

**HUMAN TRAFFICKING: GLOBALLY, NATIONALLY, AND IN THE
COMMONWEALTH OF PENNSYLVANIA**

By

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B.A. Sociology, University of Pittsburgh, 2014

Submitted to the Graduate Faculty of
Graduate School of Public Health in partial fulfillment
of the requirements for the degree of
Master of Public Health

University of Pittsburgh

2016

UNIVERSITY OF PITTSBURGH

Graduate School of Public Health

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ABSTRACT

Background:

Human trafficking has no geographic boundaries and affects a large number of people across the globe. Human trafficking is of significant public health relevance because it negatively affects the health of men, women, and children of many races, ethnicities, and social classes. The crime of human trafficking has been occurring for many years, but was addressed by policy only recently. Despite the creation of anti-trafficking legislation, human trafficking still occurs globally, nationally, and in the Commonwealth of Pennsylvania.

Methods:

For this paper, anti-trafficking policies in Pennsylvania were reviewed along with the primary international and national anti-trafficking policies. The key concepts that inform anti-trafficking policies were also reviewed and compared.

Results:

The US and the UN adopted a three-tiered approach to anti-trafficking policy, which includes protecting victims, prosecuting offenders, and preventing trafficking in the source country. Following the creation of national anti-trafficking legislation, several states developed policy to combat trafficking, including the Commonwealth of Pennsylvania. Despite international, national, and state adoption of anti-trafficking policy, the key concepts that inform these policies differ greatly. Additionally, there is inconsistency across policies about what acts constitute

human trafficking. Furthermore, anti-trafficking policies still lack provisions important for protecting victims, prosecuting traffickers, and preventing human trafficking.

Summary:

Human trafficking is a global problem with a significant health burden. As a result, there is a need for the creation and implementation of comprehensive, evidence-based anti-trafficking policies, specifically global policies with a standard definition of human trafficking. US policies and state policies, such as those in Pennsylvania, also need to be expanded to include comprehensive definitions and explicit victim protections. By improving anti-trafficking policy at the global, national, and state levels, victims will be protected and progress will be made towards the end goal of eradicating human trafficking.

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PREFACE

My personal journey has been both challenging and exciting, with quite a few unexpected turns. I would not change a thing, however, because my journey has led me to a field that I love, where I am constantly motivated to make a difference. I would not be who I am or where I am without the kindness and love of many. With that said, I would like to offer my greatest thanks:

- To God, for everything.
- To my amazing family and friends for reminding me of what really matters in life.
- To Efosa C. Uwaifo for making me a better person and changing the way I view the world.
- To Dr. Martha Terry for your guidance and support throughout my graduate school career. I admire your passion for helping others and have truly enjoyed learning from you.
- To Dr. Mary Hawk for being so amazing! I admire how you wear many hats and still find time to take on additional projects that serve the community. You have been a serious ray of sunshine throughout my graduate career and I am so thankful.
- To Dr. Bernard Goldstein for your wisdom and guidance. I have enjoyed working with and learning from you.

- To Dr. Christine Whelan for your mentorship, friendship, and constant encouragement over the last several years. In my eyes, you are a rock star and I aspire to someday be like you. #socialchange
- To Associate Dean Mary Derkach, Dr. Jeannette Trauth, Richard Garland, and the rest of the faculty of the Graduate School of Public Health's Department of Behavioral and Community Health Sciences and the Graduate School of Public Health as a whole for believing in me and helping me harness my passions!
- To Dr. Ali S. Khan, my CDC family, Dr. Ezekial Olagoke, my sweet friend Lebohang, Nadine Masagara-Taylor, Ms. Diane Coleman, Pastor Chris and Becky Valente, and all others who have shown me kindness and love over the last several years. You inspire me to go out into the world and truly make a difference!

1.0 INTRODUCTION

Human trafficking, like many other cross-disciplinary problems affecting the globe, is a multifactorial, complex issue that extends across classes and worldviews. In recent decades, human trafficking has gained worldwide attention from policymakers and social rights activists alike. However, this crime is far from a recent phenomenon. In fact, this type of oppression dates back to the time of imperial Rome when slaves were trafficked from other countries and wars were fought with the sole purpose of acquiring more slave labor (Logan, Walker, and Hunt, 2009). As peoples migrated throughout the centuries, slavery remained a common thread of social structure. Slavery is even deeply engrained in the founding of America (Fisanick, 2016; Logan et al., 2009)

On March 1, 1780, Pennsylvania passed the Act for the Gradual Abolition of Slavery. This Act declared that all offspring born of slaves from that date forward were recognized as born free (Joint State Government Commission, 2012). Pennsylvania, not even a state at the time, was the first government in the western hemisphere to abolish slavery and did so many years prior to other international, national, or state legislation banning slavery. In the 1800s, William Wilberforce led a crusade to legally prohibit international human trafficking. The British Parliament passed his suggested bill in 1833, but the bill was difficult to enforce (Fisanick, 2016). A few decades later, the United States (US) ratified the 13th Amendment to the Constitution, which ‘legally’ ended slavery in the US. Following this, however, there were still

many reported cases of persons falling victim to debt bondage or other types of labor exploitation (Logan et al., 2009) that resemble the present-day crime known as human trafficking, trafficking in persons, or modern day slavery.

Human trafficking is of significant public health relevance because it affects large numbers of people across the globe. Human trafficking negatively affects the health of victims trafficked both internationally and domestically (Dovydaitis, 2010; Sabella, 2011; Todres, 2011). The act of human trafficking is also of public health importance because this crime against a person's most basic freedoms violates the idea of social justice that is found at the very core of public health. Human trafficking, although not a new concept, has been viewed as a social injustice only over the last several years. Even the United States did not acknowledge human trafficking as a violation of human rights until the early 2000s (Farrell and Fahy, 2009). Today, some countries still do not view human trafficking as a human rights violation (U.S. Department of State, 2015).

Despite the adoption of international, national, and state anti-trafficking policy, human trafficking still occurs (U.S. Department of State, 2015). Many people do not recognize that human trafficking occurs in the cities, towns, or states where they reside. Unlike some criminal acts that only occur domestically, human trafficking has no geographic boundaries (Joint State Government Commission, 2012).

This paper is based on a review of the primary international, national, and state anti-trafficking policies. The burden of human trafficking globally, nationally, and in Pennsylvania is described in Chapter 2.0. This section also provides context for understanding the definition of human trafficking in connection with policy. The methods used to review the global, national, and Pennsylvania anti-trafficking policies are described in Chapter 3.0. In Chapter 4.0, the

international, national, and state anti-trafficking policies are reviewed. The key concepts that inform these policies are also reviewed in Chapter 4.0 and this section also provides context for how Pennsylvania anti-trafficking policy fits in the global context. In Chapter 5.0, the definition of human trafficking is discussed. This section also explores human consent as defined by anti-trafficking policy and human trafficking as a human rights violation. Chapter 6.0 provides a summary of the paper, public health implications, limitations of the paper, and recommendations for future policy.

2.0 BACKGROUND

Human trafficking negatively affects the health of populations, on a global and local scale (Dovydaitis, 2010; Sabella, 2011; Todres, 2011). The crime of human trafficking has been occurring for years, but was addressed by policy only in recent years. This section of the paper provides context for understanding the definition of human trafficking in connection with policy. Additionally, in this section of the paper, the burden of human trafficking is described globally, nationally, and in Pennsylvania.

2.1 DEFINITION OF HUMAN TRAFFICKING

Defining human trafficking is complicated, because there is not one globally accepted definition. Instead, the definition of human trafficking goes hand-in-hand with policy, which differs at different levels of government. The broad understanding of human trafficking will be described in this section, but the definitions of human trafficking as defined by international, national, and state policy will be explained in Chapter 4.0.

Additionally, different types of policy focus on defining the criminal aspects of human trafficking and not always the victim (Todres, 2011). Moreover, there are several different definitions of human trafficking that can be accepted. For example, a literature review by Gozdiak and Collet (2005) on human trafficking in North America revealed significant difficulty

in identifying a standard definition of human trafficking, as several definitions with different vocabulary exist in both the United States and Canada. These researchers further suggest that a single definition of trafficking in persons does not necessarily mean the term will be applied equally in all legal cases (Gozdiak and Collet, 2005).

2.1.1 Misconceptions associated with human trafficking

The lack of a cohesive, comprehensive, and standard definition of trafficking in persons is thought to result in part because of several misconceptions around the act of trafficking (Logan et al., 2009). For example, people often view human smuggling and human trafficking as one and the same. Contrary to this popular belief, smuggling is an offense against a nation's borders when boundaries are illegally crossed, whereas human trafficking is an offense against a human being (JSGC, 2012; Logan et al., 2009; Polaris Project, 2009). Although transnational cases of human trafficking occur, smuggling and human trafficking are typically considered separate offenses. Transnational human trafficking is when victims cross one or more national borders, while under the traffickers' coercion (Polaris Project, 2009).

In cases of human trafficking, consent is either no longer present or never was, whereas consent is always present in occurrences of smuggling (Logan et al., 2009; U.S. Department of State, 2015). A change in consent is recognized as contract fraud or switching and occurs when a trafficker changes the terms of employment after a person has already given some type of consent. An example of this would be a case of smuggling that becomes trafficking when the offender traps the victim into debt bondage (U.S. Department of State, 2015). Furthermore, victims of human trafficking are exploited multiple times, even after reaching a specific

destination (Logan et al., 2009; Polaris Project, 2009; United Nations Office on Drugs and Crime, 2016).

Although the term ‘trafficking’ denotes the idea of movement, persons can be and often are trafficked inside the borders of their own nation (Logan et al., 2009; Polaris Project, 2009; Sadruddin, Walter, and Hidalgo, 2005). In fact, a common misconception associated with human trafficking is that human trafficking requires transport or movement across borders. Although data from 2010 to 2012 indicate that 60 percent of all victims are trafficked across a minimum of one national border (UNODC, 2014), this suggests 40 percent of victims are trafficked domestically. In the US, crimes of human trafficking can occur both domestically and transnationally (Polaris Project, 2009).

A common misconception is that human trafficking always involves physical restraint, force, or bondage. Human trafficking does often involve these types of influence, but not always. In the United States, a case can legally be considered human trafficking without physical restraint, force, or bondage, as psychological forms of coercion are recognized as sufficient evidence of trafficking. In these cases, evidence of psychological abuse or coercion is sufficient to charge traffickers (Polaris Project, 2009).

