abuse” (Blecker & Sexias, 2007). Consequently, because of trafficked individuals’ immigration status, threats and blackmail are effective tools traffickers use to maintain control (Office on Trafficking in Persons, 2012).

Reconstruction efforts following a natural disaster can vary based on the degree of damage and previous infrastructure. The damage caused by Hurricane Katrina was estimated at \$96 billion and included 250,000 damaged or destroyed houses and more than 60 million cubic yards of debris that needed to be removed (Fletcher et al., 2006). A study on construction workers following Hurricane Katrina found that nearly one-fourth of construction workers in New Orleans were undocumented, and 54 percent of Latino construction workers (45 percent of the total number of construction workers) were undocumented. Researchers found that 77 percent of undocumented workers came to the area post Katrina (i.e., they did not live in the area before the natural disaster), and 87 percent came primarily from other parts of the United States, including Texas and Florida. Undocumented workers tended to be younger and less educated, performed riskier work such as roofing, and were at higher risk for exploitation than documented workers. Undocumented workers had less access to amenities, lower income, were more likely to report being paid less than expected, and had problems obtaining wages. They were less likely to be trained for their position, were ill-equipped, and had decreased access to health care. Ultimately, the researchers found that their study replicated others and minorities and



undocumented workers have an increased likelihood for their rights to be infringed upon following a natural disaster (Fletcher et al., 2006).

Natural disasters are unique and will effect regions/countries differently according to their infrastructure and capabilities. In the event of a natural disaster, various events may occur, but in general an individual's risk of trafficking increases. Traffickers may attempt to take advantage of people receiving assistance or aid and often target those who have been displaced. The impact of trafficking can be felt by those in the affected area as well as those seeking to migrate away from disaster regions (International Organization for Migration, 2015). A disaster may necessitate displacement, and any subsequent destabilization can increase an individual's risk of trafficking (Bales, 2007). Individuals who move away from disaster-stricken areas leave behind their homes, resources, and belongings and may have difficulty finding work. If a natural disaster does not necessitate displacement, damages to the region can increase this likelihood. For example, in 2007 and 2009, cyclones in Bangladesh damaged millions of homes, acres of cropland, and thousands of kilometers of roads and embankments (UNICEF, n.d.a and UNICEF, n.d.b). Damages to homes require financial and physical resources to repair, and cropland represents a means of income for many in the region. Furthermore, unrepaired roads may prevent or limit mobility, thereby stifling trade, transportation, and travel, and damaged embankments still allow regular flooding (UNICEF, n.d.b). Following Katrina, nearly 128,000 jobs were lost due to damages from flooding, winds, and storm surges (U.S. Department of Labor, 2007). As such, following natural disasters' increased economic demands may constitute a "push factor" and increase an individual's likelihood of being approached by or approaching a trafficker. In addition, destabilization or corruption of the government can increase trafficking when protective laws and regulations are weakened and/or if a government and its officials are willing to take bribes and turn a blind eye to trafficking in their country (Bales, 2007).

In general, an individual's trafficking probability is likely to increase when there is a competition for resources and employment and an unstable or corrupt government. "Push factors" are augmented by "pull factors" that may entice individuals into entering seemingly legal situations in the prospect of increased wages or better jobs (Bales, 2007). Common "pull factors" are fraudulent recruitment practices used by traffickers to gain initial cooperation before using other means to maintain control (U.S. Department of State, 2015). Community-based organizations have reported that in times of economic insecurity, such as insecurity caused by a drought, trafficking attempts can increase in response to economic pressures (International Organization of Migration, 2016). For example, laborers may face increased economic pressure following a drought because their employer does not require labor when fields are dry and barren. Therefore, the laborers (facing no wages) may be more likely to approach a trafficker who is using fraudulent recruitment practices and advertising a job overseas with attractive wages and the ability to obtain a visa. After starting work, the laborers may find themselves in a situation of trafficking if they are not payed their expected wages, the job was not as described, or their freedom of movement is restricted. Economic pressures vary on a case-by-case basis but increase an individual's susceptibility to trafficking recruitment practices. This is also the case for sex trafficking, especially in communities facing displacement and increased economic pressures (International Organization of Migration, 2016) and as seen following Hurricane Katrina (Bayhi-Gennaro, 2008). Following displacement, job loss and/or economic insecurity the promise of well-paying jobs can be a front for traffickers to deceive individuals into instances of sex trafficking (U.S. Department of Homeland Security, 2016).

These examples illustrate how severe natural disasters can have a devastating effect on the region, which can increase trafficking in the region. As previously mentioned, increased competition for resources, displacement, and unstable or corrupt government systems create a ripe environment for



trafficking. Individuals already living in poverty face additional hardships following natural disasters and become ideal targets for traffickers to prey on.

