

Human Trafficking and Immigration: A Policy Study on the Effect of United States Human Trafficking Policies and Unauthorized Immigration

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Traditional policy approaches to prevent human trafficking focus on human trafficking as a sex crime. When we take a step back and introduce labor trafficking as part of human trafficking, we learn that current policies undermine the victims who are being trafficked for labor purposes. If we have ignored the rates of unauthorized immigrants who are being trafficked for labor purposes, how have policy approaches to combat the crime of human trafficking affected unauthorized immigrants in human trafficking?

This paper analyzes the policy of The Victims of Trafficking and Violence Protection Act of 2000. Current policy efforts in the United States combat trafficking in a 3-pronged approach: Protection, Prosecution, and Prevention. Human Trafficking reports show that as migration rates go up detection of cases of victims who have been trafficked rises with it. Limited data makes it difficult to accurately study the trends of human trafficking. However, when migrants are trying to apply for special T-visas or U-Visas, there is a lack of knowledge among law enforcement officials in detecting trafficked immigrants. These officials not only deny immigrants their visas but leave them in unprotected situations where they can be further exploited. Although there has already been a victim-centered approach to combat Human Trafficking, for labor trafficking to be considered, policymakers need to focus on the current policy approaches that only push migrants to seek dangerous methods of crossing the border, including human trafficking.

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Introduction

In 2001 a Mexican woman named Flor was offered an “opportunity of a lifetime”, a job that would provide her the means to open a seamstress shop in her own town in Mexico. Flor left her small town in Mexico one morning to pursue this dream leaving that morning for California. Flor did not know that when she arrived in the United States, she would have her documents taken away and would then be forced to work 18-hour days. Flor was only allowed one meal a day, locked in a small room at night, and was not allowed bathing or medical facilities (International Organization for Migration, 2010). “She was often physically and verbally abused and lived in fear for the safety of her children and mother back home.” (International Organization for Migration, 2010). Flor states that the traffickers told her, “Animals had more rights in this country” than she did. Flor’s case is just one of many instances where immigrants, migrants, and undocumented citizens flee their country only to be subjected to the abuse of human trafficking. Studies at the Human rights center at the University of California Berkeley indicate that there are at least 10,000 people working as forced laborers at any one time in the United States (American Civil Liberties Union, 2006). Further studies show that of these 10,000 victims, 72% are immigrants. (Grzesiak & Vore, 2022)

The business of human trafficking makes about 150 billion dollars worldwide. The United States has laws that protect victims like Flor, from the act of human trafficking. The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) was the first policy to equip the United States with laws protecting victims of trafficking and eliminating all forms of modern slavery. When analyzing the 2021-2022 Trafficking in Persons (TIP) report for the country of the United States, the report states that the United States is in Tier 1 status. Reports state, “The Government of the United States fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period, considering the impact of the COVID-19 pandemic, if any, on its anti-

trafficking capacity; therefore, the United States remained on Tier 1” (Department of State, 2022, pg 582). Although data suggests that the United States is meeting the criteria in the VTVPA that the United States does not mean they have eradicated human trafficking within their state.

Immigrants are often most vulnerable to human trafficking because of the language barrier, levels of education, immigration status, lack of knowledge of US protections or laws, and fear of law enforcement (American Civil Liberties Union, 2006). While there have been efforts to mitigate the problem of Human trafficking, immigrants still work in jobs where there is little government regulation, and that is hidden from the public. Although data suggest that sexual exploitation in human trafficking is the main profit driver in trafficking, when you focus on the factor of labor exploitation as human trafficking becomes a much broader issue (Logan, 2009).

Research Question

This paper sets out to research the phenomenon of human trafficking policies on immigrants. Human traffickers often place a big focus on the trafficking of immigrants because of the lack of immigration status which makes them vulnerable to exploitation and control at the hands of abusers. (U.S. Citizenship and Immigration Services, 2023). However, researchers state there is a growing concern that the way Human Trafficking has been perceived has been affecting the way migrants are treated and supported when they are victims of trafficking. If migrants come into the United States for labor have not been studied, how do policy approaches to combat the crime of human trafficking in the United States, affected unauthorized immigrants in human trafficking?

Argument

This paper argues that current United States policy approaches do not fully address immigrants who have been victims of human trafficking. State-based task forces have stated that there needs to be a better balance in US approaches to sex trafficking and labor trafficking (National

Institute of Justice, 2022). Furthermore, previous authors have come to a consensus on a few key factors that make immigrants more susceptible to not only becoming victims of trafficking but policy approaches that push unauthorized migrants to be at risk of further exploitation of trafficking.

Limitations

Human trafficking has several limitations relating to data collection, such as under-reporting, and inconsistent definitions. There have also been ethical challenges in obtaining ethical sources to explain the crime of human trafficking. This report studies the criticism of issue framing, labor, and visas, in human trafficking that previous authors have suggested being further looked at in their study. Although not a new study, this research is important in obtaining relevant information on human trafficking that can develop more effective policies, practices, strategies, and areas of priority that governments can focus on for action. Obtaining new and relevant research information on Human trafficking is essential in advancing, improving, and promoting the human rights and respect of the victims affected by this form of exploitation and abuse.

This paper also defines important terms that may not be common knowledge to the readers. For example, human trafficking and human smuggling have two very different definitions, where a victim of trafficking can start off as a victim of human smuggling where they know they are being taken, and they can end up as a victim of Human trafficking where they have now been placed in exploitative work. Just like the definition of migrants, immigrants, and stateless people can mean different things. Like migrants Immigrants can also flee violence and oppression. Definitions like these are contested throughout politics because there are very specific terms that define the phenomena of trafficking. Below this paper has included the definition of terms like coercion, debt bondage, human smuggling, human trafficking, migrant, immigrant, and organized crime. Defining these terms can help in further understanding why

this phenomenon is so specific, and why certain victims can be ignored, or even not be seen as victims.

Definitions

Coercion: the act of coercion includes threats of serious harm, to anyone's physical or mental body, it also includes psychological manipulation, document confiscation, and shame and fear threats to obtain something from the victim. (Fact Sheet: Human Trafficking | The Administration for Children and Families, 2021)

Debt Bondage: "where an individual is trapped in a cycle of debt that he or she can never pay down. " (Fact Sheet: Human Trafficking | The Administration for Children and Families, 2021). This includes the act of having to pay the person you owe in services for the services they provided for you to bring you into the United States of America. For example, transportation fees, boarding fees, food, and other incidents.

Human Smuggling: United States Immigration and Customs Enforcement (ICE) states that Human Smuggling lies in the criteria of Transportation. According to ICE, human smuggling is defined as. "Importation of people into the United States involving deliberate evasion of immigration laws. This offense includes bringing illegal noncitizens into the country, as well as the unlawful transportation and harboring of noncitizens already in the United States." (U.S. Immigration and Customs Enforcement, 2013). There is no official law or statute defining Human Smuggling in the United States. The United States is a signatory to the Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the United Nations Convention against Transnational Organized Crime 2000. Article 1-a and Article 1-b establish, "(a) "Smuggling of migrants" shall mean the procurement, to obtain, directly or indirectly, financial or other material benefits, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident; (b) "Illegal entry" shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;" (Protocol against Trafficking, 2000).

Human Trafficking: Under the United States Department of Justice (DOJ) states that the definition of Human Trafficking lies upon the criteria of exploitation. The official U.S. (United States) definition of Human Trafficking is under the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). Under the VTVPA the definition of human trafficking states, “Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act 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” (United States of America, 2000). The VTVPA also includes the definition of forced labor stating, “Forced labor is 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.” (United States of America, 2000).

Immigrant: In the United States, an Immigrant is defined as, “Any person lawfully in the United States who is not a U.S. citizen, U.S. national, or person admitted under a nonimmigrant category as defined by the INA Section 101(a)(15).” (Department of Homeland Security, 2022)

Migrant: A Migrant is someone who leaves their country to seek temporary or permanent residence in another country. (Department of Homeland Security, 2022)

Organized Crime: “Organized crime is a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through the corruption of public officials and the use of intimidation, threats or force to protect its operations.” (United Nations Office of Drugs and Crime, n.d.). These acts are planned and reflect the effort and consensus of a group of individuals.

