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## Human Trafficking For Labor Purposes An Analysis Of Immigration Policy And Economic Forces Within The United States

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HUMAN TRAFFICKING FOR LABOR PURPOSES  
AN ANALYSIS OF IMMIGRATION POLICY AND ECONOMIC FORCES  
WITHIN THE UNITED STATES

by

CANDACE G. OWEN  
B. A. University of Central Florida, 2007

A thesis submitted in partial fulfillment of the requirements  
for the degree of Master of Arts  
in the Department Political Science  
in the College of Sciences  
at the University of Central Florida  
Orlando, Florida

Summer Term  
2011

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## **ABSTRACT**

Human trafficking is an international crisis which has emerged as a human rights issue of the highest priority for many nations. This is not a new occurrence, although the onset of globalization has provoked increased intensity in this international crime. Recent studies, including the U.S. State Department's 2009 Trafficking in Persons Report have predicted that the recent global economic crisis will inflate these numbers to an even larger number of victims. This thesis will investigate these phenomena ultimately asking: Do immigration policies and economic conditions contribute to the recent proliferation in cases of human trafficking for labor purposes? Moreover with the recent global economic crisis, has consumer demand affected an increase in cheap migrant labor furthering vulnerabilities that create prime situations for human trafficking and forced labor? This thesis will investigate these questions by focusing on the geographic parameters of the United States and Mexico due to their physical proximity and the history of immigration between these neighboring countries.

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## **LIST OF ACRONYMS/ABBREVIATIONS**

BLS – Bureau of Labor Statistics  
CIS – Center for Immigration Studies  
CIW – Coalition of Immokalee Workers  
ERS – Economic Research Service  
FLCRA – Farm Labor Contractor Registration Act  
FLC – Farm Labor Contractor  
DOJ – Department of Justice  
DOL – Department of Labor  
FLSA – Fair Labor Standards Act  
GDP – Gross Domestic Product  
IATP – Institute for Agriculture and Trade Policy  
ILM – International Labor Migration Statistics  
ILO – International Labor Organization  
IOM – International Organization on Migration  
MSWPA – Migrant and Seasonal Worker Protection Act  
NAALC – North American Agreement on Labor Coordination  
NAFTA – North American Free Trade Agreement  
NAWS – National Agricultural Workers Survey  
NLRA – National Labor Relations Act  
OSCE – Organization for Security and Cooperation in Europe  
SPLC – Southern Poverty Law Center  
TIP – Trafficking in Persons  
TVPA – Trafficking Victims Protection Act  
UN – United Nations  
US – United States  
USDA – United States Department of Agriculture

## **CHAPTER ONE: INTRODUCTION**

Human trafficking specifically refers to the illegal transport of people for the purposes of labor and sexual exploitation. Human trafficking is an international crisis which has emerged as a human rights issue of the highest priority for many nations. This is not a new occurrence, although the onset of globalization has provoked increased intensity in this international crime.

The International Labor Organization (ILO) estimates that at least 12.3 million people are victims of forced labor worldwide (International Labor Organization [ILO], 2009, p.1). Recent studies including the U.S. State Department's 2009 Trafficking in Persons Report, have predicted that the recent global economic crisis, which lasted from 2007-2009, will inflate these numbers to an even larger number of victims (U.S. Dept. of State Trafficking in Persons Report [TIP], 2009, p.32). There are further questions to explore when analyzing the effects of the global economic crisis on human trafficking and forced labor, paying close attention to the labor sector. Thorough consideration has been paid to the criminality of human trafficking, and researchers have given some attention to conditions of vulnerability that may cause a person to become susceptible to human trafficking. Yet, little academic research has gone into the exploring the correlation between the demand for cheap labor and trafficking. According to the United States Department of Labor, "over three-fourths of the hired workers employed on U.S. crop farms were born outside the United States, usually in Mexico" and "53 percent of those

crop workers were unauthorized” (Martin, 2007, p.2). Taking this into consideration one may note that forced labor and human trafficking are a product of the vulnerable conditions in which migrant workers live and work. These facts lead to the theory that increased levels of trafficking for forced labor could then be related to cheap labor, encouraged by large corporations which have grown with increasing international trade.

That being said, there are two main elements that have been neglected in the study of human trafficking related to forced labor. These two elements are current immigration policy within the United States and, on a broader level, the effect that consumer demand for cheap goods has had on increasing levels of human trafficking. This thesis argues that there is a lack of oversight and regard for human rights, as well as a lack of international consensus on immigration for labor purposes, which creates a disorganized and inefficient system for the prevention of human trafficking and forced labor. The culmination of these factors prompts the following question: Has the 2007-2009 global economic crisis affected an increase in low wage migrant work, creating vulnerabilities for human trafficking and forced labor?

Human trafficking is also an issue of labor rights and labor protection. In order to focus in on the impact of large corporate farms, the growing industry of labor contracting, immigration, and human trafficking, this thesis will observe case studies that geographically focus on the United States and Mexico. The focus will be concentrated on these two countries because human trafficking and forced labor are closely related to migration patterns which make migrant workers themselves prime targets for human trafficking.

The following literature review chapter will introduce the reader to the concepts and definitions which are relevant to understanding how incidences of human trafficking and forced labor may be related to immigration, more specifically those who immigrate for employment without proper documentation, and how the conditions of life for an illegal migrant worker are likely to produce vulnerabilities making them an easy target for human traffickers. The literature review will also discuss research areas that are of particular importance to the issue of immigrant labor in the United States. The first section *Migration for Labor Purposes* will introduce the reader to the migrant farmworker population and examine its relevance to this debate. The following section, *Illegal Immigration and the U.S. Economy* will discuss contemporary arguments over the effects of illegal immigration on economic conditions within the United States. This chapter intends to inform the reader on current debates that underscore the significance of migrant workers – illegal and registered – on the U.S. economy, in specific regard to the agricultural sector. The third section, *The H-2 Visa* will inform the reader on current U.S. policy regarding migrant workers. And lastly, the fourth section, *Availability of Low Skill Employment Opportunities in the U.S.* will provide the reader with an introductory explanation of why there are an abundance of employment opportunities for foreign born workers when the overall national unemployment rate for U.S. citizens reached a high of 10.6% in January of 2010.

## **CHAPTER TWO: LITERATURE REVIEW**

In order to adequately evaluate the current state of human trafficking, it is important to have an accurate description of the practice, as well as understand the most often cited legal definitions. By acknowledging the legal definitions, the reader can draw more accurate conclusions when identifying what constitutes a case of human trafficking versus similar, but not identical situations such as cases of debt bondage, which are also prominent among the observed population. As previously stated, human trafficking is the illegal transport of people for purposes of labor and sexual exploitation. The onset of globalization has increased the number of people victimized by this international crime. Reports suggest that there are currently 27 million people considered victims of human trafficking today throughout the world (Polaris Project, 2000, p.1). At this point researchers have concluded that factors such as increasing global poverty, lack of adequate employment opportunities and inadequate border controls contribute to the prevalence of trafficking in persons. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol) is useful in explaining some of the predominant approaches in the prevention of human trafficking. As previously mentioned there is evidence that the proliferation of human trafficking in certain geographic areas can reflect internal vulnerabilities within a population that suggest state systems, i.e. immigration policies, unemployment protection, etc. must be evaluated.

The most significant measure directly addressing human Trafficking is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, commonly referred to as the Palermo Protocol. Prior to the Palermo Protocol, human trafficking measures addressed specific areas such as human rights, as reflected in the 1948 Declaration of Human Rights which acknowledges equality, liberty and security of all human beings (United Nations, 1948). Slavery is first addressed as an issue of its own accord in the 1926 Slavery Convention, and then again in the 1956 Supplementary Convention on the Abolition of Slavery and finally in the 1968 United Nations International Covenant of Civil and Political Rights.

Although these measures were all significant in developing the basis for an overarching human trafficking protocol, the Palermo Protocol was specifically intended to supplement the United Nations Convention Against Transnational and Organized Crime and thus provide a detailed legislative document which outlines measures regarding the prosecution and punishment of the traffickers.

The United Nations Convention Against Organized Crime was initially important in addressing human trafficking on a trans-national level because it was the key piece of international legislation that addressed organized crime which is the umbrella under which most human trafficking cases fall. A more specific look into the implications of the Palermo Protocol will be addressed in chapter seven, where International Organizations and their involvement in the prevention of human trafficking are addressed. For now it should be stated that the legal definition of human trafficking per the Palermo Protocol is:

The recruitment, transportation, transfer, harboring, or receipt of persons by means of threat, use of force, other forms of coercion, of abduction, of fraud, of deception of the abuse of power or a position of vulnerability or giving or receiving payments for the purpose of exploitation (United Nations, 2000, p.42).

There is specific terminology associated with human trafficking which necessitates further definition. *Forced labor* is also often known as *involuntary servitude*. According to the U.S. State Department TIP Report forced labor “may result when unscrupulous employers exploit workers made more vulnerable by high rates of unemployment, poverty, crime, discrimination, corruption, political conflict or cultural acceptance of the practice” (U.S. Dept. of State TIP, 2009, pp.14-16). Forced labor is the key term used when dealing with migrant smuggling and it is relevant that the legal definition of human trafficking includes the term forced labor.

Another term that arises throughout human trafficking literature is *modern slavery*, which is different from old historical slavery. Human trafficking expert, Kevin Bales explains, “the new disposability [of slaves] has dramatically increased the amount of profit to be made from a slave, decreased the length of time a person would normally be enslaved, and made the question of legal ownership less important” (Bales, 1999, p.14). He suggests that there are key differences between *old slavery* and *modern slavery*:

*Old Slavery* – legal ownership asserted, high purchase cost, low profits, shortage of potential slaves, long-term relationship, slaves maintained, ethnic differences important, and; *Modern Slavery* – legal ownership avoided, very low purchase cost, very high profits, glut of potential slaves, short-term relationship, slaves disposable, ethnic differences not important (1999, p.15).

This discussion on the disposability of modern-day slaves is of particular relevance to migrant farm workers because labor contractors and traffickers have identified a seemingly endless source of eager workers who are desperate for employment. The fact that these workers are so easily replaceable exemplifies the concept of a disposable laborer.

Subsequent to reviewing the international definition of human trafficking as stated in the United Nations Palermo Protocol and since we are dealing specifically with the effects of demand within the United States, it is imperative to comprehend the definition of human trafficking which is used in the United States. The definition outlined under the Trafficking Victims Protection Act (TVPA) which was enacted in 2000 defines severe forms of human trafficking as:

a) sex trafficking in which commercial sex act is induced by force, fraud or coercion, or in which the person is induced to perform such an act has not attained 18 years of age: or, b) the recruitment, harboring, transportation, provision or obtaining of a person for labor or services through the use of force, fraud or coercion for the

purpose of subjection to involuntary servitude, peonage, debt bondage or slavery (U.S. DOS, 2000, p.8).

In human trafficking cases that involve migrants willingly seeking out a *coyote* or migrant smuggler, in order to gain access to the United States, it is sometimes more difficult to define the crime as trafficking. This is because the TVPA specifies that the victim was obtained through “the use of force, fraud or coercion” and in many cases, the willingness of the migrant to be smuggled cross-border eliminates these stipulations.

### Migration for Labor Purposes

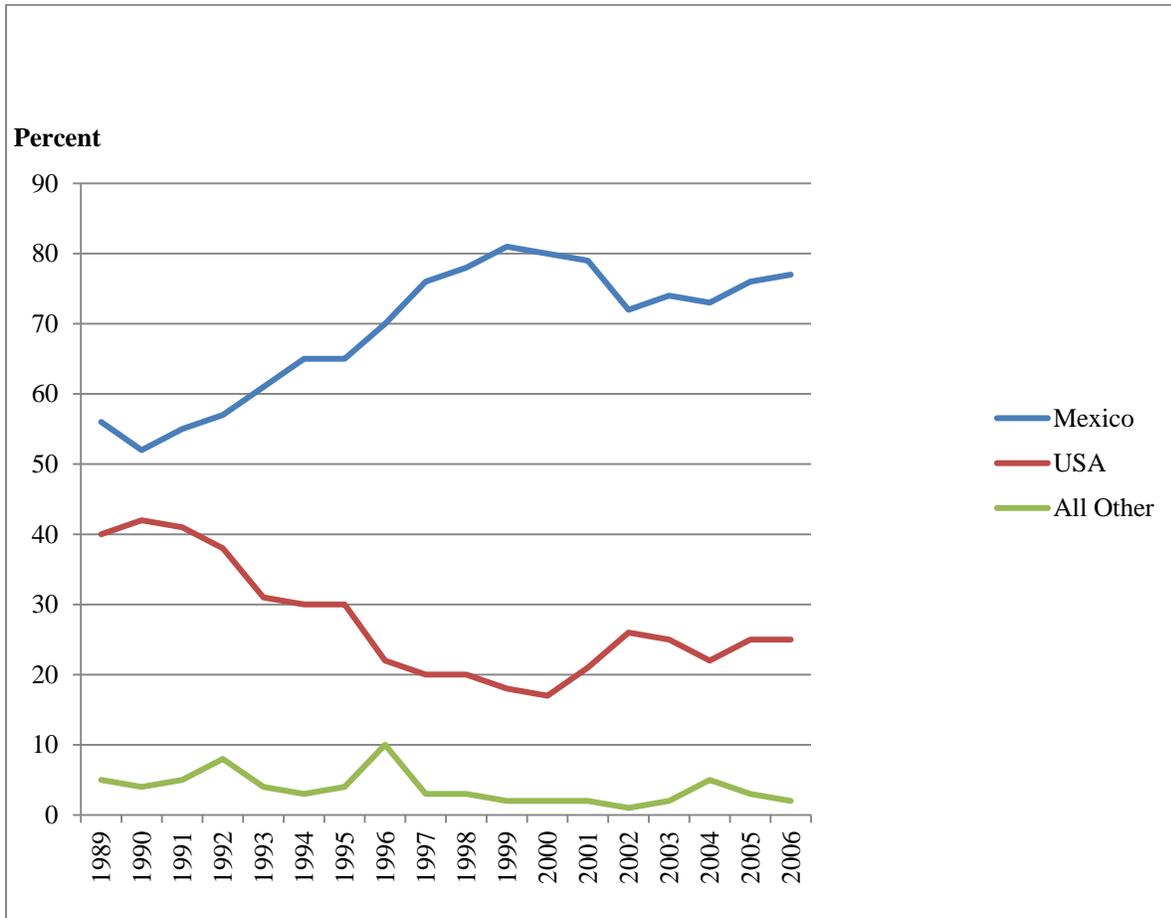
The International Organization on Migration (IOM) states that as of 2010 the United States hosts the largest number of migrants worldwide, totaling 42.8 million (International Organization for Migration, 2010). Labor statistics from the International Labor Organization’s (ILO) Database on International Labour Migration Statistics suggest that a high level of laborers seeking work in the United States migrate from Mexico. The most recent available data is from 2004 and states that of the total 1,020,451 registered migrants in the United States, approximately 177,673 or 17% migrate from Mexico as their country of origin (Laborsta, n.d., 2011). The large numbers of migrants originating from Mexico that seek employment in the United States are a result of close proximity and additional factors that will be discussed throughout this thesis. The fact that many of these migrants are entering the country illegally

presents additional vulnerabilities, making them an even more plausible target for traffickers who seem to be offering assistance but in actuality are working for their own personal gains.

In “Immigration and Politics” researchers Cornelius and Rosenblum argue that there are alternative models of migratory behavior, which emphasize structural factors that are beyond states’ control. The authors seek to explain unmet demands for migration control internationally and variations in immigration policy. Cornelius and Rosenblum present a perspective that suggests that “underlying global economic structures motivate individual or group decision making. From this perspective, global economic integration and the commercialization of agriculture production encourage migration by undermining traditional family structures and lowering demand for rural labor in traditional areas”(Cornelius and Rosenblum, 2005, p.101). The authors explain that other non-American industrialized states such as Italy, Spain and Japan are now experiencing new immigration as their labor demands intensify (2005, p.101). The authors suggest that when low-wage manual jobs become associated with migrant labor, they do not experience a return of native labor, even in times of high unemployment. This creates whole sectors of advanced industrial economies that are structurally dependent on migrant labor (2005, p.101). The researchers also support the idea that migration continues through the promotion of trans-border social networks, which are strengthened each time a person migrates (2005, p.101).