2.1.2 Differentiating ‘types’ of human trafficking

In recent years, trafficking in persons for means other than sexual exploitation has gained international recognition by organizations and governments trying to identify perpetrators of this crime. For example, in their review of research studies on human trafficking in the United States published before the year 2007, Logan et al. (2009) identified more than eight major categories

of trafficking in persons, and at least three of these trafficking types involved obvious sexual exploitation. The types of trafficking identified by Logan et al. (2009) include

sex work (prostitution, commercial sex), other sex work–related activities (exotic dancing, pornography, entertainment), domestic labor, personal service (domestic or sexual servitude, servile marriage, factory labor/sweatshop, restaurant labor, and agricultural or other labor. Other mentioned sectors included begging/trinket selling and the food industry (p. 8).

More recently, the Trafficking in Persons Report published by the U.S. Department of State in July 2015 identified seven categories of trafficking in persons. The seven categories of human trafficking described by the U.S. Department of State include sex trafficking, child sex trafficking, forced labor, bonded labor or debt bondage, domestic servitude, unlawful recruitment and child soldiers, and forced child labor (U.S. Department of State, 2015). Despite the multiple categories of human trafficking identified by researchers and government agencies alike, individual cases that go to trial will ultimately be identified as either sex trafficking or labor trafficking because these are the two forms of trafficking recognized in the US for legal purposes (Hyland, 2001; UNODC, 2014).

Sexual exploitation, as defined by both international and national definitions, typically involves coerced sex acts as part of the global sex industry, whereas labor exploitation involves coerced labor and debt bondage (Congress, 2000; Logan et al., 2009; UNODC, 2014). Sex trafficking is often regarded as worse than labor trafficking, and there is a widely held misconception that sex trafficking violates the sanctity of a human being's body in a way labor trafficking does not (Barnhart, 2009). Victims of trafficking often face multiple types of abuse, so the idea that one type of trafficking is more detrimental than another is actually harmful to obtaining justice for victims (Barnhart, 2009; Kim and Hreshchyn, 2004).

Victims of labor trafficking often experience some type of sexual exploitation or assault (Barnhart, 2009; Logan et al., 2009). Unfortunately, the law considers cases of persons coerced to do sex and work in private or outside private areas as labor trafficking (Logan et al., 2009). This is problematic, because the legal distinctions between sexual exploitation and labor exploitation recognize the former as more morally repugnant than the latter which often results in lesser penalties for what is legally identified as labor trafficking, even if the victim was sexually exploited (Barnhart, 2009).

Several researchers make the case that there is little difference between sex trafficking and labor trafficking from the victim's perspective (Barnhart, 2009; Kim and Hreshchyshyn, 2004) and that the main difference is merely a moral debate as to which is more harmful (Kim and Hreshchyshyn, 2004). In their work, Kim and Hreshchyshyn (2004) make the point that in both cases of sex trafficking and labor trafficking, persons are coerced and exploited. Additionally, Kim and Hreshchyshyn (2004) argue that victims of both sex trafficking and labor trafficking experience similar trauma from the degradation and abuse they endure. Regardless of the differentiation between sex and labor trafficking, the problem still exists that without a cohesive and comprehensive understanding of human trafficking, prosecutors are unable to achieve justice for victims. Additionally, without a standard definition of human trafficking, there is misinterpretation of the law by state and local officials who may support but not fully comprehend the best way to identify and care for victims of trafficking (International Organization for Migration, 2005; Kim and Hreshchyshyn, 2004).

2.2 GLOBAL BURDEN OF HUMAN TRAFFICKING

There is ample evidence to suggest that human trafficking occurs across the globe. Recently, the International Labour Organization (ILO) reported that there are as many as 21 million victims of forced labor worldwide (International Labour Organization, 2016). Of these, private individuals or enterprises exploit nearly 19 million people. Moreover, nearly 25 percent of those 19 million persons exploited by private individuals or enterprises are victims of sexual exploitation (ILO, 2016). Victims of human trafficking from 152 different countries were identified in 124 countries between the years of 2010-2012 (United Nations Office on Drugs and Crime, 2014).

2.2.1 The Victims

While nearly half of all detected trafficking victims across the globe are adult women, victims of human trafficking include persons of various ages, genders, races, and ethnic backgrounds (UNODC, 2014; U.S. Department of State, 2015). Persons who are trafficked for sexual exploitation are most likely to be women, whereas those trafficked for forced labor are typically men (UNODC, 2014). However, this is not always the case. In parts of Asia, for example, women are most often trafficked for forced labor (Feingold, 2009; UNODC, 2014). Over the last several years, identification of child trafficking victims has significantly increased. Now, child victims of trafficking comprise approximately one-third of all identified human trafficking victims. Moreover, two of every three victims of child trafficking are girls (ILO, 2016; UNODC, 2014).

Although poverty is a factor that contributes to human trafficking, poverty is not the sole cause of human trafficking nor do all human trafficking victims come from situations of poverty (Clawson and Dutch, 2008; Gamino, 2010; Polaris Project, 2009). Traits that could make victims vulnerable to traffickers include coming from

countries or communities with high rates of crime, poverty, and corruption; lack opportunities for education; lack family support (e.g., orphaned, runaway/thrown-away, homeless, family members collaborating with traffickers); and/or have a history of physical and/or sexual abuse (Clawson and Dutch, 2008, p. 2).

This suggests that several factors play a role in vulnerability, not just poverty. According to the Polaris Project, human trafficking victims originate from diverse socioeconomic backgrounds and some victims of trafficking may actually come from more affluent places (Polaris Project, 2009). Once trapped by the trafficker, victims typically have little food, are exposed to multiple diseases, and work many hours for little or no pay (Sabella, 2011).

2.2.2 The Traffickers

Human trafficking is among the top three most profitable trafficking industries, after drugs and guns, and is mainly fueled by demand for cheap labor and sex exploitation (Hyland, 2001; Logan et al., 2009; Parente, 2014). Estimates by the ILO suggest that human trafficking is an illegal \$150 billion global industry (ILO, 2016; National Human Trafficking Resource Center, 2016a). One reason human trafficking reaps large profits is because traffickers control when a victim is exploited and for how long (Hyland, 2001; Logan et al., 2009). Unlike the single sale of a drug or the one-time payout from smuggling, traffickers sell humans repeatedly and still reap profits from the work of the victims (Gamino, 2010; Hyland, 2001). Traffickers who use debt bondage profit from charges to trafficked victims and also from the victims' labor (Logan et al., 2009).

These criminals are often recruiters and contractors who deceive workers about jobs and then trap them into coerced labor by charging large recruitment fees (U.S. Department of State, 2015).

Traffickers aim to make the biggest profit while limiting costs (Hyland, 2001; Logan et al., 2009; Parente, 2014). Traffickers achieve low costs by housing several victims in small, unclean living spaces, failing to provide food, paying victims very little or nothing at all, and coercing victims to work long hours (Hyland, 2001; Logan et al., 2009). Some female traffickers are driven by economics and the idea of overcoming poverty. Often, women who have personally experienced difficult economic times choose to mastermind trafficking operations, rather than undertake some other type of work for little pay (Nunez, 2010).

Offenders who commit acts of human trafficking can traffic persons independently, with a partner, or as part of a greater network. Those offenders who traffic persons independently or with a partner often exploit victims locally as transporting victims across borders leads to increased costs and increased risk of detection by law enforcement. However, there have been many reported cases of sexual exploitation carried out by transnational partners. Larger networks of traffickers are often connected to organized crime networks and are recognized as trafficking a larger number of victims (O'Neil Richard, 2000; UNODC, 2014). Networks with abundant resources obtain additional labor by providing services to smuggle people across borders. More organized trafficking operations will smuggle people across borders, then charge a hefty fee for transportation costs, which entraps the people into debt bondage (Logan et al., 2009).

Traffickers prey on people they believe are vulnerable, such as those who are experiencing challenging economic times or those who live in places facing civil or regional conflict (Gamino, 2010; Hyland, 2001; Logan et al., 2009). Traffickers use debt bondage, force,

and other coercion they believe necessary to break and demean victims (Barnhart, 2009). Traffickers also entice desperate parents by promising large sums of money in exchange for the parents agreeing to send their children away to work. In these types of situations, traffickers often promise that the children will be fed, clothed, and educated. Although the parents might receive a small sum of money when first making arrangements with the trafficker, parents rarely receive the large sums that were originally promised by the trafficker (Gamino, 2010).

Of convicted traffickers, the majority are citizens of the country in which they are convicted of the crime, though not always. Thus, traffickers may reside in one country but participate in transnational trafficking activities that cross international borders (UNODC, 2014). The most likely perpetrators of human trafficking are males. However, in cases of trafficking in persons, women comprise nearly 30 percent of convicted offenders, compared to other criminal acts where women comprise only 10-15 percent of convicted offenders (UNODC, 2014).

Women may be used as recruiters, especially in sex trafficking, because they seem trustworthy to other females (Todres, 2011; UNODC, 2014). In cases when human trafficking is disguised behind a business front, such as massage parlors, women may be guards, money collectors, or receptionists where the exploitation takes place (Todres, 2011; U.S. Department of State, 2015). These types of low-to middle-chain positions in a trafficking network may be more high-risk for exposure and arrest of the women involved. Then again, there are regions where women mastermind the majority of trafficking (Todres, 2011). For example, along the southern border of the United States, a significant number of identified traffickers are women who do not just participate in trafficking, but also orchestrate the crime. Women traffickers often have husbands and children who need support at home, so law enforcement officials have been known to give female traffickers lesser sentences than male traffickers. However, after completing

these minimal sentences, the women traffickers often return to their old ‘businesses’ or move to new territories to start operations of human trafficking (Nunez, 2010).

2.2.3 The Consumers

Trafficking in persons can be described using an economic model in which consumers drive the demand and traffickers regulate the supply, which is labor exploitation or sexual exploitation (Parente, 2014; Wheaton, Schauer, and Galli, 2010). The consumers also provide profit incentive to traffickers, which affect product demand (Parente, 2014). Consumers can include “...various companies that subcontract certain types of services, end-consumers who buy cheap goods produced by trafficking victims, or individuals who use the services of trafficking victims,” (Parente, 2014, p. 150).

According to the most recent report by the U.S. Department of State, some adult males become consumers of human trafficking by participating in sex tourism outside their country of residence (U.S. Department of State, 2015). Sex tourism is a type of child trafficking that occurs when adult males travel to other countries for the main purpose of sexually exploiting children (JSGC, 2012; Sabella, 2011). Similar to the motives of traffickers, consumers want to pay the least amount for the most benefit. In fact, like consumers of any product, consumers of human trafficking weigh the potential risks by carrying out cost-benefit analyses before making purchasing decisions (Parente, 2014).

Research on the economics of human trafficking has connected large corporations to acts of human trafficking (Parente, 2014; U.S. Department of State, 2015). For example, 136 products from 74 countries made by forced labor have been pinpointed by the U.S. Department of Labor in recent years (NHTRC, 2016a). This indicates that the public that consumes goods is

more connected to human trafficking than it thinks (Parente, 2014). The issue of forced labor being used to provide goods for consumers has also been raised by non-governmental organizations (NGOs). NGOs have raised specific concerns about forced labor being used in government contracts. According to the U.S. Department of State (2015) the federal government has taken steps in the last year to address these concerns of labor abuse in government contracts.

