

March 2016

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Recommended Citation

Vanessa Bouché (2016) "Human Trafficking and International Development: Expanding the Role of USAID," *Journal of International and Comparative Law*: Vol. 5: Iss. 1, Article 1.

Available at: <http://scholarship.law.stjohns.edu/jicl/vol5/iss1/1>

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HUMAN TRAFFICKING AND INTERNATIONAL DEVELOPMENT: EXPANDING THE ROLE OF USAID

Vanessa Bouché*

INTRODUCTION

International development work is inherently anti-trafficking work. In the United States, the mission and programs of the United States Agency for International Development (USAID) align very closely with the type of initiatives designed to prevent and suppress human trafficking. Despite this, however, the international anti-trafficking work of USAID has been rather limited in scope.

I argue that there are two primary reasons, implicit within the text of Trafficking Victims Protection Act (TVPA) of 2000, that USAID's engagement in anti-trafficking work has been constrained. The first reason is the ways in which prevention, protection, and prosecution, the "three Ps," have been defined, understood, and conceptualized in the TVPA.¹ Although the "three P" framework has been perceived to provide a relatively holistic view of the problem of and solutions to transnational human trafficking,² in practice, the TVPA and its subsequent reauthorizations in 2003, 2005, 2008, and 2013 have siloed the

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¹ See Hillary Rodham Clinton, *Partnering Against Trafficking*, WASH. POST, June 17, 2009, <http://www.washingtonpost.com/wp-dyn/content/article/2009/06/16/AR2009061602628.html>.

² See Elzbieta M. Gozdzik & Elizabeth A. Collett, *Research on Human Trafficking in North America: A Review of Literature*, INTERNATIONAL MIGRATION 43(1/2), at 104 (2005) ("In North America, only the United States has passed a comprehensive legislation that addresses prevention and protection for victims in addition to prosecution of traffickers."). See also, Stephanie Richard, Note, *State Legislation and Human Trafficking: Helpful or Harmful?*, 38 U. MICH. J.L. REFORM 447 (2004) ("This federal legislation takes a comprehensive approach to addressing the problem of human trafficking in the United States by acknowledging that effective prosecution cannot occur without safeguards and benefits for trafficking victims.").

“three Ps,”³ which has de facto excluded USAID from engaging in a broader anti-trafficking portfolio.

The second reason for the limited scope of USAID’s engagement in anti-trafficking work is the statutory role delegated to the State Department in the TVPA. The State Department is tasked with leading a variety of anti-trafficking initiatives, including the drafting of the Trafficking in Persons Report (TIP Report), and chairing the Interagency Task Force to Monitor and Combat Trafficking. With the State Department at the helm, USAID plays a secondary role. Part I of this note will elaborate on these points. Part II will discuss two implications of USAID’s limited role in international anti-trafficking programs. These include problem-framing and missed opportunities in terms of programmatic and policy priorities. Next, in Part III, I discuss two problems with USAID’s backseat role in U.S. government international anti-trafficking work. Finally, in Part IV, I argue that increasing the role of USAID in human trafficking programs worldwide will facilitate a more robust integration of the “three Ps” and underscore the human rights and development frame of the human trafficking issue.

³ Trafficking Victims Protection Act, 22 U.S.C. §§ 7101–7112 (2000). *See also* Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875; Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558; William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044; Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, 127 Stat. 136. *See also* Hussein Sadruddin, Natalia Walter & Jose Hidalgo, *Human Trafficking in the United States: Expanding Victim Protection Beyond Prosecution Witnesses*, 16 STAN. L. & POL’Y REV. 379 (2005) (discussing the siloing of protection and prosecution); *see also* Jennifer M. Chacón, *Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking*, 74 FORDHAM L. REV. 2977 (2006) (articulating the siloing of the TVPA vis-à-vis other relevant policy areas, including immigration and labor).

