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Seeking options for human trafficking victims

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Jessica Salisbury, a staff attorney at CASA of Maryland Inc., says law enforcement tends to focus on sex trafficking, while allegations of work force trafficking often go unchecked.

Zipora Mazengo's story is uncommon, but not as uncommon as some might think.

The 27-year-old Tanzanian woman came to the United States in 2000 to work for a minister in the Tanzanian embassy and his wife, in their Bethesda home. She was promised regular hours and \$900 a month, but upon her arrival the couple took her passport and forced her to work as a virtual slave for four years.

While federal and state laws have been passed to prevent such crimes and offer protection and legal recourse for victims, challenges persist. Mazengo's lawyers in Maryland and Washington believe the issue of diplomatic immunity is chief among them.

"Diplomatic immunity is a huge issue," said Jessica Salisbury, a staff attorney at CASA of Maryland Inc., which represents Mazengo. "At CASA, we see a lot of folks who come to us and there's little we can do. If a case fits the definition of trafficking, we can help in terms of immigration relief, but if a person works for years and is not paid their wages, immunity is a looming issue as far as what we can do to help."

Maryland's Washington suburbs attract high numbers of diplomats and international "elite" wealthy enough to maintain domestic workers and powerful enough to force their labor. Not all, but many, are afforded immunity against criminal and civil actions.

Martina E. Vandenberg, an associate in Jenner & Block's Washington, D.C. office, explained that the government interprets the Vienna Convention on Diplomatic Relations as preventing most diplomats from being prosecuted or found liable in civil cases. (The U.S. State Department said it could not make any officials available for comment on the topic of diplomatic immunity and human trafficking last week.)

By intervening in most cases involving diplomats, the government expects reciprocity for its own agents overseas, Vandenberg said. She has represented several victims of trafficking and has testified before Congress on anti-trafficking policies.

Elizabeth Keyes, formerly a CASA of Maryland staff attorney assigned to trafficking victims, explained that the treaty requires diplomats to respect all laws of the host country. But if they are brought before a judge or tribunal, the proceedings should be dismissed if they raise an immunity defense.

Because of that policy, most victims never see a criminal prosecution of crimes against them and never obtain financial relief. Certain victims fall through the cracks, but the federal government and Maryland have sought to create legal options. (See related story, below.)

Trafficking Victims Protection Act

Congress first acknowledged that modern-day human trafficking was a problem in this country when it passed the Trafficking Victims Protection Act in 2000.

The TVPA created new laws under which to prosecute perpetrators and authorize assistance for victims of trafficking. It made 5,000 temporary visas available for victims and their families every year, although only 1,774 have been issued since the program's inception. An amendment in 2003 also created a means for victims to bring federal civil suits against traffickers for actual and punitive damages.

While the act created tools for victims and the government, its broader effect was to educate the public about the underworld of virtual enslavement, peonage and the sex trade.

"From a historical perspective, prior to the TVPA there was no law that encompassed early cases," Salisbury said. "So, if CASA began working on these cases that now would be called trafficking, prior to the TVPA we would have

just been involved in recovering unpaid wages.... Now, we're recognizing it as something different than just an unpaid wage case. There is a form of modern-day slavery and now we have a name for it," she said.

Regional organizations such as CASA of Maryland, Boat People SOS and the Break the Chain Campaign have used the TVPA to assist clients in normalizing their immigration status and recovering lost wages.

Maryland's U.S. Attorney, Rod J. Rosenstein, said his office has prosecuted cases that have involved prostitution rings, classic enslavement as well as instances where people are brought into the country and then paid minimal wages without benefits.

Despite the attention trafficking cases grab, Rosenstein said his office does not see a lot of them.

"Typically, because victims are illegal aliens, they are reluctant to approach law enforcement because they fear deportation," he said.

When his office does become involved in cases, it is usually tipped off by neighbors or is contacted by victims who escaped. The U.S. Attorney's Office is currently investigating two human trafficking cases — in Greenbelt and Baltimore — although no charges have been filed. The case in Greenbelt involves allegations of involuntary servitude, according to Rosenstein. His office also recently obtained an indictment in Greenbelt for a man accused of sex trafficking.

Salsbury notes that law enforcement in the area has tended to focus on sex trafficking, and so a challenge locally is getting government agencies to investigate cases of labor trafficking. Her assertion is supported by national trafficking prosecution data compiled by the Department of Justice.

Holes in the law

While the TVPA has been positive for victims, advocacy groups still see holes to patch when it is reauthorized in 2008.

A major one, which has been a topic of two roundtable discussions in the Washington area, is whether diplomats engaged in human trafficking should get away scot-free.

Under the TVPA, "things are great unless you're trafficked by a diplomat," commented Vandenberg.

She organized the discussion group along with Janie Chuang, visiting assistant professor of law at American University. Participants include representatives from the State Department's office on trafficking in persons, the Department of Justice, the American Civil Liberties Union, Break the Chain Campaign, CASA of Maryland, Boat People SOS and others.

"Eliminating diplomatic immunity for this issue is complicated because of treaties, and the government is under obligation to recognize immunity," Chuang said. "But there are measures it can take, like declaring a person a *persona non grata* and asking an embassy to revoke immunity."

Both the nongovernmental organizations and the government agencies brought proposals to the table, some of which would require legislative approval and some which would not, Chuang said.

The group has met twice — most recently last week. A smaller number of participants will continue to meet to follow up on the proposals.

Gail Gottlieb, Boat People SOS program manager for human trafficking and a participant in the roundtable, noted how reasonable it is for victims to think their employers are untouchable with the status quo.

"In some ways they are above the law," she said. "And it's not just an issue of legal barriers. This creates a psychological barrier for someone who wants to get out of the situation."

Mazengo suit

Zipora Mazengo was allegedly forced into submission because of both psychological and physical barriers. She didn't speak the language, had no money and wasn't permitted to leave the house alone. She claimed the diplomat's wife, who was a distant relative through marriage, threatened her and her family in Tanzania.

She managed to escape with the help of a client of the wife's catering business. With CASA of Maryland's help, she filed a lawsuit against the diplomat, Alan S. Mzengi, and his wife, Stella, seeking more than \$500,000 in unpaid wages and overtime.

Neither has responded to the suit, even to raise an immunity defense, and so Mazengo's lawyers are seeking a default judgment against them. Mzengi was reached at the Tanzanian embassy Thursday, but declined to comment.

Mazengo's chances of recovering her wages are slim and the likelihood her alleged traffickers will ever face punishment even slimmer. Regardless, stories such as hers raise awareness of the plight of often invisible victims and support advocates' calls for further changes to trafficking laws.

"Since the TVPA was passed, now women and men who are victims of trafficking have a form of relief and more access to services...," Salsbury said; but "there's more that can be done."