2.3 HUMAN TRAFFICKING IN THE UNITED STATES

Like many countries across the globe, the United States is a source of human trafficking, a place of transit used by the trafficking industry, and a destination for trafficked persons (UNODC, 2014; U.S. Department of State, 2015). A case can be made that the total number of victims trafficked each year into the US, including both transnational victims as well as domestic trafficking victims reaches hundreds of thousands of people (ILO, 2016; U.S. Department of State, 2015). In 2015, The National Human Trafficking Resource Center (NHTRC) received 21,947 calls of which 5,544 were confirmed cases of human trafficking. The confirmed cases do not include those that had several indicators of trafficking but did not exactly fall under the US definition of trafficking. Furthermore, data from the NHTRC are not representative of total occurrences of trafficking in the U.S., because cases of trafficking identified outside the NHTRC are not included (NHTRC, 2016a).

In 2014, the countries of origin of the largest number of identified victims in the US were Mexico, the Philippines, and the United States (U.S. Department of State, 2015). According to the Department of State, especially vulnerable populations in the US include,

children in the child welfare and juvenile justice systems; runaway and homeless youth; children working in agriculture; American Indians and Alaska Natives; migrant laborers; foreign national domestic workers in diplomatic households; employees of businesses in ethnic communities; populations with limited English proficiency; persons with disabilities; rural populations; and lesbian, gay, bisexual, and transgender individuals (U.S. Department of State, 2015, p. 352).

Concern about child and youth victims of human trafficking in the US has increased over the last several years, especially regarding children in child welfare and juvenile justice systems. A representative sample of more than 13,000 US youth revealed that 3.5 percent had exchanged sex for money or drugs (Barrows and Finger, 2008; Edwards, Iritani, and Hallfors, 2006). Barrows and Finger (2008) interpret this data to mean that hundreds of thousands of youth in the US are exchanging sex for money or drugs. In 2014, nearly 17 percent of runaway cases investigated by the National Center for Missing and Exploited Children (NCMEC) were identified as victims of sex trafficking (NHTRC, 2016a) and research carried out at the University of Pennsylvania suggests that nearly 325,000 American youth are at risk of commercial sexual exploitation (Estes and Weiner, 2001).

Individuals are trafficked into the US in several ways, such as being lured by promises of employment (Celock, 2010; Gamino, 2010; Hyland, 2001), originally consenting to the labor or sex industry then being deceived by traffickers regarding working conditions, being abducted and often times drugged, and being sold by parents or in the case of women, their husbands. Other occurrences include smuggling gone wrong, when traffickers deceive and hold captive victims using debt bondage (Logan et al., 2009) and migration that does not function the way it is supposed to (Feingold, 2009). Debt bondage is when a trafficker forces a victim to work off some type of debt that the trafficker blames on either the victim or the victim's family. Often the debt includes expenses that the trafficker incurred in getting the victim to her or his destination (Sabella, 2011).

There are accounts of young women being deceived by a romance that turns into an unfortunate reality when her partner, typically a new spouse, sells her into the global sex or labor industry (Gamino, 2010). Other accounts tell of children being lured into the global labor industry with promises of a good education and opportunities like college (Celock, 2010). Real stories of human trafficking, such as the one below are depicted in the U.S. Department of State annual Report on Trafficking in Persons.

After responding to an advertisement for a job in a Chicago hotel, I checked the legal documents, paid a recruiter fee, accepted the position and flew to New York City. I entered the United States lawfully on a nonimmigrant visa arranged through the ‘recruiting organization’ that brought me here. I was picked up at the airport, along with five other women, by men we all believed were affiliated with our recruiter. Shortly thereafter, however, our passports were forcibly removed, our lives were threatened and the situation became clear: we were being trafficking into the sex trade (U.S. Department of State, 2015, p. 16).

2.4 PENNSYLVANIA AS A SOURCE, DESTINATION, AND PASS-THROUGH FOR HUMAN TRAFFICKING

Over the last several years, coverage of human trafficking has increased in the news and recently caught the attention of policymakers and human rights advocates alike (Farrell and Fahy, 2009; JSGC, 2012). Yet many people do perceive human trafficking as a distant crime that does not happen in the cities, towns, and states they call home. The reality is that human trafficking transcends all geographic boundaries, occurring even in the Commonwealth of Pennsylvania. Pennsylvania is typically portrayed as a ‘pass-through’ state, meaning the state acts as a place of transit for human trafficking victims (JSGC, 2012). Pennsylvania’s role as a pass-through state is due, in part, to the interstate highway system combined with other structural factors like the

large number of truck stops. However, Pennsylvania has also been identified as a destination and a source location for victims of human trafficking (JSGC, 2012).

In Pennsylvania, between the years of 2007 and 2015, the National Human Trafficking Resource Center received 2,624 signals of human trafficking identified by calls, emails, and webforms where PA was indicated (National Human Trafficking Resource Center, 2016b). From these signals, approximately 600 cases of human trafficking have been confirmed in Pennsylvania. The NHTRC used the nationally recognized legal definition of human trafficking to categorize potential trafficking cases: High or Moderate. The category “High” is used to identify cases that possess nearly all indicators of human trafficking and thus, have a high probability of being legally understood as human trafficking. The category “Moderate” is used to identify cases that have many indicators of human trafficking and may closely resemble human trafficking, but lack important details that suggest some type of coercion is involved (NHTRC, 2016b). Indicators are not specified on the NHTRC website, but the NHTRC does indicate several signs of potential human trafficking situations, including circumstances when an individual has poor mental health or behavior, is not free to come and go as he or she pleases, and is not provided with medical care, among others (National Human Trafficking Resource Center, 2016c).

In 2015, there were 514 calls to the National Human Trafficking Resource Center that referenced potential cases of human trafficking in Pennsylvania. Of those calls, nearly 110 have been confirmed as cases of human trafficking. The majority of these cases involved only sex trafficking, while others involved only labor trafficking, and a few cases involved both sex and labor trafficking (NHTRC, 2016b). The majority of victims identified in Pennsylvania in 2015 were females, but there were cases of male victims as well. Additionally of all victims identified

in PA in 2015, the majority were adults, but child victims of human trafficking comprised nearly one-third (NHTRC, 2016b). These statistics parallel global trends of human trafficking.

2.5 HEALTH IMPLICATIONS OF TRAFFICKING

Although little is known about all the health implications of human trafficking, research suggests the health concerns are many (Todres, 2011). These health implications may result from several factors, including lack of sleep and food, various types of abuse, and high-risk behaviors that are the result of coercion. Additionally, many victims of human trafficking have limited access to regular health care services, so health concerns may be very serious when a health care professional is consulted (Dovydaitis, 2010).

Human trafficking also has several sexual health implications, as persons coerced into the sex trade are often unable to negotiate safe sex practices (Gamino, 2010). Moreover, victims of the global sex trade rarely have access to condoms or other contraceptive and protective options that could prevent STIs and unwanted pregnancies (Gamino, 2010; Todres, 2011). According to the U.S. Department of State Report on Trafficking in Persons, child victims of sex trafficking can experience “long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and even death,” (U.S. Department of State, 2015, p. 7). Furthermore, some johns incorrectly believe that children are HIV negative and are pure compared to older women, so they seek out children with the misconception they will be less likely to contract STIs. As a result of these practices, there is a large prevalence of HIV/AIDs and other STDs among victims of the global sex trade and to a lesser degree, the global labor trade (Gamino, 2010; Todres, 2011). Additionally, victims of

sexual exploitation are often subjected to severe vaginal and rectal trauma, experience urinary tract infections (Sabella, 2011) and are often coerced to have multiple, unsafe abortions (Dovydaitis, 2010).

Victims of labor exploitation may also experience many of the health concerns listed above, as evidence suggests labor exploitation and sexual exploitation often overlap (Logan et al., 2009). However, additional health concerns for persons trafficked for labor exploitation often include chronic back pain or muscle strains as well as cardiovascular and respiratory illness (Sabella, 2011). Additionally, victims of labor trafficking may be subject to long exposure to extreme heat or cold, improper nutrition, unsanitary working conditions, and overcrowding. These, among other health factors are often found in areas where diseases thrive and spread (Todres, 2011).

Trafficked persons may also be subjected to varying degrees of torture, such as cigarette burns, ripped out hair that leaves bald patches, cuts, and bruises (Sabella, 2011). Trafficking has also been shown, in recent years, to exacerbate other health concerns like tuberculosis (Sabella, 2011; Todres, 2011), which can be deadly if not detected and treated. In fact, in cases of human trafficking, victimization can continue until the person dies as the result of illness, malnourishment, maltreatment, murder, or on the rare occasion, is rescued or escapes. Research suggests that the average lifespan of a person after being trafficked is seven years due to the extreme abuse and degradation faced by human trafficking victims (Gamino, 2010).

In addition to physical signs of trauma, human trafficking may greatly affect a person's mental health. Victims of human trafficking experience drug addiction, depression, posttraumatic stress disorder (PTSD), and several other psychological illnesses (Dovydaitis, 2010; Sabella, 2011). When first trafficked, victims are often drugged to enhance more

compliance with the traffickers. As a result, many victims become addicted to drugs, which complicates their health status (Zimmerman, Hossain, and Watts, 2011). In their research, Hossain, Zimmerman, Abas, Light, and Watts (2010) interviewed over 200 women and girls who had been trafficked for sexual exploitation and were receiving post-trafficking services. These researchers used validated tools to measure PTSD, depression, and anxiety in the interviews with participants. Hossain et al. (2010) found that 80% of participants scored above the marker for at least one of the conditions measured. This suggests significant mental health implications for trafficked persons (Hossain et al., 2010).

Between 2010 and 2012, nearly 40 percent of all identified human trafficking victims were trafficked for forced labor (UNODC, 2014). In a foreign policy piece titled ‘Think Again: Human Trafficking,’ David B. Feingold makes the argument that the worldwide demand for labor exploitation is actually much greater than demand for sexual exploitation (Feingold, 2009). While Feingold brings attention to worldwide trends, different types of trafficking occur in various regions of the world. For example, sexual exploitation is identified most often in Europe and Central Asia, whereas labor exploitation is most often identified in East Asia and the Pacific. Both labor exploitation and sexual exploitation are detected in similar proportions in North America, South America, and Central America (UNODC, 2014).

