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**Trafficking in Persons Policy:  
Areas for Improvement Identified by Anti-Trafficking  
Organizations and Policy Scholars**

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**Abstract**

Despite extensive U.S. and international law aimed at curtailing the prevalence of human trafficking, the number of victims continues to rise in both formal and informal economies within the United States and abroad. Thorough scholarly review of current anti-trafficking policy in the U.S. and at the international level has revealed a number of shortfalls and areas in need of improvement. This paper consolidates the many policy issues identified in the literature into four main categories. These categories are compared with policy shortfalls identified through interviews with anti-trafficking organizations to explore the extent to which scholars and organizational advocates recognize and identify the same policy gaps and shortfalls as do anti-trafficking organizations who deal with victims and political barriers firsthand, and to examine reasons why existing policies have not been adapted to address well-identified gaps or shortfalls. Analysis of the literature and interview responses revealed that, while anti-trafficking organizations do identify many of the same policy shortfalls articulated in the literature, organizational leaders also identify several new areas in need of policy attention that are absent from the literature. Based on these findings, several policy and advocacy recommendations are made within the umbrella category of public education as a means to combat human trafficking.

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## **I. Introduction**

Despite extensive U.S. and international law aimed at curtailing the prevalence of human trafficking, the number of victims continues to rise in both formal and informal economies within the United States and abroad. In 2012, the International Labour Organization (ILO) estimated the number of individuals in forced labor worldwide to be around 20.9 million; in 2016, that estimate rose to 24.9 million. The U.S. Department of State estimates that between 14,500 and 17,500 people are trafficked into the United States annually. Thorough scholarly review of current anti-trafficking policy in the U.S. and at the international level has revealed a number of shortfalls and areas in need of improvement. This paper consolidates the many policy issues identified in the literature into four main categories: the narrowly-defined concept of what constitutes a victim of human trafficking (referred to here as the “perfect victim paradigm”), the prioritization of prosecution over victim protection, excessive political barriers to effective prosecution of traffickers and protection of victims, and cultural or societal barriers to combatting trafficking in the U.S. Although these categories have been analyzed and criticized in detail by law and policy scholars and by anti-trafficking advocates, little has been done to adapt existing policy and protections to address the gaps and inadequacies.

The question driving this research and review of the literature is to determine the extent to which scholars and advocates recognize and identify the same policy gaps and shortfalls as do anti-trafficking organizations who deal with victims and political barriers firsthand, and to examine reasons why existing policies have not been adapted to address well-identified gaps or shortfalls. This study relied on qualitative analysis methods to identify common issues arising in the scholarly literature and to evaluate and compare responses collected in interviews with organizational leaders.

Analysis of the literature and interview responses revealed that, while anti-trafficking organizations do identify many of the same policy shortfalls articulated in the literature, organizational leaders also identified several new areas in need of policy attention that are absent from the literature: a lack of transitional programs for youth in foster care and social services, a lack of intersectionality with related issues such as homelessness and domestic violence, a poor understanding of therapeutic methods that effectively rehabilitate victims of trafficking, a lack of public-private partnership, and a general lack of funding for training and outreach programs within anti-trafficking organizations.

## **II. Literature Review**

The identification of gaps in existing anti-trafficking policy and the subsequent determination of areas for improvement relies on an analysis of the laws themselves, as well as a comparison of scholarly opinions and those of organizations on the ground regarding the policies' successes and shortcomings. This review details commonly-identified issues with anti-trafficking policy as discussed in the literature and establishes four concrete areas for improvement to be compared with organizations' responses to determine how closely they align.

Within the academic analysis of the existing anti-trafficking policy and conventions, several common themes emerge as barriers to the achievement of the policies' stated goals: the "perfect victim paradigm," the prioritization of prosecution of traffickers over victim protection, strict requirements for obtaining protections for victims and/or prosecution of perpetrators, and a general failure to acknowledge the myriad social, political, and economic barriers to effective prevention of trafficking. While there is a minority that commends the accomplishments of two such policies (the Trafficking Victims Protection Act (TVPA) of 2000, which seeks to provide

victim support through establishment of the T-Visa, federal funding for NGOs combatting TIP, protection from victim criminalization, and prosecution of traffickers, and the Palermo Protocol, which was the first document to offer an international definition of trafficking and requires countries to develop anti-trafficking legislation and law enforcement training programs) without recognition of otherwise commonly-identified faults, the vast majority of the academic discourse can be pared down to the aforementioned themes as areas in need of improvement if human trafficking is to be adequately challenged (see Appendix B for summaries of relevant policies and conventions).

A. *The Concept of the “Perfect” Victim and Victim Identification*

The concept of the “perfect” victim refers to a general assumption of the characteristics of a victim of human trafficking, and emerged with the earliest internationally agreed-upon definition of trafficking in persons (TIP): the Palermo Protocol. This concept is deeply ingrained, both in policy and in social norms and expectations, and has the potential to disrupt the effectiveness of anti-TIP policy by creating an obstacle to victim identification.

i. Focus on Women, Children, and Sex Trafficking

In Laura L. Shoaps’ analysis of the Palermo Protocol, she argues that by mentioning “women and children,” as a specifically vulnerable group, as well as by separating “exploitation [of] prostitution of others or other forms of sexual exploitation,” from “forced labour or services,” the Protocol has a “limited focus on the trafficking of women for sex, consequently failing to properly address the broader scope of the human trafficking problem,” and creating an issue of insufficient identification of victims (2014, pp. 936-937; Protocol to Prevent, Suppress

and Punish Trafficking in Persons Especially Women and Children 2000, art. 3(a); Uy 2011; Coonan 2006). While Shoaps acknowledges that the specific emphasis on women and children does hold value given that, in a general global sense, women and children are particularly susceptible to exploitation as a result of their higher incidence of economic and social vulnerability, she maintains that such language “frames the issue of trafficking at the expense” of other victims (male victims of trafficking, for instance, make up as much as 90% of the victims of TIP from certain countries, usually as recruits for agricultural or manufacturing labor abroad) (2014, p. 936; Uy 2011). By distinguishing between sex trafficking and other forms of human trafficking, scholars argue that the Protocol suggests that sex trafficking is both inherently different from and a larger issue than other trafficking. In reality, labor trafficking (which can include sex trafficking, as sex work is a form of labor) constitutes the vast majority of TIP cases—nearly all, if trafficking in sex and labor are combined (International Labor Organization & Walk Free Foundation 2017).

## ii. Identification and Rescue by Law Enforcement Officer

Another factor that may prevent the recognition of legitimate victims is the assumption that a true victim of trafficking is one who has been rescued by law enforcement officials, often in the form of raids. Such raids can be problematic themselves, and may serve to fortify the misperception that discovery by law enforcement is a necessary criterion to victimhood (Adams 2011; Haynes 2007). In fact, very few victims in the United States are rescued by law enforcement. Instead, many escape and find their way to help on their own (Haynes 2008). Unfortunately, those that fall into this category are often dismissed as undocumented immigrants posing as trafficking victims for the purposes of obtaining protections and possible

documentation, or as simple prostitutes seeking to avoid criminal charges (Haynes 2008; Shoaps 2014). Dina Francesca Haynes notes that, in the eyes of many officials, “if a person is not visibly a victim, she is probably a criminal[,] and that someone who has broken the law [by entering the country illegally or by participating in illegal activity such as prostitution] cannot also be a victim of trafficking” (2007, p. 346).

The above failures to frame TIP based on the reality of the issue are harmful in a number of ways: law enforcement officials are often the first to encounter victims of trafficking, and are trained to identify victims as such. However, the Protocol leaves nation states to determine for themselves if “addressing the gender of the victim is worth including in the training of their officials” (Shoaps 2014, pp. 939-940). Such a decision is dependent on both the stigmas and biases that exist within that nation state’s culture, and on the presuppositions made in the Protocol, and therefore could potentially prevent the identification of a victim in need.

