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Mitigating Sex Trafficking: Preventative Methods for Reducing Sexual Exploitation

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Mitigating Sex Trafficking: Preventative Methods for Reducing Sexual Exploitation

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An undergraduate honors thesis submitted in partial fulfillment of the requirements for a

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In

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Abstract

In recent years, sex trafficking has become more well-known in the public sphere, generating activism and legislation in an effort to combat this human rights issue. With this increased awareness comes challenges in appropriately understanding sex trafficking. The general public and even lawmakers often do not understand the complete dynamic or complexities of sex trafficking. Definitional inconsistencies make it difficult to provide a universal definition of sex trafficking, contributing to misconceptions involving the methods of entry and the barriers to exiting. Ultimately, this prevents proper identification of victims, hinders the protection of victims, and the implementation of survivor-oriented legislation, meaning such policies lead to the prosecution of survivors and fail to mitigate the non-consensual exploitation of individuals. Previous literature on sex trafficking focuses on these aspects but does not include a comprehensive approach by incorporating all necessary information that requires consideration when informing individuals about this topic. The current literature allows lawmakers to formulate policies and legislation they deem effectively reduces sex trafficking. However, ethical concerns arise when previous literature lacks the information required to evaluate this issue, creating questions regarding whether improper conclusions in policy proposals or legislation occurred and whether they consider all variables and barriers involved in sex trafficking. To bridge this gap between previous literature's potentially fallacious implications, formulating the foundations for current anti-sex trafficking legislation and actual survivor outcomes, this thesis will provide a comprehensive analysis of the methods of entry and the unique complexities of sex trafficking. The paper will then apply this information by analyzing current legal models of prostitution worldwide to determine which legal models

effectively mitigate sex trafficking and protect survivors by the Victims of Trafficking and Violence Protection Act of 2000's framework.

Introduction

❖ Prevalence of Sex Trafficking

Annually, 24.9 million people are victims of human trafficking worldwide, where 4.8 million involve sexual exploitation. The trafficking industry is the world's second-largest criminal industry, with sexual exploitation generating 99 billion dollars (UNODC, 2020). The NHTRC, in 2016, reported 27 percent of documented cases of sex trafficking involved children, with 23 percent of the victims globally being girls and 7 percent comprising boys (United Nations on Drugs and Crime, 2018). In some regions of the world, such as Central America and the Caribbean, this percentage is much higher, with over 50 percent of identified victims being girls (UNODC, 2018). This is because the global demand for younger girls continues to increase as consumers of sex become more aware of AIDS, where virgin girls are less likely to have contracted the illness (Kristof & WuDunn, 2010). Age presents a unique vulnerability to traffickers, as children's lack of development and maturity make them more susceptible, through manipulation, to trafficking (Reid & Jones, 2011). In the International Child Exploitation Database Descriptions of Unidentified Victims, more than 60 percent of victims were prepubescent, 25.4 percent being pubescent, and 4.3 percent being infants or toddlers. The database indicated the younger the victim was, the greater severity of the abuse experienced. Of the videos and images collected documenting their sexual exploitation, they identified 84.2 percent containing a COPINE level 6 or higher. A COPINE level is scaled from 1 to 10, where a level 6 or above consists of sexual exploitation that involves explicit posing, sexual activity, assault, gross assault, or sadism/beastality (Interpol, 2018). Of the victims of human trafficking in the United States, 200,000 were children (Thorn, 2018). Thorn (2018) reports the most frequently reported age of entry into sexual exploitation was 15, and the average age when

children first fall victim to sexual exploitation was 12 to 14. Of those victimized from infancy to 17, 1 in 6 entered prostitution before 12. Other databases report similar estimates. Shared Hope International estimated the average age of entry to be between 14 and 16 years old. Fedina et al. (2016) indicated in a sample of 115 U.S. sex trafficking survivors that over a quarter participated in their first commercial sex act between 12 and 13, with 28 percent reporting their first commercial sex act occurred between 14 and 15, and the remaining 34 percent being between 16 and 17.

Reported data indicated that sex trafficking is the most prevalent form of human trafficking in the United States, comprising two-thirds of cases in North America documented by the UNODC 2018 report (UNODC, 2018). Comparatively, the United Nations Office on Drugs and Crime, in their 2016 report, estimated that of the documented human trafficking survivors, 59 percent experienced sexual exploitation (UNODC, 2018). On the contrary, many scholars argue these statistics are inaccurate due to the lack of available tools to identify cases of labor trafficking. Scholars can reach similar conclusions with all human trafficking cases because researchers lack reliable, high-quality data to determine an accurate scale of human trafficking.

❖ **Challenges of Data and Measurement**

The dynamic of human trafficking is exceptionally complex, with each case varying in context, creating unique circumstances for each survivor. The complexity of this crime imposes difficulties in gathering data and measuring the full scale of this criminal industry. The Migration Data Portal (2021) reports the primary form of collecting data is through judiciaries, law enforcement, non-governmental organizations, and national reporting mechanisms compiled by governments to provide national and global estimates of human trafficking's prevalence. These

reports and methods of data collection are not comprehensive. Part of this is due to our own preconceived notions and biases towards survivors of human trafficking and what constitutes trafficking.

Other explanations lay within legal definitions and cultural differences globally, viewing human trafficking disparately. These differences in beliefs prevent the identification of human trafficking survivors. According to the FBI's National Uniform Crime Reporting (UCR) System, the true extent of human trafficking is incredibly underreported. The underreporting seen in incidences of human trafficking is related to these variations in definitional inconsistencies, cultural biases, and lack of self-identification. It is also due to law enforcement's inability to investigate and identify victims properly involved in local trafficking offenses. For data collection methods to be comprehensive and representative of the trafficked population, the data must reveal the entire scope of the issue through the proper identification of survivors by legal professionals, law enforcement, and victims themselves. Since most cases never make it to law enforcement due to a lack of victim identification, data collection is limited and underrepresents these populations, creating barriers to helping victims (NIJ, 2020). Additionally, often the dilemma in gathering data and effectively measuring the scale of human trafficking contributes to these biases and misconceptions regarding trafficking, hindering victim identification further.

Despite these challenges in data collection and measurement for human trafficking, resulting in the under-representation of these populations, the existing data is there merely to provide a "baseline estimate," its purpose is to only model data from identified cases (Migration Data Portal, 2021). These estimates lack the inclusion of many countries since these samples are unobtainable due to resource constraints, security concerns, and humanitarian emergencies (Migration Data Portal, 2021). Ultimately, it is hard to determine the exact number of individuals

enduring sex trafficking since most cases go undetected, whereas internationally, only 0.04% of human trafficking survivors have been identified (End Trafficking International, 2021).

❖ **Definitional Inconsistencies**

Definitional inconsistencies provide one of the biggest challenges in understanding the complex dynamic of trafficking. Although many international organizations work to implement uniform definitions worldwide to evaluate human trafficking cases invariably, definitional inconsistencies persist because individuals incorporate their own values in their interpretations. The uniform definitions provided by legislation help guide our perceptions of the issue. As individuals, we still allow our personal and observed experiences and cultural and religious beliefs to play a crucial role in our disparate presumptions of human trafficking (Stickle et al., 2020).

These definitional inconsistencies become especially common among sex trafficking cases because of the blurred line between what constitutes prostitution and sex trafficking (Stickle et al., 2020). In *People v. Hinzmann* (1998), commonly cited in defining prostitution, a New York court ruled prostitution is a situation in which an individual chooses to engage in a transactional exchange for sex. Often this is referred to as a victimless crime because many presume that sex workers are willing participants in their own sexual exploitation or prostitution. For some, this is the case. Prostitutes can be willing participants, consenting to sexual exploitation but not if they have not attained 18 years of age according to U.S. Congress law H.R. 3244 (2000). However, there are concerns regarding the presumptions of willing participants, meaning how one defines a willing participant vastly differs based on preconceived notions and personal and cultural biases. Many prostitutes view their sexual exploitation as their

only choice, with no alternative options, or feel pressured into this "choice" through social, cultural, and economic factors (Capaul, 2013). The choice here classifies the distinctions made between sex trafficking and prostitution. One can argue that the lack of choice or coercion experienced by prostitutes defines it as sex trafficking. The definition of choice implies numerous options. One option presents itself as the only way, eliminating the ability to choose. To some, this is merely an issue of semantics, but the intricacies in defining prostitution and sex trafficking are of utmost importance. Lacking these distinctions between sex trafficking, prostitution, and the meaning of choice can result in misconceptions regarding identifying victims, methods of entry, vulnerabilities of individuals in becoming more susceptible to sex trafficking, and barriers to exiting.

❖ **Limited Understanding of Victims**

Even with the increased awareness of sex trafficking, there is still limited understanding of sex trafficking survivors. The socialization of society tends to normalize, and some would go further to say it glamorizes sex work (Stickle et al., 2020). Moving away from personal biases on the issue, where prostitution is viewable as morally reprehensible, this positive display of prostitution is not beneficial. The mass media's portrayal of prostitution only in a certain way, such as improved economic opportunities and societal notability, normalizes the idea of prostitutes and pimps without considering its dark side. Young vulnerable girls and populations predisposed to potential future sexual exploitation observe these portrayals, neglecting the occurrence of violence in these communities. It also only fuels the desensitization and misconceptions surrounding sex trafficking. For example, an outsider will only see the “willing participation” of the woman in her prostitution, where she receives sufficient money and a partner that gives her the world. Little do they know, on the inside, this is a method of

capitalization the trafficker utilizes to groom her by providing for all her desires and needs (Kennedy et al., 2007). Those on the outside do not see the harsh realities of the control and potential abuse the victim is enduring, which keeps them entrapped out of fear of what will happen if they leave.

❖ **Lack of Self-identification**

Misconceptions regarding the methods of entry and barriers to exiting prostitution create a lack of self-identification among victims. Many sex trafficking survivors feel misunderstood by society and as if they are at fault for their exploitation. As mentioned earlier, the notion of choice impacts the ways sexually exploited girls are viewed and treated by society. By viewing prostitution as a victimless crime, it denies people of victimhood by perceiving sexually exploited individuals as incapable of being trafficked, hurt, or raped. Rachel Lloyd, founder of Girls Educational & Mentoring Services (GEMS), in her book, "Girls Like Us," encapsulates this perfectly. She writes, "In case after case, I saw girls weren't being taken seriously" (Lloyd, 2011, p. 125). She adds, "I watched sexually exploited girl after girl arrested and charged with an act of prostitution and struggled with getting the cops, the courts, and the families, even the girls themselves to believe that they were victims" (Lloyd, 2011, p. 139). Rachel proclaims that the system viewing them as at fault and situations where even those closest to them did not believe them creates difficulties in survivors acknowledging their own victimization, resulting in a lack of self-identification.

❖ **The Impact of Sex Trafficking on Nations**

When examining the impact of sex trafficking, the focus remains primarily on equating it to the violation of human rights. For example, under international law, human rights law forbids

the subjection of individuals to slavery, servitude, forced labor, debt bondage, torture, and inhuman, degrading treatment or punishment. With human trafficking victims enduring these conditions, it also contravenes their right to life, liberty, and security (LCHT, 2018). However, the exploitation of individuals does not just conceptualize concerns regarding the infringement of individual rights, even though that is the most recognized outcome perpetrated by it. Sex trafficking leads to an array of other equally concerning dilemmas for the health and well-being of nations. This is noted in the United Nations outline of humanitarian crises, elucidating it as a singular or recurring event inducing a threat to the health or safety of a community, typically over a wide area. In this case, the criminal network perpetuates the economic exploitation of individuals, is detrimental to the financial health of nations, and leads to the formation of potential national security risks (Besler, 2005).