2.6 AWARENESS OF HUMAN TRAFFICKING AND CHALLENGES WITH EFFECTIVELY IDENTIFYING AND TRACKING VICTIMS

Challenges in estimating accurate numbers of victims and gaps in data collection make it difficult to estimate the total number of persons affected by human trafficking (Farrell et al.,

2008; Gozdiak and Collet, 2005). Although evidence suggests that there are large numbers of human trafficking victims, the numbers of identified victims remains small. One of the main challenges in estimating accurate numbers of victims is the secret nature of human trafficking (Barrows and Finger, 2008; Farrell, McDevitt, and Fahy, 2010). For example, many traffickers transport victims in unsafe ways to avoid detection (Hyland, 2001). Additionally, exploitation of human trafficking victims is often kept secret from outsiders, like in cases where human trafficking is hidden behind a business front (Barrows and Finger, 2008; Sabella, 2011). The clandestine nature of human trafficking can be further problematic because accurate estimates of human trafficking are needed to support anti-trafficking legislation, spending on anti-trafficking programs, and evaluation of programs which attempt to battle human trafficking (Farrell et al., 2010). This section describes the idea of awareness in relation to victim identification and challenges with effectively tracking and identifying human trafficking victims.

2.6.1 Awareness

Although human trafficking has occurred for many years, awareness of human trafficking has increased only over the last several years (Farrell and Fahy, 2009). Awareness of human trafficking goes hand-in-hand with identification of trafficking victims and is important to effectively preventing human trafficking. In fact, according to the PA report produced by the Pennsylvania Joint State Government Commission (JSGC), “increased awareness regarding how to identify and prevent human trafficking is key for the general public, law enforcement and prosecutors” (Joint State Government Commission, 2012, pg. 6).

Several years ago, human trafficking was not a part of daily conversation (JSGC, 2012). Over the last two decades, awareness of human trafficking has increased. The media has played

a significant role in how people perceive the phenomena of human trafficking (Farrell and Fahy, 2009; Logan et al., 2009). The media disseminates human trafficking messages to the public and contributes to public understanding of human trafficking. For example, when the media depicts human trafficking as a human rights violation, the public is more likely to view human trafficking as a human rights violation (Farrell and Fahy, 2009).

According to the National Human Trafficking Resource Center, there are several general signs that indicate a potential human trafficking situation. Some of these signs include common work and living conditions, poor mental health or abnormal behavior, poor physical health, and lack of control. Victims of human trafficking might work excessively long hours for little pay, present nervous or anxious behavior, lack medical care, and have few or no possessions (NHTRC, 2016c).

General awareness of human trafficking is important, because the public can aid in identification of human trafficking victims (Clawson and Dutch, 2008; NHTRC, 2016c). According to the National Human Trafficking Resource Center (NHTRC), in 2015, those who self-identified as community members comprised the largest percentage of callers to the NHTRC hotline. This suggests the public is aware of some signs of human trafficking.

Additionally, awareness of the signs of human trafficking is also important for law enforcement and other service providers who may come in contact with victims (Clawson and Dutch, 2008). In their research that interviewed health care providers about services offered to human trafficking victims, Clawson and Dutch (2008) identified “an overall lack of knowledge and understanding that human trafficking can occur domestically” (p. 2). Furthermore, many health care providers and even law enforcement do not understand what constitutes human

trafficking. For example, many service providers do not recognize that prostitution of US minors legally qualifies as human trafficking (Clawson and Dutch, 2008).

2.6.2 Challenges with effectively tracking and identifying victims of human trafficking

The United Nations Office on Drugs and Crime has pinpointed 510 unique travel routes, also referred to as flows, along which victims of human trafficking are being transported (UNODC, 2014). The travel flows pinpointed by the UNODC suggest some success in identifying human trafficking victims, or at least in identifying the geographic routes by which victims are trafficked (UNODC, 2014). Despite the identification of these trafficking flows, there are several barriers to effectively tracking and identifying human trafficking victims (Farrell, McDevitt, and Fahy, 2008). Barriers to victim identification can lead to gaps in data collection and the misclassification of victims. This section describes challenges associated with effectively tracking and identifying victims of human trafficking.

2.6.2.1 The Trafficker-Victim Complex

Human trafficking is not always easy to track nor are victims easy to identify. Traffickers frequently alter their trafficking methods to avoid detection, which can be a barrier for law enforcement and others who might identify victims (Farrell and Fahy, 2009). Additionally, traffickers attempt to evade identification by transporting victims using unsafe and uncomfortable methods of travel (Hyland, 2001). Victims of human trafficking are often kept in cramped, secluded spaces and have limited freedom to leave. When victims have access to the outside, traffickers control interactions between victims and the public (Clawson and Dutch, 2008). Traffickers also use fear as a tactic to keep victims oppressed and under the control of the

trafficker. A victim's fear could result from threats of physical abuse, actual physical abuse, or other verbal threats, including threats of deportation and retaliation against family (Logan et al., 2009; Srikantiah, 2007). Thus, the trafficker-victim complex creates several challenges in identifying victims (Clawson and Dutch, 2008).

2.6.2.2 Other challenges with effectively tracking and identifying victims of human trafficking

There are several challenges in addition to the trafficker-victim complex that must be overcome to effectively track and identify victims of human trafficking. In many cases, victims are unfamiliar with the idea of human trafficking and do not recognize their rights as victims. Often, victims are ashamed and embarrassed of their situations (Clawson and Dutch, 2008). The lengthy legal process overwhelms many victims, as it typically takes a significant amount of time to convict traffickers. Additionally, the legal process often re-victimizes human trafficking victims, as they have to speak out against the trafficker about the trauma they endured (O'Neil Richard, 2000).

According to Clawson and Dutch (2008) the two main reasons why victims of human trafficking who come in contact with service providers are not identified is because '1) victims do not identify themselves as victims; and 2) others do not view victims as victims' (p.3). The crime of human trafficking is secretive in nature, so outsiders may not recognize that human trafficking victims are actually victims. Human trafficking is frequently disguised as other businesses, which can also make victim identification difficult (Barrows and Finger, 2008; Sabella, 2011). Victims of human trafficking can be found

working in brothels, massage parlors, truck stops, strip clubs, private houses, or as escorts...Victims can be found working in various domestic and commercial capacities, including as nannies, housekeepers, farmworkers, janitorial and restaurant staff, and factory and construction workers (Sabella, 2011, p. 30).

As described above, there are many establishments where victims of human trafficking might be hidden in plain sight. For example, in cases where trafficking is disguised as a brothel or massage parlor, trafficking may be viewed as merely prostitution or illegal immigration to the outsider (Farrell and Fahy, 2009; O'Neil Richard, 2000). Without a thorough understanding of what constitutes human trafficking, those who may be able to identify human trafficking victims actually misclassify them (JSGC, 2012).

Although the federal government has several organizations that work to tackle human trafficking, state and local officials are more likely to come in contact with victims than federal officials (JSGC, 2012). Yet, evidence suggests there are lower conviction rates of perpetrators of human trafficking at the state and local levels compared to the federal level (Richard, 2005; U.S. Department of State, 2015). One reason for the low conviction rates at state and local levels is misinterpretation of law. In these cases state and local officials do not always abide by or recognize national law intended to protect victims (U.S. Department of State, 2015).

For example, officials frequently misunderstand law when confronting victims who may not want to talk due to extreme trauma, or victims who may refuse to talk for fear of retaliation from traffickers or even the police (Aron, Zweig, and Newmark, 2006; Farrell et al., 2010). Additionally, officials do not acknowledge the national definition of human trafficking when they encounter victims who have participated in illegal acts while under the perpetrators coercion. Sometimes victims of human trafficking are prosecuted and treated as criminals. Victims of human trafficking are often wrongly arrested as prostitutes or illegal laborers and are

later released to the very traffickers that exploited them. The misclassification of victims suggests an evident gap in implementation of policy (JSGC, 2012).

One potential reason for the misclassification of victims is the result of a language barrier between human trafficking victims from another country and those who may be able to advocate for the victims, such as law enforcement and health care workers (King, 2008). The disconnect between policy creation and implementation can also be explained by the lack of extensive training or other resources needed to identify and care for victims of human trafficking. In fact, Clawson and Dutch (2008) identify lack of resources as a major factor limiting the identification of victims in the US. According to Clawson and Dutch (2008), lack of resources includes

limited officers to investigate cases and interview potential victims; limited resources for direct outreach by service providers and advocates to educate and identify potential victims; and limited resources for targeted training and ongoing technical assistance to those agencies in positions to help law enforcement identify potential cases and victims (p. 4).

Healthcare workers and social service workers regularly come in contact with victims of human trafficking. However, victims of human trafficking are typically brought to health care facilities only when they are very ill (Sabella, 2011). Also, traffickers typically take victims to different health care facilities, so health care professionals do not often get the opportunity to build rapport with the victims. Moreover, traffickers frequently try to control interactions between the victim and health care provider, so the health care professional seldom has time alone to talk with the victim (Clawson and Dutch, 2008; Dovydaitis, 2010; Sabella, 2011).

Victims of human trafficking also require great care from providers. For example, many times the needs of one human trafficking victim are far too significant for a single health care provider, as the client may need long-term treatment and a multidisciplinary health care team (Dovydaitis, 2010). For example, according to Clawson and Dutch (2008), one victim of human

trafficking can take approximately the same amount of the health care provider's time as 20 domestic violence victims. Victims of human trafficking are generally "less stable, more isolated, have higher levels of fear, more severe trauma, and greater mental health needs than other victims of crime," (Dovydaityte, 2010, p. 463).

3.0 METHODS

This paper is based on a review of the primary international, national, and state anti-trafficking policies. Because the creation of anti-trafficking policy did not become a topic of discussion until the 1990s and early 2000s, all documents included in this critical literature synthesis were published after 1999 up to 2016. Additionally, all documents included in this review are written in English. This section of the paper describes the searches conducted to identify international, national, and state anti-trafficking policy as well as the searches conducted to identify additional literature used in this paper. The goals of this paper were many, including (a) to review the current anti-trafficking policies and definitions that inform these policies (b) to identify where Pennsylvania anti-trafficking policy fits in the global context, and (c) to determine the best steps for moving forward with policy. Thus, for this paper, anti-trafficking policies in Pennsylvania were reviewed along with international and national anti-trafficking policies. The key concepts that inform anti-trafficking policies were also reviewed and compared. These key concepts include consent and human trafficking as a human rights violation.

3.1 SEARCH FOR INTERNATIONAL AND NATIONAL ANTI-TRAFFICKING POLICY

The primary international anti-trafficking policies were obtained from the website of the United Nations Office on Drugs and Crime (UNODC). The UNODC also produces an annual report titled ‘Global Report on Trafficking in Persons.’ The most recent report available, from 2014, was reviewed for additional information on international anti-trafficking policy. National anti-trafficking policy was obtained from the U.S. Department of State website. The United States Department of State also produces an annual report titled ‘Trafficking in Persons Report’ and the most recent version of this report was reviewed for additional information.

