

## American Human Trafficking Policy: A Tool of Rewarding Friends and Punishing the Enemies States

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### Abstract

The Trafficking Victim Protection Act 2000 (TVPA) is the main policy to address trafficking in person in United States and beyond but the policy is used as device of promoting US global hegemony. The article was aimed to examine the US trafficking policy as an instrument of promoting US global power and as a tool of rewarding friends and punishing the enemy's states. The study is situated within hegemony theory (See section 1.1) to explain the power relation between the hegemonic US and non-hegemonic states in relation to trafficking in person's policy. The method in obtaining data for this article was mainly through secondary source. The findings reveals that despite the United Nations Trafficking Protocol, US unilaterally imposed its own standard to other states through its Trafficking Victim Protection Act (TVPA) and gives itself the authority to monitor states commitment and hold them accountable by sanctioning the enemies and rewarding the friend countries (See section 2.1). The study suggested the need for multilateral efforts in the global fight against human trafficking through compliance with the United Nations Trafficking Protocol not on the unilateral stand of United States.

**Keywords:** Human Trafficking, Policy, Power and Politics.

### 1.0 Introduction

There is no doubt that trafficking in persons (TIP) is the reflection of the problems facing the global society today, obstructing the socio-economic development, threaten national, regional and international security and it posed a great threat to the security of human persons. It increases organized crime, paralyses the socio-economic structure and produces violence that harm both states and its citizens and as well damaging the domestic human rights reputation of a country (Uddin, 2014; Bruch, 2004; Cho, 2015; Duru & Ogbonnaya, 2012; Gallagher & Holmes, 2008; Monzini, 2005; Omar & Trebesch, 2010; Raymond, 2002).

International Labour Organization (2005) and Belser, (2005) estimated that about 2.5 million persons are trafficked annually (See Table 1) and the crime is the third most profitable organized crime business after arms and drug trafficking (Agbu, 2003; Sani, 2014). Belser, (2005) estimated that \$31.6 billion is annually generated from the exploitation of trafficked persons (See table 2) Many authors in search for the reasons for the rapid growth of the phenomena identifies official corruption, social inequalities, political conflict, sex tourism, rapid growth of multi-billion dollar sex industries and legalization of prostitutions as factors responsible for the rise and rapid increase of TIP worldwide (Farley, 2009; Huda, 2006; Kin, et al 2009; Monzini, 2005; Roth, 2010; Uddin, 2014; Agbu, 2003). In response to this modern day slavery the global governments through the United Nations adopted the Transnational Organized Crime Convention (TOC) and the supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

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The protocol for the first time provide universal accepted definition of human trafficking as follows: “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a Minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”(UN Trafficking Protocol, 2000).

**Table 1: Total Trafficking-related Forced Labor**

|                           | Forced Commercial Sexual Exploitation | Forced Economic Exploitation | Mixed or undetermined | Total            |
|---------------------------|---------------------------------------|------------------------------|-----------------------|------------------|
| Industrialized Economics  | 63%                                   | 17%                          | 29%                   | 270,000          |
| Transition Economics      | 45%                                   | 4%                           | 50%                   | 200,000          |
| Asia and the Pacific      | 54%                                   | 14%                          | 32%                   | 1,360,000        |
| Latin America & Caribbean | 12%                                   | 87%                          | 1%                    | 250,000          |
| Sub-Saharan Africa        | 6%                                    | 84%                          | 7%                    | 130,000          |
| MENA                      | 10%                                   | 89%                          | 1%                    | 230,000          |
| <b>World</b>              | <b>1,060,000</b>                      | <b>780,000</b>               | <b>600,000</b>        | <b>2,440,000</b> |

**Source:** Belser, (2005) Forced Labour and Human Trafficking: Estimating the Profits

### 1.1 Method of Data Collection

The assembling of data was through government documents, Journals, published books, seminar presentations, unpublished materials, Newspapers and relevant materials were sourced from Universiti Putra Malaysia (UPM) library and others were retrieved from website. The adoption of this method provides an important source of information in the study because “It has the advantage of being the language, words and thought of participants” (Creswell, 2003). And it provides an insights into organisations and institutions provides and compiled information on human trafficking that cannot be observed or noted in another way” (Lincoln, and Guba, 1985). However, the method suffers the problems of being incomplete, inaccurate, questionable authenticity and non-accessibility but such problems were solved by adopting Creswell (2003) guidelines for obtaining documents in the study. These involved identifying the relevant materials, seek permission to use the identified documents and examined its merits in terms of accuracy and completeness.