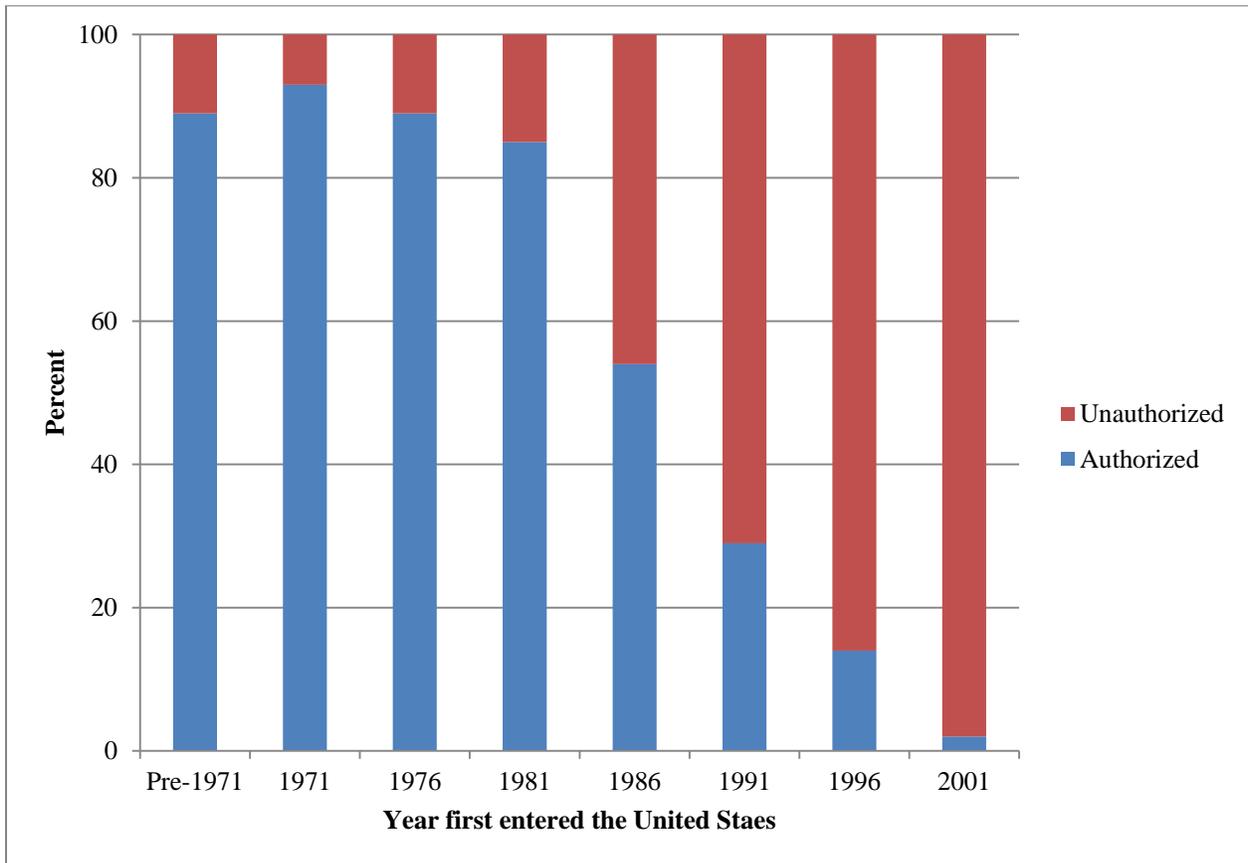
The United States Department of Agriculture (USDA) utilized data from the Economic Research Service’s (ERS) National Agricultural Workers Survey from 1989-2006 to illustrate the large number of crop workers who originate from Mexico and labor within the United States, as well

as a comparative graph illustrating the number of those workers who are authorized and unauthorized for employment in the U.S.



**Figure 1 Nationality of crop farmworker population, 1989-2006**

Source: Kandel, 2008, p.11



**Figure 2 Legal composition of recent hired crop farmworkers, by year of entry into the United States**  
 Source: Kandel, 2008, p.12

As presented by the Economic Research Service data, one may conclude that not only does the United States host a large number of migrant workers but laborers who originate from Mexico consistently represent the largest number of agricultural migrant workers. Additionally, the survey data states that since 1971, the number of unauthorized crop farmworkers has increased from 7% in 1971 to 98% in 2001 (the most recent available data) (Kandel, 2008, p.12). The preceding data served as the initial justification for choosing the United States and Mexico as target areas for study in this thesis, although an additional sub-argument for choosing the US and Mexico as countries of focus is that they are both affected, sometimes with opposite economic

consequences, by the legacy of the North American Free Trade Agreement (NAFTA). This argument will be explored in chapter four where the historical context of trade relations between the two countries is explained.

### Illegal Immigration and the U.S. Economy

In 2005 the Pew Hispanic Center estimated that 57% of all illegal immigrants in the United States were Mexican nationals (Passel, 2005, p.4). There are interest groups within the United States that argue illegal immigration is harmful to the U.S. economy, yet this information has been proven contrary by statistical studies on U.S. labor. In 2010 the Economic Policy Institute released a report titled “Immigration and Wages”. This report observed wage data from the U.S. Labor Department between 1994 and 2007 and found that “the arrival of 9.6 million immigrant workers (including naturalized U.S. citizens, permanent residents, temporary visa-holders, refugees, and undocumented workers) increased the weekly wages of U.S.-born workers by 0.4%, or \$3.68, relative to foreign-born workers, while reducing weekly wages by 4.6%, or \$33.11, for foreign-born workers already in the United States relative to U.S.-born workers” (Economic Policy Institute, 2010, par.6). In 2007 the Council on Foreign Relations conducted a Special Report titled “The Economic Logic of Illegal Immigration”. This study found that in some ways illegal immigration actually helps rather than hinders the U.S. economy.

The report suggests that the response of illegal immigrants to economic conditions within the United States are much more pronounced than the effects of legal immigration because inflows

of illegal labor tend to rise when the U.S. economy is expanding and Mexico's economy is contracting (Hanson, 2007, p.5). Thus legal immigration responds to economic conditions much slower than illegal immigration due to the fact that annual quotas for visas and green cards within the United States are set at a fixed number and so legal immigrants cannot respond to fluctuations in labor needs as readily as those who are here unpermitted (2007, p.5). The impact of these illegal migrants on the U.S. economy will be further discussed in chapter five, where economic factors will be flushed out and related to the overall argument that the U.S. agricultural sector is reliant upon cheap foreign labor, and negligent immigration enforcement supports the availability of cheap labor. Furthermore, as undocumented workers continue to seek employment within the U.S. they will continually be exposed to the vulnerable situations which increase cases of forced labor. These conditions of vulnerability will be explained in depth in chapter five.

The immigration surplus is another economic consideration for those who question the effects of non-native labor on the U.S. economy. This immigration surplus is a result of increasing the supply of workers through more immigration, thus increasing the supply of labor for producing certain goods, therefore creating an overall greater output for the employer and greater gains in productivity (2007, p.19). This then affects the native population because greater output equals lower prices for the consumer, which ultimately "raises the real incomes of native households, most of those gains going to those in regions with large immigrant populations" (2007, p.21).

Aside from labor needs there is sufficient evidence that illegal immigrants virtually cancel out the drain they have on native resources because immigrants pay income, payroll, sales and other

taxes (2007, p.21). Although, in some cases of forced labor and involuntary servitude, employers use migrant workers' ignorance of the U.S. Social Security system to exploit them out of additional wages that employers pocket rather than report to the Internal Revenue Service.

Finally, for those that argue in favor of deporting the illegal immigrant population within the U.S. it should be noted that such a move would reduce the overall U.S. labor force by five percent, and the low-skilled labor force by ten percent (2007, p.30). The economic consequences for mass deportation would likely increase the price in many goods (2007, p.30). The impact of immigrant labor on the U.S. economy is of particular importance to immigration legislation. When regarding legislation it is important that policy makers carefully observe the economic significance of immigrant labor and take into account the positive impact of legal, registered immigrant laborers.

Furthermore, as stated in the U.S. State Department's 2009 Trafficking in Persons Report, the global financial crisis has increased opportunities for individuals who seek foreign job opportunities to be trafficked. The report states that "striking global demand for labor and a growing supply of workers willing to take ever greater risks for economic opportunities seem a recipe for increased forced labor cases of migrant workers and women in prostitution," and the report predicts that the economic crisis will force more businesses into the underground economy to avoid taxes, as well as avoid abiding by labor standards (U.S. Dept. of State TIP, 2009, pp.32-34).

## Understanding the H-2 Visa

H-2 visas are the official visas for low-skilled workers. The H-2 A visa applies to seasonal laborers, such as those in agriculture. H-2 B visas apply to seasonal manual laborers in non-agricultural occupations such as construction and tourism. Altogether, H-2 visas account for less than 10% of all visas issued for the United States (Hanson, 2007, p.8). The current visa program requires that U.S. employers seeking labor must apply for guest workers well in advance of the actual date when the workers are needed. Not only does this illustrate inflexibility in the current system it also demonstrates that there are no native workers available or willing to fill the position at the prevailing wage (2007, p.5). Additionally, illegal immigrants are itinerant because they do not have visa restrictions that tie them to one specific employer. The flexibility of movement may then become a desirable factor for employers who need laborers instantaneously. The Council on Foreign Relations Report, “The Economic Logic of Illegal Immigration” reveals a relevant observation, that: “low skilled temporary immigrants on H-2 visas have been on strongest demand by the tourist industry, in which business knows its bookings in advance and is able to plan for how many workers it will need. In contrast, workers with H-2 visas have been much less in demand in volatile industries such as construction” (2007, p.29). Therefore, lack of regulation in the illegal employment sector contributes to its desirability because it is flexible and easily adaptable to the needs of the employer (2007, p.29). It should also be acknowledged that due to the lack of regulation dealing with illegal immigrant workers, employers are more likely to pay below market wages or participate in other forms of labor abuse since the likelihood of punishment is improbable. Therefore, when there is abundance of

labor opportunities that native workers are unwilling to fill, employers will seek available labor with the guarantee of productivity despite the workers legal status.

#### Availability of Low Skill Employment Opportunities in the U.S.

The Center for Immigration Studies found that data from the March 2010 Census revealed that 13.1 million legal and illegal immigrants arrived in the United States since January 2000, despite the loss of over one million jobs nationwide (Camarota, 2010, p.1). This may partially be due to the fact that the wages and employment opportunities in the immigrant's origin countries are significantly worse than the wage and employment opportunities available in the U.S. Although, a more likely scenario suggests that the population of the U.S. is less willing to take low-wage seasonal work in the agricultural sector. Researchers from the USDA's Economic Research Service state that despite the critical need of farm labor, "hired farmworkers continue to be one of the most economically disadvantaged groups in the United States" (Hertz, 2011, par.1).

The fact that farmworkers labor under such harsh conditions may suggest why such a large demographic of farm labor workers are non U.S. citizens. U.S. born workers have come to expect higher labor standards than are provided for the population of crop workers and those jobs continue to be filled by low-skill foreign born workers.

The quantities of low skill employment opportunities within the United States are in abundance because the jobs available provide low wages and are more often performed by individuals who have less than twelve years of education. In the United States, native workers who are willing to accept such low paying jobs are a rarity because over the past forty years “the share of working age native U.S. residents with less than twelve years of education fell from 50% to 12%”(Hanson, 2007, p.14). In Mexico however, “74% of working age Mexican residents have less than twelve years of education” (2007, p.14). These willing and capable workers cannot find sufficient work opportunities within their county and with available labor just across the U.S. - Mexico border, many chose to pursue employment outside of their country. Therefore the preceding information suggests that the supply of low skilled workers available to do the work required under certain economic conditions, is being done more efficiently through the illegal labor market due to lack of restrictions and increased flexibility of the worker.

## CHAPTER THREE: METHODOLOGY

Due to the lack of accurate data on human trafficking statistics this thesis is presented in the form of a case study research design. While there is some disagreement in the academic community concerning the reliability of the case study approach, there have been studies that suggest otherwise. In the Oxford Handbook of Comparative Politics, John Gerring suggests we are witnessing a field wide movement towards the case-based approach in social science and a shift away from the variable-centered approach (Gerring, 2007, p.90). Gerring argues that “the experimental ideal is often better approximated by a small number of cases that are closely related to one another, or by a single case observed over time, than by a large sample of heterogeneous units” (2007, p.91).

Additionally, Rowley suggests that “case study research is also good for contemporary events when the relevant behavior cannot be manipulated” (Rowley, 2002, p.17). In dealing with data on human trafficking, it is more helpful to take an investigative approach. This thesis draws from the 2009 State Department Trafficking in Persons Report’s prediction that with the ensuing effects of the 2007-2009 global financial crisis, cases of human trafficking are likely to increase. In developing this idea further, this thesis explores the contemporary issue of global economics and applies the hypothesis that human trafficking for labor – specifically the agricultural sector as it is the most labor intensive modern industry – may proliferate due to an increased demand for cheap flexible labor which includes worker vulnerabilities that may lead to forced labor. By

observing relevant cases and available data, this thesis will develop ideas that help to better understand the phenomena of human trafficking as it is related to the global economy, as well as the relationship of foreign labor to incidences of human trafficking.

The research design is a deductive approach. As additional questions and theories may be formed along the way, it should be acknowledged that the main research questions were formed before the onset of practical research. Validity and reliability will be established through Rowley's suggested components of a proper case study research design (Rowley, 2002, p.19). They are as follows:

- 1) The study's questions: With the onset of the 2007-2009 global economic crisis, has demand for cheap, flexible labor affected an increase in low wage migrant work, furthering vulnerabilities that create prime situations for human trafficking and forced labor?
- 2) The study's propositions: There are two main elements that have been neglected in the study of human trafficking related to forced labor. These two elements are current immigration policy within the United States; and on a broader level the effect that demand for cheap labor has had on increasing levels of human trafficking. This thesis argues that there is a lack of oversight and regard for human rights, as well as a lack of international consensus on immigration for labor purposes, which creates a disorganized and inefficient system for prevention of human trafficking and forced labor.

- 3) The study's units of analysis: The main units of analysis throughout this thesis are the victims of human trafficking for labor purposes. These individuals are the basis for case studies.
- 4) The logic linking the data to the propositions: Data taken from the United States Department of Agriculture, the United States Department of Labor, the United States Census, and the Center for Immigration Studies will provide evidence justifying the geographical constraints and demographics of this thesis. Data representing the large number of immigrants who seek to labor in the agricultural sector of the United States will justify this group as a main focus for investigation. Also economic data provided by the United States Department of Agriculture will illustrate trends in the prices of agricultural commodities and compare these findings with the conditions of migrant workers who provide labor to this industry. Data from the USDA's Economic Research Service and the Center for Immigration Studies will illustrate evidence on the usage of Farm Labor Contractors in the agricultural sector and their tendency to recruit and smuggle illegal immigrants into the United States for labor purposes.
- 5) The criteria for interpreting findings: This thesis will rely upon the previously mentioned data sources and relate these findings to the observed case studies. By illustrating the relationship between demand for cheap goods, cheap labor, illegal immigration, the usage of Farm Labor Contractors and forced labor, it is intended to identify relevant links and recognize an emerging pattern of vulnerability for those migrant workers who seek to migrate to the United States to labor in the agriculture sector. The eventual conclusion will be one of increased awareness in regards to a pertinent global humanitarian issue.

Gerring explains that there is also a recent move to marry rational choice tools with case study analysis into something called an “analytic narrative.” The analytic narrative is useful for researchers because it allows them to refer to case studies while “testing the theoretical predictions of a general model, investigat[ing] causal mechanisms, and/or explain the features of a key case” (2007, p.92). Therefore the case study method may allow researchers to make a general theoretical assumption based on case study observations and compare any relative data as a fact checking tool. This emphasis on case study methods versus the positivist research model is further developed by noting that “Within political science and sociology, the identification of a specific mechanism, a causal pathway, has come to be seen as integral to causal analysis, regardless of whether the model in question is formal or informal or whether the evidence is qualitative or quantitative” (2007, p.92).

Taking this into account, I will follow the cross-case study model as outlined by Gerring. Gerring explains that a case study may be understood as “the intensive study of a single case for the purpose of understanding a larger class of cases” (2007, p.96). And while it may incorporate several cases, “at a certain point it may no longer be possible to investigate those cases intensively and so the emphasis of a study will shift from the individual case to a sample of cases which will otherwise be known as a cross-case study”. Gerring also emphasizes that a small number of cases dictates a more intensive study (2007, p.96).

Utilizing the Gerring's cross-case study methodology and Rowley's suggested research design, this thesis will assume a limited reliance on quantitative data and rely mostly on themes which emerge by combining case studies and second-hand data. This thesis will observe second hand sources such as narratives from investigative reports on human trafficking for labor purposes and case profiles provided by the University of Michigan Law School Human Trafficking database. I seek to draw on these cases for supporting arguments that illustrate the vulnerability of migrants from Mexico who seek seasonal agricultural employment within the United States. According to Gerring, "a case may be created out of any phenomenon so long as it has identifiable boundaries and comprises the primary object of inference" (2007, p.94).

To support these narratives, I will refer to second-hand data which will seek to confirm my hypothesis that the global economic crisis of 2007-2009 will create an economic demand for cheaper agricultural goods, therefore making employers more willing to hire illegal migrant workers and workers who are employed through farm labor contractors. I then suggest that the increased amount of undocumented labor will create circumstances that make vulnerable migrant laborers susceptible to increased cases of forced labor and human trafficking. It should be noted that it is not considered human trafficking if the migrant worker enters the U.S. illegally, but by his or her own means (i.e. without a smuggler's assistance). For those migrants who have entered the U.S. illegally, on their own accord they may still be considered vulnerable, but only in terms of falling victim to involuntary servitude because they crossed international borders without coercion. As previously discussed, this thesis will utilize tables, graphs and charts, compiled by

the United States Department of Agriculture, the United States Department of Labor, the United States Census, and the Center for Immigration Studies.

## CHAPTER FOUR: CASE STUDIES

### CASE 1 – Immigration for Survival

Analysis of a case of human trafficking where the victim was first motivated to migrate for economic survival reveals the root causes which will be identified as factors which encouraged initial migration. The factors relevant to this thesis would include evidence that the trafficking victims initially migrated to the United States in search for better economic opportunity.

The University of Michigan Law School Human Trafficking Database summarizes trafficking case profiles. Utilizing the parameter “Agricultural Sector” while searching the database presented a set of cases where agricultural migrant workers eventually fell into circumstances that qualify as human trafficking for labor purposes. A thorough analysis of the 2009 case, John Doe vs. Moises and Maria Rodriguez identifies what starts as a process of migration for economic opportunity can ultimately result in human trafficking. This case remains within the target constraints of this thesis as the victim(s) was recruited to work in the agricultural sector, and the victim(s) originated from Mexico.

The initial migration process in this case began with the defendant, farm labor contractor Moises Rodriguez, when he coordinated with smugglers to assist in the U.S. Mexico border crossing of the unnamed workers who sought an employment opportunity working in the fields of Colorado.

