

COMBATING HUMAN TRAFFICKING WITH THE LAW: A CONTENT  
ANALYSIS OF STATE LAWS AND RECOMMENDATIONS FOR LEGAL REFORM

by

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STATE HUMAN TRAFFICKING LEGISLATION:  
A CONTENT ANALYSIS AND REFLECTION OF SOCIAL SCIENCE RESEARCH

by

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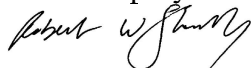
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## ABSTRACT

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Human trafficking is a heinous human rights violation, impacting as many as 40.3 million people around the globe (Global Slavery Index, 2018). In the United States of America (USA), the Trafficking Victims Protections Act of 2000 (TVPA), and its subsequent reauthorizations, comprise the bulk of the federal response to human trafficking. As a result, federal policies have received a lot of praise and scrutiny in the literature. However, less is known about statewide legislative efforts to combat human trafficking. To fill this gap, the current study analyzes state human trafficking statutes through content analysis. Overall, state legislation could best be described as a hodge-podge of laws related to three themes: 1) conceptualizing human trafficking, 2) victim centeredness, and 3) perpetrator centeredness. Accordingly, several recommendations are made that would reduce inconsistency and increase implementation of evidence-based policy.

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A CONTENT ANALYSIS OF STATE LAWS AND RECOMMENDATIONS  
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## CHAPTER 1: INTRODUCTION

Human trafficking is a violation of human rights that has reached epidemic proportions (Geneva, 2017; Okech, Choi, Elkins, & Burns, 2018). Most simplified, human trafficking refers to the, “use of force, fraud, or coercion to obtain some type of labor or commercial sex act” (U.S. Department of Homeland Security, 2019).

Furthermore, important to the study of this phenomenon is to understand policies that respond to human trafficking. In the United States of America (USA), the criminal justice system plays an important role in responding to human trafficking. State and federal legislation lay the foundation to the formal response to this phenomenon because they guide the practices and decision-making of its actors. While researchers have evaluated federal legislative efforts in the USA, limited research exists on state human trafficking laws. To fill this gap in the literature, this research explores the landscape of state human trafficking legislation.

### **Prevalence of Human Trafficking**

The magnitude of human trafficking is typically quantified in three ways: 1) prevalence 2) reported incidences 3) and actual investigations. In this section, the state of existing knowledge regarding prevalence calculations, reported cases, and actual investigations are summarized. Then, strengths and weaknesses of each methods are discussed. This section concludes with remarks that highlight innovative strategies to accurately capture human trafficking incidences in the USA.

To start, prevalence studies are estimated projections of the total number of incidences a given population based on a cross-sectional analysis of a random sample of the population (National Institute of Mental Health, 2020). To date, the Global Slavery Index provides one of the most comprehensive—and methodologically rigorous—projections of modern slavery. The success of the index is reliant on its combined methodological approach that assesses multiple global datasets through quantitative and qualitative strategies (Global Slavery Index, 2018). In 2016, it estimated that there were 40.3 million slaves around the world (Global Slavery Index, 2018).<sup>1</sup>

To date, the USA does not have a comprehensive data collection system dedicated to estimating the prevalence of human trafficking. Unfortunately, human trafficking predictions in the USA are limited, primarily, to reported and/or investigated cases. Many of these studies, however, have been critiqued for operationalizing human trafficking differently, thereby making replication studies incomparable in addition to focusing on specific demographics (i.e., sex trafficking of women and children; Bales, 2005; Clawson, Layne, & Small, 2006; Laczko & Gozdzia, 2005). Moreover, respondent-driven sampling—another method used to estimate prevalence—has been critiqued for excluding survivors who are socially isolated (i.e., under greater control by their trafficking; Committee on National Statistics and Committee on Population in the National Academy of Sciences, 2019).

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<sup>1</sup> The Global Slavery Index includes a broader definition of human trafficking by including forced marriages—which comprised of 15.4 million cases in 2016—than most studies in the USA. Scholars and practitioners, however, advocate for the inclusion of forced marriage in human trafficking estimates due to their shared characteristics of exploitation (Larsen, David, & Rego, 2018). Most USA estimates will not include forced marriage.

Nevertheless, National Human Trafficking Hotline (hosted by the Polaris Project) manages one of the most comprehensive datasets on suspected instances of human trafficking. In 2018, Polaris Project identified 10,949 suspected human trafficking cases and 23,078 potential survivors (Polaris Project, 2018). Finally, estimates of human trafficking investigations vary due to a lack of official data collection procedure. Between 2008-2010, for instance, the Bureau of Justice Statistics identified 2,515 federal investigations of human trafficking (Banks & Kyckelhahn, 2011). In juxtaposition, the Uniform Crime Reporting (UCR) program only identified 1,392 in 2018 (UCR—Human Trafficking, 2018). For these reasons, experts have argued that many human trafficking calculations are inaccurate for a variety of reasons (Farrell & Reichert, 2017; Weitzer, 2014).

Researchers have pointed to issues with sampling procedures, the limited scope of these studies, and lack of replicability (Bales, 2005; Tuller, 2005; Zhang, 2012). When investigating human trafficking, there is also an inherent inaccessibility to data (Laczko & Gramegna, 2003). This is attributed to the fact that perpetrators and survivors hidden and are difficult to identify in the public eye (Tyldum & Brunovskis, 2003). For instance, some of the largest demographics of survivors include prostitutes, illegal immigrants, and survivors of trauma, all of which researchers consider, “hidden populations” (Tyldum & Brunovskis, 2003, p. 18). In other words, these survivors and the actions they are forced to perform often involve illegal or stigmatized behaviors that make them unlikely to report their victimizations to law enforcement (Nichols & Heil, 2015). For instance, survivors of sex trafficking may hesitate before reporting due to being involved in prostitution – an activity that is illegal and heavily stigmatized in the USA (Nichols &

Heil, 2015). Survivors who do come forward, therefore, often reflect a smaller demographic of the actual population of undetected survivors (Tyldum & Brunovskis, 2003). Furthermore, data on crime reports, arrests, prosecutions, and convictions will always lead to undercounts of the actual prevalence of a crime. This phenomenon is known as the ‘dark figure of crime’ and refers to the idea that crime is underreported and therefore the true crime rate will always be higher than what is officially recorded by any data collection agency (Penney, 2013). Therefore, the variance in these figures suggest that there is no single source that addresses the full scope of human trafficking.

To address this, innovative methodologies have been employed to capture the prevalence of confirmed human trafficking survivors in addition to those who are at-risk at the state level (Anderson, Kulig, & Sullivan, 2019); though it will take time to implement such strategies on a national level. Federal agencies such as the Office for Victims of Crime and Office for Refugee Resettlement are working to address these gaps (Zhang, 2012). Substantively, although it is difficult to understand the full scope of human trafficking, it is safe to assume that this phenomenon has an even larger impact than what current research has documented.

### **Consequences of Human Trafficking**

Human trafficking has devastating consequences to the survivors, including health related issues. Oram and colleagues (2012), for instance, found, in their systematic review, that survivors generally experience negative consequences to their physical, mental, psychological, emotional, economic, and social wellbeing (see also Busch-Armendariz et al., 2016). More specifically, survivors can exhibit symptoms of anxiety, depression, suicidal tendencies, post-traumatic stress disorder (PTSD), malnutrition, and

require extensive medical attention from the often-long-term abuse they have suffered (Herrington & McEachern, 2017; Hossain, Zimmerman, Albas, Light, & Watts, 2010; Oram, Stockl, Busza, Howard, & Zimmerman, 2012; Ryan, Rosenstock, & Goldmann, 2018).

Moreover, there is a growing literature on sexually exploited women and children that highlights several common health issues stemming from human trafficking. For instance, in a cross-sectional survey of 192 women who had been sexually exploited, 68% of respondents reported experiencing ten or more symptoms concurrently that included, headaches, fatigue, dizziness, back pain, and/or memory problems (Zimmerman, Hossain, Yun, Gajdadziev, & Guzun, 2008). These symptoms are the result of continuous trauma brought on by severe abuse and/or poor living conditions (Zimmerman et al., 2009). Furthermore, the nature of sex trafficking involves repeated sexual assaults against victims which causes other health concerns such as unwanted pregnancies, unsafe abortions, HIV infection, and other untreated sexually transmitted diseases, and/or gynecological infections (Falb, McCauley, Decker, Sabarwal, & Gupta, 2011; Ryan, Rosenstock, & Goldmann, 2018). Several of these survivors also suffer from depression, anxiety, and hostility towards others that can manifest itself as symptoms of post-traumatic stress disorder (United Nations Office of Drugs and Crime, 2009). Unfortunately, these health issues will be with the survivors long after they are removed from a trafficking situation.

While the health concerns of labor trafficking survivors tend to be overlooked in the literature (Cannon, Arcara, Graham, & Macy, 2018), studies that address sex and labor exploitation do find that survivors experience many of the same health risks (Tuner-

Moss et al., 2014; Zhang, 2012). Both survivors of sex and labor trafficking, for instance, tend to also experience diminished economic opportunities from wage theft and a lack of legal work histories (Owens et al., 2014). Exploited laborers can also experience risks of prosecution and deportation that undocumented survivors of sex trafficking have been noted to experience (Barnard, 2014). Regarding the latter, Barnard (2014), found there to be a grave implication for deportation as it can be a death sentence for survivors if they are re-captured by their traffickers. Lastly, Turner-Moss and colleagues (2014), argue that survivors of labor trafficking can suffer unique health consequences from hazardous working conditions that often includes long hours of work.

In addition to the harms suffered by survivors of labor and sex trafficking, it is worth noting that human trafficking has an impact on more than those who directly experience the abuse. In some cases, families experience fear and heartbreak when a loved one is trafficked; but more importantly, traffickers often threaten families to exert control over their survivors (Bertone, 2000; Richard, 2000).<sup>2</sup> In Blazek and Esson (2018), interviews with 41 adult survivors revealed that traffickers often threaten to harm children of survivors to maintain control. This was especially evident among immigrant families who worried about having their children deported (Blazek & Esson, 20108). Although rare, a few survivors even talked about how their children were kidnapped by the traffickers and held in separate locations as further means to control victims (Blazek & Esson, 2018). Threatening to deport parents and children to countries with diminished economic opportunity was another tactic used to manipulate survivors (Blazek & Esson,

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<sup>2</sup> It is worth noting that, research shows that—in as often as 41% of cases—family members traffick other family members (see [https://www.iom.int/sites/default/files/our\\_work/DMM/MAD/Counter-trafficking%20Data%20Brief%20081217.pdf](https://www.iom.int/sites/default/files/our_work/DMM/MAD/Counter-trafficking%20Data%20Brief%20081217.pdf)).



2018). Even after their exploitation ends, families are continuously used as leverage during police investigations in an attempt to avoid prosecution (Blazek & Esson, 2018). These tactics are often successful at silencing survivors because traffickers have the resources to carry out their threats. While it is not often discussed, the partners, parents, children, and extended family of survivors, experience negative consequence as the result of human trafficking.

In addition to these harms, there are also economic consequences to human trafficking. The global economy, for example, suffers from the loss of revenue that survivors would have contributed had they held legitimate employment opportunities (Lillie, 2013). Additionally, the United Nations noted that the cost of human trafficking should include the impact it has on society, including the resources needed to fund prevention and intervention strategies (United Nations Office on Drugs and Crime, 2008). Even more than that, results find that the long-term economic security of survivors is affected even after they exit a trafficking situation (Bocinski, 2017). Survivors, for example, experience obstacles finding legitimate employment because of lack of education, job training, and chronic mental health issues (Aron, Janine, & Lisa, 2006). In some instances, survivors struggle with alcohol or drug dependency, which is another tactic used by traffickers to keep them or as a coping mechanism in light of severe trauma (Office for Victims of Crime and Bureau of Justice Assistance, 2017).

The final barrier to employment opportunities is that many survivors have criminal records as a consequence of their exploitation. The National Survivor Network (2016), for example, discovered that 90% of sex trafficking survivors were arrested for at least one trafficking related crime (i.e., prostitution) and 42% had been arrested ten or

more times. Criminal histories not only prevent survivors from finding employment, but they can also be used to deny a person housing opportunity, which was the case for 55.6% of survivors (National Survivor Network, 2016). Consequently, many survivors will likely depend on government welfare systems to survive and meet their treatment needs, which is especially likely for individuals who experienced abuse as a child (Lillie, 2013; United Nations Office on Drugs and Crime, 2008). Substantively, even when survivors are freed, they continue to face challenges.

### **Present Study**

Human trafficking has negative personal, economic, and social consequences that cause lasting harm survivors and their families (Busch-Armendariz et al., 2016). In order to understand the USA's response to human trafficking, chapter two will present the extant literature on defining, identifying, and responding to human trafficking. Additionally, chapter two addresses the policy efforts of individual agencies in combatting human trafficking, while acknowledging that these efforts have had a limited effect. Furthermore, chapter two underscores our limited understanding of the landscape of human trafficking legislation in the USA and proposes a systematic content analysis of state statutes on human trafficking.

Chapter three details the study's methodology. Using data from a unique, queryable database containing the entire criminal justice codes and procedures from all 50 states, 982 human trafficking statutes were included this analysis. The results reflect patterns and trends that emerged organically and are arranged in a narrative guided by the extant literature and grounded theory. In doing so, this study contributes a holistic understanding of legislation that is inclusive of multiple forms of human trafficking (e.g.,

sex, labor, and minor trafficking). Furthermore, the study provides the most contemporary analysis of human trafficking laws and recognizes recent innovations within these laws.

## CHAPTER 2: LITERATURE REVIEW

In the last two decades, there has been a proliferation of human trafficking research. The literature in this field has transcended the sciences and includes the fields of healthcare, social work, psychology, medicine, and criminology. Chapter two offers a review of the extant literature across these disciplines in an effort to while contextualize the current study. More specifically, five topics will be explored: 1) defining human trafficking, 2) characteristics of human trafficking, 3) responding to human trafficking, 4) human trafficking legislation, and 5) persistent issues in human trafficking legislation.

