



2016

# Human Trafficking: Legislation and Extent

Morgan Podczervinski  
*Georgia Southern University*

Follow this and additional works at: <https://digitalcommons.georgiasouthern.edu/honors-theses>

 Part of the [International Relations Commons](#)

---

## Recommended Citation

Podczervinski, Morgan, "Human Trafficking: Legislation and Extent" (2016). *University Honors Program Theses*. 176.  
<https://digitalcommons.georgiasouthern.edu/honors-theses/176>

This thesis (open access) is brought to you for free and open access by Digital Commons@Georgia Southern. It has been accepted for inclusion in University Honors Program Theses by an authorized administrator of Digital Commons@Georgia Southern. For more information, please contact [digitalcommons@georgiasouthern.edu](mailto:digitalcommons@georgiasouthern.edu).

Human Trafficking: Legislation and Extent

An Honors Thesis submitted in partial fulfillment of the requirements for Honors in

*Political Science.*

By

*Morgan Podczervinski*

Under the mentorship of *Dr. Courtney Burns*

ABSTRACT

The International Labour Organization estimated there to be around 21 million individuals worldwide that fall victim to forced labour and another 4.5 who are exploited for sex. Sex Trafficking is a major human rights issue around the world and in the United States particularly. How would reducing the restrictions of the T-visa as well as legalizing prostitution impact the overall rate of sex trafficking in the United States? Previous human rights research has found that the legislation currently in place to combat sex trafficking is not adequately limiting the extent of the problem. I argue that the restrictions on T-visas limit victims' access to resources and prevent them from seeking help. Furthermore, I argue that the debate on the legalization of prostitution and its role in the sex trafficking industry can be connected to the usage of the T-visa. For my study, I will use a document analysis to evaluate how reducing the restrictions of T-visas and legalizing prostitution could impact the rate of sex trafficking in the United States. Overall, I find that by reducing the restrictions of the T-visa and by continuing to make prostitution illegal sex trafficking will decrease.

Thesis Mentor: \_\_\_\_\_

*Dr. Courtney Burns*

Honors Director: \_\_\_\_\_

Dr. Steven Engel

April 2016

*Department of Political Science*

University Honors Program

**Georgia Southern University**

## Acknowledgements

I would like to take a moment to thank my family and friends for their constant support in my life. A special thank you to my mom, dad, and sister, Maggie who continually encourage and push me to be the best version of myself. Thank you mom for being my best friend and for always being there for me. I would also like to say thank you to my boyfriend Gabe and friend Megan who have poured into me continuously in all aspects of my life. The two of you mean so much to me and the memories and experiences we have shared are invaluable to me. Thank you both for believing in me, listening to me, and encouraging me every step of the way. I honestly could not have done it without all of you.

I'd also like to thank my professors, Dr. Jamie Scalera and Dr. Courtney Burns for their support and guidance the past two years. I cannot express the impact both of you have had on shaping the scholar I am today. Dr. Scalera, thank you for all your guidance and honesty throughout this process. You have made such an impact on me and I am truly grateful for all the opportunities you have opened for me, the time you have poured into me, and the wonderful advice you've provided me. You made goals I thought were unachievable very possible and encouraged me to pursue things I would not have otherwise done. Dr. Burns, thank you for broadening my horizon and pushing me to truly pursue my goals. I respect and admire each of you greatly and you have impacted my time here at Georgia Southern immensely.

Lastly, thank you to South Bridge Community church for their ministry and for everyone who has pushed me and kept me grounded in my faith these past four years. Thank you for the constant reminder that we must glorify God in all that we do.

Again, thank you to everyone who has been apart of this process and my experience at Georgia Southern. I would not have been able to achieve this goal without all of your support and guidance.

"He who began a good work in you will carry it to completion until the day of Christ Jesus."

Philippians 1:6

## **Introduction**

Chong Kim is a Korean-American victim of human trafficking. Her story is just one of thousands of victims who have been trafficked. Kim came to the United States (U.S.) at a young age along with her mother and father. Growing up, Kim was sexually and physically abused by childcare professionals, her mother, and her teachers. Once she was 18, Kim moved away and enrolled in college. In her second year of schooling, she started a relationship with a man who claimed to be in the military and who seemed to care for her. On a trip to Florida, Kim was taken hostage by her boyfriend and was kept captive. She was sold into the sex trafficking industry and witnessed appalling things. After two and a half years she escaped and came in contact with an advocate that helped her get out of the industry and back on her feet. Now, Kim helps others who have fallen victim to the sex trafficking industry and spreads awareness through her story (Kim 2006).

Chong Kim was one of the lucky survivors of the sex industry but far too many are not so lucky. Many, like Kim, are tricked into the industry and are never able to escape. Therefore, we need to find a solution to the far-reaching issue of sex trafficking so that victims do not get out of the industry only by chance.

A profound number of women, men, and children are being trafficked all around the world. Human trafficking is broadly defined as:

The recruitment, transportation, transfer, harboring 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 (United Nations Office of Drugs and Crimes 2016).

Exploitation, according to the United Nations Office of Drugs and Crimes is, “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 of Drugs and Crimes 2016). However, under this general category fall two main types of trafficking, which include sex trafficking and labor trafficking. For this study, I focus solely on the sex trafficking of women. Sex trafficking can be committed from state to state, as seen in the story above, or internationally, and can include women of all ages. I will define sex trafficking as the exploitation of women through sex for profit.