The economic exploitation of individuals from sex trafficking stems from the demand for cheap labor. In this context, the demand for cheap labor is sex, sex tourism, or commercial sexual exploitation, such as pornography or domestic work (prostitution) (Grewal, 2018). The survivors are paid little to no money and are recruited under false pretenses, knowingly, or kidnapped into prostitution, where some are forced to work off fraudulent debts (Besler, 2005). For example, in industrial nations, typically foreign women are sold into prostitution, where later they are informed of several debts accrued from traveling they are required to pay off to the traveling agents, smugglers, labor contractors, etc. Often, they are informed that once this fee is fully paid, they are free to leave, but this is not always the case. This point brings up concerns regarding the infringement of human rights, where some are held in confinement or maintained in their sexual exploitation through abuse consisting of verbal threats, beatings, and confiscation of identification documents (Besler, 2005).

Human trafficking is not just detrimental economically to the survivors but also to the economic health of the nation. The criminal industry is reliant on the profits accumulated by traffickers and pimps from the individuals they exploit. Besler (2005) notes that these profits do not contribute to the GDP. Rather they fund other illegal activities, imposing a "consequent threat on other legitimate businesses such as tourism and hospitality which have the potential to add and improve the economic conditions." Additionally, those working with human trafficking often use legitimate businesses as a front to hide the receipt of illegitimate funds accrued from exploitation. Fair competition in the market is then hindered because legitimate businesses are unable to compete with businesses laundering money (Besler, 2005).

The profits accrued by criminal industries, such as human trafficking, formulate additional concerns. It creates transit and destination countries, fueling human trafficking and other organized crime. As a result, it initiates national security risks for these destination countries (Besler, 2005). Human trafficking is also often employed by terrorist organizations to raise funds for terrorist activities and other criminal networks. This phenomenon is indicated in the Financial Action Task Force's (FATF) report, where they found a link between domestic terrorist organizations and human trafficking (Besler, 2005).

❖ **Impact of Legislation**

Despite sex trafficking being a widely misunderstood phenomenon, creating difficulties in evaluating the precise scale of the issue, the significance of trafficking and its detrimental impact on individuals and nations is recently more recognized by activists and lawmakers within the past two decades following the United Nations General Assembly of 2000. Many would argue that this area of focus has become more prominent since then as the media has shed more

light on the exploitation and sex trafficking of individuals that produce this worldwide humanitarian crisis.

Numerous state, national, and international institutions have implemented a variety of legislation to mitigate trafficking. The Trafficking Victims Protection Act (H.R. 3244, 2000) formulated the groundwork for a federal response to combat sex and labor trafficking in the United States, leading to states implementing their own state-level anti-trafficking laws. The Trafficking Victims Protection Act defines what factors are most important when addressing trafficking, including focusing on the prosecution of traffickers, protection for the victims and meeting their needs, and preventative laws. The United Nations Convention Against Transnational Organized Crime provided an international framework to guide nations in developing uniform definitions of human trafficking, methods of prevention, and prosecution for human traffickers (United States General Assembly, 2000). The provided framework for fighting organized crime in the United Nations Convention purpose is to encourage collaboration among nations, achievable through increased cooperation with law enforcement and providing training services to increase organizational capacities to fight this criminal industry.

With the increasing development of policies to combat human trafficking, scholars have turned attention to determining the effectiveness of anti-trafficking policies in individual countries. The Trafficking in Persons Report (TIP), within the office of the United States Department of State, developed a comprehensive analysis using the TVPA's guidelines for effective anti-trafficking policies (U.S. Department of State). The TIP comprises international information from government officials, nongovernmental and international organizations, and U.S. embassies to rank countries on their nation's cooperation with TVPA's guidelines and efforts in combating human trafficking (Department of State, 2016). Each country has a rank between

four tiers. With the ranking of tier 1, countries fulfill the requirements for the TVPA's framework for protection, prosecution, and prevention. Tier 2 demonstrates the countries do not entirely meet their guidelines but are continually striving to fulfill them. A tier 2 watch list incorporates similar specifications as tier 2 but signifies that the number of individuals trafficked is prominent or drastically increasing. Tier 3 determines that countries do not meet the TVPA's guidelines and are not continuously working to meet them (U.S. Department of State, 2016).

As efforts increase to combat human trafficking, controversy arises over the analyses performed and the legislation enacted to combat it. The TIP report tends to consist of vague methods, non-transparent data, and a lack of reliable measurements, as all data does for human trafficking. Enos (2017) discusses these criticisms, propounding that the Trafficking in Person Report's only metric for measurement relies on government reporting of victim identification and the prosecution of perpetrators, which is arguably questionable due to the inability to verify these secondary sources and the low percentage of identified cases. Additionally, many scholars criticize the ethics of the TIP report, arguing that it is politicized and many countries do not receive accurate rankings. In 2015, issues arose between the TIP office and the U.S. Department of State for the received ranks in 12 countries. Many countries received a higher rating than the TIP office had recommended, such as Uzbekistan, Cuba, and Malaysia, all receiving a rank of tier 3 when the recommended rating was tier 2 watch list (Trafficking in Persons Report, Reuters Graphics, 2015).

Away from the politicization of the TIP report, other controversy arises over disparate international cultural beliefs, definitions, and challenges in acquiring data. Increased awareness and legislation do not necessarily resolve these issues. These factors continue to unequivocally pose challenges in establishing consistent anti-trafficking laws that adhere to the TVPA's

guidelines. Due to the inadequate uniformity on the issue, the inconsistencies in anti-trafficking laws between nations hinder governmental organizations from properly evaluating and mitigating human trafficking. Chacon (2017), in his paper *Human Trafficking, Immigration Regulation, and Sub-Federal Criminalization*, sought to determine these inconsistencies in legislation, using multistate survey data from state-level anti-trafficking laws. His findings revealed that disparate sub-federal (state), federal, and international anti-trafficking laws did not work homogeneously, creating policies that undermine one another.

In the case of sex trafficking, prevalent inconsistencies lay within the regulation of prostitution. Scholars understand there is a relationship between prostitution and sex trafficking. Often there are perceptions that sex trafficking and prostitution are two entirely separate issues while simultaneously being a blurred line between the two. This is due to misconceptions regarding what constitutes sex trafficking, where many perceive it as only being forced. Opponents of this view acknowledge the two are intrinsically connected, where legislation on prostitution can directly impact the demand for sex trafficking. Based on these juxtapositions of the issue, plenty of debate is generated on what legislation regarding the legality of prostitution provides the best preventative methods to mitigate sex trafficking. A conclusion is obtainable by applying the TVPA's requirements for prevention, prosecution, and protection. With the challenges of unreliable data, the appropriate prevention methods must be analyzed from the perspective of the different economic theories of legalized prostitution, determining if varying legislation mitigates the demand for trafficked individuals. The conclusion must also consider whether the model is proven to hinder the demand for trafficked individuals, protects the survivors by preventing prosecution, reducing relapse, and effectively reintegrating them into society through available resources. This means it identifies the different barriers and

vulnerabilities survivors of sex trafficking experience and focuses on helping them exit prostitution instead of penalizing them.

❖ **Methodology and Design**

This study intends to find the most effective way to reduce sex trafficking by exploring the relationship between prostitution laws and sex trafficking. The paper defines effective legislation as laws that ultimately reduce sex trafficking rates while also considering whether these laws hinder the nation's ability to reliably adhere to the TVPA's framework of protection, prosecution, and prevention. The ability to determine this relies on a multifaceted approach through performing a systematic review of previous literature focusing on the root causes, vulnerabilities, and theories of trafficking to understand how this crime substantiates to reveal how disparate legislation considers this information. The inconsideration of these factors leads to sex trafficking victims becoming unrecognized as victims, producing negative outcomes for their well-being. Therefore, they cannot attain protection against their traffickers nor receive resources that allow them to exit the industry and reintegrate back into society. Disparate policy regimes and the outcomes of their legislation following them will then be analyzed, determining from an economic analysis which policies hinder the prosecution of sex trafficking survivors and mitigate trafficking inflows. With this information, this paper will focus on specific case studies, such as the United States with a fully criminalized system, the Nordic/Swedish Models focusing on partial criminalization and partial decriminalization, Denmark fully decriminalizing the prostitution market, and the Dutch Model legalizing prostitution. These case studies will then determine whether these policy regimes produce the same results in practice as in theory.

❖ **Rationale and Significance**

The significance of the findings of this study will help provide a solution for decreasing sex trafficking, eliminating inconsistent anti-trafficking policies that undermine each other's goals. It will also determine the best methods to aid survivors, aside from preventing traffickers from sexually exploiting individuals. With its findings, this study seeks to generate an effort to implement policies that consider survivor outcomes and the complete dynamics of entering prostitution.

The determined legislation by lawmakers must consider both the prevalence of sex trafficking and the outcomes for survivors under such. The goal is to find policies that focus on the entirety of the issue and not one specific outcome since these factors are correlated. If the criminalization of prostitution reduces sex trafficking, societies will need to focus on implementing more laws to make prostitution illegal. The legislation must focus on both the survivors and the trafficker, determining whether criminalization will negatively impact the survivors and create more barriers. If this is found to be the case, legal institutions must consider other alternatives, such as decriminalization, partial decriminalization, or legalization.

❖ **Key Terminology**

For the purpose of this study, and due to the varying definitions of sex trafficking, this study defines sex trafficking by U.S. Congress law H.R. 3244 (2000).

"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."

It is also important to note the difference between prostitution and sex trafficking since both are definable as sexual exploitation of economic activity, ultimately driven by profit motives. With both relying on profit motives of sexual exploitation, it makes both prostitution and sex trafficking intrinsically connected, which is why economic theories of prostitution tend to fixate on theoretical arguments of how disparate legislation of prostitution, using a cost-benefit analysis, impacts the demand for trafficked individuals. In determining the impact disparate legislation has on the demand for trafficked individuals overall, it is essential to establish the differentiation between consensual and non-consensual sexual exploitation. Prostitution implies consensual sex, with prostitution defined as a transactional exchange between persons agreeing to engage in sexual conduct for compensation. In this circumstance, sexual conduct is considered a service or commodity, defined as any action involving sexual intercourse, deviate sexual intercourse, masturbation, or suggestive conduct (People V. Hinzmann, 1998). For prostitution to be considered sex trafficking, the individual under H.R. 3244 (2000) must prove that their sexual conduct was induced by force, fraud, or coercion or under the age of 18. Additionally, prostitution and sex trafficking can both involve a third-party beneficiary. There is no requirement for a consenting sexually exploited individual in prostitution to have a third-party beneficiary, but all cases of sex trafficking require one (Grewal Law, 2019).

Also, there must be a distinction between human trafficking and human smuggling. Human trafficking and human smuggling both include an economic component, and many methods employed are similar. The United Nations Protocol Against Smuggling of Migrants by Land, Sea, Air (2000) defines such as:

a.) "smuggling of migrants shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident."

b.) "illegal entry shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving state."