The recognition of victims takes on even greater importance when applied to United States law. Under the Trafficking Victims Protection Act, victim identification is a crucial step in victim protection, as identification by law enforcement renders the victim eligible for a number of short and long-term protections associated with their status as trafficked individuals through the certification process. Within the Palermo Protocol, such services include “(a) Appropriate housing; (b) Counselling and information, in particular as regards [victims’] legal rights, in a language that the [victims] can understand; (c) Medical, psychological and material assistance; and (d) Employment, educational and training opportunities” as particularly important services for trafficked individuals (2000, art. 6(3)). If an individual is not identified as a victim on the basis of their gender, occupation, or lack of rescue by law enforcement, they are far less likely to

be certified and are therefore excluded from the vast majority of such services (Shoaps 2014; Haynes 2007). Under the TVPA, Congress provides funding to non-governmental organizations who work to provide victim protection services. However, only those organizations that accept certified victims receive the congressional funding, and because certification must come from law enforcement officials who often fail to accurately identify trafficking victims as such, many NGOs will not accept legitimate victims on the basis that they lack official certification (Haynes 2008; Lopiccolo 2009).

#### *B. Prioritization of Prosecution over Protection*

The stated purposes of both the Palermo Protocol and the TVPA include clear commitment to the protection of victims of TIP. The text of each policy, however, suggests an emphasis on prosecution over victim protection (Burke 2015; Barbagiannis 2017; Cianciarulo 2007). This prioritization is evident in the addition of victim protection as secondary to—and nearly always in reference to—prosecutorial efforts. When victims are mentioned, it is either relative to their potential utility in a criminal case, or in reference to their traffickers. In her policy analysis, Julie Marie Lopiccolo notes that the language is “criminal centric,” in that, “rather than [identifying] those in need of protection from a heinous human rights violation as individuals, the [TVPA] protects ‘[the traffickers’] victims.’ By focusing on the traffickers, rather than the victims, those responsible for implementing the TVPA are not adept at recognizing the victims” as individuals in need of assistance (2009, p. 872).

Further evidence of the failure to place victim protection and prosecution on equal ground is visible in the lack of obligatory language, particularly in the Protocol, in victim protection provisions. “The requirements that states ‘consider,’ ‘take into account,’ and

‘endeavor to provide’ for victim protection are weak,” especially when compared to the mandates used in prosecutorial provisions, and “create an unbalanced approach to addressing human trafficking. The Palermo Protocol requires states to criminalize human trafficking but does not contain any mandatory provisions under which nation states are required to protect victims or conduct prevention initiatives” (Shoaps 2014, p. 947). This sentiment is echoed in other criticisms that further contend that this disconnect “does not establish a victim-centered approach but instead constitutes a criminal law framework” through which survivors’ needs are not prioritized (Todres 2013, p. 149; Wooditch, DuPont-Morales & Hummer 2009). Shoaps also argues that if victim protection were the priority (or on par with prosecution), both the TVPA and the Protocol would employ a human rights framework that seeks to “address the root causes of trafficking,” rather than a law enforcement-based framework that emphasizes “remedial focus on prosecution” (2014, p. 949). Shoaps does acknowledge that prosecution could be a legitimate means of achieving protection if such prosecution were fully effective; however, she notes that data on the number of traffickers successfully convicted since the TVPA entered into force fall far short of proving that link (2014; Tiefenbrun 2005; Bales & Soodalter 2009).

The human rights-versus-law enforcement framework arises in several other analyses, as well. Some scholars argue that the Protocol can act as an effective supplement to existing human rights framework; unfortunately, this idea is undermined by the Protocol’s disproportionate focus on provisions for law enforcement (including the fact that it was originally formulated as a supplement to the Convention Against Transnational Organized Crime—an inherently criminal law-based agreement) (see Appendix B for information on how the Protocol is related to transnational crime legislation). Jonathan Todres summarizes the latter argument well, noting that:

“[t]he Trafficking Protocol grew out of a criminal law framework rooted primarily in concern for combating transnational organized crime syndicates rather than an independent assessment of what is needed to prevent human trafficking. As a result, the international community not only developed a narrow response focused primarily on criminal law measures, but its anchoring of antitrafficking law in criminal law concepts subsequently served to marginalize other vital perspectives” (2011, p. 55).

This “anchoring of antitrafficking law in criminal law” results in a victim’s protection being contingent on their contributions to prosecutorial efforts: the victim essentially becomes a vehicle for the success of law enforcement.

The TVPA’s T-Visa was created specifically to “strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault [and] trafficking of aliens [...] while offering protection to victims” (Victims of Trafficking and Violence Protection Act 2000, div. B §1513 (a)(2)(A), 114 Stat. at 1533). Even in the language of the law itself protection for victims is secondary to their availability for law enforcement purposes. Furthermore, in order to receive any protection at all victims must (1) be identified as such through the certification processes discussed in the previous section, and (2) agree to comply with any reasonable request for cooperation in the investigation into and/or prosecution of their trafficker(s) (Victims of Trafficking and Violence Protection Act 2000, div. B §1513 (a)(2)(A), 114 Stat. at 1533). Even then, those who do cooperate may be repatriated (and often placed in danger of violent retribution from the local trafficking ring) if law enforcement decides not to pursue their case. Law enforcement’s decision to pursue or not pursue a case has sometimes relied on whether they “believe that the victim’s traffickers cannot be prosecuted,” meaning that some victims who agree to cooperate may still be denied access to protection (Haynes 2008, p. 82). Not only does the “cooperation requirement [place] victims in the extremely difficult situation of cooperating with law enforcement or facing the removal their

traffickers warned them about,” but their eventual decision to cooperate is no guarantee of protection (Song & Lee 2006, p. 156). As a result of the cooperation requirement, “victim services such as immigration status and counseling are based upon the victim’s ability or willingness to aid in investigating or prosecuting their trafficker, rather than upon their status as a victim” (Adams 2011, p. 10). The problematic nature of this provision is clear both from humanitarian and analytical perspectives.

### *C. Barriers to Effective Prosecution of Traffickers and Protection of Victims*

In addition to the cooperation and certification requirements, there are a number of other obstacles victims must surmount if they wish to access protection and services. As discussed, any victim who wishes to receive basic services such as shelter and medical attention is “wholly dependent upon law enforcements officials” recognizing that individual as a victim and subsequently taking the necessary steps to certify them as such (Shoaps 2014, p. 938). The first two steps in the protection process are also where the most victims fall to the wayside, due to this lack of initial recognition.

#### *i. Psychosocial Barriers*

Most trafficking victims, especially those trafficked into the U.S. from foreign countries, have a deep-seated mistrust of law enforcement due to manipulative and false information fed to them by their traffickers. As a result, many survivors will not explicitly reveal their status as trafficked individuals due to a fear of deportation or criminalization, and while law enforcement officials are expected to recognize other signs as indicators of victimhood, the vast majority fail to correctly identify victims (Haynes 2008). Due to this mistrust, a fear of retribution from their

abusers, and post-traumatic symptoms, victims may also be reluctant to cooperate with any potential prosecutorial efforts against their traffickers—rendering them ineligible for the T-Visa. In recent years, Congress reauthorized the TVPA to clarify that it may be unreasonable to compel victims to cooperate with law enforcement if they will experience “psychological or physical trauma” (8 USC §1101 (a)(15)(T)(i)(III)(aa)); however, Song & Lee argue that, while this provision is “a good first step,” it does not “fully resolve the problem of conditioning critical protection and benefits on whether a victim of slavery cooperates with law enforcement requests for assistance” (2006, p. 151).

## ii. The Burden of Proof Barrier

In addition to the above obstacles to preliminary protections, further barriers exist to securing a T-Visa or Continued Presence designation: first, the Secretary of Homeland Security or Attorney General must determine if the individual is a victim of a severe form of human trafficking (distinguished from non-severe TIP), as defined by the TVPA. The individual must also be present in the U.S. due to their status as a trafficked person, and they must have cooperated with law enforcement in the investigation into and/or prosecution of the trafficking. Finally, it must be proven that the victim would suffer severe hardship and harm upon removal from the U.S. Even if a victim satisfies all of the latter requirements, there are still a number of qualifiers that may render them ineligible to proceed in the visa process, including any prior history of prostitution not directly related to the trafficking case at hand (Victims of Trafficking and Violence Protection Act 2000; Shoaps 2014). Prohibiting those with a history of prostitution (which may be related to previous sex trafficking) from obtaining a visa ignores the likelihood of re-trafficking over the course of a victim’s lifetime—a common occurrence for many victims

(Rieger 2007; Adams 2011). After the above criteria are satisfied, the victim must conclusively prove that their trafficker(s) employed coercion and intent to harm. The decision to set proof at “conclusive” is an arbitrary and—according to some—irrational decision: according to Haynes, the TVPA did not establish this caveat; instead, it was a Department of Homeland Security ruling:

“No combination of circumstantial evidence, apparently, will enable a victim to meet that burden, as ‘conclusive proof of the intent of the traffickers to exploit’ means that the victim must have been found and rescued by objective others, like law enforcement, who can visually attest to the exploitation in order to satisfy that burden” (2007, p. 361; Rieger 2006).

