

Cycles of Abuse:  
Legal Strategies for Helping Sex Trafficking Victims in the US

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Abstract

Sex trafficking has been a focus of legal attention for decades and is addressed in laws aimed at protecting victims. However, these protections often fall short, leaving victims unable to escape cycles of abuse. Through investigation of federal and state law, scholarly articles, and interviews with legal professionals and victim community resource workers, I examine the question: How does the legal system succeed and fail in supporting victims of sex trafficking in the US? My research investigates demographic patterns among victims, systemic legal barriers, community advocacy initiatives, and the impact of federal trafficking, prostitution, and digital privacy laws. My findings are organized into four sections: an overview of trafficking and demographics, the legal barriers facing victims, the emerging challenges of digital trafficking, and victim-centered reform recommendations. Victims face legal obstacles in many aspects. The legal system's requirement for victim testimony, often in the presence of abusers, frequently leads to case dismissals due to non-cooperation. This, combined with distrust of law enforcement among trafficking survivors, further deters trafficked persons from seeking state assistance. A comparative case study of Florida and Washington State law illustrates how varying approaches to prostitution law can lead to victim criminalization. The constant evolution of trafficking through social media and online forums heightens the need for systemic victim-centered reform. To effectively dismantle trafficking, the law must address the economic need that creates space for trafficking to thrive, and work to decrease the demand for trafficked sex. The legal system needs to embrace victim-centered reform that incorporates the testimonies of survivors in structuring policy to adequately support victims of sex trafficking.

## Introduction

In my second week of work as a Victim Advocate at the Seattle City Attorney's Office, I had just become familiar with sorting my caseload, using an antiquated police report system, and making calls to victims, when I was given a seemingly routine assault case. The 'routine' case involved a perpetrator who assaulted a nurse while attempting to escape from the hospital. While logging my notes, however, I noticed the perpetrator's extensive history of noise complaints and drug trafficking citations and decided to look further. In the instances where neighbors called in complaints, I found they referred to the sexual activities of a 16-year-old girl and the perpetrator, who we discovered was her 50-year-old trafficker.

I poured over the testimonies of responding officers who witnessed the teenager answer the door narcotized and bloodied, and of the numerous fentanyl and methamphetamine overdoses that sent her to Seattle Children's Hospital. I learned of her early childhood, where her mother would trade the young girl for favors or drugs, and the eventual dependence the teen developed on substances herself. For weeks, we worked with our team at the Seattle Police Department to find a way to get the teenager out of the trafficker's home, but it was not enough. In October of the same year, we received word from SPD that she had been found naked in the woods, victim to her final overdose. She was not yet 17.

Her case left an inconsolable pit in my stomach, fueling my determination to understand how trafficking endures under the legal system, and how to find a way to close the gap in legal protection. It inspired my research and my exploration of the question: How does the legal system succeed and fail in supporting victims of sex trafficking? Through an exploration of scholarly articles, news articles, federal and state law, interviews, and quantitative data, this

paper aims to explore the factors that can contribute to sex trafficking, how it is treated in the legal system, and how said system responds to victims.

I have organized my research and findings into four sections to address this question adequately. In my first section, I provide a literature review of the existing work in the field of sex trafficking, human trafficking, and prostitution research. I also delve into my methodology, discussing scholarly article reviews, exploring federal and state laws, and interviews with legal professionals and victim advocates in Washington, with experiences helpful for understanding sex trafficking. I will begin my argument by outlining sex trafficking, and incorporating the definitions of important field vernacular. I develop a basic understanding of sex trafficking by providing demographic vulnerability research, outlining which factors correlate with a heightened risk of trafficking. I also discuss the recruitment of trafficked persons and how that preys on the demographic vulnerabilities mentioned.

The second section of my research focuses on the law surrounding trafficking. This includes the major federal statutes aimed at protecting, preventing, and prosecuting trafficking, like the Trafficking Victims Protection Act (TVPA) and its subsequent reauthorizations. I use prostitution law to exemplify the criminalization of sex trafficking survivors and the adverse treatment of adult versus minor victims in trafficking. I also go into a case study of Florida and Washington prostitution laws and discuss how the treatment of prostitution exhibits a strong correlation to the criminalization of victims.

The third section of the paper is on the digitization of trafficking. I explore the growing field of digital trafficking and how this poses a threat to the safety and security of trafficking law by exploring the current digital privacy acts and popular social media platform data. I evaluate statistics from teen internet use, that when coupled with the rise of online trafficking facilitation

through various forms of social media connect to the current warnings from the Department of Justice on increasing digital trafficking. I will also look at digital security laws and how they may interfere with the prosecution of traffickers who intimidate or control their victims online.

The fourth section of my research examines the gap between laws and victims through community-informed resources. I incorporate interviews with victim advocates from the Seattle City Attorney's Office and API Chaya to discern what victims need from the legal systems compared to what they receive. I will use these sources and interviews to create recommendations for the growth of victim-oriented legal reform.

In my conclusion, I draw together the arguments delineated above to argue that the legal system as it currently exists does not suit the needs of victims of sex trafficking. Policy and law enforcement practices focus on prosecution first and foremost and use victims to support prosecution efforts of trafficking yet do little to support them throughout the process.

Government agencies do not fund prevention for high-risk demographics to address trafficking at its genesis but rather focus their resources on prosecution efforts. Not all victims are treated equally, either. Atypical victims face more challenges in navigating the legal system than young white women and girls who have been trafficked. Adult victims are criminalized as prostitutes, immigrants are exploited for testimony and then historically denied legal benefits, and resources for LGBTQ+ youth are slim nationwide. All of these create issues with the system that is meant to dismantle sex trafficking. The foundational law of the nation on sex trafficking, the Trafficking Victims Protection Act (TVPA), has gone through multiple reauthorizations to adapt to the changing legal interface and the needs of trafficking cases. However, despite the multiple reauthorizations, victims are not the priority of the legislation, prosecutors are. The Act expands definitions for what trafficking is, or creates incentives for victims to testify, but these incentives

can quickly become a form of leverage that allow prosecutors to coerce victims into cooperation with trafficking investigations. National discrepancies in methods that target trafficking also create inconsistent treatment of victims. Criminalization of victims is far too common in trafficking cases, especially when it comes to adult victims. If assumed to be prostitutes, victims are quickly denied trafficking resources and are subject to punitive sentencing. Victim-centered approaches to dismantling sex trafficking are not unanimous nation-wide, and it is possible for the trafficked persons to be more penalized by the legal system than their pimps or traffickers due to prostitution laws. However, one sector of trafficking that the current legal system is woefully underprepared to face is the increasing prevalence of trafficking online. Social media is already the main form of recruitment, and the internet will be used to facilitate trafficking, purchasing, and payment for trafficking more than ever before.

The legal system does not solely fail to support victims, but the application of the laws has proven to be inadequate. While the law creates good protection provisions, like the T-Visa, or Trafficking Visa, to provide immigrant victims four-year work eligibility to reduce their need to rely on traffickers for income, the use of T-Visas has turned into a way for prosecutors to entice victims to cooperate. Victims can be faced with prostitution charges if they cannot provide enough proof that they have been forced into commercial sex. The protections secured for minor victims by the laws of consent that disallow commercial sex to be consensual under the age of 18 are diluted by insufficient investigations into minors who have been manipulated by their traffickers to lie about their age and are not investigated by law enforcement before arrest. The TVPA creates protections for victims that are intended to prevent the criminalization of victims for crimes committed as a result of being trafficked, yet so many victims are prosecuted for sex work or immigration status. To break the cycles of abuse that fuel trafficking in the United

States, it is imperative to implement significant reforms within the legal system. Although the growing focus on addressing the demand for trafficking instead of targeting the supply of commercial sex work is a step in the right direction, it remains insufficient. Sex trafficking law and policy need to focus on victim-centered reform that incorporates the testimonies of survivors and victims to understand what protects against, and more importantly *prevents*, trafficking.

### Literature Review

Much of the existing data on trafficking identifies the risk factors that can increase the chances of being trafficked. Of these risk factors, those most frequently cited are related to socioeconomic vulnerability, such as homelessness, substance abuse, early pregnancy, or generational financial need. I use quantitative data to draw connections between the vulnerability of certain populations to the higher incidence of trafficking and look to address and amend these vulnerabilities in my recommendations for the growth of the legal system. Quantitative research understates the percentage of trafficking victims, as many crimes go unreported. One source of quantitative data utilized is the Federal Human Trafficking Report produced by the Human Trafficking Institute. While this report acknowledges that its percentages are only derived from trafficking cases, excluding input from victims who do not have access to legal opportunities to escape trafficking, the data remains valuable. The data aligns with findings from other investigative research, and it is presented on a much larger scale, which justifies its use. Some studies estimate that there are approximately 15-50,000 victims of sex trafficking annually, while others place that number between 100,000 -300,000 victims annually in the United States (Deliver Fund, 2020, Women's Commission for Refugee Women and Children, 2010). It is important not to overstate the prevalence of trafficking even when sources recognize the inability to accurately quantify the total number of trafficked persons.



Much of the literature on sex trafficking also focuses to some extent on human trafficking, and I will similarly define this term and separate it from sex trafficking. Scholarly articles on prostitution and commercial sex work are used as well, as victims of sex trafficking can come from these positions of consensual sex and later become exploited. To add to this area of my research, I discuss trafficking recruitment tactics, how they target specific demographics, and how they outline clear imbalances of power. Prostitution law is an important aspect of my topic due to the criminalization of adult victims of sex trafficking as prostitutes. I review federal laws regarding prostitution but also investigate state procedures for prosecuting prostitution through interviews, literature reviews, and news articles.

### Methodology

My paper explores the question “How does the legal system succeed and fail at supporting victims of sex trafficking?” In answering this question, I use state and federal laws across the US to show how the current legal system works to protect and support victims of trafficking. This question includes supplemental questions such as “What defines success?”, “How does the law currently serve victims?”, and “How can the law criminalize survivors of sex trafficking?” These supplemental questions support my hypothesis that the law does not use victim-informed processes to help victims of trafficking, thus leading to the ability for sex trafficking to persist in the US. The lack of victim-informed law leads to a lack of funding for victim support programs, culturally informed prosecution and protection, and an inability to prosecute traffickers due to victims’ distrust of law enforcement. I will recommend some alternative methods for victim aid as well.