In cases of human trafficking, transportation includes methods of force, fraud, or coercion. The TVPA at the United Nations General Assembly (2000) defines such as:

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

b.) "the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth, in subparagraph (a) have been used..... The three key elements that must be present for a situation of trafficking in persons (adults to exist are, therefore, (i) action (recruitment), (ii) means (threat), and (iii) purpose (exploitation).

Foundational Context

❖ The Significance of TVPA's Framework

The Trafficking Victims Protection Act (TVPA) conceptualizes a framework that focuses on increasing protections for trafficking victims, prosecution of traffickers, hindering their ability to continually exploit individuals, and preventative efforts to minimize the social vulnerabilities that enable sexual exploitation and sex trafficking (ATEST, 2020). The significance of the TVPA proposing the 3PS is to create a comprehensive guide to dispel policies that help mitigate the harm trafficking survivors endure or eliminate the root causes that increase susceptibility to trafficking, preventing it from ever initiating. As a result, this study will utilize this framework to evaluate the disparate legislation on the legality of prostitution to determine whether they adhere to the requirements specified by the TVPA to mitigate sex trafficking. For this to be achievable, the study must first identify the importance of protection, prosecution, and prevention policies by demonstrating an in-depth understanding of the root causes of trafficking, the vulnerabilities of survivors that make them more susceptible to trafficking, and the barriers to exiting sex trafficking.

❖ Root Causes & Vulnerabilities

Sex trafficking is an involute phenomenon dependent on the social, economic, and cultural stability that exists regionally or individually that permits this criminal network to flourish. These systems' current conditions in society increase the attributes of vulnerability that increase an individual or group's statistical likelihood of becoming a victim of trafficking. ATEST (2022) defines vulnerability as "inherent, environmental, or contextual factors that increase the susceptibility of an individual or group to being trafficked." Vulnerability does not

present itself as one factor in the individual's life but rather as a combination of characteristics. In *Attesting Root Causes of Trafficking*, evidence affirms these assertions, deducing that numerous factors interconnect to increase an individual's vulnerability to recruitment into prostitution by a trafficker. Various individuals also argue that personal identity is an additional vulnerability that encourages human trafficking. Individual characteristics that present themselves as vulnerability factors include age, sex, gender, mental and physical disabilities, ethnicity, and sexual orientation. Proponents of this position believe that it is not these factors that conceptualize instances of vulnerability but rather, when combined with situational and contextual factors, that do (ATEST, 2022).

Presuppositions individuals have towards trafficked persons characterize them as emerging from poverty-ridden communities where abuse is rampant, ultimately leading to or promoting the prevalence of runaways and homelessness. Typically preconceived notions regarding sex trafficking are erroneous, conceptualizing misconceptions detrimental to the well-being of trafficked individuals that hinder law enforcement's ability to assist them appropriately. Existing research on the topic substantiates these presumptions, where 90% of sexually exploited and trafficked youth have endured variations of abuse, with the majority being homeless or runaways (Lloyd, 2011). Keep in mind the average age of entry into the sex industry is 14 to 16, which by law, automatically defines them as trafficked individuals, and the incidence of fraud, coercion, or force does not need to be proven (Shared Hope International and H.R. 3244, 2000). Signifying the majority of trafficking cases consist of individuals originating from broken homes and those under age.

The question that then arises is whether these characteristics already exist, increasing an individual's susceptibility to trafficking because the trafficker capitalizes on these vulnerabilities

or these qualities exist as a result of trafficking. Exploring pre-existing literature and individual cases points to the deduction these characteristics existed prior to their exploitation. These factors outlined above consist of situational and contextual factors. Situational factors are temporary challenges the individual endures influencing or impairing their decision-making processes, making them more vulnerable to the trafficker's recruitment methods. Contextual factors interconnect with personal and situational factors, which involve changes in the external and structural environment that imposes a detriment to the individual's circumstances. These include but are not limited to extreme poverty, marginalization from social identities, financial exclusion, irregular migration status, low educational background, environmental disasters, armed conflicts, economic recessions, humanitarian crises, and dysfunctional family environments (ATEST, 2022).

Pimps and traffickers can identify these contextual and situational factors. Target vulnerability explains the characteristics traffickers look for in potential victims, such as physical weakness, that status of psychological stress present in the individual's life, and target gratifiability, which are attributes deemed as attractive to the trafficker or pimp (Lutya & Lainer, 2012). Traffickers then facilitate the sexual exploitation of victims with these backgrounds through psychological manipulation, seduction, false promises, and the belief in an established relationship, which is why women often refer to their trafficker as their "boyfriends" and are de-incentivized to report their abuse. Lloyd's (2011) suppositions correspond to these assertions, expounding that most sexually exploited youth have experienced prior trauma and abuse. Coming from these broken homes or politically and economically unstable backgrounds proliferates their vulnerabilities that pimps and traffickers utilize to their advantage.

Even without these backgrounds, children are more susceptible to sexual exploitation and sex trafficking. Simply being a child is a vulnerability factor stemming from the expeditious expansion of telecommunications increasing the accessibility of children. Exploiters turn to the internet to accumulate vulnerable adolescents for commercial purposes since children are easier to manipulate psychologically as their brains are still developing and more prevalently focused on short-term thinking. Generally, children are more aware of their current settings and essential needs, neglecting potential outcomes and consequences of their situation. As a result, the proliferation of child exploitation will only continue to exacerbate as technology advances (Lloyd, 2011).

Additional vulnerability factors often not cited in the literature include the normalization and glamorization of sex work. The auspicious promotion of prostitution in modern society neglects the detriment it imposes on the livelihood of individuals. The encouragement of this industry to young, easily influenced girls creates an increased risk of potential victimization, as they are unaware of the darker side of commercial exploitation since the media only propagates the economic gain, benefit of societal notability, and empowerment of it. This industry presents very disparate conditions from what is promoted by society. In an analysis of 9 counties, researchers found that the rate of sexual violence varied from 60 to 75 percent in prostituted women, 70 to 95 percent experiencing physical assault, 68 percent developing a variation of PTSD from it, and 46 to 65 percent of prostitutes had suicidal tendencies attempting at least once, and 38 percent more than once (CSCE, 2005).

Contrary to this view, many may argue ultimately, it is their choice and does not formulate increased risk factors for women. However, if women are misled and not educated on the negative aspects of sex work, it increases their risk of victimization and potential violence

utilized towards them. Without this knowledge, individuals become unaware of certain situations to avoid or the tactics employed by traffickers to gain control over them. Additionally, modern feminists advocate against the sexualization of women. It is irrefutable that sex work only exacerbates this, creating devaluation of them in society. Proponents against this position refute this argument, stating it forms empowerment in women because they become more in touch with their bodies and choose this life. The reality of this industry is most women within it fulfill the vulnerability points that predispose them to become trafficked. Often, they are misled through the lack of education in the industry or coerced by a trafficker who exploits their factors of vulnerability to their advantage, making this involuntary. Other times individuals choose this industry out of economic desperation and have a history of earlier victimization by physical and sexual assault. So, these degradative and exploitative experiences become normalized in their mind, making them more prone to entering this industry. Once the individual enters the industry and is under the hold of a trafficker or pimp, the individual has little say over their life. Some would argue this factor would make it not a choice since there was a lack of options. However, the issue of semantics is irrelevant in analyzing the conditions and victimization of women in the industry since these are conditions shared universally among voluntary and involuntary sex workers. In cases of trafficking, the trafficker persistently devalues them through coercive methods of stress manipulation to keep them compliant by altering the victim's perception of self (Baldwin et al., 2014). These tactics also present themselves in voluntary cases of prostitution in individuals under the control of pimps. The working conditions, such as the violence and degradation experienced by buyers and third-party beneficiaries, are why according to the CSCE, a study analyzing nine countries found 89% of women in prostitution wanted to exit the industry. From substantial evidence, it is reasonable to conclude the industry fuels degradation and

violence against women. Improper education only contributes to this problem. Even if entering prostitution is their choice, the root causes of why women choose this industry need addressing to propose alternative solutions because women deserve more than a life of sexual exploitation and violence.

Although these backgrounds are not necessary qualifications required for one to be susceptible to sex trafficking, this tends to be predominately the general trend among trafficking survivors. To appropriately aid trafficking survivors, we must understand their unique circumstances and acknowledge what components were lacking in their lives that led to their exploitation. Often, this "choice" to enter sex work under a pimp or trafficker is motivated by seeking some environment the pimp has convinced them to believe they can provide, which explains why individuals from these backgrounds are more prone to becoming victims of sex trafficking. Pimps and traffickers can identify these vulnerabilities and essential needs they are lacking and employ tactics to capitalize off them. These tactics rarely change since they are exceptionally effective in captivating trafficking victims, and their design is to keep them compliant and in utter dependency. Comparatively, Lloyd (2011) propounds that sex traffickers and pimps utilize identical methods of control over their victims as other cult leaders, domestic terrorists, hostage takers, and even dictators. She states, "They seem to have all graduated from the same mind control training camp." She continues, saying, "While most of these groups may not have used techniques of seduction and promises to initially lure their victims, pimps employ many of the same brainwashing and violence strategies to keep their victims under control." Psychologists commonly refer to these tactics as Biderman's Framework, which delineates coercive methods of stress manipulation employed on prisoners of war. These tactics are often

indistinguishable from the coercive techniques utilized in incidences of abuse and trafficking (Amnesty International, 1994).

Frequently, when thinking about human trafficking, individuals presume that methods of entry into sex work for trafficking survivors are attained by force, such as physical and sexual abuse. Although this form of victimization is common among trafficking survivors, these are not tactics initially employed to captivate the individuals into compliance. Traffickers and pimps will typically try and avoid force unless they deem it necessary to control their victims. Instead, numerous legal cases depict a disparate picture, being that traffickers implement a variety of diverse nonphysical methods (Baldwin et al., 2014). Psychological manipulation and deception play a predominant role in the entrapment of persons for sexual exploitation. According to Baldwin et al. (2014), there is scarce research on utilizing psychological coercion in the human trafficking process. Albert Biderman, in 1957, conceptualized a framework to describe this process, delineating the coercive methods of stress manipulation employed on prisoners of war. Biderman's framework analyzed the coercive methods utilized, providing explanations for manipulating the prisoner's behavior and their high level of compliance without imposing physical force. As a substitute, traffickers administer tactics focused on isolation, monopolization of perception, induced debility or exhaustion, threats, occasional indulgences, demonstration of omnipotence, degradation, and enforcing trivial demands (Baldwin et al., 2014). These methods of psychological manipulation are often indistinguishable from the coercive techniques utilized in incidences of abuse and human trafficking (Amnesty International, 1994).

By way of illustration, isolation is employed predominately by the trafficker to deprive a victim of social support, just as a prisoner of war would sustain. In the case of trafficking, isolation is designed for the same purpose but executed dissimilarly. Often the process of

isolation occurs gradually, where the trafficker will instill false promises that incentivize the victim to relocate, such as promising to acquire the victim an occupation in the entertainment industry. Other times, the trafficker works to create emotional rifts between the victim and their social support, causing conflict and potential dissociation between them. When dissociation and isolation substantiate between them and their social supports, the victim becomes dependent on their trafficker (Baldwin et al., 2014). Monopolization of perception focuses on the trafficker reducing the victim's exposure to the outside world. The trafficker or pimp establishes strict rules, eliminating stimuli and fixating the victim's attention on immediate predicaments. Tactics of isolation and monopolization of perception often intersect with one another. Preventing the victim from interacting with the outside world creates a more isolated environment, cutting them off from the external world (Baldwin et al., 2014). To ensure control over their victims, traffickers will induce debility and exhaustion to not only prevent the victim from having the energy to escape their current situation but also to dehumanize them. For example, traffickers sometimes force their victims to consume substances to create an additional form of dependency, to induce debility, and lower resistance (Baldwin et al., 2014).