The five victims worked on a well-known organic Colorado farm, Grant Family Farms (Cardona, 2009a, p.1). Grant Family Farms is a major supplier of organic produce to the popular grocery retailer, Whole Foods. The owner of Grant Family Farms, Andy Grant, denied involvement or knowledge of the conditions workers were enduring on his farm (2009a, p.2). Grant later spoke out to a local newspaper, emphasizing that he was oblivious to the abuses taking place on his farm. The report states: “Grant said when he read the details of the lawsuit – that workers pocketed only \$2.60 an hour after wage deductions for bathroom cleaning fees and nonexistent Social Security benefits – it was like a knife in his heart” (Cardona, 2009b, p.1). The disconnect between workers and growers is typical in cases of involuntary servitude involving agricultural migrants. Growers are aware that by working through an intermediary FLC they can avoid immigration violations and ultimately avoid responsibility for any human rights violations that may take place on their farms. Despite his alleged ignorance to the abuses Grant was charged in a lawsuit for his involvement and ultimately settled in 2008 for \$10,000 USD (2009b, p.1).

According to the case profile, once Rodriguez successfully executed the transportation of the victims into the United States he informed them of a \$1300 USD debt for the cost of transportation (University of Michigan, n.d., a, par.1). In addition, the victims would also be charged \$100 a month for rent, \$96 a month for transportation, a monthly maintenance fee as well as Social Security taxes which were never filed with the federal government (Cardona, 2009a, p.4). The victims, who initially resided in Mexico were seeking work and were instructed

to meet the smugglers, at a local hotel (2009a, p.4). Once the smugglers delivered the migrants across the border they contacted their contractor, Rodriguez.

After arriving in Colorado and being confronted with a debt for transportation, the workers were introduced to their living quarters where they would share a room with 4-6 people sometimes without a bed (University of Michigan, n.d., a, par.1). A local newspaper reports, “a videotape of the units, filmed by federal agents executing a search warrant, shows floors with broken and missing tiles, walls with holes in them, splotches of mold and red signs hanging above the sink warning that the water was unsafe to drink” (Cardona, 2009a, p.3). The case profile describes the bathrooms and showers as “grossly inadequate” and “infested with insects” (University of Michigan, n.d., a, par.1).

The case profile states that the victims were “on duty for over 16 hours, 6 or 7 days a week” which includes the 60 to 90 minute drive to the farm from the living quarters. The work consisted of typical farm labor including “planting, weeding or harvesting vegetables” (Cardona, 2009a, p.3). During the trial the victims stated that they “believed that they would be found and harmed if they left the Defendants' company; they also believed that if they left, their co-workers would be forced to pay off their debts” (University of Michigan, n.d., a, par.2). Concerning the threat or fear of punishment, the case profile states that the Defendants “brought guns to work, and at least once, fired the gun to prove that it worked” and Defendants were insulting, threatening and harmful” to the victims in order to keep them suppressed and in fear (University of Michigan, n.d., a, par.2). Local Colorado residents were interviewed for a newspaper report as

well as local Colorado attorney, Patricia Medgie. Medgie videotaped an interview with the victims in 2004 in which the victims admitted to feelings of powerlessness and fear (Cardona, 2009a, p.4).

Local reports state that the Colorado Department of Labor preformed an inspection on the living quarters Rodriguez provided for the workers in 2004 (2009a, p.5). The inspection deemed the quarters unlivable and revoked Rodriguez's crew leader credentials (2009a, p.5). After the Department of Labor revoked Moises Rodriguez's FLC license, his wife, Maria Rodriguez then filed for a license in order to continue their contracting operations (Rural Migration News, 2009a). Following the initial inspection, in 2004 U.S. Customs and Enforcement began an investigation which led to the final suit against Rodriguez (Cardona, 2009a, p.6). The case profile states that in 2005 the victims escaped and sought legal action. Later in 2006 the state of Colorado filed suit against the Rodriguezes and Grant Family Farms (Rural Migration News, 2009a). The Rodriguezes were charged by Immigration and Customs Enforcement with harboring and transporting illegal immigrants and subsequently were deported to Mexico. Hereafter the victims were ultimately awarded \$7.8 million – the largest award in the country to date under these allegations (Cardona, 2009a, p.1).

This case exemplifies the standard case of human trafficking for labor purposes dealing with the agricultural sector. The victims were provided with illegal transport across the U.S. Mexico border for a fee. The victims were isolated and forced to live in inhumane conditions and were forced to work long hours, most of which they were not paid for and they lived in a position of

vulnerability and fear. This case also illustrates the lack of labor monitoring that allowed these circumstances to come to fruition. There is no avoiding the need for manual labor in harvesting, although the disconnection between the grower, in this case Grant Family Farms, and the workers, allows for intermediaries such as Rodriguez to exploit workers, and leave farms with little to no accountability. This disjointed system allows food that may have been harvested by modern-day slaves to end up in grocery stores and ultimately purchased by consumers. The economic demand for labor-intensive products creates a niche area of the economy that necessitates the work of desperate foreign-born workers who are willing to accept much lower standards of work than the U.S.-born worker.

Ultimately, this case illustrates the conditions under which desperate migrants are willing to accept, as well as potential risky situations presented in traveling and coming up with instantaneous demands for large sums of money in order to pay fees incurred in the migration process. It is a curious circumstance that these workers must pay to be paid. They are already living in impoverished conditions, yet the steps they must take in order to obtain an income that will support a normal standard of living push them further into the conditions of poverty from which they strive to escape.

## Case 2 – Farm Labor Contractors and the Coalition of Immokalee Workers

Immokalee, Florida is a rural area of south Florida that is best known for its agricultural sector and its abundance of job opportunities for migrant workers seeking farm labor jobs. Throughout the past decade the area has also made a name for itself through the Coalition of Immokalee Workers (CIW). This coalition has formed one of the most active farmworker unions in the United States and has fought for the rights of migrant workers in cases involving wage increases, unsafe working conditions and uncovering camps of forced labor. As stated on the organization's website, "CIW began organizing in 1993 as a small group of workers who sought to strengthen and educate their community on their right to a fair wage, better housing, enforcement against those who violate workers' rights, and the right to organize without fear of retaliation" (Coalition of Immokalee Workers [CIW], n.d., a, par.5). To date CIW's Anti-Slavery Campaign has helped to successfully prosecute nine cases involving involuntary servitude of migrant workers. Those familiar with the Immokalee community suggest that it represents a perfect "microcosm of the way agricultural labor is mobilized, organized, and set to tasks in labor-intensive agricultural operations throughout the United States" (Griffith & Kissam, 1995, p.30).

Of the nine cases successfully prosecuted with the help of the Coalition of Immokalee Workers, the case *United States vs. Miguel A. Flores* illustrates how criminal FLCs lure potential migrant workers across the U.S. Mexico and then trap the workers into debt bondage and ultimately forced labor. The case profile of *U.S. vs Miguel A. Flores* states that in 1997 farm labor

contractor Miguel Flores and his assistant Sebastian Gomez recruited over 25 migrant workers from Mexico, transporting the workers to a South Carolina farm where they would work as crop workers (University of Michigan, n.d., b, par.1). A report by the United States Department of Justice states, “the two defendants admitted that they recruited Guatemalan and Mexican citizens from Chandler Heights, Arizona, at the border of the U.S. and Mexico to work for their operation” (U.S. Dept. of Justice [DOJ], 1997, par.4). The workers were instructed to pile into overcrowded vans as they were transported to Manning, South Carolina, never being allowed to use the restroom or eat (U.S. DOJ, 1997, par. 4).

Workers were placed in secluded labor camps removed from access to any main roads in order to prevent any public suspicion in the surrounding community. In numerous cases of forced labor involving farm workers, the trafficker will go to great lengths to keep the workers’ living quarters out of public view. This places the workers hours away from the actual place of work creating yet another opportunity for contractors to collect a fee for transportation as well as extend the already long hours of the work day. Despite their remote location one report states that “The *Caloosa Belle*, the newspaper serving [Flores’] hometown, regularly printed letters from citizens complaining about daytime shootings occurring at a downtown bar between Flores and ex - or alienated guards who had worked with him” (Bowe, 2003, p.2).

Once the workers had been shown to their place of residence, Flores informed the workers that they had incurred a smuggling fee when being assisted across the U.S. Mexico border and they now owed him a debt which they were entitled to pay off through their labor (University of

Michigan, n.d., b, par.1). DOJ reports state that “those who attempted to leave the operation before paying off their debt were beaten or threatened with physical harm.” Furthermore, “because the laborers were given such little pay and charged exorbitant prices for essential goods provided by Flores, repayment was virtually unattainable” (U.S. DOJ, 1997, par.5). The case profile states that Flores used death threats in order to control the workers and keep them in compliance, “he buttressed these threats by carrying and occasionally discharging a firearm” (University of Michigan, n.d., b, par.1). The Coalition of Immokalee Workers reports that Flores employed over 400 workers (CIW, n.d., b, par.4). CIW elaborates on the conditions under which these workers were forced to endure stating that the victims were “forced to work 10-12 hour days, 6 days per week for as little as \$20 per week, under the watch of armed guards” (CIW, n.d., b, par.4). Eventually a few of the workers managed to escape and brought the case to authorities where it remained under investigation for five years (CIW, n.d., b, par.4). Flores and Gomez pled guilty to charges of: involuntary servitude; collection of extensions of credit by extortionate means; transporting and harboring illegal aliens; transporting migrant farmworkers in unsafe vehicles; and conspiracy to hold others in involuntary servitude etc.( University of Michigan, n.d., b, par.2). Flores and Gomez were sentenced to 180 months imprisonment and ordered to pay restitution in the amount of “\$39615 USD” (University of Michigan, n.d., b, par.2; U.S DOJ, 1997, par.2).

### Case 3 – Immigration Legislation Leading to Vulnerability

The following narrative provides a look into a contemporary often debated immigration legislation, the United States guest-worker program. This narrative references research conducted by the Southern Poverty Law Center (SPLC). Aside from the traditional migrant smugglers and traffickers, there are additional ways migrant farmworkers end up working in slave like conditions, and ironically the legal guest-worker program is a conduit for worker exploitation. The guest-worker program, better known as the H-2A visa system, brings agricultural workers into the United States on temporary, seasonal work visas in which they are admitted to work for one single employer.

In 2009, 1,703,697 guest-workers were admitted to enter the United States of which 149,763 (4.4% of all short term resident nonimmigrant admissions) were sanctioned for agricultural work and an additional 56,545 were allowed in for H-2B non-agricultural jobs (Monger & Barr, 2009, p.3). Out of the total 3,438,276 short term resident nonimmigrant visas issued in 2009, the highest demographic, 403,793, or 11.7% came from Mexico (2009, p.3).

The H-2A visa program does not allow workers the traditional labor protections which monitor labor throughout the United States. Instead, when guest-workers seek to change jobs under conditions of which they are being mistreated or they complain about abuses “they face deportation, blacklisting, or other retaliation” (Bauer, 2007, p.16). In essence they are bound to the employer listed on the work visa, and must endure the existing work place conditions if they

wish to continue working in the United States. For most workers who obtain an H-2A visa, they would not dare risk losing it, being deported, or blacklisted, because for most it has taken years of waiting and to get to the point where they could legally work in the United States.

Additionally, the cost of obtaining an H-2A is extremely high and leads to high rates of indebtedness amongst migrant workers. In a report by Farmworker Justice and Oxfam America, Roman Ramos, a paralegal with Texas Rio Grande Legal Aid states, “workers in Mexico can expect to pay between 6000 – 7000 pesos [\$400-600] to get to the United States on a guestworker visa” (Goldstein & Howe, 2010, p.8).

Southern Poverty Law Center researchers state that by being “bound to a single employer and without access to legal resources, guest workers are:

- routinely cheated out of wages;
- forced to mortgage their futures to obtain low-wage, temporary jobs;
- held virtually captive by employers or labor brokers who seize their documents;
- forced to live in squalid conditions; and,
- denied medical benefits for on-the-job injuries.” (Bauer, 2007, p.2)

In a 2010 report, The Farmworker Justice program interviewed an unnamed H-2A worker who discusses the abuses he became accustomed to as an H-2A worker in the United States. The report states that the worker and most of the other members of his 13 member work crew came from Puebla, Mexico and paid \$626 USD each throughout the guest-worker visa process

(Goldstein & Howe, 2010, p.13). Once the worker was contracted to live and work on a rural tobacco farm in North Carolina, he found himself living in a “single-story, three-bedroom, clapboard house with no heat, or air conditioning” (2010, p.13). He shared this residence with 12 other workers and added that there was no bathroom inside the house, only “a small concrete block building with three urinals and one toilet, one shower room with three showerheads” (2010, p.13). Unfortunately these workplace and living conditions continue to exist whether or not the migrant worker is sanctioned under a visa program, or an illegal worker.

The Southern Poverty Law Center researched the recruitment process of H-2 guest-workers, and found that U.S. employers rely on private agencies and farm labor contractors (FLC) to locate and recruit guest-workers in their home countries of Mexico and Central America (Bauer, 2007 p.19). Since workers are required to pay high fees to obtain the services of a farm labor contractor, SPLC found that workers would obtain high-interest loans, and “in addition some recruiters require them to leave collateral, such as the deed to their house or car, to ensure that they fulfill the terms of their labor contract” (Bauer, 2007, p.19). On the use of FLCs, President of the Farm Labor Organizing Committee AFL-CIO, Baldemar Velasquez comments: “the system of international contracting labor practices has resulted in farmworkers suffering egregious infringements of human rights” (Goldstein & Howe, 2010, p.8). This narrative supports the assumption that grower’s reliance on FLCs contributes to the negative workplace conditions for farmworkers and creates additional vulnerabilities through tying workers to contractors through exploitive debts that often reflect conditions of debt bondage.

Understanding the history of immigration for employment is crucial to understanding the impact migrant workers have on the U.S. agricultural industry. The reason that so many unauthorized workers engage in agricultural labor is due to the history of the agricultural sector being a “point of entry into the U.S. labor market for unauthorized immigrants” (Kandel, 2008, p.13).

## CHAPTER FIVE: CONDITIONS OF TRAFFICKING THROUGH HISTORICAL CONTEXT

In order to establish a base knowledge of immigration, trade and human trafficking policies relevant to this thesis, chapter four will provide historical context for the reader. The first section, *Economic Development through Immigrant Labor in the United States* explains how the United States' labor economy has flourished mainly due to programs which sought to encourage immigration to the U.S. in times where cheap abundant labor was in demand. The next section, *The Impact of NAFTA*, will provide context on how globalization and the workings of an interdependent global economy can intend positive trade agreements like the North American Free Trade Agreement, but produce adverse consequences for subsets of the affected population. Second, this chapter will introduce the concept of vulnerability as it relates to human trafficking and forced labor. In the section *Vulnerability as a Condition of Trafficking*, the reader will begin to understand how quality of life situations, employment status, poverty level, and other various factors contribute to making one susceptible to becoming a victim of human trafficking. The next section *The Immigration Connection: A Historical Account of Immigration Policy in the U.S.* is crucial in linking the history of foreign born labor to the development and flourishing of the U.S. economy through immigration legislation. This history presents evidence that the economic success of the United States has relied upon the flexibility and availability of immigrants to perform the nation's lowest paying, labor intensive jobs. Last, *The Role of the Farm Labor Contractor* offers a formal definition of FLCs and their influence on the proliferation of human trafficking in the U.S. agricultural labor sector.

## Economic Development Through Immigrant Labor in the United States

The United States of America was founded on the principal that those seeking political and religious freedom as well as the adventurer, the wanderer, the persecuted and the fortune seekers were welcome. The Naturalization Act of 1790 was the first significant legislation in U.S. Immigration history. The Naturalization Act of 1790 stipulated that “any alien, being a free white person, may be admitted to become a citizen of the United States” (U.S. Congress, 1790, p.1). Although this significant act did much in encouraging European immigration to the United States, it stipulated racial boundaries, leaving out slaves, non-whites, Asians and women.

In 1837 an economic depression brought about protests against the large number of Irish immigrants who were taking up residence in the country (Pula, 1980, p.5). One might compare this attitude with the many other periods in U.S. history where an unhealthy economic environment breeds resentment towards immigrants. Yet in contradiction with the previous labor policies expelling immigrant labor, it is always the case that when the additional labor is needed in order to establish a massive labor project such as the first trans-continental railroad, immigration is embraced and encouraged. These inconsistencies in immigration policy dependent upon the economic need for foreign labor reflect the attitude of disposability towards the foreign-born labor force that helped to shape this nation’s economy. For example, in 1860’s, during the construction of the Central Pacific railroad the migrant labor of over 12,000 Chinese

and Irish immigrants helped to complete this railroad that ultimately facilitated western expansion within the U.S. (Harvard University Library OCP, n.d., a, par.3).

Although protests against immigration remained a tenet of the National Labor Union throughout the nineteenth century, the United States did not restrict the movement of people into the country until 1882, when the Chinese Exclusion Act was enforced and stood as precedent for future exclusion for other singled out groups (Pula, 1980, p.6). In 1882 the United States enacted the Chinese Exclusion Act which specifically banned Chinese laborers from entering the United States. At this point there was an established population of natural born American citizens who were beginning to fear that Chinese workers were a threat to their livelihood since the nation, especially the West Coast was experiencing rising unemployment (Harvard University Library OCP, n.d., b). The Chinese Immigration Act endured for ten years, effectively prohibiting Chinese from becoming U.S. citizens. The law was cancelled out by the Magnuson Act in 1943. This new law allowed no more than 105 Chinese immigrants per year. Although the Magnuson Act allowed limited immigration from China it did not dissuade the enduring discrimination against the Chinese in American immigration policy. Nearly 20 years later, the Immigration Act of 1965 large-scale Chinese immigration to the United States was allowed to begin again after being harshly restricted for decades (Harvard University Library OCP, n.d., b, par.3).