Literature Review

Globalization and Migration on Human Trafficking

The globalization of economic markets

has created a demand for jobs in service, manufacturing, agriculture, and industrial sectors, concentrated in global capital centers like Los Angeles, London, Paris, and Tokyo. (Musto, 2009). Aronowitz (2001) et al studied unauthorized migration and trafficking in both East Asian and African Continents to show how globalization has caused push and pull factors. Whether it be socioeconomic or any other underlying factors that push people out of their home country and pull them to their destination countries through illicit channels (Aronowitz, 2001, Musto 2009). Looking at the socioeconomic context to analyze the ineffectiveness of counter-trafficking strategies, Chuang (2006) adds to this argument by stating that our globalized economy has created a wealth gap between countries that have further pushed migrants away from their own country and being pulled in by the United States labor demands (Chuang, 2006, Morero, 2022). Most countries’ laws condemn irregular and large-scale migration and don’t reward migrants who enter a country unauthorized (Miller& Bausmeister, 2013). Trajano (2018) further looks at review trends and patterns of migration from regional frameworks in East Asia and they find that sexual exploitation, forced labor, and climate change are all further exacerbating the problem of Human trafficking within migrant communities (Trajano, 2018).

Cornelius (2004) agrees with the idea that policies that control unwanted or unauthorized immigration are inefficient and have created unintended consequences for migrants (Cornelius 2004). Morero (2022) uses snowball sampling methods to carry out interviews with victims of trafficking to find out more about their experiences and views of human trafficking and migration. The author finds that human beings consider certain rational choices between staying in a country that cannot offer them sustainable work or taking the risk to leave for a country that can give their family more at home they must make to create a path for a more fruitful life. (Morrero, 2022). When Massey (1997) further looks at random samples gathered during the winter between 1987-1992, they find that the cost of migrating to the United States is outweighed

by how much more money they will make when they get here (Massey & Espinoza, 1997).

Small criminal groups have seen an opportunity in the market to create a criminal organization that yields high income making these markets more able to adapt and adjust to make more money. Cornelius (2004) adds to this idea by looking at how strategies to control unwanted immigration have been implemented in the US government since 1993, they find that as border control tightens there has been a higher percentage of migrants who have sought assistance from professional people smugglers rising from 15% to 41% in recent decades (Cornelius, 2004). Further Miller and Baumeister's (2013) research carried out by United Nations Organization for Drugs and Other Crimes and others find that much of migration worldwide is used or initiated by third parties. (Miller & Baumeister, 2013). Many people use outside sources like coyotes, on the southern border who cross migrants over for a fee. As a result, Aronowitz (2001) has found that 30% of asylum seekers entering Europe used the services of smugglers and that number has only risen from 60-70% in the past few years (Aronowitz, 2001). Globalization's push and pull effects and countries' response in enforcing borders have created a new business for professional smugglers to thrive off migrants' vulnerabilities.

This is a problem because when we are implementing policies, we are just looking at the number of unauthorized migrants that we are eradicating in the United States instead of looking at our labor needs (Cornelius, 2005, Chuang 2006). It does nothing to reduce employer demand for immigrant labor if we see it as a supply-side-only strategy. It fails to deter unwanted immigration from Mexico and other third-world countries, while further entrenching unauthorized workers in unfair labor practices. Evidence shows that their migrants only produce benefits for people in their host countries and most policies make it hard for skilled or unskilled laborers to receive a path to citizenship, Chuang (2006) further finds that labor shortages are usually filled by migrant workers who are willing to take jobs that are dirty, dangerous, and difficult, most of these jobs are

rejected by domestic laborers (Chuang, 2006).

Policy Frames Affecting Human Trafficking

Authors find that frames of human trafficking legislation have majority has been portrayed in narrow views of impoverished women and girls who are trafficked into the sex industry (Chuang 2006, Farrell 2009). Farrell (2009) further suggests that this frame comes from the 1993 Human Rights Conference in Vienna, which adopted the 1994 Convention for Violence Against Women protecting trafficking against women and girls (Farrell, 2009). Authors agree that policy in the United States under The Trafficking Victims and Protection Act of 2000, the focus has been on sex trafficking and the language behind it on the enslavement of women and children (Musto, 2009). Less attention is usually paid to victims in exploitative agricultural work, domestic work, and other nonsexual labor. Although individuals are trafficked for means of labor, and organ sales, most policy focus on the protection of women and girls who have been trafficked for the purpose of sexual slavery since the TVPA. Because of this authors have only been able to gather data from individuals who have been most visible like sex trafficking victims. However, Farrell (2009) shows that between 1999 and 2000 human trafficking articles covered both sex trafficking and the labor movement equally (Farrell, 2009). Lacko (2003) further argues that better use could be made of data from counter-trafficking programs because the difficulty in measuring human trafficking has been the lack of a precise definition of human trafficking (Lacko & Gramenga 2003). Authors argue that because law enforcement focuses on the "easier" cases, they allow for labor cases to fall through the cracks (Countertrafficking, 2013). As human trafficking results are often not accurate because this is a hidden crime, data is difficult to collect.

Further looking at research indicators of trafficking across countries can help in finding accurate and reliable estimates of persons being trafficked outside of sexual exploitation. There are over 110 anti-trafficking programs around the world, however, none of these agencies communicate with each other to collect data and

gather statistics on human trafficking (Laczko & Gramenga, 2003). Aronowitz (2001) finds when analyzing the definitions of Human trafficking that the lack of sufficient cooperation between agencies in domestic and international labels adds to the problem of collecting data to track this accurately. Bryant and Landman use Systematic Review Studies to evaluate programs of counter-trafficking policies between 2000-2015. Bryant and Landman like Aronowitz also find that it is difficult to establish a baseline to measure against human trafficking and changes in trafficking are not tracked over time (Bryant & Landman 2020). The 2008 Trafficking in Person report suggests that when you focus on labor exploitation more than women and girls' sex trafficking the problem of human trafficking becomes a broader issue (Logan, 2009). When analyzing texts from US newspapers articles on Human Trafficking between 1990-2006 studies show that in the 1900s human trafficking articles dominated the media but were overtaken by crime or national security focuses when President Bill Clinton was looking for anti-immigrant support in his Republican campaign (Farrell 2009). Further, Farrell (2009) suggests that movements to reframe trafficking as a crime showed a lot of anti-immigration sentiment in the idea that illegal migration and opening the door to these migrants would create crime in the United States for bigger organized criminal groups. Dandurand (2022) analyzing the implementation of effective detection, investigation, prosecution, and victim protection strategies found that in the 1990s although the legislation was tightening up migration movements, specifically Mexican migration did not stop even when there were no opportunities for legal entries (Dandurand, 2022). Although there is a problem of migrants being trafficked authors argue that it is due to a big difficulty in the definitions of Human Smuggling and Human Trafficking. Smuggling and Trafficking victims can become migrants who voluntarily use these trafficking services and leave their country of origin willingly (Aronowitz, 2001). Further, Chuang (2006) states that global anti-trafficking initiatives that are set in a law-and-order approach are failing because of the lack of

view of it being a bigger issue than just sexual exploitation (Chuang, 2006).

Law enforcement involvement in Anti-Trafficking Policies

The authors agree that law enforcement officials are not making a real attempt to differentiate between trafficking and smuggled persons (Chuang, 2006, Aronowitz, 2001). Current US policies do not protect migrants who were victims of trafficking, victims of these cases are treated like criminals (Phelps, 2013). As a result, these victims will often be in fear of cooperating with law enforcement officials. The lack of knowledge on how to treat migrants as victims of trafficking pushes migrants to become more comfortable with their traffickers over law enforcement (Phelps, 2013). As a result, victims who are subjected to threats and intimidation will lead to lack of cooperation between victims and law enforcement officers (Morera, 2022 Cornelius, 2004). In some circumstances, victims will fear deportation and thus stay silent or try to tell officers they are fine (Countertrafficking, 2012). Once trafficked into a country like the United States victims feel threatened by the real hostility of law enforcement in the country they are now in and will refuse to further cooperation (Musto, 2009, Farrell, 2009, Miller 2013).

Under the VTVPA of 2000, T-visas are used for victims who have been exploited or trafficked within the borders of the United States (Phelps, 2013). However, the author found that there are misconceptions when trying to identify a criminal of unauthorized migration and a victim of Human Trafficking. Weak law enforcement and the lack of coverage in combatting human trafficking globally as well as national law have created a place for perpetrators to feel like they can get away with trafficking and smuggling of humans (Trajano, 2018). Lack of law enforcement understanding and criminalization of victims creates fear among victims of trafficking suggesting that there is corruption between criminal justice actors and law enforcers of human trafficking. Studies show sufficient gaps in national policy and the protection of victims of trafficking showing how law enforcement

further creates a space for traffickers to get away with trafficking humans (Trajano, 2018). Authors have stated that oftentimes, trafficking cases are not prosecuted. Further evidence states that there are as many sex trafficking cases as there are labor trafficking, yet since the TVPA has been enacted labor trafficking goes unnoticed under sex trafficking (Countertrafficking, 2013). Migrants are often put in positions where the same person who is supposed to protect the migrant, also has the job to deport undocumented individuals, arrest prostitutes, and detain people without proper authorization to be in the state (Countertrafficking, 2013). As a result, law enforcement and national security policies that are aimed at reducing trafficking do little to address the fact that migrants will still be exploited in their destination states (Farell, 2009).

