The Legislative Impacts of the Trafficking Victims Protection Act and the Trafficking Victims Protection Reauthorization Act of 2017

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**Introduction:**

In the past two decades, the issue of human trafficking has grown more prominent around the world (Mollema, 2015). According to the Polaris Project, a nonprofit organization dedicated to fighting human trafficking as well as educating the world on the dangers of human trafficking analyzed data from the Human Trafficking Hotline found that in the year 2021, there were roughly 10,359 cases of human trafficking in the United States with about 16,554 victims (Polaris Project, 2022). Out of these cases, approximately 72% (7,498) of them were related to sex trafficking, with the top type of trafficking out of all cases being related to escort services (Polaris Project, 2022). This expansion in human trafficking has pushed nations around the globe to enact anti-trafficking laws (Mollema, 2015). The first prominent push for trafficking legislation was in November of 2000 when the United Nations established The Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women, and Children, in order to combat human trafficking on a global scale (United Nations, 2000). This protocol created a definition that all countries could use, and the generalities of what crime constituted as human trafficking (United Nations, 2000). Those who signed this treaty pledged to enact their own human trafficking legislation as well as uphold the standards described in the protocol (United Nations, 2000). The United States took that pledge and started this long, winding journey hoping to end human trafficking (Logan et al, 2009).

This article will analyze two pieces of federal human trafficking legislation: The Trafficking Victims Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2017, to understand their legislative impacts on the United States. In order to gather a better understanding, this article looks at male and female prostitution arrests from 1986 to 2020 and compares them to the overall population of the United States for those years. The
arrest data used in this analysis has been voluntarily reported to the Federal Bureau of Investigation by law enforcement agencies across the country and published in the Unified Crime Report.

The conclusions found from this analysis would shed light on a topic that has very little reliable data and encourage the federal government to continue to revise anti-trafficking legislation that better addresses the current climate of human trafficking. If federal legislation is modified regularly, it would also encourage states to review their human trafficking laws, so they are better aligned with the national legislation. Once both of these things occur, it will hopefully strengthen the battle against human trafficking, and we will start to see a decline in prostitution arrests because law enforcement is no longer arresting victims and instead focusing on perpetrators.

**Literature Review:**

**The Background of Human Trafficking:**

Human trafficking: “the recruitment, transportation, transfer, harboring, or receipt of people through force, fraud or deception, with the aim of exploiting them for profit” (United Nations, 2000). This universal definition provided a base for countries to use when creating their anti-trafficking legislation (United Nations, 2000). To understand the landscape of human trafficking, specifically in the United States, one has to look at the common crimes considered as human trafficking. Law enforcement and legislators primarily focus on two main fields of exploitation: labor and sex (Logan et al, 2009). Labor exploitation includes debt bondage which is where a person is forced to repay the human trafficker for a service they provided them, and forced labor (Logan et al, 2009). The second is sexual exploitation which includes commercial sex acts. This is when a person, whether an adult or child, performs a sex act in return for something of value, such as money (Franchino-Olsen, 2022). People who are trafficked in the United States
largely consist primarily of non-U.S. citizens being trafficked into the country (Siskin, 2011).

Whether trafficking victims in the United States are citizens or not, the reasons for being trafficked are relatively the same. The main factor making people vulnerable to human trafficking is the fact that many live in poverty and are promised new flourishing lives (Logan et al., 2009). However, methods such as being kidnapped, sold, or forced into human trafficking are still heavily relied on (Logan et al., 2009).

