

Human Trafficking: Germany Only Average When It Comes To Protecting Victims

by Seo-Young Cho

According to the United Nations, over 2.45 million people are victims of human trafficking, and the number of unrecorded cases is also believed to be significant. Therefore, many countries have increased their efforts to combat trafficking and to protect the victims. DIW Berlin recently updated the 3P Anti-Trafficking Policy Index which facilitates an international comparison of government policy efforts in three areas: prosecution, (victim) protection, and prevention. The update of the Index now covers the period from 2000 to 2011. On a worldwide scale, countries have generally shown high commitment towards implementing prosecution policies, and the most significant improvements have been observed in preventive efforts. However, many countries fail to ensure the protection of trafficking victims. By international standards, Germany performs well when it comes to prevention and prosecution. However, it has failed to protect the victims of trafficking and, over the past year, this situation has further deteriorated.

Human trafficking is a serious problem, the true magnitude of which is difficult to gauge as many incidences remain unrecorded. According to UN estimates, 2.45 million people are currently victims of human trafficking, of which 1.2 million are children under the age of 18. Europol believes that several thousand people, particularly women and children, are victims trafficked in(to) the EU every year. According to the International Labour Organization (ILO), traffickers make a total annual profit of approximately 31.6 billion US dollars.¹

Over the last decade, in response to the problems of human trafficking, national governments and international organizations have adopted new legislation, including, for example, Protocol to Prevent, Suppress and Punish Trafficking in Persons passed by the UN in 2000.² Since this Protocol came into force, many governments have adopted the standards it sets out and have increased their policy efforts to combat trafficking in persons.

The updated version of the 3P Index³ for 2011 published by DIW Berlin indicates that, over the last decade, the majority of countries made progress when it comes to the prosecution of the perpetrators and prevention of human trafficking and, in 2011, managed to sustain the standards achieved. However, many countries, including European ones, continued to fall short when it comes to implementing adequate victim protection measures. In Germany, although efforts are being made to prosecute traffickers and prevent the crime of human trafficking, protection for the victims of trafficking remains insufficient (see Box 1).

¹ P. Belser, „Forced Labour and Human Trafficking: Estimating the Profits,“ WP42 (Geneva: International Labour Office, 2005).

² Palermo Protocol, „Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime“ (2003), www.un.org.

³ The 3P Index was originally developed by the University of Göttingen as part of the EU project „Indexing Trafficking in Human Beings.“ It is now updated annually by DIW Berlin. See background paper on the Index by S. Cho, A. Dreher, and E. Neumayer, „The Determinants of Anti-Trafficking Policies – Evidence from a New Index,“ *Scandinavian Journal of Economics* (forthcoming: 2012).

Box 1

Human Trafficking and Anti-Trafficking Measures in Germany

The United Nations has classified Germany as one of the major destination countries with a very high influx of human trafficking victims.¹ According to the German Federal Criminal Police Office (BKA), between 600 and 1,200 victims are identified every year and between 300 and 500 cases of human trafficking are investigated.² Sexual exploitation in the form of prostitution is by far the most frequently occurring case. Others include, for example, trafficking in persons for labor exploitation in the form of domestic or agricultural work, as well as exploitation in smaller factories, snack bars, or restaurants. According to the BKA, 95 percent of all cases investigated in 2010 were sexual exploitation.³ Over the last decade, Germany has made considerable efforts to combat human trafficking but, recently, its victim protection measures have been lagging behind. Germany received the highest score (5) in the prevention policy area, and it has made similarly distinct policy efforts with regard to prosecution, giving it a score of 4 in this area. However, this year, Germany only received a "modest" score of 3 for victim protection. The reason for this is that victims of human trafficking are often not recognized as such, which, in turn, means that they are not protected, for example, by being granted amnesty as prescribed in the United Nations Protocol. The deterioration in Germany's country assessment since 2010 coincides with the change in government constellation in 2009—from a coalition of the Christian Democratic Union (CDU) and the Social Democratic Party (SPD) to a coalition of the CDU and the Free Democratic Party (FDP). The SPD demonstrated a strong commitment to victim protection during their term of office—particularly by granting the right of residence to victims of human trafficking.⁴ In June