### 1.2 Theoretical Perspectives (Hegemonic Stability Theory)

The Hegemonic Stability Theory (HST) is an international relation theory rooted from the field of political Science, History and Economics. The major proponents of the theory are Charle Kindleberger, Stephen Krasner, Robert Gilpin and Robert Keohane. Hegemony is the phenomenon in which a single state is powerful and utilized such power to maintain the essential rules governing international relations (Keohane, 1984). The theory therefore, described the existence of power relation between the hegemonic and non-hegemonic states and a hierarchical power structure in the international system. The theory is based on the assumption that international stability and peace can best be achieved when there exist hegemonic state that will enforces and ensure other states complies with the regulations of the international system.

The Hegemonic stability theory is considered in this article because the theory highlighted that the hegemonic states exercises their leadership positions either through diplomacy, persuasion, sanctions and coercion in order to maintain international stability. Therefore, states comply and implements international treaties or conventions because they are persuaded or forced into by the powerful states (Avdeyeva, 2007). So implementation of the human trafficking policy is a function of power relation between the hegemonic state who uses her leadership position to ensure the other countries adopt and implement the policies because they (Hegemonic States) have the resources that can be used to ensure compliance. For instance the United States as the leading hegemonic state through it TVPA uses the Trafficking in Persons Annual Reports to reward friends and punish the enemies states. The theory explains that the adoption and ratification of the protocol by some countries is not only significant because it provides for the first time a clear and accepted international definition of trafficking but the protocol reflect and advocate the interest of hegemonic states.

This is because they are directly the destination of human trafficking as the receiving countries, who are affected by the influx of the trafficked victims started from developing states to relatively or most developed states. According to UNODC, (2012) the advanced countries are the most affected because by nature of trafficking in persons is transnational movement from the global south to the global north.

For example United States who is the leading hegemonic state today has been identified as one of the most attractive centre of trafficking in person and estimated that between 14,500 to 17,500 are trafficked into the country annually and it is estimated that 80 per cent of the trafficked persons into the states are female involving women and children and 70 per cent are sexually exploited(Harold, 2012; Roby, Turley, & Garrick, 2008). Even though the number of the trafficked persons into the United States has been criticised that the cited figures are not reliable and the report had failed to explain the method of their collection (Gozdziak& Collette, 2005). Literatures shows that United States is a destination of trafficked victims from over 66 countries and Nigeria is included (US State Department Report, 2005; Cho, & Vadlamannati, 2012; Harold, 2012). The implication of this to the major counties as destination of trafficking in persons is that it exposes their border challenges, increase unemployment of their citizens as trafficking is an exploitative labour as well constitutes a threat to their national security. In addition it was estimated that the profits accrued by the criminal syndicate in the industrialised states amounted to USD 15.513 billion (See table 2) which is tax freed and likely to finance other criminal activities(Belser, 2005; Cho & Vadlamannati, 2012).

**Table 1: Annual Profits for all Trafficked Forced Laborers**

|                           | Total Profits in Forced Commercial Sexual exploitation (US \$ Million) | Total profits in economic exploitation (US \$ Million) | Global Profits (US \$ Million) |
|---------------------------|--|--|--------------------------------|
| Industrialized Economics  | 13,277   | 2,235  | 15,513                         |
| Transition Economics      | 3,283  | 139  | 3,422                          |
| Asia and the Pacific      | 9,536  | 168  | 9,705                          |
| Latin America & Caribbean | 572  | 776  | 1,348                          |
| Sub-Saharan Africa        | 118  | 40   | 158                            |
| MENA                      | 1,033  | 475  | 1,508                          |
| <b>World</b>              | <b>27,820</b>  | <b>3,834</b>   | <b>31,654</b>                  |

**Source:** Belser, P. (2005) Forced Labour and Human Trafficking: Estimating the profits

Therefore, ratifying the protocol by some states should not view as an empty promises but a matter of serious concerned for the hegemonic states. For instance the former American Attorney-General John Ashcroft and John Kerry the United States Secretary of State's announced in 2001 and 2013 respectively that fighting to end human trafficking remains and continue to be a top priority of United States foreign policy and human trafficking violate the American held values of freedom and human dignity. The country (American) will exercise her leadership position in protecting those values globally (Harold, 2012; US States Department Report, 2013 ).