The next most significant legislation regarding immigration in the United States was the Dillingham Commission 1907-1911, which was established in response to political concern over immigration in the United States. The Dillingham Commission concluded in 1911 with the

notion that “immigration from southern and eastern Europe posed a serious threat to American society and culture and should therefore be greatly reduced” (Harvard University Library OCP, n.d., c, par.2). The commission also dictated the establishment of the Emergency Quota Act of 1921. This act preferred and encouraged immigration from specific geographic areas such as “northern and western Europe”, and did so “by restricting the annual number of immigrants from other countries to 3 percent of the total number of people from that country living in the United States in 1910” (Harvard University Library OCP, n.d., c, par.2). The period of the Dillingham Commission is understood to be the basis for the restriction of movement into the United States.

As racial immigration resentments grew, congress and members of the Immigration Commission (which was formed from the Dillingham Commission) pushed for a literacy test that would greatly deter the admittance of immigrants into the United States. Although the bill to enact the literacy test was vetoed by President William Howard Taft as well as President Woodrow Wilson, it was ultimately passed by Congress in 1917 (Pula, 1980, p.8). Comparisons to present day restrictions on immigration are evidenced further in the period after World War I, when the organized labor movement struck a chord with U.S. citizens and additional factors such as high unemployment after WWI and the ‘Red Scare’, a period of anti-communism in the U.S., heightened attitudes of anxiety and spurred further racial profiling and support of restricted immigration (1980, p.9).

Beginning with the Immigration Act of 1924, the idea of country specific quotas was encouraged and in 1952 the modern day U.S. Immigration system began with the McCarran-Walter Act, thus

enacting a policy that set quotas on immigration through a per-country basis (1980, pp.10-13). The McCarran-Walter Act established an attitude of preferential treatment towards Western immigrants and perpetuated an obvious racial preference based on country of origin. The quota system was abolished in 1965 but other tenets of the act remained such as ideological basis for the exclusion and deportation of immigrants (1980, pp.13-14). In 1990 Congress revoked most of those provisions, although a restructured version of some reemerged with the Patriot Act of 2001 (Campi, 2004, p.2). The concept of immigrant quotas pertaining to country of origin, suggest that immigration restrictions may encourage illegal immigration and migrant smuggling, although that question is beyond the scope of this thesis.

When relating the issues of human trafficking and forced labor to immigration there are a few concepts that marry the two. The first is the issue of *bonded labor*. The U.S. State Department TIP Report defines bonded labor as “one form of force or coercion is the use of a bond, or debt. Often referred to as “bonded labor” or “debt bondage” the practice has long been prohibited under US law by its Spanish name – peonage – and the Palermo Protocol requires its criminalization as a form of trafficking in persons” (U.S. Dept. of State TIP, 2010, p.9).

The TIP report goes on to explain that debt bondage is common among migrant laborers and more specifically “abuses of contracts and hazardous conditions of employment for migrant laborers do not necessarily constitute human trafficking,” however, the “attribution of illegal costs and debts on these laborers in the source country, often with the support of labor agencies

and employers in the destination country can contribute to a situation of debt bondage” (2010, p.9).

The issue of contracted labor and debt bondage dates back to the 1864 “Act to Encourage Immigration” where Congress authorized employers to pay for the passage of and dictate the services and length of stay of prospective migrants in order to stimulate immigration (Higham, 1986, p.215). The “Act to Encourage Immigration” was short lived. In 1882 Congress passed a new immigration law that gave power to the Treasury of the Secretary to execute authority over immigration (Higham, 1986, p.218). Despite the fact that there was a growing resentment towards the new immigrant population amongst American pioneers, the groundwork was sown for potential profit making enterprises through corrupt contract laborers with the initial passing of the “Act to Encourage Immigration”.

Throughout the late eighteenth and early twentieth century Italian immigrants and their ‘bosses’ or ‘Padrones’ set the pattern for a lucrative form of business and were the first to profit from labor contracting in the United States. Although the Italian immigrant population coined the term ‘Padrone’ it soon became a key word in the immigration context as contract labor became increasingly popular. Immigrants who were entering the United States for the first time used a ‘padrone’ as a resource to locate a job and housing and other living necessities, but more often than not new immigrants would fall victim to the padrone who coerced them to sign a contract that stipulated a large debt for ‘services rendered.’ Historian Gunther Peck explains that “Padrones controlled immigrant workers primarily by exploiting their geographic mobility and

the family networks that sustained it. Paradoxically, they transformed workers' freedom to move and to quit into building blocks of padrone power”(Peck, 1996, p.849). These organized contract laborers were the first to capitalize on the profitability of the unskilled labor market. Padrone bosses directly linked workers who sought to migrate for employment with the growing unskilled labor needs of corporations in the United States (1996, p.850).

In an ironic turn of events, the United States Congress tried to put an end to the padrone system through “The Foran Act” of 1885. “The Foran Act” was passed in order to “prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States” (1996, p.854). The irony lies in the fact that “The Foran Act” actually did more to encourage contract labor than to curtail it. By setting up limitations and increased difficulties for immigrants to enter and work in the United States, the Foran Act actually made padrones an increasingly valuable intermediary for immigrants who could not legally gain entrance into the United States (1996, p.854). This historical account mirrors the current immigration argument that suggests increased border enforcement will help to eliminate illegal immigration.

There is evidence that suggests that increased border enforcement does not help to eliminate illegal immigration. As long as there are available jobs for unskilled laborers, migrants will find a way to get into the United States. Where there is a demand for labor, the supply of unemployed workers will meet the need. The problem lies in the fact that undocumented migrant workers are

more likely to rely on unscrupulous labor contractors who may be potential traffickers, as they have no other option.

### The Impact of NAFTA

When discussing global supply and trade in regard to migration and labor, a significant policy to review is the North American Free Trade Agreement (NAFTA). NAFTA is the “free-trade area among the United States, Canada, and Mexico, fully implemented in 2005. The NAFTA treaty was signed in 1992 and took effect in 1994” (Balaam & Veseth, 2008, p.487). NAFTA is key in linking agricultural policy between the United States and Mexico to foreign migrant labor in the United States. A 2007 report by the Institute for Agriculture and Trade Policy suggests that “NAFTA and domestic agricultural reforms in the United States and Mexico, are in part, responsible for the increase in the number of immigrants entering the U.S. from Mexico” (Spieldoch, 2007, p.4). Critics of NAFTA such as the Institute for Agriculture and Trade Policy’s Karen Lehman, spoke out against the agreement because she predicted it would increase immigration due to its negative affect on Mexican farmers (2007, p.4). Through the guidance of NAFTA, Mexico sought to expand its exports and the peso was devalued in a move to encourage more foreign direct investment. The devaluation of Mexico’s currency had devastating effects on its economy, since the peso ultimately collapsed. Between 1993 and 1995 the number of unemployed workers in Mexico reached as high as 1.7 million (McCuen, 1998, p.151). A study by the Economic Policy Institute, which was submitted to Congress in 1997 reported that “An estimated 28,000 small businesses in Mexico were destroyed by competition

with huge foreign multinationals and their Mexican partners” (1998, p.151). In that same report it was discovered that “during three years of NAFTA, the population of Mexican citizens who were economically considered extremely poor rose from 31% to 51%, pushing 8 million people from middle class to poverty” (1998, p.151). Moreover, “free trade has increased competition among foreign producers in domestic markets, but it has also opened up opportunities for U.S. producers in export markets” (1998, p.151).

The most often cited case of negative trade impacts on Mexico in regard to immigration focus on the issue of corn crops. The 1996 U.S. Farm Bill required the nullification of rules that balanced of supply and demand regulations and allowed for increased corn production which effectively sent corn crops within the United States to 23 percent below production costs (Wise, 2010, p.1). It also stipulated that U.S. farmers no longer had to set aside a percentage of their acreage to qualify for subsidies from the government, allowing them to produce increased crop amounts to any extent they desired (Speildoch, 2007, p.4). This unregulated crop production ultimately collapsed crop prices. With the enormous increase in corn being produced by farmers in the U.S., and open trade through NAFTA, the U.S. was able to effectively ‘dump’ corn onto Mexico. Dumping is a term used in international trade, when a country’s exports are priced below what it cost to produce them (2007, p.5). The actual numbers reflect that “below-cost corn flowed into Mexico increasing U.S. exports over 400 percent. Meanwhile real prices in Mexico had declined nearly two-thirds. This sent economic shocks to rural Mexico’s economy and pushed an estimated 2.3 million people out of agriculture between 1993 and 2008” (Wise, 2010, p.2). This was extremely devastating to Mexico. Historically corn has been central to the Mexican diet and

the country was previously self-sufficient in production with nearly half of Mexican land under cultivation being dedicated to corn production prior to NAFTA (Spieldoch, 2007, p.6).

The impact of U.S. corn crops being dumped onto Mexico had even harsher effects on small private farms. The Institute for Agriculture and Trade Policy (IATP) reports that “90 percent of corn production in Mexico, prior to NAFTA was planted on plots less than 11 acres and 40 percent was on plots less than 2 acres” (Spieldoch, 2007, p.6). It is clear that small farms could not compete with the major increase in underpriced U.S. imports, resulting in a loss of more than 2 million agricultural jobs in Mexico (2007, p.6). The newly unemployed labor pool of nearly 2 million Mexican agricultural workers sought work and as a result “by 2002 migration to the United States from Mexico was 452 percent higher than in 1980” (2007, p.6). This large number of suddenly unemployed farmers creates a population of vulnerable job seekers who may be willing to accept less than ideal conditions of employment.

### Vulnerability as a Condition of Trafficking

The concept of a vulnerable population is essential to understanding the formation of international legislation agreements that address human trafficking. In regard to vulnerability, the Organization for Security and Cooperation in Europe (OSCE) suggests that “the development of social and economic interventions related to human trafficking reflect the need to generate alternatives for those potentially at risk of being trafficked” (Owen, 2009, p.8; Clark, 2008, pp.59-61). Additionally, “by identifying how one abuses the position of vulnerability,

consideration can be imparted in trafficking prevention which includes action to prevent a crime, as well as to reduce the conditions that make an individual vulnerable to trafficking” (2009, p.8; 2008, pp.59-61). The United Nations Protocol to Prevent and Suppress Human Trafficking makes individual states responsible for facilitating the empowerment of vulnerable populations (Owen, 2009, p.8). In the case of Mexico, the country itself would be held responsible for facilitating conditions that make its citizens susceptible to conditions of trafficking. This thesis argues that conditions within Mexico, as well as additional factors such as the impact of NAFTA, and relaxed immigration enforcement within the U.S. agriculture industry have helped to push Mexican farmers into conditions of vulnerability. The Protocol specifically defines vulnerability as:

A condition resulting from how individuals negatively experience the complex interaction of social, cultural, economic, political and environmental factors that create the context for their communities (cited in Clark, 2008, p.69).

Therefore, conditions of vulnerability are often the results of political, social or economic practices within a given state. Conveyed in the definition of vulnerability and the factors it includes, it is clear that the internal state instabilities coupled with international economic agreements will contribute to the spread of human trafficking in regions where political, social or cultural economic factors have tended to be unstable (Owen, 2009, p.9).

Human traffickers are aware of the conditions that will make an individual willing to accept risky employment conditions and often times human trafficking rings hide under the guise of labor contractors. Labor contracting and immigration enforcement mechanisms influence human trafficking networks and this thesis suggests a governmental focus on human trafficking from the perspective of labor demand, seeking appropriate rules regarding labor contracting and immigration. Taking the demand perspective opens up opportunities for the government to uncover why certain sectors of the U.S. labor market are more susceptible to cases of forced labor than others. For instance it is less likely that one will find forced labor in employment sectors where workers are highly visible and accessible to labor enforcement agents.

#### The Immigration Connection: A Historical Account of Immigration Policy in the U.S.

Shifting to the issue of immigration, it is important to have adequate background knowledge on immigration policies and laws, especially in the United States, as it is the main destination country of focus throughout this study. As human trafficking specifically refers to the illegal transport of people for the purposes of labor and sexual exploitation, it is evident that immigration policies are relevant to this issue, and this thesis will argue in favor of altering current U.S. immigration policies in order to prevent human trafficking as a main component of this study. Considerable attention has been paid to the issue of criminality associated with human trafficking, as well as attention been given to the vulnerability that may cause a person to become susceptible to human trafficking, although little academic research has gone into exploring the correlation between the demand for cheap labor in the agricultural sector, which is

often supplied by immigrants. This includes human trafficking as an issue of labor rights and labor protection.

The most recent edition of the United States State Department, Trafficking in Persons Report (TIP) states that “more people are trafficked for forced labor than for commercial sex. The crime is less often about the flat-out duping and kidnapping of naïve victims than it is about the coercion and exploitation of people who initially entered a particular form of service voluntarily or migrated willingly” (U.S. Dept. of State TIP, 2010, p.8). The concept of coercion is key in many cases of human trafficking for labor purposes, as oftentimes farm labor contractors lure undocumented migrants with promises of safe passage and guaranteed work in the U.S. although these promises come with a hefty price tag, more often than not resulting in the loss of individual freedom.

The motivation to migrate and seek better employment opportunities is a main consideration when linking illegal immigration to cases of human trafficking. These individuals have sought illegal entry into the U.S. as a last resort and in some cases are willing to accept risky labor contracts. Researcher Anne Gallagher refers to these migrant workers as “survival-migrants” or workers who are motivated to migrate in order to “escape from economic, political or social distress” (Gallagher, 2002, p.17). Farm labor researcher Ruben Martinez chronicled the conditions of migrant farmworkers in his book *The New Americans* depicting several cases of forced labor in the migrant community, specifically those who migrated to the U.S. to work in the agricultural sector. Martinez poignantly states, “The Mexican migrant journey, like most all

Old World journeys of necessity is not an end unto itself, but rather a means to lift the family out of poverty in the only way the migrants know how: crossing the Rio Grande and staking a claim on the future”(Martinez, 2004, p.150).

Another government program that set the tone for Mexican migrant labor in the United States occurred during the WWII when most native U.S. laborers were dedicated to war efforts. In 1942 the US enacted the Bracero Treaty, allowed large numbers of Mexican nationals to take temporary agricultural work contracts within the United States. From 1942 to 1964 over 4.5 million Mexican nationals came to work on contract in the US (Espinosa, 1999, par.10).

The Bracero workers were made to sign contracts that were overseen by the Farm Bureau. The contracts were written in English, so for most of the Bracero applicants, they were unaware of what they were consenting to and what their rights were, as well as if the contract stipulated the relinquishing of rights to the Bracero workers employer (1999, par.14).

By the end of WWII native U.S. workers were recovering from the war efforts and acclimating back into the labor industry. Historical accounts suggest that many U.S. citizens were dissatisfied with the level of migrants who were working in jobs they could potentially need. Soon there was an influx of reports on human rights violations towards the Bracero workers and in 1964 the Bracero Program came to an end (1999, par. 16). The human rights violations that took place during the latter years of the Bracero program placed a stigma on Mexican migrant workers and set the precedent that they would be willing to risk working under inhumane conditions.

## The Role of Farm Labor Contractors

Farm labor contractors (FLCs) were briefly discussed in previous chapters although a formal definition is presented here in order to emphasize the role of FLCs as a part of the underground labor market. The Migrant and Seasonal Worker Protection Act (MSWPA) refers to farm labor contracting as “the recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal farmworker” (U.S. DOL, n.d., Migrant Seasonal Protection Act [MSWPA], par.2) A FLC is “a person (other than an agricultural employer, an agricultural association, or an employee of one of the aforementioned) who receives a fee for performing farm labor contracting activities” (Runyan, par.1). The FLC is responsible for recruiting migrant workers and delivering them to an agricultural worksite where laborers are needed. The FLC is an intermediary; he or she is the buffer between the workers and the growers, taking workplace liability off of the growers and into the hands of someone unregulated.

By U.S. law, FLCs must be registered with the U.S. Department of Labor although there are many contractors who work in the underground labor market, exploiting workers out of their desperately needed wages. It is U.S. law that farm employers (growers, big farm corporations etc.) can only employ registered FLCs, and it is left to the employer to verify that contractors are registered with valid certificates. The United States Department of Labor posts a complete list of all registered FLCs on its website, as well as a list of ineligible FLCs. The most recent listing of ineligible FLCs was updated in May of 2011 and lists the names and addresses of approximately

525 FLCs whose license has been revoked. The large number of ineligible FLCs indicates the scope of cases where registered FLCs are in violation of labor standards.

Researcher Jack Runyan points out that the Immigration Reform and Control Act (IRCA) of 1986 had a significant impact on the substantial increase in the use of Farm Labor Contractors (Runyan, 1999, par.3). The US Department of Labor estimates that as recent as 2010 there were approximately 830 Farm Labor Contractors registered with the US Department of Labor (U.S. DOL, 2011). The average annual wage was \$35,890 (U.S. DOL, 2010a). Curiously, eleven years prior to this date there was a sharp then steady decline in registered FLCs. Beginning in 1999 there were 11,260 registered FLC's taking home a mean annual wage of \$18,140. Consequently there has been a 91% decrease in registered FLCs over an 11 year period. As the number of FLC's has decreased, there has been a significant increase in the FLCs mean annual wage, resulting in wages more than doubling over the same 18 year period growing from \$18,140 in 1999 to \$35,890 in 2010 (U.S. DOL, 2010a). This may mean there are fewer farms utilizing FLCs, and they are paying higher wages for them, or it could mean that farms are ignoring the condition that FLCs must be registered with the US Department of Labor, and they are hiring non-licensed contractors who contribute to the large number of unauthorized workers, laboring on U.S. farms. U.S. District Judge Michael Moore commented on the widespread use of FLCs stating "others, at another level in this system of fruit-picking, at a higher level...are complicit...They rely on migrant workers themselves so that they can be relieved of any liability for the hiring of illegal immigrants. And yet they stand to benefit the most" (Rural Migration News, 2011, p.2).

