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Can New US Law Help Increase Financial Recovery and Reintegration of Survivors of Human Trafficking?

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Research Innovation

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The damaging impact of the trafficking experience on survivors is multifold. The harm is physical, psychological, as well as financial, and long-term. The global banking sector has become increasingly aware of the financial harm and the need to take into consideration the barriers which exist for survivors in [opening bank accounts](#). The [Finance Against Slavery and Trafficking \(FAST\)](#) Survivor Inclusion Initiative (SII) has been working with banks and survivor support organizations in the UK, Canada and the US to open almost 2,000 survivor bank accounts since 2019. This [“Financial Access Project”](#) for survivors has proven that banks and other financial institutions can [effectively address](#) survivors’ credit-worthiness and risk, without compromising regulatory due diligence.

FAST is currently undertaking a review of the SII to identify “what works” and what challenges remain for the practice of supporting survivors through access to banking products and services in the geographical locations where the project has been operating so far. These findings will be reported in Spring 2022, however there are aspects that are already known. Participating financial institutions have successfully adopted a victim-centred approach to account opening which acknowledges and addresses the lived experience of survivors. However, these important measures vary across and even within countries and financial institutions.

Financial injury caused by trafficking is not only confined to victims’ forced and uncompensated labour in order to make [huge profits](#) for traffickers and their associates. It includes the indenture of survivors, and even their families, as a form of [“debt bondage”](#) — the most prevalent form of forced labour worldwide.



Debt bondage can have different characteristics in different societies around the world. In Western societies for example, it can have very specific consequences in relation to the accrual of formal debt from various financial institutions, such as banks and consumer credit. Polaris, a US survivor support organization operating for over 20 years, reported in their [2018 survey](#) that 26 per cent of survivors had a bank or credit account in their name used or controlled by their trafficker. A trafficker may require or coerce victims to open, close, or mismanage bank accounts and credit cards, or engage in other activity that [leads to “bad credit”](#). They may also fraudulently use or “hijack” victims’ identification to access credit and commit financial crimes for many years after the survivor has exited the trafficking experience, thereby extending the period of exploitation. The resulting “delinquent” credit status applied to survivors is an added stigma with negative consequences for their recovery. Mounting debts from medical bills, bail bonds, bank account closures, unfinished schooling, car loans and credit cards can have a [debilitating effect on survivors](#)^[i] seeking to secure financial services, housing, education or other opportunities after exploitation. The “delinquent” credit status also increases survivors’ vulnerability to re-victimization because of the resulting social and financial exclusion. This is a significant harm and risk to survivors which the Survivor Inclusion Initiative encourages international financial service providers and stakeholders to address.

The introduction of the [Debt Bondage Repair Act](#) (DBRA) passed by the U.S. Congress as part of the National Defense Authorization Act for Fiscal Year 2022^[ii], is therefore of particular interest for its potential to accelerate survivors’ [financial inclusion](#) across the country. The DBRA provides a regulatory framework which will increase access to this important form of remedy for victims of trafficking. Specifically, the DBRA provides that “[a] consumer reporting agency may not furnish a consumer report containing any adverse item of information about a consumer that resulted from a severe form of trafficking in persons or sex trafficking if the consumer has provided trafficking documentation to the consumer reporting agency.”

Documentation by a federal or state government agency or court determining victim status and identifying the “adverse item of information” that resulted from exploitation will be required for relief under the DBRA. The next phase of this important piece of legislation will involve the U.S. Bureau of Consumer Financial Protection issuing an implementing rule establishing the method for survivors to submit the required documentation in accordance with the Fair Credit Reporting Act. This is one of the most significant developments related to credit repair for survivors to date — an essential part of survivors’ recovery, financial reintegration and [financial freedom](#).

[Programmes](#) across the US have been advocating for the survivors right to access this form of remedy for some time. Supporting survivors in obtaining relief from coerced debt and restoring credit status are precisely the kind of effective remedy that reduces continued trauma and the risk of re-victimization and positions survivors for financial reintegration and independence.

The [Charlotte Triage Pro Bono Partnership](#) in Charlotte, North Carolina, also an SII participating organization, is one programme which has been helping survivors to achieve credit repair through its advocacy. Financial services and legal sector volunteers advocate for survivors in seeking debt reduction, forgiveness or payment plans to address accounts that are contributing to survivors' "bad credit". Most creditors require proof of victimization and a causal connection between the exploitation and debt in question. This important work is challenging, not least because it is highly dependent on the varying policies, permissions and mercy of particular creditors, which is why the federal legislation is key to effective relief.

FAST and our stakeholders will be monitoring how the DBRA, coupled with simultaneous responses by [US banks](#), impacts on the financial inclusion of survivors. The effectiveness of this law is yet to be known, but its passage signals an important shift for Government and the financial sector. This is a move to not only come together to take steps to help [remedy](#) the financial harm and its long-term ramifications for survivors of trafficking, but also to [prevent](#) future re-victimization and harm.

For questions or comments, please contact authors [Sarah Byrne](#), [Dr Leona Vaughn](#) or [Professor Barry M. Koch](#)

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[\[i\]](#) See U.S. DEP'T STATE, THE ROLE OF THE FINANCIAL SECTOR: PROMISING PRACTICES IN THE ERADICATION OF TRAFFICKING IN PERSONS (2021) "Survivors of human trafficking often discover that human traffickers have taken control of their financial identity or banking products and limited or prevented their access to the financial system, spoiling their credit record and hindering their financial reintegration."

[\[ii\]](#) The Debt Bondage Repair Act was included in the National Defense Authorization Act for Fiscal Year 2022, 117th Congress (2021-2022) (SEC. 5104. ADVERSE INFORMATION IN CASES OF TRAFFICKING) which passed the United States Senate on December 16, 2021 and was signed into law by the President of the United States on December 27, 2021.

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