A question to be pondered is, if people get the opportunity to leave this horrible life, why not take it and never look back? Four common reasons have been identified in regard to why people stay even though they have a chance to escape. First is immense fear; many fear that the human trafficker will retaliate and physically hurt and sexually abuse them or fear that the human trafficker may go and hurt their families (Logan et al., 2009). The second is the lack of knowledge, which is where victims do not know the community and government provide resources, and so they believe the only thing they can do is remain in the vicious system (Logan et al., 2009). The third is isolation, which is where a trafficker makes sure people are separated from others who may speak the same language (Logan et al., 2009). Victims may only be allowed to do things with the trafficker, and they are not allowed to have contact with their family in order to ensure that the victim is entirely dependent on the human trafficker (Logan et al., 2009). Finally, the fourth reason is related to confinement both physically and mentally; many human traffickers keep their prisoners chained up or locked in small rooms in order to ensure they cannot escape captivity (Logan et al., 2009). This physical confinement can also include the trafficker holding tools a person may need in order to escape, such as their passports and money. (Logan et al., 2009). Mental confinement includes psychological manipulation meaning the trafficker verbally and emotionally abuses the person until they no longer have the motivation (Logan et al., 2009). In sum, multiple
factors have to be considered when creating any legislation related to human trafficking due to the complexity of each case.

Many want to believe that Human Trafficking is a much newer concept; however, Human trafficking has actually been a part of American society since its creation. It has been hidden behind another name: slavery (Mollema, 2015). We see the United States practice slavery until 1865 when legislators passed the 13th Amendment making being enslaved illegal unless it was a punishment for a crime (Mollema, 2015). Soon after, we have seen time and time again American society imprisoning people for their own personal gain. In 1910, the United States passed the Mann Act, which was to prevent the enslavement of women for the use of sexual exploitation (Mollema, 2015). This legislation was the first time the United States ever referred to this type of crime as human trafficking (Mollema, 2015). It is evident that as soon as the U.S. government passes a new piece of legislation, Human Trafficking will take on a new identity (Mollema, 2015). This progression forced the United States to create what is known as the United States Code Title 18, which is where all the federal legislation on crimes that would be later considered human trafficking is found (Mollema, 2015). It is the place that houses legislation such as the Alien Smuggling Act, The Mann Act, The Protection of Children Against Sexual Exploitation Act, the Federal Kidnapping Act, the Violent Crime Control, and Law Enforcement Act, and the RICO Act (Mollema, 2015). For a short time, all these pieces of legislation worked exceptionally well for the crimes they were designed for; however, they did not explicitly address human trafficking. These pieces of legislation address much less severe crimes; therefore, the consequences were less severe and did not give trafficking victims enough justice (Mollema, 2015). All this information would lead the United States to eventually pass the Trafficking Victims Protection Act of 2000 to not only acknowledge the term human trafficking but also be the solution for problems already
exposed in previous legislation (Mollema, 2015). It is clear that many forms of Human Trafficking have survived for a significant amount of time in the United States, and legislators have enacted several different pieces of legislation to combat them.

**How Human Trafficking Victims are Aided**

When creating legislation, legislators kept in mind the fact that victims could not simply be released back into society after their traumatic experiences, so they implemented several treatment options for them. The most common form of treatment method is therapy because a large majority of these victims are so mentally brutalized that they are a danger to themselves and cannot reenter society (Shigekane, 2007). Another comment treatment method is supporting groups such as drug counseling, and AA because many traffickers pump victims’ systems with addictive substances, so they are not mentally capable of contemplating escaping (Shitekane, 2007). Victim support groups are also utilized because they have found that victims are more willing to share their trauma with other victims (Shigekane, 2007). In order to combat the issue of victims being unable to afford victim services, legislators also allocate significant funds to pay for the various services (Branscum, 2021). Although human trafficking cases can be highly complex, multiple effective treatment options give victims their lives back and allow them to contribute to society once again. Besides providing various treatments, specific legislation also requires law enforcement to do more than provide a victim with avenues to regain their mental stability. It is found that law enforcement provides victims with legal counsel so they can start progressing their cases as well as start the process of getting visas for those who are in the country illegally, and their home life is just as bad (Branscum, 2021).