This topic is important because sex trafficking has huge implications for not only the victims, but for those around them. The people who are closest to the victim have to endure the hardships these victims face and have to adapt to the person a victim becomes once and if they are released from the industry. This is an international problem that is kept hidden due to the difficulties of detecting it and it being looked at as a foreign issue (Hepburn & Simon 2010). I argue that the methods currently used to combat sex trafficking are not making effective strides toward reducing the issue. Therefore, a change in legislation needs to be made. I will bridge the gap in the literature by evaluating how legislation could be altered to accommodate more victims while also looking at how the legalization of prostitution affects the rates of sex trafficking.

### **Human Rights and Trafficking**

Traditionally, the study of human rights has focused on physical integrity rights and empowerment rights. Physical integrity rights are defined as, “a subset of human

rights that protect citizens from torture, extra-judicial killing, political imprisonment, and disappearances by government authorities” (Bell et al. 2013, 4). Empowerment rights include, “the freedom of movement, freedom of speech, workers’ rights, political participation, and freedom of religion” (Dreher et al. 2012, 526). The literature on human rights focuses on these two categories of human right violations because they provide more tangible results when measured and are easier to measure. However, this presents an issue when trying to measure for sex trafficking. The reason being is that these two broad categories measure violations by the state and non-state actors typically conduct trafficking. Thus, much of the research captures state violations while ignoring non-state violations.

### *Human Rights and Globalization*

Sex trafficking is argued by many to be a human rights violation because we often believe that the trials these victims face fall in line with abuses against humanity. Many, like Munro (2008), argue that the way these victims are taken, abused, and held captive violate several different human rights. According to the Universal Declaration of Human Rights, “Everyone has the right to life, liberty and the security of person” and “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (United Nations 1948). Sex trafficking violates these given human rights due to its coercive nature and removal of liberty. However, some scholars suggest that we need to use caution when linking human rights with trafficking because there are so many different types of trafficking and we do not want to limit the definition to a point where we exclude certain victims (Munro 2008). Munro (2008) argues that human rights that

are claimed to have been violated through trafficking may vary from case to case depending on the extent of the actions taken upon the victim.

Over the past fifteen years, the world has seen enormous changes due to technological innovation. Everything has become interconnected through the use of social media and technology. Our vast world seems smaller than ever before. However, with this great leap there are still significant issues within the world regarding human right violations; one being sex trafficking. Queen (2015) explains how, as “globalization continues on its high-speed spread, human trafficking across borders is one of the fastest growing forms of transnational crime” (541). Globalization has connected individuals from all around the world with such ease and because of this, sex trafficking is easier to commit. Simon and Hepburn (2010) demonstrate the impact of globalization well through an example given that reads, “To date, there are at least nine large trafficking cases in the Gulf Coast region that involve more than 1,383 alleged victims from India, Thailand, Peru, Bolivia, the Dominican Republic, Brazil, Mexico, Honduras, the Philippines, and Panama” (5). Example after example is given in the literature of individuals who are trafficked into countries from various other countries. This transfer between countries would be a lot more difficult and unlikely without globalization. On top of this, the market and desire for trafficking victims has skyrocketed due to the ease of exchange, limited chance of repercussions, vast demand, and the huge profit it brings in (Queen 2015).

However, globalization has not resulted in only negative consequences. Others, such as Dreher et al. (2012), argue that globalization can in fact, help reduce the number of human rights violations. They argue that, through social media and technology, human

rights violations can be broadcasted to the mass public at a very efficient rate (Dreher et al. 2012). As a result of this, NGOs and other organizations are able to react in a more timely fashion and it allows them the opportunity to punish these states for their violations. The problem here, though, is again a focus on state abuses more so than on non-state abuses. The authors fail to take into account trafficking.

In addition, previous research has shown that economic globalization has caused countries to foster each other economically and invest in one another. Many developed countries invest in developing countries' economies and utilize these countries for factories and workers (Richards and Gelleny 2009). Through a study, Richards and Gelleny (2009) explain that many multinational corporations are investing in countries that are working towards ensuring human rights and prohibiting violations. Again, globalization has linked the world in such a way that is working to protect human rights.

Lastly, the literature on human rights has shown that states tend to have more human rights violations when the country is in turmoil (Poe & Tate 1994). Poe and Tate (1994) test and find that many variables impact the likelihood that states will violate personal integrity rights. They find that countries that have been involved in civil or international wars are more likely to violate physical integrity rights and that countries with higher populations tend to have greater issues with repression. This corresponds with insight from Mandel (2012) who finds that, "the procurement of trafficking victims particularly flourishes in those countries that have recently experienced major political or social upheaval. Traffickers also easily exploit those countries that have experienced a population explosion without a correlating growth in the job market" (Mandel 2012, 209-210).

## *Legislation*

The legislation to combat sex trafficking around the world is by no means uniform. In most countries, there is some type of standard protocol put in place to regulate trafficking; however at the international level there are issues with enforcing these laws. Moreover, while there are state laws, there are also international protocols and treaties. For example, the UN Convention against Transnational Organized Crime has three main protocols, one of which is, “the protocol to prevent, suppress and punish trafficking in persons” (United Nations Office on Drugs and Crime 2016). This convention and protocol was established extremely quickly and efficiently, especially in comparison to other legislation on human rights (Gallagher 2006). In addition, it provides the first internationally agreed upon definition for trafficking. The protocol is focused on regulating and criminalizing trafficking but does not have strict commitments that states must follow. Many of the guidelines set out by the protocol give states direction on how to assist victims but no punishment is rewarded to states that do not follow these guidelines (Gallagher 2006).