Migration, Labor Demands, and Visa Policy on Human Trafficking

A state's refusal to adjust its migration policies is a symptom of the state's refusal to examine the rights of migrant workers (Chuang, 2006). When analyzing Human Trafficking in times of or after conflict findings show that migrants are more susceptible to trafficking as there is a big demand for cheap labor (Bigio, 2019). We only look at the number of immigrants that are coming into the United States instead of looking at what demands the United States creates for migrants. Peksen et al (2017) examine the role of neoliberal policies on human rights and they argue that market relationship-friendly policies violate labor rights and trafficking in forced labor situations (Peksen et al, 2017). Their findings suggest that market-friendly policies increase the probability of the country being involved with human trafficking and countries with business-friendly climates are more likely to be destination countries for labor traffickers. Gathering research on nine reports examining Human Trafficking victims, case studies, and professionals on cases of Human Trafficking, the author found that all nine reports they analyzed linked human trafficking with undocumented immigrants. Further, they find that 75% of the victims of human trafficking were undocumented migrants (Logan, 2009).

U.S. policies and inadequate accountability in seeking justice are critical in helping victims who are seen as criminals from the beginning (Logan, 2009). Further looking at how labor policies how can create a more comprehensive plan for border security, authors find that recruitment agencies and visa sponsors can charge rates from \$1000 to \$20,000 in legal fees for securing employment-based visas with these companies (Avendaño, 2013). These workers borrow money from families or even promise to pay smugglers back further, pushing them into an environment where trafficking thrives. Looking at neo-classical models they find that in 1986 congress attempted to deter undocumented migration by imposing sanctions on employers who hire illegal workers. However, the United States has a built-in demand for immigrant labor (Massey & Espinoza, 1997). Although Human Trafficking has been featured in many governments' political agendas throughout the decades comparing the EU's effective trafficking policies the author finds that comprehensive policies need to be further addressed because we have an open flow of goods and technology throughout our world however, we do not accept the flow of workers for these goods from across the border (Gramegna, 2008). Looking at the way a government should protect a trafficked person is important in learning what effective policies can help improve this issue. Reviewing the literature on the implementation of effective detection, investigation, prosecution, and victim protection strategies the authors find concerning labor trafficking, that there has been a gap between law enforcement and the perception of trafficking activities. (Dandurand, 2017). Police responses have been weakened by overlapping definitions of trafficked persons and prostitution offenders. Further looking at how immigration policies have shaped Latino demographics they further find that migrants fill a certain need for Americans and there are simply jobs that Americans do not want as a result, we vilify migrants, and policies like IRA contradict these labor needs. (Sierra et al, 2000). Further Using Respondent Driven sampling they find that 58% of migrants have experienced one or more types of trafficking violations or

trafficking abuses. (Zhang, 2010-2011). Further, when interviewing employees of the Department of Homeland Security they state that the United States labor system is set up to benefit from illegal workers who will work cheap labor that employers can further exploit (Phelps, 2013). The Border Security Act and the Economic Opportunity and Immigration Modernization Act of 2013, codify a roadmap to citizenship for more than 11 million undocumented immigrants and force foreign labor contractors to work within the standards of the Department of Labor. (Avendaño, 2013). The Author finds that temporary labor visas make it easier for migrants to become victims of exploitative labor practices. The state's refusal to create a comprehensive plan for the protection of labor rights has pushed migrants into situations where they can be exploited into poor labor practices that use human trafficking.

Looking at indicators of Human trafficking reported by the UNODOC authors find that states who rank highly as destination states are targeted by traffickers because they have a higher number of restrictions on the border (Avendaño, 2013). Drawing information from the Mexican Migration Project Database authors found that in 1961 congress composed their first numerical limits on immigration setting the cap of 120,000 total visas beginning in 1968. (Dandurand, 2022). After that by 1976 in the West, most nations were set at an annual cap of 20,000 visas, although labor demand and supply did not change (Dandurand, 2022). By the 1980's it was reduced to 29,000, forcing migrants to compete for visas when there was a big demand for them (Massey & Espinoza, 1997). The author further found that instead of migration coming to a halt, it rose from .017 in 1996 to .040 in 1979. Between 1990 and 1999, there was a big tightening of immigration policies around the US labor markets, reaching a peak in 1995. (Dandurand, 2022). Between these years the United States enacted ITCA legalizing 2 million undocumented migrants while also criminalizing employers hiring migrants as workers. Further, the author found that after 1999 there has been a decline in the movement of undocumented migrants not due to border enforcement policies

but because the demographic in Mexico means that they have an aging society (Dandurand, 2022).

Under the TVPA of 2000, the government has implemented special T-visa and U-visa policies to further protect victims of trafficking and afford them certain benefits. However, because of the lack of law enforcement to see these people as victims' authors reported that law enforcement continues to give out special visas to sex trafficking victims and not labor trafficking victims. (Countertrafficking, 2013). Authors have stated that there are several limitations for victims to continue receiving a T-visa. The authors found that there is a requirement for T-visa applicants to cooperate with law enforcement. Authors found that victims find it difficult working with law enforcement when trying to apply for a T-visa, they have language barriers, they are not familiar with the process, and they cannot afford to continue with the application and prosecution of the T-visa. (Countertrafficking, 2013)

Further, the imposition of employer sanctions and the concentration of enforcement along the border has increased the odds of a person taking an illegal trip into the United States. The authors also find that the restrictive nature of US immigration policy visas would only cover 9% of Mexico's demand, those who do not receive visas will be more susceptible to becoming victims of the human trafficking criminal network. (Massey & Espinoza, 1997). When the recession started in 2008, US citizens had high rates of unemployment, and low wages, and found it much harder to get jobs. This further pushed anti-immigration frames among citizens who were having financial trouble (Phelps, 2013). As a result of these anti-immigrant frames, the author shows when analyzing a March 2013 Pew Research study shows that although 49% of immigrants agree that they strengthen the US, 41% also agree that immigrants take jobs and take too many health care programs (Phelps, 2013). Further, when looking at border security between US-Mexico border controls, 25% of Americans believe that we need better border security and higher enforcement of immigration laws, while 47% of people also believe the government

needs to create a way for citizenship if they meet requirements.

Methodology

The purpose of this study is to evaluate the effects of human trafficking policies, on trafficked migrants and immigrants. A non-experimental qualitative methodology approach was used for this study to appropriately measure the phenomenon of trafficking policies and the effect it has on migrants. Qualitative methods of research test the hypothesis the same as any other method of research would, only by using observable data in relationships, social structures, or real-world knowledge of a specific group of people (Van Evera S, 1997). To gain better insight into the phenomena of human trafficking and the effect it had on migrants, this paper will spotlight the issue of Human trafficking by analyzing the United States policies that are used to combat Human Trafficking. The policy analyzed in this paper is The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA). This act was the first act to address human trafficking as a crime in the United States but also created other policies that can help track the efficiency of combatting trafficking under this policy. To analyze the VTVPA this paper uses relevant policy documents such as the Trafficking in Persons Report (TIP). The TIP report states in the year 2021-2022 the United States ranks in tier 3 meaning that the United States meets in own criteria for protecting, preventing, and prosecuting human trafficking.

Studies of human trafficking change over time and the nature and methods of trafficking humans are not always generalizable in a bigger scope. To understand the effects that human trafficking has on migrants this paper will have to rely on observable data, that can help contextualize the information from various sources. To provide new insights and determine if US policy studies and policy reviews show that they are meeting the standards in protecting, prosecuting, and preventing issues of Human trafficking. To determine the success of this policy, this paper will examine the State Department's Trafficking in Persons Report (TIP). To ascertain the US

assumption that we have met the criteria to combat human trafficking, this paper will further analyze and spotlight previous years from a period of around 2018 to roughly the present time, of trafficking reports between the United States and the Southern border. To do that this paper uses outside research studies, news, articles, and observable data such as Pew Research, Human Trafficking Hotline, and Visa Demographics, as well as United Nations (UN) reports, independent think tank reports, NGO, and IGO news and reports. We use not only the observable data, but the reports to gain a better understanding of the factors that contribute to the issue of human trafficking of unauthorized immigrants. Additionally, the United States launched an Enhanced Collaborative Model (ECM), T-Visa and U-Visa demographics, to study the effects of this policy on migrants and immigrants. Furthermore, this paper addresses the criticism that prior authors had over the issue of human trafficking in four key factors: Globalization, Policy Framing, Law Enforcement, and labor and visas.