THE CASE OF KATRINA

Lawsuits alleging violations of the Fair Labor Standards Act (FLSA) and/or the Trafficking Victims Protection Act (TVPA) document numerous cases of trafficking in the United States following natural disasters for the purpose of rebuilding and recovery. Exploitation can take various forms, but trafficking for day laborers increased significantly following Hurricane Katrina. As of 2012, at least 3,750 cases of trafficking in the Gulf Coast region were reported after Katrina (Hepburn, 2012). As previously discussed, poverty and economic competition in addition to lax regulations and government systems can increase the risk of trafficking. In the case of Hurricane Katrina, massive displacement, lack of sufficient income, and the relaxing of labor and immigration regulations may have contributed significantly to trafficking in the region.

The following sections include a review of the literature and explore the nexus of trafficking and Hurricane Katrina in the Gulf Coast region, while answering the following key questions:

- In the trafficking cases identified in relation to Katrina, what were the source countries, and what visas did the trafficked individuals use and where did the visas come from? What languages did the trafficked individuals speak?
- What are the skills typically needed (in addition to construction and welding) during the recovery and rebuilding phases after a disaster? For example, what skills were needed after Katrina?

Trafficking After Hurricane Katrina

In the United States, the effects of Hurricane Katrina were devastating to the region. Hundreds of thousands of residents were displaced by the storm and major flooding, broken power lines, and destroyed buildings left the region in disrepair (Fletcher et al., 2006). Rebuilding efforts began immediately after Katrina, requiring a large population of laborers. Labor regulations were temporarily relaxed and encouraged many laborers from outside the area to find work in the recently devastated region. The relaxation of these regulations unintentionally increased the risk of trafficking in the region and is a prime example of how a natural disaster can increase trafficking (Fussell, 2009).

Labor needs in the aftermath of disasters typically include a need for engineers, medical personnel, emergency responders, environmental/historic preservation specialists, roadway maintenance, construction workers, welders, painters, and debris removal workers (Hepburn, 2012). Following Katrina, the demolition and construction industries specifically experienced rapid growth in the region (Redwood, 2008). Therefore, laborers during recovery and rebuilding were mostly employed to assist in construction and debris clean-up efforts. Construction efforts included framing, welding, drywall installation, painting, and demolition, and debris clean-up efforts included cleaning pollutants, chemicals, oil, mold, and asbestos (Redwood, 2008). Unique to Katrina, debris clean-up efforts also involved “raw sewage, rotting human and animal bodies, medical waste, and chemicals such as gasoline, oil, corrosives, lead and other heavy metals” (Olam & Stamper, 2006).

However, labor needs and subsequent exploitation post Katrina were not limited to construction and debris cleanup. Some laborers were hired to work in the hospitality and maid service industries due to a need to maintain hotels for displaced residents. In *Castellanos-Contreras, et al. v. Decatur Hotels*, workers travelled from Bolivia, Peru, and the Dominican Republic to assist with guest services,



housekeeping, and maintenance. The plaintiffs paid large sums of money for travel, immigration, and recruitment fees for which Decatur Hotels failed to reimburse. In addition, workers were misled about expected income and living conditions. Ultimately, the courts ruled that the defendants violated FLSA in regard to the workers' complaints of debt bondage and labor exploitation (Hepburn, 2012). (For more information about this case, see Appendix A.)

In addition to labor trafficking, an increase in social and economic distress can contribute to an increase in sex trafficking following disasters (Okech et al., 2012). Researchers speculate that women and children may have been trafficked to help service the influx of laborers during reconstruction post Katrina (Bayhi-Gennaro, 2008). Minors seeking shelter and basic needs may have borne the brunt of sex trafficking; in Baton Rouge, LA, service providers estimated they served more than 100 minors who had experienced domestic sex trafficking. In one Baton Rouge center, 57 percent of youth qualified as domestic minor sex trafficking (DMST) survivors. Trafficking and DMST are relatively new concepts to the Baton Rouge/New Orleans area, therefore little has been done to educate and train organizations, agencies, or the public at large to understand this new population (Bayhi-Gennaro, 2008). Houston officials have also observed that the number of commercial sex traffickers and online sex ads have increased since Hurricane Harvey (City of Houston Mayor's Office, 2017).

The working conditions and low salaries in the region after Hurricane Katrina were unattractive for regular laborers in the construction and demolition/debris removal industries. In general, recovery work was unattractive to local residents because the income was not enough to offset the costs of displacement caused by the hurricane (Fussell, 2009). Furthermore, the working conditions during Katrina were hazardous (Redwood, 2008), and laborers often worked long hours and in poor working and living conditions (Hepburn, 2012).