### **Defining Human Trafficking**

Contemporarily, two definitions of human trafficking are widely cited across the literature. The first definition was put forth by the United Nations during the 2000 Convention Against Transnational Organized Crime (also known as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, briefly referred to as the Palermo Protocol). The second definition was codified with the Trafficking Victims Protection Act (TVPA) of 2000, which was the first piece of federal legislation to criminalize human trafficking in the United States of America (USA). The Palermo Protocol and the TVPA (2000) were created in response to a lack of global acknowledgement for the human trafficking phenomenon. In the 1990s, for example, human trafficking was often categorized as human smuggling, rather than a separate offense (Laczko & Gramegna, 2003; Vayrynen, 2003). This occurred, in part, because

both offenses often involve “irregular migrants” (Meshkovska, Siegel, Stutterheim, & Bos, 2015, p.382). As human trafficking garnered international attention, scholars began to highlight several distinguishing characteristics between human trafficking and smuggling. Human smuggling, for instance, criminalizes a single event (i.e., the crossing of borders one sovereign nation to another; Meshkovska et al., 2015). In contrast, human trafficking is a process crime that occurs continuously, over time (Meshkovska et al., 2015). Moreover, the Palermo Protocol and the TVPA (2000) acknowledge that human trafficking requires the presence of specific actions (e.g., force, fraud, or coercion), by specific means, and for the purpose of exploitation (Gallagher, 2010).

Although human smuggling is distinct from human trafficking, it is common for smuggled persons to be coerced into exploitive situations in order to pay large debts to the individuals who helped them enter a country (Davidson, 2013). This phenomenon is also known as debt bondage, which is defined as:

the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. (TVPA, 2000)

In fact, smuggled migrants are particularly vulnerable to being exploited by traffickers upon arriving into a new and/or unfamiliar country (Davidson, 2013). In short, human smuggling can easily evolve into human trafficking and, therefore, can be harder to detect. These distinctions are important because each crime can, and should, be treated differentially in the criminal justice system. Human smuggling, for instance, can lead to a perpetrators’ deportation, whereas victims of human trafficking can be provided temporary or permanent residency through T nonimmigrant status (also known as T-

Visas; Gallagher, 2010).<sup>3</sup> Although, survivors often experience difficulty obtaining T-visas for various reasons that will be discussed.

### *Contemporary Definitions of Human Trafficking*

During the 2000 Palermo Convention, members created three protocols. The one most relevant to human trafficking is the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (discussed hereafter as the Palermo Protocol). The Palermo Protocol defines human trafficking as:

the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Europol, 2005, p. 10)

The Palermo Protocol include the earliest definitions of human trafficking to reach a global audience. Additionally, it is comprehensive in its acknowledgement of multiple forms of trafficking, which constructs human trafficking more holistically (Shoaps, 2013). The Palermo Protocol also aimed to guide subsequent legislation in the adjudication of perpetrators and accommodation of services to survivors (Shoaps, 2013).

In 2000, the USA also passed the first piece of federal legislation criminalizing human trafficking – the Trafficking Victims Protection Act of 2000 (TVPA). The TVPA (2000) created several provisions to prevent, prosecute, and help those affected by human trafficking (22 U.S.C. § 7102). It was the first federal policy to distinguish between human trafficking and other related offenses (e.g., human smuggling), increased penalties

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<sup>3</sup> It has been historically difficult to obtain T nonimmigrant status as a result of extensive paperwork with strict guidelines that, even when applications are submitted, many are denied (Trafficking in Persons Report, 2018). The 2018 reauthorization of the Trafficking Victims Protection Act implemented new policy that may further deter survivors from applying (Freedom United, 2018; Wood, 2018).

for the former, and provided legal protections to meet the unique needs of international survivors (e.g., T-Visas; Reiger, 2007). This seminal piece of legislation defined, “severe forms of trafficking in persons” as:

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.  
(22 U.S.C. § 7102)

In addition to responding to human trafficking domestically, the TVPA (2000) also includes several amendments to combat this phenomenon internationally (22 U.S.C. § 7102).

Though the Palermo Protocol and TVPA (2000) proposed innovative definitions of human trafficking, they are similar and different in many ways. Gallagher (2010) identified three key elements in defining human trafficking: action, means, and purpose. Action refers to the process of recruitment, including the transportation and harboring of individuals. The means to carry out this crime often include the use of threat, fraud, force, or coercion. Finally, human trafficking is defined by the purpose of these behaviors – exploitation. The Palermo Protocol and the TVPA (2000) include these elements but, in some ways, approach them differently. The Palermo Protocol, for example, provide a detailed definition that includes the trafficking of human organs, while the TVPA (2000) focuses primarily on sex and labor trafficking. Another important distinction is in their original intent. The Palermo Protocol sought to provide model legislation and prompt other nations to criminalize human trafficking – rather than being a legally enforceable statute – whereas the USA adopted the TVPA (2000) to formally criminalize human

trafficking (Shoaps, 2013; Reiger, 2007). Finally, the TVPA (2000) further contextualized human trafficking by creating special circumstances based on the age of the victim. More specifically, the TVPA (2000) abolishes the requirement that force, fraud, or coercion are necessary elements of the crime when the survivor is under the age of 18 years old.<sup>4</sup>

Within these broader definitions, human trafficking is often acknowledged as one of two distinct phenomena: sex and labor trafficking. What defines both forms of human trafficking have been debated in the last half century. Since the 1960s, for example, sexual exploitation has been a heavily debated concept by feminists, scholars, and political groups (Bromfield, 2016; Bromfield & Capous-Desyllas, 2012).<sup>5</sup> In early debates of its conceptualization, feminists and conservative Christian groups argued that all commercial sex was exploitive and therefore, human trafficking (Markon, 2007; Schauer & Wheaton, 2006). In contrast, more pragmatic political groups advocated for a more inclusive definition of human trafficking that acknowledges sex and labor exploitation, while also excluding voluntary sex work (Bromfield & Capous-Desyllas, 2012). Although these debates continue today, the TVPA (2000) and the Palermo Protocol excluded voluntary sex work in their human trafficking definitions:

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

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<sup>4</sup> Unfortunately, this circumstance is mentioned in the context of sex trafficking and not labor trafficking. In doing so, child labor trafficking survivors may be disadvantaged by their definition.

<sup>5</sup> The debate between voluntary sex work and sex trafficking is reflected in the four models of prostitution policy: 1) deterrence (prohibitionist/criminalization), 2) legalization, 3) decriminalization, 4) abolitionist (Swedish/Nordic) model (cite).



Labor trafficking, however, is defined inconsistently among scholars and organizations, despite sharing characteristics of force, fraud, coercion, and exploitation similar to sex trafficking (De Vries & Farrell, 2018). The International Labor Organization (ILO, 2011), for instance, does not define labor trafficking specifically but does define compulsory labor as, “all work or service which is exacted from any person under the menace of penalty and for which the said person has not offered himself voluntarily” (p. 11). This definition varies from the Palermo Protocol and the TVPA (2000) in terms of terminology; the ILO, for example, does not discuss exploitation or the actions and means of labor trafficking (Gallagher, 2010).

Furthermore, it is difficult to define labor trafficking since many nations do not criminalize this phenomenon (Zhang, 2012). In the USA, for instance, sex trafficking often involves an illegal industry (i.e., prostitution), whereas labor trafficking often occurs through legitimate employment opportunities, such as, agriculture, domestic servitude, hospitality, restaurant, construction, fishing, manufacturing (Bouché, 2017). In 2018, most labor trafficking occurred legal industries including domestic work, agriculture and animal husbandry, and traveling sales crews (Polaris Project, 2018). Cases involving both sex and labor trafficking were most prevalent in illicit industries such as prostitution in addition to the massage, health, and beauty industry (Polaris, 2018).

### **Characteristics of Human Trafficking**

Human trafficking is a complex phenomenon. Rather than a single criminal event, human trafficking is a process crime, that comprises several interrelated events, and perpetrator actions with the intent to exploit their victims (Aronowitz, 2001; Brayley &

Cockbain, 2014). Within this process, traffickers purposefully recruit victims characterized by specific demographics (Meshkovska, Siegel, Stutterheim, & Bos, 2015). In doing so, the recruitment strategies traffickers employ often reflect blatant manipulations of a victim's unique vulnerabilities. Economic disadvantage, for instance, is a common vulnerability that traffickers exploit (Kara, 2011). In some instances, organized crime groups target people from countries with extreme poverty and propose economic opportunities for victims in a new location (e.g., the USA) (TVPA, 2000). To increase their perceived legitimacy of these economic opportunities, traffickers will create false employment contracts and other related documents (Reiger, 2007). In other instances, survivors will seek out legitimate job opportunities in other countries and, upon their arrival, are forced to work in slave-like conditions they cannot escape (Reiger, 2007). To this point, the growth of technology has made disseminating false advertisements of economic opportunity to a broad audience easier for traffickers (Di Tommaso, Shima, Strøm, & Bettio, 2009; Hughes, 2000). Where an individual's poverty is exploited, the element of deceit is sometimes not necessary. Survivors in these situations, individuals are frauded with promises of job opportunities that leads them to willfully migrate to a new country (Reda, 2017). Once they arrive, however, they are often confronted with exploitive conditions, lose their autonomy, and are forced into the illicit sex industry (Reiger, 2007).

Unfortunately, one-third of federal human trafficking investigations involve some of the most vulnerable in society – children (Kyckelhahn, Beck, & Cohen, 2009). In addition to age, traffickers often exploit juveniles with co-occurring vulnerabilities such as, homelessness, persistent running away, lack of supportive adults, adverse childhood

experiences (i.e., physical, psychological, sexual abuse, and economic disadvantage; Chisolm-Straker, Einbond, White, & Stoklosa, 2018; Gibbs, Henninger, Tueller, Kluckman, & 2018). Homelessness, for instance, is one of the most prominent risk factors amongst child survivors of human trafficking because it often co-occurs with other correlates of risk (Ark of Freedom Alliance, 2019). In a study of 37,000 minors who were in and out of the foster care system, youth with prior victimizations from human trafficking were more likely to have experienced prior physical, psychological, or sexual abuse (Latzman, Gibbs, Feinberg, Kluckman, & Aboul-Hosn, 2019). Furthermore, there is evidence that familial abuse and neglect foster unsafe living environments that prompt children to rely on other sources of support and affection (Hyde, 2005; Martinez, 2006). To this point, research has found that previous neglect/abuse can predict later human trafficking victimization (Walts, 2017).

Additionally, minors who identify as LGBTQ, especially young boys, are a prominent demographic among homeless youth (Clawson, Dutch, Solomon, & Grace, 2009; Earls & David, 1989). For LGBTQ youth, there is a greater risk of human trafficking victimization because they often lack supportive adults in their lives, are survivors of abuse, and/or are thrown out of their homes by their caregivers (Chisolm-Straker, Einbond, White, & Stoklosa, 2018). In 2017, nearly 30% of youth that identify as LGBTQ were abandoned by caregivers (Ark of Freedom Alliance, 2019). Moreover, two-thirds of boys involved in prostitution had run away from home prior to being sex trafficked (Allen, 1980; see also Lankenau, Clatts, Welle, Goldsamt, & Gwadz, 2005; Moxley-Goldsmith, 2005). In short, traffickers exploit minors when they lack money,

support systems, and ability to find legitimate employment to survive once they are on the streets (Martinez, 2006; Walts, 2017).

Unfortunately, sometimes family members are perpetrators of human trafficking. In 2017, the International Organization for Migration (IOM) found that family members are involved in nearly half of child human trafficking cases (Nero, 2017). In fact, a story broke recently about a mother selling her four-year-old daughter to a human trafficking ring (Hechtman, 2019). In the news report, four young children were discovered to have been treated as slaves by their adult cousin for five years. During that time, they were neglected food, shelter, and forced to work all hours of the day for five years (U.S. Immigration and Customs Enforcement, 2015). In other instances, families may be unwittingly facilitating the exploitation of their children. In seeking a better life for their children, for example, parents may send their unaccompanied children to another country (Walts, 2017). The families of children who travel unaccompanied can, in doing so, accumulate large amounts of debt that their children are forced to pay off (Walts, 2017). In these instances, human smuggling can further devolve into human trafficking.

While these are the vulnerabilities traffickers exploit when recruiting victims, characteristics of survivors can vary depending on the type of trafficking taking place. The demographics, for instance, of the survivors tend to differ based on the type of trafficking according to a report released by the Bureau of Justice Statistics on 2,515 federal human trafficking investigations (Banks & Kyckelhahn, 2011). Survivors of sex trafficking tend to be overwhelmingly female (Meshkovska, Siegel, Stutterheim, & Bos, 2015; Rajaram & Tidball, 2018), whereas men tend to be more prevalent in labor trafficking (Banks & Kyckelhahn, 2011). In terms of age, labor trafficking survivors were

more likely to be 25 years old or older (62%), while few sex trafficking survivors were 25 years-old or older (13%; Banks & Kyckelhahn, 2011). Additionally, research shows that among juveniles, girls make up a large proportion of commercial sexual exploitation of children (Clawson, Dutch, Solomon, & Grace, 2009; Miller-Perrin & Wurtele, 2017).

Another distinct characteristic of sex and labor trafficking survivors is their citizenship. Sex trafficking survivors are often citizens of the country where they were being exploited (Banks & Kyckelhahn, 2011). In contrast, labor trafficking survivors were most often identified as either undocumented persons (67%) or documented residents (on a Visa) (Banks & Kyckelhahn, 2011; De Vries & Farrell, 2018). The industries of labor trafficking (e.g., construction and agriculture) are driven by market competition, which drives perpetrators to seek low wage workers to increase profits (Zhang, 2012). Both types of survivors, however, are targeted because of their vulnerabilities. Survivors of sex trafficking, for instance, are primarily women and girls, especially those living in poverty, have low levels of education, and/or come from abusive families (Hughes, 2000; Reid, 2012). Alternatively, perpetrators of labor trafficking often target migrants for their inexpensive labor. Labor trafficking survivors are often unfamiliar with the geographic region, language, legal system, and lack residential documentation (Cockbain & Brayley-Morris, 2018; De Vries & Farrell, 2018; Zhang, 2012).