This burden of proof for trafficking cases not only exceeds that required for asylum applications, but is also at odds with the United Nations’ definition of trafficking, which emphasizes proof of exploitation, rather than proof of coercion (Rieger 2006). Because proof of coercion and intent to harm is a prerequisite to classification as a victim of severe trafficking, those who are unable to provide proof run the risk of detention and deportation. In summary, scholars have concluded that the nature and number of the obstacles to protection are ill-fitted to an already extremely limited set of protections (Lopiccolo 2013).

#### D. *Cultural Barriers to Combatting Trafficking in the United States*

Barriers in the legal and practical processes are compounded with—and occasionally based on—less-visible obstacles to effective prevention of human trafficking in the U.S. These cultural barriers align with the perfect victim paradigm and the issue of law enforcement recognition of victims, and are therefore worth further exploration.

i. Bureaucratic Barriers

The intent of the TVPA in dividing responsibility between numerous agencies is clear: facilitating sharing of knowledge and research informed by a variety of backgrounds and agendas holds an important position when grappling with an issue as complex, multi-faceted, and culturally-infused as human trafficking. Nonetheless, many scholars point to the fracturing of monitoring responsibility as decided within the TVPA as a stagnating factor in all efforts to combat TIP. Haynes points to a communication breakdown between government agencies tasked with combatting TIP; Sheldon-Sherman references conflicting agendas of “policymakers, law enforcement agencies, and non-governmental organizations (NGOs) that provide services to victims”; Payne blames both vertical and horizontal coordination failures identified by government officials involved in the task force (2007; 2012, p. 443; 2008). These issues are examined in the following sections.

ii. Lack of Understanding and Politicization of the Issue

While those directly involved in the formation of the TVPA and Palermo Protocol and in the annual research of trafficking-related issues through the Task Force may possess a clear and accurate concept of the reality of the issue, most of those tasked with developing policy amendments or identifying victims and traffickers on the ground do not. Several specific areas exemplify this communication breakdown between experts and those most directly involved. First, human trafficking is often conflated with other social debates and stigmas, which leads to politicization of the issue of modern slavery. Immigration, for example, is the root of one of the most contentious political debates of the time, and the existence of a special visa for trafficking victims leads many—both in the political sphere and in the general public—to fear that those

hoping to secure legal status in the country will abuse the provision (Lopiccolo 2009). Currently, there is an annual cap of 5000 T-Visas, although the actual number issued per year rarely surpasses even 500 (Haynes 2007; Adams 2011). However, there is “no similar limit on the number of visas extended to asylees and refugees permitted into the United States,” suggesting that the cap was instituted to “address concerns regarding fraudulent claims of trafficking,” although “T-visa applicants and victims seeking to adjust their status must go through a validation process where their history is meticulously evaluated” (Kandathil 2005, p. 114). Haynes echoes Kandathil’s argument, contending that this cap and the distortion of the TVPA visible in its practical application “could be ascribed to the unspoken but palpably omnipresent fear of opening the floodgates to the expected hoards [*sic*] of migrants” (2007, p. 364). This fear arises in the link drawn between trafficking and terrorism. While these two areas are vaguely connected by their mutual emphasis on border control, “placing a terrorist and a victim of trafficking in the same category is clearly troubling” and seriously misguided (Lopiccolo 2009, p. 873).

Those involved in sex trafficking also receive the brunt of the misinformation issue, in that they are often mistaken as willing prostitutes who knowingly and consensually engage in an illegal activity (Kandathil 2005; Rieger 2007). Trafficking policy contains several indicators of the U.S.’s cultural aversion to prostitution in how it handles trafficked persons, including the T-Visa provision that precludes those who have engaged in prostitution in the previous decade that is unrelated to the trafficking case on hand from eligibility (Victims of Trafficking and Violence Protection Act 2000). This stipulation does not account for the reality that many sex trafficking victims are trafficked at different points in their life by different traffickers, and reflects a cultural bias on the U.S.’s part against those engaged in prostitution as a means of income

(Rieger 2006). The prostitution bias exemplifies the general failure to understand the complexity of trafficking on account of ingrained cultural stigmas.

### iii. Failure to Acknowledge the Reality of the Issue

The inaccurate perceptions of the issue of trafficking related to prostitution also arise in the U.S.'s emphasis on sex trafficking over other forms of trafficking, as discussed earlier in this review. Shoaps argues that the "TVPA's focus on protecting sex trafficking victims was thought to be something that 'everyone could get behind; people on the Christian right were equally repulsed by the issue and wanted to nail it, and the feminist left [was] also very against it'" (2014, pp. 944-945). Labor was seen as too political and therefore fell secondary to sex, both in actual legal stipulations and in public prioritization (Shoaps 2014).

The U.S. also engages in a number of activities that display a lack of understanding of the forces that contribute to the perpetuation of trafficking. Involuntary victim repatriation, for example, is a common practice for those who are determined ineligible for either a Continued Presence designation or for a T-Visa. Unfortunately, repatriation "significantly increase[s] the risk of re-victimization. The first of many concerns is that a repatriated victim may be intercepted by the local member of the trafficking ring upon arrival" in their home country (Adams 2011, p. 208). Those victims that do find a way to remain in the U.S. constitute what a California social worker referred to as "a new subset of poor immigrant workers" (Brennan 2015, p. 610).

#### iv. Systemic Failures

Finally, the United States, in both policy and practice, fails to acknowledge the factors that drive migration and its irrefutable role in these factors. Trafficking in persons functions in the same manner as any other business, according to the economic principles of supply and demand: in order for human trafficking to persist in the U.S., a demand for the goods and services rendered as a result of the TIP must be present. Those who benefit from trafficked labor (“johns,” business owners, consumers, etc.), however, are very rarely penalized for the key role they play in perpetuating trafficking (Kandathil 2005). Lopiccolo notes that the emphasis on sex over labor discussed earlier may even be evidence of a self-serving intention on the part of the U.S., posing that the “focus on sex trafficking could reflect American ideals that condemn the sale of sex, but participate in creating the demand for inexpensive products that require the use of cheap or forced labor. Therefore, it is easier to turn a blind eye to labor exploitation than sexual exploitation” (2009, p. 876). Jennifer M. Chacón criticizes what she refers to as the “myopia” on the part of the U.S., stating that the “United States is not a passive recipient of trafficked human beings,” and that if trafficking is to be effectively addressed, it will require a concerted effort from the country to acknowledge and tackle its role in the perpetuation of the issue (2006, p. 2979).

According to scholars, the infiltration of cultural taboo into law, the failure to account for the frequently-blurred line between criminal and victim, and the inability to be sufficiently self-critical have prevented the TVPA and Palermo Protocol from fulfilling their commitment to combatting human trafficking and have stifled the effectiveness of any successful initiatives.

The identification of policy failures analyzed in this section is largely based on research into the reality of the trafficking issue, and an evaluation of the language that comprises the political and public discourse on the issue of human trafficking. However, in order to either corroborate or reject these findings, it is necessary to account for the perceptions held by those working directly with trafficked individuals and policy initiatives in the nonprofit organization sector. While there is much to be gleaned from a review of scholarly opinion, this research seeks to identify further gaps that may be overlooked by those not engaged in the issue first-hand.

### **III. Research Methods**

This study analyzed the question of the extent to which shortfalls in existing anti-trafficking policy identified in the literature align with those experienced by organizations working firsthand (and why such shortfalls persist). The study therefore consisted of a thorough analysis and consolidation of the scholarly literature evaluating U.S. and international anti-trafficking policy, and an interview-based examination with leading members of anti-trafficking organizations, which allowed for a comparison of the shortfalls identified by scholars and organizations.

