

6-2019

The Regime of Sex Trafficking of Women in the United States

Julia Wilson

Union College - Schenectady, NY

Follow this and additional works at: <https://digitalworks.union.edu/theses>



Part of the [Gender and Sexuality Commons](#), [Legal Studies Commons](#), and the [Political Science Commons](#)

Recommended Citation

Wilson, Julia, "The Regime of Sex Trafficking of Women in the United States" (2019). *Honors Theses*. 2349.
<https://digitalworks.union.edu/theses/2349>

This Open Access is brought to you for free and open access by the Student Work at Union | Digital Works. It has been accepted for inclusion in Honors Theses by an authorized administrator of Union | Digital Works. For more information, please contact digitalworks@union.edu.

The Regime of Sex Trafficking of Women in the United States

A Thesis

Presented to

The Faculty of the Departments of Political Science and Gender, Sexuality and Women's Studies

Union College

In Partial Fulfillment

of the Requirements for the Degrees of

Bachelor of Arts

by

Julia Wilson

March 2019

ACKNOWLEDGEMENTS

To Professor Andrea Foroughi and Professor Guillermina Seri, I want to express my deepest appreciation for your encouragement and patience. Thank you for your guidance and help the past two terms, I could not have done it without you.

To my parents, thank you for giving me the confidence to be who I am and for teaching me to never underestimate myself or my abilities. I will forever and always be grateful to you both for your unconditional love and support.

To Ellie and Fron, thank you for being my role models. You have each taught me the essence of hard work and dedication.

To Maggie, Popo, Mare, and Wendy, thank you for being the leading female influences in my life. I admire your courage, bravery and unwillingness to settle for anything but the best.

ABSTRACT

WILSON, JULIA

The Regime of Sex Trafficking of Women in the United States

Sex trafficking is a vicious crime and has been denoted as a form of modern-day slavery, accumulating nearly 21 million victims worldwide. Women and girls make up 95% of victims of trafficking for sexual exploitation, which reflects the dominance of patriarchy operating in the U.S. and across the globe. When it comes to the sex trafficking of women, it is often seen as a problem that happens elsewhere, never close to us. This hegemonic narrative that exoticizes sex trafficking contributes to keeping the problem in the dark. Yet an estimated 200,000 people are forced into the sex trade in the United States every year; the majority of these are American citizens, many of them trafficked within the borders of the United States—from one municipality to another, and across state lines. The pervasiveness of patriarchal social norms often makes human trafficking and sexual exploitation a normalized and yet sometimes invisible crime.

Drawing on both feminist theory and political science's focus on governance, this thesis analyzes the sex trafficking of women with a three-pronged approach, reconstructing the main legal, conceptual, and institutional frameworks available to prevent and respond to sex trafficking, and assessing their contributions and limitations within the United States. Attention paid to defining sex trafficking as distinct from labor trafficking and prostitution.

Offering a brief historical overview, the introductory chapter reconstructs the process through which the sex trafficking of women gained visibility both as a problem of public concern and as a subject of scholarly research. Two main questions at the center of the introductory chapter are, first, the vagueness of definitions, which contributes to leaving victims overlooked,

and second, the assumptions that sex trafficking happens elsewhere. In turn, Chapter 2 looks at the international dimensions of the sex trafficking of women, characterizing and assessing the effectiveness of the main institutional, legal and conceptual frameworks and instruments in place. With a focus on the United States, Chapter 3 explores both national and state laws and institutional mechanisms as they apply to the sex trafficking of women. In doing so, the chapter will also examine the relations between the United States' and the international institutional and legal frameworks. When, how, and why do U.S. institutions opt in and out of international law in addressing cases of sex trafficking of women? When are international, federal, and state laws privileged by courts? Chapter 4 then digs deep into legal cases that have occurred in New York State. It explores specific legislation and acts that have been passed at a state-level.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	i
ABSTRACT.....	ii-iii
TABLE OF CONTENTS.....	v
CHAPTERS	
1. INTRODUCTION.....	1
Laws, Institutions, and the Trafficking in Women.....	8
The Problem in Literature.....	11
2. INTERNATIONAL DIMENSIONS.....	19
Are Women Human?.....	21
Fourth World Conference on Women, Beijing.....	27
The International Criminal Court.....	37
3. NATIONAL DIMENSIONS.....	44
Human Trafficking Data.....	51
Sex Trafficking Cases in the United States.....	57
4. NEW YORK STATE.....	65
5. CONCLUSION.....	73
BIBLIOGRAPHY.....	77-92

CHAPTER ONE: INTRODUCTION

Hiding in plain sight; that is often the case for many victims of sex trafficking. Imagine taking a road trip with your family and deciding to stop at a rest area to take a quick break. You walk in and out, not paying much attention to the other people around you. Little do you know, that right in that same exact spot are women and girls of varying ages—some have been reported missing, others have run away because of domestic abuse, and one who was traded by her grandfather to a pimp to feed his crack habit—being trafficked across and within state lines, all while being manipulated and coerced into sexual exploitation. This was the case in 2011 in which traffickers ran a multi-state, truck stop, prostitution ring that exploited women and girls. They set prices and wired money among themselves; they lured girls with promises of love and wealth, and then trapped them and forced them to become prostitutes. One trafficker bragged that he had fractured his hand while beating a woman working for him as a prostitute for not making enough money; another broke the nose of a woman he pimped.¹

The U.S. Department of Justice called this one of the largest coordinated enforcement actions ever taken against what officials labeled “prostitution rings” in the United States. During the investigation, the Government applied for and was granted authorization to intercept wire communications through cell phones of about 19 individuals under Title III of the Omnibus Crime Control and Safe Streets Act of 1986. The indictments—from grand juries in Detroit, M.I., Camden, N.J., and Harrisburg, PA.—targeted the purported operators of four “prostitution rings”, consisting of at least 14 men and women. The indictments included multiple counts of conspiracy, sexual trafficking of women and children, racketeering, and money laundering, and

¹ United States v. Robinson (United States District Court for the Middle District of Pennsylvania). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2011/united_states_v_robinson_.html?tmpl=old

the defendants were accused of sending more than \$310,000 in proceeds from one operation to another.²

United States v. Robinson went to trial at the United States District Court for the Middle District of Pennsylvania. Franklin Robinson was sentenced to 25 years imprisonment, with supervised release for life. His co-conspirators had sentences that ranged from 8 years imprisonment up to 60 years.

The trafficking and exploitation of humans for a profit is not a new phenomenon. However, slavery is commonly thought to be a thing of the past. It is thought to be something that ended, at least in the Americas, with the 13th Amendment in the United States and the abolition of slavery in Brazil in 1888. But the trafficking of humans remains ubiquitous internationally and domestically across the globe. Human trafficking is an international crime and a violation of basic human rights that involves various forms of modern slavery and exploitation, including rape and sex slavery.³ Sex trafficking constitutes one of its major forms in which primarily women and children are coerced or deceived for the purpose of commercial sexual exploitation.⁴ It is also the most common form of modern-day slavery.

Estimates place the “number of its domestic and international victims in the millions, mostly females and children enslaved in the commercial sex industry for little or no money.”⁵

The International Labour Organization (ILO) estimates that there are “40.3 million victims of

² *United States v. Robinson* (United States District Court for the Middle District of Pennsylvania). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2011/united_states_v_robinson_.html?tmpl=old

³ Annie George, U. Vindhya, and Sawmya Ray, "Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature," *Economic and Political Weekly* 45, no. 17 (2010): 64. jstor.

⁴ George, Vindhya, and Ray, "Sex Trafficking and Sex Work": 64.

⁵ В. Шелестиський, "Sex Trafficking in the United States" (2016) p. 176.

human trafficking globally; 81% of them are trapped in forced labor, 25% of them are children and 75% are women and girls.”⁶ The ILO also estimates that forced labor and human trafficking is a \$150 billion industry worldwide.⁷

Human traffickers “generate hundreds of billions of dollars in profits by trapping millions of people in horrific situations around the world, including here in the U.S.”⁸ In fact, human trafficking is the “fastest growing area of organized crime and the third largest income revenue for organized crime after narcotics and arms sales.”⁹ What makes this business unique is that women and girls sold into sex trafficking “earn profits for their pimps and traffickers over a great number of years, unlike the profits earned from drugs and narcotics that are sold and used only once.”¹⁰ Traffickers use “violence, threats, deception, debt bondage, and other manipulative tactics to force people to engage in commercial sex or to provide labor or services against their will.”¹¹

In recent years, “there has been a resurgence of interest in trafficking for the purpose of sexual exploitation,” Galma Jahic and J. O. Finckenauer note.¹² Sex trafficking is often used as an umbrella term, frequently including: commercial sex work such as prostitution, but also

⁶ "The Facts," Polaris. November 09, 2018. Accessed February 28, 2019. <https://polarisproject.org/human-trafficking/facts>.

⁷ "The Facts," Polaris. November 09, 2018.

⁸ "The Facts," Polaris. November 09, 2018.

⁹ NA Deshpande and NM Nour, “Sex trafficking of women and girls,” *Rev Obstet Gynecol*. 6, no.1 (2013):e22-7. NCBI.

¹⁰ Deshpande and Nour, “Sex trafficking of women and girls,” 22-7.

¹¹ "The Facts," Polaris. November 09, 2018. Accessed February 28, 2019. <https://polarisproject.org/human-trafficking/facts>.

¹² Galma Jahic, "Representations and Misrepresentations of Human Trafficking," *Trends in Organized Crime* vol 8, no. 3, (2005): 25. Springer.

pornography, exotic dancing, stripping, live sex shows, mail-order brides, military prostitution, and sexual tourism.¹³ This has led to media coverage of trafficking becoming too closely associated with sex work and dominated by moral considerations in the identification and protection of victims.¹⁴ It is important to note that “sex trafficking and prostitution are not synonymous,” as prostitution defines just one of the forms of sexual exploitation that victims of sex trafficking are forced to perform.¹⁵ Although victims of sex trafficking can be of any age and of either sex, the majority are women and adolescent girls. Despite being outlawed globally, the trafficking of women, it is still widely prevalent on a global scale.

There are often the assumptions that sex trafficking and the trafficking in women happen elsewhere, not within the United States. It is a problem that is placed as far away as possible from the domain that one lives in. No one wants to believe that the rest stops that they are passing while on a family vacation are areas of extreme coercion and sexual exploitation of women and girls. Hence the focus on countries outside the United States, which is often where research occurs as well. It is where the majority of political scientists focus their research and literature. Accordingly, scholarship has focused mostly on the study of sex trafficking as the movement of victims across borders from poor nations to affluent nations, while feminist scholars such as Catharine MacKinnon and Cynthia Enloe, have focused on how patriarchy impacts the response, by government and society, given towards sex trafficking.

This has meant that the United States has been less visible as a site for transnational and domestic trafficking in women. Whereas considerable attention has been focused on sex

¹³ Deshpande and Nour, “Sex trafficking of women and girls,” 22-7.

¹⁴ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking: 25.

¹⁵ Deshpande and Nour, “Sex trafficking of women and girls:” 22-7.

trafficking in Europe, Canada, Japan, Australia and other industrialized nations, “incidents of trafficking are often reported in isolation from one another, therefore, the who, what and why of trafficking into the United States has not been evident.”¹⁶ The terms human trafficking and sex slavery “usually conjure up images of young girls beaten and abused in faraway places, like Eastern Europe, Asia, or Africa.”¹⁷ When in actuality, sex trafficking and sex slavery often happen locally in cities and towns, “both large and small, throughout the United States, right in citizens’ backyards.”¹⁸

In fact, the United States of America “ranks as the world’s second largest destination/ market country (after Germany) for women and children trafficked for purposes of sexual exploitation in the sex industry.”¹⁹ Many women are trafficked *into* the United States and “forced to work in the sex industry, including prostitution, pornography, and stripping.”²⁰ The United States government “estimates that between 45,000 and 50,000 women and children are trafficked into the United States every year for sexual exploitation.”²¹ However, women are domestically trafficked within the United States as well. It is not just a problem of women coming *into* the United States to be sexually exploited, but women already within the United States who are forced and coerced.

¹⁶ J.G. Raymond, D.M. Hughes, & C.J. Gomez, “Sex Trafficking of Women in the United States: International and Domestic Trends. Coalition Against Trafficking in Women,” Amherst, MA. (2001): 14. <https://www.ncjrs.gov/pdffiles1/nij/grants/187774.pdf>.

¹⁷ Шелестиський, В. "Sex Trafficking in the United States" (2016) p. 176.

¹⁸ Шелестиський, В. "Sex Trafficking in the United States" (2016) p. 176.

¹⁹ Edward J. Schauer, "Sex Trafficking into the United States: A Literature Review," *Criminal Justice Review* vol 31, no. 2 (2006): 146.

²⁰ April Riegler, "Missing the Mark: Why the Trafficking Victims Protection Act Fails to Protect Sex Trafficking Victims in the United States," *Harvard Women's Law Journal* vol 30 (2007): 233. SAGE Journals.

²¹ Riegler, "Missing the mark": 233.

This is one reason why this thesis seeks to address sex trafficking that is occurring in the United States. It also examines why there is not more research being done on the sex trafficking that is occurring within our own backyard. The sexual exploitation of women is an international problem, it is also a domestic problem that occurs within the United States. It is an atrocity that occurs while being hidden in plain sight. Women and girls are subject to sexual exploitation at significantly higher rates than men and boys. Legislation has been defined and has been passed, or hasn't been passed, based on the androcentric and patriarchal societies that we live in today. Inequality between the sexes remains as a significant problem throughout the world. Looking at the government in 2019, one might expect to see changes, but that is not the case. We remain in a society that has a hierarchical order of the sexes.

The usual explanations of trafficking “point to young, unsuspecting women being deceived—being told they will have legitimate jobs—only to be sold to pimps and pressured through violence into prostitution.”²² The victims are described and perceived as usually uneducated, willing to move abroad, and attracted by a flashy lifestyle, entertainment, clothes, and the possibilities of their dream destinations. While some victims of trafficking really do fit this depiction, this way of “presenting the victims greatly oversimplifies the problem.”²³

Media has allowed for standard views of sex trafficking to be challenged as reporting brought stories closer to home. News coverage of particular cases and scandals revolving around sex trafficking give visibility to women and this frequently invisible crime. With the “increasing news reports of women trafficked from Eastern Europe to Western Europe and the United States,

²² Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 25.

²³ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 25.

trafficking has rapidly become a political and social issue.”²⁴ At first, service providers and non-governmental organizations (NGOs) simply “provided assistance and help to individual victims, but later they began to develop comprehensive programs and policies.”²⁵ It is unlikely, however, that this issue would have become so important so quickly with “governments and NGOs, if it was not first so catchy with the public; if victims were not such sympathetic creatures; and, if reporting these stories were not so profitable for news agencies.”²⁶

Until it became possible to “present the victims as ‘one of our own,’ trafficking was a low priority.”²⁷ If people do not understand that someone they pass by in the street or someone doing their nails for them is a possible victim of sex trafficking, it makes the issue seem irrelevant. Unlike the “women from Asia and Africa, who were women of color, the new idea that trafficking victims could likely be the ‘girl next door’ astounded many Americans.”²⁸

Women are often blamed when they step forward and testify as to what has happened to them. Many women aren’t able to or are too afraid to come forward. But what happens to the ones who do? Are they criminalized for the actions that they were forced into? Are they deported and sent away if they have been brought into the country illegally? Are they returned to the circumstances that they had wanted to escape? Women are already a disadvantaged group, which makes them prime targets for sex trafficking and sexual exploitation. But these concepts have begun to gain traction internationally in the past few years.

²⁴ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 26.

²⁵ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 26.

²⁶ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 26.

²⁷ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 27.

²⁸ Jahic and Finckenauer. "Representations and misrepresentations of human trafficking": 27.

Laws, Institutions, and the Trafficking in Women

It should be noted that “trafficking is the only form of transnational crime in which women have been identified as key players.”²⁹ Although ostensibly they “operate as kingpins, they commonly assume roles of madams or recruiters, suggesting that they tend to be found among the lower levels of the criminal organization.”³⁰ They are better described as part of a second wave of formerly trafficked women who have been offered, or perhaps taken, the option of recruitment rather than continued sexual exploitation. This remains an “under-explored aspect of women’s victimization, since women who have endured sexual exploitation are frequently unable to return or reintegrate into their former communities for precisely the same reasons that made them vulnerable to trafficking in the first instance.”³¹ They may feel or be seen as outsiders, allowing for further victimization.

Numerous instruments of international law have called for the abolition of sex trafficking, but none of them “have offered a definition of what was to be abolished” because there was very little agreement about what sex trafficking *was* until 2000.³² On November 15, 2000, the General Assembly adopted the UN Convention Against Transnational Organized Crime and two optional protocols on trafficking in persons and smuggling of migrants. The United States and one hundred and twenty-five other states, signed the convention in December in Palermo, Italy, eighty-one states, “also signed the supplemental protocol on trafficking in

²⁹ Edna Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation », *Revue internationale de droit pénal*, 2010/3 (Vol. 81) : 551-562. DOI : 10.3917/ridp.813.0551. URL : <https://www.cairn.info/revue-internationale-de-droit-penal-2010-3.htm-page-551.htm>.

³⁰ Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation » : 551-562.

³¹ Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation » : 551-562.

³² Michelle Madden Dempsey, "Defining Sex Trafficking in International and Domestic Law: Mind the Gaps," *Emory Int'l Law Review* vol 26 (2012): 138. Emory Law Database.

persons, and seventy-nine states, including the United States, signed the supplemental protocol on migrant smuggling.”³³ The Palermo protocol on “trafficking in persons” provides the “first definition of that term in a legally binding international instrument.”³⁴ It defines such trafficking 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 a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.³⁵

The Palermo Protocol helps to show how sex trafficking and human trafficking, more generally, are defined at the international level. However, it also shows how variations in definitions and variation in language can have an impact on the victim of these atrocities. As a consequence of the different definitions and policy perspectives, even though there is no doubt that concern for trafficking victims is genuine, trafficking has seemingly become an issue of a battleground for different positions on prostitution, immigration, and the position and status of women.³⁶ The Palermo Protocol allows for tremendous breadth of means by which trafficking is recognized, but “many state parties have adopted more restrictive list of means elements, resulting in a narrower definition of trafficking than the one articulated in the Palermo

³³ "International Trafficking in Persons, Especially Women and Children," *The American Journal of International Law* vol 95, no. 2 (2001): 408. jstor.