The process of dehumanization hinders the victim's self-esteem, leaving them to believe they deserve their current conditions or that this is all they are capable of (Lloyd, 2011). In Biderman's framework, this process of dehumanization mentioned here intersects with the degradation methods. Constant degradation of the victim formulates a psychological condition where the victim believes resisting their abuse is more damaging to their well-being than giving in to the trafficker's demands. Part of this is achieved by traffickers threatening their victims, instilling fear within them towards their traffickers and the consequences of resisting their demands, ultimately increasing the power dynamic between the perpetrator and their victim.

Often, these threats include potential acts of violence against the victim or their family, arrest, and deportation. These threats can coincide with the method of demonstration of omnipotence, where these threats initiate from the trafficker's established sense of importance and proclamation of ties to law enforcement (Baldwin et al., 2014).

Traffickers allowing the victim to partake in occasional indulgences conceptualizes an environment fixated on a rewards system. Occasionally, the trafficker will demonstrate compassion and kindness, instilling positive motivation to comply, even in incidences of enforcing trivial demands (Baldwin et al., 2014). Often this occasional compassion initiates the formation of a trauma bond. Trauma bonding or trauma-coerced attachment describes the dynamic between the victim and trafficker, where the victim endures a cyclical state of deep emotional attachment towards their offender. During the abuse, or even after, the victim will recognize the horrid conditions but sustain an emotional attachment to their trafficker, remembering the occasional incidences of good deeds, believing maybe they are different than they initially perceived (Lloyd, 2011). Using Biderman's Framework, this phenomenon substantiates the dynamics of abusive control, the exploitation of power dynamics within their relationships, and the "intermittency in the dulling of punishment and reward" systems (Raghavan & Doychak, 2016). The trauma-coerced attachment cognitively alters the victim's conceptualized reality, leading to the emergence of the deterioration of the self. Their distorted image of self-worth and the alteration of their ideals and values systematically and psychologically break the individual down, exacerbating the recurring themes of abuse and control in the victim's life. The victim then becomes entirely dependent on their trafficker's worldview, believing that they are responsible for their abuse. The victim idolizes their abuser, striving to please them by any means, and their abuse is justified because they did not adhere to

their rules (Lloyd, 2011). Other times, trafficking victims don't justify the abuse. Instead, they remain in a state of denial. Even once exiting the industry and escaping their trafficker, their attachment remains so strong they want to refuse to believe it was merely a game of economics. It is easier to reconstruct reality to fit the perspective of their trafficking as being not a method of capitalization but rather as they actually do care for them because of all the little acts of compassion and kindness they perform for them. As Rachel Lloyd (2011) puts it, "It's easier to go back and reconstruct the carefully built walls of denial than face the fact that they were manipulated, used, played. That all those nights they were scared, the rapes, the beatings and the arrests, were simply to line someone's pockets. It's not surprising that a girl in this situation, feeling ashamed and betrayed, and foolish, and sickened, will try to think of the good times, and search for a sign that maybe there really was some love there." This distorted sense of reality and extreme denial is at the forefront of why the prevalence of rampant abuse tends to persist and become hazier as time progresses, increasing the statistical likelihood of relapse. They forget the abuse or believe that this time is different because in abusive relationships, victims often don't want the relationship to end but rather the abuse (Lloyd, 2011)

❖ Theories of Trafficking and Offending

When working to effectively aid human trafficking survivors, addressing the root causes and vulnerabilities of the survivors is not sufficient. It is essential to ponder and examine the disparate theories of human trafficking to determine the driving factors that increase susceptibility to victimization and the motivations of offenders in this criminal network. Human trafficking theories provide a unique understanding of the close relationship the victim and offender share in the systems that influence their lifestyle choices.

General Systems Theory

A range of criminological theories explains the complex phenomenon of human trafficking. In the substantiation of victimization or offense, it is the desirability and motivation to acquire essential needs currently lacking in the individual's physical and social environments that increase their susceptibility to being trafficked or the offender's decision to engage in human trafficking (Berg-weger, 2005). General systems theory affirms these generalizations, focusing on disparate systems and subsystems' impact on other systems. Through the study of isolated entities, general systems theory determines that differential systems interact and alter the individual's current system. These differential systems influencing individual circumstances include culture, family, communities, and the workplace (Berg-weger, 2005). Understanding the relationship between these systems permits criminologists and sociologists to improve their understanding of the environmental influence on victimization and predispositions to criminal behavior.

Brofenbrenner's Ecological Systems Theory

In the 1970s, Brofenbrenner's ecological systems theory replaced the use of the general systems theory. Brofenbrenner's ecological systems theory instead focuses on the individual's environmental influence on behavior (Brofenbrenner, 1994). General systems theory neglects to explore the relationship between behavior and the environment but does explore how the environment influences individual systems, which can result in alterations in individual behavior (Berg-weger, 2005). Both theories are similar, but Brofenbrenner's ecological systems theory goes one step further in acknowledging the relationship and interaction that occurs between other systems and behavior. Brofenbrenner contends that microsystems, mesosystems, exosystems,

macrosystems, and chronosystems shape an individual's behavior. Brofenbrenner (1994) demonstrates this model by portraying each system" as a growing set of nesting circles, with each larger circle encompassing a larger system, and each circle influencing each other." The largest system in the model is the chronosystem, which represents the impact on the individual's system at the institutional level, where policies and legislation impact the individual's circumstances and decision-making processes. When assessing vulnerabilities and risk factors of human trafficking, Brofenbrenner's model represents an array of factors that increase an individual's susceptibility, such as political instability, poverty, homelessness, abuse, drug dependency, broken families, foster care, etc.

Maslow's Hierarchy of Needs

Maslow's hierarchy of needs delves deeper into the systems theory, focusing on the essential needs required in an individual's life to obtain optimum well-being. When essential needs are lacking in an individual's life, the theory proposes that the trafficker recognizes this, offering to fulfill these basic needs. Dispensing these necessities forms the power dynamic and fuels dependency and reliance on their trafficker, formulating barriers to exiting. Often, these basic needs lacking in the victim are the feeling of belonging and love. Traffickers will supply this by establishing a relationship and bond, further entangling the trafficked individual into a life of victimization. Recognizing the role basic needs have in impacting susceptibility to trafficking allows policy-makers and sociologists to consider this hierarchy of needs, working to create an environment of healing and recovery by addressing these basic needs (Maslow, 1943).

Rational Choice Theory

General systems theory, Bronfenbrenner's ecological systems theory, and Maslow's hierarchy of needs present a position that the individual's physical and social environments influence behavior and predispose these individuals to potential victimization. However, scholars argue that these conditions do not only impact their behavior but also their choices. Rational choice theory surmises that criminals are rational beings, and their choices influence their behavior and decision to engage in criminal activity (Lutya & Lainer, 2012). In the context of trafficking victims engaging in prostitution, this perspective is flawed since trafficked individuals do not choose their sexual exploitation. It is true that their environments influence the choices they make, which increases their susceptibility to interacting with this criminal network. To say they choose to engage in this crime is fallacious. For traffickers, however, this is the case. The rational choice theory considers the "deterministic nature" that traffickers make based upon their own free will and their preformation of the cost-benefit analysis. If traffickers perceive risks as low and the benefits as high, the trafficker determines they can successfully exploit and traffic persons. The trafficker dictates successful perpetration by observing the accessibility of victims, such as their risk of interaction with law enforcement, the location of the victim, and employing effective methods of entry for them (Lutya & Lainer, 2012).

Labeling Theory

In the 1960s to 1970s, Edwin Lemert and Howard Becker conceptualized the labeling theory of crime. Their goal was to differentiate between inherent criminality and criminal behavior in individuals, and the effect labeling in criminalization has on individuals deemed criminally deviant (Crewel & Guyot-Diangone, 2016). In cases of human trafficking, trafficking

victims do not display criminal behavior, although they are partaking in crime because they are unwilling participants. Preconceived notions from outsiders and often law enforcement perceive trafficking survivors as criminally deviant since being involved with this criminal network results in the criminalization of the trafficked individuals instead of the trafficker. As victimization persists for trafficked individuals, the labels of being criminally deviant begin to alter their perception of self, enabling the victim to believe their trafficking is a lifestyle choice and their extensive criminal backgrounds exist merely because they are willing participants in their sexual exploitation (Crewel & Guyot-Diangone, 2016). Crewel & Guyot-Diangone (2016) believe that labeling trafficking victims as criminally deviant is exceptionally detrimental to their well-being, deducing that "victims may not believe they are deserving of services unless they were 'forced enough,' and see victims who fit the kidnapped and forced narrative as more deserving of services." In other words, victims enduring coercive methods of manipulation may not see themselves as victims since they do not fit the criteria of being forced into the industry, which the media often portrays trafficking as. This then conceptualizes misconceptions regarding human trafficking and the methods of entry, invalidating the experiences of victims not forced but coerced into sex work. Ultimately, this "exemplifies the power of self-perception" and the perceptions of law enforcement and service agencies in ensuring victims are correctly identified and receive appropriate resources (Crewel & Guyot-Diangone, 2016).

Demand Theory

Demand theory suggests that criminality, specifically in sex trafficking, initiates from the demand for sex. The criminality of individuals in this industry exists from both purchasers and suppliers of sex. As long as there is a demand for sex, sex trafficking, and prostitution will persist. Ultimately, this demand is driven by users or purchasers of sex. Typically, sociocultural

attitudes toward purchasing sex and its legality influence the demand for sex. Luty & Lainer (2012) allude that the portrayal of prostitution in the media influences these sociocultural attitudes, which "may create an impression that selling and purchasing of sex is an acceptable form of earning a living and accessing sexual services." The normalization of purchasing sex then creates a demand for prostitutes and the desire to be a profiteer from selling sex. The issue with the cultural perception of prostitution is that positive outlooks of prostitution increase the demand for prostitutes and neglect the conditions of the providers of sex. Buyers of sex perceive that the prostitutes providing sexual services for them are willing participants. In reality, profiteers of sex will increase profits through human trafficking, as the cost is generally low and is cheaper (Cunningham & Shah, 2016). Even brothel owners resort to these means to increase their workforce and maximize profits (Gould & Fick, 2007). Users of prostitution do not differentiate between the possibility of purchasing sex from a voluntary or involuntary prostitute, as there is no plausible way to (Hughes, 2004). Other times, purchasers of sex conclude that prostitutes are morally flawed since they are engaging in this industry to make a living, which justifies the violence perpetrated by buyers and pimps (Macleod et al., 2008).

Economic Theory

On the other side of the demand theory is the economic theory of sex trafficking. This theory theorizes that human trafficking is an economic activity since individuals are engaging in the market through a transactional exchange and will subsist as long as the market conditions make it profitable (UNODC, 2009). The choice of criminality in traffickers is dependent on the gains accrued in participating in trafficking compared to non-criminal activities. The profits of engaging in this criminal network are not the only determinant of trafficking. The offender must also engage in rational choice theory, considering the possibility and probability of prosecution,

the demand for sex in the economy, and victim vulnerability. With globalization creating an integrated and interconnected world, providing ease of relocation of victims, and the definitional inconsistencies of human trafficking that lead to non-uniform legislation, it reduces the overall severity of punishment for engaging in human trafficking, increasing its demand and fueling its role in the economy.