Thus, recruitment began for a migrant and temporary labor force from Mexico, Central America, and immigrant-rich regions of the United States (Olam & Stamper, 2006; Redwood, 2008). Studies have found that immigrants are especially suited for these efforts because of their high mobility and willingness to accept low wages for difficult and low-skilled labor and poor living conditions (Fussell, 2009). As a result, construction and debris removal jobs—such as framing, welding, drywall installation, mold remediation, and demolition—were attractive to immigrant populations following Katrina.

In a study conducted by the University of California–Berkley, researchers found that in post-Katrina New Orleans, 25 percent of construction workers were undocumented, and an additional 5 percent of workers were foreign nationals with a work visa. All of the work visa holders were Latino; among the undocumented workers, the main countries of origin were Mexico, Honduras, and Nicaragua. In total,

U.S. CIVIL CASES OF EXPLOITATION AND TRAFFICKING

- ***Daniel Castellanos-Contreras, et al., v. Decatur Hotels***
 - Plaintiffs accused defendant of debt bondage and labor exploitations after being recruited to work in luxury hotels following Hurricane Katrina.
 - Status: Won, 2007
- ***David v. Signal International, LLC***
 - Plaintiff accused defendant of labor trafficking 590 Indian shipyard workers through the H-2B guest worker program.
 - Status: Won, 2015
- ***Fredi Garcia, et al., v. Audubon Communities Management, LLC, et al.***
 - Plaintiffs accused defendants of labor trafficking of manual laborers repairing residential properties.
 - Status: Settled, 2009

For more information on these and other cases, see Appendix A.



Latino workers made up nearly half of the post-Katrina reconstruction workforce in New Orleans, and 54 percent were undocumented (Fletcher et al., 2006). Prior to Katrina, Latinos comprised 4.4 percent of the population of New Orleans. However, due to an estimated 30,000 Latino workers that came to the Gulf Coast region after Katrina, Latinos comprised 6.8 percent of the population (Hepburn, 2012).¹ A study in New Orleans found that of the interviewed labor force that arrived immediately after the storm, 45.5 percent were Mexican nationals, and the remaining consisted of Brazilian (20.5 percent), Honduran (13.6 percent), Guatemalan (13.3 percent), and Salvadoran nationals (6.8 percent) (Fussel, 2009). Researchers posit that nearly half of the workforce involved in recovery and rebuilding efforts post Katrina and Rita spoke Spanish or Portuguese (with little to no English-speaking capabilities) and were male Latino immigrants from Mexico, Central or South America, and other U.S. regions such as Florida, Texas, North Carolina, and California. Of these, Mexican nationals seemed to respond most to recruitment (Fussel, 2009; Hepburn, 2012; Redwood, 2008). Furthermore, recruitment in New Orleans frequently occurred through preexisting networks (i.e., by word-of-mouth between friends and family), and work was typically performed by subcontractors of subcontractors who were not based in New Orleans; in some cases, subcontractors took advantage of the lax labor and immigration regulations following Katrina (Fussel, 2007; Fussel, 2009; Fletcher et al., 2006).

Laborers often were forced to take out loans for immigration fees, only to not receive wages after beginning work—ultimately leading to instances of forced debt bondage to their employers (U.S. Department of State, 2015). The Mississippi Immigrant Rights Association estimates that primary contractors received \$24 per cubic yard for debris cleanup from federal funding, with subcontractors receiving \$4 per cubic yard, subsequently little to no pay remained for workers (Chandler & Susman, 2005). In *David v. Signal International, LLC*, approximately 590

iCERT Visa Portal System

The Employment and Training Administration has made publicly available the iCERT Visa Portal System. The iCERT system allows members of the public access to redacted copies of H-1B, H-1B1, E-3, H-2A, H-2B, and permanent labor certification documents. The system includes numerous features such as interactive maps, a “quick search” function, performance reports, and the ability to access datasets for statistical research and analysis (Federal Register, 2013).

Indian men were trafficked into the United States through the H-2B guest worker program. Plaintiffs and others paid defendants \$11,000–\$25,000 for recruitment fees, travel fees, and immigration processing. In return for labor and services, plaintiffs were threatened with violence or deportation if they did not comply, experienced lack of pay, and were isolated in guarded and crowded camps (*David v. Signal International, LLC*). Other notable cases involving labor exploitation and trafficking post Katrina featured complaints of unpaid overtime wages, debt bondage, and labor trafficking. The chief languages of the plaintiffs were Spanish, Portuguese, and, for exploited Asian workers, Thai and Malayalam. The most common types of visas that workers carried were H2-B visas, as part of the guest worker program, or H2-A visas, though these were more likely to have been held by workers who had been rerouted from agricultural jobs on the West Coast to reconstruction efforts post Katrina. These cases and others have been tried under the Trafficking Victims Protection Act (TVPA), though cases may also be tried under FLSA rather than or in conjunction with TVPA. Additionally, trying cases under FLSA or TVPA does not preclude the case from being tried under the other claim, nor do the results of one case guarantee the results of the other (Hepburn, 2012).