A large part of my research comes from interviews with legal professionals and community advocates with experience with sex trafficking. I submitted my topic for the

University of Washington Institutional Review Board approval for working with human subjects, which declared my project exempt from board oversight due to the nature of those I was interviewing. To avoid revictimization of trafficked persons, I looked to work with community advocates with experience with victims instead of threatening the safety and security of those either currently in the system of trafficking or having recently left the system.

The first interviewee is Judge Matthew Baldock, a judge in Snohomish County. Before becoming a judge, Baldock worked as the Deputy Prosecuting Attorney for Snohomish County, where he worked diligently on child exploitation and drug citation cases that often overlapped with sex trafficking. His insight was invaluable to my research, sparking new questions and enabling me to conduct a more thorough examination of the laws pertaining to trafficking. The second interviewee referenced is Emma Catague. Emma is a representative of API Chaya, an advocacy agency comprised of survivors from various marginalized communities that provides free, confidential resources for survivors of sexual assault, domestic violence, human trafficking, and sex trafficking. She provided much of the insight that steered my investigation of system reform recommendations. The third interviewee referenced is Kimberly McDaniel. I worked under Kimberly when I was a Victim Advocate at the City of Seattle Attorney's Office. She connected and affirmed the information provided by Baldock and Catague by combining her knowledge of the legal system and her experiences working with survivors to assist my exploration of victim-centered reform.

An extensive part of my research also came from evaluating current federal and state laws and funding directives as they relate to trafficking directly and indirectly. Due to the current actions by the Trump administration, many of the government-funded victim support sites have been suspended or taken down. One of these is the Office for Victims of Crime (OVC) website

that has since removed their Map of OVC-Funded Human Trafficking Services and Task Forces. For this information, I referenced archival webpage databases to see what the site looked like before the change in administration. Given the overlap between prostitution and sex trafficking, I examine and compare prostitution laws in Florida and Washington, analyzing how the research correlates to the treatment of sex trafficking victims in these jurisdictions. To understand the intent of the legal statutes, I analyze both historical and current versions of state criminal codes. By integrating federal case law with state statutes, I connect the two and highlight their relevance to the latter part of my research which focuses on the digitization of sex trafficking in recruitment and facilitation. I leverage resources from the United States Department of Justice and evaluate their concerns about the growing prevalence of digital trafficking and the complexities surrounding online privacy laws.

### I. Overview of Sex Trafficking

Sex trafficking is defined as the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. (22 U.S.C. § 7102(11)(A)). It is a form of forced commercial sex that should not be misunderstood as sex work. Sex trafficking thrives on need, often socioeconomic, and takes advantage of harmful power dynamics that lead to victim isolation from support systems or financial security. Traffickers manipulate victims to perpetuate the idea that forced sex is the only way of surviving.

Sex trafficking should not be mistaken for consensual prostitution. Prostitution involves engaging, agreeing, or offering to engage in sexual conduct with another person in return for a fee (Cornell, n.d). Sex trafficking is complex, as it involves levels of coercion that perpetuate

cycles of survival sex. Survival sex is often used to describe the forced, coercive sex that is influenced by power structures that reinforce systems of need. Prostitution is a form of sex work that is exclusive to those over the age of 18 and has consent that is willing and freely given by both adult parties. As minors in the United States are unable to consent to commercial sex, they are more easily categorized as victims of sex trafficking. Adult victims, however, are more difficult to classify because they are legally able to consent to commercial sex. The coercive factors that contribute to sex trafficking can be invisible to the legal eye in adult victims, creating common misconceptions that blur the lines between sex trafficking and prostitution.

Financial hardship is a significant driving force behind the occurrence of trafficking. Poverty can create a desperate need for survival. Trafficking thrives on this need. Victims are coerced into selling their bodies in exchange for providing for themselves or their families. When deprived of basic necessities like food, shelter, or safety, traffickers exploit this vulnerability by offering those things in exchange for ownership over a victim's autonomy and effectively isolate them from their communities. Traffickers instill a strong distrust of law enforcement, cut them off from their families, or pressure them into substance abuse to further tighten the control over the victims' lives. Through cyclical harm in which trafficking occurs, victims are trapped in the system of sex trafficking for months, with the average amount of time being a year. Yet, the harms of trafficking can last a lifetime and permeate all aspects of someone's life due to health and legal repercussions. Despite this, the current legal system fails to comprehend the extent to which trafficking preys upon those with socioeconomic vulnerabilities, leaving impoverished populations at a higher risk of being trafficked.

*1.1 Definitions*

Sex trafficking is often mistaken for other types of commercial sex or human trafficking. To avoid misunderstanding, this paper uses the following terms and definitions of the system of sex trafficking. While many of the definitions interact with one another, they will not be used interchangeably unless stated.

**Sex trafficking:** Sex trafficking is the “recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age” (22 U.S.C. § 7102(11)(A)).

**Human trafficking:** The legal definition of human trafficking relies on the legal definition provided by the Trafficking Victims Protection Act of 2000 and refers to both sex and labor trafficking.

**Forced Labor/ Labor Trafficking:** Forced labor is “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” (22 U.S.C. § 7102(11)(B)).

**Domestic Minor Sex Trafficking:** Commonly referred to as DMST, it is the categorization of the system of sex trafficking on a smaller scale as only concerning victims under 18 in the US.

**Commercial Sex:** Any sexual act or favor given in exchange for anything of value.

**Consent:** “Consent means that a person voluntarily and willfully agrees in response to another person's proposition. The person who consents must possess sufficient mental capacity. Consent also requires the absence of coercion, fraud, or error. Consent is an essential constituent of a contract and a defense to a tort. However, consent is generally not a defense to criminal

charges, with the possible exceptions of rape and sexual assault.” (Cornell, n.d.). In the context of sex, consent must be willfully given by both parties.

Victim (in the context of sex trafficking): Someone who has or is currently experiencing trafficking or is in some way being forced into commercial sex without their full and willing consent.

Trafficked Person: Those who have or are currently experiencing trafficking, and for the purpose of this article, is used interchangeably with the victim<sup>1</sup>.

Pimp: “A person who controls and financially benefits from the commercial sexual exploitation of another person” (Montana Law Enforcement Academy).

John: An individual who pays for sex with something of value, whether that be money or substances, food, or other.

Survival Sex: the exchange of sex for food, money, shelter, drugs, and other needs and wants. (Walls and Bell, 2011, p. 424)

Coercion: The term “coercion” means— “(A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of law or the legal process” (18 USC § 1591(e)(2)).

Sting Operation: Also known as “problem-oriented policing, is a pre-planned, police-initiated opportunity for targeting criminals” (such as traffickers or buyers of commercial

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<sup>1</sup> Some sources like the Women’s Commission for Refugee Women and Children prefer to use trafficked persons instead of victim as it underscores the rights-based perspective rather than only a criminal perspective (Brennan, 2008, footnote 5). As this paper discusses the legal system’s response to trafficking, the term ‘victim’ felt most appropriate to demonstrate the position of trafficking victims as underrepresented by the current legal system.

sex) who engage in crime, resulting in the arrest or identification of the offender. (Federal Human Trafficking Report 2023, p. 95).

### *III Demographics of Sex Trafficking*

Many victims have a history of financial instability and substance abuse. For minors, some pre-existing vulnerabilities include homelessness, with particular attention to street youth over shelter youth, runaways, foster care youth, individuals in situations of poverty, those with a history of abuse, limited English-speaking skills, previously trafficked persons, and those without legal status (Federal Human Trafficking Report 2023, Walls and Bell, 2011, Cook et al., 2021, Baird & Connolly, 2023, Knighten, 2022). For adult victims, substance abuse is one of the leading vulnerabilities exhibited by victims, followed closely by lack of legal status and financial insecurity (Federal Human Trafficking Report 2021, Federal Human Trafficking Report 2023). Studies have examined a strong correlation and well-established relationship between the use of substances and alcohol with an increased likelihood of engaging in survival sex (Walls and Bell, 2011, p. 425). Living on the streets rather than in shelters increases the risk of exposure to substance abuse despite not having abused drugs before becoming unhoused. Consequently, homelessness not only leaves basic needs for shelter, safety, food, and money unmet, but the prevalence of drugs can increase the reliance on traffickers to meet their desires. Together, these vulnerabilities highlight the strong connection between financial instability and prevalence of trafficking. When both youth and adult victims are unable to meet their basic needs, they show an increased incidence of becoming victims of sex trafficking. They are forced to rely on their traffickers which can in turn lead to isolation from any other support systems, which makes victim assistance increasingly difficult.

Age, race, and gender play a role in victimization as well. The highest percentage of victims in cases are minor females, with limited available data on how trans and other LGBTQ+ individuals are at different levels of risk. However, an estimated 20% to 40% of teenagers who are homeless also identify as LGBTQ+ (Gambon et al., 2020). Therefore, it is reasonable to infer that runaway LGBTQ+ youth are at a higher risk of trafficking because of their increased exposure to homelessness and financial need. Runaway LGBTQ+ youth are more likely to participate in substance abuse and therefore are put at a greater risk of engaging in survival sex due to increased needs (Gambon et al., 2020). Runaways also face the risk of being sexually abused by someone they know, and they are estimated to have “participated in sexual bartering for money, food, drugs, or shelter” (Nichols, 2016, Knighten, 2022, p. 36). Based on publicly available data from federal trafficking cases, minors are the largest represented demographic of new victims annually (Federal Human Trafficking Report 2021). Victims are at a higher risk of entry between 12-14, and the nature of minor consent laws makes it so that legislation focuses more heavily on the protection of minors from sex trafficking (Baird & Conolly, 2023).