Due to the limited peer-reviewed literature on anti-trafficking policy, an additional search was conducted to inform the global and national policy review using a Google Chrome browser and a Google Scholar search engine. Selecting the ‘Advanced Scholar Search’ tab on Google Scholar, a search was conducted that included the search parameters (1) with all the words: human trafficking, (2) with the exact phrase: policy response, and (3) return articles dated between: 1999-2016. This search was repeated three times by replacing the search term ‘policy response’ by ‘international policy response,’ ‘United States,’ and ‘anti-trafficking policy.’ However, each search produced a large number of articles and upon briefly reviewing the first several articles from each search, the articles were not all relevant to the topic. Many articles discussed prostitution, laws around prostitution, labor trafficking in a specific area, or contained information unrelated to the creation of and implementation of anti-trafficking policies. Thus, from the searches using Google Scholar, three articles were selected as important documents in the literature. These documents included, “The problem of human trafficking in the U.S.: Public frames and policy responses” by Amy Farrell and Stephanie Fahy, “Identifying Domestic and

International Sex-Trafficking Victims During Human Service Provision” by Rebecca Macy and Laurie Graham, and “Research on Human Trafficking in North America: A Review of Literature” by Elzbieta Gozdiak and Elizabeth Collett. From these three articles, citation snowball sampling was used to identify other relevant studies on anti-trafficking policies.

3.2 SEARCH FOR PENNSYLVANIA POLICY

Because one focus of this paper was to understand Pennsylvania’s anti-trafficking policies in the global context, more attention was spent identifying and reviewing Pennsylvania anti-trafficking policies. Unfortunately, literature on anti-trafficking legislation at the state level is limited in both number and scope, so a review of Pennsylvania legislation since 1999 was carried out using the Pennsylvania General Assembly online record of legislation.

Human trafficking can be referred to in several ways, so the terms ‘human trafficking,’ ‘trafficking of persons,’ and ‘trafficking in persons’ were used as search terms. Beginning with the 1999-2000 General Assembly and ending with current 2015-2016 General Assembly, a search was performed using each of the terms. The Joint State Government Commission (JSGC) of the Pennsylvania General Assembly issued a report on human trafficking in 2012 and this report was also reviewed for information.

The search for anti-trafficking policies in Pennsylvania did not return any results between 1999-2003. However, the search did identify 75 proposed bills and resolutions between 2004 and January 2016 that contained one or more of the search terms. Of the 75 proposed bills and resolutions, 12 bills were passed and 21 resolutions were adopted between the years 2004 and 2016 that included at least one of the search terms. To be included in the Pennsylvania policy

review, the bill or resolution had to (1) discuss human trafficking as a national or state problem needing to be addressed by policy, or (2) create policy to combat human trafficking. Only three resolutions and three bills fit the inclusion criteria, of the 33 adopted bills and resolutions between 2004 and 2016. These six relevant documents were reviewed.

Bills and resolutions that did not contain at least one of the inclusion principles were excluded from this paper. Bills and resolutions were excluded from this review if the document (1) was a state budget that only mentioned appropriations for human trafficking but did not describe detail of these appropriations, (2) declared international human trafficking day but did not specify policy associated with human trafficking, (3) related to some type of anniversary where the person or organization did work to combat human trafficking, or (4) was an amendment to Titles 18 ‘Crimes and Offenses’ that did not relate to human trafficking, as Titles 18 discusses all acts considered criminal offenses in the Commonwealth of Pennsylvania, not just human trafficking. Thus, although several bills and resolutions were passed between 2004 and 2016 that contained one or more of the initial search terms, many pieces of legislation were actually irrelevant to this paper.

4.0 RESULTS

According to the Polaris Project, “Eradication is the ultimate goal” of the movement to end trafficking in persons (Polaris Project, 2015). Eradication of human trafficking cannot successfully occur, however, without a solid foundation of anti-trafficking policies, including policies that view human trafficking from the victim perspective (Polaris Project, 2015). In this Chapter, international, national, and state anti-trafficking policy is reviewed. The key concepts that inform these policies are also reviewed. This section also describes how Pennsylvania policy has evolved over the last few years and provides context for how Pennsylvania anti-trafficking policy fits in the global context.

4.1 GLOBAL DEFINITION AND POLICY ANALYSIS

In 1948, the United Nations (UN) General Assembly proclaimed the Universal Declaration of Human Rights (UDHR). This international policy instrument and the 1926 Slavery Convention (also known as the Convention to Suppress the Slave Trade and Slavery) were two of only a handful of international policies containing provisions relating to human trafficking until the discussion of human trafficking became a topic of interest in the late 1990s (King, 2008).

In the year 2000, the United Nations adopted the United Nations Convention against Transnational Organized Crime (United Nations Office on Drugs and Crime, 2004). The two

protocols related to this convention also adopted during this time were the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (also known as the Palermo Protocol), and the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air (UNODC, 2004). These instruments of law were among the first major policies to comprehensively address human trafficking at the international level. Most importantly, these documents set the foundation for an international understanding of human trafficking (King, 2008).

According to the United Nations Palermo Protocol, human trafficking and exploitation of persons is defined as

...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 (United Nations Office on Drugs and Crime, 2004, p. 42).

The Palermo Protocol is unique, because unlike many other UN treaties, this international treaty was specifically developed as a law enforcement document (King, 2008) with a main objective of promoting cooperation among different nations (United Nations Office on Drugs and Crime, 2004). One major provision of the Palermo Protocol not included in many other anti-trafficking policies relates to consent. The Palermo Protocol maintains that victims do not have a choice in situations of trafficking (King, 2008). The Palermo Protocol describes human trafficking victims as lacking consent, regardless of the means used to coerce the victims (United Nations Office on Drugs and Crime, 2004).

Also, the Palermo Protocol includes provisions that indicate states must work to ‘prevent and combat’ human trafficking, ‘protect and assist’ human trafficking victims, and investigate and prosecute offenders (United Nations Office on Drugs and Crime, 2014). The provisions of prevention, protection, and prosecution, also recognized as the ‘3 P’ approach to trafficking policy, were an important step in recognizing human trafficking as more than just a criminal offense (Todres, 2011). Those states that signed the protocol were expected to create anti-trafficking legislation that included the provisions in the protocol. Since it was created in 2000, 166 countries have adopted the Palermo Protocol (U.S. Department of State, 2015).

Over 90 percent of all countries across the globe have created some type of anti-trafficking legislation (Global Report on Trafficking in Persons, 2014). However, nearly 15 percent of all countries report having no yearly convictions for human trafficking, while only 40 percent report 10 or more convictions yearly (United Nations Office on Drugs and Crime, 2014). Although many countries have developed policies to tackle human trafficking, not all countries actually view human trafficking as a violation of human rights (Macy and Graham, 2012). Instead, countries often view human trafficking as a criminal act to be addressed by policies and penalties (Macy and Graham, 2012). Thus, there have been few actual convictions for the crime of human trafficking.

In 2007, the UNODC founded the United Nations Global Initiative to Fight Human Trafficking (UN. GIFT) to oversee implementation of the United Nations Convention against Transnational Organized Crime protocols (King, 2008). Although well-intentioned, the UN. GIFT has little jurisdiction to oversee anti-trafficking policies. Some researchers suggest anti-trafficking policies at the international level are most effectively implemented when integrated into ‘regional and domestic’ legislation (King, 2008). However, not all countries accept the

United Nation's definition of human trafficking. Moreover, even countries that do recognize the UN definition of human trafficking may conceptualize their own definitions of human trafficking for legal purposes and these definitions may not be comprehensive. Thus, one issue associated with stopping human trafficking is compliance with international law (King, 2008).

For example, although Thailand is a member of the United Nations, its national law does not recognize men as victims of human trafficking (Feingold, 2009). Furthermore, implementation of an international policy involves each state signing the document, ratifying the document, implementing the policy in that state, and being subject to oversight by the UN. Thus, UN member states may not recognize human trafficking as a crime, let alone international policies that identify human trafficking as a human rights violation (King, 2008). Another challenge with implementing international anti-trafficking policy is that human trafficking transcends geographic boundaries. Therefore, using international law to prosecute offenders who reside in another nation can be costly, complicated, and involve both significant periods of time to build a case as well as many resources to see prosecution through (King, 2008).

4.2 NATIONAL DEFINITION AND POLICY ANALYSIS

Media coverage of human trafficking increased in the late 1990s, around the same time that both national and international governing bodies began discussing the creation of global anti-trafficking policy (Farrell and Fahy, 2009). Although human trafficking has occurred for quite some time, anti-trafficking legislation at the international, national, and state level was only developed within the last two decades. In October of 2000, Congress passed the Trafficking Victims Protection Act (TVPA) (Gozdiak and Collet, 2005). This anti-trafficking legislation was

passed just one month prior to the finalization of international anti-trafficking policy by the United Nations (UNODC, 2004). The TVPA was the first type of major anti-trafficking legislation in the United States that attempted to tackle human trafficking through protection of human trafficking victims, prosecution of traffickers, and prevention of human trafficking in the source country (Gozdiak and Collet, 2005; Sadruddin et al., 2005). Before the United States identified a legal definition of human trafficking, prosecutors used an assortment of criminal laws to charge offenders, including provisions of the 13th Constitutional Amendment, which made slavery illegal (Richard, 2005). During the 20th century, prosecutors charged offenders using legislation known as the Mann Act of 1910, which illegalizes the coercion and transport of minors or adults across state lines or international borders for purposes of sexual exploitation (JSGC, 2012). Unfortunately, the Mann Act did not create a standard definition of the crime of human trafficking and was typically inadequate for prosecuting offenders.

Human trafficking, as defined by the TVPA recognizes the term ‘severe forms of trafficking’ in addition to the term ‘sex trafficking’ as types of trafficking punishable by law. By this bill, severe forms of trafficking in persons is identified as

...Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or...the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (Congress, 2000, p. 1470),

whereas sex trafficking is identified as

... the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act (Congress, 2000, p. 1470).

The TVPA laid the foundation for more in-depth legislation on human trafficking and attempted to set international standards for combatting human trafficking (Gozdiak and Collet,

2005). The TVPA is also recognized as the first comprehensive, legal definition of human trafficking (Gozdiak and Collet, 2005; Logan et al., 2009). The passing of the TVPA made it illegal to use force or coercion to exploit a human being for labor or sexual services (Logan et al., 2009). The TVPA also generated the 'T' visa, a unique type of visa, which provided victims of severe forms of trafficking with an opportunity for temporary residency and the possibility of permanent residency (Sabella, 2011). In 2003, Congress signed the Trafficking Victims Protection Reauthorization Act of 2003. The TVPRA of 2003 gave victims of severe forms of trafficking the ability to sue their traffickers and provided additional assistance to persons at risk of deportation (Nam, 2007).

