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SEX TRAFFICKING RECOMMENDATIONS
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Abstract

There are an estimated 24.9 million people being trafficked around the world (Human Trafficking, 2020). This project explores discourse and framing around trafficked individuals, particularly those trafficked for sex work, and how this influences approaches and frameworks for policy development, with the goal of making policy and service recommendations. The analysis begins with definitions, followed by general overviews of US and international policies relating to prevention, policy, and prosecution. It then turns to look at sex trafficking and relevant frameworks. Using trauma-informed language and human and feminist rights, the project advocates for increased education and public awareness on signs of sex trafficking, cohesive policy to criminalize involved perpetrators of sexual exploitation and protect victims and survivors.

Key Words: *sex trafficking; policy; feminist rights; human rights*

Chapter 1

There are an estimated 24.9 million people being trafficked around the world (Human Trafficking, 2020). This transnational crime is estimated to generate \$52 billion dollars a year by exploiting individuals by selling them repeatedly and denying them their most basic human right: freedom (Kara, 2017). The International Labor Organization estimated that, annually, 4.5 million people are sex trafficked in an illicit industry that generates \$99 billion for sexual exploitation (Profits and Poverty: The economics of forced labour, 2014). Commercial sex can be consumed in innumerable ways – strip clubs, escort services, pornography, phone lines, massage parlors, and sex tourism (Raymond & Hughes, 2001; Meshelemiah & Lynch, 2019). The trafficking of people for commercial sex is an issue across the globe, regardless of a country’s social, political, or economic status.

There are competing approaches to dealing with trafficking due to broad definitions of trafficking. Further, policy and laws have to take into consideration issues such as “trafficking, prostitution, immigration” and how to frame “trafficked people, particularly women, and their decisions, motivations, needs and dilemmas” (Sen and Baba, 2017). In reality, trafficking encompasses a myriad of human rights violations, sometimes making it difficult to identify trafficking as the primary offense. This means that policies must be detailed, nuanced, and flexible in the recognition and approaches to combatting trafficking and the methods of victimization perpetrators use. The way victims and survivors of trafficking are framed directly impacts how organizations approach policy development, the other methods used to combat trafficking, and services they provide survivors and victims.¹

¹ For the purpose of clarity, ‘victim’ will be used when discussing individuals actively being trafficked and ‘survivor’ will be used to discuss individuals who are no longer in captivity.

Critiques and recommendations in this paper may be able to apply to other forms of trafficking. However, it is arguable that sex trafficking holds another degree of stigmatization that do not typically get attached to other forms of trafficking. Sex trafficking can look a lot of different ways because it includes pornography, prostitution, or other forms of sexual performance. Sex work, in and of itself, is highly stigmatized. Sex work and workers are seen as dirty, degrading, and promiscuous. Victims of sex trafficking can easily be mislabeled as prostitutes or porn stars when society fails to recognize the force, fraud, and coercion that occurs behind the scenes. This mislabeling prevents victim identification and contributes to the lack of understanding that surrounds sexual exploitation and commercial sale of sex, enabling the illicit industry to flourish (Meshkovska, 2018).

1.1 Overview

This project explores discourse and framing around trafficked individuals, particularly those trafficked for sex work, and how this influences approaches and frameworks for policy development, with the goal of making policy and service recommendations. To analyze policy discourse surrounding trafficking, the US will be used as a benchmark to compare other governments' approaches to combatting trafficking. The analysis begins with definitions, followed by general overviews of US and international policies relating to prevention, policy, and prosecution. It then turns to look at sex trafficking and relevant frameworks.

The conclusion proposes which frameworks and theories would be most appropriate for further positive policy development at both international and domestic levels by establishing trauma-informed definitions, grounded in human and feminist rights. Ultimately, I argue that an effective approach to sex trafficking should be trauma informed and grounded in human and feminist rights-based approaches. Education and public awareness on signs of recruitment,

grooming, and trafficking are essential to stopping the cycles of abuse. This will improve intervention, prevention, and the protection of vulnerable populations and survivors. Policy must be developed, cohesively, to criminalize involved perpetrators of sexual exploitation, from traffickers to buyers. Finally, victims and survivors must be protected; this protection includes appropriate treatment by law enforcement, the criminal justice system, and service providers. This will allow the development of trauma informed policies and services that will best serve trafficked people's needs and combat trafficking as well as is possible.

1.2 Definitions and Forms of Trafficking

This section will explore conceptual frameworks and framing around trafficking and the most inclusive and informed approaches to combat the crime vary across governments. Policy framing is used in policy development to explain how relevant actors understand complex situations (Zito, 2011).² Framing defines how much all actors – policy developers, law enforcement, victims, survivors, and perpetrators – will be included and benefit from the final policy development (Zito, 2011). International definitions and agreements provide the foundation for definitions and outlines for addressing the problem. Much of human trafficking is separated into two non-exclusive categories: labor and sex trafficking. While trafficking is typically visualized as either labor or sex trafficking, this delineation does not capture the complexity of trafficking networks, methods of recruitment, enslavement, and coercion traffickers use or the intricacies of victim and survivor situations. Oversimplification of human trafficking results in a failure to create appropriate space to develop laws and approaches that combat the numerous facets of trafficking in persons.

² “The policy framing process involves policy actors (a) confronting a situation where the understanding is problematic and uncertain, (b) creating an understanding or story that helps analyze and make sense of the situation, and (c) then acting (and persuading others to act) on it” (Zito, 2011).

The international community set the groundwork for understanding human trafficking through The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000). The Palermo Protocol provides a tool that enables the community to combat human trafficking. The United States contributed to the framework and methodologies within this Protocol through the Trafficking Victims Prevention Act (TVPA). The TVPA is a national framework for the US' response to trafficking with a three-pronged approach called the "3P" approach: prevention, prosecution, and protection. The Palermo Protocol was created to bolster the UN Convention Against Transnational Organized Crime and came out of the United Nations Office on Drugs and Crime (UNODC).³ At the Millennium Summit, global leaders named freedom from fear as an essential value for the twenty-first century. One of those barriers to freedom, identified by the General Assembly as one of the most egregious human rights violations, is trafficking in its various forms. Following this summit and ratified by the General Assembly in December 2000, the Protocol became the first international legal instrument that provides governments a precise definition of human trafficking while including the various forms trafficking can take and outlines methods to combat human trafficking.⁴ The Palermo Protocol is the first international document, that is legally binding to those who sign and ratify it, meaning they must align their domestic policy with the Protocol's minimum standards, with a human trafficking definition. As of March 31, 2019, 168 countries passed legislation that criminalized trafficking and 173 parties ratified the Protocol.

³ [The United Nations Convention against Transnational Organized Crime and the Protocols Thereto.](#)

⁴ The following countries are not parties to this Protocol: Bangladesh, Bhutan, Brunei, Comoros, Congo, Republic of the Iran, North Korea (DPRK), Marshall Islands, Nepal, Pakistan, Papua New Guinea, Solomon Islands, Somalia, South Sudan, Tonga, Uganda, or Yemen (TIP Report, 2019, p. 38).

The cohesive nature of the protocol is important in that it laid the foundation for domestic and international laws to be developed to address human trafficking. Article 3, paragraph (a) of the Palermo Protocol defines human trafficking as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of use of force or other forms of coercion, abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour of services, slavery or practices similar to slavery, servitude, or the removal of organs (2000).

The express purpose of the Protocol is to “protect and assist the victims of such trafficking” and “to promote cooperation among States Parties in order to meet those objectives”. Articles 4 and 5 outline the scope of application, prevention, investigation, prosecution, and criminalization of trafficking (Palermo Protocol, 2000).⁵ Section 3, article 9 outlines prevention, cooperation, and other measures to combatting trafficking, providing a baseline for governments to work from (Palermo Protocol, 2000). Put simply, the Protocol has the three Ps in mind: prevent, protect, and prosecute.

The exact numbers and statistics on human trafficking victims are difficult to definitively measure, but many international entities produce estimates – such as the International Labor Organization (ILO), United Nations Office on Drugs and Crime (UNODC), US Department of State, and Center for Disease Control and Prevention (CDC).⁶ These organizations use data collected by law enforcement, the criminal justice system, NGOs, and other service providers to estimate trafficking numbers and demographics. However, it is important to note that these numbers merely reflect *reported* cases and the current definition of human trafficking.

⁵ <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

⁶ Statistics and data collection will be discussed later.

Underreporting of trafficking due to inaccurate or failure to identify the crime and victims and survivors' inability or unwillingness to self-identify and report. Organizations such as these have seen that most trafficking does not include the crossing of an international border. In 2019, the ILO estimated that 77% of trafficking victims are exploited within their countries of residence (TIP Report).⁷ For the first time, in 2018, the UNODC reported that most victims “identified in their country of citizenship” and “strategies and priorities should acknowledge the increasingly national nature of the trafficking problem” (TIP Report, 2019, p. 3).

Polaris identifies 25 types of human trafficking, in the US, through the information received by its National Human Trafficking Hotline (Figure 1). The data collected between December 7, 2007 and December 31, 2016 included 32,208 cases of human trafficking and 20,085 cases of labor exploitation in the US (Polaris, 2017); the 25 areas where trafficking is prominent are:

Escort Services	Illicit Massage	Health & Beauty	Outdoor Solicitation	Residential Sex Trafficking
Domestic Work	Peddling & Begging	Agriculture & Animal Husbandry	Restaurants & Food Service	Bars, Strip Clubs, Cantinas
Pornography	Personal Sexual Servitude	Hotels & Hospitality	Traveling Sales Crew	Arts & Entertainment
Construction	Commercial Cleaning Service	Factories & Manufacturing	Remote interactive sexual acts	Forestry & Logging
Landscaping	Carnivals	Health Care	Recreational Facilities	Health & Beauty Services

Figure 1

A common form of human trafficking is forced labor. According to the ILO Forced Labour Convention, 1930 (No. 29), forced labour is “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or

⁷ An individual does not have to be taken across a state or country border to be trafficked. Trafficking can, and usually does, happen within state or country of residence.

herself voluntarily”. According to the ILO, “out of the 24.9 million people trapped in forced labor, 16 million people are exploited in the private sector such as domestic work, construction or agriculture; 4.8 million persons in forced sexual exploitation, and 4 million persons in force labour imposed by state authorities” (Forced labour, modern slavery, and human trafficking, 2017). Despite being a direct violation of human rights, the demand for cheap or free labor from lower social economic classes generates the demand for trafficked individual. The ILO defines forced labor as situations wherein persons are “coerced to work through the use of violence or intimidation, or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities” (Forced Labour Convention, 1930). Adults and children can both be exploited for forced labor for any form of economic activity including domestic work, forced begging, construction, farming/agriculture, manufacturing, and sexual exploitation (What is forced labour, modern slavery and human trafficking, n.d.) The differences between forced labor, a form of human trafficking, and sub-standard working conditions lies within subtle details such as restrictions of freedom, withholding documents or pay, violence, and threats of intimidation.

Another form of human trafficking is organ trafficking. “Organ trafficking is the practice of stealing or buying organs through exploitation to be sold on a black market for profit” (Meshelemiah & Lynch, 2019). ‘Organ trafficking’, specifically, is the illegal harvesting and selling of the organs as a product while ‘trafficking persons for the purpose of organ removal’ involves trafficking an individual with the purpose of harvesting their organ(s) (Meshelemiah & Lynch, 2019). Organ trafficking comes from the demand for organs that medical transplants

cannot keep up with, thusly creating an illicit organ market.⁸ Traffickers may exploit donors who are desperate for money due to a vulnerable economic situation.