There are many limitations in conducting a research study on Human Trafficking. The ethical side of human trafficking involves a vulnerable population, who is extremely hard to access, nevertheless will be extremely hesitant to conduct interviews and participate in research studies. Human trafficking is often a hidden crime, because of this it may be difficult to track, or even detect victims of trafficking. As a result, studying and tracking human trafficking, and human smuggling in the research field is a difficult task, there is no real idea that a set sampling frame may exist. This causes a lot of limitations when studying human trafficking because as much as this paper could rely on quantitative data, the numbers are just too skewed and not reliable enough. Because of this, it is not easy or ultimately reliable to do a research study on quantitative research methods that would not show accurate or sufficient data. Despite these limitations, research on the study of human trafficking is important in understanding the scope and impact of these issues. The more we study the phenomena of Human trafficking the better we can develop effective methods to

address this issue.

Background

The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA)

President Clinton signed The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) addressing trafficking as a federal crime. Under this act, sex trafficking and labor trafficking means to exploit another human being using fraud, coercion, or force. (Grassley, 2017). Additionally, this act states to establish and prohibit, “(1) forced labor; (2) trafficking with respect to peonage, slavery, or involuntary servitude; and (3) sex trafficking of children or of others by force, fraud, or coercion. And sets penalties for violations, including life imprisonment” (United States of America, 2000). The VTVPA protects victims of forced labor, slavery, or sex trafficking. The VTVPA also states that trafficking involves the violation of labor and immigration codes, slavery, false imprisonment, assault batter, fraud, pandering, and extortion (United States Of America, 2000).

The framework and criteria for which the VTVPA establishes its efficiency runs in a 3-pronged approach, or the 3 P's: Protection, Prevention, and Prosecution of human trafficking. Under the VTVPA the United States' measures of Protection state that, “By creating immigration protections for foreign national victims of human trafficking, including protection from removal for victims of trafficking (the T visa) and victims of certain crimes (the U visa); and by allowing certain nonimmigrant status holders the opportunity to adjust to permanent resident status.” (U.S. Department of Justice, 2022). The VTVPA (2000) also protects non-citizens and provides special visas to stay in the United States, if the trafficked person were a victim of human trafficking upon arriving in the United States, they are afforded special protection under the T-Visa and U-Visa. Prevention measures of VTVPA to combat human trafficking additionally enforce that they, “Require the President to establish an Interagency Task Force to Monitor and Combat Trafficking (PITF), a coordinating task force comprising cabinet-level

officers chaired by the Secretary of State, and directed it to carry out activities that included measuring and evaluating the progress of the United States and other countries in preventing human trafficking, protecting its victims, and prosecuting its perpetrators.” (U.S. Department of Justice, 2022). Under the VTVPA the United States was required to create an office for persons of trafficking to evaluate which countries are continuing with efforts to eradicate trafficking under their 3P criteria. Lastly, the United States emphasizes efforts in the prosecution of traffickers. Under the VTVPA they prohibit “forced labor, trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, and sex trafficking of children or by force, fraud, or coercion;” (U.S. Department of Justice, 2022). The VTVPA also mandates the traffickers to pay restitution to the victims and families of trafficking. The VTVPA criteria in the 3ps ensure that criminals who commit acts of trafficking forced labor, coercion, or other manipulative tactics against another trafficked victim will receive due justice in the United States.

T- Visa- and U- Visa and Continued Presence

The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) was enacted with the Trafficking and Victims Protection Act (2000) (TVPA) to strengthen law enforcement's ability to combat crimes of Human Trafficking. Within this agency, law enforcement can investigate and prosecute trafficking crimes; they also ensure protection for victims without the risk of being removed from the country (Homeland Security, n.d.). A U-Visa is specifically for victims who are undocumented migrants. To be eligible to qualify for a U-Visa, they must prove that they have been victims of some form of criminal activity, have suffered abuse due to criminal activity, and they must have complied with any reasonable request for assistance from law enforcement in the detection, investigation, or prosecution of human trafficking, including a signed declaration. (U.S. Department of State, 2021). This requires full transparency from migrants, and cooperation with law enforcement to detail and give as much evidence as possible.

Law enforcement will also review the victim's prior criminal history, immigration violations, and other factors that may find them inadmissible for eligibility for a U-Visa. A T-Visa is specifically used for victims of trafficking. Individuals are eligible for a T-visa if they were part of a severe form of sex or labor trafficking, the trafficking happened within the United States territories, and have also complied with any request from law enforcement in the detection, investigation, and prosecution of human trafficking. They further extend these T-Visa visas if the victim would suffer extreme hardship if removed from the United States (U.S. Department of State, 2021, pg 9).

Continued Presence Visas are designed as temporary immigration visas for victims who law enforcement has identified as having, "Severe forms of trafficking" and may be a witness to the crime (U.S. Center for Countering Human Trafficking, 2021). Continued presence visas allow for victims in the investigation to remain in the United States while the investigation of the crime is going on. This visa is granted for up to two years and may be renewed within two-year increments. Recipients of Continued Presence visa gives them the means to live and work within the United States. Reports State, "al. It alleviates fears about removal and economic support, which not only stabilizes victims, but also improves victims' ability to seek justice against their trafficker either by cooperating with law enforcement, filing a civil action, or both." (U.S. Center for Countering Human Trafficking, 2021). For people to apply and be considered for a Continued Presence visa, they must be identified by law enforcement first before they can even be considered victims of trafficking. Law enforcement then helps the victims prepare the application as soon as possible after they have been identified. Law enforcement cooperation is necessary to receive this visa.

2021-2022 Trafficking in Persons Report (TIP)

The Trafficking in Person Report (TIP) is an annual report for victims of trafficking that has been issued by the United States since 2001. The TIP report reflects the United State's commitment

to protecting human rights under The Trafficking and Victims Protection Act of the 2000s. The Department of State required that the Secretary of State submit an annual report to Congress assessing the progress to combat the trafficking of persons in that country (U.S. Department of State, 2021). Participating countries are ranked in one of 3 tiers and reflect the evaluation of the country's effort to combat human trafficking within the efficiency of the criteria outlined in the 3Ps. Governments that do not comply or make efforts to reach the requirements face distinct levels of ranking that come with different repercussions. The rankings go as follows: Tier 1 is for countries that fully meet the VTVPA standards. Tier 2 is for countries that do not comply but are making significant efforts to bring themselves into compliance with the standards. Tier 2 countries are also on a watch list, where these countries must provide evidence that they are trying to make efforts to comply with the criteria under the VTVPA. Lastly, Tier 3 is for territories whose governments do not comply with VTVPA standards and are not making efforts to do so (U.S. Department of State, 2021).

Findings

Globalization and Coyotes

Globalization has created an interconnection between different countries around the world. As a result of globalization, the world built a new free market in which citizens trade technology, information, financial goods, and even humans. Human trafficking has become a profitable, but illicit business. The International Labor Organization's (ILO) 2014 report has stated that human trafficking has made a \$150US billion-dollar profit per year. Reports state, that \$99US billion came from sexual exploitation, while the other \$51US billion resulted from economic exploitation or labor exploitation (International Labor Office, 2014, pg 15).

The United States has not made efforts to reform immigration since the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013. This was an attempt to address not only immigrant labor and pathways for legal status but other leading immigration

issues. Further research of immigration policies suggests, ” For decades, the default response to surges in migration has been harsh enforcement, with the expectation of “detering” people from coming. Without fail, these measures seemed to succeed in the short term, but all were inevitably followed by new crises. For example, “aggressive crackdowns—or threatened crackdowns—in 2014 and 2017 led to short-term reductions in migration, only to be followed by steady increases leading to record numbers of asylum-seeking children and families in 2019.” (Washington Office on Latin America, 2020). Studies show that in 2018 migration rates were still at an all-time low with only 396,579 apprehended at the border. (Isacson, 2018). Pew Research Offices and Washington Office on Latin America (WOLA) traveled to Mexico to learn and study more about the impact of migration flows and asylum seekers at the southern border. As indicated in Figure 1 (Pew Research Center, 2021), research suggests that in the year 2017 to 2019 when Donald Trump intensified its migration enforcement, US border security apprehended more than 31,416 migrants the following June, this was the highest monthly since the year of 2001. (Meyer & Isacson, 2019). In the following years, 2019 to 2022 the data suggests that the number of migrants who are apprehended at the southern border has gone up to 1,643,679 detected migrants (Congressional Research Service, 2021, United States Border Patrol, December 2000). Given the limited data, we can assume that the rate of migration will continue to rise as reported from the year 2020 to the year 2022. The data does seem to suggest that migrants are only deterred from coming into the United States for a brief period and have found outside ways of reaching the United States. Further, when looking at the most recent data in November of 2022, in Figure 2 (Pew Research Center, 2023), Pew Research states that the number of unauthorized migrants entering the United States artificially at the U.S.-Mexico border, “has soared since then (April 2020), with 206,239 reported in November 2022” (Gramlich, 2023).