#### *A. Review and Evaluation of Existing Policy*

The review and evaluation of existing policy consisted of searches of law review databases (e.g., Lexis Nexis and Westlaw) for scholarly opinions on existing anti-trafficking policy, as well as research into the provisions of anti-trafficking laws and conventions, and whether or not they have been shown to curtail trafficking. The literature reviewed was then categorized and divided based on several commonly-identified issues with existing policy: the

problem of the “perfect victim,” focus on prosecution over protection and criminalization of victims, and general issues with reinforcement or implementation of policy. These categories were either explicitly identified or alluded to with similar language to that used in this work.

### B. *Interviews*

A total of six organizations were contacted, three of which (Forgotten Children Inc., California Against Slavery (CAS), and the Alliance to Stop Slavery and End Trafficking (ASSET)) did not respond to requests for an interview. Therefore, the sample of interviewees for this component consisted of leading staff at the following anti-trafficking organizations (see Appendix C for information on organizations):

- Coalition to Abolish Slavery and Trafficking (CAST)
- Every ONE Free
- Humansave

The organizations were selected using purposeful sampling: organizations chosen purport to combat human trafficking in general (in other words, not limited to sex-trafficking) in the United States, but operate out of Los Angeles County. Los Angeles and the surrounding areas were selected as the primary place of study, due to the high incidence of human trafficking compared to elsewhere in the U.S. (CAST LA 2017). Only organizations who sought to address human trafficking issues as their main cause were selected, although there are many organizations within L.A. County that have anti-trafficking initiatives or departments. Leading staff of the organizations (e.g., CEO, founder, president, etc.) were selected due to their potential for deeper insight into issues related to trafficking and anti-trafficking policy.

Interviews were conducted in English, Facetime or over the phone. Interviews were audio recorded and/or responded to in writing and organizations’ names logged in connection to each

interview with participants' permission. None of the interviewees gave permission to use their names in the final report. The interviews were conducted in a conversational manner, but with a general track of questions, allowing for redirection based on the unique workings of the individual organizations. (see Appendix D for sample of interview questions).

Data from interviews was coded by hand, first based on its alignment with the categories discussed in the literature: words, phrases, or concepts relating to victim characteristics (e.g., “women,” “transgender,” “minors,” or “labor trafficking”) were placed under the category of the “perfect victim paradigm;” words, phrases, or concepts relating to criminal proceedings (e.g., “law enforcement,” “arresting,” “prove force, fraud, or coercion,” or “prosecution”) were coded under the prosecution over protection section; words, phrases, or concepts such as “visa,” “identification,” or “outreach and education” were coded under the barriers to prosecution and protection section; words, phrases, or concepts relating to sociopolitical or socioeconomic issues (e.g., “poverty,” “language barriers,” “sex,” or “sensationalism”) were coded as cultural barriers. This coding allowed for comparison of responses from organizations to criticisms in the literature.

Subsequently, words, phrases, or concepts that didn't clearly fit under the above categories were analyzed for similarities and coded accordingly under new categories. New areas identified by organizations included a lack of transitional programs for youth in foster care, a lack of intersectionality with related issues (including homelessness), poor understanding of effective therapeutic methods for recovery, a lack of public-private partnership, and a general lack of funding for outreach and education. These categories were mentioned explicitly, so little coding was necessary. An examination of new areas for improvement identified by the

organizations allowed for comparison with the literature. Several of the areas identified by organizations also addressed the question of why little change has occurred on a policy level.

#### IV. Research Findings and Discussion

The purpose of this study was to analyze existing anti-trafficking policy and to compare gaps identified by policy scholars to new insights offered by local anti-trafficking organizations. This research was also conducted in an attempt to determine why the issue of human trafficking remains so prevalent, despite the existence of specific anti-trafficking policies and the identification of areas for improvement.

Interviews with leading members of three anti-trafficking organizations (Coalition to Abolish Slavery and Trafficking (CAST), Every ONE Free (EOF), and Humansave) in the greater L.A. area were conducted over the course of about two months. The interviews consisted of questions such as, “how do anti-trafficking organizations help to bridge policy gaps, and how effective are they at achieving this?” and, “why has anti-trafficking policy failed to address well-identified gaps?” or, “why does trafficking in persons remain such a persistent issue in the United States?” Several interviewees identified policy gaps that fell within the four themes discussed in the literature; responses were then coded according to the categories established in the literature review (Fig. 1).

	CAST	EOF	Humansave
“Perfect victim” problem			
Prosecution over protection			

Barriers to prosecution and protection			
Cultural barriers to combatting TIP			

Figure 1: Issues identified as barriers to combatting TIP (comparison with categories identified in the literature)

In addition to reaffirming the categories discussed earlier in the study, some interviewees identified further barriers to eradication of TIP that fell outside of the bounds of those previously noted, including a lack of transitional programs for youth in foster care or social services, a need for intersectionality with related issues (e.g., domestic violence, sexual assault, labor exploitation), a poor understanding of effective therapeutic methods (use of Cognitive Behavior Therapy), a lack of public-private partnerships, and a severe lack of funding for training and outreach programs within anti-trafficking organizations, across the board (Fig. 2). These issues are discussed in further detail in the following sections.

	CAST	EOF	Humansave
Lack of transitional programs for youth in foster care/social services			
Need for intersectionality with related issues			
Poor understanding of effective therapeutic methods			
Lack of public-private partnership			
Lack of funding for training and outreach programs at anti-TIP organizations			

Figure 2: New issues identified as barriers to combatting TIP

### A. *The Problem of the “Perfect” Victim*

The most commonly identified aspect of the Perfect Victim Problem was the tendency to categorize sex trafficking as separate from labor trafficking. Representatives of both CAST and Humansave argued that “it’s important to talk about both labor and sex trafficking, and share with the world that it’s unhelpful to say human trafficking and just focus on, for instance, sex trafficking, because it portrays this concept that sex trafficking is the only trafficking that’s happening in the U.S.” CAST also referred to the necessity of

**“[Focus on] educating our elected officials about both labor and sex trafficking, moving away from the sensationalism, from sex being bad”**

—CAST

widening the definition of a trafficking victim to include both labor and sex trafficking, and that “sex trafficking” extend beyond that of minors: “what we’re finding is that many individuals [think] human trafficking is either sex trafficking [of] minors or is something that’s happening in foreign countries with labor exploitation. They don’t understand how it’s happening here.” CAST included elected officials in those who often misinterpret the reality of trafficking, noting a need to move “away from the sensationalism, [away] from sex being bad,” and to focus on “educating elected officials” about all forms of trafficking. Interviewees also noted the conflation of sex trafficking with prostitution—pointing specifically to the argument that there is “no such thing as child prostitution”—and the erasure of certain populations from the definition of a victim. This issue intertwines with criminalization of prostitutes, and the failure on the part of law enforcement to recognize trafficking victims in commercial sexual situations.

Further debunking the imagery of a “perfect victim,” The representative from CAST also pointed to the organization’s support of “all victims,” including “men and women and

**“The most common misconception is that [trafficking] occurs in Southeast Asia, [it] occurs in Mexico, in countries other than ours.”**

–Humansave

transgender communities, individuals, children and adults,” and Humansave mentioned that the survivors they serve range in age from three to 80 years old.

Finally, both organizations noted the power of imagery, particularly in the media, in shaping and perpetuating the idea of the “perfect” trafficking victim. The

CAST representative identified the tendency to portray “sensationalized victims, images of young girls who are beaten and tied up,” and Humansave added the “common misconception” that trafficking is limited to countries in “Southeast Asia,” or in “Mexico”—a non-white, non-American issue.

Interestingly, the representatives from EOF, in addition to including no mention of the “perfect victim” imagery, seemed to refer only to those victim characteristics that are often dismissed in the literature as over-generalizing (young girls trafficked into the sex industry). EOF focused almost exclusively on human trafficking victims as victims of sex trafficking, briefly mentioning labor trafficking in relation to other organizations (including CAST).