Sex trafficking constitutes another form of human trafficking. The TVPA of 2000 defines sex trafficking as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting a person for the purpose of a commercial sex act” (22 USC § 7102). “The contemporary sex trafficking industry involves the systematic rape, torture, enslavement, and murder of millions of women and children, whether directly through homicide or indirectly through sexually transmitted diseases and drugs” (Kara, 2017, p. 15). One key element missing from Kara’s (2017) discussion of sex trafficking is that there is no mention of men, boys, or non-binary identifying individuals. However, what is true for women and children is true for anyone who is trafficked and sold for sex. With a child, there does not have to be the use or threat of force, fraud, or coercion because children cannot consent to sex; therefore, any commercial sex act with a child is considered trafficking. Again, victims and survivors of trafficking “include all races, ethnicities, sexual orientations, gender identities, citizens, non-citizens, and income levels” (CDC, 2019). In Kara’s (2017) experience, people were trafficked or sold into trafficking by their families, abducted, seduced or romanced, or recruited by former slaves.⁹ Individuals who are trafficked for sex can be kept in many different places. Victims of sex trafficking might be in massage parlors, apartment brothels, hotels, or on the street as prostitutes. The mobility of trafficking and its infiltration into diverse locations poses a challenge to policy development. Governance depends on particular systems to grant jurisdiction, state laws, and federal laws to

⁸ The organs are not typically harvested from consenting or fully informed individuals. Rather, the donors are uniformed or unwilling and through the exploitation of vulnerable populations while the recipients are from typically wealthy backgrounds and countries.

⁹ “Abduction is not as frequent a means of acquiring slaves [or trafficking] as the mainstream media would have us believe. False job offers or sale by a family are much more common...because abduction renders transportation much more challenging...” because the victim is trying to escape (Kara, 2017, p. 8).

carry out criminal justice. Sex trafficking requires more nuance and flexibility in policy to address its copious and complex forms.

The Trafficking in Persons Report (TIP Report) is an annual publication from the US Department of State. TIP Reports outline existing regulations and their success, new policies, and ranks countries into one of three “tiers”. Countries are ranked based on TVPA’s minimum standards for taking steps towards eliminating trafficking within their borders. Those minimum standards are paraphrased as 1) governments prohibiting trafficking and punish acts of trafficking; 2) the government should dole out punishment appropriate for grave crimes; 3) governments should punish severely enough to deter trafficking; 4) there should be serious efforts to eliminate trafficking (TIP Report, 2019, p. 40).¹⁰ This ranking serves as a guide for governments to track the global rates of trafficking and identify what approaches to combatting trafficking are most effective in particular countries or regions. It also functions as a form of global accountability to take actionable and sustainable steps to alleviating trafficking.

1.2.1 Children

This project will continue to delve into the significance of framing in terms of defining and discussing trafficking, but first it is important to examine some semantics. Oftentimes in day-to-day conversation and in the media, particularly of late in regard to the Epstein and R. Kelly cases, there is a tendency to use some rather odd language. For example, many headlines use the phrase “underage woman”. Recently, Lady Colin Campbell, a UK socialite, defended pedophile and trafficker Jeffrey Epstein claiming that there was a “difference between hiring sex from a minor and paedophilia” (MailOnline, 2019). Legally, there is no such thing as an “underage woman” because an underage woman is a child nor is there a difference between pedophilia and procuring a minor for sex. The Convention on the Rights of the Child (1989) states, in Article 1, that “a child means every human being below the age of eighteen years”. Article 34 and 35 of the same Convention (1989) dictate that “State Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse” and “State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of

¹⁰ The indicia of “serious and sustained efforts” are delineated on pages 40 – 41 of the 2019 TIP Report.

or traffic in children for any purpose or in any form”. A child cannot be a prostitute because children cannot give consent to sex; therefore, they are survivors and victims of rape or sexual assault. “Characterizing girls as “prostitutes” makes them seem sexy, and sexually threatening...it is a label that is as titillating as it is traumatizing, and hence evokes ambivalence about the extent to which these girls are exercising a level of sexual autonomy, or whether they are victims of larger social and cultural forces” (Hanna, 2002, p. 11). Labeling a minor as a “prostitute” ameliorates the heinous nature of the crime being committed and sanitizes the situation. This is an important distinction to make when it comes to how children are discussed within the trafficking dialogue. If it remains a social norm or media and political practice to frame trafficking cases to use phrases like “underage woman” or “minor” when talking about trafficking and rape of children, it will only serve to mitigate the crimes traffickers commit. It will only serve to put traffickers and buyers of child sex slaves in a less harsh light. Policy needs to address the severity of these cases and label “child prostitution” as the trafficking of a child for sexual exploitation to alter the dialogue and framing of such cases; this will communicate the gravity of the crime to the public, law enforcement, and criminal justice systems alike while remaining consistent with language used in relative laws.

1.3 Statistics on Trafficking

The Counter Trafficking Data Collaborative (CTDC) works with the International Organization for Migration (IOM) and Polaris as well as other anti-trafficking organizations to collect primary data to generate a global data hub for human trafficking.¹¹ The goal of the organization is to prevent barriers to information-sharing in order to best equip anti-trafficking

¹¹ For a step-by-step guide to CTDC’s methodology access their website:
<https://www.ctdatacollaborative.org/faqs>

efforts. Because of the illicit nature of the sector, data collection for human trafficking is a difficult task due to the inability to assess every individual being trafficked or even correctly identify every trafficked person. In the US, just as with the global community, human trafficking is complex, widespread, and subversive. Therefore, data and statistics are largely based on information that has been reported through hotlines, service providers, and law enforcement. Trafficking is significantly underreported both through the CTDC and other platforms. Using primary data from the information provided by organizations across the globe and looking at human trafficking in general, the CTDC estimates that 71% of trafficking victims are female, 28% are male, and an unknown percentage are transgender (CTDC, 2018). Overtime, the CTDC has seen an increase in the identification of male victims of trafficking (in all forms) (CTDC, 2018).¹²

Therefore, exact statistics and numbers are almost impossible to obtain. Even when there are identified patterns to trafficking, each and every case is different. In 2018, Polaris looked at 10,949 human trafficking cases reported to the US National Human Trafficking Hotline.^{13 14} Within these cases there were approximately 23,078 survivors, 5,859 traffickers, and 1,905 unique trafficking businesses (Myths, Facts, and Statistics, 2020). The top three types of cases identified during 2018, through the hotlines, were (1) sex trafficking, (2) labor trafficking, and (3) sex and labor trafficking (Figure 3) (2018 Statistics from the National Human Trafficking Hotline, 2020). As individuals calling were able or willing to disclose detailed information about their experiences with being trafficked, hotline staff were able to collect demographics (Figure

¹² While this data is helpful, there is a significant number of underreporting to be expected due to inability to access every victim that is trafficked.

¹³ Hotline data was collected from January 1, 2018 – December 31, 2018, through phone calls (28,335), texts (5,197), webchats (1,566), webforms (4,034), emails (1,956) (2018 Statistics from the National Human Trafficking Hotline, 2020).

¹⁴

4). The majority of callers were adults (10,731). While trafficking absolutely involves men and boys, women and girls are disproportionately affected. Women and girls account for 99% of those forced into the commercial sex industry and 58% in the other sectors (International Labour Organization, 2017). Looking at gender, the vast majority identified as female (15,042) and the top race/ethnicity reported was Latino (2,348) (2018 Statistics from the National Human Trafficking Hotline, 2020).

Again, these statistics only reflect the cases where the information could be obtained and is not cumulative for all trafficking cases either in the US or globally. Furthermore, the true rates of trafficking can only be guessed and approximated due to its variable forms, how integrated it is into so many industries, and its ability to be hidden. In sex trafficking cases, the top recruitment tactics were intimate partner and familial relationship (2018 Statistics from the National Human Trafficking Hotline, 2020).¹⁷ For labor trafficking it was job offers/advertisements or fraudulent offers (2018 Statistics from the National Human Trafficking Hotline, 2020).

1.4 Demographics

Men, women, and children are all targeted, across economic classes and geographic lines. The rhetoric and dialogue surrounding sex trafficking are constructed by activists, politicians, service providers, and the media and can lead to the creation of problematic narratives, leading to overgeneralizations and insufficient policy development. While not the only category of people who are trafficked – men and children are also targeted – the focus of this paper will be on women who are trafficked for sex. Current research focuses on women and girls as victims. The

¹⁵ Intimate partner violence (IPV) “describes physical violence, sexual violence, stalking, or psychological harm by a current or former spouse of partner” (Intimate Partner Violence, 2018).

absence of research on male sex trafficking victims is, itself, research. There is a glaring gap in the literature that needs to be addressed but this project focuses on female victims and survivors.

1.5 Methods of Trafficking

As discussed previously, there is no single method of trafficking. Trafficking exists in numerous forms and is carried out using countless methods of force, fraud, and coercion. Looking at the 2018 Statistics from the National Human Trafficking Hotline (2020), the data shows that traffickers prey on victims' existing vulnerabilities. Richmond (2017) states that while socioeconomic factors put people in vulnerable positions, "towering above all these significant challenges in human trafficking is the trafficker's willful decision to profit by compelling people to work or prostitute". Yes, there are efforts that can seek to counter act those other challenges. An important first step to counter trafficking is knowing that traffickers are seeking to exploit the vulnerable. With this understanding, actors can develop policy that will address the root problems and causes of trafficking rather than victim blame and/or criminalize victims and survivors. While stopping and prosecuting traffickers does not address the problematic circumstances that put the victims into the vulnerable situation, it brings victims out of trafficking and, with proper services, gives them the opportunity to regain their independence (Richmond, 2017).

The top risk factor for human trafficking was recent migration or relocation while the primary methods of force, fraud, and coercion were isolation or confinement (2018 Statistics from the National Human Trafficking Hotline, 2020). Risk factors are not limited to economic or location risks but also include psychological or emotional vulnerabilities. The Power & Control wheel for trafficking (Appendix B), designed by the Domestic Abuse Intervention Project in Duluth, MN, provides examples of the methods of force, fraud, and coercion that may be used by

traffickers. Traffickers target individuals who are at risk or in vulnerable situations and utilize one or a combination of methods of force, fraud, or coercion to manipulate their targets. Victims of trafficking may be in plain sight, working in the beauty industry, on farms, in strip clubs, or on street corners as prostitutes. Other victims may be kept in complete isolation, unable to leave their place of captivity such as in homes, brothels, or factories. To adequately and sustainably address trafficking, policies must be just as diversified and refined as the methods of force, fraud, and coercion traffickers use. Trafficking laws and penalties are too lenient and do not adequately address the myriad forms of trafficking or acknowledge victim/survivor trauma. They often fail to protect victims and end up criminalizing the wrong individuals in the process of trying to break up a trafficking network. The following section will look at these traditional policies and penalties.

1.6 Overview of Sex Trafficking

This project has thus far provided a general overview of trafficking, its forms and ways in which it is perpetuated. Before delving into the policy and approaches surrounding sex trafficking, it is critical to understand the sex industry and sex trafficking, specifically, both in the US and in other regions of the world, to effectively recommend and discuss theories, changes, and development. As with all forms of human trafficking, sex trafficking is diverse in structure and management. While the definition of trafficking, specifically sex trafficking, does not seem narrow, there are types of sex work that do not easily fall under the definition. Prostitution, whether on the street or in a brothel, is one of the most common conceptions of the sex industry (Hodge & Lietz, 2007). However, the sex industry has a legal avenue and a darker, covert underbelly. Legal businesses, strip clubs, massage parlors, nail salons, and health clubs can – and are – fronts for prostitution and sex trafficking rings. Separating trafficking from

prostitution is therefore not an easy task. The UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949) recognizes this issue.¹⁸ The 1949 Convention observes that prostitutes may be victims of trafficking and acknowledges that trafficking does not require the crossing of international borders.