Although efforts to address trafficking are increasing exponentially and studies on the relationship between labor trafficking and natural disasters are limited, most generally argue that the displacing effects of natural disasters heighten the risk of trafficking (International Organization for Migration, 2015). Institutional breakdown, displacement of neighborhoods and communities, erosion of law,

¹ The U.S. Census Bureau cannot confirm whether this percentage is completely accurate because the migrant worker population is difficult to count.



systemwide corruption, and enhanced reliance on negative coping mechanisms can all occur in post-disaster environments (International Organization for Migration, 2015). For example, following Katrina, massive displacement and substantial damage necessitated the temporary suspension of the Davis-Bacon Act and demonstrated how a temporary suspension of the law may have had negative impacts on labor trafficking in the region (Olam & Stamper, 2006).

Evidence suggests that temporary changes in labor standards may have abetted recruitment and exploitation of a migrant labor force post Katrina. During the aftermath of the hurricane, the federal government temporarily suspended the Davis-Bacon Act exclusively in hurricane-damaged regions. This act requires construction contractors to pay “locally prevailing wages” to employees on projects exceeding \$2,000 (Olam & Stamper, 2006). Additionally, the U.S. Department of Homeland Security (DHS) temporarily suspended rules that required employers to provide proof that their employees were permitted to work in the United States (i.e., U.S. citizens or those who possessed legal work documentation) (Olam & Stamper, 2006). The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor (DOL) relaxed requirements on employers concerning health and safety laws and regulations (Redwood, 2008). Lastly, provisions to the 2005 H2-B Visa Guest Worker Program enabled employers and agents to bring foreign nationals to fill temporary, nonagricultural jobs. Meanwhile, labor contract awards were subcontracted multiple times without a central registry, making post-Katrina labor contracts ambiguous and difficult to trace (Redwood, 2008). These changes in labor regulations created an environment ripe for exploitation and trafficking because temporary visa and migrant workers can be leveraged to meet the labor demands for recovery and rebuilding efforts.

While laborers are entitled to federal protections, many face barriers in reporting detrimental work environments such as concern over their immigration status, economic constraints, the short-term nature of work, language barriers, or a lack of understanding of the legal system and their rights (Blecker & Sexias, 2007). Traffickers may exploit at-risk populations following natural disasters and take advantage of relaxed regulations, such as the suspension of the Davis-Bacon Act that would ordinarily protect worker’s rights. Suspension of regulations, including requirements for paying prevailing wages and/or inspections ensuring workers, were authorized to create a “rapid-response labor force” following Katrina (Fussel, 2009). Nearly one-fourth of the reconstruction workforce was undocumented and at a higher risk for exploitation and trafficking (Fletcher et al., 2006). Protective factors and safeguards present in well-functioning governing systems, including legal mechanisms or resources, serve to insulate an individual’s risk from criminal activity and exploitation (International Organization for Migration, 2015). Fraudulent recruitment practices, including misrepresenting terms of employment, imposing fees, and confiscating identity documents (U.S. Department of State, 2015), would otherwise be impermissible. However, following Katrina and the suspension of the labor regulations, such regulations were not administered as stringently (Fletcher et al., 2006).

Hurricane Katrina is a significant and well-known case of a natural disaster exacerbating trafficking in the United States. The relationship between natural disasters and trafficking has been found elsewhere, and it is likely that future events may unfold in similar patterns. Information on Hurricane Maria’s effects on Puerto Rico are limited. A week after the hurricane, initial estimates indicated damages of \$95 billion. Nearly 90 percent of Puerto Rico’s homes were damaged, 100 percent of electricity systems were damaged, and widespread power outages affected 3.3 million residents who had limited access to drinking water (44 percent) (Ahmed & Krupa, 2017). According to preliminary reports, as of December 2017, 30 percent of Puerto Rico still has no access to electricity, while 230,000 homes were destroyed and 400,000 damaged (Reuters, 2017). While the government of Puerto Rico lists the death count as 64, independent investigations estimate the death toll to exceed 1,000, and the governor has since ordered an official recount of deaths related to Hurricane Maria (Hernández, 2017). In addition, 500 Puerto Ricans remain in shelters (Reuters, 2017), and more than 259,000 Puerto Ricans evacuated to