³⁴ "International Trafficking in Persons, Especially Women and Children," 408.

³⁵ "International Trafficking in Persons, Especially Women and Children," 408.

³⁶ Jahic, and Finckenauer. "Representations and misrepresentations of human trafficking": 33.

Protocol.”³⁷ As the Protocol was finalized and approved in 2000, the United States took greater action in attempting to address sex trafficking in the same year.

In May and July 2000, respectively, the “House of Representatives voted 371 to 1, and the Senate 95 to 0, in favor of legislation to toughen laws against trafficking in persons.”³⁸ On October 28, after rapprochement in conference, President Clinton signed into law the Trafficking Victims Protection Act (TVPA) of 2000. Among the findings stated in the law are:

(1) at least seven hundred thousand persons annually, primarily women and children, are trafficked within or across international borders, with approximately fifty thousand women and children trafficked into the United States; (2) many of these persons are trafficked into the international sex trade, often by force, fraud, or coercion, leading to prostitution, pornography, sex tourism, and other commercial sexual services; (3) trafficking in persons is not limited to the sex industry but also involves forced labor and significant violations of labor, public health, and human rights standards worldwide; (4) traffickers lure women and girls—who are disproportionately affected by poverty, lack of access to education, chronic unemployment, discrimination, and lack of economic opportunities in their countries of origin—into their networks through false promises of decent working conditions at relatively good pay as nannies, maids, dancers, factory workers, restaurant workers, sales clerks, or models; (5) existing legislation and law enforcement in the United States and other countries are inadequate to deter trafficking and to bring traffickers to justice, and fail to reflect the gravity of the offenses involved; (6) current practices of sexual slavery and trafficking of women and children are abhorrent to the principles upon which the United States was founded (such as the inherent dignity and worth of all people, recognized in the Declaration of Independence); and (7) the United States must work bilaterally and multi- laterally to abolish the trafficking industry by taking steps to promote cooperation among countries linked together by international trafficking routes.”

Depending on where a woman lives around the world, laws can be enacted and implemented in different ways that either help or hurt them. Laws have, throughout history, been the construction of white male leaders internationally as well as domestically. These men who are creating the

³⁷ Michelle Madden Dempsey, "Defining Sex Trafficking in International and Domestic Law: Mind the Gaps," *Emory Int'l Law Review* vol 26 (2012): 153. Emory Law Database.

³⁸ "International Trafficking in Persons, Especially Women and Children," 408.

laws, and perpetuating an androcentric way of life, have their own, and their male-counterparts, best interests at the heart of their arguments. This can frequently mean that international instruments and legislation regarding women, have weaker implementation obligations and procedures both at a domestic and international level, perpetuating the idea that women and women's rights are less important.³⁹

Abusing women physically can maintain this territorial domination and is sometimes accompanied by “other forms of human rights abuses such as slavery (forced prostitution), sexual terrorism (rape), or imprisonment (confinement to the home).”⁴⁰ On the international level, the fact that state boundaries define the line where men divide power among themselves, within which they seek to exercise exclusive dominion, including over women, explains why the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is so widely reserved. Similarly, among the most “reserved international provisions in all treaties are those jurisdictional provisions that designate the authority to resolve disputes.”⁴¹ CEDAW has designated authority in a way which “guarantees women as a group the right not to be discriminated against, focusing on the concrete situation of a substantive group of people instead of abstract spheres called civil, political, economic, and social as the primary units of analysis.”⁴²

³⁹ Loveday Hodson; Women's Rights and the Periphery: CEDAW's Optional Protocol, *European Journal of International Law*, Volume 25, Issue 2, 1 May 2014, Pages 561–578, <https://doi.org/10.1093/ejil/chu027>

⁴⁰ Julie Stone, Peters, *Women's Rights, Human rights: International Feminist Perspectives*, (New York, Routledge, 1995) 15.

⁴¹ Catharine, A. MacKinnon, *Are Women Human? And Other International Dialogues* Kindle Edition. (Cambridge, Harvard University Press, 2006) 43.

⁴² MacKinnon, *Are Women Human?*, 6.

The Problem in the Literature

The trafficking of women and girls for sexual exploitation is “one of the most difficult issues to redress because it is related to deep-seated gender ideologies (e.g., prevalent notions that women are inferior to or dependent on men) that often tolerate, and in some instances even encourage, victimization.”⁴³ Sex trafficking is anchored in and involves the perpetuation of unequal relationships that are legitimized by culture and society.

Much of the popular writing on human trafficking has been anecdotal or sensationalistic, and most scholarly publications are either general overviews or critiques of the literature. Most of the theoretical frameworks regarding violence against women are derived from feminist theories. These theories strive to understand roles, experiences, and values of individuals on the basis of gender. Regarding sexual exploitation, feminist scholars have focused a great deal on whether prostitution or any exchange of sex for something of monetary value is or can be voluntary. In debates among feminist scholars, “regarding what sort of policy and legal responses are most appropriate in addressing the problem of sex trafficking, it is possible to identify two sides: abolitionists and non-abolitionists.”⁴⁴ The literature and arguments that abolitionists make is that they seek to end both sex trafficking and prostitution generally, while non-abolitionists seek to end sex trafficking while allowing prostitution to continue.⁴⁵ The argument that feminist abolitionism is taking is that sex trafficking harms women both mentally and physically and allowing it to continue and be sustained throughout society perpetuates patriarchal structural

⁴³ Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation », 551-562.

⁴⁴ Michelle Madden Dempsey, "Sex Trafficking and Criminalization in Defense of Feminist Abolitionism," *University of Pennsylvania Law Review* vol 158 (2009): 1.

⁴⁵ Dempsey, "Sex Trafficking and Criminalization in Defense of Feminist Abolitionism": p. 1.

inequalities.⁴⁶ These scholars are trying to address how patriarchal structures are enhancing inequality, especially through means such as sex trafficking. Their goal and touchstone of this approach is to provide “realistic and valuable alternatives for prostituted people or those who are at risk of being prostituted.”⁴⁷

Political science scholarship and feminist scholarship agree on some of the factors implicated in the rise of sex trafficking worldwide, including in the United States. Among the more influential are; “gender-based social and economic inequality in all areas of the globe, male demand for the sex of prostitution and related sexual entertainment, expansion of transnational sex industries and increasingly sophisticated predatory recruitment techniques and networks and armed conflict, military occupation and concentration of military and militia bases in various parts of the world.”⁴⁸ These are broad, but not all-encompassing, areas relating to sex trafficking and are areas that more time has been spent when referring to the literature that has been produced.

Feminist scholars agree on the necessity to protect the human rights of trafficked persons but they frequently “disagree on who should be considered a victim of trafficking and what precisely should be done to protect victims’ rights.”⁴⁹ Feminist abolitionists focus primarily on women trafficked for sexual exploitation, advocating the abolition of prostitution and enhanced protections for sex trafficking victims. This perspective leads to the idea that “prostitution is

⁴⁶ Dempsey, "Sex Trafficking and Criminalization in Defense of Feminist Abolitionism": p. 9.

⁴⁷ Dempsey, "Sex Trafficking and Criminalization in Defense of Feminist Abolitionism": p. 10.

⁴⁸ Raymond, Hughes, and Gomez, "Sex Trafficking of Women in the United States:" 15.

⁴⁹ Jennifer Lobasz, "Beyond Border Security: Feminist Approaches to Human Trafficking," *Security Studies* vol 18, no 2, (2009): 319-344. ResearchGate.

antithetical to women's human rights, and all prostitutes are victims of trafficking.”⁵⁰ Feminist critics of the “abolitionist approach take issue with the notion that prostitution is inherently harmful and they support the decriminalization or legalization of prostitution and argue that current anti-trafficking activities rely upon and contribute to counterproductive if not harmful stereotypes of trafficking victims.”⁵¹

But feminist scholars also differ on their opinions regarding sex trafficking. Many are like-minded authors, but these issues divide radical from liberal feminists, with the former wanting to ‘rescue’ the ‘victims’ and the latter insisting that there might be good reasons for ‘hiding from the rescuers.’⁵² They both agree, however, that little acts of amelioration are possible but no real autonomous agency is possible for women under patriarchy. Patriarchal organizations in government and society have provided a social context for the sexist acceptance of hierarchy, often times excluding women from the public sector, higher education, and structural labor forces. This has contributed to and reinforced androcentric perspectives throughout the government and other institutional organizations.

A critical issue in addressing the "victimization of women in the context of sex trafficking is awareness and understanding of the link between victimization and crime in trafficked women’s lives.”⁵³ For instance, poverty, neglect or sexual and physical abuse push young women to the street or to the hands of traffickers, where they survive by selling their bodies, or numb

⁵⁰ Lobasz “Beyond Border Security: Feminist Approaches to Human Trafficking”: 319-344.

⁵¹ Lobasz “Beyond Border Security: Feminist Approaches to Human Trafficking”: 319-344.

⁵² Diana Meyers, “Feminism and Sex Trafficking: Rethinking Some Aspects of Autonomy and Paternalism,” *Ethical Theory and Moral Practice* vol 17, (2014): 427. ResearchGate.

⁵³ Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation »: 551-562.

their pain by using drugs. Trafficked women are often "pressured by their traffickers to violate the law where they are threatened that their immigration status will be compromised, that they will be deported, or told that they or their families will be harmed."⁵⁴

Women and girls are also repeatedly objectified and their bodies hyper-sexualized, throughout the media which contributes to harmful gender stereotypes that often trivialize violence against girls. Media and pornography are two mass-produced ways that exposure of women as sexual objects are shown to people across the world. This link between pornography and how it portrays and emphasizes violence against women has been explored by multiple feminist scholars, including Cynthia Enloe and Catharine MacKinnon. They argue that these types of images teach young boys and men that it is okay to treat women in inhumane and degrading ways.⁵⁵ Pornography is often the first place that young boys experience and are exposed to sexual content.

One area that hasn't attracted the same attention in scholarship regarding sex trafficking has been in the area of domestic trafficking in the United States. As stated previously, it is often considered a problem that happens elsewhere, hence why there is a lack of literature focusing on the trafficking occurring within and across states lines. Exploring the regime of sex trafficking of women and girls in the United States is incredibly pertinent in this day and age. Understanding how both the international and domestic legislation and definitions that have been passed regarding human trafficking and sex trafficking are worded in ways that can either help or hurt victims. Definitions can be very limiting or too broad in their phrasing and this can lead to mislabeling of cases that are brought into the federal jurisdiction. What happens if one case is

⁵⁴ Eerz, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation »: 551-562.

⁵⁵ MacKinnon, *Are Women Human?*, 6.

labeled as “prostitution” while another is labeled “sex-trafficking”? How are these two cases treated differently both at an international level but more importantly at a domestic level?

Sex trafficking discourses emphasize elements such as “sexual innocence and naïveté, kidnapping, and sexual brutality in order to produce a sympathetic victim who would be politically unpalatable to criminalize.”⁵⁶ But discourses such as this begin to limit how people view the victims of sex trafficking. It begins to limit the scope of the problem and can often push the problem away, because people don’t see it as a problem that could have an effect on them.

Another area of discourse that is being discussed based on the literature, and key international forums, brings up concerns about how to define trafficking. U.S. trafficking legislation—passed in October 2000—“includes a two-tiered definition of trafficking that distinguish between aggravated or “severe” trafficking, and trafficking that does not involve force, or in which force cannot be proven.”⁵⁷ In general, the international literature and debate over the definition of trafficking has focused on “whether coercion is a necessary element of the definition, or whether trafficking can occur with or without the consent of the victim.”⁵⁸ When definitions are being debated, especially at an international scale, it can mean that laws are not implemented in the ways that they were intended to be.

This is why this is another area that this thesis will focus on. How definitions can have an impact, either positive or negative, on those that they are trying to help? How can definitions be phrased or rewritten to be more encompassing? Can these definitions become universal so that sex trafficking in the United States is referred to in the same way in China? These definitions

⁵⁶ Lobasz, “Beyond Border Security: Feminist Approaches to Human Trafficking”: 319-344.

⁵⁷ Raymond, Hughes, and Gomez, “Sex Trafficking of Women in the United States: International and Domestic Trends. Coalition Against Trafficking in Women,” 20.

⁵⁸ Raymond, Hughes, and Gomez, “Sex Trafficking of Women in the United States: International and Domestic Trends. Coalition Against Trafficking in Women,” 20.

also need to have less of an androcentric approach to them. Laws have frequently been determined by males, domestically and internationally, but what happens to the women that are subject to implementation of these laws? What happens to the women that are the most likely to need these laws and definitions to help them?

Non-governmental organizations and governmental agencies have “attempted to collect empirical and anecdotal evidence related to sex trafficking, but thus far there is no disciplinary concentration of scholarly research on the subject.”⁵⁹ Rather, the work reflects the complexity of trafficking through a wide range of definitions, causes, consequences, and remedies, and is distributed across fields such as criminal justice, economics, sociology, public health, feminist studies, immigration, and politics, to name just a few. Despite the extensive literature on the topic, there is still little consensus on an absolute definition of trafficking; it is often conflated with prostitution and migration. But the consequence is that the vagueness of definitions, can contribute to leaving victims overlooked.

Chapter 2 will look at the international dimensions of the sex trafficking of women, characterizing and assessing the effectiveness of the main institutional, legal and conceptual frameworks and instruments in place. With a focus on the United States, Chapter 3 will explore both national and state laws and institutional mechanisms as they apply to the sex trafficking of women. In doing so, the chapter will also examine the relations between the United States' and the international institutional and legal frameworks. When, how, and why do U.S. institutions opt in and out of international law in addressing cases of sex trafficking of women? When are international, federal, and state laws privileged by courts? Chapter 4 will then dig deep into legal

⁵⁹ Anne Johnston, Barbara Friedman, and Autumn Shafer, "Framing the problem of sex trafficking: Whose problem? What remedy?." *Feminist Media Studies* 14, no. 3 (2014): 420. TandFOne.

cases that have occurred in New York State. It will explore specific legislation and acts that have been passed at a state-level.

Using information obtained from the Human Trafficking Case Law Database, the United Nations Office of the High Commissioner for Human Rights, the Department of Justice, the Polaris Project, and various media and news sources, this thesis will explore the regime of the sex trafficking of women within the United States.

CHAPTER TWO: INTERNATIONAL DIMENSIONS

The Universal Declaration of Human Rights (UDHR) was adopted in 1948 by the United Nations General Assembly. It was the direct result of the experiences that occurred during the Second World War, inspired by opposition to the barbarous doctrines set forth by Nazism and fascism. Both the United Nations and “the international community vowed never to allow atrocities like those of that conflict to happen again.”⁶⁰ Still, today, seventy years later, the Universal Declaration, “is the best-known and most often cited human rights document on Earth... it is a milestone in the history of human interactions and the cause of human rights.”⁶¹ In its Article Two, the UDHR maintains: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁶² It further proclaims that “[a]ll are equal before the law and are entitled without any discrimination to equal protection of the law.”⁶³

The UDHR sets forth the expectation that all member countries will protect their citizens against human rights violations. In its Article Three stating, that “Everyone has the right to life, liberty and security of person,”⁶⁴ the article makes clear that physical abuses against citizens

⁶⁰ "History of the Document." United Nations. <http://www.un.org/en/sections/universal-declaration/history-document/index.html>.

⁶¹ "The Long and Influential Life of the Universal Declaration of Human Rights," in *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World*, edited by Brown Gordon, by Global Citizenship Commission (Cambridge, UK: Open Book Publishers, 2016), 29-38. <https://www.jstor.org/stable/j.ctt1bpmb7v.9>.

⁶² "Universal Declaration of Human Rights." Office of the High Commissioner. <https://www.ohchr.org/EN/pages/home.aspx>.

⁶³ "Universal Declaration of Human Rights." Office of the High Commissioner.

⁶⁴ "Universal Declaration of Human Rights." Office of the High Commissioner.

such as rape, torture, assault, are human rights violations. Yet, the document is not directly binding to those countries who haven't signed it. Forty-eight countries came together at the United Nations held in Paris; they are the Universal Declaration of Human Rights signatories. These nations include: Chile, Afghanistan, Brazil, Bolivia, Burma, Belgium, Australia, Argentina, Egypt, Ecuador, Dominican Republic, Denmark, Cuba, Costa Rica, Colombia, China, Iraq, India, Iceland, Haiti, Guatemala, Greece, France, Ethiopia, El Salvador, New Zealand, The Netherlands, Mexico, Luxembourg, Liberia, Lebanon, Iran, Sweden, Siam, Philippines, Peru, Paraguay, Panama, Pakistan, Nicaragua, Norway, Uruguay, United States Of America, United Kingdom, Turkey, Syria, and Venezuela.

The Universal Declaration is not a treaty, so it does not directly create legal obligations for countries. However, it is an expression of the fundamental values which are shared by all members of the international community. And it has had a profound influence and impact on the development of international human rights law.⁶⁵ Still, today, the Universal Declaration “is the best-known and most often cited human rights document on Earth... it is a milestone in the history of human interactions and the cause of human rights.”⁶⁶

However, “existing human rights paradigms are formulated from an unacknowledged gender and sexual bias,” frequently because they are being developed and put into action by males, specifically white males. Many feminist critics argue the need to “amend these frameworks to better capture gender-specific human rights violations like rape (including marital rape and rape during war), domestic violence, reproductive freedom, the valuation of childcare

⁶⁵ Admin, “What Is the Universal Declaration of Human Rights?” *Australian Human Rights Commission*. December 14, 2012. <https://www.humanrights.gov.au/publications/what-universal-declaration-human-rights>.

⁶⁶ “The Long and Influential Life of the Universal Declaration of Human Rights,” 29-38.

and other domestic labor as work, and unequal opportunity for women and girls in education, employment, housing, credit, and health care,” two of these feminist critics include Catharine MacKinnon and Cynthia Enloe.⁶⁷

Are Women Human?

MacKinnon says that “to be a woman is not yet a name for a way of being human, not even in this most visionary of human rights document.”⁶⁸ The opening articles of the UDHR encourage human beings ‘to act towards one another in a spirit of brotherhood’ which gives way to the question: “if we were all enjoined to act towards one another in a spirit of sisterhood, would men know it meant them, too?”⁶⁹ Overtime, these types of words (mankind, brotherhood, etc.) have been questioned because although they may seem universal and gender neutral, they aren’t. This shows how the vagueness of definitions can contribute to overlooking certain parts of the human population. Creating a piece of legislation that is supposed to encompass all human beings, can in fact, leave a certain subset of the population overlooked, as it is the case with women.