With any form of human trafficking, force, fraud, and coercion are used. When it comes to sex trafficking and sexual exploitation, this process is incredibly complex and can occur quickly or over a longer period of time during which an individual is “groomed”. This process of “seduction and seasoning...is masked by a confusing mix of flattery, attention, “protection”, and most often violence and exploitation” (Raymond & Hughes, 2001, p. 55). There are direct and indirect conditions that make individuals vulnerable to sexual exploitation and trafficking. For example, poverty is an indirect condition. It is important to clarify that poverty in and of itself is not a predicting factor; “it was *a poverty that was preyed upon* by recruiters, traffickers and pimps” (Raymond & Hughes, 2001, p.49). In US trafficking cases, pimps, traffickers, and recruiters employ the “boyfriend method” to coerce women into sexual exploitation.¹⁹ Internationally, women may be bought or coerced into relationships, been fraudulently promised jobs, or preyed upon once they arrived in the US legally (Raymond & Hughes, 2001).

In a 2001 study, Raymond and Hughes, performed a research project wherein they explore sexual exploitation in the US to document cases and information on US sex trafficking.²⁰ Through the study, Raymond and Hughes (2001) found that sex industries are often intertwined with legal businesses, making sex trafficking more difficult to identify and perpetrators harder to

¹⁸The Convention (1949) states: “Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community”. Signatories are intended to prohibit trafficking through specific measures.

¹⁹ The “boyfriend method” refers to a method in which a recruiter will befriend an individual, ply them with gifts, drugs, love, and other promises in order to establish a sense of dependency or security.

²⁰ This 2001 study focused on women as victims of trafficking and sexual exploitation.

pin down. Globalization coupled with constant technological innovation makes it easier to traffick individuals, creates more avenues and opportunities for people to demand and consume sex, and establishes more barriers to tracking down the root source of trafficking and illegal establishments. The ease of consumption fuels the demand, whether for pornography, sex tourism, or for prostitutes. The individuals who are supplying women, men, and children to meet this demand are recruiters, traffickers, pimps, and business owners.²¹ In the study conducted by Raymond and Hughes (2001), connections between international and domestic sex rings were identified, as well as connections between different domestic sex industries. “Seventy-five percent...of the international and 64 percent...of U.S. women reported that people who recruited and/or trafficked them were connected to pimps in the U.S. sex industry” (Raymond & Hughes, 2001, p. 47). Interviewees also reported that pimps maintained communication with recruiters and traffickers around the county and world, for the purpose of sustaining their supply of women (Raymond & Hughes, 2001).

The initiation into the depraved ring of sexual exploitation and trafficking is complex, muddled, and differs case by case. The interconnected nature of the illicit sex industry keeps the supply flowing and demands for it high. In addition to all of this, the methods of control used by perpetrators of violence are vast, tormenting, and utterly vicious. To best inform policy and services, there must be an awareness of these methods of controls and the trauma they cause to victims and survivors of sex trafficking. This is particularly essential for law enforcement and the criminal justice system to understand, as to avoid improper criminalization of victims and survivors and *apply the appropriate punishment to perpetrators and participants of violence*. It is

²¹ Pimps are traffickers. However, it is a common misconception that traffickers are the ones who kidnap women and children. Perpetrators of sexual exploitation are more likely to be intimate partners – husband, boyfriend, girlfriend –, family members, or friends (Meshelemiah & Lynch, 2019.)

not easy, and sometimes not even possible, for women to leave the sex industry. While the general assumption is that women are willingly entering prostitution, this is simply not always the case. Oftentimes, women are kept captive whether through force, threat of violence, the threat of violence on someone else, or because their documents are stolen. Pimps are often incredibly violent, their physical, emotional, and psychological abuse mirroring domestic violence, while having no control over their day to day activities or a sense of bodily autonomy.²² Drugs and alcohol are also common methods of control, whether administered forcibly to sedate victims or as a way to control through addiction (Raymond & Hughes, 2001; Meshelemiah & Lynch, 2019). Pornography is another form of abuse sexually exploited women face whether being used to make porn or blackmailed into submitting to exploitation with it (Raymond & Hughes, 2001; Hodge, 2008, Hodge & Lietz, 2007).

Men who pay for sex with women/girls who are being trafficked, whether knowingly or not, share no common demographic.²³ Raymond and Hughes (2001) reported that men ranged in age from 15-90.²⁴ Their research also found that 70-90% of buyers were married, and they came from every socioeconomic and occupational background (Raymond & Hughes, 2001). The most jarring thing the authors discovered is that, on average, the women were required to see between one and ten men a day (Raymond & Hughes, 2001). While this is believed to be a conservative estimate, law enforcement stated that they saw that women were required to see six to twenty day (Raymond & Hughes, 2001). These numbers were collected from more ‘high-end’ establishments whereas with street prostitution, some women reported having sex with upwards

²² “International and U.S. women described other types of violence such as stalking, robbery, murder attempts, harassing phone calls, kidnapping, killing of a pet, being sold” (Raymond & Hughes, 2001, p. 62). Other forms of violence suffered includes sadistic sex by clients, pimps, and abusive partners and forcing victims to participate in the rape, punishment, and torture of other victims.

²³ Men who purchase sex are often referred to as “Johns”.

²⁴ Raymond and Hughes (2001) only looked at men who purchased sexual services.

of twenty or thirty men (Raymond & Hughes, 2001). There is much debate surrounding whether or not sex buyers should be criminalized.

Many illicit sex establishments will not regulate condom use, and oftentimes are able to charge higher prices for sex without the protection. This means the women are at risk of pregnancies and any number of STIs, not to mention the utter lack of control and consent. Pimps are not the only perpetrators of violence. Male buyers are also notorious for abusing the women they purchase, and they are no less violent than pimps.²⁵ Due to the abuse women suffer at the hands of pimps and johns, women who are trafficked and prostituted may suffer innumerable health issues. In addition to bodily injuries – bruises, cuts, broken bones, strangulation, etc. – women are also at a high risk of HIV/AIDS and STIs. The sexual assault and rape these women endure to are redefined or reframed as “sex” due to the nature of the industry they are subjected to. Any unwanted behavior, sexual sadism in any form, from johns is rape. These facts on sex trafficking should influence policies and criminal justice systems. They show that sex trafficking victims are forced and coerced into the life, do not have the freedom or ability to leave, and are exposed to gruesome violence, all the while being unprotected. Women subjugated by traffickers and sexual exploitation are left to choose between sustaining abuse or risk being incarcerated due to the system’s misconception of sex trafficking and illicit sex establishments.

Chapter 2

The first step in sex trafficking policy development is to define all forms of trafficking in a way that allows policy, laws, procedures, and penalties to be created in a sustainable and clear

²⁵ The forms of violence perceived and reported by women were: physical violence, sexual assault, sadistic sex, use or threat of weapons or bodily harm, videotaping sexual acts without consent, robbing women, kidnapping, stalking, and destruction of women’s personal property (Raymond & Hughes, 2001, p. 73).

way. Trafficking is complicated and so are its definitions. This chapter will provide overviews of US and International policy and recommend theoretical approaches that will enhance and inform further policy development. The Palermo Protocol (2000) definition, while it provides a solid foundation to defining trafficking, has limitations. Firstly, it pigeonholes what a victim is by emphasizing “women and children”, thus leaving male victims on the periphery of identification (Schoaps, 2013). In this way, the Protocol (2000) perpetuates this false construction of victim identity. This concept will be explored in more depth at a later point in the paper, however, the Palermo Protocol (2000) does provide a necessarily broad framework to begin to understand trafficking and, subsequently, develop a response plan. The UNODC builds upon the definition to include:

- 1) The **action** of trafficking which means the recruitment, transportation, transfer, harboring or receipt of persons
- 2) The **means** of trafficking which includes threat of or use of force, deception, coercion, abuse of power or position of vulnerability
- 3) The **purpose** of trafficking which is always exploitation. In the words of the Trafficking Protocol, article 3 "exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs (United Nations Office on Drugs and Crime, n.d.)

The US Trafficking in Person’s Report (TIP) is more limited than the UNODC definitions and defines trafficking in persons 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, of fraud, of deception, of the abuse of power or 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 labor or services, slavery or practices similar to slavery, servitude, or the removal of organs (TIP, 2019, p.4).

These definitions acknowledge the perpetrator's side of trafficking and take a criminal justice tone and approach for responding to human trafficking. This means that they are framed "for punishing individual or group perpetrators or rescuing individual victims" (Purkayastha & Yousaf, 2019, p. 13). For example, the Palermo Protocol (2000) Article 5 states that "each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offenses the conduct set forth in article 3". While these documents recognize the criminal networks of trafficking, they do not acknowledge the intricate, global and domestic structures that actually create the vulnerabilities that create situations wherein people may be trafficked. Nor is there any mention of specific penalties for those individuals who purchase the services – sex, labor, or organs. The Palermo Protocol (2000) provides a summary for protecting and providing reparations to victims and survivors (articles 6 – 8). However, even with these guidelines, victimization of individuals can present problems when it comes to policy development.

Victimization of individuals who have been trafficked is dangerous for policy development. Many of the approaches and narratives surrounding trafficking purposefully victimizes individuals in order to garner attention to the issue. Other times policy may inadvertently play into this harmful narrative. In her book, *The Cult of True Victimhood: From the War on Welfare to the War on Terror* (2007), Cole states that the term victim is oftentimes loaded in that its connotations often take away from victims' and survivors' autonomy. It does this, particularly when women are discussed, as it typically indicates that someone is weak or passive, therefore stigmatizing their character due to an inflicted injustice. Victimization fails to acknowledge that there was a perpetrator of violence; many approaches to combatting trafficking fail to address the fact that there was a significant violation of human's rights. Instead, the policy

tries to tackle some political, social, or economic element of trafficking.²⁶ Whether or not someone is in a vulnerable economic, political, or social system does not mean that they should risk being targeted and trafficked. Another problem with sex trafficking policy, in general, is that it criminalizes those who are forced into trafficking because prosecutors and states fail to take time to identify the signs of particular situations or ask enough questions to find out if someone is breaking the laws willingly, or by threat or use of force or coercion. This leads to an unsavory narrative regarding victims and survivors of trafficking, acts as a barrier to those people seeking help, and punishes innocent individuals. These narratives are grounded in a gendered framework that emphasizes normative, traditional gender roles.

Additionally, the discussion around sex trafficking is gendered, emphasizing women and children as victims. Although most of the victims of sex trafficking are female (adults and minors), males are also sex trafficking victims. For example, the Palermo Protocol (2000) focuses on “women and children”, thus leaving male victims and survivors on the outside. This, as previously stated, contributes to an improper and gendered idea of a “perfect victim”. According to Schoaps (2013), “the conceptualization of this “perfect victim” has influenced modern discourse on human trafficking” (p. 937). The TVPA also has a gendered victim model that mirrors the Palermo Protocol (Schoaps, 2013). Another major flaw with the TVPA is that it was designed to protect internationally trafficked victims, thus ignoring the massive population of internally trafficked individuals and failing to acknowledge this issue on a domestic level (Schoaps, 2019). These shortcomings demonstrate the gaps in policy where protections are not

²⁶ This can look like harsher immigration laws, decriminalizing prostitution, decriminalizing purchasing sex or selling sex, owning and running brothels, or advocating for more worker’s rights, all without addressing the root causes of trafficking: the traffickers.

provided for those individuals who fall outside the socially constructed idea of a “perfect victim”.