Once a victim has been recruited, traffickers often employ strategies to maintain control over their victims. A key element of this process is trauma bonding or the, “invisible strong emotional tie that develops between two individuals” where one individual frequently subjects the other to extensive abuse (Sanchez, Speck, & Patrician,

2019, p. 49). Trauma bonding is prominently observed in survivors of abuse, including survivors of intimate partner violence and human trafficking (Raghavan & Doychak, 2015; Sanchez et al., 2019). Two conditions are evident in survivors who experience trauma bonding: 1) extreme power imbalance and 2) intermittent, unpredictable abuse and affection (Sanchez, Speck, & Patrician, 2019). To maintain control, traffickers will instill a power imbalance between themselves and the victims (Hopper & Hidalgo, 2006). Traffickers will deprive victims of basic necessities (e.g., food, sleep, shelter, exercise, personal hygiene, and privacy) while exposing them to physical, verbal, and sexual abuse in an effort to gain control over victims (Herrington & McEachern, 2018; Hopper & Hidalgo, 2006; Jayson, 2013). Additionally, traffickers will switch their abuse with intermittent affection. In other words, traffickers will, unpredictably, alternate between positive and violent interactions with their victims (Reid, 2016). In doing so, trauma bonding is heightened, thereby strengthening the survivor's feelings of isolation, helplessness, and dependency on their traffickers (Baldwin, Fehrenbacher, & Eisenma, 2015; Sanchez, Speck, & Patrician, 2019).

### *Economic Drivers of Human Trafficking*

Though the real ramifications of human trafficking are the life-long hardships and abuse experienced by survivors, the economic drivers of human trafficking are key to understanding this phenomenon. Human trafficking is quickly becoming one of the fastest-growing, most profitable illegal markets in the world (Lillie, 2014). The International Labor Organization, for instance, estimates that human trafficking generates 150 billion dollars in illegal revenue and is one of the largest illegal enterprises behind drug trafficking (Bocinski, 2017). One of the reasons human trafficking is such a

lucrative industry is due to the fact that the supply of vulnerable victims and demand for exploited sex and labor are persistent issues that governments have yet to disrupt (Mahmoud & Trebesch, 2009). According to Siddharth Kara (2011), a leading human trafficking scholar, there are three steps to the business model of human trafficking networks: acquisition, movement/transportation, and exploitation. Notably, this model aligns with key criminal characteristics of human trafficking identified in the Palermo Protocol: action (e.g., recruitment and transportation) and purpose (e.g., exploitation) (Gallagher, 2010). Furthermore, the prevalence of vulnerable victims in disadvantaged areas contribute to the supply of exploited labor contributes to the profitability of human trafficking

Additionally, Kara (2011) noted that the transportation of exploited persons has become simplified and cost-effective since victims can be transported, without detection, across the world in a manner of days. The ease of transportation effectively isolates the victim from their support systems. Similarly, domestic victims are often transported to unfamiliar areas within the same country and made to fear potential support systems such as the police (Langberg, 2005). Finally, according to Kara's (2011) human trafficking business model, the objective of these traffickers is exploitation. Whereas, demand is a vital factor in determining the cost of goods and services in most business models, the human trafficking business model seeks to maximize profits and remain competitive in the global market (Kara, 2011). Since labor is often a significant expense of any business model, eliminating this expense through human trafficking meets both objectives (Kara, 2011).

The economic benefits of human trafficking have enticed some drug traffickers to engage in human trafficking, as well (Lillie, 2014). Drug traffickers, for instance, must replenish their illegal products for buyers. These endeavors are often accompanied by a constant threat of detection by law enforcement (Wheaton, Schauer, & Galli, 2010). In contrast, human trafficking victims generate continuous profits for the trafficker (Wheaton, Schauer, & Galli, 2010). Furthermore, scholars find that human traffickers perceive their risk of sanctions to be lower than drug traffickers (Mahmoud & Trebesch, 2009).<sup>6</sup>

### **Responding to Human Trafficking**

In this section, strategies to responding to human trafficking within the healthcare and criminal justice fields are discussed. Scholarship within this field is vital to understanding important intervention points where survivors can be identified, referred to services, and their traffickers apprehended by the criminal justice system.

#### *Human Trafficking and Healthcare*

Healthcare providers have been identified as a vital intervention point for human trafficking because survivors often seek medical treatment while under the control of their traffickers. Lederer and Wetzel (2014), for instance, surveyed 106 domestic sex trafficking survivors after their abuse concluded. They found that 88% of survivors visited with a healthcare provider, but healthcare providers only identified 20% of patients as human trafficking victims (Lederer & Wetzel, 2014). In addition to identification, Greenbaum et al. (2018) argued that healthcare providers can play a role in preventing human trafficking. To this point, healthcare providers can prevent human

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<sup>6</sup> With low rates of conviction, there may be something to this belief (Mahmoud & Trebesch, 2009).



trafficking through individual and community levels of engagement (Greenbaum, Titchen, Walker-Descartes, Feifer, Rood, & Fong, 2018). At the individual level, providers can prevent future victimization by identifying early human trafficking risk factors (e.g., youth homelessness) and provide tailored resources (e.g., local service providers) to patients (Reid, 2016; Greenbaum et al., 2018). At the community level, healthcare providers can also spread awareness, educate the community, and advocate for training policies for practitioners on how to best respond to suspected cases of human trafficking (Ahn et al., 2013).

Practitioners cannot, however, begin to intervene and provide services until potential victims are identified. Therefore, the most important role for healthcare providers is to identify and screen potential victims of human trafficking (Leslie, 2018). To aid healthcare providers, researchers are working to create and validate screening tools for practitioners. Greenbaum, Dodd, and McCracken (2018), for example, created a 6-item screening questionnaire for child victims of commercial sexual exploitation which positively identified survivors in 51% of instances. Identification protocols have also been generated to target specific populations. The Quick Youth Indicators of Trafficking Youth, for example, was recently developed as a 4-item questionnaire to identify sex or labor trafficking victims among homeless/runaway youths (Chisolm-Straker, Sze, Einbond, White, & Stoklosa, 2019). Unfortunately, screening tools for adult populations have not been validated as of yet (Bespalova, Morgan, & Coverdale, 2016). In response to this issue, more literature is attempting to establish alternative screening methods that do not require victims to report. Fang, Coverdale, Nguyen, and Gordon (2016) identified five studies that advocate for tattoo recognition training among healthcare providers as an

innovative screening tool because tattoos can be a form of ownership and branding. Common tattoo characteristics include images of wealth (e.g., gold bars, crowns, or moneybags) to symbolize that the victim was tied to the perpetrator's income (Fang, Coverdale, Nguyen, & Gordon, 2016). These images are often complemented by the trafficker's nickname (Fang, Coverdale, Nguyen, & Gordon, 2016).

Furthermore, survivors often fear retaliation from traffickers if they expose their traffickers to healthcare providers and, therefore, are often not forthcoming with information that could be vital to their treatment and intervention efforts (e.g., comprehensive medical histories) (Baldwin, Eisenman, Sayles, Ryan, & Chuang, 2011; Isaac, Solak, & Giardino, 2011; Hodge, 2014). In many scenarios, patient safety is paramount, and, therefore, providers should attempt to speak with potential victims in private (Leslie, 2018). Furthermore, healthcare providers must evaluate victim risks if law enforcement or social services were contacted (Leslie, 2018). Hodge (2014), to this point, argues that restoring the health and wellbeing of the victim should be the primary priority of healthcare providers and should be done in collaboration with social services agents. If the service provider believes the victim is in immediate danger, it is their responsibility to contact the authorities (Leslie, 2018). Likewise, when treating victims, it is paramount to document information, like the behaviors of the victim and physical signs of abuse, for investigators (Richard, 2014). Even these efforts, however, may not lead to the identification of all survivors, especially when victims fear retaliation (Hachey & Phillippi, 2017).

*Human Trafficking and the Criminal Justice System*

There are four crucial decision-making points for human trafficking cases in the criminal justice system: the decision to 1) report (by the survivor), 2) refer a case to the prosecutor (by law enforcement), 3) file charges (by prosecutor), and 4) convict perpetrators (by the judge or jury; Murphy, Banyard, & Fennessey, 2013). Discrepancies between reported incidents of human trafficking, criminal investigations, and convictions of perpetrators, suggest that case attrition occurs heavily between the survivor and law enforcement (Mahmoud & Trebesch, 2009). Research finds a number of explanations for this phenomenon. First, complex psychological factors affect a survivor's willingness to cooperate in criminal investigations and prosecutions. Survivors, for example, may be unlikely to cooperate with criminal investigations because they sympathize with their traffickers (i.e., trauma-bonding), fear retaliation, and/or deportation (Barnard, 2014; Reid, 2012). Alternatively, through trauma-bonding, victims can also be taught, by their traffickers, to distrust law enforcement (Langberg, 2005; Herrington & McEachern, 2018; Office of Trafficking in Persons, 2019). Some would argue, however, that victims are justified in their distrust of law enforcement when they engage in misconduct and solicit sexual services from potential victims (Southall, Baker, & Winston, 2018).

Law enforcement can also contribute to secondary victimization because they misidentify victims. Prior research shows that law enforcement may have a limited understanding of legal definitions for human trafficking in their respective states, including differentiating between prostitution, sex trafficking, unfair labor practice, and labor trafficking (Farrell & Pfeffer, 2014). For instance, sex trafficking in the criminal justice system has historically arrested and prosecuted prostitutes (and not their pimps), which may be contributing to the misidentification of many potential trafficking

survivors (Raphael, Reichert, & Powers, 2010). During this time, interviews with criminal justice and victim assistance services professionals revealed that survivors are often treated like criminals during their interactions with police and prosecutors, especially if their contact was based on an arrest for another crime (e.g., prostitution; Villacampa & Torres, 2019). In the end, they develop extensive criminal records that only further harms their credibility as a victim (Crabapple, 2015; National Survivor Network, 2016). Secondary victimization and misidentification by the criminal justice system, therefore, can deter other survivors from seeking help or cause survivors to withdrawal from the criminal justice process (e.g., testifying; Reid, 2010).

Additionally, the identification process is further complicated by language barriers (Renzetti, Bush, Castellanos, & Hunt, 2015). Federal prosecutors have even noted that, sometimes, the USAs Immigration and Customs Enforcement (ICE) may wrongfully deport human trafficking survivors if they are not able to obtain T-Visas (Hepburn & Simon, 2010). This consequently makes them unavailable to cooperate with an investigation, and as a result, these cases are hardly referred to prosecutors for adjudication.

Prosecutors have noted additional barriers to case adjudication due to their reliance on survivor testimony. Studies have shown, for instance, that prosecutors heavily rely on victim and witness testimony in human trafficking cases (Reid, 2010; Smith, Vardaman, & Snow, 2009). In interviews with federal prosecutors, many even stated that they would not move forward with a case without strong witness and victim testimony (Farrell, McDevitt, Pfeffer, Fahy, Owens, Dank, & Adams, 2012). Reid (2010) pointed out that this sentiment is problematic because it puts an undue burden on survivors, who

are often traumatized by their experiences (Smith, Vardaman, & Snow, 2009). Furthermore, many prosecutors noted that human trafficking cases have a high burden of proof, making convictions difficult to obtain (Farrell, DeLateur, Owens, & Faby, 2016). For instance, even though the TVPA (2000) requires one of three actions (i.e., force, fraud, or coercion), many prosecutors admit that they tend to only work cases in which all three actions can be proven to avoid later appeals later (Farrell, DeLateur, Owens, & Faby, 2016). In other words, prosecutors make decisions based on a higher burden of proof than is mandated by the law.

Even with conservative estimates of human trafficking, only a fraction of cases comes to the attention of the criminal justice system. For instance, in 2013 the Department of Justice (DOJ) reported that 128 human trafficking prosecutions were brought against 200 defendants in the USA (U.S. Department of State, 2013). Another DOJ report shows that federal agencies and taskforces led 2,515 investigations in human trafficking over a three-year period (2008-2010) (Banks & Kyckelhahn, 2011). More contemporarily, however, there was a 40% increase in federal human trafficking prosecutions between 2011 and 2015 (Motivans & Snyder, 2018). Unfortunately, in only 59% of investigations suspects were referred to the district attorney and formally charged. Of these cases, 93% of offenders were convicted (Motivans & Snyder, 2018).

Unfortunately, data on the progression of human trafficking cases throughout the state criminal justice system is limited to a handful of studies. At the state level, Bouche, Farrell, and Wittmer (2016), for instance, analyzed state human trafficking prosecutions. Using a sample of 479 state human trafficking prosecutions, they found that 53% of charges were dismissed prior to adjudication, indicating substantial case attrition in

human trafficking prosecutions at the state level.<sup>7</sup> Of the suspects that were adjudicated, 35% plead guilty to human trafficking, while 13% of suspects went to trial (Bouche, Farrell, & Wittmer, 2016). Additionally, only 45% of human trafficking suspects were convicted of human trafficking charges, while 72% of cases resulted in a conviction of a lesser state crime. Furthermore, Farrell, DeLateur, Owens, and Faby (2016) showed that state prosecutors only charged suspects with human trafficking crimes in 20% of human trafficking cases. In the remaining cases, it was common for human trafficking suspects to be charged with crimes such as participating in prostitution (Farrell, DeLateur, Owens, & Fahy, 2016).

### **Human Trafficking Legislation**

There has been tremendous growth in human trafficking legislation in the last two decades. Since the Palermo Protocol, other nations have established numerous of its' recommendations for future reform to combat their own human trafficking issues. Additionally, the USA has expanded the TVPA (2000) by adding several novel pieces to this legislation. Lastly, there are noteworthy laws on human trafficking that will be discussed.

#### *International Law*

In addition to the guidelines set by the Palermo Protocol, the European Union released a report in 2005 making several recommendations for crafting human trafficking laws. The report recommended that the age of majority should be 18 years old, in human trafficking cases (Europol, 2005). Secondly, they recommended that nations create

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<sup>7</sup> Case attrition is not problematic in all circumstances. In human trafficking cases, however, case attrition is largely attributed to systematic biases in law, policy, and the criminal justice system (Bouche, Farrell, & Wittmer, 2016; Farrell & Pfeffer, 2014; Raphael, Reichert, & Powers, 2010; Reid, 2010).

measures to ensure protections for survivors, though, they did not cite any specific policies (Europol, 2005). Finally, they recommended more nations adopt policies that allow survivors of trafficking to obtain temporary residency in the country where their victimization took place (Europol, 2005).