While the “UDHR proclaims equality and prohibits discrimination on the grounds of sex in its opening articles, it also guarantees a person ‘his rights and freedoms,’ protection of his privacy, family and honour.”⁷⁰ However, “his, does not include hers.”⁷¹ This lack of inclusive

⁶⁷ Julietta Hua, “Universalism and the Conceptual Limits to Human Rights,” *Trafficking Women’s Human Rights*, NED - New edition ed. (Minneapolis and London: University of Minnesota Press, 2011), 9.

⁶⁸ Karima Bennoune, “Why Does It Matter If Women Are Human: Catharine MacKinnon’s Contributions to International Law,” *Tulsa Law Review* vol #45, (Fall 2011): 6. DigitalCommons.

⁶⁹ Bennoune, “Why Does It Matter If Women Are Human”: 6.

⁷⁰ Bennoune, “Why Does It Matter If Women Are Human”: 6.

⁷¹ Bennoune, “Why Does It Matter If Women Are Human”: 6.

language can create major deficits on the way that women are treated and the way that women are or are not seen to be considered human. But women are human. According to Karima Bennoune, this is a “belief less widely shared than one might think”.⁷²

Coinciding with this, 1948 was also the year that the Genocide Convention was written. However, similarly to the lack of attention paid to gender in the Declaration of Human Rights, “it also did not occur to the drafters of the Convention to think of women as a human category in the same way, or at least as one worthy of specific mention”.⁷³ Perhaps this is because, as MacKinnon states, “their targeting is so often invisible precisely because it is so pervasive”.⁷⁴ Women throughout history have not been seen as needing specific attention paid to their lives as well as to the protections of their lives.

Women need full human status in social reality. This means that the Universal Declaration of Human Rights “must see the ways women are distinctively deprived of human rights”.⁷⁵ Current human rights laws “don’t account for violations of women as women—that is rape, battering, and pornography”.⁷⁶ When the abuse is sexual or intimate, “especially when it is sexual and inflicted by an intimate partner, it is gendered, hence not considered a human rights violation”.⁷⁷

⁷² Bennoune, “Why Does It Matter If Women Are Human”: 7.

⁷³ Bennoune, “Why Does It Matter If Women Are Human”: 117.

⁷⁴ Bennoune, “Why Does It Matter If Women Are Human”: 117.

⁷⁵ MacKinnon, “Are Women Human?”: 43.

⁷⁶ Carol Anne Douglas, “Are Women Human? and Other International Dialogues.” *Off Our Backs* 37, no. 1 (2007): 74. Jstor.

⁷⁷ MacKinnon, *Are Women Human?*, 21.

Put more schematically, in the perspective of human rights, “what is done to women is either too specific to women to be seen as human or too generic to human beings to be seen as about women”.⁷⁸ MacKinnon argues that atrocities committed against women are either “too female to fit the concept of human or too human to fit the idea of female” because ‘human’ and ‘female’ are mutually exclusive by definition; one cannot be a woman and a human being at the same time.⁷⁹ However, the terms ‘male’ and ‘human’ are one-in-the-same; there is no need to differentiate between the two, nor does the law require the two to be mutually exclusive. Simone de Beauvoir asserts that men are “the absolute human type,” and thus, “humanity is male.”⁸⁰

Thirty years later, however, the General Assembly expressed its concern that despite the Universal Declaration of Human Rights, and the two United Nations Covenants of 1966, which also contain an obligation for all States Parties to ensure the equal right of men and women to enjoy all economic, social, cultural, political and civil rights. There remained extensive discrimination against women around the world, because human rights have not been women’s rights—“not in theory or in reality, not legally or socially, not domestically or internationally”.⁸¹ Rights that human beings have by virtue of being human “have not been rights to which women have had access, nor have violations of women as such been part of the definition of the violation of the human as such on which human rights law has traditionally been predicated”.⁸² Women

⁷⁸ MacKinnon, *Are Women Human?*, 181.

⁷⁹ MacKinnon, *Are Women Human?*, 181.

⁸⁰ Estelle B. Freedman, *The Essential Feminist Reader*, (New York, Modern Library, 2007), 254-255.

⁸¹ Catharine MacKinnon, "Rape, Genocide, and Women's Human Rights," *Harvard Women's Law Journal* vol 17, (1994) 43.

⁸² MacKinnon, "Rape, Genocide, and Women's Human Rights," 43.

have systematically been left out of the decisions regarding actions that need to be taken to protect them.

The 1960s saw the emergence, in many parts of the world, of a new consciousness looking at the patterns of discrimination against women. Rising numbers of organizations began to become committed to combat the effects of such discrimination.⁸³ In 1972, five years after the adoption of the Declaration and four years after the introduction of a voluntary reporting system, the Commission on the Status of Women (CSW) “considered the possibility of preparing a binding treaty that would give normative force to the provisions of the Declaration.”⁸⁴ The following year, a working group was appointed to consider the elaboration of such a convention. In 1974, in light of the report of this working group, the Commission decided, to prepare a single, “comprehensive and binding international instrument to eliminate discrimination against women.”⁸⁵

To address the need for a gendered bill of rights, one of the first pieces of international legislation was the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in 1981. The contribution of this international treaty “and its implementation framework, to the international human rights legal system and the actual enjoyment of women's human rights, has been significant.”⁸⁶ That contribution includes:

⁸³ "A Short History of the Convention." United Nations. <http://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>.

⁸⁴ "A Short History of the Convention." United Nations. <http://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>.

⁸⁵ "A Short History of the Convention." United Nations. <http://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>.

⁸⁶ Anne F. Bayefsky, "The CEDAW Convention: Its Contribution Today," *Proceedings of the Annual Meeting (American Society of International Law)* vol 94 (2000): 197-203. <http://www.jstor.org/stable/25659389>.

“expanding the understanding of modern international human rights standards in general; the ‘mainstreaming’ of a gender analysis, or integrating women's rights into the broader human rights context, in terms of both standards and implementation; prompting domestic or national implementation efforts; and fostering and propelling a rights-based approach into the operations of well-placed UN field agencies.”⁸⁷

Sixty-four States signed the Convention and two States submitted their ideas for ratification. Forty-five of whom also signed the UDHR; however, the United States and Iran remain as two member states who have not ratified CEDAW. On 3 September 1981, "just 30 days after the twentieth State had ratified it, the Convention entered it into legislation in a time frame faster than any previous human rights convention had done."⁸⁸ CEDAW legally binds all States Parties to fulfill, protect and respect women's human rights—meaning that States are responsible for their own actions, as well as eliminating discrimination that is being perpetrated by private individuals and organizations.⁸⁹

This importance of control over women and their bodies can be seen in the “intensity of resistance to laws and social changes that put control of women’s bodies in women’s hands: reproductive rights; freedom of sexuality, whether heterosexual or lesbian; laws that criminalize rape in marriage; and so on.”⁹⁰ Ideas about women being the property or territory of men perpetuate the thinking that a woman's body can be ruled by someone that is not her. Often, ideas about a man being masculine means he has complete authority of the woman he is with, both mentally and physically. Her body is in his charge and he can do what he likes with it. The

⁸⁷ Bayefsky, "The CEDAW Convention: Its Contribution Today," 191.

⁸⁸ "A Short History of the Convention." United Nations. <http://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>.

⁸⁹ "Frequently Asked Questions (FAQ) about CEDAW," *UN Women | Asia and the Pacific* (2019) <http://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/faq>.

⁹⁰ Peters and Wolper, eds. *Women's rights, human rights: International feminist perspectives*. p. 15.

physical territory of political and wartime struggles, such as in Bosnia, is seen in the way that men emphasize and utilize women's bodies.⁹¹

Laws regarding women and their bodies have, historically and presently, been determined by men, not by women. Women's bodies are frequently subject to actions and decisions that are not their own; they are not allowed to do what they think is best but rather what the law and men think that they should do with their own bodies. Abusing women physically can maintain this territorial domination on men's part and is sometimes accompanied by "other forms of human rights abuses such as slavery (forced prostitution), sexual terrorism (rape), or imprisonment (confinement to the home)."⁹²

On the international level, the fact that state boundaries define the line where men divide power among themselves; within the boundaries that determine sovereignty they seek to exercise exclusive dominion, including over women, explains the reservations towards the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Similarly, among the most "reserved international provisions in all treaties are those jurisdictional provisions that designate the authority to resolve disputes."⁹³ CEDAW has designated authority in a way which "guarantees women as a group the right not to be discriminated against, focusing on the concrete situation of a substantive group of people instead of abstract spheres called civil, political, economic, and social as the primary units of analysis."⁹⁴

⁹¹ Peters and Wolper, eds. *Women's rights, human rights: International feminist perspectives*. p. 15.

⁹² Peters and Wolper, eds. *Women's rights, human rights: International feminist perspectives*. p. 15.

⁹³ MacKinnon, "Are Women Human?," 6.

⁹⁴ MacKinnon, "Are Women Human?," 6.

In US feminism, this period is sometimes characterized as a time of “backlash”—a resurgence of conservative and traditional views and values responding to the significant changes caused by social movements like feminism. One central claim that came from radical feminists at this time was that CEDAW was assimilationist, shackling women to the dominant norm of the male model. Making women claim legal equality to men thus precludes the kind of transformative change which would allow for women to be able to participate in social and political spheres.

While there might not have been any direct denial of women’s right to equality, there was a refusal to acknowledge that gender stereotyping and inequality existed everywhere. Women’s equal opportunity might have been in theory axiomatic, but the system that prevailed in practice made it unattainable. CEDAW was able to push the notion that women needed to be involved and that women needed to be included in decisions that were being made about them. This is why the Fourth Conference on Women occurred.

Fourth World Conference on Women, Beijing

In 1995, “Hillary Rodham Clinton stood before delegates from 180 countries at the Fourth World Conference on Women in Beijing and declared that “human rights are women’s rights and women’s rights are human rights.”⁹⁵ She talked about how abuses of women have continued for far too long, and the history of women has been a history of silence. Clinton declared that “as long as discrimination and inequities remain so commonplace everywhere in

⁹⁵ Wade M. Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981–2004." *International Studies Quarterly* vol 57, no. 2 (2013): 233-49. jstor.

the world, as long as girls and women are valued less, fed less, fed last, overworked, underpaid, not schooled, subjected to violence in and outside their homes — the potential of the human family to create a peaceful, prosperous world will not be realized.”⁹⁶

Although the UDHR had set out the essential arguments for the need for basic human rights legislation, there was not specific attention paid to women. It became apparent "to many activists and governments that a separate international human rights treaty pertaining exclusively to women, over and above ‘generic’ treaties already in place for safeguarding basic civil, political, and socioeconomic rights, was needed.”⁹⁷ CEDAW was able to set up the beginning stages of defining women’s rights and it “mandates countries to pursue by all appropriate means and without delay a policy of eliminating discrimination against women, defined in article 1 of CEDAW as:

... any distinction, exclusion or restriction made on the basis of sex which had the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms.⁹⁸

This World Conference “was the largest gathering in the history of and about women.”⁹⁹

The Conference was remarkable for the “frank discussion of topics that were taboo twenty years ago, and for the acceptance of pro-equality provisions by the great majority of UN members.”¹⁰⁰

⁹⁶ "First Lady Hillary Clinton's Address to the United Nations Fourth World Conference on Women." *CommonLit*. <https://www.commonlit.org/en/texts/first-lady-hillary-clinton-s-address-to-the-united-nations-fourth-world-conference-on-women>.

⁹⁷ Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981–2004," 233.

⁹⁸ Cole, "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981–2004," 233.

⁹⁹ Ruth P. Dawson, "When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995," *International Journal of Politics, Culture, and Society* vol 10, no. 1 (1996): 7-27. jstor.

¹⁰⁰ Barbara Roberts, "The Beijing Fourth World Conference on Women." *The Canadian Journal of Sociology,* Cahiers Canadiens De Sociologie vol 21, no. 2 (1996): 237-44.

The major work of the conference was transforming a draft plan for action—the result of two-and-a-half years of preparation—into final, acceptable form. With “4000 planned events, exhibits, panels, workshops, lectures, and plenaries that made up the Forum's Program were organized around twelve themes, which were eventually established into the Platform for Action”¹⁰¹ The twelve themes included: human rights and legal rights, spirituality and religion, governance and politics, economics, peace and human security, media, arts and culture, race and ethnicity, education, health, environment, and finally, science and technology.¹⁰²

From one point of view, “the sheer activity of preparing and planning for the meeting was one way in which it worked, with so many groups drawing up position papers and agendas and publishing them, implicitly setting standards for themselves and for others.”¹⁰³ The sharing of strategies, problems, and possibilities on government and non-government levels “provided leaven for changes large and small.”¹⁰⁴ Thus, the United States’ refusal to ratify CEDAW probably took on a new meaning and significance for many American women who “attended the Forum from an obscure congressional problem to a startling omission that can and should be

¹⁰¹ Dawson, “When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995,” 11.

¹⁰² The Beijing Declaration and Platform for Action that emerged from the Fourth World Women's Conference in Beijing is clear in its condemnation of violence against women. It denounces the systematic rape of women in wartime and advocates the prosecution of perpetrators as war criminals. It acknowledges that domestic violence is a worldwide problem and urges governmental intervention. It also condemns genital mutilation of girls and sexual harassment as human rights violations. What the Platform excludes as violence against women, however, is prostitution per se from the category of human rights violations. V. Struensee, “Sex Trafficking: A Plea for Action,” *European Law Journal* vol 6, (2000) 379-407.

¹⁰³ Dawson, “When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995,” 24.

¹⁰⁴ Dawson, “When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995,” 24.

remedied since the many discussions of CEDAW at the Forum showed it to be a valuable, even though imperfect, tool in other nations.”¹⁰⁵

The Conference also began the first international conversation on the need to address the trafficking of women internationally and through legal terms. Various governmental and non-governmental groups made efforts to “distinguish and to legitimize certain practices of sexual exploitation, drawing distinctions, for example, between ‘forced’ and ‘free’ prostitution.”¹⁰⁶ However, others did not support differentiating between these different practices. They believe that prostitution was forced, and those entering into it were not capable of voluntarily giving consent. These efforts culminated in lobbying for what would be eventually be included in the Platform for Action.

The Platform for Action which was the primary result of the Conference, states that Strategic Objective D.3 will address how to “Eliminate trafficking in women and assist victims of violence due to prostitution and trafficking.”¹⁰⁷ The Fourth World Conference on Women addressed the need to speak about atrocities that happen specifically to women through a legal framework. The idea was that women’s rights are not always attended to in the way that they should be when categorized or lumped under the umbrella term of human rights.

The closing address of the Conference was given by Gro Harlem Brundtland, a Norwegian politician. Some of the points she made during her address were, “There has been a difficult debate on how Beijing should define the human rights of women. As if there could be

¹⁰⁵ Dawson, “When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995,” 24.

¹⁰⁶ Struensee, “Sex Trafficking: A Plea for Action.”

¹⁰⁷ “Fourth World Conference on Women, Beijing 1995,” *United Nations*. <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm#object3>.

one set of human rights for men and another, more restricted one, for women. There are limits to the practices that countries can expect the international community to accept, or condone, even when such practices have deep cultural roots.”¹⁰⁸ She then went on to talk about how violence against women, as well domestic violence, can be said to be natural occurrences occurring all over the world. This can be documented and proven through the number of police reports and charges brought against spousal abuse, sexual abuse, etc. However, what about the number of instances of violence and abuse that aren’t brought to the attention of the state or even result in death? Brundtland stated that “...freedom from violence and coercion must apply also in the sexual sphere of life.”¹⁰⁹

One of her most powerful statements in her address targeted states as either complicit or activist in their approach to women’s rights: “The state becomes an accomplice if violence against women is seen as a separate cultural category of behavior extraneous of the realm of justice and law enforcement. No, women will not become more empowered merely because we want them to be, but through change of legislation, increased information and by redirecting resources.”¹¹⁰ Women need to have the law and legislation on their side, specifically advocating for their rights and policing the gendered violence that they are often exposed to.

But why is violence so inherent throughout the world? Johan Galtung, the Norwegian peace researcher, denies that human nature condemns us to violence; “instead he gives another explanation of its etiology based on three interacting forces: structural, cultural, and direct.”¹¹¹

¹⁰⁸ Freedman, “The Essential Feminist Reader,” 411.

¹⁰⁹ Freedman, “The Essential Feminist Reader,” 412.

¹¹⁰ Freedman, “The Essential Feminist Reader,” 413.

¹¹¹ “Varieties of Violence: Structural, Cultural, and Direct.” TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

Structural violence generates wealth for the few and poverty for the many by using and enforcing injustice and exploitation, therefore “stunting everyone’s ability to develop their full humanity.”¹¹² This leads to privileging some classes, ethnicities, genders, and nationalities more than others, while institutionalizing unequal opportunities for education, resources, as well as respect. This form of violence is the very basis of capitalism, patriarchy, and “any dominator system.”¹¹³

Cultural violence is the perpetuating and prevailing attitudes and beliefs that “justify and legitimize the structural violence, making it seem natural.”¹¹⁴ Beginning at childhood, feelings of “superiority/inferiority based on class, race, sex, religion, and nationality are inculcated” and shape our assumptions about ourselves and the world. This leads to and convinces us that this is the way things are and this is how they have to be.¹¹⁵

Lastly, direct violence—war, murder, rape, assault, verbal attacks—is the kind we physically perceive, “but it manifests out of conditions created by the first two invisible forms and can’t be eliminated without eliminating them.”¹¹⁶ Cultural and structural violence are the roots for direct violence, which then feeds back into and strengthens them. Combined together,

¹¹² "Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹³ "Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹⁴ "Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹⁵ "Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹⁶ "Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

the three work as a triad; cultural and structural violence causing direct violence while direct violence helps to reinforce structural and cultural violence.¹¹⁷

As an international community, we have a fixation on the physical focuses on direct violence and ignore the structural and cultural. This is because, leaders know that “making changes on those levels would threaten their whole system.”¹¹⁸ If violence is seen as inherent and natural in our society, like Brundtland states, then attempting to get rid of it would mean complete upheaval of what we’re accustomed to.