Available data shows that the most common profile of victim is the minor female. While studies differ on which race is at the highest risk of exploitation, the majority argue that minor females consistently show the highest incidence in trafficking cases each year. However, this could be slightly overstated. While minors are the highest at-risk demographic, disproportionate focus on cases involving minor female victims can also be because of the way trafficking laws are structured and enforced. The legal language and framework surrounding consent in the US can contribute to why most victims are found to be minor females. In the US, no one under the age of 18 is legally able to consent to commercial sex. As a result, cases involving minors typically require less intense scrutiny to differentiate whether the case is one of sex trafficking or



another crime. Under legal definitions, the age of the victim establishes that any form of forced or commercial sex is classified as sex trafficking. Several studies that find Black women and girls face a higher risk of victimization than their white counterparts find that this demographic is largely ignored by government efforts to combat trafficking due to color evasiveness (Nichols, 2016, p. 119). Therefore, victimization and exploitation can happen to anyone. While it mostly affects females, men are also vulnerable to such abuse. Color-evasive practices may influence which cases make federal court, often leading to an increase in the estimated number of white victims compared to other races. Additionally, the lack of community resources for Indigenous outreach in trafficking protection and prosecution contributes to the underrepresentation of data on Indigenous victims of trafficking. It is therefore important to identify and address the root causes of trafficking, like economic need in high-risk communities, to dismantle trafficking at its source.

Even with the limited data available from the sex trafficking prosecution cases, the fictitious victims used in successful sting operation cases provide fruitful insight into where the demand for commercial sex lies. Sting operations are planned police-initiated opportunities to target criminals who engage in a crime, resulting in arrest before an actual incident occurs. Sting operations are common in sex trafficking prosecution and often use fictitious victims to get in contact with the offenders rather than expose someone to actual harm. The profile of fictitious victims used, however, can provide valuable insight into where the most demand for victims arises, and therefore what demographics potentially are at a higher risk than others. The fictitious victims used in sting cases in 2023 were typically around 11-14 years of age, with mostly female fictitious victims (Federal Human Trafficking Report 2023). The demand from buyers in these cases highlights the increased risk that minor females have within the sex trafficking system.

Creating quantitative demographic statistics on sex trafficking is difficult because of the nature of the crime. Sexual orientation is commonly understood to play a role in sex trafficking vulnerability but is often underrepresented in available data due to the nature of sex trafficking prosecution. Many victims are excluded from representation in statistics as investigations prioritize the vulnerabilities of victims in federal cases and overlook victims who are unable or unwilling to cooperate with law enforcement. Further, the nature of legislation in the United States makes the focus of sex trafficking prosecution on traffickers of minor victims and often does not allow for adult victims to be treated as victims instead of prostitutes selling sex (Baird & Connolly, 2023). Nonetheless, the available research shows that demographics can play a role in sex trafficking victimization and are useful resources for creating victim-centered responses throughout the legal system to adequately access, understand, and support victim needs.

Immigrant status is another common demographic of trafficking victims. Not akin to citizenship status, being an immigrant is a distinct risk factor in trafficking victimization. This can be partially attributed to a lack of family or financial support in a foreign country, which fosters isolation that traffickers prey upon. It also can be because of a lack of familiarity with the legal system in the United States. There is decreased access to law enforcement protections for immigrants, and the common distrust in law enforcement only increases the threat of being trafficked in a time of financial need. Immigrants make up the majority of labor trafficking cases, and while classified differently than sex trafficking, they are not mutually exclusive (Federal Human Trafficking Report, 2021; 2023). Immigrant victims of trafficking face different systemic barriers than domestically born victims. This is largely in part due to the lack of access to T-Visas, or Trafficking Visas, for victims of trafficking, forcing them to rely on their abusers for

income. Without visas, there are limited options for immigrant victims, and they have to rely on adverse options to provide for themselves.

*“When you’re hungry, when you’re cold... and somebody told you that ‘I’m going to take care of you, and I will give you a home’, and sure enough they take that... and so they get into the business [of trafficking] and it’s hard for them to get out”*

- Emma Catague

Among the many patterns that develop when analyzing victims of trafficking, economic need stands out as a significant risk factor. Effective legal policies should account for a prevalence of risk factors such as homelessness or poverty, providing legal support for those communities to address trafficking from its source. However, the issue is so expansive that trafficking law focuses on prevention through increased penalties for trafficking crimes. Unfortunately, outreach efforts fail to adequately engage with non-white and atypical victim communities, like young men or immigrants who are recruited into survival sex. This disconnect allows the cycle of abuse to continue. Understanding the demographic factors of sex trafficking are crucial for delivering comprehensive legal care for victims and to creating prevention measures for victims.

### I.III Traffickers and Recruitment

Traffickers have a multitude of tactics to draw in victims and keep them isolated from support systems. Traffickers manipulate their victims and maintain the power dynamics that keep them vulnerable and under their abusers’ control. Some tactics include starvation, physical and psychological abuse, rape, forced drug usage, and threats to themselves or their family members (Knighten, 2022). These tactics can be used to trap victims, so they remain under the control of traffickers through a combination of fear, isolation from other alternatives or resources, and

physical or psychological captivity. Isolation is a significant factor in prolonging trafficking and enables traffickers to maintain power over their victims. By psychologically weakening their targets, traffickers reinforce their dominance. They restrict access to information or employment that would empower the victims to escape trafficking, fostering the belief that only the traffickers can support their needs. The cycle of reinforced degradation leads the victims into being both fearful of their traffickers and solely dependent on them for shelter, food, or security. These factors collectively discourage victims from seeking assistance or escaping their abusive situations.

Traffickers will also create needs, which they can exploit to maintain control over their victims. This can be seen in the prevalence of forced substance abuse or alcohol dependency in victims that can altogether diminish the victim's resistance to physical captivity (Knighten, 2022). The prevalence of homelessness in trafficking also creates space for substance abuse to occur. There is a significant increase in the likelihood of being offered substances when living on the streets (Walls and Bell, 2011). Victims who come from financial hardships face a higher risk of trafficking, and traffickers reinforce the idea that victims need them to survive through psychological degradation and forced substance reliance. During my time working for the City of Seattle Attorney's Office, we saw forced substance abuse played a significant role in the teen's continued entrapment by her abuser. The victim repeatedly returned to her abuser's home seeking not only shelter but drugs, as evidenced by her multiple overdoses on fentanyl and methamphetamine, which showed a reliance on these substances. Traffickers exploit addiction to maintain control over their victims, ensuring reliance on them for access to drugs, while simultaneously instilling fear of law enforcement.

Recruitment of victims can happen in many ways. A comprehensive study conducted by Kyla Baird and Jennifer Connolly in 2023 provides a recent overview of the demographics of traffickers and their relationships with victims. The majority of traffickers are male and most often romantic partners or close friends. However, traffickers can also include family members, roommates, classmates, a friend's boyfriend, drug dealers, or 'Johns' who purchase sex. The practice of 'boyfriending' is a prevalent tactic in trafficking recruitment schemes. This method, often referred to as romantic pimping, involves traffickers luring their victims with promises of an ideal life together, fostering trust and emotional dependence. The romantic pimps will exploit unmet needs by grooming victims with gifts, attention, or drugs in order to keep them entrapped in trafficking situations. While the trafficking relationship may not always start as an abusive one, traffickers often resort to coercion or force to solicit commercial sex from the victims. Another common recruitment tactic is to have trafficking victims recruit others. The recruiters, often females, have been trafficked themselves and are coerced into helping their traffickers as a means of improving their status in the abuser's eyes. These recruiters are called 'bottom girls'<sup>2</sup> and will help exploit others to secure better conditions for themselves or gain the favor of the pimp. The romantic relationship that initially facilitates victim recruitment persists over time, even as victims remain trafficked. In addition to romantic coercion, trafficking recruitment most often occurs online (Baird & Connolly, 2023, Federal Human Trafficking Report, 2021, 2023). Social media is the number one platform for recruitment, and dating apps are not far behind. However, not all victims have the same recruitment methods and control tactics. Immigrant victims are recruited differently than other victims. Many are lured from overseas with promises of a better life, often through offers of consistent high-paying work opportunities for themselves or their families. Once in the U.S., traffickers will withhold the promised legal documents.

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<sup>2</sup> Sometimes called 'bottoms' in literature.

Traffickers then use these documents to blackmail victims, coercing them into compliance with their demands. With the growth of social media as a recruitment tactic, the Department of Justice warns against the growing threat of trafficking online and the inadequacies of the current legal structure in addressing digital trafficking. Digital trafficking recruitment will be further discussed in Part III.

## II. Legal Barriers Associated with Sex Trafficking

Sex trafficking has been a prominent issue in the legal field for decades. Its illegality and prosecution measures have evolved over time, shaping the framework for addressing human trafficking violations. The origin of human and sex trafficking laws in the United States can be traced to The Mann Act of 1910. Commonly called The White Slave Act, The Mann Act effectively restricts the transportation via the Commerce Clause of humans for immoral reasons, such as prostitution or human trafficking, in the United States (Mann Act, 1910, Cornell, n.d.). The Mann Act was born not out of fear of trafficking deeply permeating society and harming individuals, but more as the result of moral panic and the criminalization of sexuality (Conant, 1995). Its amendment in 1986 restructured The Mann Act to no longer prohibit “immoral” acts and instead criminalize “any sexual activity for which any person can be charged with a criminal offense” (Mann Act, 1986). In the early 20th century, The White Slave Act was intended to police sexuality and became a foundation for sex trafficking laws focused mainly on white women and girls. Today, laws are built on the foundation of The Mann Act, and they continue to fall short in providing equal protection to victims, particularly across lines of racial, economic, and citizenship status. The Trafficking Victim Protection Act (TVPA) serves as the primary foundation for the laws criminalizing sex trafficking. It is generally regarded as a strong policy for preventing trafficking, prosecuting perpetrators, protecting victims, and establishing

interagency partnerships to better the efficacy of victim protection. Its influence has transcended borders and inspired the Palermo Protocol for human trafficking internationally. The TVPA has since been reauthorized to evolve with the needs of the legal system.

Despite these updates, the changes have not fully addressed the needs of victims. The TVPA is an inadequate foundation to base United States trafficking law upon. It is unable to keep up with the demand of sex trafficking prosecution, exhibited by estimated tens to hundreds of thousands of U.S. victims each year, regardless of multiple Act amendments (Baird & Connolly, Deliver Fund). It restricts victim aid to only 'severe victims of trafficking' despite recognizing the needs of all trafficking victims. It does not grant victims legal fees, yet requires them to testify for their cases in front of their traffickers and fully comply with prosecution measures that can place victims in more danger from abuser retaliation. The flawed fundamentals of the legal system surrounding sex trafficking enables the cycle of sexual abuse to continue. Ineffective prosecution strategies and systematic shortcomings within the United States legal system contribute to this ongoing issue.

