

Law is a system of rules that are created and enforced through social or governmental institutions to regulate behavior. Law is a system that regulates and ensures that individuals or a community adhere to the will of the state. This year is consistent with legislations and laws leading up to now since the enactment of the passage of The Trafficking Victims Protection Act (TVPA) of 2000.

Under U.S. law, sex trafficking is defined as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”<sup>1</sup> To be punishable, the offense must involve a “severe form” of trafficking involving (1) a person under age eighteen who has been induced to perform a commercial sex act or (2) an adult who has been so induced by the use of “force, fraud, or coercion.”<sup>2</sup> Adults who sell sex willingly, with some kind of assistance, are not considered trafficking victims under U.S. law.<sup>3</sup> Trafficking that involves underage persons or adults subjected to force, fraud, or coercion is a serious violation of human rights, and the growing international awareness of the problem and efforts to punish perpetrators and assist victims are welcome developments. But there is also a parallel story—a robust mythology of trafficking. While no one would claim that sex trafficking is fictional, many of the claims made about it are wholly unsubstantiated.

Ref. Black’s Law Dictionary

**Federal Anti-Trafficking Laws.** The **Trafficking Victims Protection Act (TVPA)** of 2000 is the first comprehensive federal **law** to address **trafficking** in persons. The **law** provides a three-pronged approach that includes prevention, protection, and prosecution.

Ref. Federal Law/National Human Trafficking Hotline

In the last two decades, Congress has passed a number of comprehensive bills designed to bring the full power and attention of the federal government to the fight against human trafficking. Below are brief summaries of some of the most significant legislation in this area. Given the breadth and depth of these bills, these descriptions are not exhaustive.

### **The Trafficking Victims Protection Act of 2000**

Modern prohibitions of human trafficking in the United States have their roots in the 13th Amendment to the U.S. Constitution, which barred slavery and involuntary servitude in 1865. With the enactment of the Trafficking Victims Protection Act of 2000 (TVPA), Pub. L. No. 106- 386, in 2000, the U.S. Government was equipped with new tools and resources to mount a comprehensive and coordinated campaign to eliminate modern forms of slavery domestically and internationally.

Critically, the TVPA established the framework for the “3 P’s” of the fight against human trafficking: protection, prevention, and prosecution.

**Protection:** The TVPA provided increased protections for trafficking victims in the United States in several key ways:

- By making foreign victims eligible for federally funded or administered health and other benefits and services and by requiring federal agencies to expand the provision of such benefits and services to victims, regardless of their immigration status;
- 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.

**Prosecution:** The TVPA sharpened and enhanced the capacity of federal prosecutors to bring human traffickers to justice for their crimes. Prior to the TVPA, the Department of Justice (DOJ) filed human trafficking cases under several federal statutes related to involuntary servitude and slavery, but the criminal laws were narrow and patchwork. The TVPA addresses the inadequacy of the legal framework by:

- Adding new criminal provisions prohibiting forced labor, trafficking with respect to peonage, slavery, involuntary servitude, or forced labor, and sex trafficking of children or by force, fraud, or coercion;
- Criminalizing attempts to engage in these activities;
- Mandating that traffickers pay restitution to their victims, and providing for forfeiture;
- Strengthening penalties for existing trafficking crimes.

**Prevention:** The TVPA strengthened the U.S. Government's prevention efforts by providing for international initiatives to be established and carried out to improve economic opportunity for potential victims as a means of deterring trafficking.

The TVPA also created the Office to Monitor and Combat Trafficking in Persons in the State Department, making that office responsible for publishing an annual Trafficking In Persons (TIP) report that describes and ranks the efforts of countries to combat human trafficking. The TIP Report is the U.S. Government's principal diplomatic tool to engage foreign governments on human trafficking.

The TVPA also required 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.

### **The Trafficking Victims Protection Reauthorization Act of 2003**

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Pub. L. No. 108-193, refined federal criminal provisions against trafficking, to include adding human trafficking crimes as a Racketeer Influenced and Corrupt Organizations Act (RICO) predicate, and created a civil remedy enabling trafficking victims to file lawsuits against their traffickers in federal district court.

The TVPRA 2003 also established a Senior Policy Operating Group (SPOG) within the executive branch, to "coordinate activities of Federal departments and agencies regarding policies (including grants and grant policies) involving the international trafficking in persons and the implementation of" the TVPA. The SPOG consists of the senior officials from the agencies that work to address TIP, and is chaired by the Director of the Office to Monitor and Combat Trafficking Persons (TIP Office) of the Department of State (DOS).

In addition, the TVPRA 2003 mandated [an annual report from the Attorney General](#) to the U.S. Congress regarding U.S. governmental efforts to implement the TVPA.

## **The Trafficking Victims Protection Reauthorization Act of 2005**

Among other things, the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005), Pub. L. No. 109-164, provided extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.