The increasing international focus on women’s rights eventually culminated in the adoption of the “UN Convention against Transnational Organized Crime in 2000 supplemented by three protocols, one of which was the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children.”¹¹⁹ This protocol is commonly referred to as the Palermo Protocol and is said to “be the first major international intervention to address trafficking based on an expanded understanding of the term that included forced labor.”¹²⁰

The Palermo Protocol’s adoption in 2000 followed a multiyear struggle within the United Nations that was largely characterized by a “battle between ‘supply side’ countries (countries where poverty and desperation serve to ‘push’ girls and women into emigration streams and the sex industry) and ‘demand side’ countries (developed countries where financial profit encourages pimps and traffickers to “pull” impoverished foreign-born girls and women into their sex

¹¹⁷ “Varieties of Violence: Structural, Cultural, and Direct.” TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹⁸ “Varieties of Violence: Structural, Cultural, and Direct.” TRANSCEND Media Service. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

¹¹⁹ George, “Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature,” 65.

¹²⁰ George, “Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature,” 65.

industries).”¹²¹ Ultimately, the ‘supply side’ countries, “in collaboration with feminist abolitionists, prevailed, making the Palermo Protocol the modern-day high-water mark of global efforts to internationally criminalize pimping and to shift attention from the ‘choices’ of the prostituted to the actions of those who profit from the sexual consumption of girls and women.”¹²²

While related international human rights treaties had “acknowledged the problem of trafficking, the Protocol was the first treaty to provide a broad definition of trafficking. This inclusion of a trafficking definition laid the foundation for international and domestic laws to be created to address the problem.”¹²³ Article 3(a) defines,

“[t]rafficking in persons as the recruitment, transportation, transfer, harboring 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 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.”¹²⁴

Article 3(c) also broadens the definition’s applicability, stating “the recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a).”¹²⁵ The Protocol says that the consent of a victim to the intended exploitation is *irrelevant* to the question of whether or not trafficking occurred. This bears repeating: the Protocol, which nowhere demands that jurisdictional lines be crossed to traffic, says trafficking

¹²¹ Kaethe Morris Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," *University of Pennsylvania Law Review* vol 158, no. 6 (2010): 1831-848. jstor.

¹²² Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1835.

¹²³ Laura L. Shoaps, "Room for Improvement: Palermo Protocol and the Trafficking Victims Protection Act," *Lewis & Clark Law Review* vol 17, no. 3, (2013): 931–972.

¹²⁴ Shoaps, "Room for Improvement: Palermo Protocol and the Trafficking Victims Protection Act," 934.

¹²⁵ Shoaps, "Room for Improvement: Palermo Protocol and the Trafficking Victims Protection Act," 934.

“occurs when people abuse ‘power’ or ‘position(s) of vulnerability’ to recruit, transport, transfer, harbor, or maintain others in ways that exploit their prostitution or for the purpose of exploiting them through prostitution.”¹²⁶

Further, it says that poverty itself constitutes a vulnerability to trafficking. In language that is quite plain—particularly by United Nations standards—the Protocol says that “even if or when people ‘choose’ to engage in prostitution, those profiteers who take advantage of desperation and inequality to recruit, transport, transfer, harbor, or maintain girls and women into and in prostitution for their own benefit are traffickers and should be treated as criminals.”¹²⁷ The Protocol intentionally shifts the focus of anti-trafficking laws from the “willingness of those whose bodies are sold for sex to the actions of those people who profit from prostitution of others and who take advantage of poverty and other vulnerabilities to keep the sex industry staffed.”¹²⁸ Fundamentally, the Protocol is written to prevent pimps from “having access to the ‘she wanted it’ defense—a defense that has all-too-familiar power to anyone who is attentive to the prosecution (or lack thereof) of crimes against women generally.”¹²⁹

Through this definition, which captures virtually *all* third-party involvement, the Protocol challenges continuing complicity in the routine and systematic sexual harming of girls and women through prostitution—and does so very explicitly. It says that:

“... whether or not a woman is smiling as she trades a blowjob for twenty-five, five, or five hundred dollars, whether she returns to the street or the brothel after being arrested and treated like a criminal, whether she has been raped never, five, or fifty times, whether

¹²⁶ Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1836-7.

¹²⁷ Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1836.

¹²⁸ Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1836.

¹²⁹ Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1837.

or not she is complicit in her own sale as sex, whether or not she is lucky enough to avoid the violence and abuse that all on most of her sisters, even whether or not she claims empowerment and liberation, she is a trafficked human being every time a third party abuses their power or her vulnerability to get her into, keep her in, or otherwise profit from, her exploitation through prostitution.”¹³⁰

The Palermo Protocol took on the “bold task of framing the definition of human trafficking for the international community, and in doing so it framed the conception of what a human trafficking victim looks like.”¹³¹

The international arena has taken on a strong, leading role in defining and attempting to combat the trafficking of women. Legislation and treaties have been passed but how has it been put into implementation? Language becomes an important category to examine when looking through the criminalization of trafficking at an international level. Frequently, sex trafficking or the trafficking of women are not the terms being used to prosecute the perpetrators of such acts. Instead, these atrocities are characterized or termed as crimes against humanity and often fall under the umbrella term of “rape”.

Many of the world’s most heinous crimes were committed during the twentieth century. However, many of them have gone unpunished, because until 1998, there was no international body that was able to try them in court. This is why it was decided to establish the International Criminal Court (ICC). The ICC is a permanent international court established to “investigate, prosecute, and try individuals accused of committing the most serious crimes of concern to the

¹³⁰ Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out," 1837.

¹³¹ Shoaps, "Room for Improvement: Palermo Protocol and the Trafficking Victims Protection Act," 936.

international community as a whole, namely the crime of genocide, crimes against humanity, war crimes and the crime of aggression.”¹³²

The International Criminal Court

A conference of 160 States was held on July 17, 1998 to establish the first treaty-based permanent international criminal court. The treaty that was adopted during that conference is known as the Rome Statute of the International Criminal Court. Among various things, “it sets out the crimes falling within the jurisdiction of the ICC, the rules of procedure and the mechanisms for States to cooperate with the ICC.”¹³³ Over 120 countries are “States Parties to the Rome Statute, representing all regions: Africa, the Asia- Pacific, Eastern Europe, Latin America and the Caribbean, as well as Western European and North America.”¹³⁴

Among various such international legal frameworks, “the International Criminal Court enacted the Rome Statute to combat human trafficking and to deal with and have universal jurisdiction on the most serious crimes which are of concern to humanity.”¹³⁵ Article 7 of the Rome Statute was constituted to deal with “crimes against humanity including enslavement, sexual slavery, enforced prostitution and any other form of sexual violence of comparable gravity.”¹³⁶

¹³² "Understanding the International Criminal Court." *International Criminal Court*. <https://www.icc-cpi.int/iccdocs/pids/publications/uicceng.pdf>.

¹³³ "Understanding the International Criminal Court." *International Criminal Court*.

¹³⁴ "Understanding the International Criminal Court." *International Criminal Court*.

¹³⁵ Joshua N. Aston, "Human Trafficking and Its Prosecution: Challenges of the ICC." <https://www.peacepalacelibrary.nl/ebooks/files/356626199.pdf>.

¹³⁶ Aston, "Human Trafficking and Its Prosecution: Challenges of the ICC."

Similarly, the Rome Statute of the International Criminal Court (ICC) recognizes “trafficking and related exploitation as war crimes and crimes against humanity.”¹³⁷ The International Criminal Court may prosecute any case of crimes against humanity irrespective of the amount of time passed since the crime or the act of crime was committed. This means that there are cases being tried at the international level, regarding the trafficking of humans, that occurred some time ago.

The International Criminal Court has “jurisdiction over the most serious crimes committed by individuals, which comprises genocide, crimes against humanity, war crimes and crimes of aggression.” Crimes against humanity “includes the crimes which are specifically listed prohibited acts when committed as part of a widespread or systematic attack directed against any civilian population... such crimes or acts include murder, extermination, rape, sexual slavery, the crime of apartheid, among others.”¹³⁸

Although the ICC has been equipped with the legal tools necessary to prosecute human trafficking, it has not yet brought a single trafficking case to the Court. However, the ICC has begun to prosecute cases that have involved rape as an international crime. This concept of rape as an international crime is relatively new. This is not to say that “rape has never been historically prohibited, particularly in war.”¹³⁹ But it is only now getting tried and being put into the spotlight at an international level. It is also drawing attention to gendered crimes, which is a big gain in terms of eventually getting sex trafficking to be tried on an international level. Not

¹³⁷ Janie Chuang, “Trafficking Humans,” *American Society of International Law* vol 99, (2005): 341. jstor.

¹³⁸ Aston, "Human Trafficking and Its Prosecution: Challenges of the ICC."

¹³⁹ M. Ellis, “Breaking the Silence: Rape as an International Crime,” *Case Western Reserve Journal of International Law* vol 38, (2006): 225–247.

coincidentally, this has occurred in the wake of CEDAW and the Beijing Conference, as attention to violence against women has received long overdue attention.

Since 1998, International Criminal Court has had 28 cases; 14 of which are in pre-trial standings, four are on trial, three have closed and determined reparation/compensation, six are closed, and one is in the process of appeals. Of the 28 cases, 13 of them have charges of individual criminal responsibility under article 25(3)(a) of the Rome Statute as an indirect (co)perpetrator including rape (article 7(1)(g)).¹⁴⁰

In one instance, the International Criminal Court Prosecutor brought charges of crimes against humanity: including rape, murder, as well as other inhumane acts, against Laurent Gbagbo and Charles Blé Goudé. These crimes were allegedly committed in the context of post-electoral violence in Côte d'Ivoire between 16 December 2010 and 12 April 2011.¹⁴¹ Gbagbo's refusal to "cede power to then-challenger Alassane Ouattara engulfed the country in political violence, leaving about 3,000 people dead."¹⁴² He was charged as an indirect co-perpetrator of crimes against humanity for murder, rape, sexual violence and persecution.¹⁴³ While this is not the first time a head of state had been charged by the ICC, Gbagbo is the first former such leader to make it to trial.¹⁴⁴

¹⁴⁰ The Prosecutor v. Omar Hassan Ahmad Al Bashir (International Criminal Court). <https://www.icc-cpi.int/darfur/albashir>.

¹⁴¹ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). <https://www.icc-cpi.int/cdi/gbagbo-goude>.

¹⁴² Oumar Ba, "Who Is Laurent Gbagbo, and Why Is He on Trial at the ICC?" The Washington Post, February 03, 2016. washingtonpost.com.

¹⁴³ Ba, "Who Is Laurent Gbagbo, and Why Is He on Trial at the ICC?."

¹⁴⁴ Ba, "Who Is Laurent Gbagbo, and Why Is He on Trial at the ICC?."

The confirmation of charges hearing regarding Mr. Gbagbo took place on 19-28 February 2013.¹⁴⁵ The Chamber decided to adjourn following the confirmation of charges hearing and requested the Prosecutor to consider providing them with further evidence or conduct additional investigations.¹⁴⁶ They then thoroughly examined all the evidence that was submitted by both parties; statements from 108 witnesses, 22,000 pages of documentary evidence, and large amounts of audio and video material.¹⁴⁷ On 12 June 2014, the “Pre-Trial Chamber I confirmed by majority four charges of crimes against humanity (murder, rape, other inhumane acts or—in the alternative—attempted murder, and persecution) against Laurent Gbagbo and committed him for trial before a Trial Chamber.” Then on 11 March 2015, Trial Chamber I conjoined the two cases against Laurent Gbagbo and Charles Blé Goudé in order to ensure the efficacy and expeditiousness of the proceedings.”¹⁴⁸ The Chamber explained that both Mr Gbagbo and Mr Blé Goudé had charges confirmed against them which arose from the same allegations, and that both were alleged to be part of an ‘inner circle’ that jointly designed and implemented a common plan.¹⁴⁹

What is particularly unique, is that not only were Laurent Gbagbo and Charles Blé Goudé charged through the ICC, but Simone Gbagbo, the wife of Laurent Gbagbo, was charged as well. She remains the only woman to be charged through the ICC, providing a rare example of someone beyond the formal hierarchies of power being held responsible for the actions of her

¹⁴⁵ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). <https://www.icc-cpi.int/cdi/gbagbo-goude>.

¹⁴⁶ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). ICC.

¹⁴⁷ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). ICC.

¹⁴⁸ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). ICC.

¹⁴⁹ The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). ICC.

government. Ms. Gbagbo was believed to be part of her husband's inner circle. The charges against her state that she is responsible as "indirect co-perpetrator, for four counts of crimes against humanity, allegedly committed in the context of post-electoral violence in the territory of Côte d'Ivoire between 16 December 2010 and 12 April 2011: murder; rape and other sexual violence; persecution; and other inhuman acts."¹⁵⁰ However, unlike her husband, Côte d'Ivoire challenged the admissibility of the case against Simone Gbagbo "arguing that a case against the same person for the same crime is being prosecuted at national level."¹⁵¹

On 11 December 2014, Pre-Trial Chamber I "rejected the Republic of Côte d'Ivoire's challenge to the admissibility of the case against Simone Gbagbo before the Court, and reminded Côte d'Ivoire of its obligation to surrender Simone Gbagbo to the Court without delay."¹⁵² The Chamber also concluded that "Côte d'Ivoire's domestic authorities were not taking tangible, concrete and progressive steps aimed at ascertaining whether Simone Gbagbo is criminally responsible for the same conduct that is alleged in the case before the Court."¹⁵³ This is incredibly important, because the international community is recognizing that a State is not doing an adequate job of prosecuting someone who is thought to be responsible for countless heinous crimes against humanity.

This means that International Criminal Court (ICC) judges are reviewing whether former Ivorian first lady Simone Gbagbo can still be tried by the international court based in The Hague. In 2015, an Ivorian court convicted Simone for undermining state security and handed her a 20-

¹⁵⁰ The Prosecutor v. Simone Gbagbo (International Criminal Court). <https://www.icc-cpi.int/cdi/simone-gbagbo>.

¹⁵¹ The Prosecutor v. Simone Gbagbo (International Criminal Court). ICC.

¹⁵² The Prosecutor v. Simone Gbagbo (International Criminal Court). ICC.

¹⁵³ The Prosecutor v. Simone Gbagbo (International Criminal Court). ICC.

year prison sentence. But two months ago, the country's president, Alassane Ouattara, pardoned her as part of a larger Ivorian amnesty process.

The media has played an important role in providing information and contextualizing the case of Mr. and Mrs. Gbagbo. The Washington Post recently reported that on Jan. 15, Trial Chamber I of the International Criminal Court (ICC) acquitted Laurent Gbagbo, former president of Ivory Coast, and his former aide, Charles Blé Goudé, of all charges and ordered their immediate release from prison.¹⁵⁴ The Post raises very interesting and important points about this decision for acquittal, emphasizing that the “trial judges decided to acquit Gbagbo and Blé Goudé in the middle of the trial, without finding it necessary to let the defense present its case.”¹⁵⁵ Both “legal analysts and human rights groups see this as a major setback for the ICC’s prosecution team.”¹⁵⁶ This decision also highlights the fact that the ICC has, thus far, has been unable to successfully prosecute any state official — “charges against Kenyan President Uhuru Kenyatta were dropped; Kenyan Deputy President William Ruto’s case was dismissed; Congo Vice President Jean-Pierre Bemba was acquitted by the Appeals Chamber; and Sudanese President Omar Bashir is still at large.”¹⁵⁷

For the ICC as a whole, the effects of this acquittal are more complex. In many ways, the Gbagbo case helps legitimize the court as an institution where defendants get a fair trial. This is

¹⁵⁴ Oumar Ba, "The International Criminal Court Just Acquitted the Former Ivory Coast President. What Happens Now?" The Washington Post, January 22, 2019. https://www.washingtonpost.com/news/monkey-cage/wp/2019/01/22/the-international-criminal-court-just-acquitted-the-former-ivory-coast-president-what-happens-now/?utm_term=.979c642927aa.

¹⁵⁵ Ba, "The International Criminal Court Just Acquitted the Former Ivory Coast President. What Happens Now?" The Washington Post.

¹⁵⁶ Ba, "The International Criminal Court Just Acquitted the Former Ivory Coast President. What Happens Now?" The Washington Post.

¹⁵⁷ Ba, "The International Criminal Court Just Acquitted the Former Ivory Coast President. What Happens Now?" The Washington Post.

especially important, as critics of the court claim the ICC unfairly targets Africans. It also highlights the judicial integrity and independence of the ICC judges — who many times ruled adversely against the prosecutor’s office and the expectations and lobbying efforts of human rights groups.

Dropping the Gbago case, in particular, has important ramifications. Countries that oppose the court, such as the United States, will yet again question the need for the ICC, and its efficacy. After more than 17 years of operations, the court has convicted only three individuals—all of them rebels or militia members—for atrocity crimes. In addition, without a guilty ruling in this ICC case, the hundreds of victims who participated in the trial will not be eligible for court-mandated reparations.

Lack of a precise and accurate definition of trafficking is one of the biggest impediments in the prosecution of trafficking cases by the ICC. The definition of trafficking given by the Palermo Protocol is very precise and “the ICC needs to adopt it so that the aim of establishing the Rome Statute to include and expand all forms of exploitation and slavery as a consequent of trafficking could be taken up and prosecuted in an effective manner.”¹⁵⁸

Although rape is a large aspect and consequence of the trafficking of women, it cannot be referred to synonymously. The trafficking of women, and sex trafficking as a subset of this, are not currently being tried at an international level through the International Criminal Court. But the cases that have begun to include rape as a crime against humanity are bringing attention to these, often gendered, atrocities.

¹⁵⁸ Aston, "Human Trafficking and Its Prosecution: Challenges of the ICC."

CHAPTER THREE: NATIONAL DIMENSIONS

International agreements can only go so far when they aren't binding and don't force states to follow them. Ultimately, it comes down to nation-state legislation playing an intrinsic role in the fight against sex trafficking. Depending on where a woman lives around the world, laws can be enacted and implemented in different ways that either help or hurt them. Laws have, throughout history, been the construction of white male leaders internationally as well as domestically. Women have frequently been seen as being too emotional, or too sensitive to understand and be a part of the political (and public) sphere. Since women's lives have been connected to either their father or their husband, men have been able to control and decide what is best for them.

For the United States, this has meant the enactment of the Trafficking Victims Protection Act (TVPA) in 2000, which criminalizes human trafficking within the United States and also presently includes a sanctions regime that holds other nation states accountable to U.S. domestic standards.¹⁵⁹ There was so little opposition to the act, that policy actors who were “promoting the controversial renewal of the Violence Against Women Act coupled their bill to the trafficking bill in one package.”¹⁶⁰ It is the cornerstone of Federal human trafficking legislation, and has established several methods for prosecuting traffickers, preventing trafficking, and protecting the victims and survivors.