#### *B. Prioritization of Prosecution Over Protection*

All three organizations spoke very little (or not at all, in EOF’s case) about the prioritization of prosecution over victim protection. However, CAST did make reference to its persistence as an issue, particularly in sex trafficking cases, but also to it being an issue of the past, mostly due to California’s newer status as a “safe harbor state” (states that implement

trafficking policy aimed at treating trafficked individuals as victims, rather than as perpetrators of a crime) (National Conference of State Legislatures 2017). CAST noted that, in safe harbor states, if a minor is found engaging in commercial sex, they are automatically treated as a victim due to their inability to legally consent to sex. There is no need in these cases to prove force, fraud, and coercion. Relative to this issue, the CAST representative also noted the contradictory nature of policy at the *federal* level, contesting that, if anyone under the age of 18 cannot legally consent, they should never be arrested for prostitution (a gap that has been shown to contribute to the high rate of criminalization of trafficking victims). In this same vein, CAST brought new insight into why victims are so often arrested, rather than connected with services, by law enforcement officials: some police worry that a failure to arrest a minor in a situation of commercial sexual exploitation will only lead to further trafficking, as they are “left on the streets.” The obvious solution to this problem, CAST argues, is to divert the victim into services, however, it remains a notable insight.

On the other hand, when asked how their organization employs the “3P” framework outlined by the TVPA (Prevention, Prosecution, and Protection), Humansave pointed to a “release of information agreement with the client” that allows them to provide “whatever information [the Department of Homeland Security] may request” to continue in their prosecution. Providing information that could serve in prosecutorial efforts touches on the issue of prosecution over protection, especially because, when asked how the organization employs the “Protection” segment of the framework, the Humansave representative’s response was, “I’m not really sure how we fit into that P.” Humansave not only did not identify prosecution over protection as an issue, but also alluded to the role they may play in perpetuating that issue.

*C. Barriers to Effective Prosecution of Traffickers and Protection of Victims*

All three organizations spoke at length on the barriers to effective prosecution and protection: EOF identified a lack of education among those who are most likely to first encounter trafficking victims (e.g., medical professionals); Humansave noted the legal barriers related to either pursuing prosecution years after the trafficking has occurred, or to obtaining T-Visas. Those who do not arrive in the United States as a result of their trafficking are deemed ineligible for the T-Visa; this stipulation excludes those who arrived in the U.S. legally but were then subject to labor exploitation and abuse (most notably through the use of H-Visas for temporary workers) (see Appendix B for scope of H-Visa program). The representative from Humansave, who had previously worked in law enforcement, also mentioned a lack of required training in the law enforcement sector regarding proper treatment and identification of trafficked individuals as a barrier to effective prosecution and protection, which could lead to a failure to recognize victims as such. CAST identified lack of understanding of the issue by those who create and influence policy as one major barrier, as well as a failure to track visas (and monitor for exploitation) and a fear of law enforcement that prevents trafficked individuals from seeking help:

“Government could definitely do a better job...when we release visas—temporary visas and work visas, particularly—[in] following up and seeing how those visas are being utilized, who’s using them, and [if] the temporary workers actually getting the support that they’re supposed to have. Do they have the mobility that they’re supposed to have?”

Lack of follow-up was also mentioned in one of the new areas for improvement identified by organizations in reference to a lack of funding for the outreach portion of the TVPA (discussed in subsection (I)).

D. *Cultural Barriers to Combatting trafficking in the United States: Lack of Understanding and Systemic Failures*

Of the three categories identified in the literature regarding cultural barriers to the eradication of TIP, the interviewees addressed two: a general lack of understanding of the issue, which can make it vulnerable to political sentiment, and systemic failures that exclude strong push factors from the political discourse. The two branches were identified in concert and with overlapping evidence, so they are discussed here as one category.

CAST pointed to systemic issues, arguing that the U.S. fails to account for what makes someone vulnerable to trafficking in the first place: “there isn’t an easy way to just end human trafficking [...] because you have to look at poverty, and socioeconomic issues, and language barriers, and other types [of] influences that make people vulnerable.” Rather than focusing time, money, and energy on fixing the issue from the top down, CAST implies that policies should work from the bottom up, addressing the roots of the issue in order to eradicate it. CAST also acknowledged the politicization of human trafficking around other debates, alluding specifically to immigration: “when we’re talking about protecting undocumented individuals [...] that in itself might create some type of backlash,” which may also offer an explanation as to why policy seems to focus less on labor and more on sex trafficking.

Humansave, speaking on the issue of a lack of understanding, mentioned the disproportionate focus on the trafficked individual as the criminal, rather than the trafficker or consumer of the trafficked good or service: “I wish that we had laws [...] where it’s the buyers that are the most affected by the prosecution, that are most heavily fined,” because “killing the demand will ultimately kill the supply.”

New Areas Identified, According to Anti-TIP Organizations

	CAST	EOF	Humansave
Lack of transitional programs for youth in foster care/social services			
Lack of intersectionality with related issues			
Poor understanding of effective therapeutic methods			
Lack of public-private partnership			
Lack of funding for training and outreach programs at anti-TIP organizations			

Figure 2 (reproduced from above): New issues identified as barriers to combatting TIP

*E. Lack of Transitional Programs for Youth in Foster Care or Social Services*

Both CAST and EOF identified transitional youth as particularly vulnerable to trafficking, especially due to a lack of programs and funding diverted toward their demographic. EOF noted that transitional youth are “not provided with resources after their time in foster care,” or with “emotional support for the children,” still in foster care. CAST mentioned that transitional-aged youth are “the largest population” they currently serve, but that this trend may be due in part to a decrease in arrests of minors and transitional youth in California as a result of its recent designation as a “safe harbor” state. Instead, more youth are “divert[ed] into services.”

*F. Lack of Intersectionality with Related Issues*

CAST was the only organization of the three interviewed to suggest that intersectionality with other movements or policy initiatives may be a necessary step in fighting TIP. The

spokesperson mentioned two specific areas in which this joining of forces could take place: the fight against homelessness and the implementation of better sex-ed programs and work-preparedness programs in schools.

CAST's mention of homelessness was two-pronged: first, many victims "come out of their trafficking situation homeless, and need a lot of rehabilitation and medical support and legal support," so recognition of the role that low-income housing and the availability of social services play in stemming TIP is a key aspect of combatting the issue. Secondly, CAST mentioned that grants for anti-trafficking programs and organizations continue to decrease each year, yet awareness of and action on homelessness (often followed by grant money) is on the rise. Capitalizing on the link between trafficking and homelessness, then, has the potential to increase the overall funds aimed at combatting both problems, and increases the efficiency of the fight by not splitting public attention. In California, CAST noted:

"Homelessness is a really hot topic [that's] being addressed right here in Los Angeles County, and because there's an intersection of homelessness and human trafficking, [we are seeing] that resources for human trafficking victims are being written into the policy changes and the funding sources to address human trafficking."

This attempt at intersectionality, if extended elsewhere, has the potential to further decrease the incidence of human trafficking. "If there's a strong intersection, utilize that to try to promote change."

CAST also argued that, especially in communities with high rates of trafficking, more developed sex-education and work-preparedness programs may have a significant impact on reducing trafficking: "when you're talking about healthy sex and healthy relationships, you also talk about domestic violence and sexual assault." An understanding of what is or is not normal in a healthy relationship may help some youth see past recruitment tactics employed by traffickers and johns. Improving work-preparedness programs, as well, may help prevent instances of all

forms of labor trafficking: CAST argued that “youth and vulnerable individuals [should] learn what a healthy job environment looks like,” because educating a vulnerable individual on “what an interview should look like, [or] what [their] relationship with [their] employer should look like [...] reduces a person’s vulnerability and could [stop] an individual from becoming forced or coerced into work, [or] into an exploitative situation.”

Noticing key intersections between movements that may otherwise seem distant could increase the pool of anti-TIP advocates and greatly reduce the prevalence of trafficking.

#### *G. Poor Understanding of Effective Therapeutic Methods*

Humansave was founded in response to what the organization’s spokesperson referred to as a “huge need” for mental health services for victims of TIP: “although [sex trafficking] might not seem like a vastly different issue from sexual assault, domestic violence, or childhood sexual abuse, there’s enough [of a difference] that it constitutes some training.” The spokesperson also mentioned the tendency toward Cognitive Behavioral Therapy (CBT) when treating victims of TIP and argued that such an approach only serves to re-traumatize victims. This re-traumatization causes many victims to avoid further therapy, a cycle that fails to effectively protect trafficked individuals from re-trafficking.