Coyotes add to the problem of human smuggling and human trafficking because these

illegal smugglers have found a way to create a business due to the restrictive immigration policies set in place. Human Smuggling and Human Trafficking have two very distinct definitions. According to US definitions, Human Trafficking has the aspect of “force, fraud, or coercion” (Immigration and Naturalisation Services, USA, 2000). The act of trafficking another person can be within a nation’s borders, or outside. The victim of human trafficking was at no fault of their own and was trafficked to work in an exploitative industry due to fraud, force, or coercion. Human Smuggling on the other hand lies in the definition of transportation. (Office to Monitor and Combat Trafficking in Persons, 2019). Smuggling victims will usually pay their way into the destination state they are trying to get to, and therefore, willingly have smuggled. A trafficking victims’ treatment does not end when they reach their destination state, these victims will be further exploited. Meanwhile, smuggling victims usually end the act of smuggling when they arrive at their destination state. Smuggling, however, may evolve into trafficking along the way. A recruiter had coerced a woman named Marie, into taking a job overseas and that they would help her get a working visa when she arrives in the state. Upon arrival, the traffickers had no job set up for her and instead had told her she was forced to pay off the debt of transporting her. Marie was then forced into prostitution and continued to be shamed by telling her that they would tell her family what she is doing for work in the new states (United States Office to Monitor and Combat Trafficking in Persons, 2019). United Nations Office on Drugs and Crime states that the Crime of Human smuggling generates around 6.7 billion dollars a year for criminals (United Nations Office on Drugs and Crime, 2010).

Reports state that there are over 47,00 migratory corridors, the US-Mexico southern border is the largest (Hooper & Gilardi, 2020). Coyotes are used in Mexico to smuggle migrants through these illicit channels, and across the border for a fee. Coyotes will hide, drive, walk, or even make illegal documents to take an unauthorized migrant right through the border. Because of the

lack of sufficient support for better policies to legally allow immigrants in the state, immigrants, migrants, and asylum seekers resort to the use of traffickers. “Many of the counter-trafficking measures and border controls that have emerged alongside the (re)discovery of the ‘trafficking problem’ have been contentious, arguably pushing a larger proportion of unauthorized and forced migrants into the hands of professional smugglers or traffickers, exposing trafficked persons to greater danger than would otherwise have been the case, making a limited impact on the social causes of trafficking, and generating dire consequences for those migrants who are ‘on the move’” (Lee, 2011, pg 1). Migrants often are told that they will help smuggle them across borders and that they do not have to pay them until they have successfully crossed over. The Traffickers do not tell them that they are going to hold them hostage in a house, ask for money, and once the family or whomever you are going to in the US pays that money, then you are set free. “They ask for a quantity of money, and if they do not get it by the time and date they say, they will kill you. And they kill you slowly; they will cut your hand, they cut the tongue, they will take off an ear. That’s their law,” Garcia said.” (Garcia & Moran, 2021). The National Human Trafficking Hotline Report is a reporting system for human trafficking. People send information-based signals on issues relating to human trafficking and the Department of homeland security gathers data annually (Human Trafficking Hotline, 2021). From January 2020 to December 2020 findings indicate that of 530 situations of human trafficking, 50% of these victims did not have legal status in the state and were identified as being in some type of labor trafficking. The State Departments Trafficking in Persons (TIP) reports for the year 2021 suggest that they opened 1,111 investigations related to human trafficking. This is an increase from the trafficking cases in 2020 only being at 947 (Department of State, 2022). Reports show that the United States is still making an effort to identify, track, and protect victims of human trafficking. However, due to the restrictive nature of immigration policies, unauthorized migrants have found traffickers

who are paid to bring them into the United States. These immigrants do not know the risks they are taking when paying smugglers or traffickers to come to the United States. Sometimes, migrants don’t find out that they have been trafficked until they have arrived at their destination state where a new fate will await them.

Human Trafficking Issue Framing and Law Enforcement

Human Trafficking has long been correlated as an issue of sex trafficking against women and children. Additionally, United Nations Women reports finding that 65% of all trafficking victims worldwide are represented by women and girls. Furthermore, 99% of people who are in the commercial sex industry are women and girls (Bahous, 2022). Women in society and the media have been shown as people who are susceptible to more vulnerabilities in the community, one of them being sexual abuse. United Nations International Children’s Emergency Fund (UNICEF) studies found, “on average, across 58 different magazines, 51.8 percent of advertisements that featured women portrayed them as sex objects. Additionally, when women appeared in advertisements in men’s magazines, they were objectified 76 percent of the time” (Swift & Gould, 2021). These stereotypes and hyper-sexualization of women and girls in the media cause the problem to be seen from the lens of only sex, and the victims of the phenomena of trafficking being linked to women and girls. According to the ILO, 46% of stories in the media about Women and girls reinforce gender stereotypes. (International Labor Organization, 2011)

The United States ignores the trafficking of unauthorized migrants who come for labor and end up in exploitative agricultural, domestic, and other forced labor. As illustrated in Figure 3 (International Labor Organization, 2014), when examining forced labor estimates by specific types, we can observe that forced labor exploitation constitutes a larger percentage of these estimates. Forced labor exploitation accounts for 68% of forced labor victims or 14.2 million individuals. Sexual exploitation

on the other hand makes up 22% of forced labor estimates, 4.5 million people. With federal backing, the United States launched an Enhanced Collaborative Model (ECM) to Combat Human Trafficking in large cities like Los Angeles, Houston Texas, and Cook County Illinois. This task force's focus is on law enforcement's ability to identify, protect, and prosecute criminal activity of human trafficking. When the federally backed task force was conducting their studies from 2010-2021 their report stated that "many trafficking investigators are placed within sex crimes or vice units, so they tend to focus entirely on sex trafficking" (National Institute of Justice, 2022). This creates an issue when trying to identify a person who has been a victim of sex trafficking versus a person who has been a victim of human trafficking because the focus of sex trafficking has been on women and girls. This further affects immigrants and migrants because when looking for victims, law enforcement does not see a victim of unauthorized migration as a victim of sex trafficking because of issue framing around immigration. The TIP report further stated, "a continued lack of progress to comprehensively address labor trafficking in the United States, including in efforts to identify victims, provide their specialized services, and hold labor traffickers, including contractors and recruiters, accountable." (Department of State, 2022, pg 582).

Reports state that in 2021 the Department of Justice (DOJ) provided 2.3 million dollars to support law enforcement training to implement victim-centered and trauma-informed investigations and prosecutions. (Department of State, 2022, pg 575). The DOJ provided an extra \$60 million to specifically support victim assistance programs throughout the United States. Roughly, \$8 Million of these funds from the DOJ went to "Training and technical assistance to improve identification of and assistance to trafficking victims nationwide." (Department of State, 2022, pg 577). Agents are taught that all people who cross the border are criminals, and they all come to live off welfare or to take jobs. As a result of a lack of law enforcement understanding, the criminalization of victims

creates fear among victims of trafficking. Human Rights Watch conducted interviews with formal border patrol agents who have stated, "Border Patrol "has a culture of cruelty" and "a culture of dehumanizing" border crossers." (Sawyer, 2022). Studies indicate that Customs and Border Patrol (CBP) officers have had about 151 officer-related deaths of immigrants or migrants between 2021-2022 (U.S. Customs and Border Protection, 2023). Furthermore, When the federally backed task force was conducting their studies from 2010-2021 their report stated that "Law enforcement components of task forces were not well-positioned to address labor trafficking effectively." (Siegel & Zaitch, 2021). The TIP reports do state that US law enforcement has been making an effort to detect more cases of human trafficking from the people who have crossed the US-Mexico border, further finding that of the Department of Justice (DOJ) 2021 investigations in human trafficking cases, "577 involved predominantly sex trafficking and 26 involved predominantly labor trafficking, compared with 619 and 41, in FY 2020." (Gramlich, 2023). State Department reports also state that they have reported over 2.3 million arrests due to unauthorized entry into the United States (U.S Customs and Border Protection, 2023). When a trafficking ring is exposed, the victims have a language barrier and are fearful of law enforcement, migrants will then hesitate to cooperate with law enforcement because the officers believe that they are criminals of both illegal migration and were voluntarily trafficked (Pollock & Hollier, 2010). Advocates for victims reported that "the arrest and poor treatment of victims during the criminal justice process increased those victims' distrust of law enforcement and gave credibility to traffickers' warnings to not seek help." (Department of State, 2022). Jose Azurdia was age 54 when he died of a heart attack in an immigration detention center in California, a guard told Azurdia that she could not see him or help him because this guard did not want to get sick (Human Rights Watch, 2018). When victims of trafficking encountered law enforcement, these victims were quickly arrested and threatened with charges if they did

not cooperate with law enforcement agencies, additionally, they required victims to register as sex offenders for the acts that the traffickers made them commit (Department of State, 2022, pg 583). In 2019 the ACLU received a report that law enforcement officials were bullying and harassing immigrants at the border, calling them names like “subhuman”, “garbage”, and many other derogatory terms (Drake & Huddleston, 2021). The attorney for this agency defended their statements by suggesting that the comment made towards these victims is “part of the agency’s culture” and is “commonplace” for these remarks (Drake & Huddleston, 2021).