On the other hand, the protocol has been used as a guideline for further local and regional legislation. The main legislation that has stemmed from the protocol is the Council of Europe Convention on Action against Trafficking in Human Beings. This European Convention has furthered the protocol and updated it to fit current situations involving trafficking (Gallagher 2006). This convention went into affect in 2008 and works, “to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers, and promote co-ordination of national actions and international co-operation” (Council of Europe 2014). The convention created a definition of trafficking that was

broader and that moved away from a focus on the criminal aspect of trafficking to a focus on the human rights violations and victims' wellbeing (Gallagher 2006).

International law can be effective in the sense that it can embarrass those countries that do not meet the standards or regulations agreed upon at the international level. For instance, legislation such as the United State's Trafficking in Persons Report strikes fear in and cast embarrassment on those countries that are ranked in the lowest tier, for their trafficking violations. Queen (2015) explains how Japan has been placed on a lower tier by the United States for consecutive years. Queen (2015) says, "the Tier System is generally thought of as being effective in that it encourages perhaps pressures other nations, even those who are not members of the United Nations Protocol, to adopt practices which attempt to curtail sex trafficking" (560).

However, there are issues with legislation and ranking systems such as this. One major flaw, pointed out by Queen (2015), is that some ranking systems can show bias toward some countries and allow them to show a ranking they do not deserve. South Korea is a prime example of this when considering the Trafficking in Persons Report. Queen (2015) explains how South Korea was placed at the lowest ranking and with very few adjustments they moved up in rank exceptionally fast. Therefore, although international means to reduce trafficking instill fear they are not always accurate depictions or truly effective.

The literature also addresses additional issues that stem from legislation at the international level. These include, the international law being too broad, having no overall definition that matches at the international and domestic level, having no sense of accountability, and issues with how to help victims after prosecution. To begin is the

issue with international legislation being too broad. There is no concrete definition or international law that encompasses the idea of trafficking and how to handle it. Although there are laws and systems put in place at the international level, they are not followed by everyone at the domestic level. For instance, Mandel (2012) explains this concept of the middleman that is included in Israel's legislation. She explains, "A middleman engaged in any transaction in persons is considered a trafficker and treated exactly the same as those who directly buy and sell humans" (Mandel 2012, 223). However, this is often not a part of the legislation that other states put into place. Although this is a small example, it shows how the legislation in different parts of the world do not coincide with one another and this can inhibit the ability of states in their attempts to combat sex trafficking. Stemming off of this, it is clear that legislation at the international level allows states too much discretion in handling trafficking (Queen 2015). Queen (2015) gives the example of the U.N. Protocol and how it gives states leeway in how they deal with trafficking. This type of leniency at the international level causes major gaps and does not give states a concrete example of how to deal with trafficking at the domestic level.

Secondly, having legislation does not indicate accountability (Mandel 2012; Queen 2015). In countries such as the UK, Israel, the United States, and Japan, there are efforts being taken to combat trafficking at the domestic level yet few results are seen. In both Israel and the UK there are severe punishments for those that are involved in trafficking yet when it comes down to prosecution often times the sentences imposed are not to scale with the offense (Mandel 2012). In addition, in these two countries there are low signs of deterrence because the prosecution rates are low (Mandel 2012). Traffickers realize that punishment is far and few between and therefore decide to take their chances in the

market. In other countries, such as Japan, the issue with legislation is that it is so narrow that few victims are actually recognized as victims, leading to few traffickers being prosecuted (Queen 2015). Lastly, there is the problem that Burton and Tsutsui (2005) classify as, “the paradox of empty promises” (1378). They explain how many countries will sign on to international treaties but will demonstrate no progress in bettering their human rights violations (Burton and Tsutsui 2005). In most cases, countries are not able to make the international policies match at the domestic level (Burton and Tsutsui 2005). Often times, by signing on to these international treaties countries create a facade that allows them to pretend they are improving their rates of violations when in reality they are being more repressive (Burton and Tsutsui 2005).

Another major issue with legislation that is found across many countries is the requirement of victims to help law enforcement with the prosecution of their offender (Gallagher 2006; Hepburn and Simon 2010; George 2012; Queen 2015). The issue with this requirement is that victims do not want to stand up against their offender and as a result do not help law enforcement in the prosecution process. In addition to this requirement, many forms of legislation have placed a contingency on the amount of time a victim is allowed to stay in the country based on the assistance they give to law enforcement. Following this is the issue of how to handle victims after prosecution and how to protect them from their offenders (Gallagher 2006; Queen 2015). Some forms of legislation have guidelines to follow after prosecution in order to help with the protection of victims from their offenders but others overlook this process.

In sum, there are issues at the international level, but also at the state level. Lack of consistency is one of the biggest problems. I argue that these legislative issues exacerbate the sex trafficking problems in the international and domestic arenas.

### *Prostitution*

Beyond legislation about trafficking, another factor that affects total numbers of those trafficked is prostitution. Throughout the world, countries go about regulating and legalizing prostitution differently. Some monitor where it occurs and try to confine it to certain regions. Some make brothels illegal. Some endorse it and others flat out prohibit it completely (Batsyukova 2007, 49).