Table

The 3P Evaluation for Germany
Index

	Prosecution ¹	Protection ¹	Prevention ¹	Aggregate 3P Index ²
2000	5	4	4	13
2001	5	5	5	15
2002	5	5	5	15
2003	5	5	5	15
2004	5	5	5	15
2005	5	5	5	15
2006	5	5	5	15
2007	5	5	5	15
2008	5	5	5	15
2009	5	5	5	15
2010	5	3	5	13
2011	4	3	5	12

¹ 1 is the lowest and 5 the highest score; 4: strong, 3: modest, 2: limited efforts.

² Sum of all three components.

Source: Cho, Dreher, and Neumayer, *Determinants of Anti-Trafficking Policies—Evidence from a New Index*, "Scandinavian Journal of Economics (forthcoming: 2012).

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2012, the German Bundestag (lower house of German parliament) ratified the Council of Europe Convention on Action against Trafficking in Human Beings that was adopted in 2005. Proposals from the SPD and The Left (Die Linke) to improve victim protection, made in the course of the ratification of the Convention, were rejected by a Bundestag majority. Independent experts invited in the run-up to the ratification in March also called for better victim protection.⁵

¹ United Nations Office on Drugs and Crime, *Trafficking in Persons: Global Pattern* (Vienna: 2006).
² BKA, *Lagebild Menschenhandel* (Human Trafficking Situation Report, Wiesbaden: 1999 to 2010).
³ BKA, *Lagebild Menschenhandel* (Human Trafficking Situation Report, Wiesbaden: 2010).
⁴ www.bundestag.de/presse/hib/2012_06/2012_319/03.html.

⁵ Official minutes of the 187th session of the German Bundestag on Thursday 28 June, 2012, www.bundestag.de/dokumente/protokolle/amtlicheprotokolle/2012/ap17187.html.

Box 2

Definition of Human Trafficking

According to the UN Protocol,¹ human trafficking is defined as "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,

¹ Palermo Protocol, "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime," (2003), www.un.org.

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."

Combating Human Trafficking No Easy Task

To date, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons is the most important legal instrument in international fight against human trafficking. The Protocol both defines the term "trafficking in persons" and outlines the necessary policy measures (see Box 2). Furthermore, the Protocol identifies three prime policy areas: criminal prosecution of traffickers, prevention of trafficking in persons, and the protection of the victims of human trafficking. These 3P measures (prosecution, protection, and prevention) are designed to reduce the crime of trafficking and protect the human rights of the victims.

However, it must be borne in mind that successful efforts to protect victims may actually result in an increase in human trafficking. If victims of trafficking are granted amnesty and a legal right of residence in the destination country where they would otherwise be regarded as illegal immigrants, this could make human trafficking an attractive option. In other words, protection of victims may be interpreted as a signal for a liberal immigration policy which might, in turn, result in more illegal immigration inflows, increasing the pool of potential victims of human trafficking.⁴

Thus, a conflict in policy objectives emerges.⁵ Countries with more restrictive immigration policies prioritize preventing illegal immigration at the expense of pro-

tecting human trafficking victims and defending their human rights. These countries are reluctant to implement victim protection programs while pursuing strict border security policies and rigorous prosecution of traffickers. Furthermore, the victims are sometimes even prosecuted for crimes—violation of immigration or prostitution laws, for example—resulting directly from the fact that they have been trafficked, although such penalties are prohibited by the UN Protocol.⁶

3P Index Evaluates Anti-Trafficking Policy Performance

In order to assess anti-trafficking policy efforts, the 3P Index is developed to evaluate policy performance in up to 185 countries for the period from 2000 to 2011 in the three main policy dimensions: prosecution, protection, and prevention.

Prosecution is evaluated on the basis of six policy indicators:

1. Adoption of anti-trafficking laws prohibiting trafficking in human beings,
2. Adoption of child trafficking laws,
3. Application of other relevant laws,
4. Level of penalty,
5. Law enforcement, and
6. Collection of crime statistics.