Fifty percent of migrant workers are without working papers and their mean annual income remains around \$7500 USD. John Bowe, author of “Nobodies, Modern American Slave Labor and the Dark Side to the New Global Economy”, points out that “between 1995 and 2004, more than 3,000 Mexicans died while trying to enter the United States” (Bowe, 2007, p.9). Bowe further points out that for most farmworkers, laboring in the fields of a foreign country “isn’t a lifestyle choice or a preference, it’s a matter of survival...Due to overpopulation, and declining commodity prices, largely brought on by free trade agreements and First World subsidies to farmers, they can no longer afford to live on their own land and in their own communities” (2007, p.11).

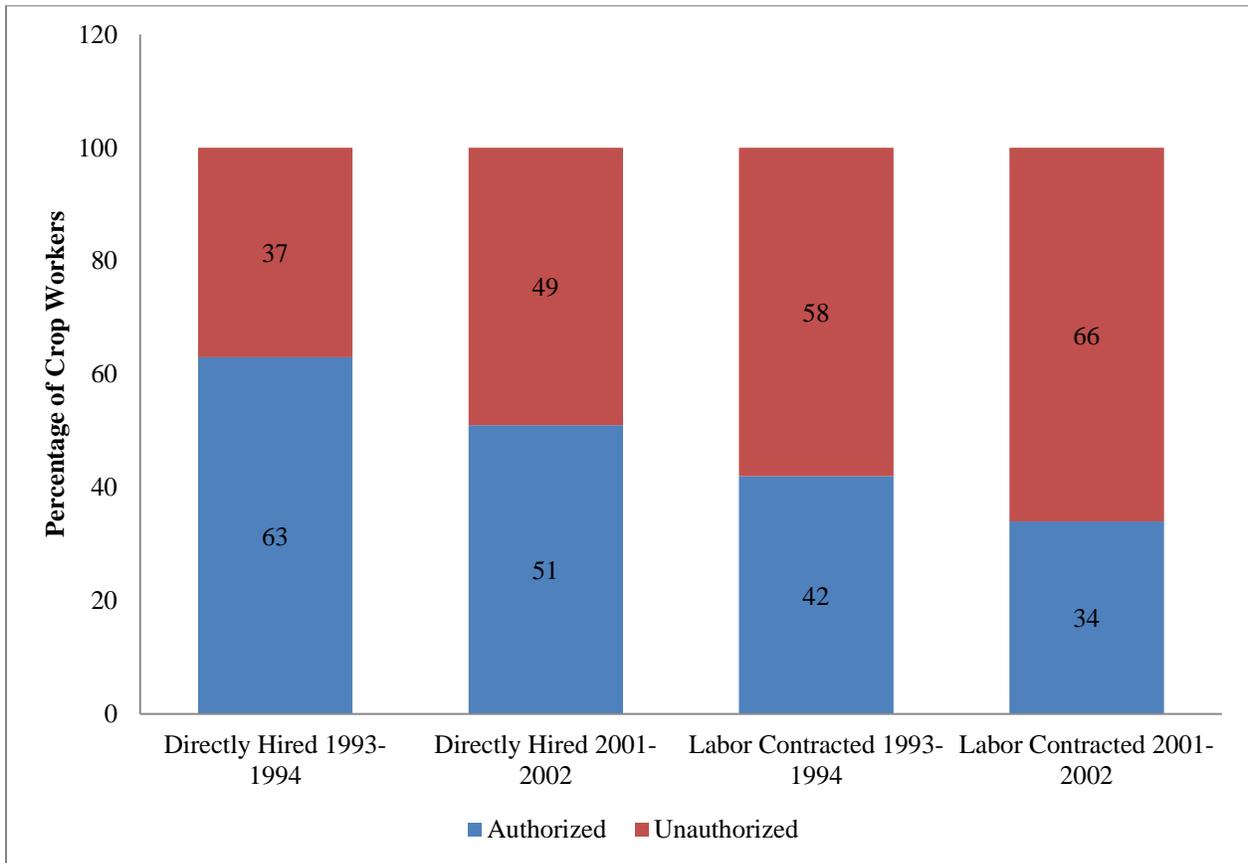
Under circumstances of survival individuals are more willing to take serious risks in order to meet the conditions which will bring themselves and their families to a sustainable living arrangement. Under intense pressure, many potential victims fall prey to the schemes of FLCs whose only concern is to turn a profit. Bowe suggests that FLCs often use threats of seizure by the Immigration and Customs Enforcement to keep workers in line, and use debt bondage to keep workers in a powerless position. Bowe quotes an agent with the U.S Border Patrol who explains the situation from his point of view:

“You know, these workers, are so vulnerable. They’re housed miles from civilization with no telephones or cars. Whatever they’re told they’re gonna do, they’re gonna do it. They’re controllable. There’s no escape. If you do escape, what are you gonna do? Run

seventeen miles to the nearest town? When you don't even know where it is? And, if you have a brother or a cousin in the group are you gonna leave them behind? You gonna escape with seventeen people? You gonna make tracks like a heard of elephants. They'll find you, And heaven help you when they do" (2007, p.13).

A key piece of the Border Patrol agent's point of view is the statement that the workers are controllable. When an individual is in an environment where they do not speak the native language, they have no resources, no phone, no contacts, no vehicle – they are in a state so vulnerable that they make easy prey.

Bureau of Labor Statistics data suggest that registered FLCs are decreasing, and with that information, it is essential to explore how the recent economic crisis may have affected these numbers. An industry report on FLCs and crew leaders suggests that "nearly 33 percent of hired agricultural workers were employed by FLCs in 2003" (Reference for Business, n.d., par.1). Findings from the National Agricultural Workers Survey (NAWS) (data only available from 1993-2002) presents statistics on the number of agricultural workers directly hired versus those hired by FLCs. NAWS reflects "that in 2001-2002, 51 percent of the directly-hired workers were work authorized, down from 63 percent in 1993-1994" (U.S. DOL, 2005, p.31). Similarly, "34 percent of the labor-contracted crop workers in 2001-2002 were authorized, down from 42 percent in 1993-1994" (2005, p.31). This suggests that the overall number of unauthorized workers is increasing whether or not workers were directly hired by growers or were recruited by FLCs.



**Figure 3 Percentage of directly hired crop workers vs labor contracted crop workers and legal status**  
 Source: U.S. DOL, 2005, p.31

In regards to the argument FLCs take advantage of undocumented workers, theoretically of the 66 percent of crop workers who are undocumented, many of them may have been forced into labor contracts or trafficked into the United States under strict terms that amount to slave labor. One industry report suggests that “between July of 2003 and February of 2004, the Department of Business and Professional Regulations conducted 21 inspections of Florida citrus groves, uncovering a total of 257 labor violations in that state alone” (Reference for Business, n.d., par.5). The fact that nearly 50 percent of migrants, working within the United States are undocumented creates an underground labor market where U.S. Labor inspectors are non-

participants. Since this large sector of labor is continuing to produce goods for the U.S. economy at a cheap cost, it continues with little interference or government intervention, especially when it comes to the agricultural sector where big farm corporations represent a strong force when lobbying for their private interests.

Researcher John Bowe explains that the public perception of farm worker mistreatment is largely due to misinformation, as many believe that modern slavery is simply due to the workers lack of citizenship. In “Nobodies: Modern American Slave Labor and the New Global Economy” Bowe interviews Laura Germino who is a co-founder of the Coalition of Immokalee Workers (CIW), the community based workers’ rights organization in South Florida which was discussed in Case two. Germino suggests that the underlying catalyst for the mistreatment of migrant workers is big agribusiness. Stating, “agribusiness has always been this bad, and it always has been so *by design*. Since the days of officially sanctioned, legal slavery, agriculture has consistently attempted to sidestep the labor rules that have been imposed upon other industries” (Bowe, 2007, p.36). This is verified by revisiting the rights of seasonal agricultural workers under the Fair Labor Standards Act (FLSA) which stipulates that

Employees who are employed in agriculture as that term is defined in the Act are exempt from the overtime pay provisions. They do not have to be paid time and one half their regular rates of pay for hours worked in excess of forty per week”. Also, “Any employer in agriculture who did not utilize more than 500 "man days" of agricultural labor in any calendar quarter of the preceding calendar year is exempt from the minimum wage and

overtime pay provisions of the FLSA for the current calendar year. A "man day" is defined as any day during which an employee performs agricultural work for at least one hour (U.S. DOL, 2008, pars.2-4).

The FLSA further excludes seasonal agricultural workers from protections by stating that

Additional exemptions from the minimum wage and overtime provisions of the Act for agricultural employees apply to the following: Agricultural employees who are immediate family members of their employer; those principally engaged on the range in the production of livestock; local hand harvest laborers who commute daily from their permanent residence, are paid on a piece rate basis in traditionally piece-rated occupations, and were engaged in agriculture less than thirteen weeks during the preceding calendar year; and non-local minors, 16 years of age or under, who are hand harvesters, paid on a piece rate basis in traditionally piece-rated occupations, employed on the same farm as their parent, and paid the same piece rate as those over 16 (U.S. DOL, 2008, par.5).

What sets the agricultural sector aside from other industries is that currently, and historically, it is dependent on short term manual labor. Due to the seasonality of crops, workers are subjected to short term labor contracts that consist of extremely long hours without overtime pay, where wages are mostly piece rate. To put this into perspective, “in order to earn \$50 a day, Immokalee

pickers must harvest two tons of tomatoes, or 125 buckets, each weighing an average of 32 lbs.”  
(Bowe, 2007, p.8).

Bowe states that “Seventy years ago there were nearly seven million American farmers, and about 25 percent of the American population was involved in farm production. Today, fifty thousand farms account for three-quarters of American food production” (Bowe, 2007, p.45). This suggests that the small farmer who had more oversight and control over the farms of the past, has been replaced with much larger farm corporations who relinquish their labor responsibilities to a handful of well-paid FLCs.

If the number of small farms has decreased over the past decade, it is likely that the labor statistics on declining numbers of FLCs may correlate with this progression.

A key aspect of criminal labor contractors is their ability to prey upon workers vulnerabilities, knowing that the more difficult border passage may become, the more they can charge a migrant and the harsher the conditions of the contract may be. It is clear that labor contractors manipulate migrant’s basic vulnerabilities in order to get them into the U.S., although there are still additional ways that contractors take advantage of workers that ultimately puts them into the category of forced laborers. Knowing that workers often lack language skills and legitimate working papers, contractors will put workers in situations that require workers to take out high interest ‘loans’ or to pay for food, clothing and transportation directly through the contractor at severely inflated prices (Rothenberg, 1998, p.8). The following narrative provides an accurate

depiction of an agricultural migrant community that relies on the support of a private immigrant network.

US Census Data as recent as 2000 states that out of Immokalee's 19,763 residents, 14,027 are Hispanic or Latino (U.S. Census, 2000). Due to the seasonality of farm labor there are sharp fluctuations in the number of residents in Immokalee from the inactive summer months, to the very active winter harvesting months. As with all migrant communities, the constant shifting of this population makes it difficult to monitor workplace conditions and quality of life on a consistent basis. It is clear though, that the agricultural sector in south Florida is supported by the constant supply of willing and eager migrant workers.

Since there is such a large contingent of farmworkers in Immokalee there are public and private sector services that seek to assist migrant workers, although these services such as job placement, food stamps etc. often are neglected due to the legal status of most migrant workers. This vulnerability is seen as an advantage by FLCs and growers, who are aware of the fact that undocumented workers have little resources available to them and therefore unsatisfactory working conditions and unfair wages continue with little consequence. Griffith & Kissam state that "Even in firms and on farms that do not use farm labor contractors, their presence is felt indirectly because of the heavy influence they exert over housing, working conditions, the mobilization of workers for the recruitment and transport and so forth" (Griffith & Kissam, 1995, p.62). It is also worth noting that any public job referral service may be under-utilized due to the length of time, and amount of paperwork involved. Oftentimes, farm labor work orders may only

be 4 to 6 weeks long, and the job referral process itself can take up to a week. By the time a worker has responded to the referral it is likely that the job will have been filled by a worker who relied on a more informal network (1995, pp.56-63).

The FLCs gain the bulk of control through the migration process itself when they offer illegal smuggling services to migrants seeking entrance into the United States, and then hold workers captive until they have paid off the enormous fees incurred for border crossing, housing, food, transportation and other services that were imposed upon the workers. Griffith & Kissam call this relationship one of dependence and underscore the point that “farmworkers who utilize farm labor contractors often rely on them not only for work but for access to housing, transportation and linguistic ability” (1995, p.57). In essence the services FLCs provide are a form of labor control (1995, pp.56-63). Labor control is a gateway into forced labor and slave-like conditions.

This all culminates to illustrate the reliance of migrant workers on informal social networks for most of their basic needs, including the migration process itself. Researchers state that “social networks are the building blocks of the social infrastructure of migration...they may be based on kinship, friendship, common community of origin, ethnicity, national origin, common residence, or common job experiences” (1995, p.49). These informal social networks are “flexible institutions that have arisen primarily in response to the uncertainties and difficulties of migrant and farm-working life. They are constantly changing and adapting, both growing and dissolving in response to labor market developments, crop failures, individuals’ rites of passage and so forth” (1995, p.49).

When observing the impact of social networks among migrant workers it is easy to see how FLCs and migrant smugglers can weave their way into these flexible communities in order to recruit new workers under their terms. Griffith & Kissam find that “network recruitment – the recruitment of friends, kin, and the members of networks of current employees – has become the most common form of recruitment within low-wage labor markets, including and especially those staffed primarily or exclusively by migrant workers” (1995, pp.49-50).

On the other hand, when migrant workers rely on close family-based networks for strategies of residence they tend to be less likely to fall prey to labor traffickers, “strategies of residence, or the ways new immigrants arrange and rearrange their living arrangements, are the principal methods by which new immigrants resist conditions of domination under which they find themselves” (1995, p.62). In these cases “creative family strategies constitute ways of circumventing or reducing the power of labor intermediaries” (1995, p.62)

**Table 1 Family type, network type and immigration status by use of FLCs**

	Percent Who Use FLCs (N=34)	Percent Who Do Not Use FLCs (N=41)
<i>Family Type</i>		
Lone male/lone female	62.2	38.1
Extended family	10.8	16.1
Nuclear family	13.5	31.0
Working couples	5.4	7.1
Single-woman household head	8.1	4.8
Other	-	2.4
<i>Network Type</i>		
Traditional sending area	18.9	14.3
New sending area	56.8	50.0
Texas/Nuevo Leon	10.8	7.1
Bracero era	5.4	7.1
Legal U.S. – born	8.1	21.4
<i>Immigration Status<sup>a</sup></i>		
Section 210 – SAW	39.5	21.4
Section 245 – pre-1982	10.5	4.8
Refugee	7.9	16.7
Marriage, green card, family	10.6	11.9
Undocumented	18.4	19.0
U.S – born	13.2	26.2

**Source:** Griffith & Kissam, 1995, p.63

Immokalee survey data, 1989-90; current farmworker subsample.

*Note:* Percentage may not total 100 because of rounding.

<sup>a</sup>Section 210 (SAW) refers to seasonal agricultural workers who were legalized under IRCA. They received temporary worker authorization if they could prove that they had worked for ninety days in agriculture in the previous three years. Section 245 is concerned with the “amnesty” immigrants, granted work authorization of they could prove they had lived in the states before 1982.

Throughout their research Griffith & Kissam supported the theory that workers who rely on farm labor contractors are confined to the farm labor market more severely than independent workers, due to the power that “farm labor contractors develop over their crews through housing, transportation, and cultural brokerage functions” (1995, p.62).

There has been some government involvement in the issue of labor contracting and debt bondage. In 1963 federal law required that all FLCs register with the United States Department of Labor under the “Farm Labor Contractor Registration Act” (FLCRA). Despite this requirement it is common knowledge amongst growers and contractors that they can work outside the law and largely go unnoticed. There aren’t enough regulators or oversight for the Department of Labor to actually monitor whether or not contractors are registered, and even when they are registered many still continue to exploit workers without consequence (Rothenberg, 2000, pp.49-50).

Similarly there is little oversight for the growers who employ labor contractors. Congress tried to address the issue of grower responsibility in cases of labor abuse in the 1970s when they assigned the Department of Labor with investigating and enforcing labor laws on growers through fines. Growers were notified that they would be held responsible if they hired unregistered contractors and workers were given the right to sue contractors (2000, p.49).

There are many flaws in this system though, because illegal migrants are largely fearful of law enforcement and the threat of deportation, so the likelihood of many of the abused illegal

migrants coming forward was and is improbable. In 1983 the FLCRA was replaced with the Migrant and Seasonal Worker Protection Act (MSWPA). The MSWPA offered specific protections regarding quality of life issues for migrant workers. The act outlined regulations covering the recruitment, employment, transportation and housing of workers. The act also placed more responsibility on the contractors and required them to keep current and accurate wage records and offer labor and work conditions upon request (2000, p.109). Specifically the MSWPA requires that upon recruitment all FLCs must provide workers with the following information:

(1) The place of employment; (2) the wages to be paid; (3) the crops and kinds of activities in which the worker may be employed; (4) the transportation, housing and other benefits to be provided, if any; (5) the existence of strike or work stoppage; and (6) the existence of any arrangements the FLC may have with an establishment to receive a commission from sales made to the agricultural worker (Commission for Labor Cooperation, 2002, p.46).