#### *H. Lack of Public-Private Partnership*

As the largest of the three organizations interviewed, CAST has a strong Partnership branch. However, as a nonprofit, they still experience significant limitations, and recognize the potential for expansion and outreach rooted in public-private partnership efforts. The spokesperson from CAST noted the importance of “build[ing] partnerships with corporations and

businesses, supporting businesses that are looking within to identify their weaknesses where human trafficking may happen, and elevat[ing] businesses that are doing a good job to try to assess human trafficking.” Supporting businesses that engage in best practice has the potential to affect change from the economic end of the issue by encouraging consumers to spend their money at companies that engage in fair labor practice.

CAST also mentioned the importance of partnership for educational purposes, such as creating new imagery surrounding human trafficking that deviates from the mainstream imagery that feeds into the “perfect victim” concept: “if [we] want to create new imagery, [we’ve] got to work with a host of individuals [...] to help create [it], and then [with] Google and other tech companies to help infiltrate with that imagery and make those changes so that people actually find [and] use [it], and know why it’s important to use survivor-informed imagery.” Finally, the spokesperson acknowledged the role partnership can play in the policy side of the issue, stating, “[CAST] alone cannot walk into a meeting and have as much of an effect as if [we] could go in with a team of individuals, public-private partnerships and other NGOs to influence an elected official[.] Not one nonprofit can serve all clients of human trafficking. We have to support each other.” According to CAST, the nonprofit world exists more as a framework and catalyst for action, but teaming with forces outside of the nonprofit world provides the opportunity for expansion on a level that is much more difficult to achieve as a nonprofit.

#### *I. Lack of Funding for Training and Outreach Programs at Anti-Trafficking Organizations*

The lack of funding issue identified by organizations underlies each of the previous issues, but is particularly problematic with regard to training and outreach programs. CAST mentioned that nearly all of the tips they receive as to possible TIP victims are the result of

outreach programs, but such programs are heavily underfunded and unsupported by policy.

CAST identified a lack of grants specifically aimed at training and outreach as a major source of the issue: “education and outreach [are] not heavily funded, there are some grants, but they’re few.” Humansave also mentioned the issue of funding, saying nonprofit work is “not exactly the most lucrative endeavor. We’re trying to help the people that need the most help with the least amount of resources, and [that’s] kind of the issue most organizations run into.”

This issue could partially be addressed through furthering partnerships, as discussed above, but also relies on follow-through at the policy level (specific stipulations for outreach are included in the TVPA) and an increased level of awareness in those who provide grants.

These findings demonstrate considerable overlap between scholarly and organization opinions on policy shortfalls, answering the research question of the extent to which both entities identify the same policy issues. The responses themselves also offered insight into the second half of the research question, regarding persistence of policy shortfalls: many of the inadequacies reported by organizations and scholars illuminated systemic issues that may further gaps’ existence, such as an inability among the public to relate trafficking to other social issues (e.g., homelessness), or vulnerability to politicization due to widespread misperception of the issue of trafficking.

Despite this overlap between issues identified by scholars and those identified by organizational leadership, the fact that the new areas for improvement mentioned by organizations were absent from the literature is notable and worthy of further research into which areas deserve the most immediate attention and concerted efforts to ameliorate, and which are less pressing.



## V. Recommendations

Based on a review of the literature and issues identified by organizations, this research points to increased education and outreach as the priority in the campaign against trafficking, short of amending existing federal anti-TIP policies. The following categories are identified as specific areas on which to focus outreach and educational efforts, which may come from partnerships between organizations, leadership in other sectors (e.g., local school boards, police chiefs, etc.), and/or local elected officials:

### A. *Education in At-Risk Communities*

For the purposes of this section, “at-risk communities” includes youth in foster care and/or social services, middle and high school students in areas with high rates of trafficking, and those entering the country legally as non-citizens (e.g., H-Visa holders). Based on the findings of policy scholars and anti-TIP organization leaders, each of the mentioned communities experiences higher vulnerability to trafficking than the rest of the population, and therefore have been identified as key groups with which to engage in further education efforts. The following are specific recommendations for the implementation of such efforts:

- i. **Anti-TIP organizations must concentrate on educating law enforcement officials and social service providers on strategies for educating transitional-aged youth on coercion tactics employed by traffickers, and should provide resources for alternative opportunities.**

Both CAST and EOF identified the need for transitional programs for youth aging out of the foster care system. Especially in regions that already employ tactics to reduce criminalization of such youth (safe harbor states) or have an abundance of anti-TIP organizations, outreach to and education of social service providers and law enforcement officials holds the potential for significant impacts on the number of transitional youth who end up in trafficking. By focusing

outreach on those who can educate others and those who often encounter victims firsthand, this initiative is likely to drastically reduce the incidence of trafficking within this demographic.

- ii. Local school boards, principals, teachers, and anti-TIP organizations must work together to introduce comprehensive sex-education and work-preparedness programs into standard curriculum, and/or to provide training seminars for all students on indicators of trafficking and exploitation.**

Humansave and CAST explicitly mentioned the need for targeted education in their interviews. Because nonprofit organizations lack the funding and personnel to lead mass educational efforts at all schools within a given district, the responsibility falls to the school boards and/or school staff and faculty to allocate funding for anti-trafficking educational programs, or to incorporate such trainings into existing curriculum. Nonprofits could provide training to schools' staff and faculty on a much smaller scale, which could then be reproduced by educators in classrooms.

- iii. Upon arrival to the United States, recipients of special visas and residency status must be provided with a comprehensive overview of their rights and anti-trafficking resources in their native language.**

Despite their possession of legal status, non-citizen immigrants (especially those on temporary visas) are particularly susceptible to exploitation and trafficking. In order to undermine coercion tactics employed by traffickers (fear of law enforcement officials, retention of documentation, etc.), all recipients of such visas should be provided with an easily-digestible overview of their rights in the U.S., as well as with anti-trafficking resources (hotline numbers, coercion tactics to be aware of, etc.) in their native language.

#### *B. Education in Trafficking Hotspots*

Hotspots include hospitals (many trafficking victims are either brought to hospitals either by law enforcement, or make their way there themselves) and hotels (another common locale,

both for labor and sex trafficking). Based on the findings of policy scholars and anti-TIP organization leaders, each of the mentioned hotspots sees more cases of trafficking than most other areas, and therefore have been identified as key groups with which to engage in further education efforts. The following are specific recommendations for the implementation of such efforts:

- i. Hospitals must partner with anti-TIP organizations and law enforcement to ensure that doctors, nurses, administrative staff, and first-responders undergo special training to assist in identification of potential trafficking victims.**

CAST noted that hospital staff are often among the first to encounter victims of trafficking, however, most staff are poorly equipped to identify victims as such. This knowledge gap may prevent staff from reaching out to local organizations' hotlines with tips on potential trafficking situations, allowing victims to slip through the cracks. Training all members of hospital staff to recognize indicators of trafficking that can be gleaned from simple questions or social cues is a key step in protecting victims.

- ii. Local policymakers must require that informational posters with resources for trafficked persons provided by nonprofit organizations such as the Polaris Project be displayed in hospitals and hotels within their jurisdiction.**

CAST talked extensively about the impact informational posters have had on informing organizations and law enforcement of potential trafficking situations. In California in 2012, SB 1193 made it a requirement that "specified businesses and other establishments" display such posters (Human Trafficking: Public Posting Requirements 2012). The posters are distributed by the Polaris Project, a national nonprofit anti-trafficking organization, and include information and hotline numbers in the top languages of the county in which they're displayed. When Polaris is called in an area where they do not have an office, the call is rerouted to a local anti-TIP organization, such as CAST. According to a report published by Polaris in 2017, the poster bill

has encouraged significant increases in reports of potential trafficking situations, via the hotline numbers. Implementing similar laws in other states with high rates of trafficking is likely to produce the same effect.

## **VI. Conclusion**

Although extensive U.S. and international law exist aimed at combatting the prevalence of human trafficking, trafficking remains a notable issue. This research sought to determine where and if issues identified by scholars aligned with those identified by anti-trafficking organizations, and to determine if any of the identified issues could pose obstacles to policy change.