There are, traditionally, two approaches to combatting human trafficking: economic and criminal (Pourmokhtari, 2015). Looking first at criminological approaches, criminal system relies most heavily on the justice system to implement legal action to prevent and prosecute traffickers and connected offenses, such as prostitution, immigration, and labor laws. It also uses policy that emphasizes the various aspects of human rights violations that create dangerous situations for vulnerable populations (Pourmokhtari, 2015). Authors Coontz and Griebel (2014) see this approach as a dominantly Western one, where there has been “renewed interest in trafficking among Western governments with an extension of growing concern with transnational crime” (p. 49). This renewed interest took place post-Cold War, in the late 1980s when there was a spike in the sex industry due to globalization and an interest in transnational organized crime (Coontz & Griebel, 2014). The interest in transnational crime, including all forms of trafficking, is largely due to the effects globalization has on the international system. Economics, politics, and societies are more tightly linked now, than ever before, due to globalization. Pourmokhtari (2015) recognizes the limitations of the criminal approach as it “minimizes [human trafficking’s] inherent complexity while overlooking the victims’ human rights” (p. 159). It focuses on one element of the vast picture of human trafficking. For example, a criminal approach may look at migration or immigration issues and overlook the force, fraud, and coercion that occurred between the perpetrator and victim. This fails to recognize the human rights violations pertaining to sexual assault and exploitation, threats of violence, etc.

The other traditional approach to address human trafficking is an economic approach. This perspective looks at what economic factors drive trafficking. This approach “rests on the

premise that economic factors constitute the principle drivers of human trafficking” (Pourmokhtari, 2015, p. 159). This is interesting in that it looks at trafficking as though it were a formal business and sees traffickers as individuals working to make their profits. It lays blame on the traffickers *and* on the buyers and sees economics as a form of coercion. For example, Kara (2017) discusses that Thai families traditionally have a strict obligation to take care of the parents, known as *bhun kun*, meaning that a financial burden is placed on the youngest daughter to provide for her family. While this is a constructive understanding to have regarding vulnerabilities traffickers prey upon, it fails to account for noneconomic factors, such as displacement, immigration, or refugee status, nor does it account for individuals who may be trafficked by their family or intimate partners. The economic approach, framing victims as objects of consumption, does not seek to understand the impacts on the suppliers’ side (the victims and survivors). Pourmokhtari (2015) states that “it might be argued that both traditional approaches share a common flaw” (p. 159). That major flaw is that neither approach looks at the outcomes of trafficking and the long-term effects such as horrific violations and sustained abuse have on victims and survivors of trafficking. This is problematic as it leaves survivors at risk of being retargeted or feeling compelled to return to an abuser if they are not given other resources and assistance transitioning back into a state of normalcy.

When looking at policy and legal responses to sex trafficking, there are typically two sides: abolitionists and nonabolitionists (Dempsey, 2010).²⁹ Abolitionists look to stop sex trafficking and prostitution while nonabolitionists look to criminalize sex trafficking while not ending prostitution (Dempsey, 2010). The feminist abolition model “tends to favor developing policy and legal responses to sex trafficking that implement what has been coined ‘the Swedish

²⁹ Abolitionism of trafficking and prostitution.

model” (Dempsey, 2010, p. 1730). Within this model, policy includes steps for social-welfare that would assist people so they are able to leave prostitution, if they choose to do so, while implementing campaigns that educate the public on the dangers and risks prostitutes face while trying to stop the social stigmas that surround prostitution (Dempsey, 2010). These policies also penalize traffickers, pimps, and those purchasing sex but do not criminalizing selling sex. At the core, feminist abolitionists look to provide “out” for prostitutes while criminalizing pimps and traffickers. The point of controversy within this model is criminalizing individuals who purchase sex. This debate surrounds the conversation of whether or not commercial sex is violence against women and comes down to the concept “freedom of choice”, both to sell and purchase sex. In the feminist abolitionist approach, prostitution is wrong, not because a woman chooses to sell sex, but because “it so often harms women, both individually and by virtue of its tendency to sustain and perpetuate patriarchal structural inequality” (Dempsey, 2010). Violence occurs within the practice of prostitution, whether or not every individual suffers it. This feminist abolitionist approach first advocates for a multilevel approach to the abolition of sex trafficking, by providing social welfare to protect victims and survivors, by providing a safer way out, if and when someone is able to escape. Second, this approach also sees perpetrators – pimps, traffickers, recruiters, and abusive buyers – as criminals. Finally, feminist abolitionism requires public education to alter social norms that condone sex trafficking.

1.1 United States Policy: Overview

With these traditional methods in approaches, we can look at the framework the US utilizes in its trafficking policies. There are numerous components to the prevention and combatting of sex trafficking, as well as to providing adequate, comprehensive victims’ services. With so many methods, it is constructive for governments to share what they are doing to

eliminate trafficking in their regions. As Schoaps (2013) states, “international agreements can only go so far, and ultimately nation-state legislation plays an integral role in the battle against human trafficking” (p. 935). This means that policy must look inward to combat the supply and demand of trafficked individuals.

The Mann Act of 1910 (18 U.S.C. § 2421-2424) – amended in 1978 and 1986 – “criminaliz[ed] the transportation of minors, and the coercion of adults to travel across state line or to foreign countries, for the purpose of engaging commercial sex” (Current Federal Laws, 2016). The Tariff Act of 1930 was the only documentation that prohibited the import of any products made with forced labor (Ch. 4, Title 19 – Custom Duties, §1307). In 1970, The Racketeering Influenced Corrupt Organizations Act (RICO) was ratified to allow the federal government to more efficiently prosecute perpetrators of organized crime; RICO acknowledges trafficking as a racketeering offense (§1581-1592). The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today (PROTECT Act) of 2003, increased punishment for perpetrators who bought sex with children, introduced the Amber Alert, and increased funding for grants designated to child sexual assault victims’ services.

The Trafficking in Persons Report (TIP Report) is a document that comprehensively describes that governments are doing to combat trafficking, what regions and approaches are successful, and “helps us go beyond preconceived notions of what we think human trafficking is and better understand the complexities of the crime” (TIP, Report, 2019, p. 4). The 2019 TIP Report identifies three elements that, together, establish human trafficking as a crime: “the trafficker’s action, the means of force, fraud or coercion, and the purpose of the exploitation” (p. 6). The Trafficking Victims Protection Act of 2000 (TVPA 2000), was the first federal law to address human trafficking. Signed by President Clinton into Public Law 106-386, the law took a

three-pronged approach to combatting the issue with the three P's: Protection, Prosecution, and Prevention (TVPA, 2000).

Originally, the law recognized trafficking in the forms of modern slavery, sex trafficking, and forced/bonded labor (TVPA, 2000). The TVPA (2000) was to compliment the Palermo Protocol, designed by the Transnational Crime Commission, as it sought to domestically implement the Protocol while filling policy gaps in US law and bring bipartisan support to efforts to combat trafficking. In 2003, the TVPA was reauthorized to the TVPRA 2003 with additional provisions that would increase accountability by disseminating travel alerts regarding sex tourism, allowing trafficking victims to sue their perpetrators at the federal level, and require annual anti-trafficking reports from the Attorney General (Trafficking in Persons, a.k.a. TIP, report). In 2005, more provisions were added, resulting in the TVPRA 2005. This round recognized that trafficking also effected US citizens and expanded protection to US citizen victims and survivors by expanding domestic assistance programs, creating rehabilitative services and facilities, and implement extraterritorial jurisdiction for cases that occurred overseas (TVPRA 2005).

The 2008 revision process, TVPRA 2008, expanded the Department of Justice (DOJ) capacity to carry out the three P's (protect, prosecute, and prevent) while also broadening the Department of Labor (DOL) to better track trafficking. TVPRA 2008 also bolstered the Department of Health and Human Service's ability to be effective service providers. The most recent revisions created the TVPRA 2013. This passed via an amendment to the Violence Against Women Act. Following the trends of the previous revisions, TVPRA 2013 resulted in expanded capabilities to prosecute while also improving programs that checked for trafficking in production and sale of products in the US. The TVPA expired in September 2017 and has yet to

be reauthorized (SESTA Passes Senate, 2018). In 2018, the US Senate passed the Stop Enabling Sex Traffickers Act (SESTA). This legislation updated the Communications Decency Act (CDA) to hold websites (e.g. Backpage) liable for hosting sex trafficking and enables victims to seek civil restitution against the websites (SESTA Passes Senate, 2018). To briefly recap, TVPA 2000 and its revisions serve a foundation for US anti-human trafficking policy. It focuses on combating trafficking through protection, prosecution, and prevention. It frames trafficking as a federal crime, allows victims and survivors to seek restitution from their traffickers, holds anti-trafficking efforts accountable through reporting, and sets out rehabilitation and victim services that the government will provide.

In May 2016, the Government Accountability Office³⁰ (GAO) published a report identifying 105 provisions to establish various programs and initiatives, across sex federal statutes, to combat trafficking and provide support to victims and survivors. In this report, the GAO categorized the initiatives into the following eight activities: “victim services, coordination and information sharing, reporting requirements, training and technical assistance, research, public awareness, criminal justice and penalties and sanctions” (Human Trafficking Overview, 2019). The Justice for Victims of Trafficking Act from 2015 includes provisions that allow the GAO to study the initiatives for combating trafficking.

Finally, the National Defense Authorization Act of 2013, specifically §1701-1708, “seeks to limit human trafficking associated with government contractors” (Current Federal Laws, 2016). While revisions and amendments illustrate efforts to improve policy and broaden the definitions and scopes of issues directly related to trafficking, there are obviously still gaps in

³⁰ [Government Accountability Office.](#)

policy that fail to protect victims and survivors of human trafficking and do not, sufficiently, punish offenders.

Prosecuting traffickers proves to be a complicated process to navigate, especially when it comes to individual states. At the federal level, sex trafficking offenders are tried under the Department of Justice. In 2003, Washington was the first state to criminalize trafficking and by 2013 every state had some sort of law in place that criminalized trafficking and established penalties for perpetrators. However, the laws vary state by state “including who is defined as a “trafficker,” the statutory elements required to prove guilt to obtain a conviction and the seriousness of the criminal and financial penalties those convicted will face” (Prosecuting Human Traffickers, 2018). The disparity between state definitions and requirements to prove guilt are due to the newness of the laws and the lack of precedent for trafficking cases. Prosecuting trafficking cases is also difficult because, oftentimes, trafficking requires prosecutors and law enforcement to work across state lines, including different local and federal level agencies. Trafficking victims might not always be available to testify or provide evidence, thus making it more difficult to build strong cases.

One way to improve prosecution of traffickers is to prevent particular defenses. One example provided by the National Conference of State Legislatures (NCSL) is a law that prohibits a “mistake of age defense” for individuals who solicit sex from minors and claim that they did not know the victim/survivor was under 18 (Prosecuting Human Traffickers, 2018). Another approach is asset forfeiture, wherein law enforcement and prosecutors can seize case, property, or any other materials that are associated with trafficking crimes (Prosecuting Human Traffickers, 2018). Some states have also adopted laws that criminalize individuals and businesses who facilitate trafficking either by assisting the transportation of victims, enable

trafficking to occur, or receive financial benefits from trafficking.³⁰ According to NCSL (2018), states are beginning to develop more policies that expand the definitions of trafficking to include businesses and corporations as agencies that can be prosecuted for trafficking. Twenty-four states and D.C. have laws that require prosecutors have access to information collected through the National Human Trafficking Hotline in order to procure information to disseminate educational information about the hotline and trafficking, in general (Prosecuting Human Traffickers, 2018).