Trafficking is fostered by profit. Therefore, when countries allow prostitution there is often a demand that needs to be filled and this is done through the trafficking of women. In some countries, such as Thailand, the government supports trafficking and prostitution due to the revenue it brings in. These countries refer to this industry as sex tourism (Batsyukova 2007; Enloe 1990). This idea of sex tourism ultimately feeds into the concept of countries having vastly different outlooks on the sex industry.

Batsyukova (2007) distinguishes prostitution from sex trafficking and argues that prostitution does not lead to trafficking, but instead it is the “exploitation of prostitution” that does (46). She distinguishes these two ideas by explaining that prostitution is a voluntary endeavor in which an individual provides sex for profit. This is different than human trafficking, which tends to be a forced exchange of sex for profit (46). In addition, she explains that at an international level human trafficking is illegal; however, the

legality of prostitution from country to country varies (48). This is a very interesting and unique distinction that separates these two concepts.

Related to the issue of sex trafficking is the debate about whether or not prostitution should be legalized, and how legalization would impact the rate of sex trafficking. Cho et al. (2013) present two sides to the debate on the legalization of prostitution. One side of the debate explains that many people are being trafficked for sex exploitation and to meet the demand required by the field of prostitution. Therefore, they argue that legalized prostitution will cause the problem of human trafficking to increase severely. The other side to this argument is that some people choose to be prostitutes and by legalizing it more people would choose it overall. This would cause human trafficking to decrease because fewer women would have to be trafficked to meet the demand.

Cho et al. (2013) use a case study of various countries to demonstrate the impact of legalizing prostitution. They use Sweden (prohibited prostitution), Germany (legalized prostitution), and Denmark (allows prostitution that is self-employed but does not allow brothels) (Cho et al. 2013). The main finding in this study is that countries who legalize prostitution tend to see more occurrences of human trafficking than those who do not. This is reiterated in the case studies Holman (2008) conducts of Sweden and Australia. Legalizing prostitution increased sex trafficking in Australia. However, Sweden put anti-prostitution legislation in place and it decreased the rate of sex trafficking significantly (Holman 2008).

Holman (2008) uses these case studies to demonstrate her main argument that legalizing prostitution increases sex trafficking and that the Victims in Trafficking and Violence Protection Act of 2000 (VTVPA), the legislation used in the United States,

should prohibit its legalization in order to decrease the rate. George (2012) follows in accordance with these other scholars and argues that the legalization of prostitution should never be the solution because legalization actually increases trafficking. Furthermore, Jakobsson and Kotsadam (2011) find a causal relationship between stricter laws on prostitution and a reduction in the rate of sex trafficking. They argue that sex trafficking is, “least prevalent in countries where prostitution is illegal, most prevalent in countries where prostitution is legalized, and in between in those countries where prostitution is legal but procuring illegal” (Jakobsson and Kotsadam 2011, 87). These authors utilize case studies of both Sweden and Norway to show how stricter regulations (criminalizing the buyer in Sweden) reduces the rates of trafficking (Jakobsson and Kotsadam 2011).

## **Theory**

I argue that countries with more requirements imposed by legislation limit the resources allocated to victims of sex trafficking and that legislation is not effectively reducing the trafficking rate. Typically, this is due to victims not feeling safe coming forward and helping with the prosecution of their offender. It can also be due to the fact that there is no standard form of legislation at the international level.

In addition, I argue that the legalization of prostitution needs to be considered and altered due to the fact that it being legalized increases the rate of trafficking. Overall, I argue that legislation needs to be altered to have fewer restrictions and the combined affects of legalizing prostitution need to be considered.

When I argue that the legislation is not adequately reducing the rates of sex trafficking I am considering the number of individuals who are applying for resources provided by legislation versus those who are actually receiving these resources. Lastly, when I refer to reducing the restrictions of legislation I am referring to removing the major hurdles victims face when they try to obtain resources. I argue that if these restrictions are reduced more victims will be able to obtain resources, which will help them get through the prosecution process and inevitably reduce the rate of sex trafficking.

I am interested in the overall link between the legislation in a country and the legalization of prostitution. I argue that when prostitution becomes illegal and more resources are allocated, through fewer hurdles in the legislation, it discourages traffickers from entering those states and trafficking in turn decreases. By removing the hurdles that victims have to overcome to obtain resources, more victims are likely to step forward and the rate of trafficking decreases. The same is seen when a country makes prostitution illegal, especially when the buyer is punished, such as in Sweden. Both of these variables deter traffickers and buyers from participating in the sex trafficking industry in certain regions.

When exploring the idea of prostitution we define it as sex for profit. The legality of prostitution varies from country to country. In some countries, such as the U.S., prostitution is illegal everywhere except for the state of Nevada. However, in places like Sweden the buyers of the industry are the ones who are penalized (Jakobsson and Kotsadam 2011). Then there are countries like Thailand whose government supports prostitution due to the economic revenue it brings in (Batasjukova 2007; Enloe 1990). For this study, I will classify levels of legal prostitution based on how well law

enforcement monitors the prostitution sector and if they are monitoring for sex trafficking.

Hypotheses:

H<sub>1</sub>: If the restrictions to obtain resources decrease, then the rate of sex trafficking will decrease.

H<sub>2</sub>: If prostitution is more highly regulated, then sex trafficking will decrease.

H<sub>3</sub>: If the hurdles victims have to overcome to obtain resources decrease and prostitution is illegal, then sex trafficking will decrease.