Other countries have also implemented legislation in response to growing attention to human trafficking. Sweden, for instance, passed a seminal piece of legislation known as the Sex Purchase Act of 1999 (Ekberg, 2014). Essentially, this law is a demand reduction strategy aimed at ending prostitution by criminalizing the purchase of sexual services, which is punishable by a fine or six months of incarceration (Coy, Pringle, & Tyler, 2016). While the Sex Purchase Act (1999) specifically addresses prostitution, proponents of this law state that, “prostitution and trafficking for sexual exploitation cannot be separated – women are trafficked into prostitution because that market exists” (Coy, Pringle, & Tyler, 2016, p. 6). In other words, proponents of this approach argue that reducing the size of the prostitution market will, in effect, reduce human sex trafficking (Ekberg, 2014). This approach to combatting prostitution and human trafficking has spread to other countries including Canada, Northern Ireland, and France and is known as the Nordic Model (Coy, Pringle, & Tyler, 2016).

Another important piece of human trafficking legislation is the Modern Slavery Act, which was passed in 2015 in the United Kingdom (European Commission, 2019). An important component to this act was the requirement that businesses be transparent about their protocols to eliminate human trafficking in their business supply chains (European Commission, 2019). Additionally, this act created two civil protection orders aimed at preventing human trafficking: 1) Slavery and Trafficking Prevention Orders

(STPOs) and 2) Slavery and Trafficking Risk Orders (STROs) (Crown Prosecution Service, 2018). The former protective order is often used as part of sentencing when a conviction for human trafficking has occurred and restricts the activities of the perpetrator (e.g., restricted travel to certain countries and required notification of name and address to law enforcement; Crown Prosecution Service, 2018). In contrast, STROs place similar restrictions on suspects of human trafficking prior to a conviction. In both instances, police and prosecutors must demonstrate the perpetrator poses a risk to society.

### *Federal Human Trafficking Laws*

These recommendations echo many of the reforms that the TVPA (2000) and some state legislatures have adopted. This piece of legislation served multiple purposes and has undergone several reauthorizations that are worth addressing. In addition to provisions already discussed (e.g. T-Visas), the penalties for human trafficking increased also increased to 20 years of imprisonment with the possibility of life (22 U.S.C. § 7102). Moreover, it created the Office to Monitor and Combat Trafficking in Persons and the Interagency Task Force to Monitor and Combat Trafficking in order to address human trafficking both domestically and abroad (22 U.S.C. § 7102). These organizations put forth initiatives including programs to enhance economic opportunities to potential survivors internationally (e.g., education and job counseling). One of the responsibilities of this organization is to release a yearly Trafficking in Persons (TIP) report that outlines their endeavors (Cooper, 2002).

Since then, there have been five reauthorizations to the Trafficking in Victims Protection Act of 2000 (2003, 2005, 2008, 2013, and 2018).<sup>8</sup> The 2003 reauthorization of

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<sup>8</sup> In addition to the TVPA (2000) and the subsequent reauthorization acts, several other pieces of federal legislation have been passed or amended to address human trafficking: The Tariff Act of 1930, The



the act solidified survivors' rights to sue their trafficker and it expanded protections against deportation in cases of undocumented victims. It also listed human trafficking as a crime that can be charged under the Racketeer Influenced Corrupt Organizations (RICO). In doing so, traffickers are subject to asset forfeiture of profits gained from human trafficking (Polaris Project, 2014). Finally, and in the interest of increased transparency, the 2003 reauthorization of the act required the Attorney General to release an annual report summarizing the anti-trafficking efforts of the U.S. government.

The 2005 reauthorization of the act expanded many international policy efforts to combat human trafficking. For instance, provisions were added to fight international sex tourism, increase treatment opportunities for survivors abroad, and regulate government contracts with organizations who could be associated with the promotion of human trafficking. This act also authorized the Secretary of Health and Human Services to create grants for states, Indian tribes, local governments, nonprofits, and nongovernmental victims' service organizations, "to establish or expand assistance programs for U.S. citizens or permanent resident aliens who are the subject of sex trafficking or severe forms of trafficking that occurs in the United States" (TVPRA, 2005). Grants are prioritized to applicants that have prior experience delivering services to survivors. As such, grants can be used towards supporting the existing work of service providers to expand the number of survivors helped or towards filling funding needs in communities with limited resources.

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Customs and Facilitations and Trade Enforcement Act (2009), The Mann Act of 1910, the PROTECT Act, the National Defense Authorization Act of 2013, and the Justice for Victims of Trafficking Act of 2015 (Polaris, 2019). The latter legislation reinforced provisions and recommendations outlined in the Trafficking Victims Protection Act (2000, 2003, 2005, 2008, and 2013). Furthermore, the National Defense Authorization Act of 2013 prohibited government contracts with international organizations to promote human trafficking.

The 2008 reauthorization of the act included expanded education and research objectives that sought to increase protections for undocumented victims and enhanced existing criminalization measures. The federal government, for example, began requiring workers' rights information for anyone applying for an education-based visa and implemented new data collection and reporting systems for human trafficking incidences (TVPPRA of 2008). To protect children from falling victim of human trafficking, all unaccompanied and/or undocumented children are now required to be screened upon entering the country with the 2008 reauthorization of the act (Polaris, 2019). Finally, the 2008 reauthorization act expanded the definition of human trafficking to include penalties for foreign labor contracting fraud (Trafficking in Victims Protection Reauthorization Act of 2008). In other words, if the burden of proof for human trafficking cannot be met, these provisions made it illegal to hire individuals outside of the USA under false pretenses and is now punishable by five years in prison.

The 2013 reauthorization of the act included an amendment to the Violence Against Women Act and focused on international prevention efforts. It, for instance, established programs to ensure that the USA does not support the sale of goods produced by human trafficking survivors. Additionally, emergency responses to disasters and crises in other countries were strengthened to prevent people from becoming vulnerable to traffickers (Trafficking in Victims Protection Reauthorization Act of 2013). Finally, the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 provided grants towards school education efforts, funding for the National Human Trafficking Hotline, and other federal provision.

Most recently, the Trafficking in Victims Protection Reauthorization Act of 2018 filled a number of gaps in current policy (Polaris Project, 2018). For domestic human trafficking, the reauthorization implemented mandatory training for employees in the transportation industry, tax exemptions for victim restitution, and improvements to the Trafficking in Persons report (Trafficking in Victims Protection Reauthorization Act of 2018). Controversially, the reauthorization has provisions to automatically start the deportation process for all individuals who are denied T nonimmigrant status, which is predicted to further deter victims from coming forward (Freedom United, 2018; Wood, 2018).

#### *State Human Trafficking Laws*

Since the passage, and reauthorizations, of the TVPA (2000) state legislatures have also, albeit gradually, criminalized human trafficking. In 2003, Washington became the first state to criminalize human trafficking (National Conference of State Legislatures, 2018). Other states began to follow Washington's example and Wyoming became the last state to create a state human trafficking statute in 2013 (Pierce, 2015). In addition to these laws, the literature reports that many agencies have created policies aimed at combatting human trafficking.

As states developed their own anti-trafficking laws, research followed. In 2014, for example, the Polaris Project (2014) released a report advocating for comprehensive anti-trafficking laws that addressed ten topics (see Figure 1). In their nonsystematic analysis of state human trafficking legislation, they found that no state had adopted human trafficking legislation that addressed all ten topics. The Polaris Project did find, however, that twelve states addressed seven or more of these categories. Moreover, the

analysis revealed that most states had adopted human trafficking definitions that include sex and labor trafficking. The most prevalent topic human trafficking legislation addressed was victim services (e.g., housing, medical assistance, and therapy; Polaris Project, 2014). Unfortunately, the report did not give examples for these categories.



*Figure 1. Ten categories assessing state human trafficking legislation (Polaris Project, 2014).*

The findings from the Polaris Project, however, were supported by a 2018 report by the National Conference of State Legislatures. This study found that states expand their human trafficking legislative codes to include laws related to criminal penalties (e.g., definitions and sentencing), judicial protections, funds/services, administration/cooperation, and awareness/regulation (National Conference of State Legislatures, 2018). Judicial protections for human trafficking survivors were found to have been adopted in more than thirty states. These protections can include affirmative defenses for survivors when they commit crimes under the control of their abusers, expungement laws to clear existing criminal records, and restitution for damages. Moreover, the report found that states have adopted laws that provide services to survivors of human trafficking (e.g., housing, substance abuse rehabilitation, therapy, and medical assistance). Scholars and practitioners, however, note a deficiency in services that provide affordable housing to survivors, which is considered a vital component to survivor rehabilitation (Human Trafficking Taskforce Summit, 2019). The report also found that 26 states had laws that implemented human trafficking task forces, while local departments have also created their own task forces (Human Trafficking Taskforce Summit, 2019; National Conference of State Legislatures, 2018). Though, some of these task forces only combat certain types of human trafficking (e.g., sex trafficking or trafficking of minors) and are, therefore, limited in scope.

Safe Harbor laws are commonly adopted in order to protect survivors of commercial sexual exploitation of children similarly (Zabresky, 2013). These laws are intended to provide legal protections and victim services to juvenile survivors of sex trafficking (Polaris, 2015). In doing so, states prohibit minors from being charged with

prostitution-related offenses if their crimes involved commercial sex (Polaris, 2015). States, however, have approached Safe Harbor laws differently. For instance, some states have Safe Harbor laws that prohibit minors from being arrested for prostitution (Zabresky, 2013). To overcome this issue, some laws, such as Illinois's Safe Children Act, mandate minors caught engaging in commercial sex be taken into protective custody and offered services, as opposed to being arrested (The Illinois Safe Children Act, 2010).

In their seminal study, Bouche, Farrell, and Wittmer (2016) advanced our understanding of state anti-trafficking legislation from 2003-2012. During the period of analyses, they found tremendous growth in anti-trafficking legislation in every state except Wyoming (Bouche et al., 2016). From most common to least, they found that states covered three areas of law: criminalization, state investment (e.g., victim services, task forces, and education efforts), and civil remedies. This research, therefore, provided one of the most complete snapshots of human trafficking legislation. Additionally, this groundbreaking research also contributed a novel understanding of how legislation impacts human trafficking case outcomes. Bouche et al. (2016) found that states with laws that implemented Safe Harbor Laws, taskforces, and a requirement to post the National Human Trafficking Hotline in public places predicted an increase rate of arrests and prosecutions (Bouche et al., 2016). In contrast, harsher penalties, civil provisions, and mandatory data collection/reporting practices were less effective at promoting arrests and prosecutions (Bouche et al., 2016). Accordingly, the authors provide thorough evidence-based recommendations for future legislative reform. Overall, they concluded that effective human trafficking legislation should be comprehensive and address a wide variety of topics (Bouche et al., 2016).

### *Persistent Issues in Human Trafficking Legislation*

Many scholars have critiqued and analyzed federal legislative efforts (Bouche et al., 2016; Cooper, 2002; National Conference of State Legislatures, 2018; Polaris Project, 2014; Zabresky, 2013). To further our understanding in this area Bouche, Farrell, and Wittmer (2016), provided one of the most comprehensive analyses on state-level human trafficking legislation to date. Their analyses, however, could be furthered contextualized through qualitative analysis. The authors acknowledge that their report presents a, “rigorous and robust quantitative” methodology to understand state human trafficking laws (Bouche et al., 2016, p. 2). In other words, the data demonstrated a raw count where states addressed the authors’ predetermined categories (e.g., victim services) without highlighting statutory nuances. Qualitative methodologies, therefore, are currently missing from contemporary understanding of human trafficking legislation.

In summary, prior to 2000, human trafficking was acknowledged as a subset of human smuggling; only with the passage of the TVPA (2000) and the Palermo Protocol was human trafficking acknowledged as a crime with the purpose of exploitation (Gallagher, 2010). Furthermore, human trafficking is an economically motivated crime that exploits vulnerable individuals, including children. Scholars from across disciplines, especially in the healthcare and criminal justice fields, have continued to generate scholarship in response to this phenomenon. While every state may have a human trafficking law on the books – so to speak – the landscape and nuances of laws remain largely unknown.

## CHAPTER 3: METHODS

Though several legal scholars have commented on the state of the Nation's human trafficking laws, none have been systematic, and all have been limited to a specific statute or aspect of human trafficking. To fill this gap, a content analysis of the Nation's laws was conducted. In this chapter, an in-depth summary of the study's methodology is presented and broken into three subsections: the sample, measures, and analytical strategy of the study.

### **Sample**

Data for this study were part of a larger endeavor seeking, in part, to understand the nation's criminal justice laws on numerous topics. The data presented here are inclusive of every criminal justice related statute from all fifty states in the USA. Data were collected between August 2016 and May 2017. One of the more common locations states publish their laws is on official '.gov' websites.<sup>9</sup> Though there are several other digital locations where state statutes are found (e.g., FindLaw.com), the publication date and the reputability the information cannot be verified on '.com' domains and are, therefore, less reliable. To ensure the best possible quality and accuracy of data, these analyses focus purposefully on websites was done so purposefully.

The first step of the data collection procedures sought to identify a government sponsored website for each state, which were identified through Google searches. To

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<sup>9</sup> Florida, for example, publishes their statutes at "<https://www.flsenate.gov/Laws/Statutes>."



evaluate if these websites were up-to-date, we assessed self-disclosed copyright dates on each page. Alternatively, some states changed the title of their codes and procedures with the year of the most recent session. New Jersey, for instance, includes the year of the newest session in their legislative codes (“2015 New Jersey Revised Statutes” versus “2016 New Jersey Revised Statutes”). At other times the researchers reached out to the state legislature’s office to confirm that the published laws were up-to-date (e.g., Hawaii).

Once government sponsored websites were identified for all 50 states, they were assessed for temporal consistency. Generally, websites fell into one of three categories: 1) outdated, 2) rolling, and 3) updated following the 2016 legislative session. The most common reason that government sponsored websites were outdated was due to the fact that the state government decided to move their laws to a third-party website. In these instances, the alternative government-sponsored websites were identified and assessed for temporal consistency. The second category refers to states that updated their criminal codes and procedures on a rolling basis as new laws were passed. This category of websites further highlighted the need for a strict timeline to ensure temporal consistency in the data. States from these websites were collected after the 2016 legislative session but prior to the 2017 legislative session. By employing these strategies, the data collection remained temporally consistent with the third category of websites, which ensured that all data were temporally consistent with each other.

It was the original intent of the researchers to collect the entire legislative codes and procedures from each state; however, two concerns arose from this plan. First, we realized that this would be a tremendous undertaking and the anticipated time commitment would risk the data collection losing the utility of temporal consistency.

Second, we determined that if the entire legislative codes were collected, large portions of these statutes would be irrelevant to issues related to the criminal justice system.