❖ **The 3 P's: Protection, Prevention, & Prosecution**

An array of conditions hinder the state's ability to mitigate sex trafficking. The underlying problems originate from misconceptions surrounding sex trafficking. Individuals misunderstand and misrepresent trafficking survivors' circumstances, formulating misconceptions regarding the methods of entering prostitution and barriers to exiting. When victims are improperly understood, it leads to the inability to protect and provide services for survivors to exit prostitution effectively. Instead, this misrepresentation can lead to dispelling harmful policies or negative biases from law enforcement and legal professionals, resulting in the prosecution of survivors, ultimately failing to protect survivors, and exacerbating sexual exploitation.

In Bending Towards Justice Perceptions of Justice among Human Trafficking Survivors, Hussemann and her colleagues determined the current criminal justice system in the United States is inadequate in providing a holistic approach to combating the issue. Law enforcement, prosecutors, investigators, and human trafficking survivors all tend to have disparate views on the meaning of achieving justice, which directly impacts the overall outcomes of the survivors. These implicit biases emerge from misconceptions regarding the prevalence of human trafficking, where incidences of human trafficking cases may be overlooked because of presumptions made by law enforcement that it cannot occur locally. Other misconceptions arise

from negative preconceived notions towards the survivors, where prosecutors traditionally view justice as sustaining a conviction against the trafficker and preventing survivors from engaging in "voluntary prostitution." Ultimately, legal professionals are not educated on the methods of entry, barriers to exiting, and tend to conflate sex trafficking and prostitution, resulting in survivors facing criminal prosecution for their exploitation. The conflation of sex trafficking with prostitution becomes even more common in the victimological framework, which focuses on the victim-offender relationship. Often, victims of human trafficking will experience repeat victimization because they do not have access to effective preventative and protective resources, fear potential criminality from coming forth about their victimization, or lifestyle factors, and their relationships/interactions with their trafficker increase their likelihood of being trafficked numerous times (Lutya & Lainer, 2012). From the outside, their circumstances are perceived as voluntary prostitution because of their inability to report their abuse or the prevalence of re-entering this industry.

Protection Policies

Effective anti-trafficking laws evaluate human trafficking survivors' unique circumstances they endure by providing extensive available resources for individuals to exit prostitution successfully. The U.S. Department of State defines effective protection policies as a victim-centered approach. To efficaciously protect survivors, anti-trafficking laws must incorporate survivor-oriented policies, focusing on victim services, such as medical care, treatment for trauma and potential drug dependency disorders, safe housing, legal services for pressing charges against their trafficker, expungement of records, and access to non-exploitative work. Without a victim-centered approach, incorporating numerous services and available

resources, the survivors' needs are unattainable, creating additional barriers to exiting or contributing to the current ones that obstruct them from escaping their exploitation.

Prevention Policies

Policies to mitigate trafficking do not provide a holistic approach unless they emphasize implementing various prevention programs with goals to improve the social conditions that would otherwise increase an individual's susceptibility to trafficking and exploitation. It is vital that when considering efforts to mitigate trafficking incidences, lawmakers must understand the relevance vulnerability performs in responding to and preventing trafficking. Often, the trafficker will exploit the individual's unique circumstances or factors that increase their susceptibility through their recruitment tactics. This is proven by numerous studies, revealing that vulnerability factors comprise almost every trafficking case. In other words, comprehending the factors that augment trafficking can ameliorate strategies to prevent trafficking and enhance victim identification.

Prosecution Policies

The conflation of sex trafficking and prostitution imposes a detriment to the survivor also while hindering the ability to prosecute traffickers and implement prevention efforts. Survivors are often reluctant to report their cases to law enforcement or cooperate based upon these implicit biases towards them, the fear of their trafficker harming them or their families, or previous harm they have endured at the hands of law enforcement (Hussemann et al., 2018). In Hussemann et al. (2018) interview of sex trafficking survivors, many survivors reported undergoing negative experiences with law enforcement, where they were disrespectful, perpetrated sexual abuse and faced potential criminalization for actions related to their trafficking experiences, which were often not their choice (prostitution) or used as a method of

entrapment (such as drug usage). Hence, survivors' negative experiences result in decreased trust in law enforcement and the system to prohibit harm caused by trafficking, then hindering survivors from reporting to the police and lowering the rates of identified cases. However, survivors do not just refrain from reporting their incidences of trafficking to law enforcement because of the negative experiences they endure. Reporting incidences of trafficking for the survivors and establishing a case against their trafficker is traumatic, as it requires the individual to recall psychologically and emotionally distressing events. In identifiable cases where survivors have come forward reporting their exploitation and remain cooperative, legal professionals still face additional barriers to prosecuting traffickers or even forming criminal cases. Legal professionals face challenges in obtaining sufficient evidence, identifying and locating the trafficker, and in some circumstances, the statute of limitations in cases where too much time has transpired between the survivor's exploitation and the report of their trafficking incident (Hussemann et al., 2018).

Contrary to legal professionals' perceptions of justice, survivors perceive justice as attaining autonomy and a sense of freedom after exploitation. A mutual understanding exists between legal professionals and survivors that traffickers and pimps should be held accountable for their actions. However, survivors tend to believe the consequences outweigh the benefits, where prosecution potentially enables the exploitation of individuals (Hussemann et al., 2018). In summation, survivors of sex trafficking do not believe that prosecution is an effective measure in ensuring accountability. Instead, trafficking survivors equate prosecution with increasing criminal behaviors and promoting or normalizing trafficking because, in their personal experiences, they have witnessed traffickers in prison continuing their victimization of individuals while behind bars. Survivors also believe that efforts solely concentrating on

prosecuting the trafficker neglect to hold communities accountable for exploitation, as they can be just as complicit in trafficking instances (Hussemann et al., 2018).

Considering both the legal professional's and survivor's perceptions of justice, the implementation of prosecution policies must include effective protection and prevention programs. Currently, law enforcement has an inability to appropriately investigate and identify victims of human trafficking due to the misconceptions surrounding trafficking and survivors' distrust of law enforcement (NIJ, 2000). As a result, 0.04 percent of human trafficking survivors have been identified (End Trafficking International, 2021). Rebuilding this trust requires extensive education for law enforcement on the dynamics of sex trafficking and entry into prostitution. With this information, they can prevent the criminalization of victims of trafficking and increase the identification of them. In the long run, this will enable law enforcement to increase vigorous investigations and prosecution of human traffickers. With this increased prosecution, they must convict and set forth sufficient prison sentences for traffickers to deter the prevalence of human trafficking.

Policy Regimes

The policies implemented by the TVPA are essential to addressing the root causes and detrimental outcomes of trafficking. The comprehensive approach considers the vulnerability of victims and the resources and policies necessary to prevent and deter trafficking. These goals align with what survivors identify as vital circumstances for exiting the industry and their ability to physically and psychologically move on from their sexual exploitation (Hussemann et al., 2015). Although the Victims of Trafficking and Violence Protection Act of 2000 addresses these needs currently lacking in implemented policies, it does not paint the entire picture. The purpose of the TVPA is to encourage countries to strengthen their laws to increase convictions and penalties towards traffickers, ultimately deterring crime. Additionally, it seeks to increase access to social services to promote the rehabilitation and effective reintegration of trafficking survivors into society. However, these policy proposals and suggestions can not achieve their goals if additional policies and legislation prevent the success of mitigating trafficking and protecting human trafficking survivors. If they have legislation that leads to the proliferation of the demand for sex trafficking, increasing its supply, then these countries cannot effectively follow the TVPA's guidelines. Nor will their policies adequately provide social services for reintegrating survivors into society successfully and help prevent and protect survivors from future trafficking.

The inability of countries to effectively implement and utilize the TVPA's comprehensive framework stems from their preconceived notions on sex trafficking, which directly impacts the legislation put into place on the issue. Scholars recognize that sex trafficking and prostitution are intrinsically connected, but many policies and lawmakers neglect this aspect. Instead, they formulate policies blurring the line between prostitution and sex trafficking, ultimately leading to either the prosecution of victims or the flourishing of sex buying and third-party beneficiaries

that result in the increased trafficking of victims. The solution for nations to hinder these outcomes resides within recognizing this relationship between sex trafficking and prostitution, which the demand and economic theories of trafficking can easily explain.

To deter traffickers' choices to traffic individuals within the market requires the identification of the intention behind these choices. These intentions are identifiable if policy and lawmakers recognize that economists have valuable information to contribute towards the determinants of sex trafficking since the motivations of offenders reside within the profit potential of this transactional exchange (Jakobsson & Kotsdam, 2010, 2013). Utilizing the economist's analysis of choice determines crime substantiates when the expected utility of such action exceeds the utility of other activities. Based on this rationality, crime occurs, and individuals become criminals, not because motivations differ from law-abiding citizens but because the costs and benefits are disparate between these two groups. Criminals perceive their costs outweigh the benefits, compared to the law-abiding citizen, and therefore, rationally decide to engage in this form of criminality. In an economic approach, the offender's incentive to commit a crime is based upon its profitability if the profitability the crime imposes gives the offender the ability to maximize their profits (UNODC, 2009). This phenomenon is observable in disparate countries where the profit potential is higher. In countries with higher profit potentials, the revenue accrued from this industry will increase the demand for trafficked individuals and the incentives to choose to traffic such individuals. The rationale behind this increasing demand results from higher profits and lower costs for trafficking. These costs for the trafficker include the price of entering the country, the legality of prostitution, the frequency of arrest for sex trafficking, the potential punishment for engaging in such crimes, and the ease of access to trafficked individuals. With a country's legislation that creates market conditions that

generate higher profits and lower costs, commonly in destination countries, the function of price fluctuates, influencing the quantity sold, which is dependent on the market's size for prostitution and the per capita income of it (Jakobsson & Kotsdam, 2010, 2013).

With sex trafficking being an economic activity solely driven by profit incentives, the policies surrounding prostitution impact the demand for trafficked individuals (Jakobsson & Kotsdam, 2010, 2013). This perspective yields significant insights into the rationale behind trafficking, leading to the deduction that traffickers will only choose to engage in the sexual exploitation of individuals if the current market conditions make it profitable (UNODC, 2009). However, other variables cause their incentivization and willingness to commit the crime to fluctuate aside from its profitability, but this is where the initial motivation stems. The willingness of a trafficker to commit this crime is a determinant of factors such as the potential punishment if caught and prosecuted, the ease of access to victims, frequency of arrests in the criminal network, willingness to commit illegal acts, and the income they can produce from both legitimate and illegitimate activities. Traffickers will determine whether the benefits outweigh the costs of engaging in this crime and then choose to traffic individuals into this country or traffic the country's existing population (Jakobsson & Kotsdam, 2010, 2013).