### *II.I Foundational Sex Trafficking Law*

The TVPA, first established in 2000, was intended to combat sex trafficking through protection, prevention, and prosecution. It aims to increase the threshold of perpetrator punishment and therefore reduce the demand for trafficking as a way of prevention. It allocates funding annually for victim resources, establishes interagency protection federal task forces, and sets up provisions for immigrant victims who have suffered severe forms of trafficking to receive T-visas to avoid deportation. While initially praised as a model for international anti-trafficking efforts, the legislation has significant shortcomings in victim support. The Act places excessive burdens on victims, requiring them to prove "severe" trafficking through force, fraud, or coercion

to receive government benefits. This burden of proof is particularly challenging for immigrant victims seeking T-Visas, who must also assist law enforcement in investigations in spite of risk to personal safety. The T-Visa system is notably inefficient, with only a fraction of the 5,000 annually available visas being granted despite thousands of applications (Women's Refugee Commission, 2010). The TVPA allocates resources disproportionately, prioritizing certain victim profiles such as white minors, while overlooking high-risk populations including Indigenous people, Black women and girls, and LGBTQ+ individuals. The Act also fails to consistently provide damages to victims, with restitution requested in fewer than two-thirds of trafficking cases. Altogether, while the TVPA has strengthened prosecution efforts, it continues to fall short in addressing the socioeconomic factors underlying trafficking and in providing comprehensive victim-centered support.

Since 2000, the TVPA has gone through frequent reauthorizations. Originally, victims lacked legal authority. The 2003 reauthorization endowed victims and their families with the right to sue their traffickers. Trafficking was also added to the list of crimes that can be prosecuted under racketeering charges.<sup>[66]</sup> However, the 2003 reauthorization also critically restricted funding to advocacy groups that also supported the legalization of prostitution. The restriction of funding to these groups limited victim access to crucial financial resources provided by advocacy groups like the Sex Workers Project in New York (Nichols, 2024, p. 246). With reduced access to victim resources, the Act in its reauthorizations did little to provide outreach to victims that was separate from government agencies. The conditions underscoring the allocation of funds also allowed the federal government to use the TVPA to withhold resources from organizations that were not solely focused on anti-trafficking advocacy or aligned with their policy goals. The often congruent nature of prostitution advocacy and sex trafficking



victim advocacy meant that a conditional funding restriction could hurt victims more than help with limited financial resource access.

In 2005, the TVPA was once again reauthorized to include increased Domestic Minor Sex Trafficking (DMST) protections and provisions, which allocated more funding for prosecution of trafficking in cases of US citizen victims (Nichols, 2024, p. 247). The intentional allocation of funding to US citizens while not exclusionary of immigrant victims, shows the priority that certain types of victims are given over others. Funding allocations can provide insight into the government's priority of white minor girls as victims, and its willful ignorance of other far more high-risk populations. Author Andrea Nichols finds in her book on page 230 that Indigenous population support is financially limited, essentially reduced to 'grassroots organizations,' and Black women and girls are largely ignored by government spending programs for trafficking. Prevention efforts generally target minor victims of trafficking, often white, and provide little resources to immigrant or atypical victims. Government prevention efforts explicated in the TVPA do not target high-risk groups, "because known high-risk populations are not consistently their primary focus- or even a focus in them at all" (Nichols, 2024, p. 230). The expansion of the TVPA in 2005 increased funding for victim outreach but in a way that disregarded support for minority victims and high-risk populations.

In 2008, the Act expanded T-Visa benefits for immigrant victims and expanded the definitions included in trafficking law. One of the major criticisms of the TVPA comes from the reaffirmed notion that the Act exists to benefit prosecution efforts of trafficking and not the socioeconomic underpinnings of sex trafficking that create the systematic cycles of sexual exploitation (Nichols, 2024, p. 248). The expansion of the legal definitions included under the legislation reinforces The Act's priority of supporting punishment measures over prevention

measures for victims. In 2013, the ability to prosecute migrant cases expanded with the establishment of clauses that created punishments for withholding documentation from victims, an all too frequent form of coercion for immigrant victims. The Act's reauthorization in 2019 continued to grow prosecutorial prospects with increased penalties for trafficking offenses, as legislation on trafficking aims to prevent trafficking through the threat of punishment. However, the reauthorization also initiated increased funding services for survivors.

The TVPA has grown and shifted over time but has left gaps in protection. One of the major aspects that drive the management and subsequent reauthorizations of the TVPA is the focus on prosecution for the federal or state body. The Act governs how victims are treated in court and allocates who is considered a victim of trafficking. In this allocation, the TVPA grants immunities to victims of 'severe' forms of trafficking, stating that they "should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked" (HR. 3244 (19)). The immunities are limited to those who are severely trafficked, which is restricted to forms of trafficking in which:

A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) 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*

- Trafficking Victims Protection Act, [*emphasis added*]

Differentiated by the requirement of force, fraud, or coercion, victims of severe trafficking must prove they have been forced into sex trafficking in some violent way to qualify for protections.

Therein lies one of the major barriers to trafficking law, the burden of proof. To receive benefits endowed by the TVPA, victims must prove that they have not only been trafficked, but also violently forced or coerced. Coercion is particularly difficult to quantify by prosecutors because many coercive factors are exhibited through invisible means, like threats against the victim or family safety, false promises of love, psychological abuse, exploitation or encouragement of a drug addiction, sexual abuse, or isolation (Warnath Group). Requiring that victims prove their victimization to possibly receive partial immunity from types of crimes that they were forced into revictimizes trafficked persons and discourages victims from working with law enforcement.

The requirement to prove coercion or harm to law enforcement to qualify for legal immunity also presents unique burdens to immigrant victims looking to access the allocated T-Visas. T-Visas offer temporary<sup>3</sup> visas to qualified victims of severe forms of trafficking that offer a collection of benefits to victims and their families. These include work permits, welfare support, and access to permanent residency (Chapkis, 2003). Also, immigrant victims often must advocate for themselves and prove the severity of their experiences while navigating legal and language barriers. In the TVPA, the implementation of the T-Visa is presented as a measure to prevent deportation of victims. However, the T-Visa has hidden requirements that once again ignore the needs of victims and instead force them to assist with prosecution efforts. Those who are eligible for T-Visas must, in addition to being a severe victim of trafficking, “comply with any reasonable law enforcement requests for assistance with an investigation or prosecution of a human trafficking case” (Nichols, 2024, p. 233; US Department of State, 2012, p. 362). Victims, in spite of fearing safety for themselves or their families, are required to assist law enforcement, often by testifying in person in front of their abusers. The requirements of the Act pay little attention to the wants or needs of victims, with many victims focused on prevention, their own

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<sup>3</sup> T-Visas often provide three to four years of eligibility.

recovery, or safety, whereas the criminal system prioritizes incarceration (Nichols, 2024). The T-Visa can therefore be better seen as an incentive for victims to help law enforcement eradicate trafficking and locate smuggling networks. The duality of the T-Visa lies in its presentation as a tool for migrants, while it primarily serves law enforcement. As much of undocumented migration is ‘chain migration’, victims are reluctant to expose their methods of entry into the country in exchange for the temporary right to remain in the country out of fear of exposing their friends and family members to prosecution and deportation (Chapkis, 2003, p. 932). Just as the TVPA is set up to assist traffickers in prosecution efforts, so is the T-Visa.

T-Visas are capped at 5,000 available per year. In 2005, there were an estimated 17,500 trafficked persons per year. Despite the prevalence of trafficking, from the span from 2000-2005, only 675 T-Visas were distributed (Women’s Refugee Commission, 2010). This is due to the intense scrutiny of the applications. The applications for T-Visas require a Law Enforcement Agency Declaration, where an officer testifies to whether the applicant has cooperated with investigators and determines whether or not the applicant is a suitable victim (Women’s Refugee Commission, 2010). The Visa application also requires that no part of the application be left blank. This can be a problem especially in cultures without middle names or typical American surname formats. If a victim does not have a middle name and the line is unfilled, the application is rejected without further scrutiny. The Department of Homeland Security receives approximately 2,000 applications per year for T-Visas, and yet out of the 5,000 available Visas, still 25% of applicants are denied (Nichols, 2024). This could be due to an inability to prove severity in trafficking circumstances, blank lines, or inability to cooperate with law enforcement to their satisfaction. Immigrant victims are unnecessarily burdened by the laws that govern the prosecution of sex trafficking in the US. They are ignored and excluded from accessing

legislative funding and outreach for victims. They are promised a temporary visa, but in reality, the T-Visa acts more as an incentive to re-victimize oneself or put their loved ones in danger to assist with prosecution. The TVPA appears to offer comprehensive care for victims through its focus on the three "P"s: prevention, protection, and prosecution. However, in practice, it often emphasizes prosecution over the other two aspects.

Despite its strong emphasis on prosecuting traffickers, the TVPA does not grant damages to victims. The TVPA omits the “awarding of actual and punitive damages, attorney’s fees, and litigation expenses to victims,” which leads to questioning surrounding the Act’s focus on victim protection (Nichols, 2024, p. 235). If the TVPA intended to support victims, would damages not only be intentionally awarded but encouraged? Restitution in trafficking cases, when requested by prosecutors, was awarded in 93% of trafficking cases but is requested in less than two-thirds of cases (Nichols, 2024, p. 242). The goal of prosecution is better understood as enhancing the legal system’s efficiency in punishing traffickers, rather than assisting victims after they are used by the legal system to aid prosecution without receiving adequate support or compensation.