Scholarly review revealed a number of commonly-identified gaps or shortfalls in the policies, including the focus on aiding those that fall into the concept of the “perfect” victim, the prioritization of prosecution over protection of victims, excessive political barriers to effective prosecution of traffickers and protection of victims, and cultural or societal barriers to combatting trafficking in the U.S. In addition to these problem areas, anti-TIP organizational leaders identified a lack of transitional programs for youth in social services/foster care, a need for intersectionality with related issues, poor understanding of effective therapeutic methods for victim rehabilitation, a lack of public-private partnership, and a lack of funding for training and outreach as further barriers to combatting trafficking.

Despite overlap between issues identified by scholars and those identified by organizational leadership, the fact that the new areas for improvement mentioned by organizations were absent from the literature is notable and worthy of further research, and may provide further insight into why policy gaps persist.

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## VIII. Appendices

### Appendix A: Definitions

#### Labor Trafficking:

The Trafficking Victims Protection Act (see Appendix B for Act information) defines “labor trafficking” as “the recruitment, harboring, transportation, provision or obtaining of a person for labor services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery” (U.S. Department of State 2000). This definition falls under the broader scope of forced labor, which “refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt [debt bondage], retention of identity papers or threats of denunciation to immigration authorities [which usually applies to trafficking victims]” (International Labor Organization 2014). The definitions of “labor trafficking” and “forced labor” most commonly accepted in U.S. law and international conventions can refer to citizens of the country of work (i.e., not individuals trafficked across international borders) as well as to foreign nationals without permanent residency in their country of work.

#### Migrant Worker:

The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families defines “migrant worker” as a “person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State in which he or she is not a national” (1990). This definition does not include any explicit mention of migrant workers who are trafficked into their State of employment. This gap in the definition is significant, given that many migrant workers are victims of labor trafficking who are exploited

by recruiters in their home countries (Carr 2010), but are not considered forced migrants (such as refugees, who are subject to a different set of protections). Because this definition fails to acknowledge overlap between migrant workers and victims of trafficking, it is necessary to note that throughout this work “migrant worker” will be assumed to include those who are victims of trafficking, unless otherwise specified.

## **Appendix B: Laws and Conventions Related to Labor and/or Human Trafficking**

### Chapter 77 Offenses

“Chapter 77 Offenses” is an all-encompassing term for §1581-§1597 of Title 18 in the U.S. Code of Law. Chapter 77 is supplemented by provisions in the Trafficking Victims Protection Act of 2000. Summarized below are sections specifically relevant to TIP. More detailed information can be found at <https://www.justice.gov>. All of the following text is copied from the latter website:

#### 18 USC § 1581: Peonage

*Summary:* Section 1581 of Title 18 makes it unlawful to hold a person in "debt servitude," or peonage, which is closely related to involuntary servitude. Section 1581 prohibits using force, the threat of force, or the threat of legal coercion to compel a person to work against his/her will. In addition, the victim's involuntary servitude must be tied to the payment of a debt.

#### 18 USC §1584: Involuntary Servitude

*Summary:* Section 1584 of Title 18 makes it unlawful to hold a person in a condition of slavery, that is, a condition of compulsory service or labor against his/her will. A Section 1584 conviction requires that the victim be held against his/her will by actual force, threats of force, or threats of legal coercion. Section 1584 also prohibits compelling a person to work against his/her will by creating a "climate of fear" through the use of force, the threat of force, or the threat of legal coercion [i.e., If you don't work, I'll call the immigration officials.] which is sufficient to compel service against a person's will.

18 USC § 1589: Forced Labor

*Summary:* Section 1589 of Title 18, which was passed as part of the TVPA, makes it unlawful to provide or obtain the labor or services of a person through one of three prohibited means. Congress enacted § 1589 in response to the Supreme Court's decision in *United States v. Kozminski*, 487 U.S. 931 (1988), which interpreted § 1584 to require the use or threatened use of physical or legal coercion. Section 1589 broadens the definition of the kinds of coercion that might result in forced labor.

18 USC § 1590: Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor

*Summary:* Section 1590 makes it unlawful to recruit, harbor, transport, or broker persons for labor or services under conditions which violate any of the offenses contained in Chapter 77 of Title 18.

18 USC § 1591: Sex Trafficking of Children or by Force, Fraud, or Coercion

*Summary:* Section 1591 criminalizes sex trafficking, which is defined as causing a person to engage in a commercial sex act under certain statutorily enumerated conditions. A commercial sex act means any sex act, on account of which anything of value is given to or received by any person. The specific conditions are the use of force, fraud, or coercion, or conduct involving persons under the age of 18. The punishment for conduct that either involves a victim who is under the age of 14 or involves force, fraud, or coercion is any term of years or life. The punishment for conduct that involves a victim between the ages of 14 and 18 is 40 years.

18 USC § 1592: Unlawful Conduct with Respect to Documents in Furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor

*Summary:* Section 1592 makes it illegal to seize documents in order to force others to work. By expanding its coverage to false documents as well as official documents, § 1592 recognizes that victims are often immobilized by the withholding of whatever documents they possess, even if the documents are forged or fraudulent. Section 1592 expands the scope of federal trafficking statutes to reach those who prey on the vulnerabilities of immigrant victims by controlling their papers.

*Fair Labor Standards Act (FLSA)*

According to the U.S. Department of Labor, the FLSA “establishes minimum wage, overtime pay, recordkeeping, and child labor standard affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.” While the FLSA does not

pertain specifically to cases of human trafficking, it has been applied in several TIP cases (*Arriaga v. Florida Pacific Farms*, 2002; *Avila-Gonzalez v. Barajas*, 2006; *Bureerong v. Uvawas*, 1995; *Rivera v. Brickman Group, Ltd.*, 2008; etc.) that have successfully argued that employers must shoulder the costs of migration (travel and visa) rather than pass them off to the worker in the form of debt, likely because the FLSA requires that employers “repay all costs that employees directly pay but are incurred primarily for the employer’s benefit” (Carr 2010, p. 412). The FLSA has many limitations that make it difficult to apply in trafficking situations (e.g., it does not apply to contract work, which could include garment production or prostitution. It also explicitly excludes all agricultural workers), but it can be coupled with other policies to aid in the prosecution of traffickers (Young 1998).

The full text of the FLSA is available through the U.S. Department of Labor, at <https://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>.

### H-Visa Programs

The H-Visa program, while not a policy per se, holds extreme importance with regard to TIP policy. Much like other temporary work visa programs in United States history (e.g., the Braserio program) the stipulations of the H-Visa programs are riddled with loopholes ripe for exploitation. Perhaps the most obvious and harmful loophole associated with the program is that workers’ visas are directly tied to their employers: visas are only valid as long as the worker is working under the specific employer that secured their temporary legal residence. Therefore, in the case of an abusive or exploitative employer, any worker who wishes to flee or terminate their employment lacks any other option for remaining in the United States legally. Eleanor G. Carr offers a clear summary of the issue in her analysis of the federal guest worker program: “workers

are routinely cheated out of wages, held in virtual captivity by employers and labor brokers, placed in the most dangerous jobs, without adequate safety training and equipment, forced to live in squalid conditions [since employers are required to provide housing], and denied medical benefits for on-the-job injuries” (2010, p. 400). The workers possess little leverage to encourage employers to work in their best interest. Furthermore, the debt workers incur through the process of traveling to the country of employment and any recruiter fees encourages them to continue working in extremely sub-par environments (Carr 2010).

Many scholars and advocates have pointed to such gaps in the program requirements as areas in need of improvement, but little has been accomplished to remedy the exploitation. Additionally, prosecution of employers who exploit the H-Visa program is often extremely difficult, due to most workers’ initial consent to the work and travel from their home country. While this technically does not preclude the employers from a forced labor offense, cases dealing with initial consent have had a harder time proving force or coercion (necessary for some TIP victim protections) than those without (Cherish 2011; Kandathil 2005; Rieger 2007).

Further information on H-2A (agricultural) visas is available through the U.S. Department of Labor at <https://webapps.dol.gov/elaws/elg/taw.htm>. Further information on H-2B (non-agricultural) visas can be found at <https://www.dol.gov/whd/immigration/h2b.htm>.