**The Human Trafficking Landscape in the United States**
The United States has enacted multiple pieces of legislation related to human trafficking without explicitly giving it a name (Mollema, 2015). After the United Nations pushed its human trafficking protocol, the United States pledged to adopt its own legislation, which is where the Trafficking Victims Protection Act of 2000 (TVPA) was born. The TVPA takes a step further than the United Nations to describe human trafficking (Mollema, 2015). The TVPA only focuses on what are called severe forms of human trafficking, which are divided into two categories: sex trafficking and labor trafficking (Mollema, 2015). Although this legislation narrows its scope to what classifies as human trafficking, it does, however, punish any person who takes part in any step of the human trafficking process, such as the person who finds the victims, the one who transports them, and the one who holds them against their will (Mollema, 2015). The TVPA follows a three-step approach: prevention, prosecution, and protection in order to ensure the victims receive justice and the traffickers are brought to justice (Mollema, 2015). In order to fulfill the first aspect, prevention, this act created a Monitor and Combat Trafficking Taskforce that evaluates other countries on their efforts to fight human trafficking through an annual report (Mollema, 2015). This report is divided into a three-tier ranking with the top-tier describing countries that go above and beyond in their combatant efforts, the second tier, which refers to countries who are making some efforts but need to make bigger strives, and the bottom tier, which houses nations that make no effort. Tier three nations are also at risk of beingby the United States by means of refusing to give aid and/or trade with the country a (Mollema, 2015). The second aspect, protection, is the main focus of the TVPA; this is where the United States adopted two different routes to protect trafficking victims in the United States and victims from foreign countries (Mollema, 2015). For victims in the United States, the TVPA establishes protocols that allow them to apply for what is known as a T-Visa, which provides victim services as well as
provides them with legal services and to stay in the country whether they are legal citizens or not (Mollema, 2015). Those who are not in the United States can apply for a U-Visa, which is extremely similar to a T-Visa they are just handled through the office of Victims of Crime which is an office of the Department of Justice (Mollema, 2015). Prosecution is pretty straightforward; the TVPA strengthens many laws that have been previously enacted in order to boost arrest and conviction rates (Mollema, 2015). This strengthening not only aims to target issues in the United States but also sets an example for how other countries should evaluate their laws (Mollema, 2015). All this being said, the Trafficking Victims Protection Act of 2000 aimed to take guidelines provided in the protocol crafted by the United Nations and tailor them to the United States.

Yet like any other piece of legislation, the TVPA was not immune to having several issues that hindered its effectiveness. The most common way is in the language use, such as using severe cases of trafficking, which infers the idea that some forms of trafficking are worse than others when in actuality, all forms of human trafficking are detrimental to people (Mollema, 2015). This concept also extends to how they narrowly define the term victim and the fact that only two types of crimes count as human trafficking (Mollema, 2015). This is a precise moment of how the law ought to be versus the law in action in the sense that we can see the pitfalls in how the law should work, but we don’t see how these pitfalls affect the everyday use of the law. The primary purpose of this research is to see if arrests by law enforcement increase, decrease, or remain the same after the passage of these legislations. By looking at arrests, we can see if law enforcement is making a better effort to address the crimes legislators are considering human trafficking.

Since this legislation was enacted two decades ago, the United States has reauthorized it several times, each time trying to fill a gap. This research will focus on the Trafficking Victims Reauthorization Act of 2017 to see how the United States viewed the issue of human trafficking
in recent years. The TVPRA of 2017 essentially contains all the same basic aspects mentioned earlier about the TVPA of 2000, but this legislation takes a bigger focus on the three-tier grading system of other countries. When a country moves into a lower tier, it has to be accompanied by a detailed description of why that country was moved and what standards it failed to meet in order to ensure the fact that countries are being punished for the lack of action regarding human trafficking rather a non-related subject (House of Representatives, 2019). Another big aspect focused on by the TVPRA of 2017 is the idea that the government has to work outside law enforcement to prevent human trafficking (House of Representatives, 2019). This means the government allocates funds to school programs educating children on what human trafficking is, how to avoid it, and what one should do if found in that situation (House of Representatives, 2019). It also provides more funds to hospitals and other needs of the victims that stem outside of the law enforcement bounds (House of Representatives, 2019). Since this piece of legislation is relatively new, there is very minimal research pointing out the strengths and weaknesses of the law. By looking at arrest rates, we may be able to see if there are potential disconnects between law enforcement and legislators.