One of the *most* important aspects of the judicial process for prosecuting traffickers is to *not* criminalize victims and survivors of trafficking. Criminalizing those individuals prevents reporting and contributes to fear and mistrust of law enforcement, the judicial system, and even of service providers. Many victims and survivors are charged with prostitution, although states are slowly beginning to re-build policy to change rhetoric and language in laws and proceedings to clearly differentiate between voluntary prostitution and the trafficking of individuals forced or coerced into selling sex. According to Shared Hope International's *National State Law Survey: Non-Criminalization of Child Sex Trafficking Victims* (2018), 23 states prohibited charging minors with prostitution.³¹ ³² There is truly no way to judge if an individual is a willing sex worker or a trafficking victim without being inside the person's mind or taking the time to thoroughly understand the situation. Every state should enact policies that prevent criminalizing minors (anyone under 18) because if the theory of rape is that no minor can consent to sex, i.e. under statutory rape laws, they should not be able to be prosecuted for prostitution. Thirty-one

³⁰ Facilitation can include advertising through posters, websites (like BackPage.com, Craigslist, etc.), or apps. These companies and individuals advertising can be tried as traffickers (Prosecuting Human Traffickers, 2018). Facilitation also includes purchasing sex, sex tourism, providing housing or transportation, assisting in the creating of falsified documents and identification, and more (Prosecuting Human Traffickers, 2018).

³¹ [National State Law Survey: Non-Criminalization of Child Sex Trafficking Victims](#)

³² Michigan and South Dakota laws only apply to minors under 16.

states have laws that allow trafficking victims to assert an affirmative defense to crimes they are charged with by force of their traffickers. “An affirmative defense is evidence that, if found credible, negates criminal liability even if it is proved the defendant committed the acts at issue” (Prosecuting Human Traffickers, 2018). Additionally, thirty-five states have proceedings that allow victims and survivors to “expunge, vacate, or seal criminal records related to being trafficked” (Prosecuting Human Traffickers, 2018).

Criminalizing individuals who buy sex is one element of combatting human trafficking in the US. In New York state, Cook County is cracking down on johns in an effort to target men who buy sex while helping the women who sell it (Alter, n.d.). In this US county, the sheriff’s office conducts sting operations and arrests as many johns as sex workers per year and, since 2011, has “National Day of John’s Arrests” or “National Johns Suppression Initiative” to encourage changes in law enforcement approaches (Alter, n.d.). According to the research conducted by Alter (n.d.), “while clients are hit with a ticket and fine that can reach \$1,300, sex workers are arrested and then offered counseling and job training” run by sex trafficking survivors (Alter, n.d.). Women arrested rarely face jail time when they complete the justice program. This method is spreading across the US, with other counties in New York, California, Arizona, Texas, and Oregon adopting various programs that mirror the Cook County initiative. At the core of law enforcement operations like this is the desire to stop prostitution and trafficking before it happens, intervening before a transaction can be made. A point of contention with this approach is arresting prostitutes and victims of sex trafficking to get them enrolled in the social services and course offered by the counties. This is problematic as it can be triggering and lead to significant demoralization. The question here comes down to whether this approach

cares for the lives of the sex workers and victims of trafficking or if it cares about ending prostitution as a practice.

US Code, Unannotated Title 18. Crimes and Criminal Procedures § 1581, outlines federal laws on slavery and human trafficking, in the various forms. Under this code, a conviction for trafficking or holding a person in involuntary servitude can result in fines and a maximum prison sentence of 20 years in a federal prison. If death occurs in the course of the crime, maximum sentencing is life in prison. Sex trafficking of children is penalized more heavily, with prison potential sentencing of life in prison and a minimum of 10 years in prison, or more depending on aggravators and the circumstances.³³ This Code also mandates restitution payments to victims, as determined by the criminal justice system. At the federal level, there is no statute of limitations for human trafficking (Nathan, 2018).³⁴

Polaris Project (2019) published a report to grade and track states' criminal record relief laws for trafficking survivors. Many sex trafficking victims and survivors are arrested due to offenses stemming from or confused with their victimization. While there is no collective data on how many trafficking survivors have criminal records from their victimization, it is well known that victims and survivors are often wrongly prosecuted and convicted. While it is possible for there to be a blurred line or no line at all between victimization and offending, it is wrong and a poor allocation of resources to prosecute, incarcerate, and sometimes deport victims and survivors. According to the National Survivor Network (NSN), 91% of 130 trafficking survivors surveyed reported being arrested. For example, trafficking victims may be arrested for

³³ A full breakdown of Human Trafficking Statutes (last updated on December 2011) can be found [HERE](#)

³⁴ For Human Trafficking Laws by State visit: Nathan, G. (2018, October 4). Human Trafficking Laws, Charges & Statute of Limitations: Federal Charges.com. Retrieved April 20, 2020, from <https://www.federalcharges.com/human-trafficking-laws-charges/>

prostitution and drug or weapon possession. These criminal records follow survivors, making it more difficult for survivors to find future employment, safe housing, continue or start education, retain child custody, and can even be barriers to receiving benefits (The Importance of Criminal Record Relief for Human Trafficking Survivors, 2019). While many agencies within law enforcement and criminal justice systems, are making steps to enact policies and procedures that limit criminalization of trafficking victims, there are still dangerous gaps. Failure to correctly identify victims at their time of arrest puts victims in a precarious position that can make or break their ability to seek help. Marginalized individuals and communities are at the greatest risk of being mis-identified in these situations.

1.2 International Policy: Overview

The globalization of the illicit sex industry is expedited by technology such as the internet, allowing for pornography and web camming to circulate globally. Air travel has also facilitated international sex trafficking and sex tourism (Reid, 2010). The international component of sex trafficking has compounded the vulnerability and captivity of women “beyond national boundaries as the women of poor countries can be sexually bought by men from rich countries” (Jeffreys, 2010, p. 6). Therefore, combatting human trafficking requires international cooperation. Global actors seeking to recommend and implement a legal code have to take a transnational approach to their policy development. Yet, this proves to be even more complicated than generating domestic policy due to such varying economic, political, and social institutions and norms. According to Lobasz (2009), “traditional security analysis of trafficking...emphasize[s] border security, migration controls, and international law enforcement cooperation” (p. 319). The pitfall here, similar to the political and economic approaches, is there is a failure to identify “the ethical and pragmatic grounds for broadening the analytical focus [of

international human trafficking] from states to people (Lobasz, 2009, p. 319). Currently, there are a few significant actors leading policy efforts regarding human trafficking. The United Nations Office on Drugs and Crime (UNODC) created conventions and developed policy to address the issue of human trafficking on an international level. International policy gets even more complicated than domestic policy as it requires participation from countries to correctly develop the best policy, ratification by the countries, and actual implementation. The challenges that each country faces are different, given their economic and political positions.

Combatting human trafficking is a complicated task. It requires recognizing cultures and economic and political positions of countries developing policy. It also necessitates recognizing what victims and survivors of trafficking need. The most logical question to ask when beginning to think about these complexities is: “what are the root causes of human trafficking” and “what will best serve victims and survivors”? Instinctually, one might want to say it is economics, social factors, or politics. The UNODC acknowledges that these may be factors but also acknowledges that international traffickers prey upon migrants who are in search of better working or living conditions due to “poverty, oppression, lack of human rights, lack of social or economic opportunity, dangers from conflict or instability and similar conditions” (Toolkit to Combat Trafficking in Persons, p. 455, 2008). While that is all very true, the real answer is: traffickers and buyers. *The perpetrators of violence, buyers and traffickers, are the root cause of human trafficking.*

One approach some countries have tried is to legalize prostitution or sex work. This so-called ‘Nordic model’ is touted as best practice for combatting sex trafficking and building gender equality. Sweden, Norway, Iceland, and Finland introduced policies that criminalized purchasing and led to other countries adopting this approach. Unfortunately, this method has not

proved successful (Kingston & Thomas, 2018; Bindel, 2017; Farley, 2004; Raymond, 2003).

Kingston and Thomas (2018) find that these prostitution laws are not being properly implemented. Primarily, law enforcement is not using the law that criminalizes purchasing sex (Kingston & Thomas, 2018). In 1999, Sweden became the first country to introduce laws that criminalized purchasing sex, making it illegal “for anyone who: obtains casual sexual relations in return for payment is sentenced for purchase of sexual services to a fine or imprisonment not exceeding one year” (Swedish Penal Code, Chapter 6 s. 11). One reason this approach cannot be trusted as a best practice is because the method is not implemented consistently across legislation or governments adopting pieces of the policy (Kingston & Thomas, 2018). Dolowitz and Marsh (2000) state that transferring policy across countries often leads to policy failure due to uninformed transfer, where policies are adopted but not understood in full, incomplete transfers, when only some elements of policy are transferred, and inappropriate transfers which occur when contexts are ignored by receiving countries (Dolowitz & Marsh, 2000). Therefore, the Nordic model cannot be trusted across all countries nor believed to be unequivocally successful. Kingston and Thomas (2018) conclude that the Nordic model does not reduce demand for sexual exploitation, but rather encourages illicit and covert operations in the form of sex trafficking. When countries who seek to emulate Sweden’s Nordic model do not take the legislation in full and then adapt it to fit their particular contexts and needs, the model will surely fail as an approach to combatting sex trafficking.

New Zealand is often used as a model on how to solve problems with prostitution after its 2003 movement to “decriminalise pimping, brothel owning and sex buying” (Bindel, 2017). Many European countries have also decriminalized prostitution, including Germany and the

Netherlands.³⁵ The thought behind legalizing prostitution and the networks around sex buying is that sex workers will receive more safety and rights. Unsurprisingly, it merely opens the gates for pimps, johns, and recruiters to traffick and sexually exploit without any fear or criminalization (Bindel, 2017; Farley, 2004). Instead of pimps they are entrepreneurs or businessmen while protecting men who purchase sex (Farley, 2004). Instead of making it safer for sex workers it put them at higher risk of abuse and violence, which is labeled an “occupational hazard” instead of a crime (Bindel, 2017; Farley, 2004). It contributes to the dehumanization of women and the sanitization of sexual exploitation. In Amsterdam, women are placed in windows, “displayed in order that sex buyers can choose a woman to pay to penetrate” (Bindel, 2017). BBC (2019) reported that 1000 children, some girls as young as seven, were being groomed or trafficked for a brothel, one of the largest in the world, in Bangladesh. Instead of legalizing prostitution, which simply increases demand, thus creating more opportunity for victimization and trafficking. Policies should decriminalize the victims of sexual exploitation and criminalize, consistently and systematically, the perpetrators of violence from pimps and recruiters to johns and buyers.

1.3 Recommended Theoretical Approaches

With so many perspectives, there are opposing views on trafficking including what trafficking looks like, who is vulnerable, how it should be addressed (globally, domestically, locally), and who has the authority to make those decisions. Bernstein (2010) comments that trafficking is typically defined, through international and federal laws, in a way that does not necessarily encompass sex trafficking. Laws alone cannot bring an end to human trafficking. This means that “a clear explanation of the underlying exploitative nature of human trafficking

³⁵ See “Appendix A” for countries in which prostitution is legal.

and the unique ways it affects a country is a critical foundation” for governments to build comprehensive strategies (TIP, 2019). These strategies cannot be limited to legalese.

Governments and politicians must use clear, consistent messaging and rhetoric when defining human trafficking and when talking about the perceptions of victims and survivors.