As the theory postulated the relevant of hegemonic state in international politics, in this vein the adoption of the Protocol by some developing countries which Nigeria is included does not necessarily means for their on interest but the interest of the hegemonic states who exert pressure on the sources countries to adopt the protocol and implement the policy as the means to check and reduce the huge flow of trafficking into their countries from the source(Cho & Vadlamannati, 2012). Therefore, most of the trafficking source countries are dependent countries, which heavily relied on foreign donor and aid in financing their anti-trafficking activities and other development projects (Nwogu, 2014). This is because the source side of the human trafficking is associated with structural inequality, poverty, illiteracy and lack of opportunities for livelihood (Uddin, 2014).

So the fear of losing the aid will subject the source countries to the influence of the hegemonic state (United States) which is considered as the core funder of anti-trafficking intervention in the world.(Nwogu, 2014; Harold, 2012). For instance the United States has been financing 190 anti-trafficking in persons programs in 70 countries and the country committed more than US\$ 600 million in the fight against trafficking in persons (De Baca, cited Risley, 2015).The US as hegemonic undertakes the assessment of states 'commitment to counter trafficking in persons globally, and ranks the states according to their policy responses on prevention, protection and prosecution, and then publish the finding in the US Annual Trafficking Report.

This US stand has influenced countries to introduce laws and policies, as well implement such policies. For example Malaysia enacted its anti-trafficking law in 2007 after it was downgraded in US Trafficking in Persons Report(Wan, 2014; United States Trafficking Report, 2006). This assessment has been sustained through sanctions and withdrawal of financial assistance for the countries that fail to show signs of addressing the problem. The United States leadership position in the international trafficking policy is instrumental in the sense that the country uses carrot and stick measures to influence other countries in the area of trafficking in persons. For instance by offering financial and technical assistance and as well as the threat of sanctions or withhold non-humanitarian assistance as well instruct their executive directors of the multilateral financial institutions, International Monetary Fund (IMF) and World Bank to vote for or against non-humanitarian and non-trade assistance to the individual countries depending on their commitment, compliance, enforcement and the implementation of trafficking policy (TVPA, 2000). The use of this measure is to pressurize other governments to acknowledge the magnitude of trafficking in persons in order to take all the measures necessary for the total eradication of the crime (Harold, 2012).

Other scholars concluded that compliance with international treaties and conventions is the function of power distribution between hegemonic states that uses its resources, foreign aids and assistance to ensure other countries comply (Avdeyeva, 2010; Avdeyeva, 2007). In support of this hegemonic power play the Head of OSCE reiterates that the present approach of combating human trafficking globally has not been positive, therefore advocated for the more sanctions which may include “financial punishment and withdrawal of economic assistance”(Avdeyeva, 2010).

## **2.0 US. Human trafficking Policy Response TVPA**

The foundational concept of American human trafficking policy was traced to amendment 13 of United States Constitution which states that neither slavery nor slave like condition should exist in the country (Roby et al., 2008). Therefore, to address the issue of trafficking in person United States and beyond a bill was sponsored by Christopher Smith (R/NJ) and this legislative effort resulted to the enactment of Victims of Trafficking and Violence Protection Act, 2000 (TVPA) which encompasses three Ps (Prevention, Prosecution and Protection) strategies in combating human trafficking. The bill was signed into Law by the then United States President Clinton on October, 2000. The Law was reauthorized in 2003, 2006 and 2007 to increase the role and the influence of Federal Law Enforcement to investigate and prosecute trafficking in persons offences (Wooditch, 2011). TVPA established minimum standards to address human trafficking for countries to comply, The US unilaterally laid down four minimum standards upon which countries are assessed as follows:

1. The government should prohibit and punish acts of severe forms of trafficking in persons. In order to meet this requirement countries are to enact anti-trafficking legislation that criminalised trafficking in persons and provides adequate penalty for such crime.
2. The government should prescribe punishment commensurate with that for grave crime.
3. For the knowing commission of any act of a severe form of trafficking, the government should prescribe punishment that is stringent enough to deter others from committing same crime and that reflect the heinous nature of the offence.
4. The government should make serious and sustained efforts to eliminate severe forms of trafficking in persons

The TVPA authorizes the Secretary of States through the Department of States (DOS) to present to the US congress annual trafficking report. The TIP Report comprises of the detailed narration of countries efforts in the prevention, protection and prosecution. Categorization of countries into source, transit and destination and the ranking of ranking of countries into tier ranking based on their adherence to the unilateral minimum standard laid down by hegemonic US. Similarly the enacted Law empowered the United States through DOS to monitor the countries commitment in the fight against trafficking in persons. TVPA empowered the United States to enforce economic sanctions to pressurize other countries to comply with its unilateral decision. The economic sanctions which begin in October, 2003 involved withhold non-humanitarian assistance, non-trade related assistance, certain development- related assistance and aid from international and financial institutions, by instructing the American executive director of each multilateral development bank and International Monetary Fund to vote against non-humanitarian assistance to countries that do not meet the US minimum standard(TVPA, 2000; Chuang, 2012; Harold, 2012; Risley, 2015.). Same TVPA empowered the United State President either 1), apply full prohibition of non-humanitarian and non-trade foreign assistance, 2).

Withhold part of the non-humanitarian and non-trade aid as partial waiver or 3) entirely waive the restriction based on national interest. The extraterritorial reach of the TPVA has made the United States to assume the global police on human trafficking as well uses the policy to pursue its political agenda (Chuang, 2012). For instance the placement of Cuba, North-Korea, Syria, Iran, and Venezuela among others in the American Trafficking Report and the announcement of sanctions against Cuba, Venezuela, Sudan and North-Korea, whose governments historically has been targeted by United States had revealed the manipulation of global concerned of trafficking in persons to achieve its political agenda.

## 2.1 US Trafficking in Persons Report

The Trafficking in Persons Report comprises detailed countries narrations, level of countries commitment on protection, prevention and prosecution and the tier ranking of countries, published by Department of States and submitted to US congress (Horning, & Marcus, 2014). The annual report places countries in tier ranking (tier 1, 2 and 3) based on the countries' compliance with US unilateral minimum standards as stipulated in its TVPA implementation of the trafficking policies. The tier 1 according to TVPA (2000) are those countries whose government have fully comply with the four minimum standards unilaterally set forth in TVPA by US and enacted anti-trafficking legislation with adequate penalties. Tiers 2 are countries whose governments do not fully comply with the minimum standards but are making significant efforts to bring themselves into compliance. Tier 3 are worst in term of ranking that involved countries whose government do not fully comply with the minimum standards and are not making any significant efforts to bring themselves to compliance and may face sanction if they fail to prove in their implementation and commitment to the eradication of trafficking in persons and the United States will block such countries from obtaining financial support from World Bank and International Monetary Fund (TVPA, 2000; Wooditch, 2011). The TVPA grants the United States President the discretionary power to waive sanction based on national interest (TVPA, 2000).

The ranking of countries in the United States TIP Report has been criticised for being more of political than the actual fact on the ground and the TIP Report is selective by going light on the American allies and harsh for countries that has strained relation or no strategic interest (Chuang, 2012; Corker, 2015; Menendez, 2015). The report lacks sufficient information to justify the ranking, promotion and downgrading certain countries (Risley, 2015; Horning et al, 2013; Chuang, 2012; Gallagher, 2011; Wooditch, 2011). For instance the ranking of many Latin American countries shows more of inter-American relation than the actual issue of trafficking in the Western Hemisphere. In 2008 TIP Report only Colombia which is an American ally was placed on tier 1, whose anti-trafficking efforts were only comparable to United Kingdom, United States, Netherlands, Norway, Sweden, Canada, New Zealand, Germany, Same country was ranked on tier 1 in 2007, 2009 and 2010 (DOS Reports, 2007; 2009; 2010).