I. LIMITED SCOPE OF USAID'S ANTI-TRAFFICKING
PORTFOLIO

A. Reason 1: Definitional Segmentation in the TVPA

1. Prevention

In the TVPA, prevention is understood to be economic development programs and public awareness campaigns specifically geared towards those populations most vulnerable to being trafficked.⁴ In the original passage of the TVPA, Section 106 sets forth recommendations for initiatives that would provide economic alternatives for those vulnerable to being trafficked.⁵ Economically disadvantaged populations are more likely to be defrauded and/or coerced into a trafficking situation given their desperation for education and economic opportunity.⁶ With this understanding, the TVPA recommends a variety of initiatives geared towards providing these especially vulnerable populations with alternatives. These initiatives include: microlending programs, training programs for job skills, and women's economic and educational empowerment programs.

Section 106 on prevention also requires that public awareness programs be established "particularly among potential victims of trafficking," which the law implies primarily includes those that are economically desperate, especially women and girls. The 2005 reauthorization expands the scope of vulnerable populations to include those in post-conflict areas, such as refugees and internally displaced persons.⁷

The definition of prevention set forth in the TVPA, therefore, is limited to preventing potential victims from being trafficked. This definition alone does not limit the work of USAID in anti-trafficking initiatives. Indeed, this tends to be the one "P"

⁴ Trafficking Victims Protection Act, 22 U.S.C. §§ 7101–7112 (2000).

⁵ *Id.*

⁶ *See TO PLEAD OUR OWN CAUSE: PERSONAL STORIES BY TODAY'S SLAVES*, (Kevin Bales et al. eds., Cornell Univ. Press 2008) (discussing stories of victims of human trafficking from around the globe who were forced, defrauded, and/or coerced into a trafficking situations as a result of being promised education or better economic opportunities).

⁷ Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558.

in which USAID can make a difference given its extant economic development and women's empowerment programs. On the other hand, limiting the definition of prevention only to programs that prevent vulnerable populations from being trafficked ignores prevention opportunities among the other populations that facilitate the trafficking of humans. Scholars have aptly discussed trafficking in terms of the supply (victims), distribution (recruiters and traffickers), and demand (buyers).⁸ Under this framework, the business model of human trafficking relies on equilibrium of supply and demand. The TVPA focuses on prevention of the supply; however, in order to disrupt the business model of human trafficking, prevention programs must also target the demand, and perhaps even the recruiters and traffickers. An expanded definition of prevention, then, would also expand the scope of the work of USAID beyond preventing supply to programs that also prevent people from engaging in distribution of and demand for trafficked people.

2. *Protection*

In addition to prevention, Section 107 of the TVPA sets forth provisions for “protection and assistance for victims of trafficking,” and this section is divided into two parts: protection for victims of human trafficking in other countries and protection for victims in the United States.⁹ In the foreign policy and international development context of the TVPA, protection of foreign victims generally takes the form of developing programs to assist with rehabilitation, reintegration and resettlement in cooperation with foreign countries of origin.¹⁰ This is a difficult task given the strong social stigma across much of the globe associated with having been a victim of human trafficking. Oftentimes, victims of trafficking face the risk of being rejected

⁸ E.g. Shelley, Louise. 2010. *Human Trafficking: A Global Perspective*. New York: Cambridge University Press.

⁹ Trafficking Victims Protection Act, 22 U.S.C. §§ 7101–7112 (2000).

¹⁰ Protection, per the TVPA, also includes shelter and social services, including access to T-Visas, in the United States for foreign victims; however, given the focus of this manuscript is the TVPA in the context of foreign policy and international development, a deeper discussion of these programs and policies is outside the scope of this paper.

and ostracized by their families and communities when they return back home, especially if they were trafficked for commercial sex.¹¹

Given these social stigmas against trafficking victims when they return home, it is clear that there is a strong element of *prevention* that needs to take place alongside the *protection* work. Currently, the focus on public awareness is in the purview of “prevention”—educating the public on how to avoid falling prey to this situation. However, in working with foreign governments on rehabilitation, reintegration and resettlement efforts of victims, public awareness campaigns need to be extended beyond messaging to potential victims to the larger communities whence victims come. The public needs sensitization training not to stigmatize, but rather embrace, those from their communities who were trafficked. This type of messaging is distinct from the messaging that prevents vulnerable populations from being trafficked. It is the type of messaging aimed at *preventing* communities from ostracizing resettled victims, which jeopardizes and impedes their rehabilitation process.