## **Research Design**

I am conducting a case study on the legislation and prostitution laws in the United States. For my study, I evaluate how lowering the restrictions of the legislation in addition to legalizing prostitution in the U.S. would affect the level of sex trafficking. I use a document analysis to evaluate the legislation used and the restrictions it has that prevent victims from gaining the resources available. I examine how many victims applied for resources through their standard legislation, the T-visa, and how many actually overcame the restrictions and obtained this visa from the years 2008 to 2010. I use this evaluation to demonstrate how lowering the restrictions of the T-visa would allow more victims to have access to resources. I also consider the role of legalized prostitution. Through a document analysis I evaluate the number of victims who were classified as prostitutes out of the total number of sex trafficking victims and then evaluate how this number could increase based on previous literature.

In order to analyze these two aspects, I utilize data from the U.S. Department of Justice/ Bureau of Justice Statistics and U.S. Citizenship and Immigration services (Kyckelhahn and Banks 2011; Number of I-914 Applications for T Nonimmigrant Status, 2015)(see Figure 1 and Tables 1-2). To measure the effectiveness of the T-visa, I use a ratio form of measurement. I evaluate the total ratio of victims who received T-visas out of those that applied. In addition, to measure the impact of prostitution and how its legalization would impact sex trafficking rates in the U.S., I use a ratio measurement to evaluate how many individuals are prostitutes out of the total number of sex trafficking victims.

For this study, the unit of analysis is the U.S. The U.S. is the sample out of the population consisting of all countries. The independent variables are legislation and the level of prostitution and the dependent variables is the total change in sex trafficking per year and a focus on women ages 18 and older.

### *Independent Variable*

For this study I have two independent variables. The first is whether a country has legislation in place to combat sex trafficking, yes or no. The second is whether prostitution is legal, yes or no.

### *Dependent Variable*

The independent variables are legislation and the legalization of prostitution. To measure the legislation I evaluate how easy it is for victims to obtain a T-visa. To do this, I look at the data to see if a large amount of those applying for visas are actually

obtaining them. I use a ratio measurement to evaluate the total ratio of victims who received T-visas out of those that applied. As for the legalization of prostitution, I evaluate how many of the victims of sex trafficking are classified as prostitutes and how this number will increase if prostitution is legalized in the U.S. I use a ratio measurement in order to do this.

Therefore, I am evaluating the total percent change in sex trafficking per year. I measure this based on how many total victims there are (Kyckelhahn and Banks 2011) (Table 1). This is a continuous measure of the total number of victims from years 2008 to 2010. I specifically look at the female population age 18 and older. Therefore, I do not cover instances regarding child trafficking or the trafficking of men in this study.

## **Analysis**

In regard to the United States, the literature has focused on the T-visa and how it is not adequately targeting the issue of sex trafficking. Other scholars discussed above reveal that the legalization of prostitution in other countries has actually caused an increase in sex trafficking (Holman 2008; Jakobsson and Kotsadam 2011; George 2012; Cho et. al 2013). However, the focus has not really combined these two areas to see how greater accessibility to the T-visa, as well as legalized prostitution would impact the rate of sex trafficking in the U.S.

The major piece of legislation in the U.S. to combat sex trafficking is the Trafficking Victims Protection Act of 2000 (TVPA), which falls under the wider legislation entitled Victims in Trafficking and Violence Protection Act of 2000 (VTVPA). Much of the literature written on sex trafficking covers this act in detail and

explains what it entails and its implications (Holman 2008; Hepburn and Simon 2010; George 2012; Bertone 2013). The act was created in 2000 and was designed to help victims and punish traffickers. The VTVPA gives money to government agencies and NGOs in order to raise awareness and teach officials (Holman 2008). The VTVPA also penalizes countries for not working towards combating sex trafficking. The U.S. releases the “Trafficking in Persons Report” annually (Holman 2008). The report ranks countries based on the efforts they have made to reduce sex trafficking (Holman 2008). The countries that do not meet the requirements of the VTVPA and are not making efforts to do so are penalized in various ways by the U.S. (Holman 2008) They are penalized by things such as, “[loosing] all non-humanitarian, non-trade-related foreign assistance” (Holman 2008, 112). The VTVPA has been successful in the fact that states fear being put at the lowest ranking or being punished so they make greater efforts to try and reduce sex trafficking (Holman 2008).

One mechanism that is utilized under this act is the T Nonimmigrant visa (T-visa). The T-visa is a visa given to foreign victims in order to provide them with resources as they stay in the U.S. Shelly George (2012) outlines the requirements as follows:

(1) According to the laws of the United States, the individual has to be defined as a ‘victim of sex trafficking,’ (2) the individual must be in the United States or any other recognized country as defined by the law; (3) the individual, unless seventeen years old or younger (or physically incapable or if so traumatized psychologically), must agree to cooperate fully with law enforcement in regards to the inquiry and trial of the traffickers; and (4) the individual must be able to demonstrate that he or she would ‘suffer extreme hardship involving unusual and severe harm’ if forced to return to her country of origin (George, 2012, p. 572).

Many scholars highlight the issues surrounding these requirements. The visa allows victims to stay in the United States while being granted assistance. But, scholars

explain that the visa requires victims to help authorities with the investigation and the prosecution of their traffickers in order to receive assistance (Hepburn and Simon 2010; George 2012). There are many reasons why victims do not want to help with the prosecution of their traffickers. Two of the reasons that are often emphasized are the mental state of the victims after they escape the industry and the fear that they have of their traffickers (Hepburn and Simon 2010; George 2012).