Acknowledging this relationship enables lawmakers to utilize this information to deter trafficking through policy models and legislation that hinder the market's conditions for trafficking by analyzing its impact on the profitability of the crime. Jakobsson & Kotsadam (2010, 2013) confirm these deductions, asserting the legal framework of prostitution in a country is crucial in determining sex trafficking's profitability, directly impacting its demand. Becker et al. (2006) determined that prohibiting the market for a good lowers the supply of offenses since it raises the cost for suppliers, raising the price for consumers, thus lowering the quantity

consumed. The state's inaction or action in their legislation is "decisive for structuring profit possibilities" for sex trafficking (Cunningham & Shah, 2016). In other words, the legislation surrounding prostitution impacts the demand for trafficked individuals, causing fluctuations in human trafficking inflows. Based on this information, we can conclude that the economic theories of prostitution provide insight into effective preventative legislation for mitigating sex trafficking that adheres to the TVPA's framework. There must be a deeper understanding of the relationship between prostitution and sex trafficking and how particular legislation and policy proposals impact the demand and supply for the sex industry to determine effective policy models for mitigating sex trafficking.

Arguments generated by proponents for disparate policy proposals generally differ vastly from each other. Abolitionism, neo-abolitionism, prohibitionism, and regulation conceptualize the current policy regimes for prostitution. Some of these policy regimes are designed to address the relationship between prostitution and sex trafficking, while others address it from a moral position. The morality of it precipitates from feminist scholarship, where much divisiveness exists among those who view prostitution as detrimental to the woman's well-being no matter the circumstance since it contracts freedom and sexuality away from the woman versus it being harmful due to the stigmatization of the industry and the sexual morality of it (Jakobsson & Kotsadam 2010, 2013). This paper does not seek to address the moral philosophical approaches to prostitution but rather if these policy regimes generate legislation that deters the supply of offenses, the demand for trafficked individuals and does not penalize the trafficking survivor.

❖ **Abolitionism/Neo-Abolitionism**

Abolitionist and neo-abolitionist policies emerge from differing perspectives, emanating from numerous sides of the prostitution debate. However, these differing perspectives seem more

prevalent within the discourse for abolitionist and neo-abolitionist policies. On one side, the abolitionist regime initiates from a liberal feminist perspective, suggesting that the choice of engaging in a transactional exchange for consensual sex does not impose harm on individuals or society. Proponents of this position argue that choosing to profit from selling sex is empowerment since it promotes their ability to choose to do with their own bodies. However, this is unattainable unless third-party beneficiary interference is not prohibited (Carline & Scoular, 2017). Abolitionists and neo-abolitionists against this argument agree with the policies produced by this regime but for disparate reasons. They acknowledge the relationship between prostitution and sex trafficking and deem even voluntary prostitution as detrimental. Neo-abolitionists believe that all prostitution, whether voluntary or involuntary, should be recognized as "a practice of sexual violence and exploitation" since it manifests sexual ownership and revolves around tactics of isolation and exploitation of individuals' vulnerability points. More specifically, traffickers target previously sexually and physically abused individuals maintained by coercion. Meanwhile, the enforcement practices and criminality of prostitution "holds women culpable for the offense" (Baldwin, 1993).

It is common for abolitionists and neo-abolitionists to propose legislation known as either partial criminalization or partial decriminalization of prostitution. In an abolitionist regime, it would be the criminalization of third-party beneficiaries solely since they exploit individuals' vulnerability and hinder their freedom since it entices sexual ownership and decriminalizes the prostitute. A neo-abolitionist regime also implements partial criminalization and decriminalization for disparate reasons. Instead of criminalizing third-party beneficiaries, they also seek to criminalize the buying. The legislation then decriminalizes the act of prostitution,

not because they believe that sex work is empowering per se, but recognize in a criminalized system, trafficking victims are prosecuted for their victimization.

❖ **Prohibitionist**

Prohibitionists are disinterested in the relationship between prostitution and sex trafficking, as they do not care about the differentiation of choice and force since they view all forms of prostitution as detrimental. Their framework for legislation surrounds the deterrence of both commercial sex and sex trafficking (Anderson & O'Connell Davidson, 2002). Under this policy regime, lawmakers resort to fully criminalizing all aspects of prostitution in the market; the buying and selling of sex and third-party beneficiaries.

Criminalization/Partial Criminalization/Partial Decriminalization

In a fully criminalized system, the legislation prohibiting the solicitation, buying, and selling of prostitution does not impact the trafficker's utility and decision to supply since the benefits still outweigh the costs. Within this fully criminalized system, the profit potential actually increases since it "crowds out voluntary prostitution," increasing the price of prostitution and the profit potential available to traffickers (Cunningham & Shah, 2016). According to Cunningham & Shah (2016), the reason criminalization crowds out voluntary prostitution is that women either choose to be married or engage in prostitution. With prostitution being legal within the market, from a man's perspective, marriage becomes devalued because it disincentivizes them from pursuing a meaningful relationship in the long term due to the ease of access and instant gratification achieved through sexual contracts in the market compared to establishing long term relationships that eventually lead to an exchange of consent (The Dr. Jordan B. Peterson Podcast, 2023). Cunningham & Shah (2016) further this proposition, indicating that criminalizing prostitution increases men's valuation of marriage. Women then opt to marry

instead of pursuing this profession, decreasing the supply of voluntary prostitutes. Additional explanations providing reasoning for why voluntary prostitution decreases in a criminalized system is that prohibiting prostitution within the legal system deters voluntary prostitution because the penalties of the crime are, more often than not, placed upon the prostitute rather than the trafficker. The criminalization of the market also makes the conditions more coercive and violent. However, this narrative is utterly fallacious and decomposes when comparing a criminalized legislative system versus a legalized or decriminalized one.

Proponents opposed to a criminalized system of sex purchasing and profiteering argue that it generates a more coercive and violent industry because it deters those with lower incentives to buy or prostitute, thus disincentivizing less violent third-party beneficiaries and buyers from its markets (Cunningham & Shah, 2016). This determination is dictated by alluding the criminalization of sex buying deters entry into the market. However, the buyers left undeterred, which continue to persist within this market, were more coercive. In the overall picture, coercion by buyers decreases, but more severe coercion increases. They argue the same conditions are observable for incidences of violence, replicating themselves in a system criminalizing third-party beneficiaries. Negative selection tends to occur under this legislation, which conceptualizes less coercive and violent third-party beneficiaries from exploiting individuals since they are the first to exit the market, leaving those more prone to utilizing harsher versions of coercion and violence (Cunningham & Shah, 2016). Cunningham & Shah (2016) surmises that this phenomenon substantiates itself because more coercive and violent third-party beneficiaries are less about the rule of law and only the profit potential of these markets when comparing them to legitimate and illegitimate activities. The argument against the criminalization of buyers and third-party beneficiaries is misleading. It suggests violence and

coercion compared to a legalized system expands, but this is untrue. The prevalence of more violent and coercive buyers and third-party beneficiaries in a criminalized market compared to the legal market would exist just the same. The only reason the data reveals that it becomes more coercive and violent is that they are removing the less coercive and violent individuals in the market from the analysis, which then increases the percentage of more coercive and violent methods utilized but not actually the amount of these types of buyers and third-party beneficiaries already existing within the market.

Ultimately, when analyzing criminalization and partial criminalization models, it comes down to the earning opportunities and utility available to those engaging in these markets. The utility of prostituting and purchasing sexual services depends upon the stigma associated with that line of work. In a society that stigmatizes prostitutes, which would reflect such in a system prohibiting prostitution, stigmatization does not direct itself toward the buyers. The enforcement against this market focuses on prostitutes, decreasing their earning opportunities but leaving buyers' utility unchanged. It increases trafficker's and pimp's utility since price increases in a system where enforcement targets prostitutes. If enforcement instead targets buyers and third-party beneficiaries, their earning opportunities decrease as the prices lower. Therefore, reducing the number of prostitutes/trafficked individuals (Cunningham & Shah, 2016).

❖ Regulation

For those pro-sex work, often taking on the liberal feminist perspective, as outlined in abolitionism, proponents of this position strongly favor sex work from both the demand and supply side. Pro-sex work advocates acknowledge the effect sex work plays on sex trafficking but believe that criminalizing this industry imposes more of a detriment since a lack of protection for sellers and trafficked individuals leads to increased exploitation and sex trafficking

(Jakobsson & Kotsadam 2010, 2013). Therefore, they believe the most beneficial solution is to legalize the industry in a regulated market or fully decriminalize prostitution.

Legalization/ Full Decriminalization

Advocates of a legalized system derive their rationale from libertarian ethical theory, arguing that prostitution is a victimless crime and results in voluntary exchanges that are just as beneficial to either party as any other commodity would be. Based upon the assumption that prostitution is always voluntary, they deem the demand and supply of prostitution as undangerous, thus arguing there is no justification for the government to prohibit it. In a fully decriminalized system, they go one step further to say the government should not interfere with the markets, meaning no regulation or taxation should substantiate it (Reynolds, 1986). Full decriminalization of prostitution includes removing all penalties for prostitution, sex buyers, and accountability for pimps to normalize prostitution as a legitimate means of income (Bender et al., 2019).

Libertarian ethical theory proclaims that interference in the legality of these markets creates involuntary prostitution since it forces this commodity into the black market. This is where the position originates from arguing criminalization of prostitution increases violence and coercion in the market, pushing out voluntary prostitutes. Additionally, they advocate increased coercion and violence expand the market conditions for "pimping" and the exploitation of individuals, where voluntary prostitutes resort to pimps to protect themselves from the more coercive and violent buyers. However, whether they voluntarily choose to work for a pimp or not, the conditions of violence and coercion do not improve, thus disincentivizing voluntary prostitutes to engage within this market. The willingness to voluntarily prostitute decreases, incentivizing pimps to traffic individuals (Reynolds, 1986).

According to the proponents of legalizing prostitution, it would increase the demand for sexual contracts, allowing the voluntary prostitution supply to increase, eliminating the need for trafficked individuals (Cunningham & Shah, 2016). This aligns with economic theory, which proposes that the legalization of prostitution will decrease the demand for trafficked individuals. Contrary to these presumptions, previous literature contradicts these narratives. Cho et al. (2013) paper explores the relationship between legalized prostitution and sex trafficking. It proposes that the legalization of prostitution produces two potential outcomes. The scale effect explains that legalizing prostitution leads to the expansion of the prostitution market. With this expansion within the market, legal prostitutes will not fulfill the increased demand, creating an increased demand for trafficked individuals. The substitution effect expostulates that legalization of prostitution will not increase trafficking inflows because legal prostitutes will be more favorable over trafficked individuals.

It is true that the initial supply of involuntary prostitutes will decrease upon legalization or full decriminalization due to the scale effect. Cho et al. (2013) found the substitution effect outweighed the scale effect in his and his colleagues' empirical analysis. As prostitution was permitted, they observed in these countries that there was an increase in the demand for prostitutes, leading to an insufficient supply of workers. Additionally, in a legalized system, the service of prostitution is subjected to taxation (Cho et al., 2013). With legalizing prostitution, the government wants to instill specific provisions to ensure the safety of the workers, such as consistent STD testing and believes that it becomes easier to detect abuse and involuntary prostitution in a legal market. Since prostitution relies on profit potential and the choice to pimp depends on their utility, often pimps choose to operate illegally through tax evasion, which is more easily attainable and profitable by choosing to minimize labor costs by resorting to

involuntary workers (Cho et al., 2013; Reynolds, 1986). Ultimately, in the countries legalizing prostitution, trafficking inflows surpassed what they were prior to the enactment of its legalization. Bender et al. (2019) allude that this results from the normalization of the sex trade caused by full decriminalization or legalization of its markets. For example, in both the Netherlands and Germany, since legalizing the sex trade, there "has been an expansion of the sex trade, a boom in the demand for commercial sex and an increase in sex tourism" (Bender et al., 2019). The increase in demand for commercial sex and sex tourism results in the increased demand for trafficked individuals, as outlined in Cho et al. (2013) study, revealing that legalizing the purchasing of sex correlated with increased inflows of trafficking victims.