The TVPA may be a well-regarded foundational text for sex trafficking protections in the US, but it has notable shortcomings. While it aims to enhance the prosecution of traffickers in the US, it tends to overlook high-risk demographics that leave non-white or otherwise lower-priority victims isolated from prosecutorial efforts. The specific services available to victims are limited to less than a hundred for children and adults nationwide, of which even fewer are designated for outreach to men, boys, or LGBTQ+ individuals (Nichols, 2024, p. 232). The TVPA has increased opportunities to bring about criminal charges for trafficking, but the current government-sanctioned route of increasing punishment lengths for traffickers as a way of preventing trafficking has little proof of efficacy (Nichols, 2024). The subsequent

reauthorizations that reform the Act have primarily strengthened the law for prosecutors rather than for victims. These laws pay little attention to victims' calls for increased protection from their abusers, little remorse for victims who are unable to testify against their traffickers, and minimal recovery efforts after post-trafficking. The TVPA, as the foundational text for prosecuting to prosecute sex trafficking nationwide, is largely focused on punishing traffickers. Despite having provisions for protection and funding, the TVPA provides few tangible resources for victims that truly meets the needs of the victims.

### *II.II Tightrope of Testimony*

When the foundational text of the TVPA fails to adequately protect victims, it is difficult to create a legal system and prosecution system that fully address the victim's needs. To get a better understanding of how victims are treated in the process of prosecution for trafficking, I conducted an interview with Judge Matthew Baldock out of Snohomish County in Washington. Judge Baldock provided some invaluable insight into the legal system in its actuality, highlighting some of the glaring issues with how prosecutors treat victims in a court of law. To prove victimization in a court, prosecution teams must make the point that victims were compelled or coerced against their will into trafficking. This requires the victim's testimony. However, "Victims do not feel comfortable trusting and working with law enforcement,...often due to repeated conditioning by their traffickers," says Baldock. So, survivors enter the legal field with an ingrained distrust of law enforcement, and "it's so often the case that the victims are ones who are marginalized already, who haven't had really good interactions with institutions, whether that's the school system or the public health system, or the foster care system" (Baldock). The reinforced distrust of law enforcement hurts victims by limiting their access to

support systems, legal protections, and public funding. When victims do not trust officers, they are unlikely to testify. Without victim support and cooperation, sex trafficking cases can crumble.

This is not just a practical failure of sex trafficking prosecution norms, but a fundamental aspect of the laws of evidence that disproportionately harm victims of sex trafficking. Studies show that prosecutors agree that victims are invaluable in the prosecution of traffickers. Prosecutors argue that “jurors are more likely to identify with a survivor if the survivor is present in court” (Nichols, 2024, p.182). Victim presence is crucial to the success of cases. In a study published by the Department of Justice by independent researchers, half of the interviewed prosecutors claimed that a sex trafficking case is “rarely successful without victim cooperation and testimony” (Clawson, Dutch, Lopez, Tiapula, 2008, vi). In various aspects of the study, prosecutors articulated that victim testimony was the first and most crucial part of a successful sex trafficking case. Baldock too, mentioned this, “it’s hard to build a case when you don’t have victim cooperation,” and that success rate is “often so highly dependent on cooperative victims. And that’s a rarity.” Fear of facing traffickers in court is another reason victims withdraw from testifying in cases. The United States Constitution in the 6th Amendment gives the accused the right to “be confronted with the witnesses against him” due to what is commonly referred to as the ‘confrontation clause’ (Constitution of the United States, Article 6). Washington State’s Constitution has its own version of this clause, under Article 1 Section 22, the accused is granted the right “to meet the witnesses against him face to face.”<sup>4</sup> This does not mean victims can appear visually through a recorded testimony for their protection either. Supreme Court case *Crawford v Washington* ruled against just that. The judgment asserted that the accused have the right to cross-examine their witnesses, and video testimonies are not able to answer to

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4 While sex trafficking is prosecuted by federal or state prosecutors, the victim is technically the complainant. Their testimony is treated like witness testimony.

cross-examination and are therefore inadmissible. The requirement of in-person, cross-examined testimony can dissuade sex trafficking victims from cooperating with law enforcement out of fear of seeing and speaking out against their abusers in court. Without victim testimony, it is very difficult for a prosecutor to win the case. Prosecutors ethically shouldn't move forward with cases they do not believe they can prove, so cases without testifying victims are often dropped (American Bar Association, n.d., Baldock). There needs to be a bridge between victims and prosecution, and one that doesn't threaten the safety or security of victims, like providing them victim advocates who accompany them to court proceedings, or ensuring pretrial that victims no longer live at the mercy of their abusers. For a process intended to support victims and offer them retribution, the legal system often falls short of providing the necessary resources to protect victims from harm or bridge the gap between law enforcement and survivors. Victims who do not testify can significantly hinder the prosecution of traffickers. However, the current structure of the legal system offers minimal support for victims to feel safe when testifying against their abusers.

### *II.III Criminalization of Victims*

The conversation surrounding sex trafficking legislation would not be complete without addressing prostitution law. Prostitution law involves consensual commercial sex, whereas sex trafficking is coerced or otherwise forced. Except for parts of Nevada, prostitution is still illegal in most of the United States. Because of the restrictions dictated by consent, minors legally cannot participate in consensual commercial sex. Therefore, in Domestic Minor Sex Trafficking (DMST) cases, prosecutors do not have to prove that commercial sex acts were the result of coercion or force, making it simple to legally categorize minors as victims. Yet, it is not uncommon for law enforcement to refer to underage victims of sex trafficking as "teen



prostitutes” and treat them as offenders upon arrest (Concepcion, Baird, Connolly, 2023, p. 191). The criminalization of prostitution and sex work has an adverse effect on victims. Over time and through reauthorizations of important sex trafficking law, it is more commonplace to recognize youth as victims automatically and not prostitutes or criminals. Trafficking laws provide supplemental ramifications for minor victims, and increased prosecution measures for pimps who abuse minor victims into sex trafficking. The understanding that minors do not have the maturity to understand the depth of their actions or understand how to remove themselves from an abusive situation is reflected in the legal treatment of minor victims. The recent adjustment to the laws shifting away from criminalizing minors aims to connect them with child protective services rather than classifying them as teen prostitutes (Anchan, 2016). Even though minor victims are easier to recognize, there are times where this does not happen. Victims will lie to law enforcement about their age, as instructed by their pimps, and will be arrested as prostitutes without further investigation. This is seen in a case from the New York Police Department, where a 15-year-old victim lied to police and said she was 18 years old when confronted by officers. Her trafficker had instructed her to do so, protecting him from the criminal liability for forcing her to participate in commercial sex. Police officers arrested her for prostitution at 15 (Mogulescu, 2012, 478). Sex trafficking laws that are written specifically to assist DMST victims *still* fail to adequately identify and assist minor victims of sex trafficking. Considering minor victims face many challenges, adult victims endure even more and severe difficulties. Adult victims are subjected to more intense scrutiny and are more frequently assumed to be consensually selling sex as prostitutes. As a result, many adult victims of sex trafficking are criminalized and not fully investigated as victims. Their traffickers or pimps walk free, and law enforcement focuses on those selling sex over those buying it.

The TVPA addresses criminalization of victims directly, “victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts committed as a direct result of being trafficked” (HR. 3244 (19)). Despite the intention to protect victims from criminalization, the reality of victim treatment is far different. Victims of trafficking are often criminalized by the legal system for a myriad of reasons, including improper investigation into victimization by law enforcement and the assumption of consensual prostitution instead of screening victims for signs of trafficking. Despite the clear protections listed in the TVPA, many victims of sex trafficking are arrested for crimes for illicit conduct they were forced to engage in, including drug use and prostitution (Mogulescu, 2012). Often adult victims are convicted as prostitutes. Once convicted, those convicted of prostitution are treated poorly in captivity, forced to endure unequal treatment from police officers and prosecutors. Some individuals convicted of prostitution were asked to perform sex acts in exchange for avoiding arrest. In her investigation of the criminalization of sex trafficking victims in New York City, author Kate Mogulescu explores how in prostitution cases even where there was suspicion of trafficking, prosecutors would still employ “a heavy-handed approach to compel cooperation with their investigations” and propose higher sentencing for criminal prostitution to coerce victims into complying with investigations (Mogulescu, 2012, 480). For an adult victim to be seen as a victim and not a willing participant in commercial sex, they also must convince the prosecution that they are victims. If victims are unconvincing or known to be victims but unable or unwilling to comply with law enforcement investigations, “they are made to go through the criminal court process marked as defendants” (Mogulescu, 2012, 481). If victims are afforded the right to contest their prostitution charges, they are faced with intense

scrutiny and pressure to convince prosecutors that they have been victimized by force or coercion.

Coercion, being a legally vague and visually undefined contributor to trafficking, is very difficult to prove in a court. Toko Serita, presiding judge of the Human Trafficking Intervention Court (HTIC) in New York City, stated that a “‘significant portion of street-level prostitution of adult women is pimp-controlled,’ and that ‘violence, subjugation, and control are integral aspects of pimp-controlled prostitution’” (Anchan, 2016, p. 124). According to the overlap between violence and subjugation, pimps are a clear proponent of forced commercial sex. Many states have laws prohibiting the promotion of prostitution to address this. For example, in Washington, RCW 9A.88.070 declares promoting prostitution “by threat or force to engage in prostitution or [profiting] from prostitution which results from such threat or force” as a Class B felony. Threat and force are both aspects of coercion that the TVPA declares to be indicative of severe forms of trafficking. Research frequently shows that pimps control trafficked persons, often women, by threat of force and violence, raising questions about why more prostitution cases are not initially screened for trafficking. Both traffickers and pimps use violence and coercion. Therefore, they should be prosecuted for the same crime, sex trafficking.

A comprehensive study conducted by Christine Anchan explores the difficulties adult victims of sex trafficking face in the legal system. The nature of the criminal court does not afford victims the chance to be investigated properly by law enforcement. The high concentration of low-level criminal cases (that include crimes like prostitution) means that the level of investigation available into each defendant is limited. Even if defendants are properly screened for victimization, by the time law enforcement can do so “the [individual] is [generally] already subject to arrest and detention” (Anchan, 2016, p. 126). Criminalization of victims does

not only occur with prostitution. If arrested, victims can be encouraged to continue to rely on their traffickers. Pimps use threats of criminalization as another tactic for coercing their victims into compliance. They can use the victim's criminal record to make them believe they are stuck in the system, unable to receive employment, and that they will be unable to provide for themselves any other way. Criminalizing victims not only harms their ability to receive justice but gives traffickers more control over their victims, trapping them in these sexual cycles of abuse.

