



Trafficking Victims Protection Reauthorization Act: Civil Litigation for Forced Labor Key Statutes and Sample Cases

U.S. federal law criminalizes forced labor, setting significant sentences for these offenses. The same body of law, the Trafficking Victims Protection Reauthorization Act (TVPRA), also creates a civil right of action, making it possible for victims of forced labor to bring civil cases against their traffickers and those who knowingly benefit from the crimes. The civil statute, 18 U.S.C. §1595, incorporates all of the criminal anti-trafficking statutes found in the same chapter of the law. The criminal statutes, which may be brought as criminal charges or as civil counts, are summarized below:

18 U.S.C. § 1589. Forced Labor

- This statute prohibits a person or entity from knowingly providing or obtaining the labor or services of a person by any one of, or by any combination of, the following means—
 - force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
 - serious harm or threats of serious harm to that person or another person;
 - abuse or threatened abuse of law or legal process; or
 - any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.
- The statute also prohibits a person or an entity from benefiting, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of labor or services by any of the means described above, knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by any of such means.
- Definitions:
 - Abuse or threatened abuse of law or legal process: the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.
 - Serious harm: any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

18 U.S.C. § 1590. Trafficking with Respect to Forced Labor and Indentured Servitude

- This statute prohibits a person from knowingly recruiting, harboring, transporting, providing, or obtaining by any means, any person for labor or services in violation of 18 U.S.C. § 1589, among other statutes.

18 U.S.C. § 1596. Extraterritorial application.

- This statute provides for the courts of the United States have extra-territorial jurisdiction over violations of 1589 and 1590, among other offenses, if:
 - An alleged offender is a national of the United States or lawfully admitted for permanent residence or
 - An alleged offender is present in the United States, irrespective of the nationality of the alleged offender.
- Extraterritorial jurisdiction covers both criminal and civil cases.

TVPPRA Civil Case Examples:

- Wang v. Imperial Pacific International: Chinese workers who were brought from China to Saipan (the Northern Mariana Islands) filed this lawsuit against Imperial Pacific International and its contractors. The Chinese workers were promised good wages and working conditions, and they were told that they could work for years in the United States and obtain green cards. The workers were induced under these false promises to pay large recruitment fees in China; some workers paid up to \$8,000. After arriving in Saipan, the workers were paid little to no money. They suffered horrible living conditions; the traffickers confiscated the workers' passports. The court entered a default judgment of approximately \$6,000,000 in favor of the Chinese workers.
- Rodriguez v. Pan American Health Organization ("PAHO"): Cuban doctors filed suit against the Pan American Health Organization for the organization's role in facilitating Mais Médicos, a program that sent Cuban doctors to provide medical services in Brazil. The Cuban medical professionals were paid only a fraction—10% or less—of the fees the Brazilian Government paid PAHO for their services, while PAHO paid at least 85% to the Cuban government, and retained a brokerage fee of 5% for itself. PAHO collected more than \$75 million between 2013 and 2018 under the program. PAHO received, forwarded, and retained the Mais Médicos money through its Washington, D.C. bank account. A court recently rejected PAHO's motion to dismiss and allowed the case to proceed to trial.
- Ratha, et al. v. Phatthana Seafoods, Co. Ltd., et al: A seafood factory in Thailand recruited Cambodian villagers to work in their factories. The recruiters preyed upon people from isolated, rural areas with little education. Labor recruiters convinced the workers to take out large, high interest loans to pay for the trip to Thailand. In exchange, the villagers were promised good wages and free housing. In reality, the villagers received wages less than half of what was promised, and they were required to pay for dirty and overcrowded housing. The villagers were also required to pay for a work permit, which they were not allowed to keep, and were told they would be arrested if they left the factory without the permit. The villagers were subjected to physical and verbal abuse, as well as dangerous working conditions. The appeals court recently found for the defendants based on jurisdictional grounds.
- Roe v. Howard: An American diplomat and her Australian diplomat husband trafficked an Ethiopian domestic worker while posted to the U.S. Embassy in Yemen. The traffickers held the young woman in forced labor and sexual servitude for a period of several months. She did all of the housework and much of the cooking. Each day, when the wife left the housing compound to go to work at the U.S. Embassy in Sana'a, the husband sexually abused the domestic worker. The young woman eventually escaped and filed a law suit under the Trafficking Victims Protection Reauthorization Act. A jury awarded the victim more than \$3 million in damages, a verdict that was upheld on appeal.