For example, labor trafficking should be tried under human trafficking laws and not under civil labor violations or employment laws. This prevents the conflation of civil rights law and sex trafficking, ensuring that perpetrators are held truly accountable for their crimes. Sex trafficking must also be looked at under human trafficking laws and not criminalize the victims/survivors as sex workers or prostitutes. Again, this establishes sex trafficking laws as the precedent for sexual exploitation crimes, prevents improper criminalization of innocent and exploited individuals, and punishes perpetrators of trafficking accordingly. Fundamentally, a human rights-based approach should be applied to sex trafficking policy development. According to UNICEF (2016), “A human rights-based approach is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights”. Given that sex trafficking is a form of slavery and, by the very definition of trafficking, violates victims’ basic human rights, this framework should be the very foundation of all laws, policy, and approaches in regard to sexual exploitation of trafficked individuals.³⁶

1.3.1 Trauma Informed Approach

The victims and survivors must be the center of all sex trafficking responses whether that response comes from law enforcement, the criminal justice system, or service providers. “A trauma informed approach begins with understanding the physical, social, and emotional impact

³⁶ The 1948 Universal Declaration of Human Rights states: “All human beings are born free and equal in dignity and rights”. This framework, therefore, does not exclude victims of sex trafficking.

of trauma on the individual” (Using a Trauma-Informed Approach, n.d.). Trauma-informed approaches recognize that victims and survivors can suffer from post-traumatic stress disorder (PTSD) which explains why sexually exploited individuals can struggle with their memories for years.³⁷ Using a trauma-informed approach is the absolute foundation for approaching policy development and implementation to combat sex trafficking. Trauma impacts victims’ and survivors’ behaviors and responses to trauma. For example, a survivor of trafficking may not have a positive response towards a law enforcement officer or service provider that triggers memories of a trafficker or other abuser. Additionally, trauma can impact a survivor or victim’s mental health, with severe anxiety, aggression, and depression, causing them to lose sleep, focus, and mental capacity. The core of trauma-informed approaches to combatting sex traffic include focusing and building safety, trustworthiness, providing choices, collaboration between agencies and individuals, and empowering victims and survivors in any processes or interactions that involve them (Harris & Falot, 2001).

Trauma-informed approaches recognize the various ways trauma can manifest, allowing policies and providers to understand the need for flexibility and patience. A trauma-informed approach to combatting human trafficking realizes that arresting sex trafficking victims or requiring them to take the stand against their trafficker and abusers can be triggering a re-traumatizing. While these may be inadvertent, they do significant damage to the emotional, mental, and physical well-being of the individual. Therefore, policy and services must adapt and create systems that seek to avoid re-traumatization. Policies directly affect victims and survivors. Therefore, policies must be trauma informed as this will help create space for victims and survivors to seek help, when they are able, and, potentially, work more willingly with law

³⁷ Trauma forces memories to be stored and processed differently, meaning that survivors’ memories can be disjointed, not chronological, there can be gaps in memory, or absolute memory loss.

enforcement and the criminal justice system. A trauma-informed approach will also influence dialogue and labeling surround victims and survivors, generating more recognition to why they did not leave or how they got into their situations.

1.3.2 Social Constructivism

When looking at cases of sex trafficking, it is of the utmost importance to understand that the trafficking affects each individual differently. When it comes to the methodological approaches to interviewing trafficked individuals, the process becomes fairly complicated. Taking a social constructivist approach to policy development is a good place to start. The social constructivist perspective “argues for the importance of understanding how social problems come to be defined and understood” (Sen and Baba, 2017). From this perspective, something becomes an issue once people label it as an issue and decide to address it as such (Sen and Baba, 2017). This perspective also understands that those claims are socially constructed, through dialogue and truth building that are all relative to people’s positionality and lived experiences. Gender norms and roles have been socially constructed in a way that gives more power to males, particularly upper-class, older, white males. These socially constructed gender dynamics are dangerous and harmful to the mental health and psyche of young girls and women, particularly in terms of sexual autonomy.

The dialogue surrounding sex and healthy relationships has been almost nonexistent, with new media only just beginning to broach the discussion of female sexuality. Still, men are privileged when it comes to expressing their sexual desires, exercising their masculinity in ways that objectify and harm girls’ and women’s perceptions of themselves and their bodies. In this way, women are told that their purpose is to serve the sexual and emotional needs of men. This, coupled with society’s poor construction of gender and female bodily autonomy, creates a

dangerous and risky situation for women. Traffickers prey upon this social construction and the ways it undercuts women, finding vulnerable points to attack and use to coerce and seduce women into victimhood. These constructions of gender roles also play into the violence Johns subject the women they purchase to, making for sadistic sexual encounters. It also creates a false image of “prostitutes” to society, law enforcement, and policy makers; the social construction (of gender roles) and dialogue surrounding victims of trafficking perpetuate the idea that they are criminal, psychopathic, and undeserving of assistance and protection.³⁸ Where a sex worker can be someone acting on their own freewill, a trafficked individual is being sexually exploited and does not have the freedom to control their life. Not all sex workers are sex trafficked, but those who are sex trafficked are framed as and socially constructed to be legal sex workers.

Human trafficking has been socially constructed to be a problem by various actors and those actors’ positionality will directly influence the policy development and methods to combating trafficking. Those actors are politicians, NGOs, law enforcement, academics, researchers, media and service providers. Each have an important role in developing and implementing policy and plans to combat trafficking, but each have a very different understanding of trafficking, constructed by their interactions with the problem. The purpose of framing can be to influence what people value or believe, thus impacting decision-making. How victims and survivors of human trafficking are framed and labeled by actors will impact the way policy is developed and what approaches are favored and prioritized. Sen and Baba (2017) note that framing “encourage people to evaluate the characters involved in these narratives in particular ways, influencing the experiences of those people and the ways in which they are

³⁸ The term “prostitute” holds a negative connotation or, at best, draws to mind a very stereotypical portrayal of a woman standing on a street corner. It is worthwhile to invalidate this hurtful terminology and differentiate between “sex workers”, engaging in legal sex work, and “trafficking victims”.

treated by others”. This is important to be aware of in the context of human trafficking. Those who have the role of generating narratives of human trafficking, the way they frame people who are trafficked, will directly impact policy but, arguably more importantly, how those people will be viewed and treated by others (others being law enforcement, service providers, and general society).

1.3.3 Gendered Pathways Theory

Gendered pathways theory (GPT) is used in feminist criminology to interpret female offending, willing and coerced. GPT “is a life course theory highlighting contexts, events, developmental sequences, and choices over the life” (Reid, 2010, p. 60). Gender is a key component to understanding life course theory as it takes into account societal norms, intergenerational factors, and human agency (Reid, 2010). Understanding gender, how it impacts women and girls over the course of their lives, can help explain future victimization relevant to sex trafficking. “Women and girls are further marginalized within the illegal economies operating in disadvantaged communities”, meaning that they are more vulnerable to involvement in illicit industries (Reid, 2010, p.65). According to Reid (2010), GPT is important to feminist criminology studies because it has contributed the idea of blurred boundaries. This concept is that there is a blurring between victimization and offending. This is important to infuse in sex trafficking policy development as it recognizes that perceived offending – prostitution, recruiting, theft, etc. – is happening as a way of survival or through coercion, as a way to escape or prevent further or worse abuse (Reid, 2010).

GPT also recognizes the social construction of gender. The gendered script is that men “are expected to take the sexual initiative and young females expected to acquiesce” (Jeffreys, 2010, p. 68). This notion fuels the power imbalance that exists between males and females,

especially when there is a sexual component or nature to the interaction. From adolescence, girls are subjected to these societal narratives and problematic discourse surrounding gender and sexuality. Patterns of male dominance are present from adolescence leading to an intensive sense of gender inequality that does great harm to girls' mental health, self-image, and self-worth (Reid, 2010). These struggles, combined, oftentimes lead to girls seeking male approval as that is touted as the ideal goal. Hanna (2002) states that these gendered societal norms and amounts of sexual pressure on young women and girls can sometimes lead to "painfully one-sided sexual bargains" with sex traffickers and recruiters who masquerade as boyfriends or helpful resources (p. 12). A typical pathway might look like a girl being abused or molested during adolescence, running away or fleeing that situation, engaging in some sort of illegal street activity for survival, the hope of being loved or of finally belonging, only to be coerced and exploited by a predator/sex trafficker to engage in sexually exploitative activity (Reid, 2010). While this timeline is not pertinent to every sex trafficking case, through this theory, we understand the murkiness of sex trafficking and how blurred the lines become between victimization, exploitation, and criminal offending. These women and girls are not criminal. Perhaps, simply acknowledging these blurred lines will express a sense of commonality in their positions and motivations, garnering more sympathy and less hostility and criminalization. This understanding can influence policy by encouraging less criminalization of victims, taking the time to truly understand dynamics of sex trafficking, and earlier intervention to prevent the sexual exploitation of vulnerable girls and women.

1.3.4 General Strain Theory

Another theory that is helpful to understand victimization in sex trafficking is Agnew's (1992) general strain theory (GST). Research and policy for sex trafficking should focus on

identifying and solving the underlying process that leads to victimization and sexual exploitation. GST, as presented by Agnew (1992), focuses on stressors and pressures (aka strains) that lead a person to crime. Similarly, to GPT, GST focuses on emotions and how they interplay with external strains – abuse, poverty, insecurity, etc. – and how individuals behave in response. Currently, there is an understanding that the damage from strain can have results other than criminal offending (Reid, 2010). Childhood victimization is a strain, as is the problematic societal dialogue surrounding gender dynamics and traditional gender roles. In a cycle of abuse, individuals who have been conditioned or groomed by traumatic childhood experiences of victimization, have a tendency to repeat similar relationships and patterns. Agnew (2006) posits that individuals from abusive childhoods are drawn to dangerous environments, later in life, in an effort to escape. Thus, a pattern emerges wherein victims of childhood or adulthood abuse return to similar environments and relationships, whether out of a sense of normalcy or due to predators and perpetrators preying upon vulnerability and coercing their victims through force or fraud. Once again, utilizing this theory would influence policy to be mindful of the complex dynamics and histories of abuse, trauma, and victimization to encourage earlier intervention and diversion and to minimize false criminalization of victims.

1.3.5 Feminist Rights Based Approach

Taking this human rights-based approach and adding a layer of feminist theory strengthens the approach and addresses some problematic flaws and gaps in pre-existing policy. The feminist rights-based approach to policy development is beneficial because it “takes a human rights approach to conceptualizing, theorizing, and addressing the practice” of trafficking (Pourmokhtari, p. 159, 2015). The feminist rights-based approach “is sensitive to the interplay of complex factors, including unemployment, compulsory labor, forced migration, slavery, forced

labor, and torture”, as well as gender, and asks for policy to recognize that trauma and the varying violations of human rights be considered individually in order to combat human trafficking (Pourmokhtari, 2015, p.160). This approach to trafficking works against the victimization narrative that is so often used when discussing victims and survivors of human trafficking as it focuses on the fact that basic human rights have been violated and works towards empowering those survivors and victims. Following this line of empowerment, the feminist rights-based approach does not seek to criminalize victims of trafficking. Instead, it focuses on the prosecution of buyers and sellers. Pourmokhtari (2015), emphasizes that this approach empowers individuals to take back the rights owed to them as humans, rather than hapless, passive victims. The feminist rights-based approach shifts the blame from the victim and pins it on the traffickers and also acknowledges the conditions that put the victim in the vulnerable situations to begin with. Thus, it can effectively tackle numerous root causes of trafficking while avoiding the victim-blaming trope. A feminist framework to policy development acknowledges the fact that all genders, not just female, can be – and are – victims of sex trafficking and sexual exploitation, in all of its forms.