Florida, for example, had hundreds of statutes related to Florida's education system (Title XLVIII K-20 Education Code). Additionally, statutes related to civil law or the state bird were nonrelevant to the objective of these analyses. Many of these non-criminal justice statutes would likely have been excluded during these specific analyses. This additional data, therefore, did not add value to these analyses and could inhibit them from taking place.

Throughout the data collection process, it was important to ensure that criminal justice statutes were included in these analyses. In doing so, we found that every state aggregated their statutes into groups based on similarities from types of crime to types of law. These aggregations were known as Titles, Chapters, or Parts depending on the state.<sup>10</sup> Some states only had a few broad categories (e.g., Criminal Codes and Criminal Procedures), while others organize their laws more narrowly to focus on smaller categories (e.g., Police, Courts, Offenses, and Procedures). Each state's Titles were assessed for relevance to criminal justice and broadly included to ensure exhaustiveness. For example, statutes related to civil law were generally categorized in separate Titles from statutes and were unrelated to criminal law.

Table 1 includes a complete list of all Titles that were collected from each state. Once relevant Titles were identified, laws were copied and pasted into fifty Microsoft Word documents, one for each state's criminal codes and procedures, at the statute unit of analysis. Within these documents is a three-column table collecting the statute's citation,

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<sup>10</sup> Titles, Chapters, and Parts were all different names for aggregates of related statutes. For simplicity purposes, these categories are hereafter called Titles.

content, and history (if provided by the state). Fourteen individuals were involved in the data collection process, which is a testament to the size and scope of this dataset.<sup>11</sup>

*Table 1 List of Relevant Titles*

State, Source, Last Updated	Titles, Chapters, or Parts Observed
Alabama State Legislature 2017	12 (Courts), 13A (Criminal Code), 14 (Criminal Correctional and Detention Facilities) and 15 (Criminal Procedure)
Alaska State Legislature 2017	11 (Criminal Law) and 12 (Code of Criminal Procedure)
Arizona State Legislature 2017	8 (Child Safety), 12 (Courts and Civil Proceedings), 13 (Criminal Code), 21 (Juries), 22 (Justice and Municipal Courts), and 31 (Prisons and Prisoners)
Arkansas Bureau of Legislative Research 2017	5 (Criminal Offenses), 12 (Law Enforcement, Emergency Management, and Military Affairs), and 16 (Practice, Procedure, and Courts)
California State Legislature 2017	California Penal Code
Colorado Official Publisher of Revised Statutes 2017	16 (Criminal Procedures), 17 (Corrections), 18 (Criminal Code), 19 (Children’s Code), 20 (District Attorney’s), and 21 (State Public Defenders)
Connecticut General Assembly 2017	51 (Courts), 53 (Crimes), 53a (Penal Code), 54 (Criminal Procedure), and 55 (Concluding Provisions)
Delaware General Assembly 2017	10 (Courts and Judicial Procedures) and 11 (Crimes and Criminal Procedures)
Florida State Legislature 2017	XLVI (Crimes) and XLVII (Criminal Procedure and Corrections)
Georgia General Assembly 2017	15 (Courts), 16 (Crimes and Offenses), 17 (Criminal Procedure), 35 (Law Enforcement Officers and Agencies), and 42 (Penal Institutions)
Hawaii State Legislature	37 (Hawaii Penal Code), 32 (Courts and Court Officers), 33(Evidence), 34 (Pleadings and

<sup>11</sup> The undergraduate, graduate, and faculty who participated in the data collection include: Dr. Seth Fallik, Caralin Branscum, Hannah Hodges, Gina Jarboe, Christina, Perez, Tom Venuto, Grace Mendez, Dr. Johnathan Grubb, Abel Charlot, Kayla Gursahaney, Amanda Carrasquillo, JulhiAnn Francis, Lisa Angstrom, and Daniela Vanegas.

2017	Procedure), 35 (Appeal and Error), 37 (Hawaii Penal Code), and 38 (Procedural and Supplementary Provisions)
Idaho State Legislature 2017	1 (Courts and Court Officials), 2 (Juries and Jurors), 6 (Actions in Particular Cases), 7 (Special Proceedings), 9 (Evidence), 16 (Juvenile Proceedings), 17 (Appeals), 18 (Crimes and Punishment), 19 (Criminal Procedure), and 20 (State Prisons and County Jails)
Illinois General Assembly Rolling	720 (Criminal Offenses), 725 (Criminal Procedure), and 730 (Corrections)
Indiana General Assembly 2016	31 (Family Law and Juvenile Law), 33 (Courts and Court Officers), and 35 (Criminal Law and Procedure)
Iowa State Legislature 2017	XV (Judicial Branch and Judicial Procedures) and XVI (Criminal law and Procedure)
Kansas State Legislature 2017	20 (Courts), 21 (Crimes and Punishments), 22 (Crimes and Punishment), 33 (Statute of Frauds; Fraudulent Conveyances), and 43 (Jurors)
Kentucky State Legislature 2017	XL (Crimes and Punishment), L (Kentucky Penal Code), LI (Unified Juvenile Code), Kentucky Rules of Evidence
Louisiana State Legislature Rolling	13 (Courts and Judicial Procedure), 14 (Criminal Law), and 15 (Criminal Procedure)
Maine State Legislature 2016	15 (Court Procedure – Criminal), 16 (Court Procedure – Evidence), 17 (Crimes), and 17A (Maine Criminal Code)
Maryland General Assembly 2017	Courts and Judicial Proceedings, Criminal Procedures, and Criminal Law
Massachusetts General Court 2017	III (Courts, Judicial Officers, and Proceedings in Civil Cases) and IV (Crimes, Punishments, and Proceedings in Criminal Cases)
Michigan State Legislature 2016	28 (Michigan State Police), 30 (Civilian Defense), 37 (Civil Rights), 49 (Prosecuting Attorney's), 50 (County Clerks), 51 (Sheriffs), 52 (Coroners), 328 (Dead Human Bodies), 335 (Drugs), 691 (Judiciary), 692 (Judiciary), 722 (Children), 729 (Police Courts), 730 (Justice Courts and Municipal Courts), 750 (Michigan Penal Code), 752 (Crimes and Offenses), 760-777 (Code of Criminal Procedure), 780 (Criminal Procedure),

	791 (Department of Corrections), 798 (Corrections), 800 (Prisons), 801 (Jails and Workhouses), 802 (Houses of Correction) 803 (Youth Training and Rehabilitation), and 804 (Girl's Training Schools)
Minnesota Office of the Revisor of Statutes 2016	553-566 (Declaratory, Corrective, and Administrative Remedies), 570-583 (Post Judgement Remedies; Alternative Dispute Resolution; Bonds), 585-590 (Extraordinary Writs; Contempt; Post-Conviction Relief), 593 (Juries), 595-603 (Evidence), 609-624 (Crimes, Expungement; Victims), 625-634 (Criminal Procedure, Peace Officers, Privacy of Communications), 636-643 (Local Jail Facilities; Lockups; Workhouse; Juvenile Offender Care, Pardons), and 609 (Criminal Code)
Mississippi The State of Mississippi 2017	97 (Crimes) and 99 (Criminal Procedure)
Missouri State Legislature 2016	40-44 (Military affairs and police), 217-221 (Correctional and Penal Institutions), 476-488 (Courts), 490-493 (Evidence and Legal Advertisements), 494-494 (Juries), 540-552 (Criminal Procedures), and 556-600 (Crimes and Punishment; Peace Officers and Public Defenders)
Montana State Legislature 2017	44 (Law Enforcement), 45 (Crimes and Punishment), 46 (Criminal Procedure), and 47 (Access to Legal Services)
Nebraska State Legislature Rolling	24 (Courts), 27 (Courts, Rules of Evidence), 28 (Crimes and Punishments), and 29 (Criminal Procedure)
Nevada State Legislature Rolling	5 (Juvenile Justice), 6 (Justice Courts and Civil Procedure), 14 (Procedure in Criminal Cases) 15 (Crimes and Punishments), and 16 (Correctional Institutions; Aid to Victims of Crime)
New Hampshire General Court Rolling	VII (Sheriffs, Constables, and Police Officers), VIII (Public Defense and Veterans' Affairs), LI (Courts), LIII (Proceedings in Court), LVIII (Public Justice), LIX (Proceeding in Criminal Cases), LX (Correction and Punishment), and LXII (Criminal Code)
New Jersey State Legislature 2016	2B (Court Organization and Civil Code) and 2C (The New Jersey Code of Criminal Justice)

New Mexico District Court 2017	29 (Law Enforcement), 30 (Criminal Offenses), 31 (Criminal Procedure), 32A (Children’s Code), 33 (Correctional Institutions), 34 (Court Structure and Administration), 37 (Limitations of Actions (Abatement and Revivor)), and 38 (Trials)
New York State Legislature 2017	COR (Correction), CRC (New York City Criminal Court), CPL (Criminal Procedure), JUD (Judiciary), and PEN (Penal)
North Carolina General Assembly 2016	14 (Criminal Law), 15 (Criminal Procedure), 15a (Criminal Procedure Act.), 15b (Victims Compensation), 15c (Address Confidentiality Program), 17A (Law-Enforcement Officers), 17B (North Carolina Criminal Justice Education and Training System), 17C (North Carolina Criminal Justice Education and Training Standards Commission), 17D (North Carolina Justice Academy), 17E (North Carolina Sheriffs’ Education and Training Standards Commission), 50B (Domestic Violence), 50C (Civil No-Contact Orders), 50D (Permanent Civil NoContact Order Against Sex Offender on Behalf of Crime Victim), and 74E (Campus Police Act)
North Dakota State Legislature 2017	12 (Corrections, Parole, and Probation) 12.1 (Criminal Code), 29 (Judicial Procedure, Criminal), 31 (Juridical Proof), and 32 (Judicial Remedies)
Ohio General Assembly 2017	19 (Courts – Municipal – Mayor’s County), 21 (Courts – Probate – Juvenile), 23 (Courts – Common Pleas), 25 (Courts – Appellate), 27 (Courts – General Provisions – Special Remedies), and 29 (Crimes – Procedure)
Oklahoma State Legislature Rolling	20 (Courts), 21 Crimes and Punishments), and 22 (Criminal Procedure)
Oregon State Legislature 2016	16 (Crimes and Punishments)
Pennsylvania State Legislature 2017	18 (Crimes and Offenses), 22 (Detectives and Private Police), 33 (Frauds, Statute of), 42 (Judiciary and Judicial Procedure), 44 (Law and Justice), and 61 (Prisons and Patrol)
Rhode Island General Assembly 2016	8 (Courts and Civil Procedure – Courts), 9 (Courts and Civil Procedure – Procedure Generally), 10 (Court and Civil Procedure – Procedure in particular actions), 11 (Criminal Offenses), 12 (Criminal Procedure), 13 (Criminals

	– Correctional Institutions), and 14 (Delinquent and Dependent Children)
South Carolina State Legislature 2016	14 (Courts), 15 (Criminal Remedies), 16 (Crimes and Offenses), 17 (Criminal Procedures), 18 (Appeals), and 19 (Evidence)
South Dakota State Legislature 2017	16 (Courts and Judiciary), 19 (Evidence), 20 (Personal Rights and Obligations), 21 (Judicial Remedies), 22 (Crimes), 23 (Law Enforcement), 23A (Criminal Procedure), and 24 (Penal Institutions, Probation and Parole)
Tennessee The State of Tennessee 2016	16 (Courts), 24 (Evidence and Witnesses), 37 (Juveniles), 39 (Criminal Offenses), 40 (Criminal Procedure), and 41 (Correctional Institutions and Inmates)
Texas State Legislature 2017	Code of Criminal Procedure and Texas Penal Code
Utah State Legislature 2017	25 (Fraud), 75 (Utah Criminal Code), 77 (Utah Criminal Procedure), 78A (Judiciary and Judicial Administration), and 78B (Judicial Code)
Vermont General Assembly 2016	12 (Court Procedures) and 13 (Crimes and Criminal Procedure)
Virginia General Assembly 2017	16.1 (Courts Not of Record), 17.1 (Courts of Record), 18.2 (Crimes and Offenses Generally), 19.2 (Criminal Procedure), 52 (Police (State)), and 53.1 (Prisons and Other Methods of Correction)
Washington State Legislature 2016	2 (Courts of Record), 3 (District Courts – Courts of Limited Jurisdiction), 5 (Evidence), 6 (Enforcement of Judgments), 7 (Special Proceedings and Actions), 9 (Crimes and Punishment), 9A (Washington Criminal Code), 10 (Criminal Procedure), 13 (Juvenile Courts and Juvenile Offenders), 71 (Mental Illness), and 71A (Developmental Disabilities)
West Virginia State Legislature 2017	17G (Racial Profiling Data Collection Act), 25 (Division of Corrections), 28 (State Correctional and Penal Institutions), 51 (Courts and their Officers), 52 (Juries), 53 (Extraordinary Remedies), 56 (Pleading and Practice), 57 (Evidence and Witnesses), 58 (Appeal and Error), 60A (Uniform Controlled Substances Act), 61 (Crimes and Their Punishment), and 62 (Criminal Procedure)

Wisconsin State Legislature 2017	164-177 (Police Regulations), 301-304 (Corrections), 750-758 (Courts), 800 (Municipal Court Procedure), 885-895 (Provisions Common to Actions and Proceedings in All Courts), 898 (Relief of Prisoners), 901-911 (Evidence), 938 (Juvenile Justice Code), 939-951 (Criminal Code), 961 (Controlled Substances), and 967-980 (Criminal Procedures)
Wyoming State Legislature 2017	5 (Courts), 6 (Crimes and Offenses), and 7 (Criminal Procedure)

Given the amount of data, its collection proved to be a challenging endeavor as each state structures and disseminates their state laws differently. States rarely had similar websites with user-friendly mechanisms to view the statutes. In other words, it could take a long time to find a state’s codes and procedures through the government agency’s website. Often, the most readily available information on these websites included hearing dates and times and bill/amendment tracking for the current legislative session. In Hawaii’s case, their legislative content was disseminated through thousands of hyperlinks that were carefully navigated. Rather than describing the legislative content using descriptive words (e.g., Criminal Offenses), hyperlinks were named things such as, “Vol01\_Ch0001-0042F.” This hyperlink, for example, reflected the content for Volume 1, Chapters 1 through 42. Secondary hyperlinks within the first website contained specific statutes that also contained non-descriptive names such as “HRS0001” and “HRS0027,” which we came to understand as Hawaii Revised Statutes, numbers one and twenty-seven respectively. These links were non-descriptive, however, were virtually impossible to assess which Titles should be collected. To overcome this barrier, it was discovered that every Title had a hyperlink with a table of contents for that section. After



searching through each Volume’s hyperlinks, the table of contents for each section were identified and relevant Titles were assessed from each location.