The TVPA of 2000, defines “severe forms of trafficking in persons” as:

¹⁵⁹ Shoaps, "Room for Improvement: Palermo Protocol and the Trafficking Victims Protection Act," 931–972.

¹⁶⁰ Dorothy McBride Stetson, "The Invisible Issue: Prostitution and Trafficking of Women and Girls in the United States." In *The Politics of Prostitution: Women's Movements, Democratic States and the Globalisation of Sex Commerce*, edited by Joyce Outshoorn, 245-64. Cambridge: Cambridge University Press, 2004. doi:10.1017/CBO9780511489044.014.

sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.¹⁶¹

A victim need not be physically transported from one location to another for the crime to fall within this definition, nor was coercion required.

The act has established human trafficking and any other related offenses as federal crimes, and attaches severe penalties to them. It “mandates restitution be paid to victims of human trafficking, and further works to prevent trafficking by establishing the Department of State’s Office to Monitor and Combat Trafficking in Persons.”¹⁶² This Office is required, each year, to publish a Trafficking in Persons (TIP) report describing and ranking the efforts of countries trying to combat human trafficking. It reports both international and domestic data, ranking the United States and other countries. The TVPA further protects victims and survivors of human trafficking by establishing the T and U visas, which allow victims of human trafficking (as well as their families) to remain in the United States who then can become permanent residents after three years of residency.

Both forms of visa applications were created as part of the TVPA. T nonimmigrant status (T visa) is “a temporary immigration benefit that enables certain victims of a severe form of trafficking to remain in the United States for up to four years if they have assisted law enforcement in an investigation or prosecution of human trafficking.”¹⁶³ Traffickers often take

¹⁶¹ United States Department of State, *2018 Trafficking in Persons Report - United States of America*, June 2018, <https://www.state.gov/documents/organization/282798.pdf>.

¹⁶² "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁶³ "Victims of Human Trafficking: T Nonimmigrant Status." 23.11 Cuban Adjustment Act Cases. | USCIS. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

advantage of vulnerable individuals, “including those lacking lawful immigration status.”¹⁶⁴ T visas offer protection to victims and “strengthen the ability of law enforcement agencies to investigate and prosecute human trafficking.”¹⁶⁵ Whereas a U nonimmigrant status (U visa) is set aside for “victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.”¹⁶⁶

Non-governmental organizations (NGO), such as the Coalition to Abolish Slavery and Trafficking (CAST, a Los Angeles-based nonprofit working to put an end to modern slavery and human trafficking) provide information and guides on how to apply for T and U visas. They also provide educational information about which visa will provide and give survivors of trafficking the most beneficial outcome. They state that there are significant benefits of applying for a T visa versus a U visa. Perhaps because of the “complexities of assessing whether an individual qualifies as a ‘victim of severe form of trafficking in persons’ under 22 U.S.C.A. § 7102(9), immigration practitioners have been far more likely to file for U nonimmigrant status (U visa) for trafficking survivors as opposed to the T nonimmigrant status.”¹⁶⁷

¹⁶⁴ "Victims of Human Trafficking: T Nonimmigrant Status," USCIS.

¹⁶⁵ "Victims of Human Trafficking: T Nonimmigrant Status," USCIS.

¹⁶⁶ "Victims of Criminal Activity: U Nonimmigrant Status." 23.11 Cuban Adjustment Act Cases. | USCIS. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.

¹⁶⁷ Stephanie Richard, “T Nonimmigrant Visas and Adjustment of Status for Victims of Human Trafficking: A Practical Guide to the Relevant Statutory Changes and Updated Regulations,” Cast LA. <https://www.castla.org/wp-content/themes/castla/assets/files/reuters-immigration-stephanie-richardIB-aug2017-08-17-final.pdf>.

Every year since 2010, around “10,000 U visa applications have been filed and approved.”¹⁶⁸ 10,000 is the annual cap, there remain still thousands of potentially eligible applications waiting for an available U visa in order to obtain lawful status in the United States. The number of those applying for U visas increased every year, while the T visa program has never come close to reaching its annual cap of 5,000 visas.

However, this specific attention that is being paid to victims of human trafficking, who have originated from outside the United States, have left domestic victims invisible. The laws to protect victims of sex trafficking often focus on this idea that women have been brought into the United States to provide these acts. They forget that women are all-to-often trafficked domestically in the United States. Maybe this internal trafficking is overlooked because it is being confused with prostitution, but it cannot be forgotten that citizens of the United States are trafficked just as much, if not more, than women coming in from other countries.

This invisibility, or lack of literature, surrounding domestically trafficked women has led to a gap in the legislation and the rights that these victims have. There is a tendency to think that one, women aren't being trafficked for sex in the United States and that it only happens in other countries, or two, that it is only foreign women who are trafficked within the United States. This idea that women aren't domestically sex trafficked leads to less rights for them and a lack of education that they are in fact victims of these heinous acts as well.

The United States government has excluded its own citizens who are victims of trafficking from receiving federally-funded TVPA protections. They do, however, recognize that there is a disparity in services and protections that are offered to American citizens, but has yet to

¹⁶⁸ Richard, “T Nonimmigrant Visas and Adjustment of Status for Victims of Human Trafficking: A Practical Guide to the Relevant Statutory Changes and Updated Regulations,” Cast LA.

provide any sort of remedy.¹⁶⁹ Even when the United States decides to provide federal funds towards domestic anti-trafficking efforts, “the dollars spent on domestic trafficking pale in comparison to those offered to international causes and foreign victims.”¹⁷⁰ For example, the United States pledged a “maximum of \$8 million dollars in grants per year from 2008 to 2011 to both governmental and nongovernmental organizations that assisted citizen and permanent resident human trafficking victims.”¹⁷¹ In comparison, it has set aside hundreds of millions of dollars to fund the TVPA and more than half a billion dollars to other countries with human trafficking problems.

The TVPA has been reauthorized multiple times since its enactment in 2000. In 2003 it was reauthorized and added human trafficking to the list of crimes “that can be charged under the Racketeering Influenced Corrupt Organizations (RICO) statute.”¹⁷² It also included additional provisions for “protection of victims and their families from deportation, and a requirement that the Attorney General report to Congress annually on the activities of the U.S. government in the fight against trafficking.”¹⁷³ In 2005, the reauthorization “included a pilot program for sheltering minors who are survivors of human trafficking, and grant programs to assist state and local law enforcement combat trafficking.”¹⁷⁴

¹⁶⁹ Amanda Peters, "Disparate Protections for American Human Trafficking Victims," *Cleveland State Law Review* vol 61, (2013): 3.

¹⁷⁰ Peters, "Disparate Protections for American Human Trafficking Victims," 19.

¹⁷¹ Peters, "Disparate Protections for American Human Trafficking Victims," 19.

¹⁷² "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷³ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷⁴ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

The TVPRA of 2008 added several new prevention strategies, including the requirement that “the government provide information about workers’ rights to all people applying for work and education-based visas.”¹⁷⁵ This was also the year that they put into play new systems that would help to gather and report on human trafficking data. It also expanded the protections available with the T visa, “requiring that all unaccompanied alien children be screened as potential victims of human trafficking.”¹⁷⁶ One of the most important parts of the TVPRA of 2008 was that they expanded definitions of various types of trafficking, allowing for easier prosecution of perpetrators of these crimes.

The last reauthorization to take place happened in 2013, which was passed as an amendment to the Violence Against Women Act, “establishing and strengthening programs to ensure that U.S citizens do not purchase products made by victims of human trafficking, and to prevent child marriage.”¹⁷⁷ The reauthorization also strengthens “collaboration with state and local law enforcement to ease charging and prosecuting traffickers.”¹⁷⁸

The TVPA and these subsequent reauthorizations aim to prevent the trafficking of persons through increased penalties for perpetrators of trafficking, and protect the victims of trafficking worldwide. The Act “creates a collaborative network between American law enforcement agencies, other governmental agencies, and nongovernmental organizations (NGOs) in the fight against slavery.”¹⁷⁹ A noted expert on modern-day slavery, Kevin Bales states that “Governments

¹⁷⁵ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷⁶ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷⁷ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷⁸ "Current Federal Laws." Polaris. October 17, 2016. <https://polarisproject.org/current-federal-laws>.

¹⁷⁹ Peters, "Disparate Protections for American Human Trafficking Victims," 4.

can be encouraged to enforce their own laws in a number of ways, some involving carrots and some involving sticks.”¹⁸⁰ In regards to human trafficking, “the global carrot-and-stick approach comes via the Trafficking in Persons (TIP) Report, which is investigated, reported, and authorized through the United States government.”¹⁸¹

However, this approach has formed critics of its own, believing that the United States sees themselves as a moral leader in the fight against trafficking, when in fact, it is one of the largest hubs for human trafficking. The 2018 Trafficking in Persons Report ranks the United States as a Tier 1 nation state. This means that they are able to fully meet the minimum standards for eliminating trafficking while continuing to demonstrate serious and sustained efforts to combat it. The U.S. government increased the “number of prosecutions and convictions, but demonstrated a decrease in investigations.”¹⁸² The Department of Justice (DOJ), Department of Homeland Security (DHS), and Department of State (DOS) are the “primary investigating agencies for federal trafficking offenses, with federal human trafficking cases prosecuted by DOJ.”¹⁸³ In FY 2017, DHS reported that they had opened 833 investigations into cases possibly involving human trafficking, which was a decrease from 1,029 in FY 2016.¹⁸⁴

Despite sufficient and well-examined scholarly literature regarding human trafficking, perhaps the most perplexing obstacle to prevention of human trafficking lies in the inability of

¹⁸⁰ Peters, "Disparate Protections for American Human Trafficking Victims," 4.

¹⁸¹ Peters, "Disparate Protections for American Human Trafficking Victims," 4.

¹⁸² United States Department of State, *2018 Trafficking in Persons Report - United States of America*, June 2018, <https://www.state.gov/documents/organization/282798.pdf>.

¹⁸³ United States Department of State, *2018 Trafficking in Persons Report - United States of America*, June 2018, <https://www.state.gov/documents/organization/282798.pdf>.

¹⁸⁴ United States Department of State, *2018 Trafficking in Persons Report - United States of America*, June 2018, <https://www.state.gov/documents/organization/282798.pdf>.

governments and nongovernmental organizations to properly identify victims of human trafficking and quantify their numbers.¹⁸⁵ This becomes evident when looking at the drastically different numbers and sets of data that online databases and government agencies are able to provide and publish.

Human Trafficking Data

Human Trafficking Data (HTD) is a searchable database of federally prosecuted human trafficking cases in the United States and seeks to fill in the lack of empirical data that exists on this topic.¹⁸⁶ It represents valid and reliable data information on human trafficking, that in turn: gives access to the federally prosecuted human trafficking cases in the United States, while coding each case, and analyzing the aggregate data.¹⁸⁷ The Principal Investigators are Vanessa Bouché, Ph.D., an Assistant Professor Political Science at Texas Christian University, and Professor Bridgette Carr, "who is the founding director of the University of Michigan Law School's Human Trafficking Clinic, the first clinical law program that was solely devoted to addressing these issues."¹⁸⁸

Between 2000-2015, according to HTD, there have been 642 federally prosecuted minor sex trafficking cases, compared to 332 adult sex trafficking cases.¹⁸⁹ Data on the number of prosecutions, however, reveals that on average, there are "fewer victims recovered and less

¹⁸⁵ Samuel Vincent Jones, "Human Trafficking Victim Identification: Should Consent Matter?," *IND. L. REV.* Vol 45, (2012) 484.

¹⁸⁶ "Types of Trafficking." Human Trafficking Data. http://www.humantraffickingdata.org/public_narratives.

¹⁸⁷ "Types of Trafficking." Human Trafficking Data. http://www.humantraffickingdata.org/public_narratives.

¹⁸⁸ "Types of Trafficking." Human Trafficking Data. http://www.humantraffickingdata.org/public_narratives.

¹⁸⁹ "Types of Trafficking." Human Trafficking Data. http://www.humantraffickingdata.org/public_narratives.

defendants prosecuted in minor sex trafficking cases than adult sex trafficking.”¹⁹⁰ The U.S. government’s disproportionate focus on not “prosecuting poor and powerless individuals has also ignited concern.”¹⁹¹ In addition, the “dismal enforcement results reveal that the neglect of ethnic minority victims has contributed to the proliferation of trafficking schemes.”¹⁹²

If women are to be addressed as human beings, then all women need to be included. It is important to take into consideration that not all women are the same and not all women need the same actions to be taken. International laws are important, but state laws and implementation of state laws are more important because they can cater their legislation to what needs to be done, specifically, in their state. Although you wouldn’t know it, “equality law exists in some form nearly everywhere, but nowhere does it seem to mean that government must give women freedom from male dominance, that is, end sex inequality in all its forms, including gender-based violent ones.”¹⁹³

Violence against women is ubiquitous around the world, often solely based on considerations of their sex. Women are often seen as the “weaker” sex, both in regards to their physical and mental capacities and their supposed lack of abilities to contribute to the public sphere. There is also a “high degree of official and social tolerance of violence against women.”¹⁹⁴ This “widespread violence and tolerance constitutes a major human rights problem which has been largely ignored or unacknowledged as a human rights issue, it remains a situation

¹⁹⁰ "Types of Trafficking." Human Trafficking Data. http://www.humantraffickingdata.org/public_narratives.

¹⁹¹ Jones, “Human Trafficking Victim Identification: Should Consent Matter?,” 484.

¹⁹² Jones, “Human Trafficking Victim Identification: Should Consent Matter?,” 484.

¹⁹³ MacKinnon, “Are Women Human?,” 32.

¹⁹⁴ Jane Roberts Chapman, "Violence against Women as a Violation of Human Rights," *Social Justice* vol 17, no. 2 (1990): p. 54.

that exists in part because of official propensities to, at best, conceive the problem as a series of individual complaints and, at worst, to tolerate it as the rightful consequences of being female.”¹⁹⁵

Common law is extremely important when looking into how the lives of American women have been shaped and have been made to fit into the androcentric world that we live in today. Throughout American history, women’s lives have been subject to common law which was brought to North America by English colonists. Common law brought with it marriage and property laws, or coverture, which stipulated that a married woman didn’t have a separate legal existence from her husband. Meaning that a married woman or a *feme covert*, was dependent upon her husband, similarly to how children or slaves were seen. Of course, there were certain exceptions to this rule.¹⁹⁶

Common law, in short, denied women access to a separate legal existence from their husband. A husband, therefore, had imbedded ownership given to him over his wife. This relationship between the husband and wife, as well as father and child, overlapped into the realm of master and servant. This history of men being given absolute power over their wives, is still perpetuated throughout society today in the twenty-first century. With this legal and social culture of men having power over women and women having few, if any, rights, in its history, is almost not surprising that American men still believe that they have this same power in present day.

¹⁹⁵ Chapman, "Violence against Women as a Violation of Human Rights," 54.

¹⁹⁶ Women and the Law. Accessed March 13, 2019. https://www.library.hbs.edu/hc/wes/collections/women_law/.

The concept of imbedded ownership also has its roots in the idea of consent. Consent is a complex abstraction involving emotive and conflicting ideas that can affect a multitude of issues. It often involves the governance of women, sex, gender, society, and politics. By definition it means “to give permission for something to happen or agreement to do something.”¹⁹⁷ Consent is inextricably linked to autonomy and self-determination. Therefore, if a person is consenting to something that they in turn benefit from, there should be no restriction on this ability to consent or not.

However, is a woman in fact able to consent to her own exploitation? This then enters into the two realms of consent: informed and forced. Informed consent is about being able to make a decision with one’s own free will. The person is able to recognize the impact that their consent will create. This type of consent is fundamentally connected to individual freedom of choice.¹⁹⁸ If someone has the ability to refuse and deny consent, then they have the ability to in turn, give it.

Informed consent relates to sex trafficking in the way of consent being contractual. This is also seen in the way that a relationship, whether it be marriage or not, seems to reach a contractual agreement. Marital rape was not recognized until 1993, when it was stated that a husband could in fact be charged with raping his wife.¹⁹⁹ The reason that it hadn’t been found

¹⁹⁷ Jennie Williams, "The Problem of Consent in Distinguishing between Victims of Sex Trafficking and Sex Workers." <http://un-act.org/wp-content/uploads/2017/07/The-Problem-of-Consent-in-Distinguishing-between-Victims-of-Sex-Trafficking.pdf>.

¹⁹⁸ Jennie Williams, "The Problem of Consent in Distinguishing between Victims of Sex Trafficking and Sex Workers." <http://un-act.org/wp-content/uploads/2017/07/The-Problem-of-Consent-in-Distinguishing-between-Victims-of-Sex-Trafficking.pdf>.

¹⁹⁹ Jill Elaine Hasday, Contest and Consent: A Legal History of Marital Rape, 88 Calif. L. Rev. 1373 (2000).

illegal until this time was that it was assumed that because of the title of their relationship, that consent was already assumed to be given.²⁰⁰ But when consent is not given in an active, positive, continuous manner and is instead ignored or deemed irrelevant, it undermines the legal and human rights of the individual.

Forced consent, or the exploitation and coercion of a person, is often what occurs in sex trafficking relationships between victim and perpetrator. However, the trouble can be getting victims to recognize that they are not actively giving consent and are instead being coerced into believing so. The law is engendered and consent within this framework is often situated on a sliding scale based on a woman's background.²⁰¹ Prostitutes in particular have been, throughout history, considered dishonest and promiscuous which undermined their credibility and consent. In this case, consent was only recognized if the victim was seen as a human and not an object. Consent has strongly favored men due to these legal and patriarchal biases. This means that when a sex trafficking victim is falsely seen or accused of being a prostitute, which is interpreted as her giving consent for what is happening to her, she is criminalized and taken advantage of by the judicial system.

Human trafficking is prohibited under federal law by the Trafficking Victims Protection Act. However, almost every state has enacted similar legislation criminalizing human trafficking. This means that in many states, both the federal and the state governments have the power to prosecute the perpetrators. The challenge then becomes determining which government can most effectively prosecute the traffickers and what an appropriate role is for the non-prosecuting

²⁰⁰ Jill Elaine Hasday, Contest and Consent: A Legal History of Marital Rape, 88 Calif. L. Rev. 1373 (2000).