The evaluation focuses on the adoption of relevant anti-trafficking laws as well as the implementation of the-

⁴ S. Cho and K. C. Vadlamannati, "Compliance with the Anti-Trafficking Protocol," *European Journal of Political Economy*, no. 28 (2012): 249-265.

⁵ B. Simmons and P. Lloyd, "Subjective Frames and Rational Choice: Transnational Crime and the Case of Human Trafficking," mimeo, Harvard University (2010).

⁶ U.S. Department of State, *Report on Trafficking in Persons* (Washington D.C.: 2012).

se laws. This means that indicators 1 and 5 carry particular weight in the country assessments.

Victim protection is evaluated on the basis of nine indicators:

1. Amnesty for victims,
2. No self-identification required as a prerequisite for recognition of victim status,
3. Provision of legal assistance for victims,
4. Granting of residence permits,
5. Provision of accommodation,
6. Provision of medical assistance,
7. Provision of job training opportunities,
8. Provision of rehabilitative support, and
9. Provision of assistance for repatriation to the respective countries of origin.

The most important factor here is that victims are not prosecuted.

The evaluation of the final area, preventive policy, is based on seven indicators:

1. Implementation of public campaigns to raise anti-trafficking awareness,

2. Training executive and judicial personnel with providing information on the specific circumstances of human trafficking,
3. Promotion of information exchange among different governmental authorities,
4. Monitoring of borders, train stations, and airports, etc.,
5. Adoption and implementation of national action plans for combatting trafficking in persons,
6. Promotion of cooperation with NGOs and international organizations in the country,
7. Promotion of cooperation with other governments.

All 3P Index indicators selected are in line with the provisions of the UN Protocol.

The coding is based on data from the country reports published by two different organizations: the U.S. Department of State's annual Trafficking in Persons Reports (2001 to 2012) and the Trafficking in Persons: Global Patterns reports published by the United Nations Office on Drugs and Crime (UNODC) for 2006 and 2009. The qualitative information from these reports is converted into a 5-point scale for each policy area, based on the coding standard,⁷ where score 5 represents complete fulfillment of all indicators of each policy area and 1 signifies no efforts made in this area.

As can be seen from the table, between 2000 and 2011 global anti-trafficking efforts have been increasing in all three policy dimensions. The greatest successes were achieved in the prosecution policy area, where the average score increased from 2.89 in 2000 to 3.70 in 2011. For preventive measures, the average score for all countries increased from 2.49 in 2000 to 3.37 in 2011, which means that the greatest progress has been made in this area in absolute and relative terms. The development of victim protection policy, on the other hand, is clearly lagging behind with a slow increase from, on average, 2.25 points in 2000 to 2.73 points in 2011.⁸

Table

Global Anti-Trafficking Measures

Average scores

	Prosecution ¹	Protection ¹	Prevention ¹	Aggregate 3P Index ²	Number of countries evaluated
2000	2.89	2.25	2.49	7.53	81
2001	2.97	2.47	2.79	8.23	90
2002	3.12	2.76	3.24	9.12	119
2003	3.33	2.67	2.98	8.98	136
2004	3.39	2.73	3.12	9.24	154
2005	3.55	2.80	3.19	9.54	159
2006	3.61	2.77	3.14	9.52	164
2007	3.69	2.72	3.06	9.47	171
2008	3.73	2.81	3.22	9.76	176
2009	3.75	2.80	3.28	9.83	177
2010	3.65	2.82	3.40	9.87	184
2011	3.70	2.73	3.37	9.80	185

¹ 1 is the lowest and 5 the highest score; 4: strong, 3: modest, 2: limited efforts.

² Sum of all three components.

Source: Cho, Dreher, and Neumayer, *Determinants of Anti-Trafficking Policies- Evidence from a New Index*, *Scandinavian Journal of Economics* (forthcoming: 2012).