Unfortunately, despite intended purposes, the TVPA and the TVPRA of 2003 were only slightly successful in identifying victims and prosecuting traffickers (Nam, 2007). Unlike the Palermo Protocol's provisions on human trafficking, these acts did not include substantial victim protection or provisions regarding victim consent (Gozdiak and Collet, 2005). Additionally, the minimal success of the TVPA is thought to partially result from strict eligibility requirements that insisted victims cooperate with law enforcement to receive protection (Gozdiak and Collet, 2005; Sadruddin et al., 2005). When human trafficking victims did not want to discuss the abuse and trauma endured while under the coercion of traffickers, they were often ineligible for protections and faced deportation (Gozdiak and Collet, 2005; Sadruddin et al., 2005).

To qualify for most assistance offered by the federal government under the TVPA, victims had to prove that they were victims of 'severe forms of trafficking' (Congress, 2000). To do this, victims had to provide some type of evidence or legitimate support to show that consent was absent and some type of coercion occurred. Many human trafficking victims, therefore, could not qualify as victims under the TVPA and some victims have actually been charged with

crimes committed while under the coercion of their traffickers, such as prostitution (Chacon, 2006; U.S. Department of State, 2015). Thus, although likely well-intentioned, the TVPA and the TVPRA of 2003 made only small strides in tackling trafficking globally or domestically (Chacon, 2006).

The original TVPA of 2000 has been reauthorized several times and with each reauthorization, new provisions have been added. For example, the TVPRA of 2005 broadened provisions for victims of domestic human trafficking. The TVPRA of 2005 also required that state and local officials increase their efforts to battle human trafficking. The TVPRA of 2008 instructed federal agencies to work together to develop a cohesive database on human trafficking (Sabella, 2011) and also endorsed assistance for human trafficking victims by organizations that contract with the US or receive federal grant moneys (JSGC, 2012). The TVPA was most recently reauthorized in 2013 as the Trafficking Victims Protection Reauthorization Act of 2013 or Title XII of the Violence Against Women Reauthorization Act of 2013 (U.S. Department of State, 2016).

Reauthorizations of the TVPA created new provisions regarding the definition of victims of human trafficking and have also attempted to improve victim protection, including by expanding the eligibility for the T visa (Nam, 2007; Richard, 2005; Sadruddin et al., 2005). However, despite these provisions, few cases of human trafficking have actually been prosecuted and legislation still presents barriers for human trafficking victims (Nam, 2007; Srikantiah, 2007). According to the most recent Trafficking in Persons Report by the U.S. Department of State,

The U.S. government fully complies with the minimum standards for the elimination of trafficking. The federal government continued to investigate and prosecute both sex and labor trafficking, sustaining high prosecution rates...some NGOs continued to express concern that government officials did not consistently take a victim-

centered approach. Some trafficking victims, including those under the age of 18 years, were detained or prosecuted by state or local officials for criminal activity related to their being subjected to trafficking, notwithstanding “safe harbor” laws in some states or the federal policy that victims should not be penalized solely for unlawful acts committed as a direct result of being subjected to trafficking (U.S. Department of State, 2015, p. 352).

A review of statistics on human trafficking cases by Sadruddin et al. (2005) indicates that federal law has not been effective in identifying or protecting victims. Sadruddin et al. (2005) point out that there is a gap between estimates of human trafficking victims in the United States and the federal regulations that protect only a certain percentage of these victims. Although several national policies have been implemented to address issues of human trafficking, overall conviction rates in the US mirror global trends, which suggests federal legislation and those working to implement this legislation have failed the intended goals of protecting victims, prosecuting traffickers, and preventing trafficking in the source country (Nam, 2007). In their research, Sadruddin et al. (2005) give several reasons for failure of federal policy, including hurdles to immigration benefits, victims being expected to act as victim-witnesses, and federal regulations that protect only certain persons (Sadruddin et al., 2005). Federal law still lacks significant victim protections (Nam, 2007; Sadruddin et al., 2005).

When the United States and United Nations adopted the three-tiered approach to anti-trafficking policies that includes protecting victims, prosecuting offenders, and preventing trafficking, the international community acknowledged that a criminal statute was not the only element needed for effective anti-trafficking policy (Todres, 2011). Yet many governments, including the US, have continued to focus on criminal aspects of human trafficking instead of creating policies with a victim-centered approach. According to Farrell and Fahy (2009), human

trafficking was originally framed as an international social justice issue, but “over time it increasingly was defined as a crime problem, necessitating criminal justice system responses,” (p. 618).

Following the creation of national anti-trafficking legislation, several states followed suit by developing state legislation to address human trafficking. In fact, as of fall 2014, all 50 states as well as the District of Columbia had passed a criminal statute against human trafficking (Polaris Project, 2015). However, states only recently began creating comprehensive laws to combat human trafficking.

4.3 PENNSYLVANIA DEFINITION AND POLICY ANALYSIS

Although it is no secret that human trafficking occurs in Pennsylvania, the state did not create anti-trafficking legislation until six years after the internationally recognized TVPA and Palermo Protocol (JSGC, 2012; UNODC, 2004). Prior to this time, Pennsylvania had minimal power to prosecute traffickers. One reason for this was because policymakers were challenged in understanding the difference between voluntary and coerced behavior, specifically in the case of sexual exploitation. The broader issue, however, was the challenge between differentiating between state and federal power. Typically, the state holds the power to protect citizens. However, since the late 19th century, the federal government holds the power to regulate immigration. Human trafficking transcends geographic boundaries and since international human trafficking can technically be identified as immigration resulting from force or coercion, it was unclear whether federal or state government should address human trafficking (JSGC, 2012).

The initial search using the Pennsylvania General Assembly online record of legislation identified 75 proposed bills and resolutions between 2004 and January 2016 that contained one or more of the search terms ‘human trafficking,’ ‘trafficking of persons,’ and ‘trafficking in persons.’ Of the 75 proposed bills and resolutions, 12 bills were passed and 21 resolutions were adopted between the years 2004 and 2016 that included at least one of the search terms. To be included in the Pennsylvania policy review, the bill or resolution had to (1) discuss human trafficking as a national or state problem needing to be addressed by policy, or (2) create policy to combat human trafficking. Thus, of the 33 adopted bills and resolutions between 2004 and 2016, six documents fit the inclusion criteria and were reviewed for the purposes of this paper.

In 2005, the Pennsylvania General Assembly adopted H.R. 353 (2005), which urged “...the Pennsylvania State Police and Attorney General's Office to recognize legislation banning human trafficking,” (p.1). This resolution discussed human trafficking as a human rights issue and health concern in Pennsylvania. H.R. 353 did not create anti-trafficking legislation, but called for action to develop anti-trafficking policy in Pennsylvania (H.R. 353, 2005).

Nearly one year after adopting H.R. 353, Pennsylvania joined 25 other states with existing anti-trafficking legislation by passing a criminal statute against human trafficking. This policy, known as H.B. 1112, was signed as Act 139 on November 9, 2006 by then-governor Ed Rendell. Act 139 amended Pennsylvania Titles 18 ‘Crimes and Offenses’ by making trafficking in persons punishable by state law. Act 139 also enabled prosecutors to charge offenders and seize assets of offenders during prosecution, especially if these assets were used in committing the crime of human trafficking or were acquired as a result of trafficking (H.B. 1112, 2006). Act 139 did not create a state definition of human trafficking, but instead defined aspects of human trafficking, such as forced labor. Forced labor, as defined by Act 139, is when a person

attempts to cause, causes or by threat of physical menace puts another person in fear of bodily injury; physically restrains or threatens to physically restrain another person unlawfully; abuses or threatens to abuse the law or legal process; Possesses, except as required by federal immigration law or regulation, destroys, conceals, removes, confiscates or possesses any actual or purported passport or other immigration document of another person, or any other actual or purported government identification document of another person; or engages in criminal coercion of another person; traffics, recruits, entices, harbors, transports or provides or obtains by any means (H.B. 1112, 2006, p. 4).

Although created with good intentions, Act 139 used unclear language and was not useful in assisting victims of human trafficking (JSGC, 2012). The understanding of human trafficking portrayed in Act 139 was incomplete and focused on the act of human trafficking instead of the victim. Unlike the Palermo Protocol, Act 139 did not define provisions for victim protection, nor did it include provisions for persons who experience sex trafficking.

In 2006, the PA General Assembly also adopted H.R. 799. This resolution dealt specifically with immigration and called for Pennsylvania to support Congress' attempt to "secure all borders of this nation to protect American citizens from the dangers of unlawful invasion and illegal immigration" (H.R. 799, 2006, p. 1). Because immigration is a hot button issue closely related to human trafficking, HR799 was included in the review of bills and resolutions. Over the few years following the signing of Act 139 and adoption of HR799, several anti-trafficking bills were introduced to the PA legislature, but none was passed (The Pennsylvania General Assembly, 2016).

In 2010, the Pennsylvania State Legislature adopted S.R. 253, which instructed the Joint State Government Commission (JSGC) to create an advisory committee to study human trafficking in the Commonwealth of Pennsylvania. One of the main reasons for this resolution was a recognized lack of understanding of human trafficking by the PA state legislature, vague definitions of the crime, and the minimal use of Act 139 to prosecute offenders. The JSGC

recruited 29 experts in various fields relating to human trafficking to participate in the advisory committee. The advisory committee began holding meetings in October 2010 and was given two years to study human trafficking, propose policy changes, and provide recommendations (S.R. 253, 2010). The advisory committee reviewed legislation from five other states that had already passed legislation other than a criminal statute on human trafficking. Ultimately, the advisory committee chose to focus on the three-tiered approach of prevention, prosecution, and protection (JSGC, 2012).

Two years after the creation of the Advisory Committee to study human trafficking, H.B. 235 was signed by then-governor Tom Corbett as Act 197 or the National Human Trafficking Resource Center Hotline Notification Act (H.B. 235, 2012). This act called on the Department of Labor and Industry to create a sign at least the size of a piece of copy paper that includes the number to the National Human Trafficking Resource Center Hotline. Act 197 also called on the Department of Labor and Industry to mandate posting of this sign in a clearly visible place at specific establishments, including personal service establishments, drinking establishments, airports, train stations, and bus stations, among others (H.B. 235, 2012). Act 197 did not expand on Pennsylvania's limited definition of human trafficking, but it was an important piece of legislation because it did show collaboration between the state legislature and the National Human Trafficking Resource Center.