In addition, George argues that a major issue with the TVPA, especially in regards to the T-visa, is that the resources available are only given to those victims that are defined as “severe trafficking victims” (George 2012, 573). The Department of Health and Human Services (DHHS) is responsible for classifying victims as such. George (2012) outlines obstacles that are faced by the DHHS when they try to classify a victim. These obstacles include the “hidden nature of the black market” (573), the fear that the victims have of their traffickers, and the stigmas or stereotypes that authorities have of what a victim should look like (George 2012). Another issue the DHHS faces when defining victims is determining whether they are voluntary or severe victims (George 2012).

The literature also covers the different perspectives on how to best avoid the obstacles surrounding the TVPA and how to best limit the extent of sex trafficking. George (2012) emphasizes how law enforcement tries to get around the use of victims’ help in the prosecution process while still extending resources to them. For George (2012), more education on sex trafficking and how to identify it is needed for authorities. However, Holman (2008) argues that the TVPA is missing a huge part of the problem by

not addressing the legalization of prostitution and that the act needs to prohibit legalization in order to better help victims.

Within this controversy over the effectiveness of the legislation in the United States is the debate over the implications of legalizing prostitution and how it affects the rate of sex trafficking. There are many sides to the debate, some for and some against its legalization. However, with the exception of Nevada, prostitution is illegal in the United States and therefore there is little evidence of how it would alter current rates of sex trafficking if made legal. Therefore, through this case study I will test how accessible the T-visa is to victims while also considering how the legalization of prostitution would play a role in the rate of sex trafficking if made fully legal in the U.S.

The data that I will be analyzing is from the U.S. Department of Justice/ Bureau of Justice Statistics and U.S. Citizenship and Immigration service. The data from the Bureau of Justice Statistics was collected in a study done between 2008 and 2010. During this study, researchers were trying to determine a rough estimate regarding the number of human trafficking cases. The data used is from the Human Trafficking Reporting system. This system is a collection system that collects data on incidents of human trafficking. These incidents are defined as a claim of human trafficking that is then investigated for at least an hour by a task force (Kyckelhahn and Banks 2011). These investigations are used to determine if human trafficking has in fact occurred. A case is confirmed when it has resulted in an arrest and has been confirmed by law enforcement (Kyckelhahn and Banks 2011). The victims must also have either a “continuing presence requested on their behalf” or “have received an endorsement for a T or U visa application” (Kyckelhahn and Banks 2011, 2)

Although this data is a rough estimate of the number of human trafficking cases it creates a good picture of the true number of cases. One could even argue that these numbers are low considering each incident could include multiple victims involved in brothels or sex rings (Kyckelhahn and Banks 2011). The data has been broken down into the various types of human trafficking and it is clear that sex trafficking represents the most reported incidents (Figure 1). Aside from this we see that from 2008 to 2010 the number of incidents increases rapidly (Figure 1). I argue that a large reason for this increase is due to the legalization of prostitution. As demonstrated through other cases studies, the legalization of prostitution directing effects the rates of sex trafficking.

The data is then further broken down into various types of sex trafficking (Table 1). One of the two categories that fall under the broad category of sex trafficking involves the act of prostitution (Table 1). Since this study is focused on women ages 18 and older we will focus on the “Adult prostitution/ commercial sex act” category. Here it is evident that there were a total of 1,218 incidents between 2008 and 2010 (Table 1). This category alone makes up 48% of the sex trafficking category (Table 1). From this, I conclude that a large amount and demand of trafficking is coming from prostitution. Because only one state has legalized prostitution in the United States, the demand that is created by a lack of prostitution could be met through the use of trafficking.

It is difficult to find data on the rates of sex trafficking in Nevada to help prove this point. One of the few sources that provides data is the National Human Trafficking Resource Center. The center provides a hotline for victims of human trafficking to call in and allows them the opportunity to get connected with different services that can provide them with resources (National Human Trafficking Resource Center 2007). The data has

reports for each state and gives the amount of calls received as well as the total number of cases reported for each year between 2013 to 2015 (National Human Trafficking Resource Center 2007). From 2013 to 2015 there is a slight increase in both of these categories, ranging from 81 reported cases in 2013 to 133 reported cases in 2015 (National Human Trafficking Resource Center 2007). However, further data is needed to show a better representation of the scale of sex trafficking in Nevada since these are statistics solely based on victims who contacted the hotline. With better data I could further conclude whether legalized prostitution plays a role or not in these numbers.

Next, Table 2 demonstrates the gap that exists with the legislation used in the United States. In 2008, a mere 408 victims applied for T-visas, this is in great contrast to the total number of victims presented in Table 1. Due to the hurdles that victims have to overcome we see that very few out of the total number of victims are applying for and receiving the benefits of the legislation used in the United States. Although it is evident that the number of individuals who apply for the T-visa increases as we go into 2010 this amount is still far short of the total number of victims in the industry. One thing that one must take into consideration when evaluating these numbers is that t-visas are given to foreign victims of sex trafficking and not all victims so this can skew the data. However one can still conclude that victims are not willing to come forward and obtain the resources that are available because of the hurdles and potential ridicule that they may face if they do.

Lastly, out of the small number that do take the initiative and apply for the T-visa a good many do not get accepted because they do not meet the requirements outlined. Looking at Table 3 it is evident that between 16% and 24% from the years 2008-2010

were denied a T-visa overall. This may be because victims did not help with the prosecution period or were not classified as a severe victim.