Criminalization of victims affects both adult and minor victims. Despite sex trafficking legislation and its structure to provide additional support to minors, they still face discriminatory treatment by law enforcement. The legal system that prosecutes trafficking often reaffirms victims' fear of improper treatment. For adults, this fear is even more pronounced. They face threats of severe criminal sentencing, despite the TVPA provision that aims to prevent the criminalization of actions committed as a result of being trafficked. Adult victims of trafficking are largely still considered to have chosen to participate in commercial sex and are treated as prostitutes by the court. Even in cases where they are suspected to be victims, they are still treated like criminals. Emma Catague shared with me that although some prostitution begins consensually, the manipulative control asserted by pimps quickly turns the work coercive and forceful, leaving women without the money they earn. This too is a form of trafficking that is overlooked by the legal system. Despite the difficulty of identifying victims, it is crucial to address the issue seriously to combat trafficking as a whole. If the legal system aims to decrease the prevalence of trafficking nationwide, it cannot afford to overlook victims and dismiss them as prostitutes. Doing so only allows trafficking to persist.

Criminalization hurts victims, and the legal system needs to expand its definition of what constitutes trafficking to include adult victims who have been subject to “deception, [the] abuse of power or of a position of vulnerability, or ... the giving or receiving of payments or benefits to achieve the consent of a person having control over another person” (Anchan, 2016, p.131,132). This expansion accounts for the coercive relationship that prostitutes have with their pimps and provides a better understanding of the invisible factors that can contribute to trafficking. The legal system also needs better training for officers in charge of screening victims during arrests, and to eradicate coercive sentencing for victims to compel them to cooperate with trafficking investigations.

#### *II.IV Case Study of Washington and Florida Sex Trafficking Law*

States need more victim-centered legal approaches to investigate and dismantle the cycles of abuse that perpetuate sex trafficking. This starts with the treatment of prostitution under the law. The manner in which a state prosecutes prostitution is closely linked to how a state treats victims of sex trafficking. The FBI recognizes that “prostitutes are often victims of sex trafficking,” and yet this federal understanding is not applied in the state level of prostitution prosecution equally (FBI Bulletin, 2015). It is far too common nationwide that victims of sex trafficking are harshly treated as criminals due to strict prostitution sentencing. Washington and Florida exemplify two contrary sides to how reformative treatment of prostitution crimes contributes to a focus on victim-centered resources and advocacy that dismantle long-standing institutions of sex trafficking. Through this comparison, it is evident that criminalizing the buyers of prostitution more effectively reduces the supply of prostitution and the demand for sex trafficking. Despite this, there is a high incidence of victims of sex trafficking being arrested and treated as criminals under prostitution laws. Due to the significant overlap of prostitution arrests

and victims of sex trafficking, adopting a more investigative and rehabilitative approach to addressing prostitution can better protect these victims. By focusing on identifying and supporting victims rather than criminalizing them, the legal system can more effectively dismantle the cycles of abuse that perpetuate sex trafficking. States therefore should consider adopting some of the victim-centered policies pioneered by Washington to reduce prostitution and thoroughly investigate individuals involved in prostitution to screen for trafficking.

Washington and Florida differ on fundamental state laws against prostitution and how they choose to address prostitution crimes. Florida takes a far more aggressive stance against prostitution by attacking those selling sex, whereas Washington takes a more aggressive stance on those soliciting or promoting commercial sex. However, in Florida, the aggressive laws against those selling sex contribute to the increased criminalization of victims. The laws in Washington promote a better understanding of prostitution and treat the issue of sex trafficking and prostitution by focusing on limiting the demand for forced and sold commercial sex. While neither approach is a perfect representation on how trafficking should be handled at the state level, Washington's approach to prostitution provides better legal protection for victims. It creates more opportunities for trafficked persons to be recognized as victims rather than being criminalized for the actions committed under coercion. Furthermore, Washington's prosecution efforts align more with victim-centered approaches that aim to break the cycles of trafficking that are sustained by criminalization. By focusing on protecting and supporting victims rather than penalizing them, Washington sets an example for other states to follow in their efforts to combat sex trafficking effectively.

Prostitution is illegal in both Washington and Florida. Washington State law RCW 9A.88.030 lists the prostitution laws of the state, declaring prostitution as an illegal

misdemeanor. In the revised Washington Criminal Code of 1970, prostitution was named a misdemeanor for the first and second offense, but three or more offenses increased the severity to a gross misdemeanor. However, in the current active version of the law, prostitution is a misdemeanor, regardless of repeated offenses (RCW 9A.88.030). Patronizing a prostitute is similarly a misdemeanor in Washington criminal code. However, promoting prostitution is considered a Class B or Class C felony depending on the degree. The definition of a Class B felony promotion of prostitution overlaps with the definition for human trafficking, a Class A felony, and raises the question of how prosecutors decide which class is assigned to each case. Class B felony promotion of a prostitute includes “compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force” (RCW 9A.88.070). This overlaps with the nationwide definition of sex trafficking. This discrepancy leaves open debate as to what makes someone a victim and what makes someone else a criminal.

Florida State Law Chapter 796 Section 07 similarly criminalizes prostitution but instead of consistent non-compounded sentencing, it establishes subsequent increasing sentencing severity for multiple violations. Florida state code has the same sentencing provisions for prostitution prosecution and soliciting a prostitute. Florida law states that for both soliciting and committing prostitution, a first violation is a misdemeanor of the second degree, second violation is a misdemeanor of the first degree, and third or subsequent offense is a third-degree felony (Florida State Law, 796.07, (4)(a)). Unlike Washington, Florida state law takes a far more punitive approach to prostitution. It does not distinguish severity between prostitution and solicitation charges. Further, Section 2(f) of the code covers what Washington state calls “promoting prostitution.” In the line of text, it is illegal to “solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation” (796.07, (2)(f)). However, this crime is

sentenced differently than solicitation or participation in prostitution. Instead, 2(f) is more disciplinary starting at a first-degree misdemeanor for the first violation, third-degree felony for the second, and second-degree felony for any subsequent offenses (796.07, (5)(a)). Florida law handles the offenses for promoting prostitution, or pimping, at a lesser degree than Washington does. In Florida, a third offense of prostitution is the same sentencing severity as enticing someone into prostitution.

Prostitution is handled differently in Washington and Florida, both in terms of legal framework and enforcement efforts. Washington prostitution law treats those suspected of prostitution with more lenient criminal penalties, focusing instead on victim-centered reform to decrease prostitution. In contrast, Florida can charge repeat offenders with felony charges, which restricts their ability to access other means of employment.<sup>5</sup> When the laws are put into action, the difference is even clearer. One way in which Seattle police departments aim to reduce the prevalence of prostitution is through sting operations. In an interview with Kimberly McDaniel, a Victim Advocate at the Seattle City Attorney's Office, we discussed the Seattle Police Department's process of sting operations in Washington. Both McDaniel and Baldock agreed that Washington's prosecution of prostitution uniquely focuses on targeting Johns, and not on those selling sex for their survival. They attack prostitution through the economic theory of reducing demand to reduce the supply of prostitutes and victims of trafficking in commercial sex. In the notes of RCW 9A.88.030, the need for victim-centered reform comes from a position of protecting children that have experienced sexual abuse or harm. This is used to contribute to the processes for prosecuting prostitution as well. The legislature note in RCW 7.68.380 states that the trauma endured by commercial sexual exploitation of children has a long-term traumatic

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<sup>5</sup> While misdemeanor charges can also restrict employment opportunities, felonies are well known as more restrictive in limiting civil rights like voting and employment.



impact, for which “the state shall provide a victim-centered, trauma-informed response to children who are exploited in this manner rather than treating them as criminals.” The focus on victim-centered state functions shows through the actions of police looking to address prostitution without harming those who may be victims of trafficking.

Washington state law enforcement sting operations focus on reducing the demand for sold sex through a prosecution of Johns. Called ‘John Stings,’ officers pose as prostitutes and arrest those who look to purchase sex. While these are not always connected to trafficking, it is more common than not. In a recent 2024 case in Washington state, an Othello Police Department Human and Sex Trafficking Operation aimed at “addressing the supply and demand for commercial sex in the region” found eight men guilty of patronizing a prostitute (SourceOne News, November 2024). However, what separates this example from the myriad of other operations nationwide was the law enforcement treatment of the prostitutes involved. Rather than penalizing them, the women engaging in sex work were interviewed and connected with resources by New Hope, which is a regional advocacy group for domestic violence and exploitation survivors. Due to the thoroughness of the investigation, each woman interviewed was individually screened for signs of trafficking. The investigation also has led to a potential trafficker investigation (SourceOne News). The police department stressed that its goal was to take a victim-centered approach to addressing prostitution and making sure that they can contact and assist victims in leaving forced sex work. A statement from the Police Department wrote that their approach to prostitution is informed by the understanding that “the vast majority of sex workers have endured physical, emotional, and sexual abuse in their past and most have been influenced by a trafficker at some point,” and therefore, they will not charge all the found women in the case with crimes (Othello Police Department). By penalizing those buying sex, the Othello

Police Department, and Washington State prosecutors can tackle the demand for sex trafficking. Another tactic used in Washington, says McDaniel, is the use of pre-filing diversions for women arrested for prostitution that provides them with victim resources rather than sending them directly through the punitive carceral system. This is not the only example of the buyer-focused sting operations that occur in Washington. There are numerous cases of stings in various counties in Washington that all focus on preventing and arresting those buying sex and increasing the demand for sex trafficking, and not about citing prostitution.<sup>6</sup> Victim-centered approaches to these kinds of cases are therefore not only important as it prevents criminalization of victims and connects them with financial and mental health resources, but it also tackles the foundations of the sex trafficking system.