In 2014, the Pennsylvania General Assembly passed one piece of legislation that was critical to combatting human trafficking in PA. On July 2, 2014, then-governor Tom Corbett signed S.B. 75 into Act 105 (S.B. 75, 2014). Act 105 amended Titles 18 'Crimes and Offenses' and Titles 42 'Judiciary and Judicial Procedure.' Act 105 created a more comprehensive definition of human trafficking, addressed the issue of victims being wrongfully arrested,

expanded the understanding of what qualifies as the criminal act of human trafficking, and created new provisions for victim protection. Act 105 revised prior anti-trafficking legislation using the '3 P' approach (JSGC, 2012). Act 105 also creates provisions that include the various types of human trafficking (JSGC, 2012).

From 2011 to 2014, the Polaris Project ranked all states and the District of Columbia annually based on whether states have passed ten categories of anti-trafficking law that the organization believed were critical to eradicating human trafficking. These categories of laws include

(1) sex trafficking; (2) labor trafficking; (3a) asset forfeiture for trafficking offenses, (3b) investigative tools such as including human trafficking in the state racketeering statute or authorization of interception of communications during investigations into trafficking; (4a) training for law enforcement, (4b) development of a task force; (5) lower burden of proof for the prosecution of child sex trafficking offenses; (6) posting information about a human trafficking hotline; (7) providing safe harbor to minor victims of trafficking; (8) victim assistance plans or services; (9) a civil remedy for human trafficking victims; and (10) vacating convictions, (Polaris Project, 2015, p. 2)

States were given one or two points for each category of law enacted, making the total possible points equal to 12 (Polaris Project, 2015). Based on the point totals, each state was placed into one of four tiers, with the states in Tier 1 ranked as the best. Tier 1 meant the state had passed important law to protect victims and the Polaris Project advised states in Tier 1 to continue working towards improving and implementing laws (Polaris Project, 2015). Tier 4, on the other hand, meant the state had made minimal or no effort to protect victims and combat human trafficking. The Polaris Project encouraged these states to develop comprehensive anti-trafficking laws (Polaris Project, 2015).

According to these ratings, in 2011 Pennsylvania anti-trafficking legislation was ranked in Tier 3, meaning PA had made minimal effort to pass anti-trafficking legislation and combat

trafficking in the commonwealth. In fact, the only categories of law included in the PA anti-trafficking policies in 2011, as identified by the Polaris Project, were a labor trafficking provision, an asset forfeiture provision, and a provision for a human trafficking task force, which was temporarily created by S.R. 253 (JSGC, 2012). As of July 2012, Pennsylvania had not passed any new anti-trafficking legislation and was still ranked in Tier 3 by the Polaris Project. In 2013, following the November 2012 signing of the National Human Trafficking Resource Center Act, the Polaris Project ranked Pennsylvania in Tier 2. This meant PA had passed important anti-trafficking laws, but still needed to improve anti-trafficking legislation according to the Polaris Project.

After the signing of S.B. 75 into Act 105 (S.B. 75, 2014), the Polaris Project ranked PA anti-trafficking legislation in Tier 1 (Polaris Project, 2014b). Until the passing of S.B. 75, Pennsylvania remained one of only two states without a provision for sex trafficking (Polaris Project, 2014a). In addition to a provision for sex trafficking, Act 105 added a provision for victim assistance, a provision that allows victims to seek civil damages from their traffickers, and a provision vacating convictions for sex trafficking victims.

Pennsylvania has made great progress over the last few years, yet still lacks a safe harbor provision for protection of minors. As the Polaris Project indicates, a safe harbor provision “recognizes sexually exploited individuals under 18 as victims of a crime in need of protection” (Polaris Project, 2014a). Pennsylvania also lacks a provision for law enforcement training on human trafficking, and a provision to create a statewide human trafficking commission or task force.

5.0 DISCUSSION

Although international, national, and state anti-trafficking legislation exists, the understanding of human trafficking is inconsistent across policies. This section of the paper discusses the definition of human trafficking and how the lack of a standard definition of human trafficking can decrease the effectiveness of anti-trafficking legislation. This section also explores human consent as defined by anti-trafficking policy and human trafficking as a human rights violation. Both of these concepts are important to informing anti-trafficking legislation. This section further investigates Pennsylvania anti-trafficking legislation and explores how Pennsylvania anti-trafficking policy fits into the global context.

5.1 DEFINING HUMAN TRAFFICKING

Although effective anti-trafficking policy is informed by a solid understanding of human trafficking, the definition of human trafficking found in international policy differs from the definitions of human trafficking found in national and state policy. This is problematic because the same crime identified as human trafficking using international policy could be misinterpreted as a lesser crime using national or state policy.

The absence of a general awareness and understanding of human trafficking is further disturbing, because state and local officials are more likely to come in contact with human

trafficking victims than federal officials (JSGC, 2012). Moreover, evidence suggests there are lower conviction rates of perpetrators of human trafficking at the state and local levels compared to the federal and international levels (Richard, 2005; U.S. Department of State, 2015).

5.1.1 Misinterpretation and misunderstanding of anti-trafficking law

The lack of a standard definition of human trafficking leaves room for misinterpretation of law by international, national, and state officials. An example is a transnational case of human trafficking. In these situations, prosecuting offenders at the international level can be costly, complicated, and involve both significant periods of time to build a case as well as many resources to see prosecution through (King, 2008). Consequently, transnational cases of human trafficking are often tried at the state or local level where the international definition of human trafficking may not be acknowledged.

Additionally, the lack of a standard definition of human trafficking allows for misclassification of victims. For example, many times law enforcement officials and health care professionals do not understand what constitutes the crime of human trafficking. Often, service providers do not recognize that prostitution of minors legally qualifies as human trafficking by international, federal law, and most state law. Furthermore, there is a general lack of knowledge that human trafficking occurs domestically (Clawson and Dutch, 2008). This general misunderstanding of what constitutes human trafficking can prevent the proper identification of human trafficking victims and the prosecution of their traffickers.

5.1.2 Challenges with implementation of anti-trafficking policy

The lack of a standard, worldwide definition of human trafficking also contributes to challenges with implementation of anti-trafficking policy. For example, although the UN created a comprehensive definition of human trafficking through adoption of the Palermo Protocol, the UN has little jurisdiction to ensure effective implementation of anti-trafficking policies. Furthermore, UN. GIFT was developed to oversee implementation of international anti-trafficking policy, yet has minimal legal grounds to charge perpetrators (King, 2008). The UN. GIFT may identify cases of trafficking and make national or local officials aware of these cases, but UN. GIFT has limited opportunity to actually prosecute offenders using international law.

Additionally, the TVPA is recognized as setting international standards for combatting human trafficking (Gozdiak and Collet, 2005) and set a goal of preventing trafficking in the source country. However, the United States cannot actually ensure the implementation of anti-trafficking policy, as the US has no legal jurisdiction in other countries. This is problematic because many countries do not recognize the international definition of human trafficking, let alone the US definition of human trafficking. Thus, there is minimal accountability for those 166 countries that have adopted the Palermo Protocol and there is minimal oversight to ensure countries are implementing the anti-trafficking legislation they developed. Moreover, the lack of implementation of anti-trafficking policies provide no incentives for traffickers to stop trafficking practices as the risk of being identified, arrested, and convicted is very small.

5.2 CONSENT AS DEFINED BY ANTI-TRAFFICKING POLICY

A key component to anti-trafficking law is the concept of consent. The Palermo Protocol maintains that human trafficking victims do not have a choice in situations of trafficking (UNODC, 2004). However, even countries that adopted the Palermo Protocol do not necessarily interpret the concept of consent in the same way. For example, if a victim is coerced and forced into the sex trade, the Palermo Protocol recognizes the victim as lacking consent. The victim did not choose to be forced into the sex trade and even if the victim initially gave consent for sex work, the element of consent ceased to exist when the trafficker implemented some type of force or coercion on the victim. Thus, the victim is not at fault for the situation of trafficking and the Palermo Protocol maintains that the victim should be protected and the trafficker should be prosecuted. Not all countries perceive consent as identified by the Palermo Protocol.

For example, according to the U.S. Department of State, "...some trafficking victims, including those under the age of 18 years, were detained or prosecuted by state or local officials for criminal activity related to their being subjected to trafficking" (p. 352). In these cases, victims were viewed as consenting to illegal activity, even if the illegal acts were carried out under the traffickers' coercion. Many times, officials do not acknowledge the national definition of human trafficking when they encounter victims who have participated in illegal acts while being coerced by a perpetrator. Thus, victims of human trafficking are often wrongly arrested as prostitutes or illegal laborers and are later released to the very traffickers that exploited them (JSGC, 2012).

Although US anti-trafficking law has improved over the last several years, federal anti-trafficking law still lacks important provisions necessary to protecting victims, including an explanation of consent that mimics the Palermo Protocol. United States anti-trafficking policy

describes a lack of consent for minors who are sexually exploited, for victims of sexual assault, and for the release of information for minors. However, US anti-trafficking law does not recognize consent as described in the Palermo Protocol. When anti-trafficking policy lacks an explanation of victim consent, victims are wrongly arrested as criminals and uncertainty regarding the act of human trafficking occurs.

5.3 HUMAN TRAFFICKING AS A HUMAN RIGHTS VIOLATION

Human trafficking is an obvious violation of human rights, regardless of the type of trafficking, the gender of the victim, or the length of time the individual was trafficked. Unfortunately human trafficking has been viewed as a social injustice over only the last several years (Farrell and Fahy, 2009).

Current US and UN policies interpret human trafficking as a human rights violation; however, many countries still do not view human trafficking in this way. For example, although Thailand is a member of the United Nations, its national law does not recognize men as victims of human trafficking (Feingold, 2009). When the act of human trafficking goes unnoticed, the value of personhood is diminished and the victim remains voiceless.

Despite the creation of anti-trafficking policy in over 90 percent of countries across the globe, many countries actually fail to recognize human trafficking as human rights violation. Moreover, countries may view certain types of trafficking, such as labor trafficking, as socially acceptable and economically beneficial because the trafficking provides revenue for countries. As mentioned in Section 2.0, the U.S. Department of Labor has identified over 136 products from 74 countries that were created by forced labor. Thus, countries may not recognize human

trafficking as a crime, let alone that human trafficking is a violation of human rights. Without recognizing human trafficking as a human rights violation that strips away the basic rights bestowed upon each person, the crime of human trafficking ceases to exist. When this happens, there are minimal penalties for the very traffickers who violated the victims' rights and there is less incentive to view human trafficking victims as victims.

5.4 PENNSYLVANIA ANTI-TRAFFICKING POLICY IN THE GLOBAL CONTEXT

The Commonwealth of Pennsylvania (PA) is identified as a source, destination, and place of transit for victims of human trafficking. Following international and national actions to create anti-trafficking legislation, PA developed a criminal statute and other anti-trafficking legislation to address human trafficking in the commonwealth. Over the last few years, Pennsylvania has made significant progress in combatting human trafficking. According to the Polaris Project, PA has passed significant legislation to support victims and now matches the anti-trafficking legislation of most states (Polaris Project, 2014b). Nonetheless, there is always opportunity for improvement and Pennsylvania still lacks provisions important to tackling human trafficking in the commonwealth.

