

T Nonimmigrant Status and the Trauma Exception

When the Trafficking Victims Protection Act of 2000 (TVPA) established the federal crime of trafficking in persons, it created certain protections for foreign national victims in the United States. One of those protections is the T Nonimmigrant Status, or T visa, which is a form of temporary immigration relief available to foreign national victims of human trafficking physically present in the United States. T visas are issued by U.S. Citizenship and Immigration Services (USCIS).

The T visa allows foreign national victims of severe forms of human trafficking to legally reside in the United States for up to four years. It has secondary benefits that include employment authorization, and the ability to obtain derivative T visas for certain relatives within or outside the United States. At the end of three years, a person holding a T visa can apply for lawful permanent residence in the United States.

In order to qualify for the T visa, the applicant must:

- Be or have been a victim of a severe form of trafficking in persons
- Be physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry on account of trafficking
- Comply with any reasonable request from law enforcement agencies for assistance in the investigation or prosecution of human trafficking
- Demonstrate that he/she would suffer extreme hardship involving severe and unusual harm if removed from the United States¹

However, there are two exceptions to the requirement that an applicant comply with any reasonable request from Federal, state, or local law enforcement agencies in the investigation or prosecution of human trafficking. The first exception is age; an applicant under 18 years of age is not required to assist in law enforcement investigations or prosecutions to obtain this status.

The other exception is a determination by the Secretary of the Department of Homeland Security, in consultation with the Attorney General, as appropriate, that the applicant is unable to cooperate with a request to assist law enforcement due to physical or psychological trauma. This is called the "trauma exception," and it was one of the changes to the TVPA by the 2008 reauthorization of the act.²

¹ "Questions and Answers: Victims of Human Trafficking, T Nonimmigrant Status," US Citizenship and Immigration Services (USCIS), accessed July 28, 2014, <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status/questions-and-answers-victims-human-trafficking-t-nonimmigrant-status>.

² PM-602-0004: Trafficking Victims Protection Reauthorization Act of 2008: Changes to T and U Nonimmigrant Status and Adjustment of Status Provisions; Revisions to Adjudicator's Field Manual (AFM) Chapters 23.5 and 39 (AFM Update AD10-38), US Citizenship and Immigration Services (USCIS), accessed July 10, 2014, <http://www.uscis.gov>.

In July 2010, the Office of the Director of USCIS issued Policy Memorandum PM-602-0004, which amended, *inter alia*, Chapter 39.2 T Nonimmigrants of the Adjudicator's Field Manual (AFM) to include guidance to USCIS personnel on when a reasonable request for a T Visa may be sought without cooperation or assistance with law enforcement in an investigation or prosecution:

Compliance with Reasonable Requests. In its discretion, USCIS may determine that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance in an investigation or prosecution. In that case, the victim remains eligible for T nonimmigrant status. INA § 101(a)(15)(T)(iii). To establish eligibility for this exception, an application may submit an affirmative statement describing the trauma, along with any other credible evidence. An applicant's statement alone may be sufficient to establish eligibility for the exception. However, USCIS encourages applicants to submit other evidence along with their statement. One example of suggested evidence is a signed statement on official letterhead from a professional who makes determinations of this type in the course of his or her job, such as a medical professional or social worker or victim advocate, and can attest to the victim's mental state. USCIS reserves the right to contact the law enforcement agency involved in the case, if appropriate. See 8 CFR 214.11(h)(1).³

Trauma & Trauma-Related Symptoms

Traumatic experiences are those that overcome a person's ability to cope and negatively impact neurobiological responses. Human trafficking is a form of exploitation and traffickers use a range of coercive strategies to manipulate their victims.⁴ In some cases, prior traumatic or adverse experiences might have contributed to a person's vulnerability to human trafficking.

While the circumstances of each case and the experiences of each victim are unique, it is helpful to be aware of some common, trauma-related symptoms among trafficking victims that include the following.^{5 6}

Trauma-Related Symptoms in Trafficking Victims:

- Overwhelming psychological and physiological distress
- Symptoms of posttraumatic stress disorder, depression, anxiety, panic, other somatic reactions
- Safety concerns such as self-harm, suicidal ideation, or a history of suicide attempt(s)
- Inability to recount a coherent narrative of the trafficking experience
- Recurrent, involuntary, and distressing memories of the traumatic event(s)
- Avoidance of external reminders of the trafficking situation that produce persistently negative and distressing memories, thoughts, or feelings

³ Ibid.