### Palermo Protocol

The Palermo Protocol (also known as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children) was created as a supplement to the United Nations Convention Against Transnational Organized Crime and was entered into force in 2003. Upon its adoption, the Protocol was praised for its focus on addressing both the legal

and humanitarian aspects of TIP; indeed, the Protocol was the first document to offer an international definition of trafficking that established commitment to both punish traffickers and protect victims (Shoaps 2013). The Protocol defines “Trafficking in Persons” as follows:

“[...] the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” (2000).

The Protocol also requires states to develop legislation aimed at the criminalization of TIP, to protect victims of TIP (including through allowing residency in the receiving State), to undertake repatriation of victims (if necessary), to strengthen border control, and to facilitate training of law enforcement and other “relevant authorities” in the prevention of TIP (2000). The development of such legislation is up to each State to undertake, and the Protocol does not offer a deadline by which such legislation should be in effect.

The full text of the Palermo Protocol is available through the United Nations Office of the High Commissioner, at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

### *Racketeer Influenced and Corrupt Organization Act (RICO)*

Under RICO, it is “unlawful for anyone employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt” (1970). Like the FLSA, RICO does not

pertain specifically to cases of human trafficking, but it too has been applied in several TIP cases with the hopes of securing some kind of prosecution of traffickers. However, TIP and forced labor were not acknowledged as predicate acts under RICO until the Trafficking Victims Protection Act was reauthorized in 2003, making it a relatively new (and less-utilized) legal strategy in cases of human trafficking (Carr 2010). RICO does hold potential as a means of restitution for victims of TIP, although no restitution can be paid for physical or psychological damage incurred as a result of trafficking; rather, plaintiffs must show that the defendants' "pattern of racketeering activity caused quantifiable injury to their business or property," which in a trafficking case could be construed to mean lost wages (as has been argued in non-trafficking cases, such as *Diaz v. Gates*) (Carr 2010, p. 418).

Further information can be found through the U.S. Government Publishing Office and the U.S. Justice Department, at <https://www.gpo.gov/fdsys/pkg/USCODE-2009-title18/html/USCODE-2009-title18-partI-chap96.htm> and at <https://www.justice.gov/usam/criminal-resource-manual-109-rico-charges>.

### *Trafficking Victims Protection Act of 2000 (TVPA)*

The TVPA offers the most comprehensive anti-trafficking stipulations of any other U.S. (and arguably, international) law. The Act was intended to provide victim support through the establishment of the T-Visa (a temporary visa specifically for victims of TIP), federal funding for NGOs working to combat TIP, and protection from criminalization if certified by law enforcement as victims of severe TIP, as well as to aid in the prevention of trafficking through prosecution of traffickers. The latter was to be achieved through securing the cooperation of victims in the case against their traffickers, extending prison sentences for people found guilty of

engaging in TIP to twenty years (instead of ten) under Chapter 77, and by providing law enforcement with tools to better combat TIP in their respective communities (training for victim identification, funding, information-sharing, etc.).

In addition to its applications in the United States, the TVPA holds other countries to higher standards in the fight against TIP, calling for economic sanctions should a country fail to meet basic standards.

The full text of the TVPA can be found through the U.S. Department of State, at <https://www.state.gov/j/tip/laws/61124.htm>.

### **Appendix C: Information on Anti-Trafficking Organizations**

\*Did not respond to requests for an interview.

#### *Coalition to Abolish Slavery and Trafficking (CAST)*

CAST was founded in the mid-1990s—before most of the U.S. was even aware of the severity of human trafficking—by Dr. Kathryn McMahon, the Thai CDC, and other activists in response to the El Monte sweatshop case, in which 72 Thai slaves were freed. CAST takes a multifaceted approach of “education, advocacy, and empowering survivors of human trafficking.” CAST assists survivors with basic protections, such as housing and legal aid, as well as with leadership training, counseling, and education. CAST also offers community education (“Human Trafficking 101”), an emergency hotline, training for Pro Bono attorneys, and a youth program. In 2014 President Barack Obama presented CAST the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons. More information on current leadership, legislative successes, and other accomplishments can be found at <http://www.castla.org/home>.

### Every ONE Free

Every ONE Free is a “faith-based community group dedicated to eliminating human trafficking in Pomona and the Inland Valley by raising awareness, preventing exploitation, and serving survivors.” Every ONE Free hosts community events aimed at raising awareness and funds through the sale of fair-trade goods, offers Introduction to Human Trafficking classes, and organizes law enforcement presentations. They also do outreach in local schools, bring special events to a group home in the area, and train medical providers. More information can be found at <https://everyonefree.org>, or on the website of their partner organization, Oasis USA (<http://www.oasisusa.org>).

### Humansave

Humansave is a nonprofit 501(c)3 organization operating out of four counties in Southern California, including L.A. County. Humansave specializes in victim services including education planning and “trauma informed, client-centered treatment,” and trains key members of the community (law enforcement, other organizations, schools, and members of the hospitality industry) in victim identification and reporting of suspicious activity. The trainings are based on the United Nations’ Universal Declaration of Human Rights. Further information on Humansave’s operations is available at <https://humansave.org>.

### Alliance to Stop Slavery and End Trafficking (ASSET)\*

As stated on their website, ASSET is “an advocacy NGO, 501(c)3 dedicated to reducing and stopping enslavement and trafficking before it starts, and delivering human rights.” ASSET

was founded in 2007 by Julia Ormond, a “humanitarian and Emmy winning actress.” ASSET aims for a systemic solution to trafficking, and does not engage in direct victim protection or support. In 2010, ASSET assisted in the passing of the Transparency in Supply Chains (TISC) Act, aimed at improving corporate practices regarding labor monitoring and human rights violations along the supply chain. More information can be found on their website, at <https://www.assetcampaign.org>.

*California Against Slavery (CAS)\**

CAS is a not-for-profit, 501(c)4 human rights-oriented organization that strives to “defend the freedom of every child, woman and man by empowering the people of California to fulfill [their] obligation to stop human trafficking.” In order to accomplish this goal, CAS believes in the importance of reforming existing policy to better address the issue of trafficking and to help victims of human trafficking share their experiences. Founder Daphne Chung started CAS in 2009. Further information on CAS’s legislative and organizing accomplishments can be found on their website, <http://californiaagainstslavery.org>.

*Forgotten Children Inc.\**

Forgotten Children Inc. was founded in 2006 by Pastor Paula Daniels. The organization “is committed to assisting women and children caught in the vicious cycle of human trafficking,” and does so through a combination of community education and victim services, including emergency and long-term housing, counseling, case management, and a 180 Intervention program. Forgotten Children Inc. operates out of Long Beach, California, but is seeking to

expand to other cities in the U.S., as well. For more information visit

<http://www.forgottenchildreninc.org>.

### **Appendix D: Interview Questions**

1. [Introductions]
2. How long have you been working at [organization]?
3. Tell me a little bit about how you got here/ended up in this position.
4. How would you define trafficking?
5. Are there any programs/industries that you believe are particularly susceptible to trafficking?
  - a. [If H-Visa program is mentioned] How can the H-Visa program be improved to decrease the chances of trafficking?
6. Are you familiar with the Combatting Trafficking in Persons (CTIP) training offered to federal personnel outlined by the TVPA?
  - a. Do new staff at [organization] undergo any knowledge-based and practical skill training prior to beginning work here?
7. Who does [organization] advocate on behalf of?
8. [Organization's] website says that you aim to [...]. Could you tell me a little bit about how you achieve those goals?
9. What do you think [organization] spends the most time/money/effort on? (victim support, community engagement, etc.)
  - a. Is there anything you would like to change about this?
  - b. How would you say [...] serves the larger purpose of combatting TIP?
10. Are you familiar with the "3P" (or "4P") framework outlined in the TVPA?
  - a. How does [organization] employ that method?
11. What form of TIP do you think is the most widespread and/or serious?
  - a. Why so?
12. How do you think existing anti-TIP policy could be improved/what gaps to you see in existing anti-TIP policy?
  - a. How do you propose we fill those gaps?
  - b. [hypothetical improvements ("in an ideal situation..."), if necessary]