In short, understanding prevention and protection only in terms of the victims or potential victims of human trafficking limits the scope of the anti-trafficking work for USAID and inhibits other programs from being developed that may help address other facets of the problem. More specifically, expanding and integrating definitions of prevention and protection would also increase opportunities for international development initiatives to engage in anti-trafficking work.

¹¹ See LISE BJERKAN, LINDA DYRLID, VESNA NIKOLIC-RISTANOVIC & BILJANA SIMEUNOVIC-PATIC, A LIFE OF ONE'S OWN: REHABILITATION OF VICTIMS OF TRAFFICKING FOR SEXUAL EXPLOITATION 149–150, (Victimology Soc. of Serbia et al. ed., 2005), *available at* <http://www.faf.no/pub/rapp/477/477.pdf>; ANETTE BRUNOVSKIS & REBECCA SURTEES, COMING HOME: CHALLENGES IN FAMILY REINTEGRATION FOR TRAFFICKED WOMEN, 454–457 (2013), *available at* <http://qsw.sagepub.com/content/12/4/454.full.pdf>; ANNUSKA DERKS, REINTEGRATION OF VICTIMS OF TRAFFICKING IN CAMBODIA, (Phnom Penh Int'l Org. for Migration & Ctr. for Advanced Study ed. 1998), *available at* <http://no-trafficking.org/content/pdf/annuska%20derks%20reintegration%20of%20trafficking%20victims.pdf>.

3. *Prosecution*

The third “p,” prosecution, is defined under the TVPA as the criminal and civil penalties associated with being found guilty of various forms of trafficking in persons. Section 112 amends the U.S. criminal code and, most importantly, inserts Sections 1589, 1590, and 1591, which define human trafficking and set forth the criminal penalties associated with different levels and types of trafficking in persons in the United States. Sections 1592, 1593, and 1594 make important civil law contributions, including mandatory restitution to victims, asset forfeiture, and a witness protection program.¹²

In addition to criminalizing human trafficking in the United States, the TVPA also made human trafficking a major foreign policy issue. Sections 108 to 110 of the TVPA set forth foreign government compliance with meeting the minimum standards of combatting trafficking in persons, as well as the “carrots” and “sticks” associated with compliance.¹³ Section 108 sets forth the “minimum standards for the elimination of trafficking,” and the majority of these standards have to do with the prosecution of traffickers. This includes criminalizing human trafficking in such a way that “is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.”¹⁴ Beyond simply passing a criminal statute, Section 108 also includes as a minimum standard that states must “vigorously” investigate and prosecute cases of human trafficking, collaborate with other countries in these investigations and prosecutions, protect victims, and prevent trafficking through informational and educational outreach to the public.

Countries that are designing programs to meet these minimum standards are eligible to receive foreign assistance from

¹² See 22 U.S.C. §§ 7101–7112 (2000). The TVPA criminal statute is lauded for being very strong. I refrain from delving further into the U.S. criminal provisions for human trafficking in the United States, however, given the focus on U.S. foreign policy and international development work on human trafficking. For more on the sanctions framework, *see generally* Janie A. Chuang, *The United States as Global Sheriff: Using Unilateral Sanctions to Combat Human Trafficking*, 27 MICH. J. INT’L L. 437 (2006).

¹³ See 22 U.S.C. § 7106.

¹⁴ *Id.*

the United States for these programs (the “carrot”). On the other hand, the United States will withhold non-humanitarian nontrade-related foreign assistance to countries that do not meet the minimum standards and are not making efforts to do so (the “stick”).¹⁵

Of course, the United States cannot hold foreign countries to minimum standards that it cannot meet for itself. Thus, the expectation regarding prosecution is that definitions regarding the act of human trafficking be commensurate with those of the United States.¹⁶ Criminalizing human trafficking under the TVPA means specifically criminalizing those that “recruit, harbor, provide or obtain” the victims. The U.S. definition of human trafficking, however, does not address “patronizing” or “soliciting,” nor does it hold corporations accountable for labor practices within their supply chains.¹⁷ Thus, prosecution is defined narrowly, extending only to traffickers that facilitate the supply to meet the demand.

Moreover, in defining prosecution in terms of harsh criminal and civil penalties for those convicted of human trafficking, the TVPA misses the link between prosecution and prevention and protection. Even under the limited definition of prosecution, there are connections between prevention and protection that are lost. First, the link between prosecution and

¹⁵ For language on this “carrot-and-stick” approach, see ANTHONY DESTEFANO, *THE WAR ON HUMAN TRAFFICKING: U.S. POLICY ASSESSED*, 125 (Rutgers Univ. Press 2007).

¹⁶ Given that the definition of human trafficking in the Palermo Protocol is very similar to that of the TVPA, and that 154 countries have ratified the protocol, most countries understand human trafficking in similar terms as the U.S. See, e.g., U.N. Office on Drugs and Crime, *Global Report on Trafficking in Persons* (December 2012), http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf.

¹⁷ In an effort to expand the definition of what constitutes human trafficking, in 2013, a bill was filed in Congress to amend the TVPA by adding the words “patronize” and “solicit” to the acts that constitute human trafficking. The bill did not pass. The bill did not pass despite the fact that one U.S. government report found over 122 goods from over 60 countries that were believed to have forced or otherwise trafficked labor in their supply chains. See *Dep’t of Labor’s List of Goods Produced by Child Labor or Forced Labor*, UNITED STATES DEPARTMENT OF LABOR, [www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA .pdf](http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf) (last visited Aug. 11, 2014).

prevention needs to be made. Just as it is imperative to provide victims and potential victims with options that minimize their vulnerability to being trafficked, prevention can also be focused towards traffickers or potential traffickers.¹⁸ As we learn that limited barriers to entry and high financial rewards motivate traffickers to enter the business, the repertoire of prevention programs, including those that foster educational and economic development, could also target the population of potential traffickers.¹⁹

Finally, with prosecution being the only element of the TVPA that deals specifically with traffickers, it also misses elements of protection that may apply to them. Across the globe, sentencing guidelines for human trafficking vary significantly, and very few countries worldwide have a maximum of life imprisonment.²⁰ This means that convicted traffickers will be

¹⁸ There has been a recent push to begin to understand the mind and motivation of traffickers in order to better develop interventions for traffickers. See, e.g., Noël Busch-Armendariz, Laurie Cook Heffron & Maura Nsonwu, *Understanding Human Trafficking: Development of Typologies of Traffickers PHASE II* (2009), available at INSTITUTE ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT, CENTER FOR SOCIAL WORK RESEARCH, SCHOOL OF SOCIAL WORK, THE UNIVERSITY OF TEXAS AT AUSTIN, <http://www.utexas.edu/ssw/dl/files/cswr/institutes/idvsa/publications/humantrafficking.pdf>.

¹⁹ Much of the work on understanding the business motivations and methods of entry of traffickers comes from studies of pimps in the United States, this research should also inform our understanding of the motivations in an international context, as well. Specifically, traffickers are motivated by the potential for major financial gain. See, e.g. Meredith Dank, et al, *Estimating the Size and Structure of the Underground Commercial Sex Economy in Eight Major U.S. Cities*, URBAN INSTITUTE RESEARCH REPORT (2014), available at <http://www.urban.org/UploadedPDF/413047-Underground-Commercial-Sex-Economy.pdf>; see also, Alex Harocopos, Michael Hough, and Tiggey May, *For Love or Money: Pimps and the Management of Sex Work*, London: Home Office, Policing and Reducing Crime Unit, Research, Development and Statistics Directorate (2000); see also Thomas V. Galli, Edward J. Schauer, and Elizabeth M. Wheaton, *Economics of Human Trafficking*, INTERNATIONAL MIGRATION 48 (4): 114–41 (2010); see also Celia Williamson and Terry Cluse-Tolar, *Pimp-Controlled Prostitution Still an Integral Part of Street Life*, VIOLENCE AGAINST WOMEN 8 (9): 1074–92 (2002).

²⁰ Maximum sentencing across the globe ranges from about 10 years to life imprisonment. See *Trafficking in Persons Report 2013*, U.S. STATE DEPT (2013), available at <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm>.

released and will need to reintegrate into society.²¹ In the absence of protection programs in prison, including some of the same as those provided to the victims, it is very likely that they will continue in the same lifestyle and line of “business,” with no reduction in recidivism. However, if, as part of their terms of probation, traffickers were required to receive counseling and job training, or take a short course on human ethics, perhaps they can be “protected” against reentering a business that thrives on exploiting others.

To summarize, this section argues that, in setting forth the “three P” anti-trafficking framework, the perception has been that the TVPA is holistic in its approach to international anti-trafficking policies and programs; however, in the absence of integrating the “three Ps,” the framework falls short of being truly holistic. The lack of definitional integration has the de facto effect of limiting the scope of USAID’s anti-trafficking portfolio because, within the current framework, the only “P” that is within the purview of international development is prevention. An integrated and expanded understanding of the “three Ps” will also expand the role of USAID in developing and administering anti-trafficking programs across prevention, protection, and prosecution.

B. Reason 2: State Department’s Delegated Authority in the TVPA

1. Interagency Task Force & Coordination

The second reason for the limited scope of USAID in international human trafficking efforts is the way authority for international anti-trafficking initiatives has been delegated within the TVPA. The TVPA created the Interagency Task Force To Monitor and Combat Trafficking (Task Force), which was originally comprised of the Secretary of State, the Administrator of USAID, the Attorney General, the Secretary of Labor, the

²¹ See U.N. Office on Drugs and Crime, *supra* note 16 for trends in global prosecutions of human trafficking cases.

The number of convictions for human trafficking offenses worldwide is still very low, but the trend is that convictions are increasing. Thus, with increased convictions come increased opportunities to institute programs in prisons that will “protect” this population from recidivism.

Secretary of Health and Human Services, and the Director of National Intelligence.²² The 2005 reauthorization added the Secretaries of Defense and Homeland Security, and in 2008 the Secretary of Education was also added as a statutory member of the Task Force.²³ The Task Force is chaired by the Secretary of State, and it meets annually.

The Task Force assists the State Department in measuring and evaluating global progress on human trafficking through the TIP Report. Each member of the Task Force can provide non-reimbursable staffing to the Office to Monitor and Combat Trafficking for this purpose. Additionally, each agency on the Task Force contributes relevant data on human trafficking to the Human Smuggling and Trafficking Center. The data shared by each agency represented on the Task Force is ultimately meant to help develop a coordinated, uniform, and standardized approach to data collection across these agencies. In 2003, a Senior Policy Operating Group (SPOG) was formed out of the Task Force as a means of holding more regular meetings (quarterly) and implementing the initiatives of the Task Force.

In 2004, Section 7202 of the Intelligence Reform and Terrorism Prevention Act created the Human Smuggling and Trafficking Center in an effort to further integrate various federal government agencies on transnational issues relating to the criminal movement of people that threaten U.S. national security. These include migrant smuggling, terrorist travel, and human trafficking.

The development of the Task Force, SPOG, and the Human Smuggling and Trafficking Center are important steps in integrating and coordinating the work of all different federal government agencies that touch the issue of human trafficking. In

²² 22 U.S.C. §§ 7101–7112 (2000). The Director of Central Intelligence was in the original bill; however, after the passage of the Intelligence Reform and Terrorism Prevention Act of 2004 created the Director of National Intelligence, the 2005 reauthorization of the TVPA changed the title of the intelligence official on the Task Force to the Director of National Intelligence.

²³ Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558; William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044.

these coordination efforts, however, the State Department is the central node, with USAID playing a secondary role.

2. Department of State, Office to Monitor & Combat Trafficking in Persons

As the head of the Task Force and the agency charged with writing the TIP Report, the State Department is clearly the lead agency for coordinating U.S. government anti-trafficking efforts. In addition to its lead role in writing the TIP Report and guiding the activities of the Task Force, the TVPA also requires the Secretary of State to coordinate with heads of other agencies on various initiatives. For instance, the State Department is charged to work with the Administrator of USAID and foreign governments on reintegration for foreign victims of human trafficking and on trafficking that results from post-conflict humanitarian emergencies. The Secretary of State is also required to work with the U.S. Attorney General on regulations and policies regarding the protection of foreign victims of trafficking in the United States, and the Secretaries of Labor, Health and Human Services and the Attorney General in developing public awareness campaigns about the dangers of human trafficking and the assistance that is available in the U.S. to foreign victims.

The TVPA authorized creation of a new office in the State Department, Office to Monitor and Combat Trafficking (G/TIP). The original intent of this office was to “support the functions of the Task Force,” and the head of this office was originally given the title of “Director.” However, in 2003 this title was revised to “Ambassador-at-Large,” and in the 2008 reauthorization, the Office to Monitor and Combat Trafficking was given a stand-alone mandate beyond supporting the Task Force.

Although subsequent reauthorizations of the TVPA recognize that the problem of human trafficking in the United States is not confined to foreign victims, the original bill viewed it as a problem primarily outside the United States, and among foreigners within the United States. This is perhaps the reason the State Department became the lead agency for most American anti-trafficking efforts. However, even after gaining a more accurate

understanding of the human trafficking situation within U.S. borders (e.g., the large proportion of victims and perpetrators that are *not* foreign-born), and a clearer picture of ways in which international development inherently confronts the push and pull factors that lead vulnerable populations across the globe to being trafficked, the State Department has maintained its leadership position and the G/TIP office has grown substantially over the years.

3. USAID

With the State Department at the helm, USAID has largely played a supporting role. The Administrator for USAID is a member of the Task Force, and is tasked to work with the State Department on various anti-trafficking issues, but otherwise is not given a particularly prominent statutory role in the overall scope of global anti-trafficking efforts.

There are at least two reasons USAID should play a more prominent role in transnational anti-trafficking efforts within the U.S. government. First, USAID already runs programs that attack extreme poverty and promote economic growth, education, and women's empowerment. It would be simple enough to build into each of these programs education and awareness on human trafficking. Rather than the creation of "new" initiatives, USAID can require that anti-trafficking education and awareness be interwoven and embedded into its extant programs.

Second, USAID has an extremely comprehensive grasp of the ways in which prevention, protection, and prosecution are integrated and how it can bring its international development expertise to bear across all three of these areas. USAID has a Counter Trafficking in Persons (C-TIP) office, housed within their Democracy, Human Rights, and Governance program. The C-TIP office published a Counter-Trafficking in Persons Field Guide, which serves three primary purposes: 1) provides guidance on monitoring and evaluation of C-TIP programs; 2) educates on human trafficking; and 3) recommends ways to integrate C-TIP

work into existing development programs.²⁴ Of particular interest are Annex F and Annex G. Annex F provides concrete examples of the ways in which existing USAID programs can integrate C-TIP initiatives. Annex G then approaches it from a different perspective and shows how development programs can not only be brought to bear in prevention, protection, and prosecution, but also ways in which these types of anti-trafficking development initiatives can be effectively monitored and evaluated.

The USAID C-TIP Field Guide paints perhaps the most comprehensive and integrated federal government understanding of human trafficking to date. It is among the first publications that begins to show not only how the “three P” paradigm is more complex than prevention and protection of victims and prosecution of traffickers, but also the ways in which specific C-TIP programs can be approached from a development framework, and the ways in which extant development programs can integrate C-TIP programs and messaging. Moreover, it provides concrete examples about how to monitor and evaluate these programs.

Although not its main goal, the Field Guide itself makes a strong case for a growing role for USAID in counter-trafficking work globally. However, the current definitions of the “three Ps” and the statutory delegation to the State Department for most international anti-trafficking work prevent USAID from moving more boldly into this space. The next section will discuss two problems with a backseat role for USAID in U.S. government international anti-trafficking work.

II. PROBLEMS WITH LIMITING ROLE OF USAID

A. Problem Framing and Signaling

The first problem with limiting the role of USAID in transnational anti-trafficking work is the manner in which this frames the issue, and the subsequent signal that this frame sends to

²⁴ See *Counter-Trafficking in Persons Field Guide* United States Agency for International Development (2013), available at http://www.usaid.gov/sites/default/files/documents/2496/CTIP_Field_Guide_Final_April%205%202013.pdf.

the international community. The central role of the State Department and the creation of the Human Smuggling and Trafficking Center frame the issue of international human trafficking as one principally about foreign policy and national security. This foreign policy and national security frame sends the signal that the international development and human rights aspects of the issue are secondary.

The State Department, in writing the TIP Report and placing countries in tier rankings, determines whether or not sanctions are warranted. Although the purpose of this “stick” is to signal that the United States takes the issue of human trafficking very seriously and to get countries to act, this punitive measure of withholding non-humanitarian nontrade-related foreign assistance is, by definition, cutting out USAID and preventing—or at least making it much more difficult—for anti-trafficking work to move forward in those countries. In other words, while the threat of withholding international development aid is supposed to get states to act, it ends up divorcing human trafficking and international development, as though progress on one will not impact progress on the other.

The Human Smuggling and Trafficking Center, on the other hand, frames transnational human trafficking as a national security issue, which signals that the U.S. motivation behind its foreign policy on human trafficking is motivated by self-interest. The United States has a self-interest in the rest of the world clamping down on human trafficking given the transnational nature of the issue. If the entire global community took this crime very seriously, it would ultimately benefit the United States. Neither the foreign policy nor national security frames in themselves are problematic; however, to the extent that they overshadow the human rights and international development frame, they become so. An increased role of USAID will help reframe the U.S. government’s approach to trafficking, and thereby send the signal that, while it is an important foreign policy and national security issue, it is also taken seriously by the U.S. government simply because of the ways in which it violates human rights and dignity.

B. Missed Opportunities

A second problem with limiting the role of USAID in international human trafficking work is that opportunities are lost. Perhaps the most unfortunate missed opportunities are those programmatic areas that are left untouched because of the narrow scope of prevention, protection, and prosecution work. There are many examples of this. First relates to the narrow definition of prevention. Because the scope of prevention pertains only to the supply of victims, opportunities are lost to develop programs targeted at preventing the distributors and buyers of trafficked people. In an international development context, economic development, educational, human rights, and women's empowerment programs can all creatively target not only those most vulnerable to being trafficked, but also those who are most vulnerable to engage in these types of illicit markets in the first place. Moreover, opportunities are lost in preventing stigmatization of trafficking victims who are seeking to be reintegrated to their home communities. Thus, prevention only in the context of victims overlooks other avenues of prevention that target different aspects of the problem. All of these are programmatic areas in which USAID could effectively work.

A second example of missed opportunity is in the realm of protection. Again, as defined by the TVPA, protection programs are aimed at the successful rehabilitation and reintegration of victims of human trafficking. Defining protection narrowly misses opportunities to rehabilitate and reintegrate the distributors and buyers, as well. For example, a number of development programs are designed to build capacity and transparency within the legal and criminal justice systems of developing nations. Countries that are making progress in this arena and have also successfully prosecuted traffickers may be good candidates to begin working through protection programs for traffickers in prison. In fact, some of the same prevention programs geared towards those vulnerable to becoming the traffickers may be interesting "protection" mechanisms for those who have been convicted of trafficking, who are now in prison, and who will eventually be reintegrated back into society.

III. LARGER ROLE FOR USAID

Thus far, I have argued that there are two ways in which the text of the TVPA has implicitly limited the role of USAID in international human trafficking initiatives: the segmentation of the “three Ps” and the large statutory role of the State Department. The limited role of USAID not only signals to the international community that the human rights and development aspects of the issue are secondary to U.S. foreign policy and national security interests, but also permits opportunities to be missed that would more comprehensively and aggressively address both supply and demand. In order to overcome these problems, I recommend enlarging the role of USAID in international human trafficking work. An increased role for USAID would do two things: 1) help expand and integrate the definitions of prevention, protection, and prosecution in the TVPA; and 2) help renegotiate the problem frame.

A. Integrate three Ps

An enlarged role for USAID will assist with the statutory integration of the “three Ps.” In many ways, the C-TIP Field Guide implicitly does this as it articulates the many ways development programs can touch upon prevention, protection, and prosecution. Beyond the hypotheticals set forth in the Field Guide, USAID can work in tangible ways to build anti-trafficking vernacular into all of its extant development programs. In other words, education and awareness about human trafficking can be embedded in USAID development programs that are not specifically C-TIP related.

Increased USAID involvement will also facilitate a deeper and wider understanding of what it means to “prevent” human trafficking. USAID already engages in prevention programs for vulnerable populations, not only implicitly through its economic development and women’s empowerment programs, but also explicitly through its partnership with MTV Exit. However, there are opportunities to use development programs to prevent individuals from viewing human trafficking as a viable business opportunity, and preventing others from viewing the exploitation of human beings as an acceptable practice to get what they want, either in terms of commercial sex or cheap labor that facilitates high profits and cheap goods. USAID can help extend prevention

beyond supply by extending its development work to the distribution and demand, as well. Moreover, there are also prevention measures USAID can support within communities in which victims are reintegrated that would counteract the ostracization and stigmatization of survivors.

Third, within the realm of protection, there is a very large role for USAID to play in facilitating rehabilitation programs to survivors, an area in which USAID is more or less currently not engaged. Beyond inherently development-oriented protection programs that can assist victims with rehabilitation, there are also protection programs that USAID can facilitate through their myriad Democracy & Governance initiatives to work with foreign governments on programs that would aim to reintegrate convicted traffickers into society. As with the scope of prevention, the scope of protection must touch both supply and demand. The increased engagement of USAID in anti-trafficking work can help generate the argument for expanding the scope and integrating the work of prevention, protection, and prosecution.

B. Renegotiate Problem Frame

Finally, expanding the statutory role of USAID will also have the effect of shifting, or at least complicating, the problem frame. The State Department should maintain its leadership role in global anti-trafficking work, especially in researching and writing the TIP Report. However, as it currently stands, USAID programs in the arena of prevention, and only in some countries, and leaves the protection and prosecution work to the State Department. This is problematic for all of the reasons previously argued—including the way in which development work can assist in protection and prosecution—but it is also problematic from a framing and signaling perspective. Just as this is a foreign policy issue, the human rights and development aspects of human trafficking cannot be understated. One way of making this statement is by increasing the role of USAID in anti-trafficking efforts by allowing it to develop programs that address the supply, distribution, and demand issues of prevention, protection, and prosecution.

The United States has made significant strides in the last 15 years in raising awareness about human trafficking across the

globe, and pressuring foreign governments to do something about it. But there is more to do in the next 15 years. As we continue to better understand the multi-faceted nature of this issue, it is going to be imperative for the U.S. to assess its approach. In contemplating the next reauthorization of the TVPA, Congress should consider the limitations of the current definitions of prevention, protection, and prosecution, and the implications of viewing the “three Ps” as discrete. In reconceptualizing these definitions, the international development frame is going to emerge alongside the foreign policy and national security frames, and USAID will need to be given a much more prominent role in prevention, protection, and prosecution efforts worldwide.