²⁰¹ Jennie Williams, "The Problem of Consent in Distinguishing between Victims of Sex Trafficking and Sex Workers." <http://un-act.org/wp-content/uploads/2017/07/The-Problem-of-Consent-in-Distinguishing-between-Victims-of-Sex-Trafficking.pdf>.

government. Because of the prosecutorial advances at the federal level—“well-established federal infrastructure designed to handle these cases, federal control over victims’ immigration status, the extensive reach of federal jurisdiction, and the breadth of federal statutes under which traffickers may be prosecuted”—leads to the federal government being able to most effectively and successfully prosecute.²⁰² This contends that states should take an “action-support role,” which is secondary to the federal government’s investigation and prosecution of trafficking.²⁰³

Unfortunately, prosecuting sex trafficking at the federal level has created a double standard in these cases. States have more experience when it comes to prosecuting prostitution, and thus frequently mistakenly treat sex trafficking cases as cases of prostitution.²⁰⁴ This can then mean that many victims of sex trafficking, whether domestic or foreign nationals, can be caught “between viewed as a victim of trafficking under federal law and a prostitute under state law.”²⁰⁵

Sex trafficking is the largest subcategory of human trafficking, and it exists both in the public and private spheres of everyday life. This could mean at bars, at manicure salons, in someone’s home, a gentleman’s club, on the street, the list goes on and on. Traffickers typically target women and children and then lure them in with promises such as a job, education, or a

²⁰² Eileen Overbaugh, "HUMAN TRAFFICKING: THE NEED FOR FEDERAL PROSECUTION OF ACCUSED TRAFFICKERS," *Seton Hall University School of Law* <https://pdfs.semanticscholar.org/360e/3aeb741c70da8c9cd30cc9d2fede3b467b4d.pdf>.

²⁰³ Overbaugh, "HUMAN TRAFFICKING: THE NEED FOR FEDERAL PROSECUTION OF ACCUSED TRAFFICKERS."

²⁰⁴ "Prosecuting Human Trafficking in the United States: State and Federal Jurisdictions Human Trafficking Search." *Human Trafficking Search*. August 22, 2017. <http://humantraffickingsearch.org/prosecuting-human-trafficking-in-the-united-states-state-and-federal-jurisdictions/>.

²⁰⁵ "Prosecuting Human Trafficking in the United States: State and Federal Jurisdictions Human Trafficking Search." *Human Trafficking Search*. August 22, 2017. <http://humantraffickingsearch.org/prosecuting-human-trafficking-in-the-united-states-state-and-federal-jurisdictions/>.

promise of marriage. These beginning relationships can often be with the consent of the victim, but then traffickers typically begin to use rape, sexual abuse, torture, or psychological abuse to force the victims to do things.²⁰⁶

Sex Trafficking Cases in the United States

So what do cases of sex trafficking look like around the United States? In *United States v. Josef F. Boehm*, Josef F. Boehm, a prominent Anchorage businessman, was one of the defendants involved in sex trafficking of children and drug distribution. The defendants recruited children using cocaine, then had sex with them, and paid them with cocaine and money. Boehm, as part of his plea for pleading guilty, “agreed to forfeit his residence and provide \$1.2 million in a trust fund for the benefit of the victims.”²⁰⁷ This represented the first time a trust fund had been set up in Alaska, as well as the United States, for the benefit of victims of trafficking and drug distribution.

Frank Russo, assistant U.S. attorney, said that the victims were a factor in offering a plea agreement together before trial.²⁰⁸ With trial and with appeals, the case may not have been resolved for another five years and that would have, likely, caused delayed restitution to the victims. Those victims who were over 18 at the time would also have had to testify in open court. Boehm would have likely faced more time in prison if convicted at trial, but the 11-year sentence

²⁰⁶ MacKinnon, “Are Women Human?,” 32.

²⁰⁷ *United States v. Josef F. Boehm* (U.S. Court of Appeals for the Ninth Circuit). UNODC.

²⁰⁸ Nicole Tsong, “Boehm pleads guilty; trial is off; DEAL: Businessman admits using drugs to lure young girls for sex, agrees to restitution.” *Anchorage Daily News*, November 23, 2004. LexisNexis.

“serves our purposes as well as the girls’ purposes” according to Russo.²⁰⁹ An important inclusion made by the Anchorage Daily News and by the prosecutors, was that they wanted to treat Boehm the same way as the other three co-defendants who also made deals and pleaded guilty.²¹⁰

In 2015, Case 0715 in the United States District Court for the Eastern District of Louisiana was the first time a defendant in the United States was convicted of a human trafficking offense based solely on the benefiter’s theory of criminal liberality in the Trafficking Victims Protection Act. As owner of the Riviera Motel, Kanubhai Patel acknowledged that he regularly rented rooms to individuals who were sex trafficking women. Patel confirmed that he knew women were being forced and coerced by pimps and he benefited financially from the operation.²¹¹ He would even charge the pimps higher rates than other motel guests and would take bribes in order to refrain from going to law enforcement.²¹² Patel ignored the screams coming from the rooms, in one instance a woman was brutally beaten with a large piece of wood resulting in multiple lacerations and a broken arm.²¹³

The Federal Bureau of Investigation reported on the crime, stating that they “... will not tolerate those who traffic in human beings or who benefit financially from human trafficking and will continue in our steadfast determination to bring to justice not only those who use force and

²⁰⁹ Nicole Tsong, "Boehm pleads guilty; trial is off; DEAL: Businessman admits using drugs to lure young girls for sex, agrees to restitution.," *Anchorage Daily News*, November 23, 2004. LexisNexis.

²¹⁰ Nicole Tsong, "Boehm pleads guilty; trial is off; DEAL: Businessman admits using drugs to lure young girls for sex, agrees to restitution.," *Anchorage Daily News*, November 23, 2004. LexisNexis.

²¹¹ Case 0715 (United States District Court for the Eastern District of Louisiana). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2015/case_0715.html?lng=en&tmpl=htms.

²¹² Case 0715 (United States District Court for the Eastern District of Louisiana). UNODC.

²¹³ Case 0715 (United States District Court for the Eastern District of Louisiana). UNODC.

coercion to exploit other human beings—but also those entities or individuals who knowingly profit from these depraved acts.”²¹⁴ It’s important to note that Patel’s case is one based on the financial gain that he received because of the victimization of women who were being trafficked. It shows that the United States government will not allow those who profit from sex trafficking to go under the radar, at least in this case.

Many cases of the sex trafficking of women remain invisible for various reasons. It may be because it happens in the private sphere of the home and there is little belief that a husband or boyfriend could prostitute his girlfriend or wife; because it is a single individual and not a ring; or because the case is confused with prostitution. Whatever the case may be, the number of federal prosecution cases of sex trafficking remain relatively low for how frequently it occurs in the United States. The next two cases are particularly important because one shows how a relationship can begin with consent and then turn into the exploitation of a woman and the other shows a “john” or a man purchasing a woman getting prosecuted.

In 2013, *United States v. Jermaine “Vegas” Lamon Roy*, the defendant was found guilty of using force, fraud, or coercion to sex traffic a woman he was in a romantic relationship with. He used physical violence to force her to work as a prostitute, and then made her give him the profit. Before the trial had begun, the government moved to exclude evidence of the victim’s sexual behavior under "Rule 412(a), which provides that evidence intended to prove that the victim engaged in other sexual behavior or to prove a victim's sexual predisposition is not admissible in a civil or criminal proceeding involving alleged sexual misconduct.”²¹⁵ At the trial,

²¹⁴ "Louisiana Motel Owner Pleads Guilty in Sex Trafficking Case." FBI. July 1, 2015. FBI.gov.

²¹⁵ *United States v. Jermaine Lamon Roy* (United States District Court for the Eastern District of Arkansas). UNODC.

the defense agreed with this, however, Roy was not prohibited from introducing evidence that pertained to the victim's "sexual behavior and acts of prostitution during the time encompassed by the indictment."²¹⁶ But once the jury came back with a verdict of guilty, Roy argued that the exclusion of this evidence violated his constitutional rights. However, the Court held that this argument was incorrect, and that the evidence was inadmissible. They referred to *United States v. Cephus* to illustrate that the evidence was in fact inadmissible.²¹⁷

In 2009, Operation Guardian Angel was conducted by the Human Trafficking Rescue project, a joint task force from the independence Police Department, the FBI, ICE and the Kansas City, MO. Police Department. It was an undercover operation where officers placed internet ads for underage prostitutes, using words like "little girls" and that they were "young." Those who responded were then given a location to meet and when they paid cash for a child prostitute, they were arrested. Christopher M. Cockrell was one of the men who pled guilty to attempted child sex trafficking.²¹⁸ He offered to pay \$60 to have sex with the minor and then

²¹⁶ *United States v. Jermaine Lamon Roy* (United States District Court for the Eastern District of Arkansas). UNODC.

²¹⁷ The Court explained that in a case involving allegations of sexual misconduct, evidence offered to prove that a victim engaged in other sexual behavior is inadmissible. If admissible, such evidence would deter many victims of sexual abuse from testifying (i.e. the prostitutes working for Cephus were engaged in a criminal activity, but they were also his victims). Specifically the defendants in *Cephus* wanted to cross-examine one of the adult call girls about her having worked as a prostitute before he recruited her. They wanted to suggest that having already been a prostitute she would not have been deceived by Cephus and therefore her testimony that she was coerced into working for him should be disbelieved. In that case, the Court resolved that the testimony sought to be extracted by the cross-examination would have been irrelevant. Even if no promises were made to the victim, this would not be evidence that she consented to being beaten and to receiving no share of the fees paid by the johns she serviced. Similarly, in this case the Court held that Roy's constitutional right to present a defense had not been impaired, because that right did not extend to the introduction of irrelevant evidence. The evidence that Roy wanted to offer is precisely the kind of evidence that Rule 412 excludes, and its exclusion did not violate Roy's constitutional rights. *United States v. Jermaine Lamon Roy* (United States District Court for the Eastern District of Arkansas). UNODC.

²¹⁸ *United States v. Christopher M. Cockrell* (United States District Court for the Western District of Missouri). UNODC.

offered an additional \$20 to have sex without a condom.²¹⁹ This undercover operation marked the first time that the United States Department of Justice utilized the TVPA in order to prosecute customers, or johns, attempting to pay for sex with a child.²²⁰

Sex trafficking can begin through many different mediums, one of the biggest is the internet. The internet has become a resource for traffickers to sell and buy women and children to use for sexual exploitation. It allows them to conceal their identities, as well as pose as the women or children that they are trafficking. Posting an add online is quick, cheap and simple. It can be done repeatedly on various sites and payment can be wired through the internet as well. The internet allows for both the trafficker and the john to remain anonymous while using women and children as commodities. Only recently has US law enforcement been able to pursue internet sex trafficking with the Stop Enabling Sex Traffickers Act and Allow States and Victims to Fight Online Sex Trafficking Act are the U.S. Senate and House bills that as the FOSTA-SESTA package became law on April 11, 2018. Even as these bills were voted into law, the FBI raided backpage.com which "has earned hundreds of millions of dollars from facilitating prostitution and sex trafficking, placing profits over the well-being and safety of the many thousands of women and children who were victimized by its practices."²²¹

In the instance of *USA v. Blake (Dontavious) et al*, two co-defendants were charged with recruiting two minor girls and two young women to serve in their Divine Escorts services as

²¹⁹ United States v. Christopher M. Cockrell (United States District Court for the Western District of Missouri). UNODC.

²²⁰ United States v. Christopher M. Cockrell (United States District Court for the Western District of Missouri). UNODC.

²²¹ "Justice Department Leads Effort to Seize Backpage.Com, the Internet's Leading Forum for Prostitution Ads, and Obtains 93-Count Federal Indictment." The United States Department of Justice. April 09, 2018. <https://www.justice.gov/opa/pr/justice-department-leads-effort-seize-backpagecom-internet-s-leading-forum-prostitution-ads>.

prostitutes. The women and girl's services were sold on backpage.com. However, the female co-defendant was also being prostituted by her boyfriend. Access World News reported on the case and stated that while Dontavious Blake would be handed a sentence of 27 years in prison, the co-defendant would only receive 15 years. U.S. District Kenneth Mara stated that the female co-defendant was a "vulnerable, under-educated, insecure, weak individual who had a troubled past just like the victims... her sociological background made her easy pickings for Mr. Blake."²²² Mara believed that, similarly to many women who enter into prostitution, her background of being physically and sexually abused by her mother's boyfriends and becoming pregnant at the age of 1, pushed her into a life of prostitution and making poor decisions.²²³

The relationship between sex trafficking and prostitution is one that has been debated for centuries. All aspects of prostitution have been illegal in most jurisdictions in the United States since the conclusion of World War II, but American feminists continue to debate its legitimacy. Radical feminists believe that prostitution always involves male domination and the exploitation of women and that violence is omnipresent in prostitution.²²⁴ They believe that the legalization or decriminalization of it would only enhance these problems. Many view prostitution as being sexually violent and exploitative, victimizing all women and reducing them to sexual objects. They argue that there can be no distinction between forced and voluntary prostitution. Reducing

²²² Musgrave, Jane. "'Horrorific' Sex Traffickers Sentenced - Gets 27 Years Judge Sentences Sex-trafficking Pair." Access World News. [https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US v. Blake Article redacted.pdf](https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US%20v.%20Blake%20Article%20redacted.pdf).

²²³ Musgrave, Jane. "'Horrorific' Sex Traffickers Sentenced - Gets 27 Years Judge Sentences Sex-trafficking Pair." Access World News. [https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US v. Blake Article redacted.pdf](https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US%20v.%20Blake%20Article%20redacted.pdf).

²²⁴ Gail M. Deady, "The Girl Next Door: A Comparative Approach to Prostitution Laws and Sex Trafficking Victim Identification Within the Prostitution Industry," *Wash. & Lee J. Civ. Rts. & Soc. Just.* (2011), <https://scholarlycommons.law.wlu.edu/crsj/vol117/iss2/7>.

women to commodities being used for market exchange cannot be consented to.²²⁵ However, those identifying as liberal feminists believe that prostitution is a respectable choice of employment and it has no connection to sex trafficking.²²⁶

This case (Dontavious Blake) represents how men are frequently accompanied by women as being perpetrators of sex trafficking. Women are all-too-often part of these heinous crimes and frequently fall into one of two categories. One, they are victims themselves and do not understand or cannot comprehend that what they are doing to other women or girls is wrong. They see it as being something that was done to them and it's okay if it happens to others as well. The second category, is that because women are often not seen as being capable of such acts, they go under detected and under the radar.²²⁷

Women are not perceived as assertive, powerful, or ambitious, but rather they are subordinate, passive and submissive.²²⁸ This means that they are often seen as lacking agency or any moral autonomy. Therefore, male offenders may be more protective of their female partners and police officers may be less likely to arrest female offenders—making the crime statistics on them significantly lower.²²⁹ This perpetuated idea of female passivity seems to excuse or justify female violence, rather than preventing or punishing it.

²²⁵ Alicia W. Peters, "'Things That Involve Sex Are Just Different': US Anti-Trafficking Law and Policy on the Books, in Their Minds, and in Action," *Anthropological Quarterly* vol 86, no. 1 (2013): 221-55. jstor.

²²⁶ Deady, "The Girl Next Door: A Comparative Approach to Prostitution Laws and Sex Trafficking Victim Identification Within the Prostitution Industry."

²²⁷ Dina Siegel & Sylvia de Blank (2010) Women who traffic women: the role of women in human trafficking networks – Dutch cases, *Global Crime*, 11:4, 436-447, DOI: [10.1080/17440572.2010.519528](https://doi.org/10.1080/17440572.2010.519528)

²²⁸ Samuel V. Jones, "The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker?," *John Marshall Law School The John Marshall Institutional Repository*, (Spring 2014). <https://repository.jmls.edu/cgi/viewcontent.cgi?article=1467&context=facpubs>.

²²⁹ Jones, "The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker?."

Violence by females and female traffickers goes against everything that Americans intuitively feel about femininity and women's nurturing and caring nature. But female traffickers use these nurturing ideals to lure victims in, train them, run the brothels, and even maintain control over their victims. They act as motherly figures to women or girls who may not have had that in their lives. This leads to victims who become emotionally attached to their trafficking; psychologically and emotionally incapable of freeing themselves from the exploitation, violence and control that they face.²³⁰

For example, *United States v. Valenzuela et al* occurred in 2007. The defendants were operating a large-scale sex trafficking ring in the Los Angeles area and used promises of legitimate jobs to lure vulnerable women and girls from Guatemala into the United States.²³¹ After smuggling them into the United States, the defendants forced the victims to engage in prostitution to pay off smuggling debts that reached as much as \$20,000. None of the money that was earned was given to the victims. Control and manipulation were used in order to threaten the women and girls; threats against them and their families, as well as exploitation of their fears of witch doctors.²³² These defendants were women who were using the vulnerabilities of the young girls to make them believe that they would have a better life. The victims were lured into the United States under false promises and were subject to harsh abuses.

²³⁰ Jones, "The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker?."

²³¹ *United States v. Valenzuela et al* (U.S. District Court for the Central District of California). UNODC.

²³² *United States v. Valenzuela et al* (U.S. District Court for the Central District of California). UNODC.

CHAPTER FOUR: NEW YORK STATE

Sex trafficking is ubiquitous throughout the United States, but this chapter focuses on New York State, examining how specific laws in New York help to protect victims of sex trafficking in a way that the federal government is not able to. The screening process to find victims of sex trafficking is also referenced in this chapter, as they are often misconceived as being prostitutes. Showing the need for more education, and maybe more empathy, at the first line of defense is necessary to be able to treat women in a fair and unbiased way.

It is often hard to be able to prosecute sex trafficking cases. One of the first reasons for this is that before a victim of sex trafficking can qualify as such, they need to be able to identify themselves as a victim. This is often particularly hard for local law enforcement officers to accomplish for two reasons. The first is that they aren't looking for victims of sex trafficking, but rather are taking the information at face value. They are assuming that women or girls coming in, who appear to be prostitutes and selling their bodies for sex, are in fact prostitutes. Law enforcement doesn't know that they need to ask the right screening questions in order to access more information about the victims' backgrounds.²³³

Sex trafficking is an unusual category of major crime in which victims will not report to law enforcement what is being done to them. This may be because they have been conditioned to be loyal and trust their traffickers due to the abuse and mistreatment that they are subject to. Or it may be because they do not trust law enforcement. If law enforcement frequently misconceives victims of sex trafficking as being prostitutes and criminalizes them, they will be less likely to want to disclose what is happening to them.

²³³ "A Screening Tool for Identifying Trafficking Victims." National Institute of Justice. <https://www.nij.gov/topics/crime/human-trafficking/Pages/screening-tool-for-identifying-human-trafficking-victims.aspx>.