Despite Colombia high incidence of TIP and a source of sex trafficking throughout Latin America, the Caribbean, Western Europe, Middle East and North America. However the internal armed conflict that makes many Colombia women and children vulnerable, where criminal network, insurgents and paramilitary forced recruited and exploited them as combatants and sex slavery. (DOS Reports, 2007; 2008, 2009). Moreover United Kingdom, Germany and Sweden were placed on tier 1 ranking in 2004 as countries whose government fully complied with the minimum standards at the time when none of the countries enacted anti-trafficking legislations. Chuang, (2012) states that a mere existence of draft law or amendment is sufficient enough to merit a tier upgrade contrary to the representation of the Department of States that "TIP reports does not give great weight to laws in draft..." (Chuang, 2012). But this position had been overlooked by Department of States in the case of Malaysia that was upgraded from tier 3 to tier 2 watch lists in 2015 Trafficking Report. This political consideration has been challenged by US Senate Foreign Relation Committee during the Department of States presentation of 2015 Trafficking Reports. Senator Menendez said:

"So ... the upgrade of Malaysia was based on preliminary action on legal reform... before they are passed, before they become part of the law and even before implementation... the report clearly seems to me has been politicised in a way that is not justifiable and cannot be justified..." (Menendez, 2015) Contrary to the TVPA reauthorization ACT 2008 that set a limit of 2 years for countries on tier 2 Watch list to improved or down-graded to tier 3 and faced economic sanction. This is not applicable to American allies. For instance India has been on tier 2 Watch list for 6 consecutive years and was not demoted to face the economic sanctions. Same applied to Saudi Arabia and the United States Middle East friends that consistently remained on tier 2 Watch list and tier 1 and have not been blocked from financial assistance and exempted from United States economic sanction.

(US State Department Report 2006, 2007, 2008 & 2009, 2010; 2011). Similarly Indonesia an American ally on the war on terror was promoted from tier 3 to 2 in 2004, despite the failure of the country to enact comprehensive anti-trafficking legislative ( US State Department Report 2004). At the same time downgraded Venezuela from tier 2 to tier 3 in 2004 report period and it perpetual and continuous placement on tier 3 in the subsequent years (US State Department Report, 2005; 206; 2007; 2008; 2009; 2010; 2014).

The Venezuela's placement has been attributed to the strained relationship between the two countries, particularly, the downgrade came at the time when US supported the failed coup plot against late President Hugo Chavez (Risley, 2015; Sarah, 2005; Johan, 2005). Such ranking was highly politicised and aimed to economically and politically punish Venezuela, who is regarded as the leading Latin American Country to resist the US hegemony(Risley, 2015).In her congressional testimony the then Secretary of State Condoleezza Rice (2006) states that “ ... one of the biggest problems for the United States in Latin America was Venezuela...and its relationship with Cuba is danger to the region...” This explained why Reich (2005) Categorized Venezuela and Cuba as an “axis of evils” where their neutralization and defeat is central to America’s interest in Latin America. So in its efforts to defeat Venezuela, US through National Endowment for Democracy, International Republic Institute, National Democratic Institute and USAID financed opposition parties, Labour Group and NGOs to actively opposed Chavez (Risley, 2015).So it not surprised that the country is categorised on tier 3 in the US unilateral TIP reports (US States Department Report, 2014; 2005. 2007).