States such as Hawaii demonstrate the careful attention and effort it took to ensure accurate and quality data, and, therefore, highlight the importance of conducting reliability checks. Since legislative content was being manually copied and pasted into the word documents, occasional human errors were expected. Checking the reliability of the data was accomplished via two independent line-by-line reviews for consistency on every state. In the Spring of 2017, students in an upper-division criminal justice course were tasked with checking the reliability of these procedures. The error rate - from this reliability check - was extremely low (less than 0.01%) and inconsistencies were rectified in the finalized dataset. In the summer of 2017, all state Microsoft Word documents were standardized by setting tables to a width of 6.5 inches, in Times New Roman, and 12-point font.

Table 2 summarizes the breadth of the final dataset. States ranged having 691 statutes to over 7,500, which indicates that states legislate criminal justice topics differently. Though states varied greatly in the number of pages, words, and criminal justice statutes their legislative codes contained, the standard of deviation is lower than the mean, suggesting that there is limited skewness in the data. On average, states contain nearly 760 pages, over half a million words, and 2,600 statutes of content. In total, there are 25,786,945 words, 37,992 pages, and 130,095 statutes in the dataset.

*Table 2 Measures of central tendency for the observed criminal justice statutes*

	<u>Min.</u>	<u>Max.</u>	<u>Mean</u>	<u>Median</u>	<u>Mode</u>	<u>S.D.</u>
Pages	206	2,507	759.84	682.00	706	411.11
Words	139,084	1,691,034	515,738.90	456,393.50	139,084	278,660.14
Statutes	691	7,592	2,601.90	2,318.50	691	1,299.53

It is worth noting that a unique aspect of this dataset is the ability to set unique inclusion and exclusion criteria in order to hone in on specific criminal justice issues. Other legal databases, such as Westlaw and Lexis Nexis, are limited in their ability to exhaustively search certain topics. In these databases, search algorithms rank results by relevance and may exclude statutes that are important but were not generated in the search algorithm. The use of a Boolean search ensures that all key words and phrases are identified, regardless of anticipated relevance. Since researchers can set their own inclusions and exclusion criteria, it allows for a more holistic and comprehensive approach to exploring criminal justice topics.

Accordingly, and given the exhaustive nature of the dataset, it was evident that the majority of these statutes are not relevant to a specific analysis on human trafficking. Four procedures were employed to create a subsample of human trafficking statutes, prior to the final analysis. The first subsampling step was to identify key words and phrases relevant to human trafficking. The following key terms were grounded in a thorough reading of the extant literature and identified as relevant to this specific analysis: “traffick” OR “servitude” OR “slav” (i.e. root of slavery). All key words were Boolean searched among all fifty Microsoft Word documents. Statutes – including the statute’s citation – were included in the subsample if they contained any of the Boolean terms. These statutes were then compiled into a separate Microsoft Word document. Key terms that appeared only in the third column – the statute’s history – was excluded from the subsample. This content reflected historical material and therefore, was not relevant with the temporal period of these analyses.

In our assessment of the state statutes, it was common for a single statute to contain multiple Boolean search terms. Therefore, in the second stage of our subsampling, we identified and eliminated duplicate statutes via a Ctrl-F search for each statute's unique citation. Additionally, statutes were also excluded if the statutes' contents were blank. This was common amongst statutes that met the inclusion criteria in the statute's citation column, but the legislative content (i.e., the middle column) had later been repealed. Although these statutes were not a part of the original data collection procedures, the content had previously been repealed, making them irrelevant to these cross-sectional analyses.

In the third stage of preparing this sample, exclusionary criteria were identified. After reading through the preliminary data, dozens of statutes related to drug trafficking were included but unrelated to these analyses. To eliminate these statutes, an additional Boolean search segregated "drug" OR "controlled substance" statutes for additional scrutiny. Before statutes were excluded, a careful readthrough of the statute's content was done to ensure human trafficking-related statutes were not being excluded because it was discovered that a single statute could discuss drug and human trafficking. In these instances, statutes were maintained in the dataset.

Table 3 describes the size and scope of the sample used for this analysis on human trafficking legislation. With the exception of statutes, the standard of deviation was larger than the mean, which suggests some skewness in the data. In total, 982 statutes were included in the final analysis. West Virginia had the fewest statutes related to human trafficking ( $n = 2$ ) and Maryland had the most ( $n = 47$ ). On average, there were 19.64 statutes per state.

*Table 3 Measures of central tendency for the observed human trafficking statutes*

	<u>Min.</u>	<u>Max.</u>	<u>Mean</u>	<u>Median</u>	<u>Mode</u>	<u>S.D.</u>
Pages	2	553	26	13.50	7	76.68
Words	802	382613	17487.52	8769	#N/A	53201.67
Statutes	2	47	19.64	17.50	7	11.29

As previously discussed, one of the aims of this study is to address state-by-state variations in human trafficking laws. Here, it is worth noting how this variation is evident in the size and scope of state legislation. West Virginia, for instance, only had two statutes amounting to two pages of content, whereas Maine had seven statutes, that only amounted to three pages. In this example, the number of statutes does not necessarily indicate the quantity of content. The same can be said for Maryland and Illinois. Illinois (n = 28) had nineteen fewer statutes than Maryland (n = 47) but had 552 pages of content, whereas Maryland's 47 statutes only consisted of 17 pages of content. Overall, this variation indicates that the ways in which states legislate human trafficking varies extensively.

The final step in processing the data eliminated irrelevant material within the statutes. Often times, individual statutes were multifaceted in that they discussed multiple crimes in a single statute. This led to many statutes being upwards of fifty-or-more pages, though only a small portion of them discussed human trafficking. The final stage of preparing the data for analysis, therefore, involved eliminating the irrelevant portions of these statutes and replacing this content with ellipses. In order to avoid subjective interpretations of relevancy, strict rules were used to guide how content was redacted. It was common that multiple crimes were discussed in a single statute. These changes in conversation were broken into subsections within a statute. To easily identify which subsections were relevant to human trafficking, all terms from the Boolean search were

highlighted using the Find and Replace function on Microsoft Word. Subsections were then redacted if they did not contain at least one highlighted term. Alaska, for example, had the following statute:

The attorney general, or a person designated in writing or by law to act for the attorney general, may authorize, in writing, an ex parte application to a court of competent jurisdiction for an order authorizing the interception of a private communication if the interception may provide evidence of, or may assist in the apprehension of persons who have committed, are committing, or are planning to commit, the following offenses:

- (1) murder in the first or second degree under AS 11.41.100 - 11.41.110;
- (2) kidnapping under AS 11.41.300;
- (3) a class A or unclassified felony drug offense under AS 11.71;
- (4) sex trafficking in the first or second degree under AS 11.66.110 and 11.66.120; or
- (5) human trafficking in the first degree under AS 11.41.360 (§ 12.37.010).

Since subsections one, two, and three refer to crimes other than human trafficking, these portions were redacted in the sample and denoted with ellipses. This process served to eliminate legislative content unrelated to human trafficking using an objective procedure. Ellipses were specifically used so omitted data was easily retrievable if such content was needed to contextualize the statute's intent; though, it was never necessary.

Table 4 illustrates the size and scope of legislative content related to human trafficking that was coded for the final analysis. Since only content within statutes were redacted between Table 3 and Table 4, the number of statutes did not vary. Illinois still had the most pages of content ( $n = 25$ ) but was reduced from the original 552 pages of content. Illinois disseminated their human trafficking statutes alongside other crimes, indicating that a large amount of that content was irrelevant to human trafficking and further justifying this subsampling procedure. Alternatively, Maine and South Dakota only had one page of content related to human trafficking. On average states had 6.72 pages of content. Between Table 3 and Table 4, the standard of deviation and the mean

relationship changed in regard to the number of pages and words, indicating that these procedures removed skewness from the data. Though, in all categories the standard of deviation is less than the mean suggesting that the subsample has limited skewness and outliers do not impact these estimates.

*Table 4 Final sample of human trafficking statutes*

	<u>Min.</u>	<u>Max.</u>	<u>Mean</u>	<u>Median</u>	<u>Mode</u>	<u>S.D.</u>
Pages	1	25	6.72	6	5	4.35
Words	401	15259	4108.88	3700.5	#N/A	2808.11
Statutes	2	47	19.64	17.50	7	11.29

## Measures

To systematically analyze these data, a mix of complimentary quantitative and qualitative strategies were utilized (Smith, 1975). Put another way, the qualitative patterns and trends that emerged organically in the data are the focal point of the research findings but are supplemented by descriptive statistics on specific phenomena. Since qualitative content analyses can be vulnerable to subjective interpretation, a coding frame was developed (see Appendix A). Developing the coding framework was data-driven, informed by grounded theory, and involved several, preliminary read-throughs of the data (Schreier, 2012). In doing so, an informal list of patterns and trends were identified and recorded as they emerged among the statutes.

During the defining stage of developing the coding frame, hierarchical open and axial coding was employed to develop categories, subcategories, and individual codes (Emerson, Fritz, & Shaw, 2011). The initial conceptualization of individual codes involved creating a series of binary questions that discussed the presence or absence of phenomenon in these data. Some codes also contained contingency questions. For example, one of the codes states, “Does the state give the victim the right to not testify in

open court?”. If this question is coded “yes,” then a contingency question was asked: “If yes, is victim age one of the contingency factors (i.e., Minor v. Adult based on the state’s definition of Minor)?”. This contingency question was also coded as “yes” or “no.”

Additional sub-questions collected the statute’s content and citation for deeper analysis. Similar questions were grouped together and refined into a succinct code or redefined to highlight thematic differences. For instance, in an early draft of the coding frame there was a question that asked about the presence or absence of affirmative defenses in the state human trafficking statutes. Upon reviewing the coding frame, it was clear that there were different types of affirmative defense laws that addressed survivors and perpetrators, and they were separate from one another. During the development stage, this theme was then split into two codes to capture the presence or absence of affirmative defenses for survivors and perpetrators as separate phenomena (Miles, Huberman, & Saldana, 2014). In consultation with a number of experts, the coding scheme was also amended though, only minor changes were made.

Consistent with qualitative content analysis methodology, a pilot test was conducted to assess conceptual variability and troubleshoot shortcomings of the coding frame prior to coding the subsample of human trafficking statutes. This process identified areas where the coding frame had to be revised or allow for greater conceptual specificity. The coding frame was pilot tested on a random sample of five states (i.e., 10% of the sample) and performed by a single reviewer (Schreier, 2012). Consistent with pilot testing when there is a single reviewer, the codes were reevaluated after a two-week period, in order to mirror the process of blind coding between two reviewers, where further notes for revision were recorded (Schreier, 2012). Data were assessed then as

either being reoccurring and common or unique and rare. By a process of subsumption, this content was either cataloged into existing codes or new questions were created (Schreier, 2012). Since the codes represent the presence and absence of specific phenomena, the content was, for the most part, manifest and required little interpretation during the coding frame's development. In addition, the process of segmentation required little interpretation after within unit coding identified qualitative similarities and differences between states (Schreier, 2012).

### **Analytical Strategy**

The first component of the analytical strategy consisted of selective coding. Selective coding in qualitative content analysis is a conceptual process and open to multiple interpretations (Schreier, 2016). In order to maintain objectivity in any findings, strategies were employed so that the interpretations provided here could be said to be based on a shared understanding. To do this, interrater reliability checks were performed on each state. Interrater reliability checks assess interpretive biases (McAlister, Lee, Ehlert, Kajfez, Faber, & Kennedy, 2017). Each state, therefore, underwent double-blind coding by two reviewers.<sup>12</sup> All coders were briefed on the coding procedures and framework. Additionally, all students were given the opportunity to ask questions during and after the briefing. Submissions were checked for quality control and, given the overt nature of the data and the clarity of the codes, no major issues were found. Once a state was coded by the reviewers, the codes were assessed for reliability.

When conducting an interrater reliability check, researchers maintain that there is no set threshold to confirm reliability. Initially, however, researchers suggested that

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<sup>12</sup> The undergraduate and graduate students who performed the double-blind coding of the data included: Liza Weisman, Taylor Markevitch, Nick Smith, and Krystal Garcia.



reliability checks should meet a minimum threshold of 80% agreement between reviewers (Walther, Sochacka, & Kellam, 2013). In instances where existing coding schemes do not exist in the literature, however, 70% consistency between coders is considered acceptable (Campbell, Quincy, Osserman, & Pedersen, 2013). Moreover, when the research questions being investigated are exploratory, as they are in the present study, scholars argue that more flexible standards are also acceptable (e.g., 60% consistency; Campbell et al., 2013). The coding frame consisted of 60 codes per state, meaning there were 3,000 codes assessed for consistency. In total, there were 2,516 times when the codes were consistent, resulting in an overall reliability of 84% (see Table 5). There were only two individual codes that were below acceptable, which will be noted in the subsequent findings.

*Table 5 Column Reliability Check*

Summary	
Number of Consistent Codes	2516
Number of Inconsistent Codes	484
Number of Total Codes	3000
Column Reliability	0.84

The two codes that comprised the miscellaneous category were excluded from the interrater reliability check. The first code asked, “Were there any interesting, unique, innovative, or for any other reason a statute did not belong to any other code, but was remotely relevant to human trafficking?”. This question served the purpose to capture important elements of human trafficking that occurred infrequently but were not accounted for in the initial pilot test. This code was not estimated in our reliability assessments because a reviewer’s interpretations of what is unique or innovative was not given a strict definition and, thus, was extremely subjective. The second code that was not calculated in the reliability estimates stated, “In reading the state statutes, were there

any statutes that for any reason did not belong with any other code and was irrelevant to human trafficking?”. Even with the previously mentioned exclusion criteria, statutes unrelated to human trafficking were captured in these data, such as trafficking in food stamps. This code served as an additional strategy to exclude irrelevant data from the final analysis.