There may be more victims of human trafficking who have not come out to report or were not given proper investigation especially when it comes to immigrants at the southern border. What these numbers do seem to suggest is that as more unauthorized migrants are seeking labor in the United States, and they are channeling through the US-Mexico border. However, even then these are not accurate ways to track the system of human trafficking because the TIP report further analyzed, “A DHS inspector general report found DHS did not accurately track dissemination and receipt of tips on human trafficking through its tip line, take follow-up actions on the tips, or maintain accurate data on investigative cases and victims.” (Department of State, 2022). Assuming that the victims who were part of this sex or labor trafficking between the US and Mexico border did not report, these numbers may not reflect the realities of migrants who cross the borders. Current U.S. policies do not suggest that they protect migrants who were victims of human trafficking, under current US law enforcement victims of these cases are treated like criminals. Victims who are subjected to threats and intimidation will lead to a lack of cooperation between victims and law enforcement officers (Morera, 2022 Cornelius, 2004).

Labor and Trafficking

“The American dream is a powerful attraction for destitute and desperate people across the globe, and where there is need, there is greed

from those who will attempt to exploit these willing workers for their own obscene profits,” (United States Attorneys Office, 2021). David Kaplan, lead labor market specialist at the Inter-American Development Bank (IADB) stated that there is currently little to no help for workers who lose their employment in Mexico because the State of Mexico itself lacks federal unemployment benefits that could help these individuals. Immigrants are then forced to rely on their savings, charity, or family friends to survive and make a living for their families. “The effects of losing a job are long-lasting, and many workers in Mexico earn salaries near the poverty line” (Murray, 2020). Studies show that in the year 2021, Congress budgeted \$25U.S. billion to enforce immigration laws, 12 times as much as the \$2.1 billion to enforce better labor standards (Costa, 2022). Unauthorized migrants are pulled into the United States because the United States has created an environment where unauthorized immigrants have come to work hard labor jobs that no US citizen would like to work. The US Bureau of Labor Statistics data indicate that there are around 10 million job vacancies in the United States (U.S. Bureau of Labor Statistics, 2023). In America, there are only 62% of US citizens are working-aged people. Immigrants and migrants who come into the United States fill that lack of working-age Americans that we are missing in the United States. Further Studies show that “43 percent of US labor force growth since 2000 has been due to immigrants” (Basso & Peri, 2020). Reports further suggest that immigrants help fill not only job vacancies, but help the working gap by having such a high fertility rate. The United States Census Bureau shows that in the United States, women have about 1.6 children per average which is below the replacement level (Morse, 2022). Immigrants have 2.18 average children in the United States, while US citizens only have 1.76 (Peri, 2020). Immigrants keep fertility levels high in the United States. This creates a trickle-down effect in the economy because having more children not only replaces the aging population in the United States, but these working-aged children of immigrants now work and keep the economy and employment

rates high (Peri, 2020). Despite criticism of Immigration participation in the economy studies by the New American Economy Research Fund suggests that in the year 2019, immigrants alone contributed 9.8 billion in federal taxes, and held more than 82.2 billion in spending power (New Economy Research Fund, 2021). The VTVPA extends its protections to labor trafficking, stating that they prohibit forced labor, by force, fraud, or coercion (U.S. Department of Justice, 2022). Pew Research surveyed 10,957 US adults from April 29 to May 5. Looking at Figure 4 (Pew Research Center, 2020), their findings indicate that about 77% of US adult citizens claim that immigrants fill jobs that they do not want, while 21% of undocumented immigrants fill jobs citizens would like to have (Krogstad et al., 2020). There are 28 million foreign-born people in the United States, workforce, about 17.4% of this population is immigrants (U.S. Bureau of Statistics, 2020).

Assuming that as more migrants flow into the United States, they do so using traffickers. Migration policy institute reports state that although the United States does not allow forced labor, “Advocates called for the government to launch an investigation into how a group of 24 employers and farm labor contractors who allegedly subjected more than 100 H-2 workers to forced labor were able to petition for more than 70,000 H-2A positions over the course of six years.” (Department of State, 2022). Traffickers coerce victims to work in legal and illegal industries, pushing them into jobs like agriculture, factories, drug smuggling, domestic work, and many other industries (National Human Trafficking Hotline, 2021). Immigrants are then used by their traffickers and their newly hired employers; these victims were going to be trafficked for labor purposes they just were not aware. Reports by the Migration Project Institute state that in the Southern border, these traffickers act like small criminal networks, but work with bigger networks to smuggle victims. “But the cartels charge a toll to cross their territory, known as *derecho de Piso* (or the right to pass). The tolls also come with stipulations as to how many migrants can be smuggled at a given time, and there are accounts of drug traffickers dictating

the migrant smugglers’ schedules to slip their charges across the border illegally, often sending groups of crossers ahead of drug shipments to overwhelm U.S. Customs and Border Protection (CBP) agents.” (Hooper & Gilardi, 2020). These reports also stated that criminal actors have coerced smugglers into disclosing what migrants are wealthy to hold them for ransom for more money. The United States using Organized Crime Drug Enforcement Task Forces (OCDETF) investigation, found cases where traffickers and their conspirators were using the H-2A program to be trafficked labor victims from Mexico and other regions into the United States. US reports state, “The conspirators required the workers to pay unlawful fees for transportation, food, and housing while illegally withholding their travel and identification documents and subjected the workers “to perform physically demanding work for little or no pay, housing them in crowded, unsanitary, and degrading living conditions, and by threatening them with deportation and violence.” (United States Attorneys Office, 2021).

Immigrants often work in low-wage jobs, where employers are less likely to follow proper workplace regulations. United State Department reports indicate that due to the structure and nature of application, approval, and finally the job itself, a lot of employers have been able to get away with forced labor treatment of immigrant workers (Department of State, 2022, pg 588). Although there are provisions to help ensure that immigrants who are seeking labor are seeking labor legally, immigrants have a hard time trying to apply for and get these visas without the use of traffickers, and employers who work with these traffickers. The Trafficking in Persons report for 2022 states, that “Oversight of employment-based and other nonimmigrant visa programs remained weak, and structural conditions embedded in some of these programs continued to enable human traffickers—employers, labor contractors, or agents—to maintain control of workers.” (Department of State, 2022, pg 588). Along with the ever-present threats of deportation and confiscation of documents, this system makes migrant farm workers from

Mexico extremely vulnerable to trafficking” (Polaris Project, 2017). Temporary work Visas like the H-2 visas require immigrant workers and employers to file a petition with United States Citizenship and Immigration Services to be approved for these work visas (U.S. Department of State, n.d.). Employers are restricted from receiving worker’s payments when approved and working under this visa and this visa prohibits the practice of forced labor. Advocates further reported that there is not only corruption in the labor sector, but a lack of governmental follow-up with the applicants for these visas to ensure that they were not being exploited or put migrant workers in further danger of being exploited in the workforce not only by traffickers but by employers.

U-Visa, T- Visa, and Continued Presence Visa

“While T-visas provide a crucial legal pathway to immigrant survivors, the program has been underutilized since its inception in 2000.” (Dahlstrom & Gowayed, 2022). To receive a U-Visa, T-Visa, or Continued Presence Visa, the victim of trafficking must fully comply with law enforcement before they start the visa application. The VTPA was also amended in 2017 to include victims of trafficking who were trafficked by narco-traffickers, labor-trafficked victims, and young women lured into the United States for exploitative work (Grassley, 2017). In addition, the 2017 act of the VTPA also loosened the criteria in evidence that must be presented to apply for T-nonimmigrant visas. When applying for a T-visa for the application the victim must prove that were not only victims of human trafficking but fully comply with any request from law enforcement. When the 2017 act of the VTPA was ratified, this act removed the need for specific law enforcement requirements to prove that they were complying with law enforcement requests. This means that they can show emails, police reports, or other court records to prove they were victims of trafficking (Grassley, 2017). Since the 2017 amendment data shows that there has been a greater decrease in the Visa applications approved for victims of trafficking. Previous authors have implied that

with the Restrictive nature of visa policies, our visas would only cover 9% of Mexico’s demand. (Massey & Espinoza, 1997). For U-Visa the requirement to prove that they have complied with law enforcement requests is still required to be able to apply for this application. (U.S. Customs and Border Protection, 2023)

U-Visa applications are for victims who have been exploited by some form of abuse like domestic violence, female genital mutilation, murder, and many more criminal acts. When interpreting the number of petitions for U-Visas brought forward that have been approved, there is a decrease in the years 2020-2021. In 2020 there were 36,448 petitions received for U-visas with only 17,225 approved. The most recent findings show that in 2021 there were 37,164 petitions received and only 16,731 were approved (Department of Homeland Security, U.S. Citizenship and Immigration Services, 2022). The annual cap for U-Visa application is 10,000 so the data suggests that the United States was approving more visas than they are capped at. However, compared to the data of past years, the studies still show that the United States is not approving as many visas although more people are applying annually. Additional studies suggest that U-Visa reports findings for U-Visa petitioners indicate that 79% of petitioners reported that they did not hold legal authorizations to be in the state. Moreover, 13% of these recipients overstayed their temporary visas (U.S. Customs and Border Protection, 2023).