⁴ Hopper, E.K. & Hidalgo, J. (2006) Invisible chains: Psychological coercion of human trafficking victims. *Intercultural Human Rights Law Review*, 1, 185-209.

⁵ "Utilizing Trauma-Informed Approaches to Trafficking Related Work," The Trauma Center at JRI (2014), assessed September 3, 2014, https://www.traumacenter.org/resources/H-O%20Trauma-Informed%20Case%20Study_final_2.pdf.

⁶ American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders* (Fifth Edition). Washington, DC: Author. Accessed from <http://psychiatryonline.org/doi/book/10.1176/appi.books.9780890425596>.

- Significant dissociative reactions (e.g., flashbacks)
- Current substance abuse or dependence
- Other behavioral issues, such as eating disorders, risk-taking behaviors, involvement in unsafe relationships
- Fear of trafficker(s) and potential repercussions to self or loved ones as a result of participation in the investigation and/or prosecution of the crime
- Intense or prolonged psychological distress in response to external cues or interactions (e.g., law enforcement in uniform, sirens, police vehicles) that resemble aspects of the trafficking situation
- Lack of internal coping resources
- Impaired daily functioning

Legal professionals working with clients exhibiting these symptoms are encouraged to partner with mental health and/or medical professionals who are experts in trauma, able to conduct psychological assessments, and, if needed, provide ongoing mental health care.⁷ Similarly, physical trauma resulting from human trafficking (e.g., debilitating illness or injuries) should, when possible, be evaluated by medical professionals with experience with trauma related to human trafficking.

Anti-trafficking service providers are also encouraged to refer clients exhibiting these symptoms to mental health and/or medical professionals who are experts in trauma for ongoing care. When working with clients, it is always helpful to consider ways to avoid or reduce the risk of trauma-related reactions.⁸

Additional Resources

To learn more about T Nonimmigrant Status and instructions for filing the I-914 application, please visit <http://www.uscis.gov/i-914>.

For further training on immigration remedies available to victims and survivors of human trafficking, consider the following:

- [Lawyer's Manual on Human Trafficking: Pursuing Justice for Victims](#), by Jill Laurie Goodman & Dorchen A. Leidholdt, New York State Judicial Committee on Women In The Courts (2011)
- [Legal Resources](#), Coalition to Abolish Slavery & Trafficking (CAST)
- [Representing Survivors of Human Trafficking: A Promising Practices Handbook](#) (2nd Edition), by Ivy C. Lee, Lynette M. Parker & Cindy C. Liou, Immigrant Legal Resource Center (ILRC)

For professionals seeking additional information on this topic, please contact:

⁷ Hopper, E.K. (in press). Trauma-Informed Psychological Assessment of Women and Girls Who Have Survived Human Trafficking. *Women and Therapy. Special Issue: Human Trafficking of Women and Girls*.

⁸ "Common Responses to Trauma & Coping Strategies," Patti Levin, LICSW, PsyD (2003), accessed September 2, 2014, http://www.traumacenter.org/resources/pdf_files/Common_responses.pdf.

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HEAL Trafficking Network
(Trafficking & Broader Healthcare Field)
Email: healtraffickingnow@gmail.com
<http://healtrafficking.wordpress.com/>

Where Can You Find Help?

The NHTRC maintains a database of service providers and resources throughout the United States. Victims and survivors, advocates, friends, family and others can call 24 hours a day to get connected to help and services.

- Call: **1-888-373-7888** (24/7)
- Email: nhtrc@polarisproject.org
- Report Online or Access Resources & Referrals: www.traffickingresourcecenter.org

This document was developed by the National Human Trafficking Resource Center (NHTRC) & Project REACH, a program of the Trauma Center at Justice Resource Institute.

Please Note: This fact sheet is intended to provide accurate, general information regarding T Nonimmigrant Status and should be used for informational purposes only. The information is current as of the date of publication (May 2015).



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