Florida and enrolled 10,000 children in the Florida public school systems (Cordeiro, 2017). Before Hurricane Maria made landfall in Puerto Rico, the island territory had been experiencing significant migration to the U.S. mainland in part due to the economic opportunity on the mainland as the island faces a 43.5 percent poverty rate. In 2016, approximately 5.4 million Puerto Ricans lived on the mainland, compared to 3.3 million still living on the island. Following the hurricane, migration to the mainland is expected to increase significantly because of the economic hardships brought by the hurricane. This may have an impact on rebuilding and recovery, as such migration reduces the tax base and decreases the number of potential local laborers (Matthews, 2017).

PROTECTION AND PREVENTION: EXISTING FEDERAL LAWS, REGULATIONS, AND TRAININGS

This section reviews model guidelines to prevent and identify trafficking in supply chains, including contractor compliance plans and certification model requirements, while answering the following key questions:

- What are the federal regulations on contractor/subcontractor oversight for government procurement that we can apply to T/TA provided to disaster response procurement personnel?
- Does FEMA currently provide training on trafficking to personnel? Which ones? Is training on trafficking mandated for FEMA contractors/subcontractors?
- What information should be included in a resource on disaster response trafficking risk management for labor trafficking (businesses/private sector as primary audience)?
- What information should be included in a resource on trafficking risk assessment (day laborers as primary audience)?

Model Guidelines

Trafficking has become an important issue for governments and companies. Research by the Ashridge Centre for Business and Sustainability and the Ethical Trading Initiative found that more than 70 percent of companies they studied believed trafficking may have occurred in their supply chains. The range of companies included “retailers and suppliers in the apparel, grocery, department store, home and garden, beverage, fresh produce, and health and personal care sectors” (Deloitte, 2016). Additionally, governments are some of the largest purchasers of goods and services and frequently pay the lowest possible price; as a result, goods and services may be produced or provided by trafficked populations (Cucos, 2016), and implementation of policies mitigating the impact of public procurement on trafficking has increased.

The government has put into place several laws, initiatives, and regulations to help mitigate labor trafficking. There are few official certification programs to prevent/identify trafficking, but requirements to provide compliance plans and training do exist. In 2012, President Obama signed Strengthening Protections Against Trafficking in Persons in Federal Contracts, an executive order that creates a zero tolerance policy for the federal government and any associated contractors or subcontractors in relation to trafficking. The order was wide-ranging and included activity using force, fraud, or coercion for the purpose of forced labor or sexual exploitation. It included the requirements of adhering to a basic code of conduct and for contractors and subcontractors to submit a compliance plan with annual renewals (Farhat et al., 2013). DOL and OSHA have set standards for safe and healthful working environments and provide training, outreach, education, and assistance to further those goals (OSHA, n.d.).



Various agencies and organizations offer training programs at different levels, depending on the audience. DHS offers trafficking training programs through its Blue Campaign efforts (U.S. Department of Homeland Security, 2017). Some trainings have restrictions, such as the Blue Campaign's law enforcement sensitive training offered through the Federal Law Enforcement Training Center (Federal Law Enforcement Training Center, 2017). Other agencies and departments require staff and contractors/subcontractor to undergo different training. FEMA requires all employees to take DHS Human Trafficking Course, a 1-hour mandatory course that coordinates and enhances FEMA's anti-trafficking efforts (FEMA, 2016). More on FEMA's contractor and subcontractor efforts are discussed next.

There are various ways for businesses to craft a policy that will mitigate risk of trafficking in their supply chains. The U.S. Department of State recommends providing fair compensation, training staff on trafficking, and, in the event of trafficking, having structures in place to correct any wrong doing (U.S. Department of State, 2015). The Organization for Economic Cooperation and Development's Guidelines for Multinational Enterprises furthers efforts by recommending standards in labor and employment. International efforts include the United Nation's Guiding Principles on Business and Human Rights that stipulate a state's duty to protect human rights, including abuses committed by business entities (Bureau of International Labor Affairs, 2012). The United Nations Global Compact is a corporate sustainability initiative that helps facilitate companies to align their strategies and operations with universal principles on human rights, labor, the environment, and anticorruption (United Nations Global Compact, 2015).