Case Studies

Determining the most effective legislation for mitigating sex trafficking and focusing on survivor outcomes is not determinant on solely focusing on the economic theories of these disparate policy regimes. Rather, we must focus on the results of specific implemented legislation that follows these policy regimes and determine how they impact trafficking inflows and the conditions for victims and traffickers to determine if, in practice, they produce similar results. This paper will focus on four case studies, showcasing these systems of legislation implemented in practice, which include the complete criminalization of prostitution in the United States, The Nordic/Swedish Model of partial decriminalization and criminalization of prostitution, Denmark's full decriminalization, and the Dutch Models of legalization.

❖ **The United States: Criminalization**

The United States case study is no different from the outcomes produced by other countries criminalizing prostitution. In this system, the law prohibits buying sex, selling sex, and third-party beneficiaries. In a criminalized system, conditions worsen for trafficking survivors as it crowds out voluntary prostitution. The reason behind this is common misconceptions regarding entry into prostitution. In the United States, we have a uniform definition outlining the act of sex trafficking, adhering to U.S. Congress law H.R. 3244 (2000) outlining that sex trafficking is "a commercial sex act induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age." Preconceived notions and biases formulate alterations of this uniform definition among the populace, creating unfair conditions for sex trafficking victims when interacting with law enforcement. These alterations in defining sex trafficking in the United States resulting from the criminalization of prostitution seem to perpetuate prostitution as a victimless crime, neglecting the vulnerabilities and root causes of sex

trafficking and instead penalizing victims for their victimization. Mathieson et al. (2016) paper states that our neoliberalist society furthers this perspective "by a plethora of cultural norms glorifying pimping while denigrating and encouraging violence against women" prostituted. Mainstream media perpetuates these narratives continuously, leading the populace to believe women can only be forced into prostitution rather than acknowledging the complex dynamic of this criminal network and the coercive tactics traffickers utilize to captivate their victims. Additionally, the glorification and normalization of sex work toward young impressionable girls and boys redirect their incentives in life, creating improper education on the detriment this industry imposes, increasing victimhood.

In *Gender Law & Policy* (2010), Bartlett and her colleagues explain the legal prohibition of prostitution law across the United States. With each state implementing disparate sub-federal laws, legislation prohibiting prostitution becomes non-uniform, creating conditions where federal and sub-federal laws undermine one another. As a result, buyers are subject to the same legal ramifications as prostitutes in only half of U.S. states, and those legal sanctions remain primarily unenforced towards them. Buyers largely remain unprosecuted in the United States despite driving the demand for voluntary and involuntary prostitution. Mathieson et al.'s (2016) paper highlights this, mentioning a national study conducted to break down prostitution arrests by offense, finding that in each state included in the analysis, buyers comprised anywhere between 10 and 30 percent of arrests, and prostitutes, whether voluntary or involuntary, consisted of 70 to 90 percent of all arrests. In more specific studies, such as in Los Angeles, California, between 2003 and 2012, 35,402 were arrested for prostitution, and of that numerical value, 1,400 were children nine years of age (Mathieson et al., 2016). If prostitutes are penalized at higher rates

than sex buyers, the utility for buyers does not decrease, as the perceived benefit of purchasing sex outweighs the costs, such as the risk of offense.

According to our economic analysis, penalties focusing on prostitutes rather than sex buyers does not deter the act of buying sex. Therefore, it does not decrease the demand for prostitutes. The unchanged demand for prostitutes and unenforced or more lenient penalties towards sex buyers in the U.S. creates conditions for traffickers and pimps to continue trafficking individuals since the profit potential remains the same or increases because as the price for prostitution increases, it becomes riskier for prostitutes to solicit sex (Cunningham & Shah, 2016). In the long run, with increased profit potential, criminalizing prostitution can increase sex trafficking. With penalties focusing on prostitutes more heavily, victims of sex trafficking are denied victimhood, as societal norms perpetuate that prostitution is a victimless crime. Burckley et al. (2023) paper outlines this occurrence, stating "a sizable proportion of sex trafficking in the U.S. victims is done by perpetrators who have established relationships with the victims rather than seizing a surprise opportunity when purchasing sex work as a sex trafficker to gain access to a new victim." In the United States, it is clear traffickers look for specific vulnerability points that make the survivor more susceptible to sexual exploitation. If the legal system neglects these methods of coercion utilized by the traffickers, it results in reduced prosecution of traffickers. The reduction of prosecuting traffickers prevents policies established by the TVPA to protect survivors of sex trafficking and prevent future exploitation effectively.

❖ **The Nordic/Swedish Model: Partial Decriminalization**

The Nordic & Swedish Model incorporates a neo-abolitionist perspective believing that all prostitution, even when voluntary, is detrimental to individuals as it proliferates sexual ownership and the facilitation of exploiting individual's vulnerabilities. With this policy regime,

the Nordic Model encompasses the partial decriminalization of prostitution to prevent holding voluntary and involuntary women culpable for sexual exploitation (Baldwin, 1993). Due to these ramifications, individuals refer to this model as the Equality Model since it proposes an ideological framework based upon liberal feminist perspectives that advocate prostitution amplifies gender-based violence (Bender et al., 2019). Promoting this ideological framework that induces gender equality does not just reside in decriminalizing prostitution to prevent trafficked individuals from being prosecuted for their own victimization. The ideological framework also focuses on removing market incentives that fuel the demand for the prostitution industry (Ekberg, 2023). The Nordic and Swedish Models allude that equality can not exist within a society unless the state hinders the demand for prostitution while instilling policies that promote the well-being of trafficked individuals (Mathieson et al., 2016).

In the case of Sweden, the Nordic Model utilizes this neo-abolitionist policy regime to focus on legislation that "asymmetrically decriminalizes individuals exploited in prostitution, while criminalizing buying, pimping, and brothel keeping" (Mathieson et al., 2016). Incorporating this form of legislation allows policies that focus on social service support for survivors to flourish, permitting the appropriate allocation of resources for victims to exit this industry effectively. By criminalizing all aspects of buying sex, such as street work, brothels, massage parlors, and escorting services to hotels and homes, such legislation is able to remove market incentives for third-party beneficiaries (Mathieson et al., 2016).

When implementing the criminalization of buying sex, as outlined in this paper's economic analysis, it deters the buyers' entry into the market. Buyers' utility decreases because they perceive the risks associated with engaging in this market to be higher, especially when there is no penalty for those supplying sex. Additionally, criminalizing this aspect of prostitution

increases the stigmatization of sexual contracts in the prostitution market. Decreasing the demand for buyers then reduces earning opportunities for sex traffickers since there are fewer opportunities to exploit individuals (Cunningham & Shah, 2016). According to Ekberg (2023), this is observable in recent analyses of victims of sex trafficking, where the Commission of Inquiry found in a ten-year review that the number of trafficking victims had "remained stable since the introduction of the law that prohibits the purchase of sexual services" and the Stockholm Regional Police Prostitution Team finding that prostitution had decreased within the past four years. Additional literature produces similar results, where Mathieson et al. 's (2016) paper notes that since criminalizing sex buying, only 400 to 600 individuals are trafficked for sex annually, and the prevalence of prostitution has dropped by 30 to 50 percent. Other studies reveal that prohibiting the purchasing of sex reduced substantially between 12.7 to 7.6 percent and led Sweden to become an unattractive tourist destination for sex (Bender et al., 2016).

❖ **Denmark: Decriminalization**

Advocates for decriminalizing sex work take on a neoliberalist ideological framework, claiming that interference in these markets through regulation or prohibition in legislative policies results in formulating market conditions for trafficked individuals (Reynolds, 1986). Based upon these presumptions, in 1999, Denmark took on this policy regime of fully decriminalizing prostitution, meaning the government does not interfere in the buying or selling of sex, deeming this market as a legitimate means of producing income that is comparable to any other marketable commodity (Reynolds, 1986; Mathieson et al., 2016). However, proponents of this policy regime are only against the regulation of the markets under government control. In a decriminalized system, provisions are still implemented to protect the workers. However,

responsibility is transferred from law enforcement to local councils and can still be taxable under administrative regulations rather than legal ones (Mathieson et al., 2016).

The assumptions behind decriminalizing prostitution are fallacious, as they neglect the substitution effect, wherein in a legalized or decriminalized market, the demand for sex surpasses the available supply of voluntary prostitutes, thus increasing the demand for trafficked individuals. Proponents of decriminalization believe that in a market permitting prostitution, only voluntary prostitutes exist. As a result, no differentiation exists between sex trafficking and voluntary prostitution, meaning traffickers face no penalty for their exploitative methods in this legal system (Reynolds, 1986; Bender et al., 2019). In the case of Denmark, since decriminalizing the buying and selling of sex, the lack of prosecution of sex traffickers was associated with higher trafficking inflows into the country (Mathieson et al., 2016).

Comparatively, this can be shown by analyzing the markets of both Sweden and Denmark since they both propose and implement disparate legislation despite having similar economic conditions. As mentioned before, in the case of Sweden, after criminalizing the buying of sex, prostitution decreased by 30 to 50 percent. However, in Denmark, the size of the prostitution market tends to be 3 to 4 times higher than that of Sweden (Mathieson et al., 2016). Bender et al. (2019) assert these numbers are even higher, generating prostitution markets 12 to 15 times larger than in Sweden.

Resting upon economic theories of prostitution, this higher demand for prostitution results in increased market conditions for trafficked individuals. Based on ILO estimates, Cho et al. (2013) determined that in 2004 Denmark's prostitution market comprised 2,250 sex trafficking victims, whereas comparatively, Sweden's comprised approximately 500 trafficked individuals. It must be taken into consideration that the increased demand in Denmark could

result from these two countries neighboring one another, and with Sweden criminalizing the purchase of sex, those interested in purchasing sex within this country travel to Denmark, where there is no penalty for engaging in this market. It is plausible and reasonable to argue that if the buying of sex was criminalized in Denmark as well, likely sex trafficking would increase. However, it would still be lower than if these markets were legalized in both countries (Cho et al., 2013).

❖ **The Dutch Model: Legalization**

In 2000, the Netherlands transitioned from a system that criminalized pimps and brothel keeping and legalized these roles in prostitution. The idea was to instill policies that promote the well-being of individuals within sex work, to "protect the position of sex workers, protect people from being coerced into prostitution, protect minors against sexual abuse, reduce prostitution by foreign nationals residing illegally in the Netherlands, and sever the links between prostitution and crime" (Mathieson et al., 2016). Additionally, this would allow this transactional exchange to become a legitimate activity within the market, treated as any other occupational commodity that would be subject to taxation by the Dutch government. Contrary to the government's propositions towards effectively mitigating crime within prostitution, their policies produced the opposite outcome and ultimately imposed a detriment to trafficked individuals. The law adopted the perspectives within the libertarian ethical theory, presuming that all prostitution in this now-legal sector is voluntary. Therefore believing the legalization of pimps and brothel ownership reduces crime within prostitution and the rates of violence and rape perpetrated towards individuals in sex work. However, this perspective leads to legitimizing this criminal network with the facade of it being a legitimate means of accruing funds as pimps and third-party beneficiaries since there are no legal ramifications for their wrong-doings and there is less

identification of abuse with the presumption that all prostitution is voluntary (Mathieson et al., 2018).