### ***Conclusion***

The legislation used around the world, but in particular in the United States, is not adequately targeting the issue of sex trafficking. Around the world there are varying definitions, legislation, and protocols used to combat sex trafficking. In addition to this issue is the legality of prostitution and this industry's demand for trafficking victims. When these two issues, poor and inconsistent legislation and legalized prostitution, combine the rates of sex trafficking increase significantly.

In the United States, the rate of sex trafficking has yet to be diminished. The T-visa has a great deal of hurdles that victims of sex trafficking must overcome in order to receive the resources provided by law enforcement. This legislation only scratches the surface of the total number of victims. Therefore, the T-visa needs to have fewer restrictions placed on the victim in order to allocate more of the resources available. I argue that there needs to be a way to help victims not feel re-victimized in the prosecution process and that the demand for their assistance not be directly required. I also argue that the need to show that they are a "severe victim" either needs to be more clearly defined or made to include a more general group of victims.

World wide studies as well as domestic ones show the tremendous influence that prostitution has on the sex trafficking industry. It is found that prostitution when legalized is a main contributor and profoundly impacts the number of victims. Therefore, I would argue against fully legalizing prostitution within the United States.

Lastly, I would like to further this study in the future by looking at different states within the different regions of the United States and evaluate the legislation in place to combat sex trafficking as well as the legalization of prostitution. I would compare these states to data found on Nevada, a state which has legalized prostitution. I believe this would enhance this piece greatly. I would also like the opportunity to find more concrete data on Nevada to help facilitate this comparison.

## Bibliography

- Batsyukova, S. (2007). Prostitution and Human Trafficking for Sexual Exploitation. *Gender Issues, 24*(2), 46-50. Retrieved February 17, 2016.
- Bell, S. R., Cingranelli, D., Murdie, A., & Caglayan, A. (2013). Coercion, Capacity, and Coordination: Predictors of Political Violence. *Conflict Management and Peace Science, 1*-34. Retrieved February 16, 2016.
- Bertone, A. (2013). Trafficking for Sexual Exploitation. In *Human Rights: Politics and Practice* (Michael Goodhart ed., pp. 255-272). Oxford University Press.
- Cho, S., Dreher, A., & Neumayer, E. (2013). Does legalized prostitution increase human trafficking? *World Development, 41*, 67-82. doi:10.1016/j.worlddev.2012.05.023
- Council of Europe (2014). Action against Trafficking in Human Beings. Retrieved February 14, 2016, from [http://www.coe.int/t/dghl/monitoring/trafficking/default\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp)
- Dreher, A., Gassebner, M., & Siemers, L. R. (2012). Globalization, Economic Freedom, and Human Rights. *Journal of Conflict Resolution, 51*6-546. Retrieved February 18, 2016.
- Enloe, C. (1990). *Bananas, Beaches, and Bases: Making Feminist Sense of International Politics*. University of California Press.
- Gallagher, A. (2006). Recent Legal Developments in the Field of Human Trafficking: A Critical Review of the 2005 European Convention and Related Instruments. *European Journal of Migration and Law, (8)*, 163-189. Retrieved March 2, 2016.

George, S. (2012). The strong arm of the law is weak: How the trafficking victims protection act fails to assist effectively victims of the sex trade. *Creighton Law Review*, 45(3), 563. Retrieved from <https://search-ebshost-com.libez.lib.georgiasouthern.edu/login.aspx?direct=true&db=aqh&AN=77504605>

Hafner-Burton, E. M., & Tsutsui, K. (2005). Human Rights in the Globalizing World: The Paradox of Empty Promises. *American Journal of Sociology*, 110(5), 1373-1411. Retrieved March 6, 2016.

Hepburn, S., & Simon, R. (2010). Hidden in plain sight: Human trafficking in the United States. *Gender Issues*, 27(1), 1-26. doi:10.1007/s12147-010-9087-7

Holman, M. (2008). The modern-day slave trade: How the United States should alter the victims of trafficking and violence protection act in order to combat international sex trafficking more effectively. *Texas International Law Journal*, 44(1), 99-121. Retrieved from <https://search-ebshost-com.libez.lib.georgiasouthern.edu/login.aspx?direct=true&db=a9h&AN=38228014&site=eds-live>

International Labour Organization. (1996). Forced labour, human trafficking and slavery. Retrieved March 05, 2016, from <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

- Jakobsson, N., & Kotsadam, A. (2013). The Law and Economics of International Sex Slavery: Prostitution Laws and Trafficking for Sexual Exploitation. *European Journal of Law and Economics*, 35(1), 87-107. Retrieved February 25, 2016.
- Kim, C. (2006, October 23). - The Survivor Archives - Chong N. Kim.  
Retrieved April 20, 2015, from  
<http://www.survivorarchivesproject.com/archives/2006/10/23/chong-n-kim.html>
- Kyckelhahn, T., & Banks, D. (2011). Characteristics of Suspected Human Trafficking Incidents, 2008-2010. *U.S. Department of Justice; Office of Justice Programs; Bureau of Justice Statistics*, 1-11. Retrieved December 1, 2015, from  
<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2372>
- Mandel, J. W. (2012). Out of Sight, Out of Mind: The Lax and Underutilized Prosecution of Sex Trafficking in the United Kingdom and Israel. *Tulane Journal of International and Comparative Law*, 21, 205-231. Retrieved March 3, 2016.
- Munro, V. E. (2008). *Of rights and rhetoric: Discourses of degradation and exploitation in the context of sex trafficking* Wiley-Blackwell. Retrieved from <https://search-ebscohost-com.libez.lib.georgiasouthern.edu/login.aspx?direct=true&db=edsjrs&AN=edsjrs.20109793>
- "Nevada." *National Human Trafficking Resource Center*. 2007. Web. 08 Mar. 2016.
- Number of I-914 Applications for T Nonimmigrant Status (Victims of Severe Forms of Trafficking and Family Members) by Fiscal Year, Quarter, and Case Status 2008-2015. (2012, June 1). Retrieved December 1, 2015, from