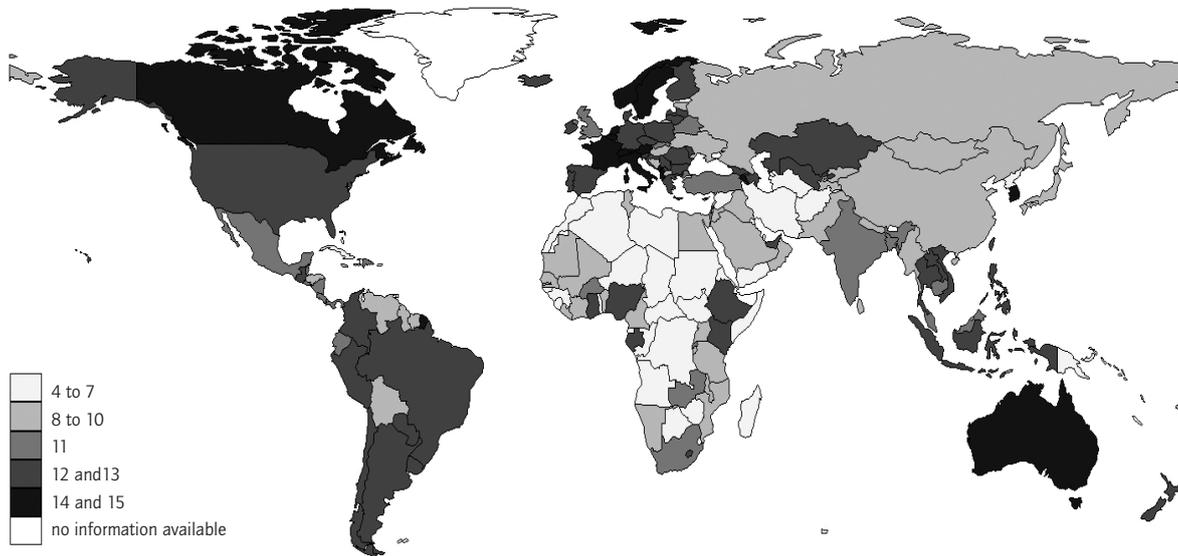
⁷ For a detailed explanation of the Index, see the section headed „3P Index / Coding Guideline“ at www.economics-human-trafficking.org.

⁸ If we examine the developments in all 81 countries that have been evaluated since the Index assessments began in 2000, this trend becomes even more evident. In 2011, the overall score for this group of 81 countries is 4.81 points for prosecution policy and 2.94 for victim protection. The score for prevention is 3.76 points. In the overall assessment, the score improved from 7.58 in 2000 to 10.88 in 2011. This development shows that countries with more effective anti-trafficking policies also have better available data as they were already able to be assessed in 2000 based on this data.

Figure 1

The 3P Index for 2011

Scores of 3 to 15



Source: Cho, Dreher, and Neumayer, *Determinants of Anti-Trafficking Policies. – Evidence from a New Index,* *Scandinavian Journal of Economics* (forthcoming: 2012).

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Canada, Australia, and some European countries are exemplary in combating human trafficking.

Combating Human Trafficking in 2011: Deficits in Victim Protection

There was a slight decline in overall anti-trafficking policy efforts in 2011 as compared to the previous year. A country’s overall anti-trafficking performance is based on the aggregate of all three components of the 3P Index. The resulting score is, therefore, between three (no efforts) and 15 (all objectives fully achieved). The global average score of this Index was 9.80 in 2011 and thus lower than in 2010 when the corresponding figure was 9.87. This development is mainly attributable to the declining efforts in victim protection, which offset the successes in prosecution. The development of prevention policy is also slightly negative, but this is considerably less significant than that of victim protection.

