

Completed in Fall 2016 in Social Work 7710: Social Policy & Service Delivery in Social Work, this policy analysis describes the purpose and design as well as examines the effectiveness and limitations of the 2000 Trafficking Victims Protection Act. The policy is then compared to similar policy from another nation, from which recommendations are made to inform and encourage future reenactments of the TVPA.

## BRIEF ANALYSIS OF H.R. 3244 OF THE 106TH CONGRESS: **Victims of Trafficking and Violence Protection Act of 2000**

*Michaella Ward*



# INTRODUCTION

## Human Trafficking

Human trafficking, or trafficking in persons, is the 3rd largest illegal trade in the world generating an estimated \$32 billion per year.(1) In the United States, at least 170,500 people are smuggled or trafficking into the country each year, then most often treated as illegal immigrants when discovered.(2)

The Victims of Trafficking and Violence Protection Act of 2000, also known as the Trafficking Victims Protection Act or the TVPA, is the first mention of slavery as a social justice issue since the 13th Amendment to the Constitution abolishing slavery in 1865.

## Policy in the United States

The TVPA was designed to ensure victims of trafficking in persons have care and agency need for recovery, including access to legal and healthcare provisions.

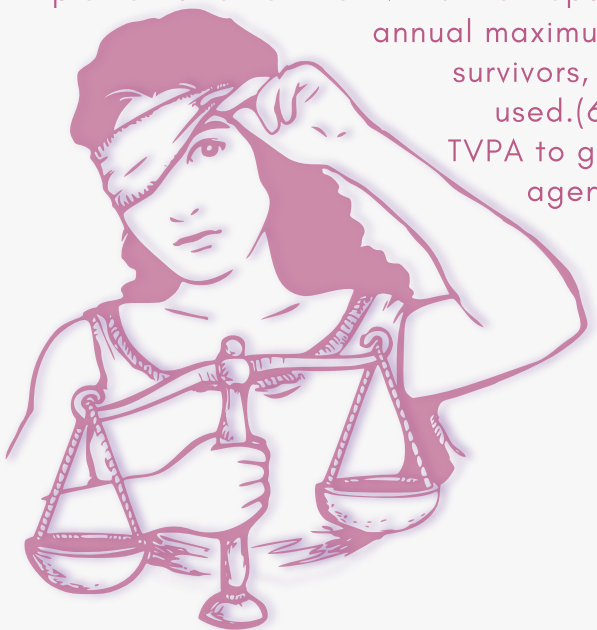
## NGO Involvement

Non-governmental organizations are heavily involved in trafficking intervention, victim advocacy, and public awareness to improve quality of services to survivors of trafficking and improve research to inform policy-making and policy change. Findings sometimes influence reauthorizations fo the TVPA so policy implementation is improved to achieve the goals of the TVPA.

Ease of access to the government provisions has been a continuous concern for the effectiveness of this trafficking in persons policy, thus many NGOs are heavily involved in trafficking intervention, victim advocacy, and public awareness.

## Policy Implementation

Immigration and prostitution laws in the U.S. frequently interfere with proper implementation of the TVPA. The Department of Homeland Security is given an annual maximum quota of 5,000 T-visas, visas for trafficking survivors, but less than 50% of the annual quota is ever used.(6) Congress has recognized the failure of the TVPA to give the majority of trafficking victims political agency and has attempted to remedy this through readdressing has attempted to remedy this through readdressing, making slight alterations, and reauthorizing updated versions of the TVPA with the most recent being the 2013 TVPRA, which was an amendment to the Violence Against Women Act rather than a separate act.



# DESIGN OF TVPA GOALS

## The Three "P's"

- **Prevention** of trafficking in persons
- **Protection** for victims of trafficking
- **Prosecution** of traffickers



The U.S. Department of State has been involved in measuring the "three P's" and, through the Office to Monitor and Combat Trafficking in Persons, generating the annual Trafficking in Persons report that uses qualitative and quantitative data to measure each country's compliance with the "three P's" standards laid out in the TVPA. Each country is assigned a tier status related to their compliance with the "three P's" standards.(6)

Of the emergency and long-term services available to trafficked victims, the primary provision provided by the TVPA is the T-visa, special temporary visas for trafficked victims of foreign nations. Both foreign and domestic victims of trafficking may receive "intensive case management, food, housing, medical and dental care, and legal assistance; and access to educational, vocational, and economic opportunities."(6)

**Preventing trafficking** is determined by socioeconomic factors and sociopolitical climate of the countries people are being trafficked from and that of the U.S.