When looking at T-Visa demographics it is important to look at the specifics of the T-visa because this is the first visa to protect victims of human trafficking. Victims of T-Visas must also fully comply with law enforcement requests. Additionally, to receive a T-Visa applicants must prove that the trafficking happened within the borders of the United States, additionally, the victim must not have left the United States since the crime of trafficking took place. Department of Homeland Security (DHS) data suggests that for the year 2022, approval of T-Visas has been up by 106% (DHS Center for Countering Human Trafficking, 2023). However, similar to the U-Visa, Trafficking in Persons report suggests

a decrease in the number of T-Visas granted in the years 2020-2021. While they granted 829 T-Visas in 2021 this is a decrease from 1,040 applicants in 2020 (Department of State, 2022, pg 586). T-Visa annual caps are 5000 visas, the United States has been granting between 800-1000 T-Visas between the years of 2021-2022. T-visa demographic reports additionally add that although we have approved 3,390 migrants for T-Visas from Mexico, from 2008-2021 we have denied over 4,800 applicants. In further research of denials of T-visa applications, researchers have interviewed legal advocates who have found that “USCIS has not made public the basis for denials, but 43 percent of legal advocates surveyed who received a denial said that it was due to a failure to show that the applicant was in the United States “on account of ” of trafficking—the physical presence requirement.” (Dahlstrom & Gowayed, 2022). When looking at the top countries that they deny most for T-Visas, Figure 5 (Dahlstrom & Gowayed, 2022) indicates that they deny people from the Region of Mexico at a higher number than they do those of other regions like the Philippines, Guatemala, or South Korea. With over four thousand migrants who have been left vulnerable to traffickers, we can assume that of this, a considerable number of these victims re-entered the United States through channels of trafficking. On January 2022 UCIS reported that over 70% of T-Visa applicants were victims who did not hold citizenship in the United States (U.S. Citizenship and Immigration Services, 2022). T-Visa demographics reports further show that 20% of applicants for T-visas were from the regions of Mexico, specifically 16% of these applicants were from the Southern border (U.S. Citizenship and Immigration Services, 2022). Continued Presence is an important visa given to victims of trafficking or victims who may be a potential witness to the crime of trafficking, like a victim child, or family member. Continued presence Visas allow for victims to remain in the United States by providing victims access to benefits in the United States like health benefits, legal support, and employment during their stay as an applicant of this visa. Department of Homeland Security data states that for the year

2021- 2022 of 765 victims who applied to receive continued presence visas, only 337 potential applications were reviewed, and DHS has approved 334 applications, including extensions (DHS Center for Countering Human Trafficking, 2023).

Cognizant of the ongoing issue, the United States Customs and Border Protection (CBP) 2019 report stated, “This perception about our immigration system incentivizes migrants to put their lives in the hands of smugglers and make the dangerous trek north to our southwest border,” (Davis & Glaser, 2023). Likewise, when advocates groups like the Enhanced Collaborative Model (ECM), conducted their investigations they reported that “adjudicators continued to request additional evidence and continued to inappropriately issue nonimmigrant status denials, such as denials based on unlawful acts traffickers compelled victims to commit, based on improperly interpreted statutes and regulations or narrower interpretations of the physical presence requirement; the additional requests for evidence increased overall processing times.” (Department of State, 2022). The TIP report states that law enforcement still created significant obstacles to obtaining a U-visa, T-Visa, or Continued Presence status. TIP report evidence suggested, “Advocates reported continued concern with the low number of Continued Presence requests made by law enforcement and noted the heightened importance of this temporary status to access services given increased obstacles to obtaining T nonimmigrant status.” (Department of State, 2022).

Assuming that law enforcement has not been able to indicate what a victim of human trafficking is, this has created further issues when trafficking victims are trying to apply for Continued Presence. For example, the report states that law enforcement often requested addiction evidence which then increased overall processing times for the protections under the T-Visa (Department of State, 2022, pg 586). When non-governmental advocates like Freedom Network USA (FNUSA) conducted studies of victims of Human Trafficking, they found many challenges in requesting and applying for these visas from

law enforcement. Their studies indicate that law enforcement agencies have made it difficult for victims to apply for these visas because law enforcement has set up additional requirements that are not in the DHS guides. Law enforcement has further subjected victims by failing to apply for visas who have pending civil cases. Additional studies have suggested that law enforcement has been coercing victims into showing the contents of their phones or forcing victims to give them information that is not required in DHS guides before they help them apply for these visas (Freedom Network USA, 2021). Furthermore, when researchers conducted interviews with legal consultants who have helped people obtain these human trafficking visas, they stated that immigrant populations face additional barriers in not only being identified as a survivor of trafficking, but additionally, “Survivors in immigration detention often remain unidentified.⁵¹ Detention facilities are frequently located in remote locations with insufficient access to health or legal services.⁵² Moreover, as detained cases are a scheduling priority for immigration courts, their cases are generally on a fast track, giving them little time to retain counsel and prepare their immigration applications.” (Dahlstrom & Gowayed, 2022). Authors have pointed to the fact that there have been attempts to expand the VTVPA’s immigration protections, but they are only met with resistance from Congress which believe that immigrants will “game the system” (Countertrafficking, 2013). There has not been an effort to reform illegal migration, and citizenship within the United States since the 2013 Border Security, Economic Opportunity, and Immigration Modernization Act. When researchers conducted a national survey of conservative members’ opinions when it comes to immigration and immigration policies 40% of these members stated that the restrictive nature of these immigration policies is due to racism, while 18% of the members voted it was not (Parker, 2011). Additionally of the respondents who were surveyed, 82% of them were fearful or anxious about the idea of illegal immigrants taking over the country (Parker, 2014).

Conclusion

The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) marked the United States’ initial attempt to combat the crime of human trafficking while safeguarding its victims’ rights and bringing perpetrators to justice. This research study is aimed to identify the impacts of United States human trafficking policies on unauthorized migrants who have been trafficked. This study conducted a literature review to study how past scholars have researched the effect the VTVPA (2000) has had on unauthorized migrants. This study conducted a qualitative analysis of the VTVPA (2000) policy. To research the effect that this policy has on unauthorized migrants this paper heavily relied on observable data from a variety of sources, including the TIP reports, news articles, research studies, and reputable sources to contextualize better the information received from the VTVPA policy.

The findings suggest that the Trafficking Victims Protection Act of 2000 has had negative effects on the protection of unauthorized migrants who have been trafficked into the United States. As globalization has created an interconnection of the world, we have been able to trade humans as freely as commodities. Research data suggest that the number of Unauthorized migrants has come into the United States with increased migrants entering the border with a reported number of 206,239 people reported in November 2022 (Gramlich, 2023). As more migrants enter the United States they do so using small, organized criminal businesses that profit off of the vulnerabilities of migrants driven into the United States in hopes of a better life opportunity. Despite intensified migration enforcement the number of migrants who have been apprehended at the border has gone up by 1,643,679 detected migrants from 2019-2022 (United States Border Patrol, December 2000). There is an issue when trying to identify a person who has been a victim of sex trafficking versus a person who has been a victim of human trafficking because there has been a major focus on the trafficking of women and girls. Roughly 70.3 million has been budgeted by the Department of Justice to provide for

victim-centered investigations and prosecutions. However, the Trafficking in Persons Report for 2022 states that there is a continued lack of progress in law enforcement's ability to identify victims, provide specialized visas, and hold labor traffickers accountable (Department of State, 2022). Due to the lack of law enforcement ability to detect and identify a victim who has been trafficked immigrants often face additional barriers in being detained in remote locations, with insufficient access to health and legal services. Detained cases of immigrants are often on a fast track, giving immigrants little time to obtain legal counsel and prepare immigration applications. Non-governmental advocates have conducted studies indicating that law enforcement has added additional challenges in applying for human trafficking visas (Freedom Network USA, 2021).