ADDITIONAL MEASURES TO PREVENT TRAFFICKING

Measures regarding federal contracts:

- Federal Acquisition Regulation: Ending Trafficking in Persons
 - Amended the Federal Acquisition Regulation in order to strengthen anti-trafficking protections in federal contracts (Federal Register, 2015).
- Trafficking Prevention in Foreign Affairs Contracting Act
 - Prohibits federal contractors/subcontractors and their employees from engaging in trafficking-related activities (Cucos, 2016)

Measures regarding businesses:

- Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)
- California Transparency in Supply Chains Act (2010)
 - These acts were created following concern over human rights abuses and require transparency of supply chains of certain companies including their efforts to prevent trafficking in their business. By doing so it would "provide consumers with information regarding [companies'] efforts to eradicate slavery and trafficking from their supply chains" and to "educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains." (Farhat, Shepherd, and Tenerelli, 2013).



RECOMMENDED BUSINESS POLICIES TO PREVENT TRAFFICKING IN SUPPLY CHAINS

The U.S. Department of State Publication Office of the Under Secretary for Civilian Security, Democracy, and Human Rights (2015) articulates an effective policy as one that:

- Prohibits trafficking and those activities that facilitate it, including contract fraud, document retention, and charging workers recruitment fees
- Responds to industry or region-specific risks
- Requires freedom of movement for workers
- Pays all employees at least the minimum wage in all countries of operation, preferably a living wage
- Includes a grievance mechanism and whistleblower protections
- Applies to direct employees as well as subcontractors, labor recruiters, and other business partners

(U.S. Department of State, 2015)

Federal Regulations on Contractors and Subcontractors

One of the primary federal regulations on contractors and subcontractors is the Federal Acquisition Regulation (FAR). According to the U.S. Government Accountability Office (GAO), while some departments and agencies have developed their own rules and regulations pertaining to federal contractors and subcontractors, they do so in different ways. Without explicitly stating specific components or expectations, oversight capabilities and compliance can change between contracts and limits how contractors can implement government procedures pertaining to trafficking. Moreover, contractor monitoring policies on trafficking are not clear. In 2014, GAO found that 7 out of 11 contracts evaluated had specific policies in place in relation to trafficking, but 4 contracts lacked mention of specific policies, and contracting officials were unclear on their monitoring responsibilities or how to combat trafficking (GAO, 2014).

In response, amendments have been made to FAR intended to eliminate insufficient labor standards in federal contractor supply chains (Lalik & Fearn, 2015). The 2015 FAR amendments on contractor and subcontractor regulations include:

- **Minimum disclosures.** In a language that employees can understand, contractors/subcontractors must not mislead employees about the nature and conditions of employment, including wages, work hazards, housing/living conditions, etc.
- **Limitations on recruiters.** Recruiters cannot charge recruiting fees and must comply with local regulations.
- **Return transportation.** Contractors and subcontractors are responsible for reimbursing or providing transportation home to employees who moved to the United States for employment on the contract.
- **Housing standards.** Housing supplied by contractors and subcontractors must meet housing and safety standards.
- **Written agreements.** Written agreements must be provided in a language employees can understand.



In addition, if contracts meet or exceed \$500,000, contractors and subcontractors are required to submit compliance plans. To obtain compliance, contractors are required to inform their employees of the government's anti-trafficking policy and resulting penalties if they do not comply. Such penalties include ending the contract, reduced benefits, or job loss. Additionally, if the contractor suspects trafficking, they are required to report and comply with any and all investigations pertaining to trafficking (Lalik & Fearn, 2015). While the U.S. Department of Justice has continued to investigate trafficking-related instances such as debt bondage or recruitment fees regarding U.S. government contracts for foreign workers, no federal criminal prosecutions of employers or labor contractors have resulted from these investigations (U.S. Office to Monitor and Combat Trafficking in Persons, 2016). Following a natural disaster, it is imperative that disaster response procurement personnel are aware of such regulations and the associated problems listed above. Following Hurricane Katrina, some FEMA officials expressed difficulty in implementing components of federal regulations, therefore any future personnel should be knowledgeable about regulations and potential difficulties associated with their implementation (Woods, 2006).

FEMA Trainings and Requirements

In general, response strategies to national disasters tend to rely on the federal government for assistance. In identifying trafficking during emergency responses, FEMA employees are required to complete IS:1150 DHS Human Trafficking Awareness for FEMA Employees, a training course that assists with providing information on identifying trafficked individuals, providing information on immigration relief, and identifying actions employees can take if they witness suspicious activity. This is a one-time, 30-minute training styled as an interactive, web-based course with a final exam (FEMA, 2017). FEMA, under the DHS's Blue Campaign, has created an optional video-based training for first responders. These trainings promote general awareness, provide specific scenarios concerning labor trafficking and sex trafficking, and provide information on signs of trafficking. Trainings from DHS are also available for law enforcement. The law enforcement training is 30–40 minutes and video-based (U.S. Department of Homeland Security, 2017; Federal Emergency Management Agency, 2017). Moreover, as previously stated, for contracts valued above \$500,000, FEMA contractors/subcontractors are required to inform employees of government policies regarding trafficking, including trainings and information on how to report labor violations. The mechanism is up to them to determine as part of their compliance plan. It is unclear whether stipulations for contracts valued under \$500,000 address implementing trainings or awareness for employees regarding trafficking concerns or whether FEMA contractors/subcontractors are mandated to take specific anti-trafficking trainings (Lalik & Fearn, 2015).