Figure 1 shows the global anti-trafficking measures in 2011. It is clear that Europe and the Americas are in the lead (score twelve or higher) (see table in the Appendix), while in many parts of Asia and Africa the scores are significantly lower and policy efforts are inadequate (seven or lower) in some countries. Three countries—Italy, Sweden, and the Netherlands—received the maximum scores for all three policy areas. Not only do these three

countries have strict anti-trafficking policies in place with high numbers of convictions, they are also at the forefront in identifying victims and provide them with the necessary legal and social support, including amnesty. Conversely, eight countries—Libya, Micronesia, Iran, Eritrea, North Korea, Somalia, South Sudan, and Madagascar—received the lowest score (4). All three leading countries are in Europe and they are all major destinations for human trafficking. Consequently, their increased efforts may be interpreted as a policy reaction to the growing influx of trafficking victims. The high score awarded for victim protection here is noteworthy, however, since high victim protection could have a counter-effect on reducing human trafficking inflows as outlined above. The countries at the other end of the spectrum (worst performers) are predominantly states without functioning governments, or with only very weak governments, and those suffering from political unrest which, therefore, do not perceive human trafficking to be a major problem.⁹

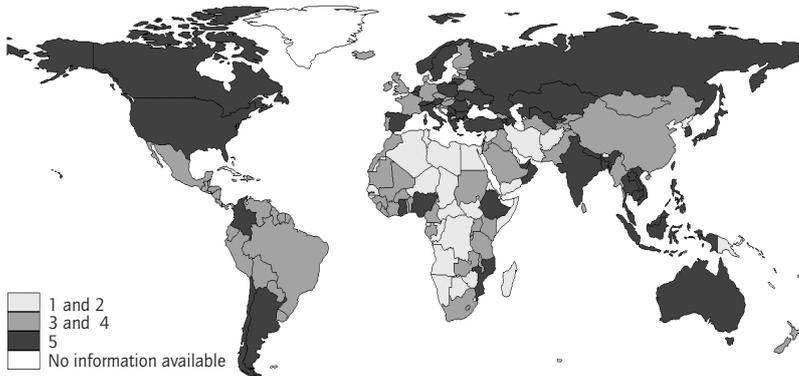
⁹ U.S. Department of State, *Report on Trafficking in Persons* (2012).

Figure 2

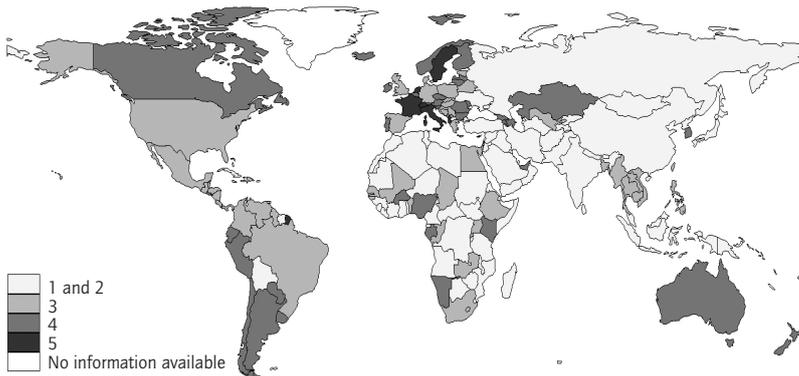
Prosecution, Protection, and Prevention Policies 2011

Scores from 1 to 5

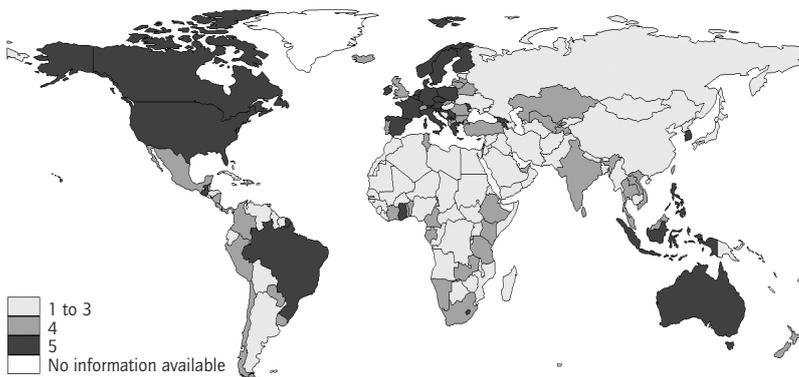
Prosecution



Protection



Prevention



Source: Cho, Dreher, and Neumayer, *Determinants of Anti-Trafficking Policies- Evidence from a New Index*, *Scandinavian Journal of Economics* (forthcoming: 2012).