By contextualizing the policy and looking at how outside observable data can assert whether the policy is true, the finding suggests that although the United States is making an effort to protect and provide justice to victims of human trafficking. However, there is still a lot of struggles within the policy of the TVPA itself. The TVPA policy although meant to protect migrants and victims of human trafficking, has created implications where immigrants have to fight harder and provide more sufficient evidence to prove they were once victims of trafficking. Law enforcement has budgeted enough money for victims-centered training and approaches, yet law enforcement still makes mistakes in identifying a victim, initiating the application, and as a result undermining the immigrant's victimization in the crime of human trafficking.

There are several limitations to conducting a study on the implications of human trafficking on any group. As previously discussed because of the hidden nature of human trafficking, there are no real criteria or data to set a sampling frame. Furthermore, researchers like Rubin and Babbie (2008) have stated "Exploratory studies do not provide satisfactory answers to research questions, because the participants in the study may not be representative of the larger population you are

trying to generalize about are trying to generalize about" (Babbie, n.d.). This study helps conduct current new and current research that has not been updated in past research and looks at the criticisms and questions that previously have been had regarding this issue. However, this data may not provide concrete steps in which human trafficking can be eradicated. Furthermore, because of the implications of the victim of this crime being hidden, there were several limitations in obtaining accurate data. Due to this, most data presented assumes that most victims of this crime have admitted to their victimization. Lastly based on time, and resources, there were limitations in studying the phenomena of human trafficking itself because as the researcher I could not get in touch with or figure out a way to get first-hand sources of the phenomena of trafficking.

As a result of this study, this research paper was able to fill in gaps in knowledge regarding the human trafficking of unauthorized migrants. However, for future research, it is recommended that researchers in Human Trafficking should focus on establishing a better way of tracking and tracing victims who have been trafficked. Furthermore, this experiment used a qualitative research method to study the implications of human trafficking on unauthorized migrants using outside research. Future researchers should focus on using a more qualitative research study where they conduct live, observable data, in which they get to have first-hand experiences with victims, criminal justice actors, and other important key players in the crime of human trafficking.

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Appendix

Figure 1: Monthly Migrant Encounters at the United States Border

Note: The graph above is showing monthly trends from January 2000 to January 2022 of record numbers of trafficked migrants at the U.S.-Mexico Border. From Pew Research Center. (2023, January 13). Monthly migrant encounters at U.S.-Mexico border are near record highs.

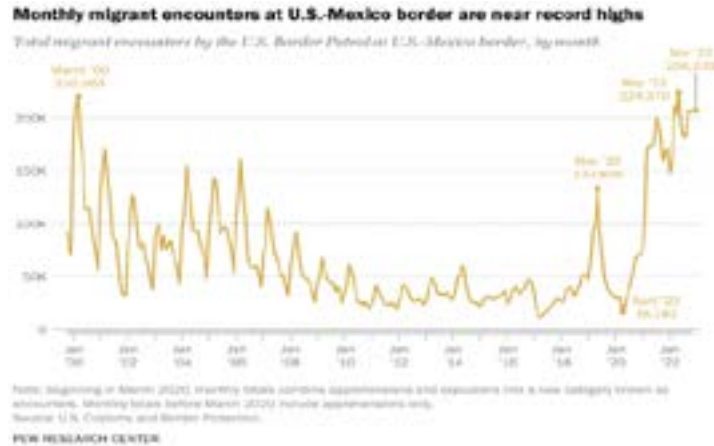


Figure 2: Migrant encounters at U.S.-Mexico Border record levels

Note: This figure shows the highest levels of migrant encounters from 1960 to 2020. From Pew Research Center. (2021, November 9). What's happening at the U.S.-Mexico border in 7 charts. Pew Research Center. Retrieved April 27, 2023

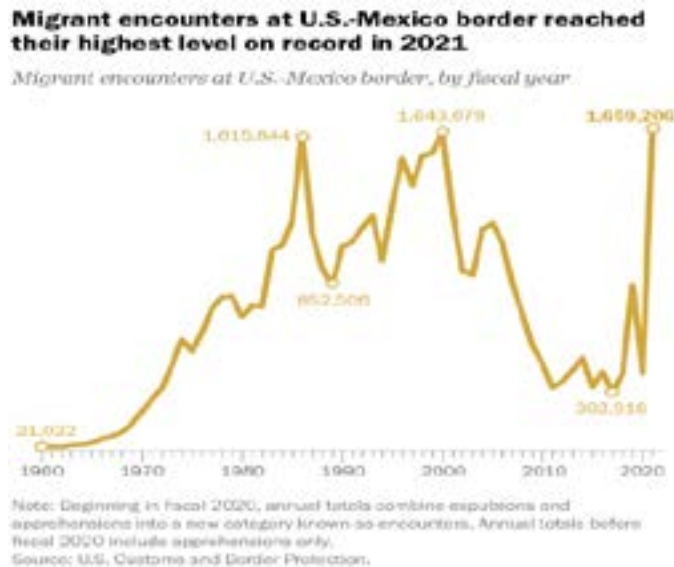
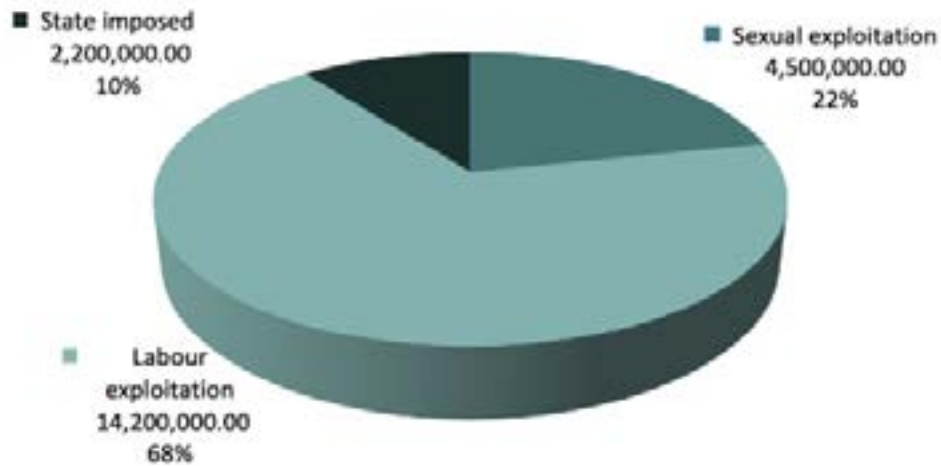


Figure 3: Global Estimates by form of forced labor

Note: Figure above shows a pie chart of the estimates of forced labor by type. From International Labor Organization. (2014). executive summary test 2.indd. ILO. Retrieved April 27, 2023

Figure 1: Global estimate by form of forced labour



Source: ILO

Figure 4: Percentage of U.S. Citizens who believe immigrants take jobs Americans do want? Percentage of Americans who believe immigrants take jobs they do not want?

Note: The graph above shows the percentage of U.S. citizens who believe that immigrants take jobs they do want, versus U.S. Citizens who believe that immigrants take jobs they do not want. From Pew Research Center. (2020, August 11). 3. Views on Latinx as a pan-ethnic term for U.S. Hispanics. Pew Research Center. Retrieved April 27, 2023

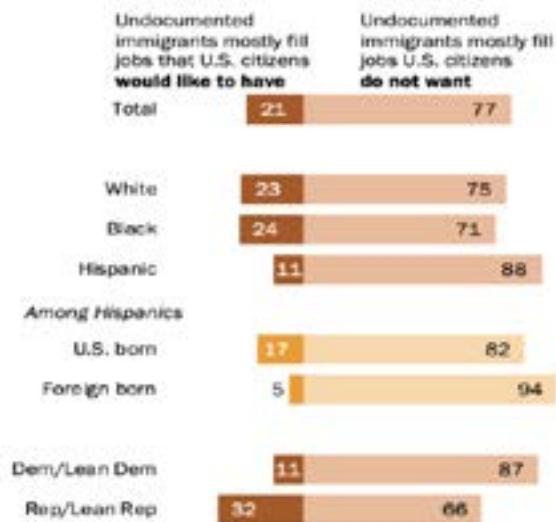


Figure 5: Top 6 Countries of Birth for T-Visa Denials

Note: The graph above shows top 6 countries for denials of T-Visa applications. From Dahlstrom, J., & Gowayed, H. (2022, Decemeber). Barriers to legal protection for Immigrant survivors of Human Trafficking Boston University. Retrieved April 26, 2023

Figure 4.1: Top Six Countries of Birth for Denied I-914 Applicants (2014 to 2021)