The statute established a grant program for states, Indian tribes, local governments, and nongovernmental organizations (NGOs) to develop, expand, and strengthen assistance for trafficking victims and directed the Department of Health and Human Services to establish and implement a pilot program to provide benefits and services for juvenile trafficking victims.

The TVPRA 2005 also established a grant program for state and local law enforcement agencies to combat trafficking. In addition, the TVPRA 2005 expanded the reporting requirements of the TVPRA 2003.

## **The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008**

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Pub. L. No. 110-457, featured new measures to prevent and deter trafficking. The TVPRA 2008 further improved the tools available to hold traffickers accountable by:

- Creating new crimes that impose appropriately serious penalties on those who obstruct or attempt to obstruct the investigation and prosecution of trafficking crimes;
- Permitting prosecution of sex traffickers who recklessly disregard the fact that force, fraud, or coercion would be used against the victim;
- Eliminating the requirement to prove the defendant knew a sex trafficking victim was a minor in cases where the defendant had a reasonable opportunity to observe the minor;
- Expanding the crime of forced labor by providing that “force” includes the abuse or threatened abuse of legal process;
- Imposing criminal liability on those who, knowingly and with intent to defraud, recruit workers from outside the United States for employment within the United States by making materially false or fraudulent representations;
- Increasing the penalty for conspiring to commit trafficking-related crimes;
- Penalizing those who knowingly benefit financially from participating in a venture that engaged in trafficking crimes.

With respect to prevention and protection, the TVPRA 2008 directed the government to provide information about workers’ rights to all people applying for work and education-based visas. The TVPRA 2008 expanded the protections available with the T visa and required that all unaccompanied alien children be screened as potential victims of human trafficking.

## **The Trafficking Victims Protection Reauthorization Act of 2013**

The Trafficking Victims Protection Reauthorization Act of 2013 (TVPRA 2013), Pub. L. No. 113-4, focuses in part on the elimination of human trafficking from the supply chain of goods. This legislation requires the Director of the DOS TIP Office—working with other DOS officials, DOL officials, and other U.S. governmental officials—to build partnerships between the U.S. Government and private entities to ensure that U.S. citizens do not use items, products, or materials produced or extracted with the use and labor of trafficking victims and that those entities do not contribute to trafficking in persons involving sexual exploitation.

The TVPRA 2013 also:

- Strengthened the minimum standards for the elimination of trafficking used by DOS to describe the antitrafficking efforts of U.S. and foreign governments in its annual TIP Report;
- Amended the Racketeer Influenced and Corrupt Organization (RICO) Act to include labor contract fraud;
- Amended the federal criminal code to (1) subject U.S. citizens or permanent resident aliens who reside overseas and engage in illicit sexual conduct with a person under 18 years of age to a fine or imprisonment or both; and (2) subject a person who knowingly destroys, conceals, removes, confiscates, or possesses certain immigration documents to a fine or imprisonment or both;
- Extended the statute of limitations for a person to bring a civil action for an injury received while the person was a minor that was caused by certain sex- or forced labor-related violations of federal criminal law;
- and added reporting requirements for the Attorney General's human trafficking report.

### **The Justice for Victims of Trafficking Act of 2015**

The Justice for Victims of Trafficking Act of 2015 (JVTA), Pub. L. No. 114-22, again gave the Department more tools to address human trafficking, by:

- Adding “patronizes” and “solicits” to 18 U.S.C. § 1591(a) to facilitate prosecution of customers of sex trafficking victims.
- Adding “advertises” to the modes of commission of an offense under 18 U.S.C. § 1591 when there is proof that the defendant knew the victim being advertised was a minor or that force, fraud, or coercion would be used.
- Clarifying that there is no need to prove either that the defendant knew, or that he recklessly disregarded, the fact that a sex trafficking victim was a minor if the defendant had a reasonable opportunity to observe the victim.
- Amending 18 U.S.C. § 1594 to direct any assets forfeited in a human trafficking case to be used to satisfy a victim restitution order. It further allows forfeiture of, for example, any asset that is involved in, or is traceable to the proceeds of, human trafficking.
- Adding the production of child pornography to the definition of “illicit sexual conduct” as used in 18 U.S.C. § 2423, which prohibits transportation and travel-conduct involving illegal sexual activity with children. See 18 U.S.C. § 2423(f).
- Creating a mandatory \$5,000 special assessment that applies to non-indigent defendants for each count of conviction of certain offenses, including offenses set forth in Chapter 77 and Chapter 110. The revenue generated from this special assessment shall be used to support programs to provide services to victims of human trafficking and other offenses.
- Directing the Attorney General to create and maintain a National Strategy to Combat Human Trafficking.

Key Legislations / United States Department of Justice