The United States has common policing strategies that are driven by the “broken windows” theory; “unchecked minor crimes will increase overall criminal activity, emphasize arrests for low-level misdemeanors, including prostitution.”²³⁴ This leads to high rates of arrests for low-level prostitution offenses and very few prosecutions of traffickers. New York State, in 2012, arrested 2,962 individuals for prostitution, while in contrast statewide there were only 34 individuals prosecuted for human trafficking offenses.²³⁵ If victims are charged with crimes that they were coerced and forced into doing, and if they are subject to humiliating experiences when arrested and detained, this may re-victimize them and lead to further trauma.

This is why there is an important need for individuals who come into contact with this population to have specialized training. A study that was funded by the United States Department of Health and Human Services determined that there “was a ‘lack of standard protocol’ among law enforcement officials for identifying this population.”²³⁶ There are biases and misconceptions that exist in law enforcement regarding the victims of sex trafficking, but they also exist with service providers. One federal study in particular found that “child protective services workers, and shelter providers believed that [sexually trafficked minors] had ‘chosen’ to become involved in prostitution and therefore should be held accountable for their ‘criminal’ actions.”²³⁷ Along with the belief that victims have chosen to be exploited, there is also a belief that trafficking happens solely to immigrants and foreigners.

²³⁴ "Criminalization of Trafficking Victims." *CUNY School of Law*, 2015. <http://www.law.cuny.edu/academics/clinics/iwhr/publications/Criminalization-of-Trafficking-Victims.pdf>.

²³⁵ Bridgette A. Carr, "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts," *University of Michigan Law School* vol 63, no. 1 (2012): 77-90.

²³⁶ Carr, "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts," 77-90.

²³⁷ Carr, "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts," 77-90.

These biases result in failures to provide services as well as protections to victims in need, especially domestic victims. It also affects victims' own ability to identify themselves as needing protection. The TVPA mandates that sex trafficking victims should not be detained in facilities that are inappropriate to their status as victims.²³⁸ However, in recent years, the FBI has reported that between 650 and 1,500 youths were arrested for prostitution or other sexually-related offenses.²³⁹ Arresting minor victims for prostitution is disturbing because it is insinuating that they are able to give consent to the exploitation that they are facing.

When these children are then viewed as criminals by the justice system and society as a whole, they are less likely to be treated like a victim in need. This is another important reason for law enforcement and those who are on the first line of defense to be educated about screening for victims of sex trafficking. Police officers, judges, attorneys, as well as social service providers, decide and shape how the rest of society will view a victim of sex trafficking—either as a victim or as a criminal.

In New York State, the prostitution and commercialized vice²⁴⁰ arrests were: 1,133 in 2001, 783 in 2010, 834 in 2015, and 627 in 2016.²⁴¹ But New York State also has state legislation

²³⁸ Carr, "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts," 77-90.

²³⁹ Carr, "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts," 77-90.

²⁴⁰ Prostitution and Commercialized Vice defined in the US Department of Justice's *Uniform Crime Reporting Handbook* (2004) as: "The unlawful promotion of or participation in sexual activities for profit. To solicit customers or transport persons for prostitution purposes; to own, manage, or operate a dwelling or other establishment for the purpose of providing a place where prostitution is performed; or to otherwise assist or promote prostitution."

²⁴¹ "US and State Prostitution Arrests, 2001-2016." Should Prostitution Be Legal? <https://prostitution.procon.org/view.resource.php?resourceID=000120>.

in place that protects minor victims of prostitution.²⁴² The State has also enacted the Safe Harbor Act, which was signed into law by New York Governor David Paterson on September 25, 2008, and “is the first state law recognizing that young people who have been subjected to commercial sexual exploitation are victims—not perpetrators—of crimes.”²⁴³ This act seeks to: (1) decriminalize prostitution for minors; (2) divert prostituted minors from delinquency proceedings; (3) provide specialized services for these minors, and (4) classify minors as victims or as sexually exploited children.²⁴⁴

Specialized courts dedicated to human trafficking take into consideration the specific needs that victims need and attempt to find a way to intervene and prevent further exploitation. In 2013, New York State launched the Human Trafficking Intervention Courts, which “include 11 specialized courts across that state that seek to identify and divert sex trafficking victims arrested

²⁴² S 720.35 Youthful offender adjudication; effect thereof; record. 1. A youthful offender adjudication is not a judgement of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred-fifty-nine-m of the executive law. A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law or loitering for the purposes of prostitution as defined in subdivision two of section 240.37 of the penal law provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, for an offense allegedly committed when he or she was sixteen or seventeen years of age, shall be deemed a “sexually exploited child” as defined in subdivision one of section four-hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter.

“NY Laws.” Article 15 New York State Penal Law - Culpability | NY Laws. <http://ypdcrime.com/cpl/article720.htm>.

²⁴³ Katherine Mullen, “The Passage of the Safe Harbor Act and the Voices of Sexually Exploited Youth.” *Lawyer's Manual on Human Trafficking*. http://ww2.nycourts.gov/sites/default/files/document/files/2018-07/MULLEN_HUMAN_TRAFFICKING_1_d_0.pdf.

²⁴⁴ Carr, “When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts,” 77-90.

for prostitution-related offenses.”²⁴⁵ These courts treat defendants as victims in need of crucial services and they work to connect individuals to meaningful court-mandated interventions.²⁴⁶

All cases that continue past arraignment involving misdemeanor prostitution or related charges are transferred to a Human Trafficking Intervention Court where they are then evaluated by onsite staff. The court is then able to connect victims to counseling and case management services—ranging from shelters and health care to immigration assistances, drug treatment, or counseling—each tailored to the individual. These counselors and social workers who work in the courts are able to screen for indicators of trafficking and help victims who may otherwise be dismissed.

Hidden in plain sight is often the phrase used to describe the troubles of sex trafficking. Who would think that a “handsome brick building on a tree-lined street near Brooklyn’s Prospect Park” would contain some of the city’s dirtiest secrets?²⁴⁷ This was the case in 2018 when two 16-year-old girls were being kept in this building as sex slaves. The New York Post reported that the teens’ captors kept them in this apartment building for a month, where they were forced to strip to their underwear and pose for images that were put online on [backpage.com](https://www.backpage.com) and were forced to have sex with up to 10 men a day.²⁴⁸

Thankfully, these two girls were saved when one of them was able to escape and get to the police. But they are just two of thousands of women who are being forced, coerced, and

²⁴⁵ "Human Trafficking Task Force E-Guide." OVC TTAC. <https://www.ovcttac.gov/taskforceguide/eguide/6-the-role-of-courts/64-innovative-court-responses/human-trafficking-courts/>.

²⁴⁶ "Human Trafficking Task Force E-Guide." OVC TTAC. <https://www.ovcttac.gov/taskforceguide/eguide/6-the-role-of-courts/64-innovative-court-responses/human-trafficking-courts/>.

²⁴⁷ Yoav Gonen, "Inside New York's Silent Sex Trafficking Epidemic," *New York Post*, April 17, 2018. <https://nypost.com/2018/04/16/inside-new-yorks-silent-sex-trafficking-epidemic/>.

²⁴⁸ Gonen, "Inside New York's Silent Sex Trafficking Epidemic.”

exploited through New York and the United States. These victims are hidden, invisible from the daily lives of many who either walk past the apartment building they are trapped in or even pass them on the street. They are part of a silent epidemic.

Manhattan District Attorney Cyrus Vance Jr. stated that:

“This is not a case where you have super-high-priced, fancy sex businesses — this is really disgusting, forced, cruel, cold. Taking kids who are in need of help, preying upon that need, developing a relationship and then turning against them and turning them into kids who are making money for them on the street — those are the cases that we get.”²⁴⁹

However, the number of cases reported or prosecuted in New York State and in the city, are just a fraction of what the actual numbers could be. It is most likely a significantly larger problem than is being shown in yearly reports or in police department numbers. Jim Klein, commander of the NYPD’s Vice Enforcement Unit and a 36-year department veteran, in a statement to the New York Post, said that he has locked up “200-and-however-many pimps” each of whom, on average, have at least four or five women and girls working for him.²⁵⁰

Just a year prior to the two girls being found in the Brooklyn building, Maria Soly Almonte was found guilty of the sex trafficking of minors, sex trafficking conspiracy, and use of interstate commerce to promote illegal activity in New York City. The defendant ran a prostitution business that advertised minor girls and adult women on [backpage.com](#). Law enforcement was able to collect approximately 1,000 advertisements of the girls and women that the defendant was prostituting.²⁵¹ Almonte gave a standard price of \$60 for half an hour of sex, \$40 of which the woman or minor girl could keep, and the rest would go to the defendant. Three

²⁴⁹ Gonen, "Inside New York's Silent Sex Trafficking Epidemic."

²⁵⁰ Gonen, "Inside New York's Silent Sex Trafficking Epidemic."

²⁵¹ U.S. v. ALMONTE, United States District Court, S.D. New York (2018). Leagle.com

of the minor girls who worked as prostitutes, were the younger sisters of the defendant. Almonte also repeatedly prostituted another 13-year-old girl who attended eighth grade at PS 29—the school nurse figured out what was happening to her when the girl came in on multiple occasions requesting STD and pregnancy tests.²⁵²

Prosecuting sex trafficking cases is hard because of the low penalties and the long, complicated and resource intensive nature of them. This often makes these cases unattractive to US attorneys. Prosecutors, however, say that they are “eager to bring forth trafficking cases despite these challenges because they are often high profile, bring good publicity, and the government has prioritized the fight against trafficking.”²⁵³ But this frequently means that prosecutors only bring forth and pursue cases that they believe they can win, leaving a large subset of victims without representation.

Challenges identifying victims, investigating their cases and prosecuting these cases are the three main challenges in sex trafficking. Failure to identify falls in victims’ inability or unwillingness to seek help, or in first responses not be able to recognize victims. Investigations are hard because despite the amount of money spent on tasks forces against human trafficking, it is not made a priority. Whether this is because of lack of resources, insufficiently trained staff, or lack of preparation to deal with the trauma these victims have suffered. Prosecuting cases has been faced with reluctance often due to the background history of many victims. These backgrounds may include physical or emotional abuse, running away from home, or drug addiction, each of which seem to make victims less reliable in the eyes of the court.

²⁵² Gonen, "Inside New York's Silent Sex Trafficking Epidemic."

²⁵³ Gonen, "Inside New York's Silent Sex Trafficking Epidemic."

Each of these is an indication that there needs to be greater attention paid to prioritizing and prosecuting cases of sex trafficking, while protecting the victim. Adequate and comprehensive victim services are needed as well.

CHAPTER 5: CONCLUSION

Popular culture has begun to have a growing interest in portraying sex trafficking on the screen. *Taken*, which came out in 2009, features Liam Neeson, who plays an ex-CIA operative whose daughter has been abducted and ultimately sold into a sex trafficking ring. Neeson goes on a one-man crusade to save his child, and in the end, he does. As much as this film does portray realistic information about sex trafficking; such as the exploitative, coercive and violent nature of it, it lacks other important aspects. This film again perpetuates the idea that sex trafficking happens elsewhere (not in middle-class neighborhoods), that it is often middle-class white women, that sex-trafficking rings are large, and finally, that escape is inevitable.

When locating sex trafficking within patriarchal gender orders, it is easily recognized as a marker of power and vulnerability, therefore making it a form of violence against women.²⁵⁴ Because sex trafficking disproportionately affects women and girls, it can be seen as gender-based discrimination and as involving violence directed at women because they are women. Often, root causes of sex trafficking such as poverty, previous sexual or emotional abuse, or other vulnerabilities, disproportionately impact women—these are extensions of overlapping patriarchal systems, based on cultural and social norms, economies, politics, the law, religion, and race. Women's subordination to men has been prevalent throughout history, albeit it manifests itself differently at different times. The practice of both prostitution and sex trafficking result from the need for males to feel in control and be dominant over women. Men buy access to women's bodies, therefore in theory allowing them certain powers of command that can be exercised.

²⁵⁴ Jackie Turner, "Root Causes, Transnational Mobility and Formations of Patriarchy in the Sex Trafficking of Women," *Human Trafficking: The Complexities of Exploitation*, (Edinburgh University Press, 2016) 194-209. jstor.

The sex trafficking of women and girls, in short, is the exploitation of their bodies as a commodity. Why is there such high demand for the sexual exploitation of women and girls? Perhaps it is because we live in a culture and society that condones the purchase of sex for the self-indulgence of men. While public discourse has focused on condemning the traffickers who benefit economically from sex trafficking, there has been less focus on reducing male demand. Women's bodies are not a commodity for men, and in order to stop women and girls from being exploited, there needs to be a reduction in the demand which will in turn reduce the supply.

To end demand, there needs to be greater accountability of men who are purchasing women and girls for sex. Educating men could also be a way to attack these patriarchal assumptions that a woman's body can be bought and sold. Getting men to understand that "behind the scenes" of the sex trafficking world and industry.

Sex trafficking is akin to mass marketing for sex because it is made available at low prices and in high volume.²⁵⁵ In other words, it is an economic response to male desire.²⁵⁶ In order to fix this there needs to be a greater prosecution of traffickers and a reduction in the profitability earned from sex trafficking. However, existing research on law enforcement responses to trafficking and the prosecution of traffickers, is focused narrowly on high-profile investigations. A national survey conducted between 2000 and 2016 found that fewer than 10 percent of police agencies identified victims of trafficking.²⁵⁷ Instead of empowering the state, as criminal law does, "law could put more power in the hands of women both to confront the state,

²⁵⁵ Rhacel Salazar Parreñas, "What Is Human Trafficking? A Review Essay." *Signs* vol 37, no. 4 (2012): 1015-029.

²⁵⁶ Rhacel Salazar Parreñas, "What Is Human Trafficking? A Review Essay." *Signs* vol 37, no. 4 (2012): 1015-029.

²⁵⁷ GOŹDZIAK, ELŻBIETA M. "Hidden in Plain Sight." In *Trafficked Children and Youth in the United States: Reimagining Survivors*, 83-97. New Brunswick, New Jersey; London: Rutgers University Press, 2016. <http://www.jstor.org/stable/j.ctt1c5ch9b.13>.

where necessary, including through international and national forums, and to directly confront men in society who harm them.”²⁵⁸ The recognition that “women are violated, a form of unequal treatment, because we are women needs legal teeth.”²⁵⁹

Victim identification falls into the hands of Good Samaritans in local communities, social service providers, law enforcement and/or other first-line responders who come into contact with children and adults suspected of being trafficked. However, despite increased media attention and coverage, as well as the millions of dollars that have been spent on anti-trafficking campaigns, there is still a lack of awareness and inadequate public education. This may be because of the perpetuated idea that sex trafficking happens elsewhere, not domestically in the United States. Or maybe because there is a belief that if sex trafficking is occurring in the United States, it is solely foreign-born victims.

It’s easy to think that sex trafficking can be limited to certain segments of society, but this is not the case. Victims of sex trafficking are most commonly hiding in plain sight. Whether this is at a truck stop where women and girls of varying ages—some have been reported missing, others have run away because of domestic abuse, and one who was traded by her grandfather to a pimp to feed his crack habit—are being trafficked across and within state lines, all while being manipulated and coerced into sexual exploitation. Or at a nail salon or a massage parlor.

So what can a bystander do to help? A victim of sex trafficking, most likely, has developed a mindset of fear, distrust, denial, and/or conflicting loyalties. There may be a fear of being deported or arrested for being in the country illegally, which could also include distrust of

²⁵⁸ MacKinnon, “Are Women Human?,” 33.

²⁵⁹ MacKinnon, “Are Women Human?,” 33.

authority figures and law enforcement or government official. However, being able to recognize both the psychological and emotional consequences of sex trafficking can help in identifying victims. If there is an opportunity to speak with a potential victim of sex trafficking, privately and without jeopardizing the victim's safety, some potential questions to ask might be: Can you leave your job if you want to? Can you come and go as you please? Have you been hurt or threatened if you tried to leave? Do you live with your employer? Are you in debt to your employer?²⁶⁰

The regime of sex trafficking of women in the United States is much larger than is widely assumed. It is often seen as a problem that happens elsewhere, never close to us but this hegemonic narrative that exoticizes sex trafficking contributes to keeping the problem in the dark. By analyzing the sex trafficking of women with a three-pronged approach of reconstructing the main legal, conceptual, and institutional frameworks available to prevent and respond to sex trafficking, and assessing their contributions and limitations within the United States, allows for greater information about gaps to be addressed. Both the vagueness of definitions, which contributes to leaving victims overlooked, and the assumptions that sex trafficking happens elsewhere have left victims hidden in plain sight.

²⁶⁰ "Identify and Assist a Trafficking Victim." U.S. Department of State. Accessed March 13, 2019. <https://www.state.gov/j/tip/id/>.

BIBLIOGRAPHY

"A Screening Tool for Identifying Trafficking Victims." National Institute of Justice. <https://www.nij.gov/topics/crime/human-trafficking/Pages/screening-tool-for-identifying-human-trafficking-victimms.aspx>.

Admin. "Australian Human Rights Commission." What Is the Universal Declaration of Human Rights? December 14, 2012. Accessed February 27, 2019. <https://www.humanrights.gov.au/publications/what-universal-declaration-human-rights>.

"A Short History of the Convention." United Nations. Accessed February 27, 2019. <http://www.un.org/womenwatch/daw/cedaw/cedaw20/history.htm>.

Aston, Joshua N., and Vinay N. Paranjape, Dr. "Human Trafficking and Its Prosecution: Challenges of the ICC." <https://www.peacepalacelibrary.nl/ebooks/files/356626199.pdf>.

Ba, Oumar. "The International Criminal Court Just Acquitted the Former Ivory Coast President. What Happens Now?" The Washington Post. January 22, 2019. Accessed February 27, 2019. https://www.washingtonpost.com/news/monkey-cage/wp/2019/01/22/the-international-criminal-court-just-acquitted-the-former-ivory-coast-president-what-happens-now/?utm_term=.979c642927aa.

Ba, Oumar. "Who Is Laurent Gbagbo, and Why Is He on Trial at the ICC?" The Washington Post. February 03, 2016. Accessed February 27, 2019. https://www.washingtonpost.com/news/monkey-cage/wp/2016/02/03/who-is-laurent-gbagbo-and-why-is-he-on-trial-at-the-icc/?noredirect=on&utm_term=.a107eb1964a3.