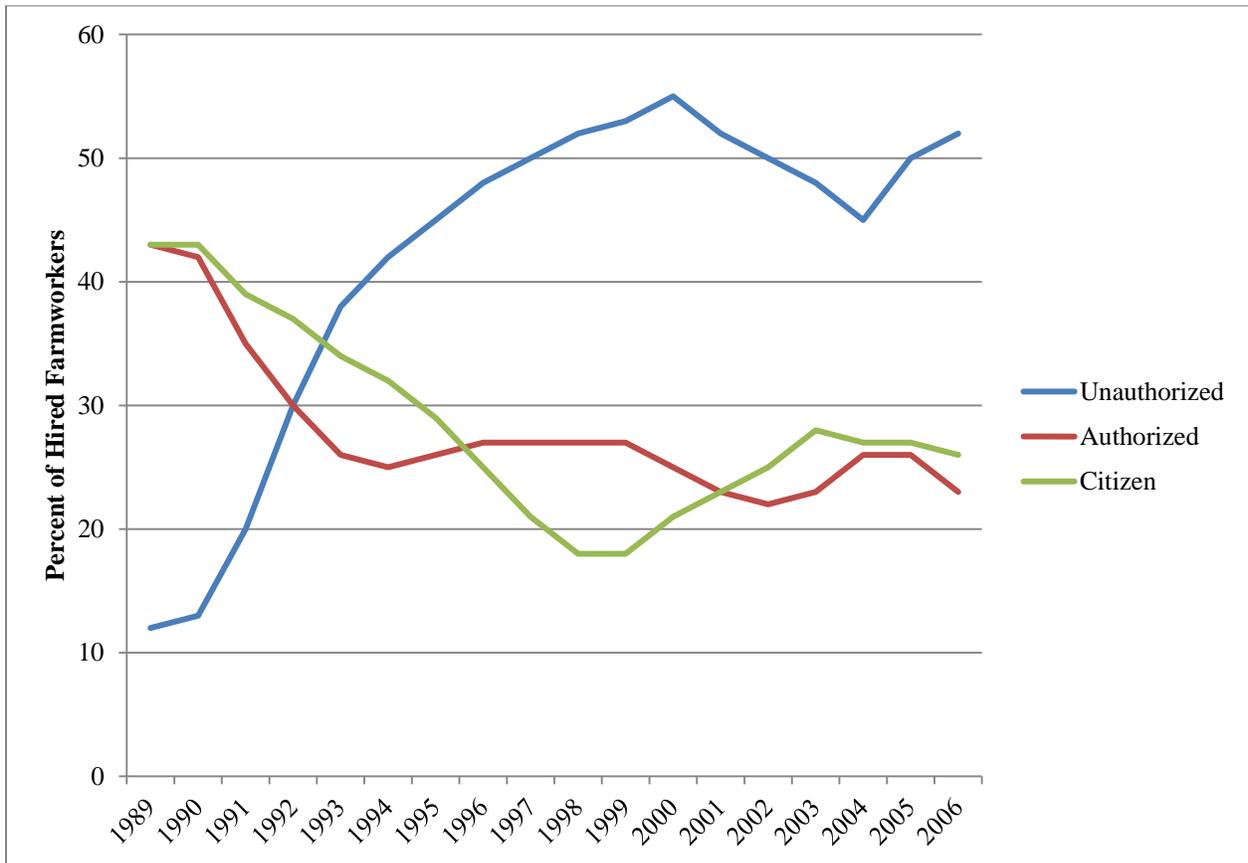
The last point, in which the FLC must advise the worker of any commission from sales made to the agricultural worker, is of particular significance when considering the debt bondage situations where workers are forced to purchase food and other necessities of life solely from the FLC. These protections are insignificant in most cases since the enforcement of these laws and regulations are difficult to monitor due to the lack of oversight from the Department of Labor. Also there is a lengthy appeal process that can enable contractors to continue operating, even

when the condition of their license is in question (Rothenberg, 2000, p.215). It is also worth noting that any employer who knowingly commits a violation of the MSWPA can be fined a penalty of not more than \$10000 USD for each violation or be sentenced to prison for not more than a year or both (Commission for Labor Cooperation, p.46). Any FLC who is found in violation of the MSAWPA risks having his or her certificate of registration with the Department of Labor revoked. This is not an especially threatening punishment in regard to FLC's, because often they avoid registering with the Department of Labor altogether.

The use of FLC's by growers in order to obtain workers is a labor trend which has adverse consequences to agricultural workers. Growers are increasingly relying on the FLC as an intermediary who takes the responsibility for enforcing labor laws, leaving the grower with few legal obligations to the laborers he or she employs. Many cases of human trafficking in the labor sector were initiated by migrants seeking out an FLC for employment assistance, and ultimately finding themselves in a situation of debt bondage and involuntary servitude. With the widespread knowledge on abuses FLCs are reputed to commit, governments need to directly address the relationship between migrants and FLCs especially in situations of illegal migration.

## CHAPTER SIX: ECONOMIC FACTORS

The economic repercussions of free trade through regional trade deals like NAFTA have opened up the largest U.S. producers to increased export markets and rising profits. With increased production comes the requirement for increased productivity and throughout history, foreign born workers have contributed to providing big growers with cheap and unorganized labor (McCuen, 1998, pp.149-155). It is an unfortunate fact that large agricultural profits within the United States have been achieved through the exploitation of immigrant labor and historically large producers and growers have sanctioned and encouraged illegal immigration (1998, pp.149-155). Today there are approximately 5 million agricultural workers in North America (Commission for Labor Cooperation, 2002, pp.23-33). Of those 5 million workers, the National Agricultural Workers Survey estimates that approximately 2.5 million of those workers are employed in the United States and that 55% of all hired farmworkers were unauthorized to work in the United States (2002, p.37). Among those foreign born workers 97% were born in Mexico (2002, p. 37). The following graph illustrates yearly progression in the number of unauthorized laborers working on farms in the United States. The graph shows a sharp increase in unauthorized farm laborers beginning in 1989.



**Figure 4 Legal status of hired crop farmworkers, 1989-2006**  
 Source: Kandel, 2008, p.13.

Historically, the United States has conditioned its immigration policies on the needs of the labor market. “The Act to Encourage Immigration” which stimulated immigration through contracts that tied migrants to a specific employer through a cash loan for a specific period of time, set the stage for a wave of labor contractors profiting from debt bondage.

It is widely accepted in the labor circles that migrant workers are some of the most vulnerable workers, and in times of economic crisis these conditions are intensified. If the demand for overall labor is reduced due to contractions in a country’s economy there will be less migration

opportunities for potential non-native workers. The International Labor Organization suggests that “in times of crisis slack demand for labour increases the likelihood of precarious and irregular employment...it is likely that migrant workers will be forced to take on jobs in poor working conditions and/or in the informal economy” (Awad, 2009, p.x). A Congressional Budget Office (CBO) report titled, *Immigrant Labor within the United States* stated that “in 1994 1 in 10 people in the U.S. labor force were born elsewhere, but in 2009, 1 in 7 was foreign born” (Congress, 2010, preface). Furthermore “about 40 percent of that foreign born labor force was from Mexico and Central America” and “In 2009 over half of the foreign born workers from Mexico and Central America did not have a high-school diploma or GED credentials compared with just 6 percent of native born workers” (2010, p.1). Compared to the native citizen employment force, it is clear that these migrants are entering the United States in order to perform low-wage, unskilled labor. The CBO report goes on to discuss that non-native workers who came to the United States from places other than Mexico and Central America were employed in a various range of occupations, “they were more than twice as likely as native-born workers to be in fields such as computer and mathematical sciences, which generally require at least a college education” and “their average weekly earnings were similar to those of native-born men and women” (2010, p.1). This indicates that based on country of origin, migrants are typecast into labor categories. Based on the legacy of immigrant labor programs such as the Bracero program, Mexican migrant workers continue to be recruited into the same low paying positions as they were decades earlier.

When considering a migrant's willingness to accept low paying jobs, level of education is a factor. Throughout Mexico evidence suggests that education levels are increasing: "In 2009, they [Mexican nationals] had completed an average of 9.8 years of schooling—up from 9.5 years in 2004; 55 percent lacked a high school diploma or GED credential—down from 59 percent in 2004; and among 16- to 24-year-olds, 50 percent were not in school and were not high school graduates— down from 60 percent in 2004" (2010, p.1). But despite this significant progress in education, Mexican nationals are not progressing in their choice of employment, especially when seeking jobs within the U.S.

When a country accepts migrant workers, as the United States does through various visa programs, it is assumed to be based on economic predictions for the amount of workers needed in a certain sector in order to maximize growth. When a country's economy is contracting, it should be expected that labor demands decrease as the ability for expansion also decreases. That said, there are considerations that should be taken into account regarding the question of whether or not increasing consumer demand for cheaper goods should predict a greater need for cheap labor and thus an increase in migrant workers who are willing to accept less than desirable working conditions and wages. This seems to be evidenced in the particular sectors where migrant workers' numbers have decreased with the impact of the global economic crisis such as in construction and hospitality.

The ILO states that the most likely sectors of employment for migrant workers are:

"construction, manufacturing, hotels and restaurants, manufacturing, health care, education,

domestic service and agriculture” (Awad, 2009, p.5). But there have only been drops in employment and economic growth in a selective few of these sectors, those being: construction, manufacturing and, hotels and restaurants, all of which are sectors of the economy that are expected to grow in times of economic prosperity and times where individuals possess more disposable income. In conjunction with this information, the ILO suggests that “in the same country, an overall reduction can coexist with preservation, or even increases, of employment and migration opportunities available for migrant workers” (2009, p.5). Therefore those seeking agricultural work are more likely to acquire employment through recruitment by FLCs, who have a reputation for taking advantage of the desperation and vulnerability of migrant workers and thus putting them in situations of forced labor. The ILO also suggests that “trade performance is an important determinant in the number of employed migrants in a certain sector because export industries are largely affected by trade patterns” (2009, p.6).

Revisiting one of the initial economic queries of this thesis, the next section of this chapter will focus on answering the question of whether or not greater need for cheaper labor contributes to the recent proliferation of incidences in human trafficking for labor purposes. This section will also take into account the recent global economic crisis and investigate whether or not consumer demand for cheaper goods has affected an increase in migrant work, furthering vulnerabilities that create prime situations for human trafficking and forced labor.

## Cheap Labor

The 2009, State Department's Trafficking in Persons Report suggests that the global financial crisis, which lasted from 2007 to 2009, may increase cases of human trafficking. The report relies on information from the International Labor Organization, stating:

“The ILO's May 2009 global report on forced labor found that migrant workers around the world could lose more than \$20 billion through the “cost of coercion” and this cost of coercion could likely be exacerbated as the crisis continues, and traffickers and exploitive employers prey on an expanding pool of more vulnerable and unprotected workers...” the report goes on to caution, “vulnerable workers – particularly migrants including young women and even children – are more exposed to forced labor, because under conditions of hardship they will be taking more risks than before” (U.S. Dept. of State TIP, 2009, p.33).

Based on the assumptions of the 2009 Trafficking Report that trafficking and cases of forced labor will increase due to economic hardship, this thesis presumes that not only will potential victims be more vulnerable to do increased economic pressure, but also that more workers will be subjected to slave like conditions as the demand for cheaper goods puts the agricultural sector in a position of higher demand for workers with less cost to growers.

Throughout a globalized economy, there is a tendency for industries to merge and form larger more influential corporations. Agribusiness has been a worldwide leader of this trend. The consolidation of private farms has amalgamated into a highly concentrated group of powerful businesses. The largest agricultural companies within the United States are:

ADM (Archer Daniels Midland Co.), American Crystal Sugar, American Foods Group, Inc, American Institutional Product, American Meat Protein Co, Asgrow Agronomics, Bauer Meat Co, Berkeley Farms Inc., Cereal Partners Worldwide, Chiquita Brands International Inc., Compania Agricola de Guya, Compania Agricola de Rio Tinto, Dairy Farmers of America, Dunavant Enterprises, Inc, Flo-sun Corp, Iowa Quality Meats Ltd., Perdue Farms Inc., and Sanderson Farms Inc, US Sugar Corp (Transnationale, n.d.).

The centrality of these corporations has created an industry that depends more and more on cheap, unskilled migrant labor.

One of the central questions dealing with the agricultural sector and the US economy this thesis aims to uncover is whether or not the 2007-2009 financial crisis created a greater need for cheap labor and thus caused an increase in the number of human trafficking for labor incidences. It is imperative to this argument that human trafficking is understood as a crime with economic motivations at its core. Perpetrators of human trafficking are ultimately seeking financial gain, so economic factors are key in discovering the root causes of human trafficking. In times of

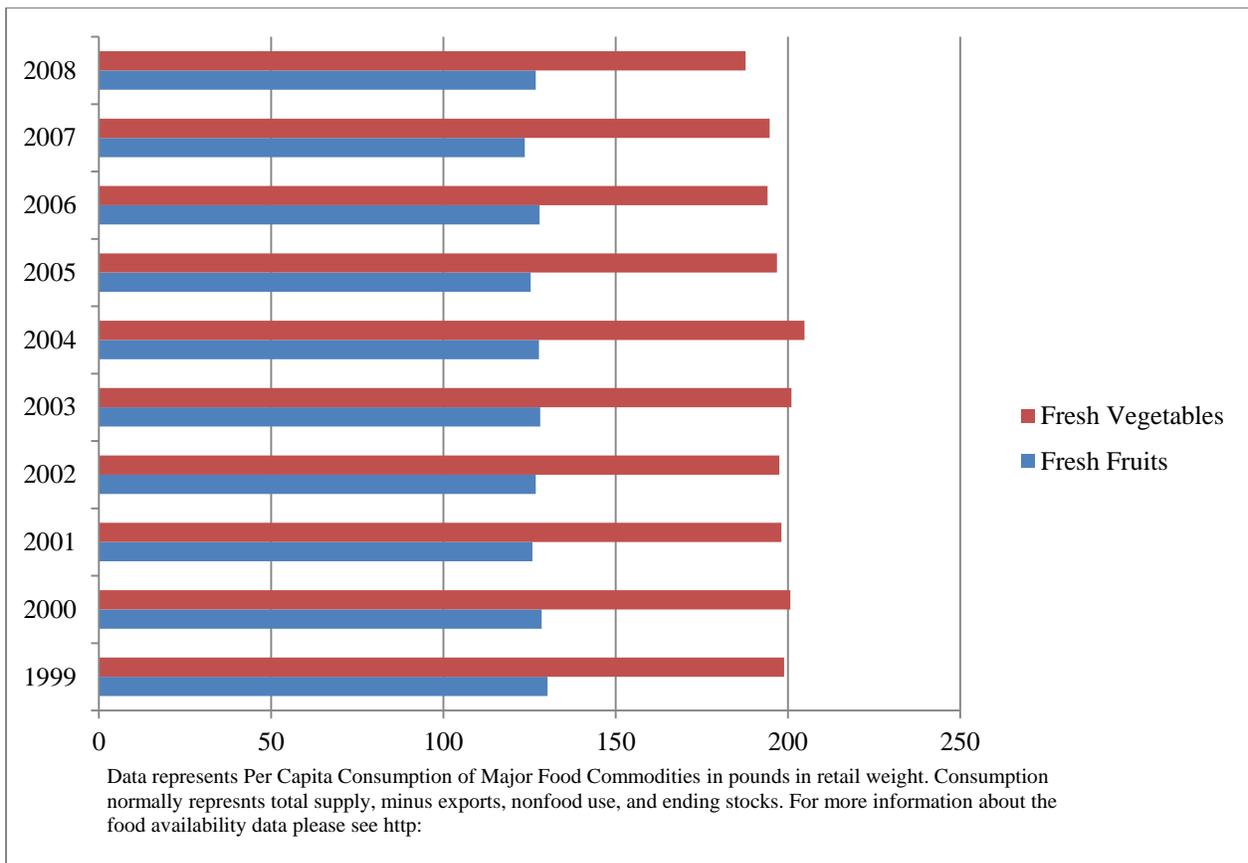
economic uncertainty it is assumed that profit seekers may become more creative in the methods utilized to meet their ultimate financial goal.

The 2007-2009 global financial crisis had many adverse effects on the economy of the United States. Overall, economic data reveals that the United States economy suffered a Gross Domestic Product (GDP) decline of 3.9% over four consecutive quarters after experiencing a 6.4% decline in the first quarter of 2007 (Nanto, 2009, p.1). Along with a major decline in GDP came rising unemployment rates which reached a high of 10.1% in 2011. For those fortunate enough to withstand cuts, out of the full time employee workforce, the average hours per work week was cut and as a result average weekly earnings fell (Herbst, 2009d). Taking these conditions into account, some economists predicted that declines in wealth and tighter lending restrictions on consumer credit would inhibit consumer spending. How then do these conditions affect the cost of labor in those sectors in which migrant laborers are most often employed?

First, we must begin by looking into which agricultural sectors migrant workers are the most concentrated. In general agricultural workers have various duties on farms. The most common activities are planting and harvesting. Also, because most agricultural jobs are seasonal in nature, migrant workers are the most common demographic among individuals employed in the agricultural sector. The Department of Labor National Agricultural Workers Survey (NAWS) data states that 75 percent of all hired farmworkers in the U.S. are from Mexico, and 5 percent were born in other countries (U.S. Department of Labor, 2005, p.ix). NAWS data also delivers statistics on “Crop and Task of Farm Jobs” in which they report that the primary fields for

agricultural worker employment are: Fruit and Nuts 34%; Vegetables 31%; Horticulture 18%; Field 14% and Miscellaneous 4% (2005, p.32).

Having isolated the main crops in which Mexican migrant workers are most often employed, the United States Department of Agriculture (USDA) Economic Research Service (ERS) data on average per capita consumption of these specific food commodities must be considered.



**Figure 5 Per capita consumption of major food commodities**  
**Source:** USDA Price Spreads From Farm to Consumer Data Sets

The data presented by the USDA illustrates a slight yet insignificant shift in the consumption of fresh fruits from 1999-2008 as well as fresh vegetable consumption.