It is common in qualitative content analyses to have three independent reviewers evaluate the data (McAlister et al., 2017). For this study, after the reliability checks were complete, a rectification process was carried out by a third reviewer. This meant the third reviewer confirmed congruent coding and re-coded where incompatible codes existed. This process served to fix the rare errors in the coding process, such as accidental skipped questions. Coding inconsistencies were rare, often attributed to human error, and anticipated as a natural part of content analysis. In most cases, both reviewers’ interpretations were kept providing a broad, holistic analysis of statutes.

After this process was complete, the data were entered into the statistical analysis software, IBM SPSS Statistics for interpretive ease. The decision to use SPSS Statistics was made for a three of reasons. Given the data of this forthcoming research, SPSS Statistics was the most efficient program for inputting complimentary quantitative and qualitative data by employing a mix of the numeric and string variable functions. Moreover, individual codes could easily be aggregated for state-by-state comparisons. Finally, SPSS Statistic’s ability to aggregate individual codes into within unit analyses (e.g., victim centered codes or perpetrator centered codes) made comparing phenomena within human trafficking a streamlined process. This was useful in instances where it was

important to compare two codes side-by-side, such as comparing affirmative defenses for survivors and perpetrators.

The descriptive narrative that emerged from these analyses were summarized in two ways. First, descriptive statistics provided raw counts on how frequently codes appeared across states. In doing so, current gaps in existing legislative efforts were easily identified and presented. Second, laws that were inconsistent with human trafficking perpetration are highlighted. Since different reviewers could report interpreting different narratives among the statutes, arranging the data in this way is inherently subjective. To mitigate subjectivity these narratives are supported by descriptive statistics and example text. Moreover, common strategies to address human trafficking are identified and compared to innovative, newer approaches. Finally, a deeper analysis of the qualitative content collected within codes painted a more fruitful picture of the nuanced differences that exist between states in how certain aspects of human trafficking are addressed. These nuances are described through example-text that complement the descriptive analyses.

In summary, even though human trafficking policy has been discussed experts, few efforts have attempted to understand the landscape of state, anti-trafficking legislation. To fill this gap, a systematic content analysis was conducted on every states' human trafficking legislation. The data were then collected into a queryable database where a Boolean search honed in on the Nation's laws on human trafficking. Furthermore, consistent with content analysis methodology, a coding scheme was developed to assess the prevalence of several phenomena across state legislation. Overall, this methodology aims to contribute a holistic, contemporary analysis on the Nation's

laws on all forms human trafficking, identify nuanced differences and similarities state-by-state, and make recommendations for future reform.

## CHAPTER 4: RESULTS

The findings are summarized in descriptive statistics that represent the presence and absence of explored phenomena and through example-text that highlight nuanced differences between the codes. Three themes emerged among state human trafficking legislation and include, 1) conceptualizing human trafficking, 2) victim centeredness, and 3) perpetrator centeredness.

### **Conceptualizing Human Trafficking**

While all 50 states defined human trafficking, states conceptualized the offense differently. Idaho's human trafficking definition, included elements of action, means, and purpose (i.e., the three key components of the offense). It states,

(1) 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 eighteen (18) years of age; OR (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. (§18-8602)

Idaho's definition conceptualizes sex and labor trafficking as a single offense, which is how most states defined this phenomenon. Seventeen states, however, distinguished labor and sex trafficking as unique crimes. In most instances, the severity of the offense was not impacted and were treated equally in the law. Hawaii, for instance, considered both forms of human trafficking as a Class A Felony; though, sex trafficking had a more exhaustive definition (see Table 6).<sup>13</sup>

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<sup>13</sup> There were, however, a handful of instances where sex and labor trafficking were treated differently under the law. These examples will be expanded upon throughout this chapter.

*Table 6. Comparing Labor Trafficking and Sex Trafficking Definitions in Hawaii*

Labor Trafficking (Hawaii §707-781)	Sex Trafficking (Hawaii §712-1202)
A person commits the offense of labor trafficking in the first degree if the person intentionally or knowingly provides or obtains, or attempts to provide or obtain, another person for labor or services [...]	A person commits the offense of sex trafficking if the person knowingly: (a) Advances prostitution by compelling or inducing a person by force, threat, fraud, or intimidation to engage in prostitution, or profits from such conduct by another; or (b) Advances or profits from prostitution of a minor; provided that with respect to the victim's age, the prosecution shall be required to prove only that the person committing the offense acted negligently.

States, however, appear to be treating sex and labor trafficking differently through evidentiary standards. Similar to the TVPA (2000), Louisiana does not conceptualize “trafficking in children for sexual purposes” as requiring force, fraud, or coercion; child labor trafficking (i.e., labor trafficking of children) did not receive this distinction (see Table 7; see also Massachusetts §IV-I-265-50). In short, child labor trafficking is conceptualized with a higher evidentiary standard from child sex trafficking. Alternatively, Michigan did not require force, fraud, or coercion in either form of child trafficking (§750.426e). Louisiana varied slightly by removing the “force, fraud, and coercion” requirement for all survivors under the age of twenty-one (§46.2).

*Table 7. Comparing Adult Human Trafficking versus Trafficking in Minors in Louisiana*

Human Trafficking (§14-1-II-C-46.2)	Trafficking of Children for Sexual Purposes (§14-1-II-C-46.3)
A. It shall be unlawful: (1)(a) For any person to knowingly recruit, harbor, transport, provide, solicit, receive, isolate, entice, obtain, or maintain the use of another person through fraud, force, or coercion to provide services or labor. (b) For any person to knowingly recruit, harbor, transport, provide, solicit, sell, purchase, receive, isolate, entice, obtain,	A. It shall be unlawful: (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity

or maintain the use of a person under the age of twenty-one years for the purpose of engaging in commercial sexual activity regardless of whether the person was recruited, harbored, transported, provided, solicited, sold, purchased, received, isolated, enticed, obtained, or maintained through fraud, force, or coercion.

Though uncommon, Alaska's definition was vaguer and did not mirror the TVPA (2000). To illustrate, Alaska defined human trafficking as,

a person commits the crime of human trafficking in the first degree if the person compels or induces another person to engage in sexual conduct, adult entertainment, or labor in the state by force or threat of force against any person, or by deception. (§11.41.360; see for similar examples Alabama §13A-6-152; Connecticut §53A-192A).

Perhaps the vaguest statute was Texas's human trafficking definition. Texas did describe any element of human trafficking in their statute,

A person commits an offense if the person knowingly: (1) traffics another person with the intent that the trafficked person engage in forced labor or services; (2) receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services; (3) traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by [prostitution laws...] (5) traffics a child with the intent that the trafficked child engage in forced labor or services; (6) receives a benefit from participating in a venture that involves an activity [...] including by receiving labor or services the person knows are forced labor or services [...]. (§20A.01)

The vagueness of such laws overlooks several critical aspects of coercions, such as debt bondage. In addition to defining the offense, states also discussed legal elements of human trafficking and more ancillary aspects of human trafficking offenses (more on these issues in the subsequent pages).

### *Legal Elements of Human Trafficking*

Like any social phenomenon, there are complexities that require specific legal standards in the law. Coercion and exploitation, for example, were defined in all 50 states. To illustrate, Florida had the most comprehensive definitions of coercion. Florida defines coercion as:

1. Using or threatening to use physical force against any person; 2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will; 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined; 4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person; 5. Causing or threatening to cause financial harm to any person; 6. Enticing or luring any person by fraud or deceit; or 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person. (§787.06)

Most states included similar elements, but a handful of states were more exhaustive. In particular, North Dakota defined coercion similarly to Florida, but also included, “The use of an individual's physical or mental impairment when the impairment has a substantial adverse effect on the individual's cognitive or volitional function” (§12.1-41-04). Additionally, North Dakota criminalizes forced abortions for sex trafficking victims because it was expressed as an example of coercive behavior (§12.1-41-21). Oklahoma also defines several additional coercive behaviors as they apply to sex trafficking:

f. blackmail, g. demanding or claiming money, goods, or any other thing of value from or on behalf of a prostituted person where such demand or claim arises from or is directly related to the act of prostitution, h. determining, dictating or setting the times at which another person will be available to engage in an act of prostitution with a third party, i. determining, dictating or setting the places at which another person will be available for solicitation of, or to engage in, an act of prostitution with a third party, or j. determining, dictating or setting the places at which another person will reside for purposes of making such person available to engage in an act of prostitution with a third party [...]. (§21-748)



From these examples, it is evident that coercion is a complex, multifaceted, legal term that requires great specificity in human trafficking definitions.

Alternatively, every state had separate definitions for exploited labor and sexual services. Mississippi, for example, defined commercial sexual activity as, “any sex act on account of which anything of value is given to, promised to, or received by any person,” whereas forced labor was defined as, “services that are performed or provided by another person and are obtained or maintained through coercion” (§97-3-54.4). Sex and labor exploitation, however, were remarkably similar from state-to-state.

In addition to coercion and exploitation, half of states defined debt bondage with little variation. As an illustration, Delaware, defined debt bondage as a way of,

inducing an individual to provide: a. Commercial sexual activity in payment toward or satisfaction of a real or purported debt; or b. Labor or services in payment toward or satisfaction of a real or purported debt if: 1. The reasonable value of the labor or services is not applied toward the liquidation of the debt; or 2. The length of the labor or services is not limited and the nature of the labor or services is not defined. (§787)

Michigan (§750.462a) and Iowa (Iowa §710A.1) had similar definitions of debt bondage, whereas Vermont defined debt bondage is defrauding of the debtor in their law that stated,

Debt bondage means a condition or arrangement in which a person requires that a debtor or another person under the control of a debtor perform labor, services, sexual acts, sexual conduct, or a sexually explicit performance in order to retire, repay, or service a real or purported debt which the person has caused with the intent to defraud the debtor. (§2651)

The former emphasizes the repayment of the debt, whereas the latter emphasizes the use of the debt to control the victim.

*Ancillary Aspects Defined in Human Trafficking Laws*

While the prior discussion focused on the traffickers themselves, this section explores how 38 states criminalized behaviors that co-occur with human trafficking. This occurs by criminalizing 1) behaviors by individuals other than the traffickers who still contribute to the problem and 2) behaviors that traffickers commit in addition to human trafficking. The most common example of the former, related to the promotion of prostitution and/or patronizing a prostitute (N = 14). The language of these laws often referred to such acts as the knowing purchase of sexually exploited labor. “Johns”, as they are more commonly known, are a large contributor to the sex trafficking problem (Demand Abolition, 2019). Accordingly, South Dakota has made it a felony to “hire or attempt to hire another person for a fee to engage in sexual activity if [...] the person knew or should have known the other person was being forced to engage in the activity through human trafficking” (§22-49-4). These laws specifically target those who create demand for sex trafficking and can result in a \$5,000 fine (Kansas §21-6420) to a 15-20-year prison term (Montana §45-5-705; see also Arkansas 5-18-104; Delaware §787; Pennsylvania §3013). While most states have operationalized the promotion of prostitution and/or patronizing a prostitute as a separate offense, Iowa has included it in its’ human trafficking law. It includes, “knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking” (§710A.1). Similar to promoting prostitution, Tennessee targets individuals who solicit minors for commercial sex acts, “by means of oral, written or electronic communication, electronic mail or Internet services, directly or through another, to intentionally command, request, hire, persuade, invite or attempt to induce a

person” (§39-13-528). In this regard, Tennessee adopts language that includes the use of technology in the commission of the crime.

Regarding the latter, states have also included charges for crimes that are implied aspects of human trafficking such as kidnapping. In these situations, prosecutors can “stack” multiple criminal charges in addition to the initial human trafficking charge, which was observed in seven states (Arizona §13-1304; California §207; Delaware §787; North Carolina §14-39; Oklahoma §21-741; Utah §301; Vermont §2407) and organized crime or racketeering activity was found in another seven states (Colorado §18-17-103; Connecticut §53-394; Idaho 18-8502; Kansas §21-6328; Kentucky §010; Louisiana §1352; Mississippi 97-43-3). In eight states, both offenses were included in the law (Florida §895.02; Hawaii §842; Illinois §720-5/33G-3; Indiana §35-45-6-1; Michigan §750.349; Nebraska §28-314; Nevada §207.360; Pennsylvania § 2902). For example, Idaho defined a “pattern of gang activity” as “the commission, attempted commission or solicitation of two (2) or more of the following offenses, provided that the offenses are committed on separate occasions or by two (2) or more gang members [including] Human trafficking” (§18-8502). Furthermore, in Florida, permanently branding that involves leaving “a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure” in the context of human trafficking constitutes an additional felony charge (Florida §787.06).

Although rarer, a couple of states criminalized the financial exploitation of people who had been labor trafficked. In this regard, Hawaii (§707-786) and Pennsylvania (§3015) criminalized “nonpayment of wages” in connection to human trafficking. More

specifically, Hawaii increases the severity of labor trafficking incrementally by stating that,

A person commits a separate offense under this section for each pay period during which the employee earned wages that the person failed or refused to pay the employee. If no set pay periods were agreed upon between the person and the employee at the time the employee commenced the work, then each "pay period" shall be deemed to be bi-weekly. (§707-786)

Financial exploitation, however, was not addressed among sex trafficking statutes.

Citizenship status can also be used to exploit victims. In this regard, five states criminalize the falsifying, withholding, and/or destroying of documentation detailing the immigration or citizenship status of individuals (Hawaii §707-787; Mississippi §97-3-54.2; Missouri §566.103; Oklahoma §21-446). Mississippi, for instance, makes it illegal to,

knowingly destroys, conceals, removes, confiscates or possesses, or attempts to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other immigration document, or any other actual or purported government identification document of any person to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel in order to maintain the labor or services of that person... (§97-3-54.2)

Such laws illustrate how citizenship status is used to coerce labor from a victim.

In summary, the first step to address human trafficking is defining the offense. In this regard, states vary greatly in how they conceptualize this phenomenon. In doing so, however, states focused on the legal elements of the crime and identified several ancillary aspects of human trafficking. In the next section—victim centered laws—the experiences of human trafficking survivors are discussed as they are contextualized in the law.

### **Victim Centeredness**

Victim centered laws refer to the codified policies regarding the treatment and management of human trafficking survivors. There were four key elements human

trafficking laws took into consideration with regards to the survivors, including: 1) defining victims, 2) initial victim identification and responses, 3) victim rights and services, and 4) victims in the courtroom.