**Protecting survivors** of trafficking is supposed to be accomplished through the provisions laid out in the TVPA.

**Prosecuting traffickers** continues to be difficult as locating the original trafficker is difficult due to the many people involved in trafficking people across national borders

## LIMITATIONS

- Not a well-planned or thought-out policy
- T-visa is primary resource for recovery services, but it is not easily obtained
- Survivors *must* participate in prosecution of their trafficker to receive benefits of T-visa (2)
- Unclear what department of the federal government is responsible for TVPA implementation, including who identifies victims of trafficking, who protects survivors, who screens and provides T-visas, who provides other resources, etc. (7)
- Unsteady relationship with several Latin American nations due to U.S. War on Drugs (5)
- Lack of international cooperation among governments and federal departments prevents TVPA success (5)
- Adding TVPA policies as an amendment to the Violence Against Women Act in 2013 limits effectiveness the TVPA *could* have as its own law

## EFFECTIVENESS

- Little success of trafficking prevention as laid out in TVPA
- Little effectiveness at helping majority of trafficking survivors due to interfering laws regarding prostitution and immigration (2)
- At most, 25% of trafficking survivors receive T-visas (2)
- Lack of a single central organization handling processes to protect and treat survivors diminishes survivors' agency as they are unable to receive resources quickly, effectively, or consistently
- Limited agency of survivors is hindered by social, economic, and political inequality caused by power imbalances in government systems (8)
- U.S. federal government prioritizes state security over lack of consent trafficked survivors have in prostituting themselves (8)
- Latests attempts to reauthorize the TVPA failed; instead an amendment was added to the Violence Against Women Act



# IMPROVING U.S. TRAFFICKING IN PERSONS POLICY Recommendations

## *Evaluating Policy*

The U.S. should reevaluate current prostitution laws alongside human trafficking policy and consider decriminalizing prostitution while maintaining buying sex as a criminal offense. This can promote female empowerment and gender equality rather than attempting to regulate prostitution for economic gain.

Sweden's model for combatting human trafficking is currently the most effective at preventing trafficking and ensuring survivors are treated with care without criminal charges.

Evaluating U.S. trafficking policy and its implementation process in comparison to Sweden's process is a start for change to occur.

## *Adjusting Evaluations*

The U.S. Department of State should not be the organization to determine each nation's efforts to combat human trafficking because the U.S. cannot be objective about its own policies. For example, the U.S. is ranked among highest of nations at combating trafficking because the TVPA and subsequent policies are all compliant with the "three P's" according to the Department of State's standards. An organization consisting of a collaboration of governments such as the United Nations or International Organization for Migration would be able to provide more objective application of standards.

## *Sweden's Model*

Focus on trafficking policy's relationships with prostitution and immigration polices



Decriminalize prostitution or selling of sex while criminalizing buying of sex



Easier access to legal provisions (e.g. T-visa)



## *Applied to U.S.*

Focus on TVPA's relationships with prostitution and immigration polices


Proven to prevent victim-blaming and reduced trafficking within the country


Survivors of trafficking are not prosecuted for selling sexual favors.



# REFERENCES

1. Limanowska, B. (2002). *Trafficking of Human Beings in Southeastern Europe*. Brussels: UNICEF, UNOHCR, and OSCE-ODIHR
2. Chacon, Jennifer M. (2006). "Misery and Myopia: Understanding the Failure of U.S. Efforts to Stop Human Trafficking." *74 Fordham Law Review*, 2977.
3. Johansson, I. (2014). *Swedish Anti-Trafficking Policy: Official Framework and Local Practices*. Malmo University, Sweden.
4. Ekberg, G. (2004). The Swedish law that prohibits the purchase of a sexual service: Best practices for prevention of prostitution and trafficking in human beings. *Violence Against Women* 10, 1187-1218.
5. Bartilow, H. A. & Eom, K. (2009). Busting drugs while paying with crime: The collateral damage of U.S. drug enforcement in foreign countries. *Foreign Policy Analysis* 5(2), 93-116.
6. U.S. Department of State, Office of Monitoring and Combating Trafficking in Persons. "3Ps: Prosecution, Protection, and Prevention." <http://www.state.gov/j/tip/3p/index.htm> (Accessed 24 September 2016).
7. Lin, J., Orloff, L., & Echavarria, E. (2007). Immigration relief for survivors of domestic abuse, sexual assault, human trafficking, and other crimes: A Violence Against Women Act 2005 update." *Clearinghouse Review: Journal of Poverty Law and Policy* 40(9-10), 539-548.
8. Marinova, N. K., & James, P. (2012). The tragedy of human trafficking: Competing theories and European evidence." *Foreign Policy Analysis* 8(3), 231-253.

All Image Sources:  [creativecommons.org](https://creativecommons.org/)

Created using:  [Canva](https://www.canva.com/)