Local and State Responses

Although not mandated, individual states and cities are also in the process of making action plans and toolkits to address trafficking during disasters. City officials in Houston recognized the risk of trafficking that became prevalent during Katrina's recovery stages. Therefore, following Hurricane Harvey, the city developed an Emergency Disaster Response Toolkit that was released in September 2017 with direct outreach materials, policies, and phone numbers to contact for assistance. The city included a range of items in the toolkit, including presentation slides, information on displacement and vulnerability, examples of trafficking following Hurricane Katrina, "cot notes" (information palm cards) available in 11 languages, signage for taxis and outdoor spaces, and premade messages for users to put on social media. Houston's approach combines measures to prevent trafficking and long-term outreach and support to the area (City of Houston Mayor's Office, 2017).



Recommendations for Factsheets

To address issues related to trafficking and natural disasters, the International Organization for Migration (IOM) believes that communities can lead the effort in creating partnerships and campaigns to protect citizens. IOM recommends that governments partner with nongovernmental organizations or civil society organizations, cooperate with national law enforcement, and, depending on the situation, utilize services of their military (International Organization for Migration, 2015).

Communities should have proactive awareness-raising campaigns and referral pathways prior to a disaster to bring together identified at-risk populations, government workers, and social service workers. Communities should also look more carefully at men in crisis, as they may be more susceptible to labor trafficking during reconstruction efforts, and baseline studies should be conducted to gain a better understanding of trafficking needs before and after disasters. In the event of a natural disaster, communities should already have procedures in place to help protect trafficked persons during a crisis and to identify safe places. To do so, prior trainings on identifying and providing assistance to trafficked individuals can be delivered to stakeholders and staff in key geographic areas such as medical areas, evacuation shelters, and so on. By doing so, service providers and government workers can provide assistance and help identify legal supports for trafficked persons (International Organization for Migration, 2015).

The donor community and wider public should also be made aware of the relationship between trafficking and natural disasters. Some may be unaware of the trafficking that occurred post Katrina or of any connections between trafficking and natural disasters, as these issues are often not emphasized as being linked. Donor communities are generous in providing funds for relief efforts and should be informed that their efforts could prevent at-risk populations from being trafficked post disaster. Funding from donor communities could help referral networks protect individuals who are at risk of trafficking, increase resources at shelters, and help provide other means of safeguarding residents.

Moreover, existing crisis tools can be adapted to include trafficking content. FEMA has recommended various resources and toolkits on business continuity following a natural disaster; however, none of these resources and toolkits address potential labor and trafficking that could befall employees after a crisis. These toolkits can be adapted to include information on FAR amendments, compliance planning for businesses, and means of reporting suspicious activity pertaining to trafficking. FEMA has published *Ready Business Mentoring Guide* for small businesses to prepare an emergency plan during natural disasters, noting that OSHA requires most businesses with 10 or more employees to have a written emergency plan. It recommends resources and toolkits on business continuity; however, none of these resources and toolkits address potential trafficking that could befall employees after a crisis (FEMA, 2006). Other crisis response tools that could be adapted include the American Red Cross Ready Rating Program for businesses, schools, and organizations (American Red Cross, 2018) and the U.S. Chamber of Commerce Foundation's Disaster Quick Guides for local chambers of commerce and small businesses (U.S. Chamber of Commerce Foundation, 2018).

A new resource could be developed targeting the business sector to address the risk of trafficking employees may face following a crisis. At a minimum, businesses must ensure they are adhering to minimum disclosures, limiting recruiter practices, providing return transportation, maintaining housing standards, and providing written agreements outlined in FAR amendments. A general outline could include statistics on trafficking, populations at risk of trafficking, case examples emphasizing the exploitative conduct of businesses post Katrina, and compliance planning to ensure businesses have plans to address trafficking in their contracts and subcontracts. Additional resources could include links to trainings for general information on trafficking and means of reporting suspicious activity.



A new resource could also include a labor trafficking risk assessment that communities could use in outreach to at risk individuals. The Blue Campaign identifies various indicators of concern, including an individual's behavioral or physical state, their social behavior, and work conditions or immigration status (U.S. Department of Homeland Security, 2016). Such indicators can be used to identify individuals at risk for trafficking and who could benefit from community outreach. Additionally, inclusion of case examples from Katrina may help provide a clear example of how labor trafficking in the United States may look.