Bayefsky, Anne F., Denesha Reid, and Kathryn Balmforth. "The CEDAW Convention: Its Contribution Today." *Proceedings of the Annual Meeting (American Society of International Law)* 94 (2000): 197-203. <http://www.jstor.org/stable/25659389>. 191.

Bennoune, Karima. "Why Does It Matter If Women Are Human: Catharine MacKinnon's Contributions to International Law." *Tulsa L. Rev.* 6-117.

Carr, Bridgette A. "When Federal and State Systems Converge: Foreign National Human Trafficking Victims Within Juvenile and Family Courts." *Juv. & Fam. Ct. J.* 63, no. 1 (2012): 77-90.

Case 0715 (United States District Court for the Eastern District of Louisiana). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2015/case_0715.html?lng=en&tmpl=htms.

Chapman, Jane Roberts. "Violence against Women as a Violation of Human Rights." *Social Justice* 17, no. 2 (40) (1990): p. 54.

Charlesworth, H. (1994) 'What are "Women's International Human Rights"?', in
Cook (ed.), *Human Rights of Women*.

Chuang, Janie. "TRAFFICKING IN HUMANS." *Proceedings of the Annual Meeting (American Society of International Law)* 99 (2005): 341. <http://www.jstor.org/stable/25660024>.

Cole, Wade M. "Government Respect for Gendered Rights: The Effect of the Convention on the Elimination of Discrimination against Women on Women's Rights Outcomes, 1981–2004." *International Studies Quarterly* 57, no. 2 (2013): 233-49. <http://www.jstor.org/stable/24016136>. 233.

"Criminalization of Trafficking Victims." *CUNY School of Law*, 2015. <http://www.law.cuny.edu/academics/clinics/iwhr/publications/Criminalization-of-Trafficking-Victims.pdf>.

"Current Federal Laws." Polaris. October 17, 2016. Accessed February 27, 2019. <https://polarisproject.org/current-federal-laws>.

Dawson, Ruth P. "When Women Gather: The NGO Forum of the Fourth World Conference on Women, Beijing 1995." *International Journal of Politics, Culture, and Society* 10, no. 1 (1996): 7-27. <http://www.jstor.org/stable/20019871>. 7.

Deady, Gail M. "The Girl Next Door: A Comparative Approach to Prostitution Laws and Sex Trafficking Victim Identification Within the Prostitution Industry." *Wash. & Lee J. Civ. Rts. & Soc. Just.*, 2011. <https://scholarlycommons.law.wlu.edu/crsj/vol17/iss2/7>.

Dempsey, Michelle Madden, Carolyn Hoyle, and Mary Bosworth. "Defining sex trafficking in international and domestic law: Mind the gaps." *Emory Int'l L. Rev.* 26 (2012): 138.

Deshpande NA, Nour NM. Sex trafficking of women and girls. *Rev Obstet Gynecol.* 2013;6(1):e22-7.

Douglas, Carol Anne. "Are Women Human? and Other International Dialogues." *Off Our Backs* 37, no. 1 (2007): 74.

Eerz Edna, « Women as Victims and Survivors in the Context of Transnational Human Trafficking for Commercial Sex Exploitation », *Revue internationale de droit pénal*, 2010/3 (Vol. 81), p. 551-562. DOI : 10.3917/ridp.813.0551. URL : <https://www.cairn.info/revue-internationale-de-droit-penal-2010-3.htm-page-551.htm>.

Ellis, M. 2006. Breaking the silence: Rape as an international crime. *Case Western Reserve Journal of International Law*, 38: 225–247.

"First Lady Hillary Clinton's Address to the United Nations Fourth World Conference on Women." CommonLit. Accessed February 27, 2019. <https://www.commonlit.org/en/texts/first-lady-hillary-clinton-s-address-to-the-united-nations-fourth-world-conference-on-women>.

"Fourth World Conference on Women, Beijing 1995." United Nations. Accessed February 27, 2019. <http://www.un.org/womenwatch/daw/beijing/platform/violence.htm#object3>.

Freedman, Estelle B. *The Essential Feminist Reader*. New York: Modern Library, 2007.

"Frequently Asked Questions (FAQ) about CEDAW." UN Women | Asia and the Pacific. Accessed February 27, 2019. <http://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/faq>.

GEORGE, ANNIE, U. VINDHYA, and SAWMYA RAY. "Sex Trafficking and Sex Work: Definitions, Debates and Dynamics — A Review of Literature." *Economic and Political Weekly* 45, no. 17 (2010): 64-73. <http://www.jstor.org/stable/25664387>.

GOŹDZIAK, ELŻBIETA M. "Hidden in Plain Sight." In *Trafficked Children and Youth in the United States: Reimagining Survivors*, 83-97. New Brunswick, New Jersey; London: Rutgers University Press, 2016. <http://www.jstor.org/stable/j.ctt1c5ch9b.13>.

Gonen, Yoav, Shawn Cohen, Gabrielle Fonrouge, Ruth Brown, Yoav Gonen, Shawn Cohen, Gabrielle Fonrouge, and Ruth Brown. "Inside New York's Silent Sex Trafficking Epidemic." *New York Post*. April 17, 2018. Accessed February 28, 2019. <https://nypost.com/2018/04/16/inside-new-yorks-silent-sex-trafficking-epidemic/>.

Hasday, Jill Elaine, *Contest and Consent: A Legal History of Marital Rape*, 88 *Calif. L. Rev.* 1373 (2000).

"History of the Document." United Nations. Accessed February 27, 2019. <http://www.un.org/en/sections/universal-declaration/history-document/index.html>.

Hoffer, Kaethe Morris. "A RESPONSE TO SEX TRAFFICKING CHICAGO STYLE: FOLLOW THE SISTERS, SPEAK OUT." *University of Pennsylvania Law Review* 158, no. 6 (2010): 1831-848. <http://www.jstor.org/stable/25682365>.

Hua, Julietta. "Universalism and the Conceptual Limits to Human Rights." *Trafficking Women's Human Rights*, NED - New edition ed., University of Minnesota Press, Minneapolis; London, 2011. (9)

"Human Trafficking Task Force E-Guide." OVC TTAC. Accessed February 28, 2019. <https://www.ovcttac.gov/taskforceguide/eguide/6-the-role-of-courts/64-innovative-court-responses/human-trafficking-courts/>.

"Identify and Assist a Trafficking Victim." U.S. Department of State. Accessed March 13, 2019.

<https://www.state.gov/j/tip/id/>.

Шелестиський, В. "SEX TRAFFICKING IN THE UNITED STATES." (2016) p. 176.

"International Trafficking in Persons, Especially Women and Children." *The American Journal of International Law* 95, no. 2 (2001): 407.

Jahic, Galma, and J. O. Finckenaer. "Representations and misrepresentations of human trafficking." *Trends in Organized Crime*(2005): 25.

Johnston, Anne, Barbara Friedman, and Autumn Shafer. "Framing the problem of sex trafficking: Whose problem? What remedy?." *Feminist Media Studies* 14, no. 3 (2014): 420.

Jones, Samuel V., Human Trafficking Victim Identification: Should Consent Matter?, 45 IND. L. REV. 483, 500 (2012).

Jones, Samuel V. "The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker?, 7 Alb. Gov't L. Rev. 143 (2014)." *John Marshall Law School The John Marshall Institutional Repository*, 2014. <https://repository.jmls.edu/cgi/viewcontent.cgi?article=1467&context=facpubs>.

"Justice Department Leads Effort to Seize Backpage.Com, the Internet's Leading Forum for Prostitution Ads, and Obtains 93-Count Federal Indictment." The United States Department of Justice. April 09, 2018. <https://www.justice.gov/opa/pr/justice-department-leads-effort-seize-backpagecom-internet-s-leading-forum-prostitution-ads>.

Lobasz J. (2009) Beyond Border Security: Feminist Approaches to Human Trafficking. *Security Studies* 18: 319-344.

"Louisiana Motel Owner Pleads Guilty in Sex Trafficking Case." FBI. July 1, 2015. <https://www.fbi.gov/contact-us/field-offices/neworleans/news/press-releases/louisiana-motel-owner-pleads-guilty-in-sex-trafficking-case>.

Loveday Hodson; Women's Rights and the Periphery: CEDAW's Optional Protocol, *European Journal of International Law*, Volume 25, Issue 2, 1 May 2014, Pages 561–578, <https://doi.org/10.1093/ejil/chu027>

MacKinnon, Catharine A.. *Are Women Human?* Harvard University Press. Kindle Edition.

MACKINNON, CATHARINE A. "Rape, Genocide, and Women's Human Rights."

Meyers, D. (2014). Feminism and sex trafficking: rethinking some aspects of autonomy and paternalism. *Ethical Theory and Moral Practice*, 17, 427–441.

Mullen, Katherine, and Rachel Lloyd. "The Passage of the Safe Harbor Act and the Voices of Sexually Exploited Youth." Edited by Jill Laurie Goodman and Dorchen A. Leidholdt. *Lawyer's Manual on Human Trafficking*. http://ww2.nycourts.gov/sites/default/files/document/files/2018-07/MULLEN_HUMAN_TRAFFICKING_1_d_0.pdf.

Musgrave, Jane. "'Horrific' Sex Traffickers Sentenced - Gets 27 Years Judge Sentences Sex-trafficking Pair." Access World News. [https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US v. Blake Article redacted.pdf](https://www.dropbox.com/sh/5ucpmwe5f8xamac/AAB5LjaCVH2cleZ-spYI5fQKa?dl=0&preview=US%20v.%20Blake%20Article%20redacted.pdf).

"NY Laws." Article 15 New York State Penal Law - Culpability | NY Laws. Accessed February 28, 2019. <http://ypdcrime.com/cpl/article720.htm>.

Obokata, Tom. "Trafficking of Human Beings as a Crime against Humanity: Some Implications for the International Legal System." *The International and Comparative Law Quarterly* 54, no. 2 (2005): 445-57. <http://www.jstor.org/stable/3663256>.

Overbaugh, Eileen. "HUMAN TRAFFICKING: THE NEED FOR FEDERAL PROSECUTION OF ACCUSED TRAFFICKERS." <https://pdfs.semanticscholar.org/360e/3aeb741c70da8c9cd30cc9d2fede3b467b4d.pdf>.

Parreñas, Rhacel Salazar, Maria Cecilia Hwang, and Heather Ruth Lee. "What Is Human Trafficking? A Review Essay." *Signs* 37, no. 4 (2012): 1015-029. doi:10.1086/664472.

Peters, Amanda. "Disparate protections for American human trafficking victims." *Clev. St. L. Rev.* 61 (2013).

Peters, Julie Stone, and Andrea Wolper, eds. *Women's rights, human rights: International feminist perspectives*. Routledge, 2018.

"Prosecuting Human Trafficking in the United States: State and Federal Jurisdictions • Human Trafficking Search." Human Trafficking Search. August 22, 2017. Accessed February 27, 2019. <http://humantraffickingsearch.org/prosecuting-human-trafficking-in-the-united-states-state-and-federal-jurisdictions/>.

Raymond, J.G., Hughes, D.M., & Gomez, C.J. (2001). *Sex Trafficking of Women in the United States: International and Domestic Trends*. Coalition Against Trafficking in Women, Amherst, MA.

Richard, Stephanie, Carolyn M. Kim, and Erika Gonzalez. "T NONIMMIGRANT VISAS AND ADJUSTMENT OF STATUS FOR VICTIMS OF HUMAN TRAFFICKING: A PRACTICAL GUIDE TO THE RELEVANT STATUTORY CHANGES AND

UPDATED REGULATIONS." Cast LA. <https://www.castla.org/wp-content/themes/castla/assets/files/reutgers-immigration-stephanie-richardIB-aug2017-08-17-final.pdf>.

Riegler, April. "Missing the mark: Why the trafficking victims protection act fails to protect sex trafficking victims in the United States." *Harv. JL & Gender* 30 (2007): 233.

Roberts, Barbara. "The Beijing Fourth World Conference on Women." *The Canadian Journal of Sociology / Cahiers Canadiens De Sociologie* 21, no. 2 (1996): 237-44. doi: 10.2307/3341979. 241.

Schauer, Edward J., and Elizabeth M. Wheaton. "Sex trafficking into the United States: A literature review." *Criminal Justice Review* 31, 146.

Shoaps, Laura L (2013) 'Room for improvement: Palermo protocol and the trafficking victims protection act', *Lewis & Clark L. Rev.*, 17:3, 931–972.

Siegel, Dina & Sylvia de Blank (2010) Women who traffic women: the role of women in human trafficking networks – Dutch cases, *Global Crime*, 11:4, 436-447, DOI: [10.1080/17440572.2010.519528](https://doi.org/10.1080/17440572.2010.519528)

Dorothy McBride Stetson, "The Invisible Issue: Prostitution and Trafficking of Women and Girls in the United States." In *The Politics of Prostitution: Women's Movements, Democratic*

States and the Globalisation of Sex Commerce, edited by Joyce Outshoorn, 245-64.

Cambridge: Cambridge University Press, 2004. doi:10.1017/CBO9780511489044.014.

Struensee, V. v. (2000), Sex Trafficking: A Plea for Action. *European Law Journal*, 6: 379-407.

doi:10.1111/1468-0386.00114

"The Facts." Polaris. November 09, 2018. Accessed February 28, 2019. <https://polarisproject.org/human-trafficking/facts>.

"The Long and Influential Life of the Universal Declaration of Human Rights." In *The Universal Declaration of Human Rights in the 21st Century: A Living Document in a Changing World*, edited by Brown Gordon, by Global Citizenship Commission, 29-38. Cambridge, UK: Open Book Publishers, 2016. <http://www.jstor.org/stable/j.ctt1bpmb7v.9>.

The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé (International Criminal Court). <https://www.icc-cpi.int/cdi/gbagbo-goude>.

The Prosecutor v. Omar Hassan Ahmad Al Bashir (International Criminal Court). <https://www.icc-cpi.int/darfur/albashir>.

The Prosecutor v. Simone Gbagbo (International Criminal Court). <https://www.icc-cpi.int/cdi/simone-gbagbo>.

TSONG NICOLE, Anchorage Daily News. "Boehm pleads guilty; trial is off; DEAL:

Businessman admits using drugs to lure young girls for sex, agrees to restitution."

Anchorage Daily News (Alaska). November 23, 2004 Tuesday, FINAL EDITION. [https://](https://advance-lexis-com.libproxy.union.edu/api/document?collection=news&id=urn:contentItem:4DVW-7FM0-01M7Y4N1-00000-00&context=1516831)

[advance-lexis-com.libproxy.union.edu/api/document?](https://advance-lexis-com.libproxy.union.edu/api/document?collection=news&id=urn:contentItem:4DVW-7FM0-01M7Y4N1-00000-00&context=1516831)

[collection=news&id=urn:contentItem:](https://advance-lexis-com.libproxy.union.edu/api/document?collection=news&id=urn:contentItem:4DVW-7FM0-01M7Y4N1-00000-00&context=1516831)

[4DVW-7FM0-01M7Y4N1-00000-00&context=1516831](https://advance-lexis-com.libproxy.union.edu/api/document?collection=news&id=urn:contentItem:4DVW-7FM0-01M7Y4N1-00000-00&context=1516831)

Turner, Jackie. "Root Causes, Transnational Mobility and Formations of Patriarchy in the Sex

Trafficking of Women." In *Human Trafficking: The Complexities of Exploitation*, edited

by Malloch Margaret and Rigby Paul, 194-209. Edinburgh University Press, 2016. [http://](http://www.jstor.org/stable/10.3366/j.ctt1bgzbwp.16)

www.jstor.org/stable/10.3366/j.ctt1bgzbwp.16.

"Types of Trafficking." Human Trafficking Data. Accessed February 27, 2019. [http://](http://www.humantraffickingdata.org/public_narratives)

www.humantraffickingdata.org/public_narratives.

"Understanding the International Criminal Court." International Criminal Court. [https://www.icc-](https://www.icc-cpi.int/iccdocs/pids/publications/uicceng.pdf)

[cpi.int/iccdocs/pids/publications/uicceng.pdf](https://www.icc-cpi.int/iccdocs/pids/publications/uicceng.pdf).

"Universal Declaration of Human Rights." Office of the High Commissioner. [https://](https://www.ohchr.org/EN/pages/home.aspx)

www.ohchr.org/EN/pages/home.aspx.

United States Department of State, *2018 Trafficking in Persons Report - United States of America*, June 2018, available at: <https://www.state.gov/documents/organization/282798.pdf>.

United States v. Christopher M. Cockrell (United States District Court for the Western District of Missouri). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2009/united_states_v_christopher_m_cockrell.html?lng=en&tmpl=htms.

United States v. Jermaine Lamon Roy (United States District Court for the Eastern District of Arkansas). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2013/united_states_v_jermaine_lamon_roy.html?lng=en&tmpl=htms.

United States v. Josef F. Boehm (U.S. Court of Appeals for the Ninth Circuit). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/united_states_v_josef_f_boehm.html?lng=en&tmpl=htms.

United States v. Robinson (United States District Court for the Middle District of Pennsylvania). https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2011/united_states_v_robinson_.html?tmpl=old

United States v. Valenzuela et al (U.S. District Court for the Central District of California).

https://sherloc.unodc.org/cld/case-law-doc/traffickingpersonscrimetype/usa/2009/united_states_v_valenzuela_et_al.html?lng=en&tmpl=htms

"US and State Prostitution Arrests, 2001-2016." Should Prostitution Be Legal? Accessed

February 28, 2019. <https://prostitution.procon.org/view.resource.php?resourceID=000120>.

"Varieties of Violence: Structural, Cultural, and Direct." TRANSCEND Media Service. Accessed

February 27, 2019. <https://www.transcend.org/tms/2013/10/varieties-of-violence-structural-cultural-and-direct/>.

"Victims of Human Trafficking: T Nonimmigrant Status." 23.11 Cuban Adjustment Act Cases. |

USCIS. Accessed February 27, 2019. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status>.

"Victims of Criminal Activity: U Nonimmigrant Status." 23.11 Cuban Adjustment Act Cases. |

USCIS. Accessed February 27, 2019. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.

Williams, Jennie. "The Problem of Consent in Distinguishing between Victims of Sex Trafficking and Sex Workers." <http://un-act.org/wp-content/uploads/2017/07/The-Problem-of-Consent-in-Distinguishing-between-Victims-of-Sex-Trafficking.pdf>.

Women and the Law. Accessed March 13, 2019. https://www.library.hbs.edu/hc/wes/collections/women_law/.