Following the enactment of the law, the Dutch government declared that this newly adopted policy did not meet the goals the law had initially proposed. Instead, they observed the proliferation of sex trafficking thriving behind this legal facade. The sex industry had grown by 25 percent, which from libertarian ethical theory, seems unproblematic. Statistical reports convey that legalizing the sector does not result strictly in voluntary work. The Governmental Budapest Group found that 80 percent of those practicing prostitution within this now "legal sector" were trafficked from another country. The number of under-aged prostitutes increased by 3 times, resulting in the conceptualization and sustainment of pedophilic networks and efforts to normalize pedophilia within the Netherlands (Huisman & Kleemans, 2014).

These results stem from decreased efforts from law enforcement since they now have less power and incentive to investigate legal prostitution businesses. The law's perspective of legal prostitution businesses consisting solely of voluntary workers creates less critical legal professionals that neglect the complex relationships between pimps and prostitutes. As outlined in this paper's Root Causes and Vulnerability section, numerous factors must be accounted for to evaluate trafficking cases and identify trafficked individuals. This starts with the understanding that traffickers utilize methods of coercion and manipulation through the formulation of social relationships, close monitoring, intimidation, economic and emotional dependency, and violence to captivate the victim and increase compliance to exploit the individual for their own benefit. Generally speaking, the dynamic of prostitutes entering the market is not as simplistic as choosing this industry with no outside force. The reality is the majority come from backgrounds that increase their vulnerability points and susceptibility to exploitation that traffickers seek

(Lloyd, 2011). From an outside perspective, not understanding the complex nature of sex trafficking, it can easily be perceived as a choice. Yet by definition, it can't if there is a lack of options or they feel pushed into it. The presumption that those prostituting are willing participants, especially under legislation legalizing prostitution, the idea of what defines choice becomes irrelevant, and only force is seen as the means to traffic individuals. With pimping and brothel keeping being legal, there are no incentives to investigate. After legalizing prostitution, this was observable in the Red Light Districts. Commonly this is referred to as the Sneep case, in which German pimps seized this district through means of building social relationships and methods of violence, intimidation, and force to profit off of previously independent workers (Huisman & Kleemans, 2014).

With the Dutch government acknowledging the unsuccessful legalization of prostitution, there is "a powerful incentive to uphold this legislation" due to the profitability of this industry. The profit potential of prostitution in the market under a legal system increases for both the government and third-party beneficiaries since the legalization of prostitution changes the stigmatization behind it. Under a criminalized system, the established morality behind the law disincentivizes individuals from engaging in prostitution, especially from the buyer's side. Legalization promotes the normalization of sex work, which then, under economic theory, increases the demand for sex, making pimping and trafficking more profitable (Reynolds, 1986). Without legal ramifications and alterations in the perceptions of sex trafficking, the risk associated with exploitation decreases as the ability to maximize profits drastically increases (Jakobsson & Kotsdam, 2010, 2013). Additionally, legalizing prostitution increases the nation's wealth, with the increased profit potential fueled by tourism and the demand for sex generating 800 million USD annually, comprising 5% of the nation's GDP, and the government's ability to

accrue profit through taxation through "legitimate" prostitution businesses (Mathieson et al., 2016). From particular perspectives, this is perceived as a positive. However, the means of generating wealth is unethical when it relies on the involuntary exploitation of individuals. Not only that, such legislation neglects the essential framework highlighted by the TVPA to mitigate sex trafficking effectively. Without appropriate legal ramifications, distorted perceptions of what sex trafficking is defined as, and fewer incentives to investigate "legitimate" prostitution businesses, traffickers are not vigorously prosecuted or identified. The prevention of sex trafficking is not attainable when legislation increases the demand for sex and third-party beneficiaries' profit potential, which results in the inability to prosecute sex traffickers. Nor can survivors be protected when sex traffickers become incentivized to engage in this criminal network and law enforcement is less critical of the prostitution comprising of involuntary workers.

Conclusion

Sex trafficking is an exceptionally unique and complex criminal network. These complexities create disparate controversial perspectives on what constitutes sex trafficking, the relationship between sex trafficking and prostitution, and the solutions to mitigate sex trafficking. The intent of this paper was to address these differences to bridge the gap in the literature, providing a comprehensive analysis that considers all variables necessary to determine the appropriate legislation to mitigate sex trafficking. Effectively mitigating sex trafficking survivors requires one to acknowledge that our own preconceived notions and biases towards human trafficking survivors and what constitutes trafficking play a crucial role in how society treats trafficking victims. If social norms glamorize sex work, it normalizes prostitution to young impressionable girls that become unaware of the dark reality of prostitution (Stickle et al., 2020).

If the buying of sex becomes destigmatized, it leads to an increased demand for the supply of sex, increasing the demand for involuntary workers (Jakobsson & Kotsdam, 2010, 2013). This results from the increase in demand, increasing profit potentials for traffickers, explained by the criminological theories of trafficking. Rational choice theory and economic theories of supply and demand postulate that traffickers choose rationally to engage in crime if the profit potential of this illegitimate activity supersedes the profitability of legitimate activities and the associated risks. As long as the demand for sex exists, driven by buyers, there will be a desire for profiteering through exploiting individuals since the costs are generally low (Cunningham & Shah, 2016).

Destigmatization leads to the perspective that the supply of prostitutes within the market consists solely of willing participants. Among buyers, there is little to no differentiation in their minds of whether the sexual services they are receiving are from voluntary or involuntary

workers (Jakobsson & Kotsdam, 2010, 2013). This perspective originates from libertarian ethical theory, which becomes exceedingly problematic as it imposes numerous issues (Mathieson et al., 2016). Viewing prostitution as voluntary creates less critical legal professionals, reducing the rates of prosecuting sex traffickers and disincentivizing investigations to identify trafficking victims because it neglects the relationship between the trafficker and survivor. Traffickers specifically seek individuals lacking essential needs that would otherwise lead to their well-being or individuals that show physical weakness and the presence of psychological distress (Maslow, 2013; Luty & Lainer, 2012). This is why the majority of individuals trafficked for sex showcase numerous variations of vulnerability points that increase their susceptibility to exploitation, such as political instability, poverty, homelessness, abuse, drug dependencies, originating from broken families, etc. (Brofenbrenner, 1994). Traffickers can easily detect these vulnerabilities and capitalize off of them by implementing diverse nonphysical methods of psychological manipulation and deception to meet the needs currently lacking in the individual's life to conceptualize a power dynamic and formulate dependency and reliance within the victim towards the trafficker (Baldwin et al., 2014; Maslow, 1943).

Mitigating sex trafficking through legislation requires the consideration of how policies impact perspectives of both prostitution and sex trafficking since the two are intrinsically connected (Stickle et al., 2020). Economic analyses determine that increased demand for sex results in increased demand for trafficked individuals (Jakobsson & Kotsdam, 2010, 2013). If legislation leads to alterations in what constitutes prostitution, viewing prostitution as voluntary, it disincentivizes investigations among law enforcement since root causes and vulnerabilities of victims become neglected. It also increases the profit potential for traffickers as the demand for

sex increases. In such incidences, such legislation does not effectively mitigate sex trafficking nor protect survivors.

❖ **Implications**

Fully criminalizing prostitution resulted in negative outcomes for sex trafficking survivors as enforcement against prostitution is focused on prostitutes and less on buyers and third-party beneficiaries. In the case of the United States, this is proven, where 70 to 90 percent of arrests for prostitution consisted of prostitutes, with 10 to 30 percent being towards buyers (Mathieson et al., 2016). With penalties focusing on prostitutes rather than sex buyers, a criminalized system creates conditions for traffickers to continue trafficking individuals since the profit potential remains either the same or increases as the price increases because soliciting sex becomes riskier (Cunningham & Shah, 2016). Therefore, criminalization of prostitution formulates conditions that do not appropriately prosecute traffickers and focuses on penalizing trafficking survivors for prostitution crimes, which does not protect them. As the trafficker's utility increases, the price increases for prostitution because law enforcement targets prostitutes, creating a system that does not hinder the prevalence of sex trafficking but rather increases its profitability (Cunningham & Shah, 2016).

Legalization and fully decriminalizing prostitution created conditions that destigmatized sex work, which many argue reduces coercive and violent market conditions. Proponents of legalization and decriminalization argue that criminalization disincentivizes less coercive and violent buyers and pimps, leading to a statistical increase in these conditions (Cunningham & Shagh, 2016). Although, this shows to be true statistically. Such analyses do not consider that these more coercive and violent buyers and pimps already existed within the market.

Criminalization deters less coercive and violent pimps and buyers, leading to results that remove

them from the analysis, then increasing the reported methods of coercion and violence utilized among traffickers. Additionally, proponents of legalization and decriminalization argue that interference within the markets forces this commodity into the black market. Again, these implications are untrue. Legalizing and decriminalizing prostitution actually increase sex trafficking because legal ramifications are removed. The willingness to voluntarily engage in prostitution decreases, incentivizing pimps to seek involuntary workers (Reynolds, 1986). Destigmatization within these markets also increases the demand for sex, then increases the demand for prostitution. Cho et al. (2013) determined that through legalization or decriminalization, the scale effect would occur when the prostitution market expands so much that voluntary workers do not meet the demand for sex. This was proven correct in the case studies of the Netherlands and Denmark. Each country produced outcomes revealing that the expansion of the prostitution market had occurred, increasing trafficking (Mathieson et al., 2016). Furthermore, from the perspective of prostitution as voluntary within a legal and decriminalized system, trafficked individuals are denied victimhood and less likely to be identified as trafficking survivors. Therefore, they did not sufficiently receive protection against their traffickers. The lack of legal ramifications for traffickers increases the prevalence of sex trafficking. As a consequence, such legislation did not effectively prosecute trafficking, protect survivors, and prevent sex trafficking (Mathieson et al., 2016; Bender et al., 2019; Huisman & Kleemans, 2014).

Based upon this paper's systematic review, neo-abolitionist perspectives for partially decriminalizing prostitution produce the best outcomes for survivors. The demand for sex relies on sociocultural attitudes toward purchasing sex. With destigmatizing sex work through full decriminalization or legalization the demand for sexual contracts increases since increased utility

and profit potential create a higher demand for trafficking. If enforcement targets buyers and third-party beneficiaries, the earning opportunities will decrease, lowering the demand for prostitution and trafficked individuals (Cunningham & Shah, 2016). In the case of Sweden, this is shown to be accurate. Criminalizing buying, pimping, and brothel keeping led to the prevalence of prostitution dropping by 30 to 50 percent, creating an unattractive tourist destination for sex (Mathieson et al., 2016; Bender et al., 2016). Since criminalizing this side of prostitution, Sweden reports only 400 to 600 individuals being trafficked annually, compared to Denmark, with a fully decriminalized system and a similar economy, having a prostitution market consisting of 2,250 trafficking victims (Cho et al., 2016; Mathieson et al., 2016). With the decriminalization of selling sex, trafficking victims are no longer held culpable for their exploitation. Therefore, the dynamic between the trafficker and victims is identified by law enforcement, increasing protection for survivors, prosecution of traffickers, and prevention of sex trafficking.

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