First, PA lacks a safe harbor provision for youth who have been sexually exploited. As the Polaris Project indicates, a safe harbor provision “recognizes sexually exploited individuals under 18 as victims of a crime in need of protection” (Polaris Project, 2014a). The lack of a safe harbor provision in Pennsylvania anti-trafficking policy is troublesome, because child victims of trafficking now comprise approximately one-third of all identified human trafficking victims (UNODC, 2014). Moreover, studies have shown that large a percentage of youth in the US

exchange sex for money or drugs (Barrows and Finger, 2008; Edwards et al., 2006). In a single school district or community, this percentage may seem insignificant, but at the population level, this could mean that hundreds of thousands of youth in the US are exchanging sex for money or drugs.

Additionally, the lack of a safe harbor provision could force young victims of human trafficking into the juvenile justice system, instead of providing care. As state and local law enforcement often come in contact with victims of human trafficking, training for law enforcement is important to assuring victims, especially minors are not treated as criminals. Unfortunately, Pennsylvania also lacks a provision for training of law enforcement officials. Without proper training and awareness of human trafficking, law enforcement officials misunderstand what actually constitutes human trafficking.

Pennsylvania also lacks a provision, to create a statewide Human Trafficking Task Force. A type of Human Trafficking Task Force was created in 2010 by the adoption of S.R. 253, which instructed the Joint State Government Commission (JSGC) to create an advisory committee to study human trafficking. However, this committee existed only from 2010 to 2012. The advisory committee was crucial to the progress of human trafficking policy as it increased awareness of human trafficking in the commonwealth, fostered partnerships between the PA General Assembly and 29 experts in various fields relating to human trafficking, and led to the creation of several comprehensive pieces of anti-trafficking legislation. Several local and national organizations are working to end human trafficking. Without a statewide Human Trafficking Task Force, however, organizations work alone and information on anti-trafficking information is less available.

6.0 SUMMARY

Exact estimates of human trafficking are unknown, but evidence suggests that human trafficking affects a large number of people across the globe. Human trafficking does not have geographic boundaries, meaning it happens everywhere. Human trafficking is of significant public health relevance because it affects the health of men, women, and children of many races, ethnicities, and social classes. Human trafficking is often hidden behind a business front, such as a massage parlor, and trafficking methods are constantly evolving to avoid detection. Traffickers are mostly men, but some geographic regions have large numbers of women traffickers and women comprise a significant portion of all convicted traffickers. Globally, there are challenges with victim identification and effective implementation of anti-trafficking policies. These barriers, in addition to challenges in tracking victims has led to small number of actually identified victims.

Although human trafficking has occurred for quite some time, anti-trafficking legislation at the international, national, and state level was developed only within the last two decades. The US and the UN adopted a three-tiered approach to anti-trafficking policy, which includes protecting victims, prosecuting offenders, and preventing trafficking in the source country. Following the creation of national anti-trafficking legislation, several states developed policy to combat trafficking, including the Commonwealth of Pennsylvania. Despite international, national, and state adoption of anti-trafficking policy, the key concepts that inform these policies differ greatly. A standard definition of human trafficking is needed to effectively prosecute

traffickers and protect victims. Other concepts, including the concept of ‘consent’ also differ across international, national, and state policies. The lack of a standard definition of human trafficking and failure to cohesively describe other concepts that inform policy have led to misinterpretation of law by international, national, and state officials. Moreover, misinterpretation of anti-trafficking law has led to misclassification of victims as criminals, which further marginalizes an already marginalized group.

The Commonwealth of Pennsylvania has been identified as a pass-through, destination, and source of human trafficking. Over the last few years, Pennsylvania anti-trafficking legislation has evolved and now closely mirrors national anti-trafficking legislation. Despite this new legislation, the Commonwealth of Pennsylvania still lacks a important anti-trafficking provisions, including a safe harbor provision for children under the age of 18 who have been forced to carry out illegal acts as a result of trafficking. Pennsylvania anti-trafficking policy also lacks cohesive definitions of key concepts used to inform anti-trafficking policy.

6.1 PUBLIC HEALTH IMPLICATIONS

The act of human trafficking is of significant public health importance because this crime against a person’s most basic freedoms violates the idea of social justice that is found at the very core of public health. Moreover, human trafficking negatively affects the health of a large number of men, women, and children across the world. In fact, research suggests that the average lifespan of a person after being trafficked is seven years due to the extreme abuse and degradation faced by human trafficking victims (Gamino, 2010). Eradicating human trafficking and minimizing its global burden would be of significant importance, if human trafficking were a disease. Although

a case can be made that human trafficking has more health implications than most diseases, there is little understanding in the international community that human trafficking is a public health concern with a significant global health burden.

To minimize the consequences of the global burden of human trafficking, victims need to be identified and treated by a team of health care professionals. Those victims who have been trafficked for a long period of time will need long-term care and support. Effective victim identification and provision of care for human trafficking victims cannot occur, however, without the creation and implementation of comprehensive, evidence-based anti-trafficking policies.

6.2 LIMITATIONS

As with every study, this one has limitations. One is that original research was not conducted so no new data were added to the literature. Another limitation of the paper is that there is little literature on human trafficking and available literature typically focuses on a review of documents and not actual cases of human trafficking. Additionally, this paper only included documents from the years 1999-2016, so not all documents that discuss human trafficking were included.

Only documents written in English were included in this paper, which can be a limitation, because some international policies may be written in other languages. A further limitation was that snowball sampling was used to obtain additional literature on anti-trafficking policy and some important literature on anti-trafficking policy may have been missed in the search. This sampling method is also a strength, because it ensured pertinent information on anti-trafficking policy was collected from a specific section of literature.

6.3 POLICY RECOMMENDATIONS FOR THE FUTURE

Evidence-based policy leads to improved health outcomes. Current anti-trafficking policies, however, are not evidence-based, nor do current policies incorporate public health measures into anti-trafficking policies. Moreover, to successfully eradicate human trafficking, laws must be effectively implemented. Effective implementation of anti-trafficking law can only occur, however, if the laws are cohesive and clear. Currently, anti-trafficking policy is not effectively implemented. One reason for this is due to the misunderstanding of what actually constitutes human trafficking and who constitutes a victim of human trafficking. Thus, this section discusses recommendations for global, national, and Pennsylvania anti-trafficking policy.

6.4 GLOBAL POLICY RECOMMENDATIONS

Despite the anti-trafficking efforts at the international level, countries do not seem to take human trafficking seriously. Again, if human trafficking were a disease, there would be international concern to minimize its global health burden. However, lack of concern about human trafficking is shown by the challenges to recognize human trafficking as a human rights violation, poor implementation of anti-trafficking policies, small numbers of identified victims, low conviction rates for traffickers, and the misclassification of victims as criminals. Creation of international anti-trafficking law was important to tackling human trafficking, but there is still a need for improved policy.

The current state of human trafficking calls for one standard, globally recognized definition of human trafficking. To ensure the effectiveness of anti-trafficking policy, one

standard, globally recognized definition should be mirrored throughout international, national, and local anti-trafficking policies. The UN has created a comprehensive definition of human trafficking through the Palermo Protocol, but this definition is not recognized in many countries. Additionally, although many nations have anti-trafficking legislation that includes a criminal statute, this anti-trafficking legislation often lacks other important concepts needed to clearly define human trafficking. Moreover, there are no comprehensive, international standards to inform the anti-trafficking policies of different nations. As a result, there is a lack of clarity as to what constitutes human trafficking and lack of consistency across policies.

With one standard, globally recognized definition of human trafficking, there will be minimal opportunity for misinterpretation of anti-trafficking policy by international, national, or state law enforcement officials. Moreover, with one standard definition of human trafficking, there will be no confusion about what constitutes human trafficking.

To successfully eradicate human trafficking, laws must also be effectively implemented. Effective implementation of international anti-trafficking policies would be improved by increased oversight of international anti-trafficking law. Currently, the UN has minimal jurisdiction to address human trafficking. Although the United Nations Global Initiative to Fight Human Trafficking (UN. GIFT) was created to oversee international policies, this group has minimal legal grounds to enter a country and tackle human trafficking. However, the UN is a peacekeeping organization that can encourage cooperation between different countries. Increased accountability promoted by the UN can lead to improved implementation of anti-trafficking policies. Furthermore, increased accountability by countries will suggest human trafficking is viewed as a priority and will contribute to the end goal of eradication.

6.5 NATIONAL POLICY RECOMMENDATIONS

In the US and many countries across the world, there is a need to expand the definition of human trafficking to mirror the international understanding of human trafficking found in the Palermo Protocol. If national law mirrors international law, policies will appear stronger and more cohesive. Thus, a trafficker who commits a transnational crime of human trafficking will be charged using the same standards as a trafficker who commits a domestic crime of trafficking. To encourage the creation of improved anti-trafficking legislation in America, US citizens can raise awareness of human trafficking and of the gaps in legislation. Citizens can also write to members of Congress to stress the importance of the need for improved national legislation.

6.6 PENNSYLVANIA POLICY RECOMMENDATIONS

Pennsylvania anti-trafficking policies have improved greatly over the last few years, but still lack provisions that are important to protecting the victim and prosecuting the offender. In Pennsylvania, there is a need for a safe harbor provision for minors who have been the victims of sexual exploitation. A safe harbor provision will protect youth victims of human trafficking from being placed in juvenile detention facilities. There is also a major need for statewide human trafficking training of law enforcement officials and a provision to create a statewide Human Trafficking Task Force. Training on human trafficking is a serious concern, as many police officers lack understanding about what constitutes human trafficking. The creation of a statewide Human Trafficking Task Force could foster partnerships between the PA General

Assembly and non-governmental organizations (NGOs). This could lead to more comprehensive anti-trafficking policy and could aid in effective implementation of anti-trafficking policy by state officials.

To encourage the creation of improved statewide anti-trafficking policies, residents of Pennsylvania can raise awareness of human trafficking in the commonwealth. Residents of Pennsylvania can also write to members of the PA General Assembly to stress the importance of provisions for anti-trafficking law, like a safe harbor provision.

Overall, the most important thing about encouraging anti-trafficking policy formation and implementation is that victims are protected and provided with adequate resources. To protect victims, evidence-based anti-trafficking policies must be developed and effectively implemented at the international, national, and state levels. Evidence-based policies must include a standard, comprehensive definition of human trafficking and training is necessary for law enforcement officials and health care professionals to understand the many acts that constitute the crime of human trafficking. By expanding anti-trafficking policies and improving the understanding of human trafficking, victims will be more effectively identified, treated, and protected.

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