In consideration of the strained relationship between United States and Cuba, it was nota surprised that Cuba has been consistently placed on tier 3 for 12 consecutive years from 2004-2014 (DOS, 2004, 2005b, 2006c; 2007c). Cuba was placed on tier 3 alongside with Iran, Syria and North-Korea in particular that has been on tier 3 (Chuang, 2012; Risley, 2015; DOS, 2005; 2007; 2010; 2011; 2012; 2013). Until 2015 when Cuba was upgraded for the first time from tier 3 to tier 2 watch list as the result of the improved relationship between the two countries. In expressing his disappointment in the trafficking in persons report at the American Congress Senator Menendez said:“I stand because I’m deeply and profoundly disappointed in this year trafficking in persons...by upgrading Cuba and Malaysia that were at tier 3...the report succeeded in elevating political consideration and political goal above the most fundamental principles of basic human rights...the administration has turned it back on the victims of trafficking, turned the blind eyes to the fact and politicised the report...” (Menendez, 2015)

To shield itself against the politicization of TIP ranking US placed four of her Middle East allies Saudi Arabia, Kuwait, Qatar and United Arab Emirate on tier 3 (US States Department Reports, 2004;2005; 2007; 2010;2012; 2014 ). None of the American allies has been sanctioned for being categorized on tier 3 countries. For instance In 2011 United States applied full restriction on Eritrea, partial waiver on Burma, Cuba, Iran and Zimbabwe and full waiver from the aid prohibition were granted on Kuwait and Saudi Arabia on the basis of national interest. Obama (as cited in Harold, 2012) says “It remained in American national interest to continue non-humanitarian and non-trade related foreign assistance with these countries”(Harold, 2012).Similarly, in 2003 of all the 15 countries that were ranked on tier 3 by Department of States only Burma, Cuba and North Korea were sanctioned. Likewise, in 2004 Trafficking in Persons Report out of 10 countries on tier 3 list only three countries were sanction, these include Equatorial Guinea, Sudan and Venezuela. In 2007 the former American President G.W. Bush sanctioned Iran, Syria, Burma, North-Korea, Cuba and Venezuela out of 16 countries in tier 3 ranking (See Table 3) and waived all trafficking related sanctions on the 10 countries on national interest (Ribando and Alinson, 2008).

**Table 3: Tier 3 Countries in the 2007 TIP Report by Region**

| Regions                    | Countries   |
|----------------------------|---|
| East Asia & the Pacific    | Malaysia, North Korea, Burma  |
| Middle East & North Africa | Algeria, Bahrain, Oman, Qatar, Iran, Kuwait, Syria, Saudi Arabia, Sudan |
| South & Central Asia       | Uzbekistan  |
| Sub-Saharan Africa         | Equatorial Guinea   |
| Western Hemisphere         | Cuba, Venezuela   |

**Source:** U.S. Department of State (2007) Trafficking in Persons Report.

In addition, in its annual TIP report of 2005 US sanctioned Cuba, Burma, North Korea, Venezuela and Cambodia out of the 14 countries on tier 3 (See table 4).

For instance United States blocked Venezuela from obtaining \$1 billion from international financial institutions, and \$750 million for the country hydroelectric plants (Chuang, 2012). This is the consequences of levelling the country as violator of the American unilateral stand on trafficking rather than the United Nations Trafficking Protocol.

**Table4: Tier 3 Watch List Countries in the 2005 TIP Report by Region**

| Regions                    | Countries   |
|----------------------------|---|
| East Asia & the Pacific    | Cambodia, North-Korea, Burma,                           |
| Middle East & North Africa | Qatar, Kuwait, Saudi-Arabia, Sudan, United Arab Emirate |
| Sub-Saharan Africa         | Togo  |
| Western Hemisphere         | Bolivia, Jamaica, Cuba, Venezuela, Ecuador              |

**Source:** U.S. Department of State (2005) Trafficking in Persons Report.

### 3.0 In conclusions

Human Trafficking is a growing transnational crime worldwide, threatening national, regional and international security. Combating this crime required multilateral efforts and collaboration among source, transit and destination countries in order to prevent trafficking in persons, prosecute human traffickers, protect and assist trafficked persons. The political consideration in sanctioning and placement of countries on tier ranking as highlighted in the study has to be ameliorated, to give the United States annual trafficking in persons report a sense of transparency and other marginalised countries a sense of belonging. The placement of countries on tier ranking has to be in compliance with United Nations Trafficking Protocol and on the ground of countries' commitment to the UN Trafficking Protocol objectives as clearly spelt out in Article 2 of the Protocol, not on the unilateral position of United States. Therefore the United Nations Trafficking Protocol should be prioritized above any other domestic policies in regulating and monitoring the global fight against trafficking in persons.

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