Chapter 3

With trauma informed approaches, social constructivism, gendered pathways and general strain theories, and feminist rights-based approaches in mind and an understanding of sex trafficking and sexual exploitation, we can begin to discuss recommendations for policy adaptations and development. Domestic and international policies are based on the three Ps, prevent trafficking, protect victims, and prosecute offenders. Building on this foundation, the following recommendations will appropriately apply previously discussed theory. The subsequent recommendations will focus on acknowledging the blurred lines between

victimization and sexual exploitation, understanding the intersectionality of victims and survivors, and prosecuting perpetrators of sexual violence. Policy must prevent traffickers and buyers from continuing the cycle of abuse by prosecution while also protecting the victims and survivors of sex trafficking.

1.4 Establishing Definitions

First, definitions need to be developed further. Definitions should be more trauma-informed, based on human and feminist rights. The way sex trafficking is currently defined and framed is not inclusive of other genders. This is alienating and does not communicate that other genders, other than females, are able to be victimized and sexually exploited. Coercion should be broken down to its various forms, as it can take many forms and are not limited for force and threat of violence. Coercion also looks like financial control, threats to residency status, deprivation of freedom and autonomy, poor working conditions, etc. Secondly, the definition should also clarify that sex trafficking can occur transnationally, across state borders, or within a single town. Sex traffickers must also be identified as pimps, recruiters, family members, intimate partners, and anyone who knowingly aids in the transportation or housing of victims or receives financial gains from sexual exploitation. Finally, the definition should outline that buyers are also offending and should be held accountable for their wanton proliferation of sex trafficking and sexual exploitation. To properly reframe trafficking, the definitions need to be more expansive, diverse, and including. The definitions must also be empowering to victims and survivors while condemning perpetrators of sexual exploitation. This alters the way victims and survivors are viewed, encouraging a more knowledgeable and understanding society. It helps the public recognize signs of trafficking and grooming. This can equip people with the ability to call out problematic behavior which, in turn, can prevent vulnerable individuals from being targeted.

Men and boys are also victims and survivors of sex trafficking. Currently, males are left out of the majority of literature and research, creating a large gap in definitions, approaches, and policy development. Therefore, it is recommended that the research on male victims be bolstered to provide academics, service providers, and policy developers with accurate information to address the varied needs of the male population. Furthermore, there is too little current research on homosexual victims and individuals who identify as transgender or non-binary. Due to societal marginalization, these populations are potentially at a higher risk of being sexual exploited. Different genders require different approaches to intervention, prevention, and protection. It is recommended that researchers focus on these populations that have been overlooked in order to assess what needs to be done to best meet their unique needs when it comes to combatting trafficking and providing proper, holistic services.

1.5 Human Rights Based

Due to the transnational nature of sex trafficking, policy must be applied to both US and international sex trafficking victims and survivors. Specifically, legislation needs to include specific issues “such as reparation, residency status, safety, health and programs to serve the needs of international and U.S. women in the sex industry” (Raymond & Hughes, 2001, p. 91). Governments may be hesitant to enact these steps due to a lack of resources, services, or voter support. However, a human rights-based approach is essential to creating inclusive legislature to combat sex trafficking. With ill-conceived ideas surrounding sex workers or international people trafficked within the US, there is a risk of shifting attention to prostitution and xenophobic conceptions of international victims in the US. Every sex trafficking victim and survivor is entitled to their most basic human rights and policy, both US and abroad, should keep this theory at the center of all policy development. This would mean that reparation, residency, and any

other programs would be afforded to every survivor, regardless of their citizenship or country of origin. Without a human rights-based approach, there is no real moral foundation to policy development. This theoretical grounding will prevent negative ideas of trafficking victims and survivors, thus creating safer places for individuals to seek help. It can be implemented through more holistic framing, definitions, and reparations.

1.6 Education and Awareness

Since traffickers prey upon vulnerable and at risk individuals, it is important to increase education and public awareness in regard to sex trafficking. The general population does not really know how to recognize signs of trafficking, whether they are being targeted or they are witnessing sexual exploitation. This is not necessarily the public's fault. Trafficking is not taught in schools or through other common mediums. When someone sees a prostitute, they most likely think the woman is choosing to be there, they do not always realize that prostitution is not victimless. Women are stereotypically the victim meaning that a male may be overlooked as a trafficking victim. This ignorance even extends to law enforcement who may not recognize those blurred lines between victimization and prostitution (Raymond & Hughes, 2001). However, this education must take many forms. Since adults and children alike are targeted, education must take multiple forms including classrooms, posters, radio, internet, and television to reach all audiences. There are potential limitations. For example, not every school district may have the willingness or resource capacity to provide even fundamental sex and healthy relationship education to students. Similarly, some regions may not have a desire to include sex trafficking education in their programming.

Additionally, these informational spots must be available in all languages. Not only will improving education and public awareness aid in prevention, it might also help with prosecution

as more people recognize the signs of trafficking and, hopefully, report suspicious activity to law enforcement. Because of law enforcement's critical involvement in breaking the cycle of trafficking, it is also imperative that all members of police, fire, and EMSA forces receive education and training on how to identify and correctly handle a suspected or known sex trafficking situation. This would include training on signs to recognize and assess, differentiating between prostitution and sexual exploitation, and trauma-informed approaches to talking to victims and survivor. Trafficking *can* happen to anyone, but individuals with generational trauma, childhood and adulthood abuse, historic oppression and marginalization, and societal and economic discrimination are more vulnerable (see Appendix C for more information on vulnerabilities, signs to look out for).

Education and awareness must work in another direction, too. Resources need to be disseminated in areas that victims and survivors might see so that if there comes an opportunity for them to seek help and support, they are able and equipped to do so. Recommended locations are truck stops, gas stations, rest stops, hotels, grocery stores, and schools either in windows or in the restrooms. This information would include hotlines, service providers, shelters, and legal services. An example of a successful education or awareness campaign is the National Human Trafficking Hotline's awareness materials (See Appendix D).³⁹ These materials are available in numerous languages and can easily be posted in public restrooms, in the windows of businesses, or passed out discretely in the form of business cards. Since these resources are free to download and only require the cost of printing, the barrier of resource allocation is lowered and should not prevent individuals and businesses from posting signage.

1.7 Criminalization of Involved Persons

³⁹ Materials can be found [HERE](#).

Following a report or discovery of a sex trafficking establishment, there needs to be consistent criminalization of every individual who enabled the sexual exploitation. First, the burden of proof must be lowered. Drug and weapons traffickers receive harsher sentencing than sex traffickers (Raymond & Hughes, 2001). Pimps who are released or arraigned will immediately return back to trafficking. Johns who are not sentenced for purchasing sex are also not penalized. Victims are often needed to testify in order to see their traffickers sentenced; this is not trauma informed nor is it always safe for victims to do so. Trafficking rings are interconnected, and traffickers know one another; this means if a victim/survivor testifies, they risk retaliation from their abuser's network or from the trafficker once they are back on the street. Local businesses and ordinances should come down harder on establishments that allow sexual exploitation to operate. This should not be limited to local businesses that physically house sex operations. Pornography platforms should also be monitored and held accountable for allowing exploitative and nonconsensual porn from being posted and viewed (By the Numbers, 2019; Grant, 2020).⁴⁰ Additionally, traffickers and buyers of sex should not be allowed to use consent as a defense against trafficking (Raymond & Hughes, 2001). Per the very definition of consent and trafficking, no individual being sexually exploited is giving formal consent; they are being coerced or forced to perform sexual acts. While altering these approaches to criminalizing traffickers and other accessories to trafficking crimes will take time, governments at all levels (local, state, domestic, and international) should seek to improve their protocol. It may not be an easy or quick task to make these adjustments, but it is in the best interest of survivors and victims that these suggested changes be made in order to limit traumatization through testifying and exploitation through pornography.

⁴⁰ Pornhub.com has been under fire for posting extremely violent pornography, videos promoting sex with "teens", and known rapes and videos from sex trafficking cases (Grant, 2020; Rankovic, 2020).

1.8 Protecting Victims and Survivors

When it comes to protecting victims and survivors of trafficking, the trauma informed approach is of the utmost importance. First, any person trafficked internationally should not be treated as an illegal immigrant but as a victim of direct violations to their human rights (Raymond & Hughes, 2001). This is the first step in protecting victims and survivors. This approach would also have the potential to encourage more individuals to try and flee their traffickers and, possibly, testify in court. Second, no victim of trafficking should be criminalized as a prostitute. As previously discussed, individuals who are being sexually exploited are not guilty of prostitution and should not be targeted by law enforcement. Rather, law enforcement and criminal courts should be more understanding of the complexity of trafficking situations and victims' lack of options. More attention should be given to cases of suspected prostitution to correctly identify the situation. If trafficking is happening, more resources should be allocated to “investigate and prosecute trafficking kingpins – the people at the top” in order to tear down the trafficking rings and prosecute predators and perpetrators of sexual violence (Raymond & Hughes, 2001, p. 94). Third, more social services need to be available to victims and survivors of sex trafficking, particularly those who have been trafficked across state and country borders. This includes, but is not limited to: reparations, residency – temporary or permanent depending on the situations – housing and employment assistance, legal aid, healthcare, and counselling services. Victims who are not residence within the state they have been exploited in should be given the same rights as victims with permanent residency, with access to: translators if/when needed, free legal assistance, access to reparations, ability to press charges against their trafficker, assistance returning home, should the wish to do so, and permission to stay in the

current country if conditions are not safe at home (Wijers & Lap-Chew, 1999). All services need to be developed from a trauma-informed perspective, grounded in human rights and feminist rights-based approaches that seek to re-construct the current dialogue and definitions around sex trafficking victims, survivors, traffickers and purchasers. Additionally, legislation, policy, and approaches should all be aimed at empowering victims and survivors while protecting them and prosecuting their abusers.

Legalizing prostitution is not a recommended policy development since it does not empower victims or survivors, nor does it protect them. Rather, it puts them at greater risk and fails to prosecute traffickers and buyers. With many countries taking this policy approach to combatting sex trafficking, it is important to address its shortcomings and recommend other approaches. Contrary to what many believe, legalizing or decriminalizing prostitution does not empower or protect the women in prostitution. It does not dignify the work. Instead, it decriminalizes the entire industry of sexual exploitation from traffickers, pimps, recruiters, and businesses to the buyers (Raymond, 2003). Decriminalizing prostitution is not the answer, the answer is decriminalizing the *women and children* in prostitution. Laws should not decriminalize the brothels, sex establishments, traffickers, pimps, and buyers. A common myth is that legalizing prostitution helps control the sex industry. However, it merely expands it. Legalizing prostitution is shown to correlate with larger reports of sex trafficking inflows (Raymond, 2004). There needs to be more research in this area, as numbers and data are difficult to come across given the ever-changing nature of prostitution laws and protocols as well as the ability to accumulate accurate data, given underreporting and the inability of victims to always disclose themselves. This conversation also raises the question of “freedom of choice”, which is an inherent human right, and applies to consumers and suppliers of prostitution services. This paper

does not seek to address this question. However, decriminalizing prostitution takes away barriers to trafficking individuals. If someone were trafficked into a legal establishment, they would still be a victim of trafficking as they would be there without the freedom to leave if they chose, as they would be held there under any form of force, fraud, or coercion.

1.9 Conclusion

This paper has looked at the rhetoric and framing around victims and survivors of sexual exploitation and how this impacts policy development for the prevention and protection of victims and survivors and the prosecution of perpetrators. Policy making requires strategic framing which will, in turn, influence the final policies, laws and procedures, that governments and communities will employ. Current policy, both domestic and international, fails to use a trauma-informed approach, which keeps victims and survivors marginalized by society and the criminal justice systems. This fails to properly prevent trafficking and protect victims and survivors. This paper has looked at the rhetoric and framing around victims and survivors of sexual exploitation and how this impacts policy development for the prevention and protection of victims and survivors and the prosecution of perpetrators.