Florida takes a different approach to prosecuting prostitution. Their more aggressive policies against those, often women, who are selling sex (or forced to sell sex) carry over into trafficking through an increased criminalization of victims. While Florida has a history of doing both John Stings and prostitution stings, the ongoing use of prostitution stings where officers pose as buyers creates concern over the intention of the stings as a way of criminalizing prostitution further instead of using it to address sex trafficking. In a November case out of Polk County, Florida, 20 massage therapists were accused and arrested for prostitution. The County Sheriff, Grady Judd, said in a press interview that “Many of the prostitutes were in the country on work visas, and that the department will be working with the federal government to revoke the visas and deport the women.” However, the women were afforded little investigation into trafficking, and as previously established, withholding or offering documentation in exchange for

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<sup>6</sup> Examples include “12 arrested in NCW underage prostitution sting”, *The Wenatchee World*, July 2024; “Undercover operation to fight sex trafficking makes nearly dozen arrests near truck stop”, *KOMO News*, March 2018

sex acts is not an uncommon form of pimping. Deportation as a solution to commercial sex also does not eradicate the demand for commercial sex and trafficking. Instead, it fails to address the underlying issues that drive demand. When individuals are arrested, others often fill the void, perpetuating the cycle of supply. Restricting access to work visas and removing legitimate employment opportunities for women also perpetuates the need for forms of employment like prostitution or reliance on a trafficker for money and shelter. Attacking prostitution in sweeping, generalizing methods like that from Polk County just reinforces the need for more comprehensive victim investigations. To combat sex trafficking, there needs to be a thorough understanding and active policy decisions that do not criminalize victims but address the root causes of trafficking.

“If people were not paying for sex, human sex trafficking would not exist” (Othello Police Department). Prostitution and sex trafficking are well-known to be linked to one another and are still prosecuted as different, separate crimes. The FBI-recommended victim-centered approach to dismantling the abusive power imbalances of sex trafficking and prostitution should be carried out throughout the country evenly. Pimps who use force or coercion and traffickers should be prosecuted with equal severity and under the same sentencing parameters. To call one form of forced commercial sex prostitution versus another form trafficking hurts victims and reinforces a sense of invincibility for pimps and traffickers to continue to facilitate human trafficking. The legal system has examples of how to better connect with victims and provide financial and legal assistance to reduce the prevalence of prostitution and trafficking nationwide but focuses on carceral punishment and prosecution more than resource-based prevention methods. In doing so, the criminalization of victims only grows in incidence and stigma. Washington and Florida take two different approaches to prostitution, and it is reflected in their

pursuit of ending sex trafficking. Victim-centered approaches to trafficking like those that provide financial support to victims end up addressing the causes of trafficking and provide victims the greater chance at leaving trafficking than prosecution and criminalization.

### III. Digitization of Trafficking

The increased use of the internet to connect to one another has changed the way people interact. Connection has never been easier, and private information is spread via social media like wildfire. However, the increased use of technology to facilitate human interaction has created a unique ability for trafficking to occur online. Parasocial relationships dominate the lives of young teens and adults looking for connection. The trafficking business has adjusted itself to better exploit the “opportunities for expansion afforded by social media” (Polaris, 2018, p. 17). Traffickers can learn a victim’s interests and connect with them through social media, effectively becoming an online friendship that can progress to romantic coercion. Teens posting online who vent about relationship or friendship issues, abusive family members, or troubles at school are giving traffickers direct access to their interests and insecurities. Victims who feel invisible or believe that nobody cares about them will more easily “believe the trafficker is the only one who cares about them” (Mapp, 2016, Knighten, 2022, p. 39). Social media amplifies this risk, giving victims more access to people who promise to satisfy their wants and needs or love them. Vulnerable teens who feel ignored by those around them will isolate themselves to attain more attention from traffickers until that relationship becomes abusive and sex trafficking.

The internet and social media have grown exponentially since their founding. As with any new innovation, the law is yet to adequately address the possible harms presented by the internet. The current laws that address trafficking online leave loopholes for companies and individuals to evade legal responsibilities for complacency in trafficking. Social media platforms

like Snapchat are overwhelmed with reports of child sexual exploitation and struggle to manage the volume of cases and investigate accordingly. The law must evolve to address the role the internet plays in facilitating sex trafficking. Recruitment, entrapment, and purchasing have all become faster online and more elusive online, posing significant challenges for law enforcement.

### III.I Relationship Between Social Media and Trafficking

The high incidence of internet access in youth directly relates to the increase in trafficking. As of 2018, 90% of 13–17-year-olds had access to the internet daily (O'Brien, 2020). A study conducted by Pew Research Center published on January 5th, 2025, found that the number has increased to approximately 96%, with 46% of teens saying their internet use was “almost constant” (PRC, 2025). Social media use has also continued to grow. As of 2023, 60% of teens used Snapchat, and 14% said they used it almost constantly (PRC, 2023). The increasing use of Snapchat consistently raises red flags for trafficking researchers and investigators due to the high incidence of Snapchat use to recruit victims. The top three platforms identified to recruit victims of sex trafficking are Snapchat, Facebook, and Instagram, with Snapchat being the most common (Federal Human Trafficking Report, 2023). For the trafficking cases between 2019-2023, 522 (or approximately 63%) of these victims were recruited online<sup>7</sup>. The growth of social media and constant teen internet usage stimulates the online presence of trafficking. It further escalates the risk for youth recruitment through online platforms that are increasingly difficult to stop.

Solicitation also thrives online. In addition to being a recruitment tool, Snapchat is also one of the most commonly used solicitation sites after Megapersonals (Federal Human Trafficking Report, 2023). The disappearing message features that made Snapchat unique have

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<sup>7</sup> Out of the cases where recruitment location could be identified.

now spread to other forms of social media, like Instagram. These disappearing messages allow for traffickers to distribute child pornography and communicate with victims, especially minors, on a platform they perceive non-permanent. Between 2019-2023, Snapchat was the most common website to share child sexual abuse material online, as seen in almost 17% of cases (Federal Human Trafficking Report, 2023, p. 73). The presence of trafficking online not only shapes how social media is used, but the nature of websites that exist online. Pimps post their victims online for purchasing through platforms like Megapersonals, Skipthegames, Craigslist and CityXGuide (Federal Human Trafficking Report, 2023, Baldock). Buyers, or “Johns”, can log into the online listings that feature photos of the victims, often minors and females, and select one to purchase for commercial sex. In the case of the *United States v Al Bones, Jr.*, a fake buyer through an FBI sting operation contacted Bones and selected a 16-year-old victim on one of these platforms and arranged for a meeting in a motel. He was only going to be charged \$150 for commercial sex with the young teen girl. At the time of the proposed meeting, the fake buyer arrived with the FBI to arrest Bones Jr. for sex trafficking of a minor (Federal Human Trafficking Report, 2023, p.73). One of the most infamous platforms for sex trafficking distribution online was called Backpage. Backpage.com was similar to Craigslist and it was indicted for a multitude of facilitation of prostitution and laundering charges back in 2018. The company was found to have brought in \$500 million in funds from their prostitution ads they knowingly allowed to exist on the platform (U.S. District of Arizona DOJ). Sex sells, and online forums designated for purchasing commercial sex have never been easier or more streamlined. The nature of online banking and payment methods like Venmo, PayPal, and Cash App all streamline online trafficking to be faster and turn a larger profit for pimps. The demand and supply chain affects sex trafficking just as much as it affects any other industry (Tidwell, 2016). The internet

facilitates the demand for sex, especially for sex with minors or trafficking victims, by providing easy and often anonymous access to these illegal services. Traffickers use codenames to circumvent surveillance online. Some websites use words like ‘Lolita’ for underage victims, or ‘French’ or ‘Greek’ to refer to different types of sex offered (Tidwell 2016). Trafficking recruitment and purchasing has never been easier because of the internet. As the role of the internet in sex trafficking continues to expand, the law needs to evolve to effectively combat and adapt to digital trafficking resources and platforms. This includes updating legal frameworks to address the unique challenges posed by online recruitment, entrapment, and purchasing, as well as enhancing law enforcement’s ability to track and prosecute these crimes.

### III.II Laws Surrounding Digital Trafficking

*“It has always been and will always continue to be the case that the law enforcement response is a decade behind the problem itself. It’s always reactive. And I don’t think the current law enforcement mechanisms are anywhere near prepared to address the profound problem that the Digital Age has presented...”*

*- Judge Baldock*

For decades, laws have been cultivating the growth of the digital age and the internet. These initiatives have had unintended consequences, including the proliferation of trafficking content online. In 1996, the Communications Decency Act aimed to protect from obscene material distributed online. It included criminal provisions for anyone who sent obscene material to minors, which was revoked a year later in 1997. As it has evolved, it has included sections that encourage internet growth and company protections from the actions of individuals who use their webpages or applications. The most indicative example of this is Section 230 of the Act, which protects web companies from liability for content posted or advertised on their sites (Polaris,

2018). This was the issue in the case of the Backpage lawsuit, whilst the United States government could prosecute the company for a manifold of charges relating to promotion of prostitution and laundering, the victims and their families that were exploited on the site received no payment or benefits from the company due to Section 230. The promotion of internet freedom also can interfere with the prosecution of traffickers and obscene material.

Snapchat is one of the most active social media platforms for child exploitation and sex trafficking. They have many policies in place to address trafficking, including the use of software like PhotoDNA and Google Child Sexual Abuse Imagery that work to automatically detect child sex trafficking against the database of Child Sexual Exploitation and Abuse (CSEA) images online (Snapchat, Transparency Report). All of the information discovered is reported to the U.S. National Center for Missing and Exploited Children (NCMEC). Between January 1st, 2024, and June 30th, 2024, despite there being 1,388,230 reports of Child Sexual Exploitation on the platform, only 8.2% of the reports were enforced by Snapchat (Snapchat, Transparency Report). The reporting data, however, is derived from user reporting and flagging. Public content is screened by Snapchat, but the messaging between potential victims and traffickers is private and difficult to track. Child pornography can be distributed through Snapchat and left unchecked, especially if distributed through private chats. Given the volume of reports and the challenges in tracking all instances, it's reasonable to assume that the data reported over six months is significantly lower than the actual number of exploitation cases facilitated by the app. In cases where Snapchat detects trafficking, they can use a user's personal data and report the incident to the police (Snapchat, Privacy Policy). However, Snapchat's messages, images, and videos - or 'Snaps' - automatically delete either immediately or within 24 hours after viewing. Despite Snapchat's willingness to comply with law enforcement, the platform's auto-delete feature and



privacy policy often results in the loss of crucial evidence needed to prove trafficking and prosecute traffickers. Snapchat's exploitation policies also only apply to minors and have minimal provisions for combating trafficking in adults. While users can report sexual content that can include potential trafficking solicitation, overall, there are no specific policies to address adult human trafficking. The law has limited control over company privacy policies, and the way platforms are structured often puts victims at a disadvantage while companies benefit financially. This imbalance can make it difficult for victims to seek justice and protection, as companies prioritize their own interests and profit. As a result of Section 230 of the Communications Decency Act, victims cannot sue the major companies that can profit from the existence of trafficking on their sites. The low incidence of enforcement concerning child exploitation highlights the inadequacy of social media platforms' responses to trafficking issues.