CONCLUSION

Governments, businesses, aid workers, and the general public all have a role to play in protecting individuals from trafficking following natural disasters. As resources on this topic are developed and become more widespread, the issue will hopefully receive its merited attention, and the risk will lessen for the future. As natural disasters continue to increase in severity and number, their effects on trafficking in the United States will continue to be a pressing issue. Continued regulation and education on the relationship of trafficking and natural disasters should prove an effective tool to reduce trafficking in the United States.



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APPENDIX A: CASES OF LABOR EXPLOITATION AND TRAFFICKING IN KATRINA

Rodrigues et al., v. Belfor USA Group Inc.

“Plaintiffs seek redress on behalf of themselves and others similarly situated for Defendant’s violation of their rights under the Fair Labor Standards Act, 29 U.S.C. 201, et seq. (“FLSA”). Plaintiffs bring this action on behalf of a class of over one thousand workers, predominantly immigrants, who engaged in manual labor restoring court, hospital, and Tulane University buildings for Defendant in the aftermath of hurricane Katrina...Defendant employed Plaintiffs and other class members as unskilled manual laborers by using a subcontractor system. Defendant attempted to manipulate this system to evade its legal responsibility under the Fair Labor Standards Act to pay overtime wages.”

Chief Complaint: Unpaid overtime wages, labor exploitation

Visa Type: N/A, migrant workers

Source Country: Not specified

Primary Language of Plaintiffs: Portuguese, limited English proficiency

Violation: Fair Labor Standards Act

Status: [Settled](#), 2006

Daniel Castellanos-Contreras, et al. v. Decatur Hotels, LLC et al.

“This action is brought by H-2B guest workers recruited by Defendants from foreign countries since Hurricane Katrina to work in the Defendants’ luxury hotel operations in New Orleans. The workers traveled to the United States from their home countries of Bolivia, Peru, and the Dominican Republic to perform guest services, housekeeping, maintenance, and other essential support functions in the hotel operations of the Defendants.”

Chief Complaint: Debt bondage, labor exploitation

Visa Type: H-2B

Source Country: Bolivia, Dominican Republic, Peru

Primary Language of Plaintiffs: Spanish (English proficiency unknown)

Violation: Fair Labor Standards Act

Status: [Won](#), 2007

Fredi Garcia, et al., v. Audubon Communities Management, LLC, et al.

“This lawsuit arises from the Defendants’ imposition of forced labor, human trafficking and unlawful underpayments on the Plaintiff immigrant reconstruction workers, who worked to restore and maintain Defendants’ New Orleans residential properties in the aftermath of Hurricane Katrina...At all time relevant to this action, Defendants employed the Plaintiffs as manual laborers whose job duties were to paint, clean, replace molding, change windows, and/or install sheetrock, doors, toilets, cabinets, wiring and carpets.”

Chief Complaint: Labor trafficking

Visa Type: Not specified (undocumented migrant workers)

Source Country: Not specified

Primary Language of Plaintiffs: Not specified

Violation: Fair Labor Standards Act, Trafficking Victims Protection Act

Status: [Settled](#), 2009

David v. Signal International, LLC (also EEOC v. Signal International, LLC)

“In the aftermath of Hurricane Katrina, Plaintiffs and similarly situated workers, approximately 590 Indian men, were trafficked into the United States through the federal government’s H-2B guest worker



program to provide labor and services to Defendants Signal International L.L.C...Recruited to perform welding, pipefitting, and other marine fabrication work, Plaintiffs were subjected to forced labor and other serious abuses at Signal operations in Pascagoula, Mississippi and Orange, Texas.”

Chief Complaint: Labor trafficking

Visa Type: H-2B

Source Country: India

Primary Language of Plaintiffs: Not specified (possible Malayalam)

Violation: Fair Labor Standards Act, Trafficking Victims Protection Act

Status: [Won](#), 2015

Muangmol Asanok, et al., v. Million Express Manpower Inc., et al.

“Plaintiffs came to the United States from Thailand as temporary foreign agricultural workers on H-2A visas...After Hurricane Katrina, defendants moved plaintiffs to New Orleans, Louisiana...to work demolishing interiors of ruined motels and restaurants in the aftermath of Hurricane Katrina.”

Chief Complaint: Labor trafficking

Visa Type: H-2A

Source Country: Thailand

Primary Language of Plaintiffs: Not specified (possible Thai)

Violation: Trafficking Victims Protection Act, RICO

Status: [Won](#), 2008



APPENDIX B: ADDITIONAL RESOURCES

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