Policy making requires strategic framing which will, in turn, influence the final policies, laws and procedures, that governments and communities will employ. For accurate and thorough framing, actors must take a trauma-informed, human and feminist rights-based approach to policy development to ensure prevention, protection, and prosecution. Current policy, both domestic and international, fails to use a trauma-informed approach, which keeps victims and survivors marginalized by society and the criminal justice systems. This fails to properly prevent trafficking and protect victims and survivors. It is recommended that policies be reworked to acknowledge the complex situations of trafficking victims, remaining nuanced and flexible to

recognize the numerous forms sexual exploitation and trafficking take, while avoiding victim blaming by criminalizing abusers and decriminalizing victims and survivors. This requires improved definitions of what a victims may look like, how they are trafficked, and methods of control, fraud, and coercion traffickers use. Policy should mandate education and awareness for the general public as well as increased trainings for law enforcement, health care professionals, public transit workers, and teachers. Criminalization must also be more cohesive and consistent, across the board, with harsher punishments for traffickers and all individuals who are involved in perpetuating the trafficking systems and cycles. Finally, victims and survivors must be protected, including after they leave a situation. Their rights to reparations, residency, housing and employment assistance, legal aid, healthcare, counselling, and any other social services should be ensured and clearly outlined. If governments truly want to combat trafficking, they should allocate more funding to the organizations, agencies, and units that work to end trafficking and provide safety, security, and empowerment to the survivors.

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Appendix A

name	Prostitution Status	pop2020
Cambodia	Illegal	16718.965
China	Illegal	1439323.776
Croatia	Illegal	4105.267
Dominica	Illegal	71.986
Angola	Illegal	32866.272
Antigua and Barbuda	Illegal	97.929
Grenada	Illegal	112.523
Guyana	Illegal	786.552
Haiti	Illegal	11402.528
Iran	Illegal	83992.949
Iraq	Illegal	40222.493
Jamaica	Illegal	2961.167
Afghanistan	Illegal	38928.346
Jordan	Illegal	10203.134
North Korea	Illegal	25778.816
South Korea	Illegal	51269.185
Liberia	Illegal	5057.681
Bahamas	Illegal	393.244
Lithuania	Illegal	2722.289
Barbados	Illegal	287.375
Philippines	Illegal	109581.078
Romania	Illegal	19237.691
Rwanda	Illegal	12952.218
Saint Kitts and Nevis	Illegal	53.199
Saint Lucia	Illegal	183.627
Saint Vincent and the Grenadines	Illegal	110.94
Saudi Arabia	Illegal	34813.871
South Africa	Illegal	59308.69
Suriname	Illegal	586.632
Thailand	Illegal	69799.978
Trinidad and Tobago	Illegal	1399.488
United Arab Emirates	Illegal	9890.402
Albania	Illegal	2877.797
Uganda	Illegal	45741.007
Egypt	Illegal	102334.404
Bulgaria	Legal	6948.445

Chile	Legal	19116.201
Colombia	Legal	50882.891
Costa Rica	Legal	5094.118
Cuba	Legal	11326.616
Cyprus	Legal	1207.359
Czech Republic	Legal	10708.981
Denmark	Legal	5792.202
Dominican Republic	Legal	10847.91
Ecuador	Legal	17643.054
El Salvador	Legal	6486.205
Ethiopia	Legal	114963.588
Estonia	Legal	1326.535
Finland	Legal	5540.72
Germany	Legal	83783.942
Greece	Legal	10423.054
Argentina	Legal	45195.774
Guatemala	Legal	17915.568
Honduras	Legal	9904.607
Hungary	Legal	9660.351
India	Legal	1380004.385
Indonesia	Legal	273523.615
Israel	Legal	8655.535
Italy	Legal	60461.826
Austria	Legal	9006.398
Kenya	Legal	53771.296
Kyrgyzstan	Legal	6524.195
Latvia	Legal	1886.198
Luxembourg	Legal	625.978
Malta	Legal	441.543
Mexico	Legal	128932.753
Bangladesh	Legal	164689.383
Netherlands	Legal	17134.872
New Zealand	Legal	4822.233
Nicaragua	Legal	6624.554
Belgium	Legal	11589.623
Panama	Legal	4314.767
Paraguay	Legal	7132.538
Peru	Legal	32971.854
Poland	Legal	37846.611
Portugal	Legal	10196.709

Bolivia	Legal	11673.021
Senegal	Legal	16743.927
Singapore	Legal	5850.342
Slovakia	Legal	5459.642
Slovenia	Legal	2078.938
Spain	Legal	46754.778
Switzerland	Legal	8654.622
Brazil	Legal	212559.417
Turkey	Legal	84339.067
Belize	Legal	397.628
Uruguay	Legal	3473.73
Venezuela	Legal	28435.94
Canada	Limitedly legal	37742.154
France	Limitedly legal	65273.511
Iceland	Limitedly legal	341.243
Australia	Limitedly legal	25499.884
Ireland	Limitedly legal	4937.786
Japan	Limitedly legal	126476.461
Malaysia	Limitedly legal	32365.999
Armenia	Limitedly legal	2963.243
Norway	Limitedly legal	5421.241
Sweden	Limitedly legal	10099.265
United Kingdom	Limitedly legal	67886.011
United States	Limitedly legal	331002.651
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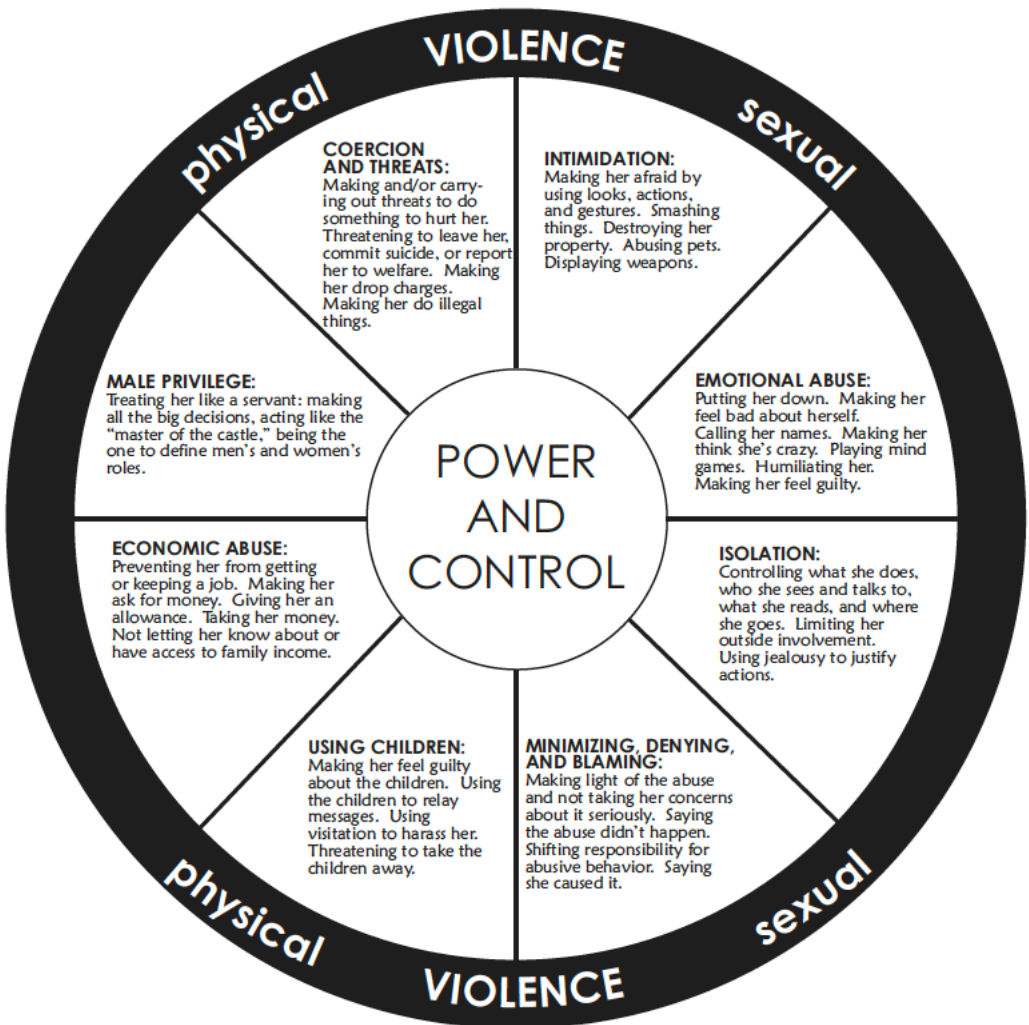
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Appendix B

POWER AND CONTROL WHEEL

Physical and sexual assaults, or threats to commit them, are the most apparent forms of domestic violence and are usually the actions that allow others to become aware of the problem. However, regular use of other abusive behaviors by the batterer, when reinforced by one or more acts of physical violence, make up a larger system of abuse. Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of the woman's life and circumstances.

The Power & Control diagram is a particularly helpful tool in understanding the overall pattern of abusive and violent behaviors, which are used by a batterer to establish and maintain control over his partner. Very often, one or more violent incidents are accompanied by an array of these other types of abuse. They are less easily identified, yet firmly establish a pattern of intimidation and control in the relationship.



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Appendix C

People may be vulnerable to trafficking if they experience or have experienced:

Unstable living situation	Caregiver or family member with substance abuse issues	History of sexual abuse	History of domestic violence
In poverty	Runaways or involved in juvenile justice or foster care	Addicted to Drugs or Alcohol	Undocumented immigrants
Exhibited sudden change in behavior			

Some situations may raise concern if an individual:

Cannot leave their home or place of stay	Do not have control over their finances	Show signs of physical abuse	Are accompanied everywhere by someone else / are not allowed to speak
Appears fearful, submissive	Has unattended medical problems	Lack forms of identification	Lacks personal possessions
Are not allowed to socialize	Work excessive hours	Has sudden influx of money or gifts	Stops attending school
Appears disconnected from family, friends, and organizations	Shows signs of malnutrition, lack of sleep	Are unable to contact family and friends	Does not seem familiar with where they are
Communication seems coached or scripted	Are afraid of security and people in uniform	Refuses normal conversation	Significant age difference (i.e. young girl, older man)

Pimps and traffickers may exhibit the following behaviors:

Jealous, controlling, violent	Encourage illegal activities	Provide drugs and alcohol	Buy expensive gifts
Is vague about their profession	Demands sex	Controls finances	Controls day to day activities

Appendix D

NATIONAL HUMAN TRAFFICKING HOTLINE

CONTACT THE NATIONAL HUMAN TRAFFICKING HOTLINE

Do you **want to get out of the life?**
 Are you being **forced to work** against your will?
 Or **threatened or tricked** by your boss?
Do you know someone who may be?



CALL

1-888-373-7888



TEXT

"BeFree" (233733)



LIVE CHAT

HumanTraffickingHotline.org

- ✓ Get help.
- ✓ Report a tip.
- ✓ Find services.
- ✓ Learn about your options.

24/7 • Toll free • Confidential • 200+ languages



Polaris received \$1.75 million through competitive funding through the U.S. Department of Health and Human Services, Administration for Children and Families, Grant #90ZV0134-01-00. The project will be financed with 43.75% of federal funds and 56.25% (\$2.25 million) by non-governmental sources. The contents of this flyer are solely the responsibility of the authors and do not necessarily represent the official views of the U.S. Department of Health and Human Services, Administration for Children and Families.

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