[http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports and Studies/Immigration Forms Data/Victims/I914t\\_visastatistics\\_fy2015\\_qtr3.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I914t_visastatistics_fy2015_qtr3.pdf)

Poe, S, & Tate, N. C. (1994). Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis. *American Political Science Review*, 88(4), 853-872. Retrieved February 19, 2016.

Queen, E. M. (2015). The Second Tier: Japan's Stagnation in the Fight Against Sex Trafficking. *Indiana International & Comparative Law Review*, 25(3), 541-570. Retrieved February 15, 2016.

Richards, D. L., & Galleny, R. D. (2009). Economic Globalization and Human Rights. In *Human Rights Politics and Practice* (2nd ed., pp. 179-196). Oxford: Oxford University Press.

United Nations (1948). The Universal Declaration of Human Rights | United Nations. Retrieved March 05, 2016, from <http://www.un.org/en/universal-declaration-human-rights/>

United Nations Office of Drugs and Crime. (2016). United Nations Convention against Transnational Organized Crime and the Protocols Thereto. Retrieved February 21, 2016, from <http://www.unodc.org/unodc/en/treaties/CTOC/index.html>

United Nations Office of Drugs and Crime. (2016). What is Human Trafficking Retrieved March 05, 2016, from <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

Victims of Human Trafficking: T Nonimmigrant Status. (2011, October 3). Retrieved December 1, 2015, from <http://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>

## Appendix

Figure 1: Retrieved at: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2372>

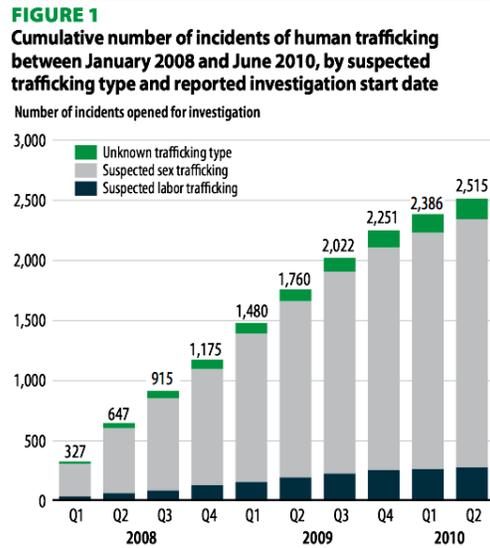


Table 1: Retrieved at: <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=2372>

**TABLE 1**  
**Human trafficking incidents opened for investigation between January 2008 and June 2010, by type of trafficking**

Type of trafficking <sup>a</sup>	Number	Percent <sup>b</sup>
<b>All incidents</b>	2,515	100.0%
<b>Sex trafficking</b>	2,065	82.1%
Adult prostitution/commercial sex act	1,218	48.4
Prostitution or sexual exploitation of a child	1,016	40.4
Sexualized labor	142	5.6
Other	61	2.4
<b>Labor trafficking</b>	350	13.9%
Commercial industry labor	132	5.2
Unregulated industry labor	230	9.1
Other	26	1.0
<b>Other suspected trafficking</b>	65	2.6%
<b>Unknown</b>	172	6.8%

Table 2: Retrieved at: [http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports and Studies/Immigration Forms Data/Victims/I914t\\_visastatistics\\_fy2015\\_qtr3.pdf](http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I914t_visastatistics_fy2015_qtr3.pdf)

Period		Applications by Case Status											
		Victims of Trafficking <sup>1</sup>				Family Members <sup>1</sup>				Total			
		Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>	Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>	Applications Received <sup>2</sup>	Approved <sup>3</sup>	Denied <sup>4</sup>	Pending <sup>5</sup>
<b>Fiscal Year - Total</b>													
2008	408	243	78	203	118	228	40	-	526	471	118	203	
2009	475	313	77	318	235	273	54	247	710	586	131	565	
2010	574	447	138	304	463	349	105	448	1,037	796	243	752	
2011	967	557	223	494	795	722	137	500	1,762	1,279	360	994	
2012	885	674	194	560	795	758	117	586	1,680	1,432	311	1,146	
2013	799	848	104	421	1,021	975	91	546	1,820	1,823	195	967	
2014	944	613	153	613	925	788	105	583	1,869	1,401	258	1,196	
<b>Fiscal Year 2015 by Quarter</b>													
Q1. October - December	260	208	122	567	258	236	73	553	518	444	195	1,120	
Q2. January - March	275	189	84	577	262	212	43	569	537	401	127	1,146	
Q3. April - June	276	117	47	616	356	131	32	677	632	248	79	1,293	
Q4. July - September													

Table 3

	Applications Received	Applications Denied	Percent Denied
2008	408	78	19%
2009	475	77	16%
2010	574	138	24%