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Figure 2 shows the developments for 2011 in different regions for each of the three policy areas individually. In most parts of the world, governments are concentrating their efforts on improving prosecution, which is reflected in a respectable average score of 3.70. This is due to the fact that 157 out of 185 countries evaluated have adopted direct or indirect anti-trafficking legislative measures. Enforcement of this legislation remains relatively weak, however. Only in a third (66) of all countries were a substantial number of traffickers charged and convicted, while very few sentences were passed elsewhere. In some countries, such as Germany, for instance, despite a high number of criminal cases, most of these result in a suspended sentence. Therefore, Germany has dropped from score five to four for prosecution this year,¹⁰ while in countries such as Italy or the Netherlands, which received the full five points for this policy area, human traffickers face prison sentences—the average duration of 21 months in the Netherlands and 6.5 years in Italy.

Victim protection receives the least attention worldwide. The average score of 2.73 shows that efforts in this policy dimension generally leave much to be desired and they are extremely limited in some countries. Even in western Europe, where there is otherwise a strong commitment to combating human trafficking, victim protection is lagging behind the other two policy areas. Only five countries in Europe fully comply with all the requirements (France, Italy, the Netherlands, Switzerland, and Sweden), in contrast to some of their neighbors who blatantly penalize victims and were consequently ranked in third place or lower (Denmark, Germany, Greece, Luxembourg, Spain, Poland, and the United Kingdom).

Only 73 countries worldwide ensure that victims are not punished, while in 99 countries victims clearly face penalties—imprisonment, fines, or deportation.¹¹ This is a flagrant violation of victims' rights as guaranteed by the UN Protocol and in many cases also by national anti-trafficking legislation.

The main reason behind convicting victims lies in the difficulty in clearly identifying them as victims of human trafficking. In order to determine whether an illegal immigrant is a victim of human trafficking, it is necessary to use systematic identification criteria which must be in accordance with the standards set out in the UN Protocol. In most countries, however, these criteria are not appropriately exercised and alleged victims are not scrutinized more closely, but simply immediately

With regard to victim protection and prevention, there is room for improvement in many countries.

¹⁰ See the most recent national report for Germany in the annual report on the human trafficking situation, published by the U.S. Department of State, Report on Trafficking in Persons (2012).

¹¹ For 19 countries, the situation is unclear or no information is available.

classified as illegal immigrants and consequently deported or detained in custody (if not imprisoned). These situations show that governments often do not meet their obligation to protect human rights of victims, but rather simply view cases of human trafficking as a violation of immigration laws. The general slow progress and recent regression in victim protection—in contrast to continued success in prosecution—suggest that governments have little interest in prioritizing defending human rights of trafficking victims.

Finally, it is worth noting that the development of prevention policies follows a similar pattern to prosecution. Although at 3.37 the average score is slightly lower than that of the previous year, it still indicates a high level of commitment by governments. Countries in Europe and the Americas demonstrate greater efforts here than those in Asia and Africa.

Conclusion

Overall, it can be concluded that global anti-trafficking measures have led to conflicting developments. On the one hand, many countries are making consistent progress in the prosecution policy area, while at the same time showing a low level of commitment to victim protection and stagnating as far as prevention policy is concerned. Global anti-trafficking developments in 2011 indicate that there is still a long way to go until human beings, irrespective of their origin, are protected from inhumane treatment.

Countries such as Germany should therefore step forwards their efforts to protect victims and not only look at human trafficking from the point of view of immigration policy but also ensure that fundamental human rights of victims are respected. Here, it is particularly important to recognize victims of human trafficking as victims so as to be able to protect them accordingly.

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JEL: F22, J61, K14, O15

Keywords: human trafficking, victim protection, immigration policy

Article first published as "Menschenhandel: Deutschland beim Opferschutz nur Mittelmaß", in: DIW Wochenbericht Nr. 39/2012.



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Volume 2, No 11
2 November, 2012
ISSN 2192-7219

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