One of the remaining big questions is why to choose two pieces of legislation decades apart. I chose the Trafficking Victims. Protection Act of 2000 because it was the first piece of human trafficking legislation enacted by the United States. This provides us with a basic understanding of how the United States viewed the issue of human trafficking before legislators had time to revise and edit the legislation in multiple reauthorizations. Since the 2017 reauthorization was roughly five years ago, there is enough data out there to analyze compared to versions that have been enacted closer to 2022. Most importantly, one of the prominent aspects of the 2017 reauthorization is allocating more funds to the effort against human trafficking. Typically,
when legislation gains more funds, it means more legislators are accepting the idea that human trafficking is an ongoing issue, and it deserves more attention. Therefore, I chose a piece of legislation that was basically a required stipulation when agreeing to the United Nations protocol and a piece of legislation during a time when human trafficking was a more accepted topic.

**Data and Methods**

To understand the impacts of the Trafficking Victims Protection Act and the Trafficking Victims Protection Reauthorization Act of 2017, this study will perform a pre-post difference of means analysis on prostitution arrest rates. In the present application, I will examine how these two pieces of legislation influence prostitution arrests because it is a crime commonly associated with human trafficking, and it's a category multiple law enforcement agencies have submitted information providing a more accurate landscape. The arrest data used in this study came from the Unified Crime Report published by the FBI, ranging from 1986 to 2020. The population data I used was collected and published by the United States Census Bureau for the years previously mentioned. Once the arrest data was organized, it was divided by the population of the corresponding year and multiplied by 100,000. Once that was completed, the means for the years leading up to and after 2000 were calculated and compared to determine statistical significance. It is important to note that both male and female data were collected and analyzed under the same methods because we were testing under the hypothesis that male prostitution rates would, in fact, increase after the passage of each act, suggesting that law enforcement agencies were arresting more perpetrators. Female prostitution rates would decrease after each legislation was enacted, implying that law enforcement arrested fewer victims.
After collecting and organizing the prostitution arrest data, it was found that the mean for male prostitution arrest rates before 2000 was 26.24 per 100,000 men. The mean male prostitution rate after 2000 was 10.45 per 100,000 men, making pre- and post-2000 arrest data statistically significant with a p-value of less than .001. When looking at female prostitution arrest rates before 2000, the mean was 39.97 per 100,000 females. Once looking at the years after 2000, we found the mean prostitution arrest rates for females was 10.45 per 100,000 females. Just like male prostitution arrest rates, we found that the pre- and post-2000 arrest date for females was statistically significant, with a p-value being less than .001. Generally, in statistical research, when the statistical significance has a p-value of less than .05, the data results could be contributed by a particular cause. In this case, since both sets have a p-value of less than .001, it can be suggested that the Trafficking Victims Protection Act of 2000 could have contributed to the decrease in prostitution arrests.

Conclusions

Throughout the analysis of this study, we were under the expectation that one rate (males) would be on the rise due to the apprehension of perpetrators while the other rate (females) would be on the decline due to fewer victims being arrested. We have found that both data sets are on a
downward trend, suggesting that the enactment of the Trafficking Victims Protection of 2000 impacts all prostitution rates, which coincides with the overall downward trend of crime in general in the United States. However, it was much more challenging to access the 2017 reauthorization effectively because agencies could not publish accurate data due to the COVID-19 pandemic. It is also important to reiterate that we could not use specific human trafficking data because not enough law enforcement agencies report data to the Unified Crime Report to gather an accurate representation of human trafficking cases in the country. This is incredibly striking to me as a researcher because the United States has created a whole system to gauge other countries and their efforts in combating human trafficking. Yet we put ourselves in the top tier of the system, which tells other countries we do an excellent job of preventing human trafficking when we can’t even accurately determine how many human trafficking arrests our country has per year. Although our research has shown a downward trend, we as a society are far from done with dealing with the issue of human trafficking.
References:


