North American Policy on Trafficking of Humans

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1   Introduction

North American policy on trafficking in humans (TIP) is a complex endeavor due to the need to protect the rights of survivor victims, while balancing societal needs for safety. TIP is an affront to long standing moral values. All forms of TIP deprive people of freedom and strip them of dignity and choice. Estimates of human trafficking continue to rise significantly, with profits estimated at 152 billion dollars annually [1]. As of this writing, 27.6 million individuals are compelled to engage in work in industry or forced sex [1]. Effective human trafficking policy employs coordination, collaboration, and private/public partnerships. Prevention and protection efforts rely on a multi-pronged approach. It is equally vital to develop effective protocols for recovery and reintegration of victims and prevent repeat trafficking [2]. A public health approach to TIP could improve public awareness of TIP, a key component of influencing policy. This includes awareness of the toxic environmental and societal issues that create a market for traffickers and the need to support and care for victims [3]. If we are to eliminate human trafficking, we must create and enact policy to that addresses the root problem of TIP—the criminal activity of traffickers [3]. At the heart of effective policy on all fronts of the human trafficking crisis is the need to value human dignity.

2   North American Policy

The United Nations (UN) adopted a protocol in 2000 to prevent, punish, and suppress trafficking in an effort to strengthen the UN convention against transnational organized crime [4]. Not all countries heed the tenants of the policies set forth in

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this protocol. In such cases we need to focus efforts and assistance with countries who demonstrate political will and have the greatest need for combating TIP [5] The United States Department of state TIP Office (USDTIP) provides global leadership in anti-trafficking policy, including assistance with capacity building of civil societies and government. USDTIP ranks countries according to their adherence to the Trafficking Victims Protection Act of 1990 (TVPA) standards for elimination of trafficking in persons [2, 6]. Rankings consider not only the TVPA standard how well a government engages in efforts to meet TVPA minimum standards of anti-trafficking initiatives.

In North America, only Canada, the Bahamas and the United States meet criteria for Tier One, meaning they consistently meet TVPA standards to combat human trafficking and show annual progress in combating human trafficking crime. Canada and US policy are in alignment across municipal, national, and international agencies [7]. This integrative policy driven approach is designed to reduce cross-border TIP through multiple strategies to strengthen TIP training and a network of intelligence sharing. Integral to policy management in Canada is using the Royal Canadian Mountain Police in education, awareness, and victim assistance programs with sensitivity to gender and cultural issues inherent in TIP populations. A strong emphasis is included on policy specific to vulnerable indigenous and immigrant women [7].

Several North American countries such as Mexico, Costa Rica, and Belize have shown substantial progress to comply with TVPA standards, meeting Tier 2 criteria [2]. Many of the smaller islands such as Haiti and St. Lucia are on the Tier 2 watch list, because there have either been disproportional government efforts in comparison to the magnitude of trafficking in country or trafficking is on the rise, despite current TIP prevention efforts. Cuba and Nicaragua do not meet TVPA standards and their ranking reflects insufficient efforts to combat TIP. This means that TVPA policy dictates restrictions of funding assistance as a result of this failure [2, 6]. Another example of successful policy is how a nonprofit group, *The Millennium Corporation*, uses an analytical framework and tools to combat TIP when funding global programs [8]. The United States USAID and State Department assistance programs might benefit from instituting these additional benchmarks when considering aid, in addition to using the TVPA policies.

When considering North American policy on human trafficking, it is important to remember that advocacy is a formidable tool. The early UN policies such as TVPA and the 2003 policy eliminating discrimination against women were important milestones in advocacy efforts [4]. Additional advocacy efforts that could lead to new labor policies include the need for North American countries to divest from products or services that are related to TIP. This includes pornography and disposable fashion, both of which demand cheap, often trafficked, labor [9]. Raising awareness of trafficking in all its forms and promoting elected officials whose platforms include anti-trafficking reforms are important. Efforts to eliminate TIP should focus not only on legislation, but on policy making that includes awareness. Consistent policy implementation, reliable data collection, and better policy for trafficked victims are needed to increase TIP prevention, prosecution, and protection efforts [7].

Canada has implemented a national strategy designed to empower victims within traditional pillars of prevention, prosecution, and protection [10]. A key feature of this policy is working with industry partners to reduce the chance of TIP in supply chains of goods and services. Such a multi-pronged approach includes international concerns and addresses TIP of indigenous origin [10]. In contrast, Mexico's polices on human trafficking are failing and have been insufficient to stem the tide of trafficked victims [2]. Mexico has the highest number of trafficked persons in the Americas. Recommendations from the United States Department of State are to strengthen policies through strategic national plans that are developed in consultation with nongovernmental international organizations [2].

3   United States Policy

The fundamental principles of the United States Constitution and the rule of law lay out our core moral and ethical values in the United States (US) [11]. Clearly, the ethical obligations of human society are incompatible with TIP, yet, the US is one of the largest receiving countries of TIP victims. Within the US, policy is focused on four pillars of society, prosecution, protection, prevention, and partnership (4Ps) [2]. Policy is about people, to think about our neighbors. In particular, the lens of human trafficking policy seeks to eliminate the exploitation of others by means of fraud, coercion, and force. Contemporary trends in TIP policymaking in the US focus on using human dignity as the basis for across the aisle collaboration. Multiple policy initiatives have updated the original TVPA regulation throughout the years such as the enactment of the *William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008* [12]. More recently, policy deliberations resulted in the *Justice for Victims of Trafficking Act* [13]. These policy initiatives increase fines for convicted perpetrators, establish a fund for trafficking victims, provide for additional treatment options for trafficked children, and improve trainings for law enforcement on TIP. One concern in US policy is that current immigration policy increases the risk of exploitation of migrants. With enhanced immigration policing at the border, migrants are subject to increased vulnerability to debt bonding, forced labor, and abuse as foreign domestic workers [7]. Stringent polices on immigration are significant factors in TIP because when vulnerable migrants need a third party to process their paperwork or immigration policy is so stringent that successful entry is nearly impossible, it creates a prime opening for traffickers to take advantage of victims [14].

Every US state and the District of Columbia have enacted policy on human trafficking [2]. Partnerships between states and federal entities drive good policy in prevention of TIP. The Office of Justice provides policy guidance and technical in forming such collaborations [15]. Some examples of policy initiatives include the *Human Anti-trafficking Response Team (Hart)* developed in the state of Connecticut and the TIP task forces developed by the respective states of Illinois and Minnesota [16–18]. Another policy approach closes loopholes in the economic engine of legitimate businesses that unknowingly aid traffickers, such as the hotel industry by

requiring signage about TIP in public spaces [19]. These are just three examples of a wide variety of approaches taken by individual states as they work to support federal laws. Although a synthesis of the evidence on human trafficking over the past two decades clearly points to the improvements trafficking policy at state, federal, and global levels, it is still not enough to slow the numbers of TIP crimes [20].

3.1   US Healthcare and Nursing Policy

In the US, the health care sector focuses primarily on education and intervention, both key aspects of the 4Ps framework [2]. The American Nurses Association (ANA) stresses that work with patients must protect the fundamental human rights of patients although their position statement on human rights does not specifically discuss human trafficking [21]. The National Association of School Nurses policy statement on TIP notes that it is essential for school nurses to actively engage in prevention, identification, and interventions with students [22]. Nurses United Against Human Trafficking provides vital resources to educate nurses and develop nurse led advocacy for prevention of TIP [23] Recognizing the need for more work in the area of human trafficking prevention, at the 2019 ANA Membership Assembly (MA), representatives called for more effective screening tools, increased education of nurses on TIP, and endorsed trauma informed approaches to care in collaboration with the health care team. The MA also requested that ANA assembles a national task force on TIP [24].

The American Medical Association (AMA) adopted a more specific policy focused on the distinctive and key role that physicians provide in preventing TIP [25]. Both the ANA and the AMA offer educational opportunities for their respective professions. Both organizations advocate for the need for the entire health care team to know how to identify, protect, and connect patients suspected of being trafficked to appropriate resources. The American Hospital Association (AHA) also plays a key role in advancing the human rights of TIP victims [26]. AHA provides protocols for care of victims and documentation policy guidance. They offer robust educational opportunities for health systems, and multiple resources such as disseminating a model human trafficking response system [26]. At the population level, key stakeholders such as the American Public Health Association (APHA) have developed policies to combat TIP and endorsed groups such as Health Education Advocacy Linkage (HEAL) [27, 28]. HEAL offers an integrated team approach to ending TIP and supporting survivors. The APHA policy on human trafficking calls for support to expand TIP research and coordinate and expand educational efforts of the health care team [28]. Support for the four pillars of human trafficking initiatives means setting policy to accurately identify and use trauma informed care when treating victims of TIP. Inherent in APHA policy recommendations is a call to evaluate quality screening tools and engage in more research that advances effective models of care for TIP victims. The entire health care team plays a critical role in advancing public policy through development of a body of evidence about effective interventions.

One of the most difficult aspects of human trafficking is identifying victims. Almost 90% of women who escape their traffickers report that they had previously been seen in a healthcare facility at least once while captive [29]. When interpreting provision two of the Nurses Code of Ethics, nurses are clearly mandated to identify and report suspect TIP [30]. This means that nurses must know the signs of TIP and actively seek to help victims of TIP. Nurses are often the first healthcare worker that a TIP victim may see, and they often miss the signs of trafficking [31]. Part of the problem is that workplace policy in health care facilities varies from transparent protocols to no policy at all or to policy that exists but is not well distributed so that staff lack awareness of the policy. The Joint Commission on Healthcare recommend that healthcare personnel be informed of how to identify, know how, and when to involve law enforcement and refer TIP victims to community resources, but do not mandate trafficking policy for their member institutions [32]. In a multi-year study on identification of TIP, nursing students in an RN program were surveyed about knowledge of TIP workplace policy, symptoms, approaches to care, and resources [33]. The majority of the subjects did not know of a policy on TIP or could not find it. Many were unable to identify hallmark signs of human trafficking and/or were unable to differentiate symptoms of TIP from suspected intimate partner violence. Few knew about national or community resources. In response to the need for policy, protocols, and education, several agencies have created toolkits for employers. The Human Trafficking Collaborative of the University of Michigan is one example of an initiative that provides free templates for training policy on the assessment, identification, and care of TIP survivors [34]. Their guidance includes language that defines TIP, discusses the purpose of TIP policy, and provides multiple resources such as standards and documentation templates. The Vera Institute is a national organization that develops solutions that disrupt current criminal and legal paradigms related to TIP [35]. Vera developed the first validated screening tool in the US for use within workplace policy to accurately identify TIP victims [35]. HEAL advocates have also developed a **Protocol Toolkit** for responding to victims with trauma informed approaches within the healthcare setting [36]. Project ECHO developed educational models on TIP policy and screening through a learning loop linking transdisciplinary professionals with care providers in a virtual network [37]. The project aims for providers to have a readiness policy and toolkit that raises awareness and supports providers in evidence-based screening and services for TIP victims [37]. Employer toolkits are valuable resources for developing policy to combat TIP through the lens of healthcare.

4   Supply Chain Labor Policy

The ILO estimates 21 million people a year are compelled into forced labor [1]. US policy which holds employers accountable for forced labor in the supply chain bit clearly there is more to be done [2]. Global companies such as the Target Corporation publish explicit supply chain policies which hold human rights as central to their business practice [38]. Williams Sonoma Corporation (WSC) and its affiliates also

share transparent supply chain labor policy practices stating they adhere to ILO policies, the UN Guiding Principles on Business and Human Rights, and the UK Modern Slavery Act [1, 4, 39]. WSC and Target policies are great examples of multinational corporations that exhibit a strong commitment to end TIP, child labor and forced labor in the global supply chain. Gaps in adherence to human rights principles are often seen in smaller service industries. Failure to ascribe to international norms on human rights is, in part, because public policy for such actions is nonbinding [1]. Many governments also not only fail to provide good policy to prevent TIP but aid and abet forced labor [2].

4.1   Transportation and Trucking Sectors

An integral part of interrupting modern slavery lies with policies about TIP in transit systems. In 2012, Truckers against Trafficking (TAT) began a US nationwide policy initiative to raise awareness of sex trafficking across the nation's road system through education and advocacy [40]. TAT has partnered with multiple, major transport companies such as UPS, FedEx, and Amazon. Through their private and government partnerships, TAT has mobilized a massive number of transportation professionals poised to assist victims and law enforcement in combatting TIP. TAT offers multiple programs that include coalition building and initiatives with bus drivers and truckers, while working to shift norms in the culture of demand [40]. TAT shares stories by survivor leaders (SLs). They provide much-needed context of the harms of trafficking for transit system workers. SLs share vital first-hand knowledge about many vulnerabilities, systems issues, and emerging challenges that must be addressed in identifying and assisting victims [41]. This same essential expertise helps key stakeholders view proposed healthcare policy development through an equity lens. SLs have also helped employers, and policymakers consider the experiences of survivors so that policy is survivor centric. Private businesses should take note and consider trauma informed approaches in their human resource processes. SLs can provide dynamic information when developing risk management plans designed to strengthen anti-trafficking efforts [1].

5   Child Welfare Policy in TIP Victims

Approximately a million children each year are trafficked for sexual exploitation [41]. A school-based framework utilizing an ecological perspective is essential to implementing effective policies for protection and support of vulnerable students [42]. The registered professional nurse plays a pivotal role in the interdisciplinary development of protective policies and protocols [22]. Because disclosure reluctance in youth sexual exploitation cases is a well-known concern, it is very important to develop school and law enforcement policies where forensic interviewing is holistic and trauma informed [42]. Evidence basis is limited on such novel

interviewing approaches but is vital to ensure that critical interventions are set in motion for the victims [43].

6   COVID-19 and TIP

The COVID-19 pandemic and subsequent rise of unemployment have increased risks for trafficking in vulnerable and disadvantaged populations. Social media use ramped up during the pandemic and traffickers quickly pivoted to using online platforms to lure mostly women and children into labor and sex trafficking [4]. The pandemic severely limited resources for combatting TIP and made it much more difficult to track perpetrators, as victims were not as visible, hidden away in homes and apartments due to lockdowns. Policy makers may learn from crisis strategies employed during the pandemic for future TIP investigation guidance [4]. Policymakers should develop mitigation plans, move resources online, and create e-Justice resources. Should a pandemic reoccur, trafficked persons should be exempt from quarantine movement restriction such as lockdowns, so that they can seek help [44]. The pandemic raised awareness for the need for timely contingency policies on TIP during times of crisis.

7   Strengths and Challenges in TIP Policy

7.1   Strengths

Many strengths are found in current policy to prevent human trafficking at the state, national, and North American levels of government and commerce. In the government sector, there is a well-developed Canada/US policy effort to prevent cross-border trafficking and TVPA has encouraged other North American countries to strengthen their TIP policies. Every state in the nation has enacted TIP policies and more and more states are moving from policy that penalizes trafficked victims as criminals toward policy that is survivor centered.

In the commerce sector, there are excellent examples of multinational corporations implementing transparent and strong supply chain policy committed to eliminating TIP and developing trauma informed employment practices and strong education programs so that employees learn the hallmark signs of TIP. The transportation sector has ramped up significant efforts for truck and bus driver's ability to recognize and act when they suspect a person is being trafficked. They also are educating their members on the role that demand for sexual services plays in TIP and working to change norms. Advocacy efforts have led to increase awareness of TIP and an understanding of the need for education congruent with the 4PS pillars in law enforcement. In health care, nurses and physicians' leadership supports the 4PS model with an emphasis on education about prevention, protection, and treatment.

7.2   Challenges

Language matters when discussing TIP policy. TIP continues to be defined in many different ways, creating confusion. We urgently need common terms to describe TIP so that we have a shared understanding of the nuanced meanings of TIP and needs of survivors. We also need much more research to inform evidence-based strategies in all facets of TIP prevention, protection, prosecution, and treatment. TIP legislation is much more likely to be successful when using terms that evoke a research basis to the recommended policy [45].

Current policies predominantly discuss sex trafficking, and more attention is needed on labor trafficking and other forms of trafficking [2]. Policy is also needed to not only evaluate best practices but to identify and eliminate ineffective or harmful initiatives. Nurse and physician lack of knowledge on TIP identification, intervention, and referral needs to be strengthened. Effective and easily accessed policies are needed across the spectrum of healthcare institutions. These should include policy that mandates ongoing education for providers and staff. The health care workforce should partner across sectors to develop effective protocols and policies that improve the health, safety, and recovery of trafficked youth.

In the commerce, government and transportation sectors, strong collaborative efforts are needed to change social norms around sexual exploitation and the appetite for cheap goods. More international and North American supply chain and transportation policy is needed for both labor and sex trafficking prevention. Policy initiatives are needed that address the complex dynamic relationship between immigration and TIP, reducing vulnerability for being compelled to work in the sex and cheap labor markets.

8   Conclusion

North America needs a strategic interdisciplinary plan to develop and enforce legally binding policies aligned with the 4PS focus. Although much has been improved to date, all businesses urgently need consistent standards that ensure their supply chains are grounded in human rights. Strong, sustained efforts are needed in the healthcare sector to strengthen and maintain transparent TIP policy in every health care facility. Education and trauma informed care should be at the forefront of efforts in all business and health sectors. Most importantly, we need strong, effective policies to combat TIP at its source—the traffickers [3]. Advancing human rights and dignity as core values in TIP policy may lead to a much- needed strategic framework which stops perpetrators and protects victims. Effective collaborative policy initiatives are grounded in mobilizing advocates, partnering with survivors, and establishing systems for private/public partnerships (Table 1).

Table 1 Websites relevant to policy on the trafficking of humans

US State Department Policies on Human Trafficking
Polaris Anti-Trafficking Efforts
HEAL
Physicians Against Trafficking of Humans
Federal Child Welfare Policies and Human Trafficking
The Human Trafficking Institute
Project ECHO

Discussion Questions

- What constitutes an effective public health approach to improving public awareness of human trafficking?
- Why is public awareness so important to advocacy efforts in human trafficking policy?
- How can nurses and health care professionals strengthen the four pillars of human trafficking policy?
- What terms would you include in a fully inclusive definition of trafficking in humans?
- You are assigned to an interdisciplinary team whose mission is to advance human rights and dignity as core values in human trafficking policy. What key constructs would you include in a strategic framework to prevent human trafficking and protect its victims?

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