The Bureau of Labor’s Consumer Expenditure Survey further illustrates consumer spending over the period of the global economic crisis from 2007-2009. The following tables reflect overall average yearly consumer spending on food, and average yearly consumer spending on fresh fruits and vegetables.

**Table 2 BLS Consumer expenditure survey average yearly consumer spending on food**

<b>Consumer Expenditure Survey</b>	
<b>Item:</b>	<b>Food</b>
<b>Table:</b>	<b>Income before taxes</b>
<b>Year</b>	<b>Annual</b>
1999	5031
2000	5158
2001	5321
2002	5375
2003	5340
2004	5781
2005	5931
2006	6111
2007	6133
2008	6443
2009	6372

**Source:** U.S. Department of Labor: BLS Consumer Expenditure Database

**Table 3 BLS Consumer expenditure survey average yearly consumer spending on fresh fruits and vegetables**

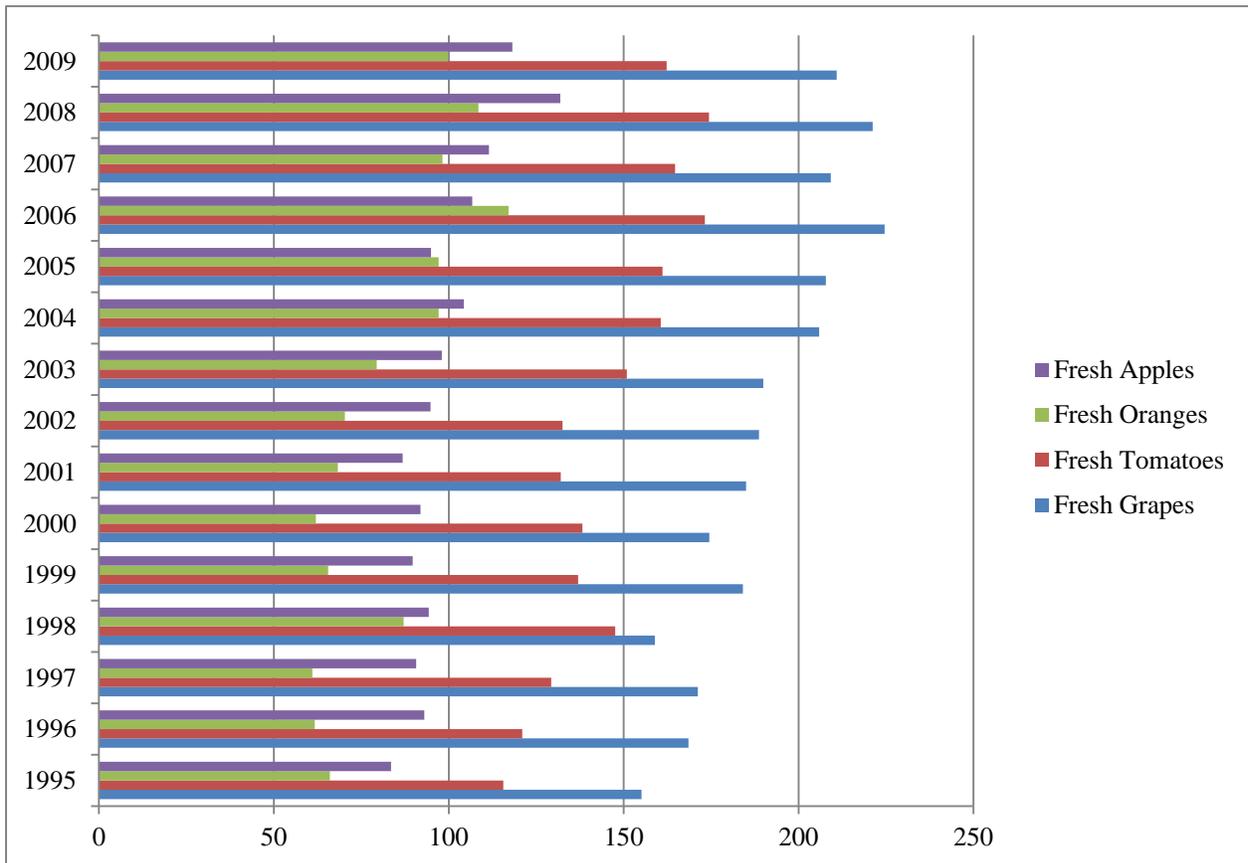
<b>Consumer Expenditure Survey</b>	
<b>Original Data Value</b>	
<b>Item:</b>	<b>Fruits and vegetables</b>
<b>Table:</b>	<b>Income before taxes</b>
<b>Year</b>	<b>Annual</b>
1999	500
2000	521
2001	522
2002	552
2003	535
2004	561
2005	552
2006	592
2007	600
2008	657
2009	656

**Source:** U.S. Department of Labor: BLS Consumer Expenditure Database

Both tables reflect a less than 1% increase in expenditures over the 2007-2009 period reflecting that consumer spending on food, and those food products that are produced through crop labor was not affected by the global economic crisis. This may be because “Americans spend less than 10 percent of their disposable incomes on food”, which is one of the lowest ratios in the world (Staples, 2010, par.1).

In order to make this data relevant to the argument it is necessary to compare the consumption data with the cost of production data in order to draw conclusions over whether or not the price

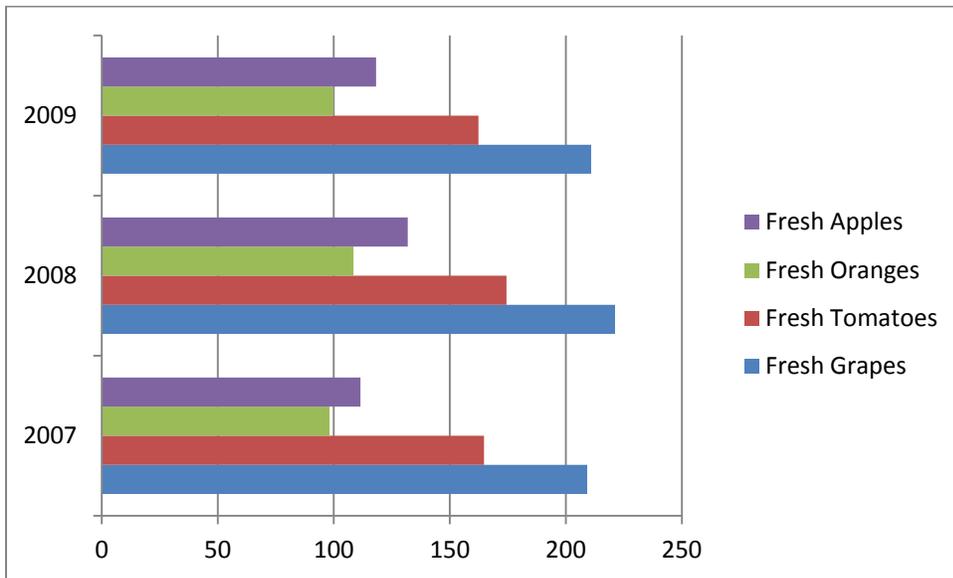
of labor, the cost to the consumer, and ultimately the consumers' willingness to purchase at the given cost bear any significant relationship. The following tables are presented by the USDA and they present data on the U.S. monthly average retail price for chosen fruit and vegetable crops. The graph in figure 5 illustrates data on few specific fruit and vegetable commodities, of which are harvested and produced most often by migrant workers. The chosen commodities are: fresh grapes; fresh tomatoes; fresh oranges; fresh apples.



**Figure 6 U.S. monthly average retail price (cents/lb) in agricultural goods**  
**Source:** USDA Price Spreads from Farm to Consumer Data Sets

The USDA data shows the monthly average retail price in cents per pound from 1995 to the most recently available data in 2009. Surprisingly, over the 14 year period retail commodity prices have remained relatively stable, rising slowly following economic progression. This may suggest that crop production levels for fruits and vegetables have been rising while the cost of labor has remained the same which results in an overall consistently low price to the consumer.

When the period of the global economic crisis is isolated, from 2007-2009, there is a very slight increase in commodity retail prices in 2008 although there was no significant change in prices that could affect the cost of labor. This scenario suggests the overall hypothesis that the global economic crisis would create a greater need for cheaper agricultural labor may stand up to the existing available data.



**Figure 7 Retail price of agricultural goods 2007-2009**  
**Source:** USDA Price Spreads from Farm to Consumer Data Sets

Retail commodity prices of agricultural goods offer no confirmation that the global economic crisis affected the cost of agricultural products or labor. The fact that the price of fresh produce has remained relatively constant over a 14 year period does more to suggest that farm workers may be under-paid than it does to suggest that greater economic forces could drastically affect the farm commodity prices. This is especially true when considering that fruit and vegetable production in the United States has been increasing.

It may be more insightful to investigate the national profile of agricultural workers, in order to gain a clearer picture of the cost of agricultural labor in the United States. The United States Department of Labor’s Bureau of Labor Statistics offers a yearly occupational outlook for agricultural workers. The wage and earnings data the outlook provides may suggest relevant trends in the cost of agricultural labor.

**Table 4 Mean annual income for agricultural workers in the U.S.**

<b>Year</b>	<b>Mean Annual Wage</b>
2007	\$18,350.00
2008	\$19,280.00
2009	\$19,780.00
2010	\$20,040.00

**Source:** U.S. DOL, 2010b. Farmworkers and Laborers: Occupational Employment Statistics

Growers and farm labor employers have continually relied on an abundant pool of laborers who have historically accepted low wages. The most current data on agricultural crop workers states

that the mean annual wage was \$20,040.00 in 2010. The mean annual salary for all occupations within the United States for 2010 was \$44,410 indicating that agricultural workers are currently being paid half of the average mean salary in the U.S. It is also worth noting that most agricultural workers earnings are not based on a 40 hour work week or a standard hourly rate. Most farmworkers are paid by the piece meaning they are not paid based on the amount of time they spend working, but they are paid for how much they produce. In seasonal agricultural production, crops are time sensitive. If workers aren't present for work at the immediate point in which a harvest has ripened, or a crop is ready to be planted, growers risk losing their entire years' work.

One reason there seems to be no relevant price effects on the cost of labor intensive agricultural goods is the cost of labor to farmers has remained low. Labor costs are generally less than one third of production costs to growers. By breaking down the cost of labor as it relates to the price consumers pay, one can see how minimal labor costs are to the end user. A report by the Center for Immigration Studies broke down the cost, "farmers receive only 18 cents of the average retail dollar spend on fresh produce, and farmworkers receive only six cents of a dollar spent on a pound of apples for a head of lettuce" (Martin, 2007, p.13).

Agricultural workers are some of the most underpaid and over worked groups of workers in the United States. Not only do they work long days in the elements but they are often subject to workplace abuse - largely due to the lack of labor rights given to agricultural workers who are authorized to work in the United States under the H-2 B visa program. There is virtually no

oversight and workers are often intimidated, fearing that if they take action against an abusive employer they will be deported or blacklisted, preventing them from returning to the United States for employment. The threat of blacklisting is very real for migrant workers under the H-2 B visa program because the program stipulates that the worker must be contracted to one specific employer for the period of time they are authorized to work in the United States. If the employer blacklists a worker, the chances of a new employer offering the worker another contract for an H-2 visa are rare.

As with most situations of inequality, there are groups of people who have taken notice of the vulnerable situation that migrant workers are in, and they found a way to manipulate those insecurities. While pandering to growers and big farms who want cheap labor, FLCs are exploiting labor laws without being held accountable for the workplace conditions of migrant workers.

## Human Trafficking Cases in the Agricultural Sector

In order to apply the previous data on demand for agricultural commodities in the United States to cases of human trafficking, it is imperative to analyze the number of human trafficking cases within the United States which are a direct consequence of forced agricultural labor. In February of 2011, the University of Michigan Law School released the first ever publicly available database on Human Trafficking Cases within the United States. The database provides a comprehensive list of Federal and State Human Trafficking cases which date back to 1980 and continue to the present.

Use of the search terms “Agricultural Industry” presents a list of 20 cases brought to United States courts which specifically deal with allegations of human trafficking in the agricultural sector. Although specific legislation aimed at preventing human trafficking in the United States was not enacted until 2000, with the Trafficking Victims Protection Act, the database includes cases prior to 2000 by applying the TVPA standard definition of trafficking – “a showing of “force, fraud, or coercion,” used to recruit, harbor, transport, obtain, or employ a person in involuntary servitude” – to cases from 1980 – 2000 (University of Michigan Human Trafficking Project [HTP], n.d., c, par.4).

The number of cases which have been prosecuted involving agricultural sector human trafficking represents a minority of cases in which traffickers are caught and brought to justice. The most complex problem with analyzing numbers and data on human trafficking, are the vast number of

incidences remaining undetected. For example researchers working to compile the University of Michigan Law School Human Trafficking database explain that “even when criminal charges or civil actions are brought against traffickers, these cases rarely produce the type of record which would appear in commercial research databases. The availability of state cases is particularly limited” (University of Michigan HTP, n.d., c, par.6).

**Table 5 Agricultural sector cases of human trafficking in the United States 1980-2000**

	<b>Victim's Country of Origin</b>	<b>Method of Entry into the United States/Citizenship</b>	<b>Number of Case Victims</b>	<b>Year Verdict Was Reached</b>	<b>Guilty or Non-Guilty</b>	<b>Use of Labor Contractor</b>
U.S. vs. Tony Booker	United States	U.S. Citizen	2	1980	Guilty	Yes
U.S. vs. Larry Wilson	N/A	Undocumented	1	1981	Guilty	No
U.S. vs John Lester Harris	United States	U.S. Citizen	6+	1982	Guilty	Yes
U.S. vs Willie Warren	United States	U.S. Citizen	4	1983	Guilty	Yes
U.S. vs. Steven Lane Crawford	N/A	Undocumented	2+	1984	Guilty	No
U.S. vs. Damien Tapia	Mexico	Undocumented	4+	1985	Guilty	No
U.S. vs. William Alexander Lewis	United States	U.S. Citizen	5+	1986	Guilty	No
U.S. vs. Ike Kozminski	United States	U.S. Citizen	2	1987	Guilty	No
U.S. vs. Miguel A. Flores	Mexico	Undocumented	25+	1997	Guilty	Yes
Javier Hernandez vs. Maria Garcia Bottello	Mexico	N/A	12	2000	Guilty	Yes
U.S. vs Jose Tecum	Guatemala	N/A	1	2001	Guilty	No
U.S. vs. Juan Ramos	Mexico	Undocumented	100+	2002	Guilty	Yes
U.S. vs Timothy Bradley	Jamaica	Temporary work visa	5+	2003	Guilty	No
U.S. vs Maria Garcia	Mexico	Undocumented	25+	2004	Guilty	Yes
U.S. vs. Lueleni Fetongi Maka	Tonga	Undocumented	7+	2004	Guilty	No
Elisier Yael Velasquez Catalan vs. Vermillion Ranch Limited Partnership	Chile	Temporary work visa	5	2006	Settled	No
U.S. vs. Arlan Dean Kaufman	United States	U.S. Citizen	2+	2007	Guilty	No

	<b>Victim's Country of Origin</b>	<b>Method of Entry into the United States/Citizenship</b>	<b>Number of Case Victims</b>	<b>Year Verdict Was Reached</b>	<b>Guilty or Non-Guilty</b>	<b>Use of Labor Contractor</b>
U.S. vs. Ronald Robert Evans Sr.	United States	U.S. Citizen	2+	2007	Guilty	No
Alexander Aguilar vs. Imperial Nurseries	Guatemala	Temporary work visa	12	2007	Guilty	No
John Doe vs. Moises Rodriguez	Mexico	Undocumented	5+	2009	Guilty	Yes

**Source:** University of Michigan Law School Human Trafficking Database, n.d.

After acknowledging these complications, some simple observations from the cases presented in the database may be drawn. Out of the 20 cases of human trafficking as related to the agricultural sector, in 6 cases the victim's country of origin was Mexico. Despite the minimal number of cases, 30 percent is a substantial percentage. Of those 6 cases where the victim originated in Mexico in 5 of the cases the victim was recorded as being undocumented. Although none of the cases presented here suggest a timeline of increased volume in the number of cases, some of the cases may serve as a resounding example of the factual conditions in which these workers are forced to live. Another significant detail that emerges in the pool of trafficking cases for labor purposes is the use of labor contractors. Out of the 20 cases, 8 involved labor contractors. The fact that 40 percent of trafficking for agricultural labor cases in the U.S. included interactions with an FLC signifies the conclusion that labor contractors are contributing to the prevalence in cases of human trafficking.

Due to the discreet nature of human trafficking, attempts to collect data suppose conclusions can be difficult and uncertain. Most databases that attempt to place numbers or report data on the

crime of human trafficking are prefaced with the caveat that the number of actual cases is in actuality much larger than what can be soundly reported. U.S. State Department Ambassador of the Office to Monitor and Combat Trafficking in Human Beings, Luis CdeBaca, has said “all the numbers are very imprecise, notoriously so, because this is a hidden crime that the pimps or the traffickers, almost by definition, their job is to keep their victims from reporting, keep their victims from going forward...If they do escape, they don't want to come to law enforcement because, unfortunately, they're afraid that they'll get arrested and deported if they're an alien” (National Public Radio [NPR], 2011). Therefore the number of cases reported in this thesis should be recognized as limited in scope. If there was exhaustive, comprehensive data on human trafficking, it would mean that more cases are becoming identified and prosecuted which is the ultimate goal in human trafficking prevention.

The most crucial step governments can take in trafficking prevention is to collaborate on international efforts that support a single cohesive definition of the crime as well as an agreement on proper standards for labor migration between countries.

## **CHAPTER SEVEN: INTERNATIONAL HUMAN TRAFFICKING POLICIES**

Human trafficking is mostly a trans-national issue. Although the crime does take place within state borders, the most common scenario is a result of a cross-border transaction. Taking this into consideration, it is important that nations around the world work together to establish cohesive international policies that confront the issue of human trafficking as an international issue. To decrease cases of human trafficking and forced labor worldwide, countries need to establish a unified policy and cooperate in their efforts to prevent human trafficking and forced labor. In order to effectively track and prosecute human trafficking, countries must be willing to work together through international agreements and policies that consider the rights of migrant workers, labor standards and human trafficking prevention measures. This chapter offers an in-depth and detailed synopsis of current international agreements pertaining specifically to human trafficking legislation and enforcement. Although this thesis focuses on the geographic constraints of the United States and Mexico, it is imperative that the reader understands the scope of human trafficking and its pervasiveness in an interconnected, ever-changing global economy.

As previously mentioned the most significant international agreement directly addressing human trafficking is the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; often referred to as the Palermo Protocol. The Palermo Protocol supplements the United Nations Convention Against Transnational Organized

Crime, as it specifically outlines measures regarding the prosecution and punishment of the traffickers (Ollus, n.d., p.21, Owen, 2009, pp.3-4).

As of 2011, 117 countries have signed the Palermo Protocol (UN Treaty Collections, 2011, Chapter XVIII). Article one of the Palermo Protocol explains the relationship between the United Nations Convention Against Transnational Organized Crime and the Palermo Protocol. States must first have sign onto the Convention on Organized Crime In order to become party to the Palermo Protocol (Ollus, n.d., p,21, Owen, 2009, p.4). The Convention on Organized Crime is the initial legislation. Article two states that the three main purposes of the Trafficking Protocol are to: “1) Prevent and combat trafficking in persons, paying particular attention to women and children; 2) Protect and assist the victims of such trafficking with full respect for their human rights; and 3) Promote co-operation among states to meet those objectives” (Ollus, n.d., p.22, Owen, 2009, p.4). The Palermo Protocol is especially significant to the international community when addressing human trafficking because it contains the most relevant and widely accepted legal definition of human trafficking. Although, the Palermo Protocol has significant shortcomings as it does not include a definition of forced labor. A report by the Organization for Security and Cooperation in Europe (OSCE) suggests that forced labor is “a concept that pre-dates the Palermo Protocol having been deliberated in the drafting of ILO Conventions” (OSCE, 2006, p.7). A subsequent definition of forced labor is explained in ILO Convention No. 29 as “all work or service which is extracted from any person under the menace of any penalty and for which said person has not offered himself voluntarily” (OSCE, 2006, p7).

In order to adequately evaluate the successes and shortcomings of the Protocol, it is helpful to examine key articles and how they apply to human trafficking and forced labor.

Article 3 (b) addresses consent of the victim. This is significant as it underscores that initial consent may be a consequence of the victim's vulnerable situation (Ollus, n.d., p.23, Owen, p.5). The vulnerability of the victim can be a reflection of internal state instabilities or simply the status of being a migrant qualifies one as in a potentially vulnerable position, thus making them more susceptible to the influence of labor contractors and traffickers.

Articles 4 and 5 assert that "Each state party shall adopt such legislative, and other measures as may be necessary to establish as criminal offenses the conduct set forth in Article 3, when committed intentionally" (Ollus, n.d., p.23, Owen, 2009, p.5). This not only covers the scope of the legislation, but it places legislation directly into the hands of the individual state, emphasizing the importance of governmental cooperation (Owen, 2009, p.5).

Article 9 necessitates that states shall fight poverty, unemployment and, lack of equal opportunity addressing the root causes of trafficking (Ollus n.d., pp.26-27, Owen, 2009, p.5).

Article 9 also "requires the state to implement extensive policies and measures to protect victims, especially women and children, from re-victimization" (Ollus n.d., pp.26-27, Owen, 2009, p.5).

These measures are intended to ease the factors that make individuals especially vulnerable to trafficking (Owen, 2009, p.5).

Article's 10 of the Palermo Protocol involves giving the individual country's law enforcement the sole responsibility of investigating border crossings without proper travel documentation and detection of possible organized criminal groups that may be recruiting victims (Ollus, n.d., p.27). This underscores the importance of state cooperation, once again stressing the crucial role of state responsiveness to this issue (Ollus, n.d., p.27). The problem with Article 10 is the assumption that states where victims originate have organized law enforcement capabilities that are free of corruption and have the resources, funding, and man power to adequately investigate cases of human trafficking and forced labor.

Article 11 refers to border measures and requires that "state parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons" (Ollus, n.d., p.27). This Article necessitates border controls, although it does mention that "while states strengthen border control measures to get at traffickers and illegal migrants, it should not happen at the expense of victims' human rights" (Ollus, n.d., p.27). Article 11 also suggests strong cooperation between states that share a common border by establishing and maintaining direct communication between the two countries border enforcement agencies.

Finally, Article 13 has special significance because it indicates the right to non-refoulement, meaning that victims of trafficking have the right to seek asylum in a state despite their status as an illegal immigrant (Ollus, n.d., pp.27-28). Although the overall achievement of the Palermo Protocol is significant in its unifying definition and articles for compliance among states party to

the convention, there are still shortcomings in the lack of attention that the Protocol gives to immigration policies and migration of workers.

The Palermo Protocol does not directly address the rights and needs of migrant workers, although there is legislation by the United Nations that confronts this issue in its entirety. The United Nations Convention on the Rights of All Migrant Workers was established in July of 2003. The convention's primary objective is to "protect migrant workers and their families, a particularly vulnerable population, from exploitation and the violation of their human rights" (UNESCO n.d., par.1). "The Convention seeks to draw the attention of the international community to the dehumanization of migrant workers and members of their families, many of whom being deprived of their basic human rights" (UNESCO n.d., par.5). The UN Convention on the Rights of Migrant Workers is the framework for an international treaty that takes into consideration the risks and vulnerabilities of migrant work and links these risks with the realities that many migrants face today. The convention pays special attention to the status of migrant workers when they are outside of their native country, dictating:

equality with nationals for access to educational, vocational and social services ...  
migrant workers and members of their families shall enjoy equality with nationals of the State of employment in the following areas: access to education, vocational guidance and placement services, vocational training, retraining, housing including social housing schemes, protection against exploitation in respect of rents, social and health services, co-operatives and self-managed enterprises, access to and participation in cultural life (Art.

43). Members of the families of migrant workers also shall enjoy equality with national of States of employment in having access to these services (Art. 45) (UN Convention on the Protection of the Rights of All Migrant Workers, 1990, pp.13-14).

Migrant workers shall enjoy equality of treatment in respect of protection against dismissal, unemployment benefits, access to public work schemes intended to combat unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity (UN International Convention on Migrant Workers Fact Sheet, 2005, pp.36-38).

Under current U.S. law the National Labor Relations Act guarantees the right of employees to organize, discuss wages, to strike, and to bargain collectively with their employers, or to refrain from all such activity (National Labor Relations Board, n.d., par. 1). Although the current statute dictates that agricultural migrant workers are subject to a separate set of labor standards than native-born workers. The NRLA applies to all U.S. employment sectors aside from airlines, railroads, agriculture, and government (National Labor Relations Board, n.d., par.2). If the United States were to sign onto the UN Convention on the Rights of Migrant workers, it would be necessary to address the fact that the National Labor Relations Act takes basic labor rights away from agricultural and migrant workers and the NLRA should be revised in order to provide migrant workers with the same rights and protections as native born workers. Unfortunately, the United States has not signed the UN Convention on the Rights of Migrant Workers to date.

Although the NLRA excludes migrant workers from certain protections, The Fair Labor Standards Act (FLSA) provides minimum employment standards to most workers including agricultural workers. The FLSA entitles workers to basic minimum wage requirements, despite receiving an hourly wage, or being paid in piecework, which is a common form of payment in agricultural harvest and crop work (Commission for Labor Cooperation, 2002, p.42). Although there is a point of contention under the FLSA whereby agricultural workers are not entitled to overtime pay and so workers are often forced to work extended hours under laborious conditions without proper compensation.

There are other significant international organizations to consider when evaluating transnational agreements on human trafficking and forced labor. One of these organizations is the North American Agreement on Labor Cooperation (NAALC), which was established under NAFTA in 1994. The purpose of NAALC was to enhance oversight and enforcement of labor laws, considering the increasing openness of borders for trade purposes. Participating countries include the United States, Mexico and Canada. “The NAALC was the first international agreement on labor to be linked to an international trade agreement” (Secretariat of the Commission for Labor Cooperation, n.d., par.2). The NAALC holds all three NAFTA governments responsible for enhancing and enforcing basic workers’ rights on a range of labor issues including “occupational safety, health, employment, training, and industrial relations” (2002, p.42). The NAALC is in charge of ensuring that previously mentioned workers’ rights under the FLSA are enforced although the U.S. Department of Labor has the principal role of oversight when it comes to the enforcement of FLSA.

Another considerable recent international effort to address international labor standards is the ILOs 2004 Resolution Towards a Fair Deal for Migrant Workers in the Global Economy. The resolution was adopted in 2004 and is intended to establish a cohesive approach to the issue of migration for labor in the modern global economy as while paying special attention to the protection of migrant workers (ILO, 2004, pp.57-59). The preliminary report upon which the resolutions conclusions were based explains several opportunities for development of an international dialogue on the humane treatment of migrant workers and a clear set of international standards of which all countries should adhere to. In particular, the ILO calls for a plan of action for migrant workers as stated:

A fair deal for all migrant workers requires a rights based approach, in accordance with existing international labour standards and ILO principals, which recognizes labour market needs and the sovereign right of all nations to determine their own migration policies including determining entry into their territory and under which conditions migrants may remain (2004, p.60).

What makes this call for action unique is the ILOs focus on labor market needs, which, as this thesis has emphasized, are major factors in considering illegal migration which can result in human trafficking.

An apparent challenge to the enforcement of international agreements that deal with migrant workers, human trafficking, and forced labor, is that they are all separate entities and there is not one single international agreement that considers all issues as interrelated components. Forced labor and human trafficking are a product of the vulnerable conditions in which migrant workers live and work. There needs to be a comprehensive agreement that takes into account the rights of all workers, authorized or not, taking an overall more human rights based approach to the issue of human trafficking and forced labor in regard to migrant workers.

The two most resounding international agreements are the United Nations Protocol to Prevent and Suppress Human Trafficking (Palermo Protocol), and the United Nations Convention on the Rights of Migrant Workers. In order for leaders of every nation, to act appropriately in situations of human trafficking for labor purposes, one single piece of international legislation is needed. The agreement should also have an oversight and enforcement mechanism, much like NAFTA provided migrant workers with the North American Agreement on Labor Cooperation Commission. There should be an emphasis on active oversight and enforcement, which is a complaint against groups like the NAALC Commission and the United States Department of Labor's Wage and Hour division.

## CHAPTER EIGHT: CONCLUSIONS

Human trafficking for labor purposes is prevalent in the agricultural fields of America. Each tomato that we consume has potentially been harvested by an individual that has been forced into a situation easily labeled as modern day slavery. Historically, the United States has based economic development on the availability of migrant labor – the hands, sweat, and labor of other countries. There is little public acknowledgement of this phenomenon. The term “human trafficking” conjures media-driven images of young foreign women forced into sex trafficking. As the sensational and ethically morbid subject of sex trafficking captures the attention of lawmakers and non-profit organizations, so many victims of another form of human trafficking go unnoticed.

The 2009 State Department Trafficking in Persons Report, upon which this thesis was in-part based, predicted that the global economic crisis that began in 2007 would force more individuals into vulnerable economic circumstances, ultimately creating an increase in cases of human trafficking. Through further investigation, this thesis examined the hypothesis that the global economic crisis would also create a greater need for cheap (or even free) labor as the economy contracted and American citizens demanded cheaper goods.

Upon the initial assumption that the global economic crisis would create an ultimate demand for cheaper consumable goods, this thesis found little supporting evidence. By reviewing data from

the United States Economic Research Service, and the United States Department of Agriculture, this thesis found that the retail price of goods commonly harvested by migrant agricultural workers has remained relatively consistent and stable before, during and throughout the period of the global economic crisis. It was discovered that this is due to the abundant and ever present cheap labor supply, which proved that the initial economic argument was not sufficient.

Although, throughout the research this thesis presents on agricultural workers and human trafficking for labor purposes, there is evidence that suggests current immigration policies and U.S. work visa standards are creating a weak agricultural labor system that perpetuates the number of migrant workers who are smuggled into the United States and ultimately forced into slave labor conditions that legally constitute cases of human trafficking.

This thesis concludes that there are broader issues which are socioeconomic in nature that are currently driving the demand for human trafficking for labor purposes within the United States. As the NAFTA argument presented, globalization and free trade agreements have ultimately caused partner countries like Mexico to suffer internal economic hardship that pushed many Mexican citizens further into poverty. The longstanding migration relationship between the United States and Mexico then encouraged Mexican migrant workers to seek work in the United States. When the U.S. visa system presented bureaucratic challenges, in which an inefficient labor supply meets increased labor demand, migrant workers find illegal ways to attain work in the United States. Once in the United States, without proper working papers, agricultural

migrants find themselves in a vulnerable situation, seeking work and ultimately falling prey to Farm Labor Contractors and human traffickers.

Researchers have approached this issue and discovered that globalization, free trade agreements, and mass migration for labor has created a sect of migrant workers referred to as “survival migrants” (Gallagher, 2002, p.16). As researcher Anne Gallagher explained “migration is for survival – that is escape from economic, political or social distress – as opposed to opportunity seeking migration, [which is migration as] merely a search for better job opportunities” (2002, pp.16-17). The large number of migrants who fall into the category of survival migrants, are presented with additional challenges when countries like the United States offer a migrant worker system that invites in foreign workers according to the political climate and then expels these workers and orders strict border controls – much like the immigration conundrum that was the Bracero Treaty. For a recent example visit the widely debated Arizona immigration bill SB1070 which requires immigrants to carry up to date immigration papers with them at all times legally documenting that they are permitted to live and work in the United States. The law allows for law enforcement officials to question persons on their legal status based merely on the officer’s opinion of whether or not the person in question looks as if he or she may be in the United States illegally:

For any lawful contact made by a law enforcement official or agency of this state or a county, city, town or other political subdivision of this state where reasonable suspicion exists that the person is an alien who is unlawfully present in the United States, a

reasonable attempt shall be made, when practicable, to determine the immigration status of the person. The person's immigration status shall be verified with the federal government pursuant to 8 United States Code Section 1373(c) (AZ SB1070, 2010, p.1).

Essentially this section of SB1070 sanctifies racial profiling and would only stand to instigate discrimination. In May 2011 the bill was brought before a United States Circuit Court of Appeals panel and a ruling is expected sometime later in 2011.

Arizona's SB1070 is wrought with injustice, although there has been recent immigration legislation out of Arizona that approaches the matter in a direct and non-discriminatory way. In 2007 then Governor of Arizona Janet Napolitano, signed the Legal Arizona Workers Act of 2007 which requires businesses to use the national eVerify system to check workers immigration status and allows Arizona courts to suspend or revoke business licenses of those who knowingly or intentionally hire illegal immigrants. The law directly addresses the responsibility of the employer and holds the demand-end of illegal immigration accountable rather than the traditional form of law enforcement where illegal workers were hunted down and deported. The Legal Arizona Workers Act is productive in its aim of placing fault on the employer, but the law falls short in allowing employers to use independent contractors to avoid responsibility: "When an employer uses a contract, subcontract or other independent contractor agreement to obtain the labor of an alien in Arizona, the employer may not knowingly or intentionally contract with an unauthorized alien or with a person who employs or contracts with an unauthorized alien to

perform the labor” (AZ Attorney General, n.d., par.6). This loophole may encourage the use of FLCs in order to avoid liability which could cancel out the intended effects of this law.

As politicians try to enforce strict border controls, farmers and growers within the United States continue to hire unauthorized workers by passing the responsibility of labor controls to FLCs, of whom this thesis has presented are often traffickers themselves. As researcher Janie Chuang so aptly stated in *Beyond a Snapshot: Preventing Human Trafficking in the Global Economy*, “the tension between economic reality and political expedience on the issue of immigration fosters conditions that enable and promote human trafficking” (Chuang, 2006, p.146). Therefore, law enforcement measures that address preventing the proliferation of human trafficking for labor purposes within the United States cannot succeed without addressing the socioeconomic demands that perpetuate this ongoing crime.

The initial assumption predicted by this thesis – that the global economic crisis would affect the price of consumable goods – required economic factors which ultimately relied on data which was beyond the scope of this project. In order to prove that American citizens would demand cheaper consumable goods during an economic recession, data would need to be tailored and a more precise research study would be required. Also, due to the recent nature of the 2007-2009 global economic crisis, data remained incomplete and should be analyzed at a later point in time, when the Bureau of Labor and Statistics may provide more thorough data reflecting factors such as individual household consumption statistics. What this thesis found was that the economic data illustrates, despite a rise in retail cost of agricultural production and the abundance of

unemployed native-born workers, the amount of migrant labor has increased – indicating that the driving force is actually from 1) employers seeking increasing profit and 2) economic instability in Mexico.

Reflecting on the research regarding immigration policies between the United States and Mexico, this thesis has presented a normative argument demonstrating faults within current immigration and migration policies requiring reassessment by both. Going forward the United States should tailor immigration policies to more accurately reflect market demands. If more agricultural workers were permitted to work in the U.S. on temporary visas in a time responsive manner, agricultural employers would be less reliant on the flexibility of illegal migrant workers. If migrant workers had a more efficient, direct way of applying for seasonal work there would be less reliance on FLCs whose main objective has proven to be exploitive. Although the number of prosecuted cases of human trafficking for labor purposes remains relatively low, it is likely that a multitude of instances have remained unreported due to the sensitive nature and concealed identity of the victims.

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