After the federal indictment of Backpage, two acts were implemented to give victims better access to legal reparations against corporations who knowingly facilitate trafficking. One example is the Stop Enabling Sex Trafficking Act, or SESTA, that minorly altered the Communications Decency Act. These changes now allow victims to sue corporations civilly and enable the federal government to press criminal charges against those who facilitate sex trafficking through online platforms. The Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA) was initiated in tandem with SESTA expresses that Section 230 "was not intended to provide legal protection to websites that unlawfully promote and facilitate prostitution," and further allows states to pursue a federal civil action to enforce federal sex trafficking violations (H.R. 1865). While SESTA and FOSTA have expanded the ability to prosecute sex trafficking, they have done little to prevent trafficking online.

Digital trafficking will only continue to grow as the internet expands. The current laws in place provide restrictions on online content, but the content distribution system changes too rapidly for the laws to remain effective. Lewd material is constantly being published, consumed, and increasing the demand for commercial sex. The laws that currently address sex trafficking do more to assist law enforcement and the federal prosecution system than to protect the victims themselves. The 2024 Human Trafficking Report released by the Department of Justice also recognizes the gravity of the expansion of online sex trafficking, calling it a “complex and growing threat” (Dept. of Justice, 2024). Even under the most recent adaptations to federal law, companies are still relatively shielded from criminal liability for the actions that are allowed to persist on their platforms. Lawmakers need to collaborate with companies to enhance the protection and prosecution of online trafficking. This includes incorporating measures that provide companies greater oversight over the exchange of sexual exploitation on their platforms. Prosecution measures are important, but do not address the fundamental demand that is exhibited by the prevalence of online trafficking. The law must provide not only prosecution, but protection and prevention measures that limit the expansion of sex trafficking in the Digital Age.

#### IV. Recommended System Reform

The current legal system aims to address trafficking by increasing methods for prosecution. The TVPA structures itself around assisting prosecutors in attacking trafficking, rather than increasing access to resources for victims. Unfortunately, this does not align with the wants or needs of victims, nor does it address the root causes of trafficking. While the current legal system has evolved to address the complexities of trafficking, it still has a long way to go in terms of connecting with and protecting victims as there are still gaps in victim support and protection. While certain parts of the country are piloting victim-centered reform to the legal

system, this needs to expand nationwide. To effectively dismantle trafficking, the law must address the economic need that creates space for trafficking to thrive, and work to decrease the demand for trafficked sex.

Victim advocacy plays a vital role in supporting victims and aiding in their rehabilitation. Creating robust support systems is essential for helping victims regain a sense of safety, providing financial relief and facilitating access to justice. Currently, the court does not provide enough financial resources to victims. According to Emma Catague, a member of advocacy group API Chaya which provides human trafficking and domestic violence resources to members of the Asian and Pacific Islander community, the cost of supporting a victim is far higher than many people realize. Victims who are taken out of trafficking situations need housing, food, clothing, cash, and protection (Catague). Victims can face retaliatory violence from their traffickers to discourage them from testifying in trials. They need protection and the assurance that their dependents will be protected as well. This costs about \$5,000 per victim to supply with shelter and basic necessities, Catague estimates. The needs are far greater than community organizations can provide to multiple victims all at once. For this reason, government agencies need to work with the experts in victim advocacy to provide them with financial resources that best suit the needs of victims. When victims are protected, the legal system can more effectively prosecute trafficking. An increased understanding of the causes of victimization also gives the government the ability to investigate and protect the high-risk populations to restrict the ability of traffickers to recruit and manipulate potential victims.

Additionally, culturally specific victim advocacy needs to be integrated into the system of trafficking advocacy and funding systems. Legal literacy is imperative for victims to understand their rights. Having an advocate who understands the legal process and can communicate this

information to the victim without antagonizing them, breaking their trust, or dissuading them from cooperation is crucial. This is even more important when translating across cultural norms and languages as it ensures that victims receive accurate and empathetic support tailored to their unique backgrounds. Catague stresses the importance of providing victims with the services they need in “a more culturally appropriate way.” She says that lawyers alone cannot fully encapsulate the humanity that is required in handling such delicate situations like those presented in trafficking. The repeated questioning used in cross-examinations can come across as rude or aggressive in other cultures, making victims second-guess their answers and skew the prosecution process (Nichols, 2024, p. 239). Advocates prepare them for this process, attend court with them, and make sure they are not taken advantage of by the system. Culturally specific support decreases the stressors for victims and connects them with a community of people with similar backgrounds. Loneliness and isolation are devastating for victims and can contribute to their continued abuse by their traffickers. Re-engaging victims with a cultural community can reduce the power a trafficker holds over a survivor, decreasing the chances of revictimization.

Advocates and social workers play a crucial role in the legal system. The resources they provide are invaluable to creating and maintaining trust during prosecution efforts. Both McDaniel and Baldock emphasized this in their interviews, stressing the importance of advocates in fostering trust between law enforcement, prosecutors and the victims. These advocates act as crucial bridges, ensuring that victims feel supported and understood throughout the legal process. The legal system has a lot to gain from victim-centered reforms. Currently, there is pressure for survivors to cooperate and to be model victims worthy of reintegration funds and resources (Brennan & Plambech, 2018). This approach can be challenging and may not always align with

the needs and experiences of all victims. Increased trust in the legal system directly correlates with greater cooperation from victims, which in turn enhances the success rate of trafficking cases.

### Conclusion

Sex trafficking has plagued the country for decades, yet the legal system has struggled to keep pace with the demand for reform. The primary form of trafficking legislation, the TVPA, claims to be based upon pillars of protection, prevention, and prosecution. However, the current framework disproportionately prioritizes prosecution over victim support, often treating survivors as tools for legal cases rather than individuals in need and deserving comprehensive assistance. Prevention efforts are severely underfunded in the United States. The available quantitative research that identifies patterns of high-risk demographics does not align with the distribution of funds to support services. Those who do not fit the model victim demographic of minor white females have access to significantly fewer resources. This neglect of high-risk demographics due to color and class evasiveness perpetuates the cycle of victimization.

Protection for victims is also insufficient, as they are frequently criminalized under prostitution laws or other related crimes, despite the TVPA containing a clear stipulation of immunity for crimes committed as a result of trafficking. T-Visas, designed to provide immigrant victims with four-year work authorization, have devolved into prosecutorial bargaining chips. A victim's cooperation with an investigation can determine whether they are recognized as a victim or charged with a crime as a prostitute. Even those who testify face neglect regarding their safety both in and out of the courtroom. Adult victims in particular are criminalized under prostitution laws and have access to even fewer supportive resources. Case studies reveal that the

criminalization of trafficking victims through prostitution sentencing can sometimes result in even harsher penalties than those faced by the traffickers themselves.

Prosecution efforts dominate the trafficking conversation, despite victims' calls to prioritize prevention and protection. Government resources are disproportionately allocated toward prosecution rather than prevention, particularly for high-risk demographics. Despite multiple reauthorizations of the Trafficking Victims Protection Act to adapt to evolving challenges, the application often prioritizes prosecutorial goals over victim's support. The Act's incentives for victim testimony can often become coercive leverage points rather than protective measures. National inconsistencies in anti-trafficking approaches create unpredictable outcomes for victims, fostering distrust in the legal system. This distrust is best addressed through victim advocacy, yet resources for such advocacy are underfunded and misunderstood.

Culturally specific communities for victims exist, but the demand for these communities far outweighs the existing space and resources. Additionally, the system is woefully unprepared to address online trafficking. The internet and social media are the primary recruitment platforms in facilitating trafficking operations, purchases, and payments. Support for increasing technological innovation online has hindered the ability for prosecutors to address online trafficking due to privacy policies and disappearing evidence. As trafficking increasingly moves online, the legal framework must evolve to address new challenges.

While the law does offer protections for victims, these protection measures are often insufficient. To break the systemic cycles of sexual abuse inherent in trafficking, government agencies must address the root socioeconomic factors that contribute to it. Reducing the needs of high-risk individuals decreases the likelihood of relying on a trafficker for food, shelter, or

support. Increasing legal literacy, especially in immigrant and non-white communities can empower victims with a better understanding of their rights.

Law enforcement must adopt victim-centered methods to dismantle trafficking, which requires better training and education for law enforcement and first responders to avoid systemic distrust and criminalization of victims. Crimes with high prevalence of victim overlap, such as prostitution, need improved investigative approaches to ensure victims are identified and connected with resources to leave trafficking safely. A unified approach to prostitution would improve the lives of victims and account for several unreported trafficking cases.

Aggressively prosecuting Johns and pimps, rather than focusing on prosecuting prostitution would reduce the demand for sex trafficking and the manipulation of victims into sexual slavery. The benefits offered by courts to encourage testimony and victim compliance need to be restructured, focusing on prioritizing victims' welfare over prosecution goals. Far too many T-Visa applications are denied on technicalities, and victims should be guaranteed these benefits without risking their lives to testify in the face of their traffickers. Sex trafficking will evolve alongside the internet, and however it may be, the legal system must be prepared to prevent trafficking before it starts. Although the current system falls short in protecting victims now, it has the potential to improve. With victim-centered reform, the law can learn from the testimonies of survivors to bolster not just prevention and protection measures, but also prosecution of traffickers nationwide.

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