### *Defining Victims*

Human trafficking victim definitions were remarkably consistent. With one exception, 30 states defined human trafficking victims as someone who was subjected to a course of conduct as described in the state's human trafficking statute. For example, Hawaii defines a victim as, "the person against whom an offense specified in section 707-781 or 707-782 has been committed" (§707-780). The one exception to the norm, Delaware, victim status remains, "regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted" (§787).

### *Initial Victim Identification and Responses*

Thirty-four states addressed many guidelines for professionals regarding how to identify and respond to potential (and confirmed) human trafficking victims. First, states have a variety of statutes that address the Legislature's dedication to reacting to human trafficking. Pennsylvania, for instance, simply states, "law enforcement agencies shall take reasonable steps necessary to identify, protect and assist victims of human trafficking" (§3052; see also Idaho §18-8601). Additionally, Kentucky is dedicated to investigating every case of "reported or suspected sexual abuse of a child [...] by a specialized multidisciplinary team composed, at a minimum, of law enforcement officers and social workers from the Cabinet for Health and Family Services" (§600).

There were several statutes that addressed a more formal, criminal justice response to human trafficking, including various aspects of the investigation and

adjudication. More specifically, states were found to mandate law enforcement training on human trafficking (California §13519.14; Georgia §35-1-16; Iowa §710A.6; New Jersey §2C:13-12; Oregon §147.480). In other words, Georgia required that law enforcement officers to be trained in the following:

(1) Methods for identifying, combating, and reporting incidents where a person has been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46; (2) Methods for providing proper detention facilities or alternatives to detention facilities for persons who have been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46, including providing information on therapeutic facilities for such persons; and (3) Methods for assisting persons who have been trafficked for labor or sexual servitude, as such terms are defined in Code Section 16-5-46, including providing information on social service organizations available to assist such person. (§35-1-16)

California adds that officer training curriculums should involve presentations from, “human trafficking experts with experience in the delivery of direct services to victims of human trafficking” and that, “completion of the course may be satisfied by telecommunication, video training tape, or other instruction” (§13519.14). Another important facet of officer training is frequency. In this regard, New Jersey requires that officers receive a refresher course related to human trafficking every two years (§2C:13-12).

Another common requirement that is outlined in legislation requires officers to report suspected victims of human trafficking to service-providing agencies. In this regard, Missouri requires that:

As soon as possible after a first encounter with a person who reasonably appears to a law enforcement agency to be a victim of trafficking [...], that agency or office shall notify the department of social services and, where applicable, juvenile justice authorities that the person may be a victim of trafficking, in order that such agencies may determine whether the person may be eligible for state or federal services, programs, or assistance. (§566.223)

In Missouri, this also applies to minors (§21-748.2). Similar to Missouri, Michigan mandates that “a law enforcement officer who encounters a person under 18 years of age engaging in any conduct that would be a violation of section 448, 449, 450, or 462, [laws relating to prostitution] [...] shall immediately report to the department of health and human services” (§750.451). Nebraska similarly requires that law enforcement refer minors to the Department of Health and Human Services within 24-hours (§28-801). Alabama, in contrast, allows minors to be held in police custody while they are being connected to services. In accordance with Alabama’s Human Trafficking Safe Harbor Act, juveniles who are arrested for prostitution, “may be held in custody for up to 72 hours” for the, “safety and well-being of a person” in order to, “conduct an inquiry into the person's access to resources, such as, but not limited to, health care, shelter, mental health counseling, or financial aid” (§13A-6-183; see also Pennsylvania §3013).

Moreover, nine states went as far as to establish statewide human trafficking taskforces (Arkansas §12-19-101; Colorado §18-3-505; Delaware §787; Kentucky §040; Mississippi §97-3-54.9; Michigan §752.991; Rhode Island §11-67-7; South Carolina §16-3-2050; Washington §7-68-350). Colorado’s human trafficking council was tasked to:

bring together leadership from community-based and statewide anti-trafficking efforts, to build and enhance collaboration among communities and counties within the state, to establish and improve comprehensive services for victims and survivors of human trafficking, to assist in the successful prosecution of human traffickers, and to help prevent human trafficking... (§18-3-505)

Every taskforce was interdisciplinary in nature and accomplished a variety of responsibilities. Delaware, for instance, outlines seven responsibilities of its taskforce:

- a. Develop a comprehensive plan to provide victims of human trafficking with services;
- b. Effectuate coordination between agencies, departments and the courts with victims of human trafficking;
- c. Collect and evaluate data on human trafficking in this State;
- d. Promote public awareness about human trafficking, victim remedies and services, and trafficking prevention;
- e. Create a public

awareness sign that contains the state and National Human Trafficking Resource Center hotline information; f. Coordinate training on human trafficking prevention and victim services for state and local employees who may have recurring contact with victims or perpetrators; and g. Conduct other appropriate activities. (§787)

Additionally, Mississippi's taskforce is responsible for similar tasks in addition to the following:

(f) Create and maintain a website to publicize the coordinator's work; (g) Submit to the Legislature an annual report of its evaluation [...] including any recommendations, and summary of data collected [...] (h) Develop and implement rules and regulations pertaining to the use of the Relief for Victims of Human Trafficking Fund to support services for victims of human trafficking in Mississippi; (i) Assist in the creation and operations of local human trafficking task forces or working groups around the state, including serving on a task force; and (j) Conduct other activities, including, but not limited to, applying for grants to enhance investigation and prosecution of trafficking offenses or to improve victim services to combat human trafficking within this state which are appropriate. (§97-3-54.9)

Taskforces also consisted of several local, state, and federal stakeholders from numerous agencies, such as law enforcement and service providing organizations. Michigan and Colorado stood out among these statutes because former survivors of human trafficking were included as taskforce stakeholders (§752.991 and §18-3-505, respectively).

In addition to creating human trafficking taskforces, states are requiring them to collect data. Rhode Island, for example, requires that the following information is compiled in an annual report:

The number of persons arrested [...], the number of persons convicted, placed on probation, whose case is filed [...], whether those persons pled guilty or nolo contendere or were found guilty after trial by judge or jury; (3) The fines and/or sentences of those persons identified [...] and (4) A summary of the amounts of fines levied and the lengths of sentences. (§11-67-8)

Connecticut calls for a similar report, but required different data,

(1) All participation in federal, state-wide or regional anti-human trafficking efforts, (2) the number of referrals received relating to allegations of human



trafficking, (3) the criteria used when deciding whether to investigate allegations of human trafficking or initiate criminal proceedings related to human trafficking, (4) the coordination of efforts between the Office of the Chief State’s Attorney and municipal police departments concerning human trafficking cases, (5) the nature of annual training provided by each state’s attorney and municipal police department concerning human trafficking, (6) any obstacles to investigating human trafficking, (7) the number of investigations involving missing children, (8) the number of referrals received from the Department of Children and Families relating to human trafficking, and (9) the number of human trafficking cases referred for prosecution. (§51-286H)

In comparing these two states, Connecticut requires a lot more information to be collected and reported. Rhode Island, however, requires more detailed data on the processing of human trafficking cases.

In addition to law enforcement identifying human trafficking victims, efforts are being made to compel increased reporting. In this regard, 14 states were committed to responding to human trafficking by spreading awareness via advertising a phone number to the National Human Trafficking Hotline by Polaris Project (see Table 8).<sup>14</sup> Adult entertainment facilities were the most common business establishment who was compelled to publish a flyer (N = 9). Tennessee’s statute had the broadest reach by including,

Any governmental entity or private business or establishment that provides or offers a place of assembly or entertainment, transportation, lodging, dining, educational, medical or leisure activities or services, or any business or establishment that is licensed by the state or any political subdivision thereof, or that is engaged in commerce in this state... (§39-13-313)

Relatedly, Michigan broadly included any property that had, “been found by a court to constitute a public nuisance due to acts of prostitution or human trafficking being conducted on the property” (Michigan §752.1033). Three states acknowledged

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<sup>14</sup> Tennessee was the only state that utilized the contact information of their own statewide human trafficking hotline (§39-13-313).

agricultural businesses, though there was variance. Georgia, for example, only stated that, “Farm/labor contractors and day haulers” were included (§16-5-47). Wisconsin, however, included, “Places at which employers engage some employees to perform agricultural labor” (§165.71). South Carolina—the broadest of the three—included, “all agricultural labor contractors and agricultural labor transporters as defined pursuant” (§16-3-2100). There were also several novel business entities included in these laws which are summarized in Figure 2.

Uncommon Business Establishments
<ul style="list-style-type: none"> <li>• Privately operated job recruitment centers (Georgia §16-5-47)</li> <li>• Outpatient abortion facility (Louisiana §541.1)</li> <li>• An employer subject to the Minimum Wage Act (New Mexico §30-52-2.1)</li> <li>• Places at which athletic or sporting events occur (Wisconsin §165.71)</li> <li>• Gas stations with signs visible from an interstate or state highway that offer amenities to commercial vehicles (Wisconsin §165.71)</li> <li>• Salons at which hair or nail services are provided (Wisconsin §165.71)</li> <li>• Expositions conducted by a county or agricultural society (Wisconsin §165.71)</li> <li>• Courthouses (Wisconsin §165.71)</li> </ul>

*Figure 2. A list of uncommon business establishments that were compelled to advertise the National Human Trafficking Hotline*

Table 8. Places That are Compelled to Advertise a Human Trafficking Hotline<sup>15,16</sup>

	Adult Entertainment	Agricultural Contractor	Bars/ Nightclubs	Health Facilities	Highway Rest Stops	Lodging	Massage Parlors	Public Transport	Other
Alabama	X		X			X	X	X	
Arkansas	X		X			X		X	
Connecticut	X		X		X	X			
Florida	X			X	X		X		
Georgia	X	X	X	X	X	X	X	X	X
Louisiana	X				X	X	X		X
Michigan	X				X			X	X
Montana									X
New Mexico			X	X	X				X
North Dakota					X				
South Carolina	X	X		X		X	X	X	X
Tennessee				X		X			X
Vermont									X
Wisconsin	X	X		X	X	X	X	X	X
<b>Total</b>	<b>9</b>	<b>3</b>	<b>5</b>	<b>6</b>	<b>8</b>	<b>8</b>	<b>6</b>	<b>6</b>	<b>9</b>

<sup>15</sup> Some categories were defined broadly and are worth further explanation. 1. Adult entertainment broadly includes strip clubs, topless entertainment, adult video stores, and all other sexually oriented businesses. 2. Bars and nightclubs included establishments that required a liquor license, not including establishments that also held a food and beverage license. 3. Highway rest stops were inclusive of welcome centers, truck stops, and full-service fuel facilities.

<sup>16</sup> Three states compelled lodging establishments to advertise the National Human Trafficking Hotline only if such establishment had prior complaints of prostitution or human trafficking (Alabama §13A-6-170, Arkansas §12-19-102, and Michigan §752.1033). The same can be said for two states in relation to massage parlors (Alabama §13A-6-170; Louisiana §541.1).

In addition to spreading awareness, owners, operators, and staff members of hotels and motels were required to complete a one-time training about handling and responding to human trafficking in New Jersey (§2C:13-12). Montana went further to create a “human trafficking education account” that would “raise awareness about human trafficking and educate the public and law enforcement on how to prevent and detect human trafficking in this state” (§44-4-1504).

**Victim Rights and Services.** Once victims are identified, the next formal response is to inform them of their rights and connect them to services. Regarding the former, states addressed victim rights in many different ways (see Figure 3). It is most common (N = 31) for states to give victims the right to civilly sue their traffickers for restitution. In some states, however, survivors can only receive compensation for actual damages – not emotional pain and suffering – including in Indiana, which specifies that restitution can only be awarded for, “(A) Actual damages, (B) Court costs (including fees), (C) Punitive damages, when determined to be appropriate by the court, [and] (D) Reasonable attorney's fees” (§35-42-3.5). Tennessee, alternatively, has one of the most comprehensive victim restitution laws, which allows compensation for the following:

- (1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion;
- (2) Costs of necessary transportation, temporary housing, and child care, at the court's discretion;
- (3) Attorney's fees and other court-related costs such as victim advocate fees;
- (4) The greater of: (A) The value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA), compiled in 29 U.S. C. § 201 et seq., or state equivalent; or (B) The gross income or value to the defendant of the victim's labor or services or of any commercial sex acts engaged in by the victim while in the human trafficking situation;
- (5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair;
- (6) Compensation for emotional distress, pain, and suffering;
- (7) (A) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or the defendant's associates, including, but not limited to, deposits for

utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. (§39-13-31)

Tennessee acknowledges many ways in which human trafficking survivors may have suffered (see also Georgia §17-15-7; Mississippi §97-3-54.4). Additionally, Iowa states that, “Victims of human trafficking [...] shall have the same rights as other victims of a crime, including the right to receive victim compensation [...] regardless of their immigration status” (§915.51).

#### Reoccurring Victim Rights

- Victims have the right to:
  - Be informed of their rights
  - All protections afforded by the TVPA (2000)
  - Civilly sue their traffickers
  - Victim compensation
  - Confidentiality with victim advocates and language interpreters
  - Access translation services
  - Not be detained in facilities, jailed, fined, or otherwise penalized in a manner inconsistent to their status as a crime victim

#### Uncommon Victim Rights

- Victims have the right to:
  - Prompt housing in appropriate shelters
  - Prompt medical and mental health care
  - Have access to food
  - Be protected from recapture, threats, and acts of retaliation by traffickers against themselves or their family
  - Not be required to take a polygraph to corroborate their reports

*Figure 3. Summary of reoccurring and uncommon rights afforded to human trafficking victims*

In addition to the rights outlined above, victims were also provided the right to confidentiality in many states (N = 21). Several facets of victim confidentiality were discussed among these statutes. In seven instances, confidentially referenced agencies (i.e., law enforcement and case/social workers) keeping personal information about the victim private (California §293; Kentucky §040; Mississippi §97-3-54.6; Nevada

§200.3774; North Dakota §12.1-41; South Carolina §16-3-2070; Wyoming §6-2-709). Agencies were to keep things private such as photographs, likeness, name, address, telephone number, expunged criminal history and, family members. Another emerging trend was that communications between victims and case workers and language interpreters are also protected (Massachusetts §3-2-233-20M; Pennsylvania §4415 and §5945.3).

To this point, four states implemented “address confidentiality programs” for survivors of human trafficking which aim to, “to protect victims of [...] human trafficking [...] by authorizing the use of designated addresses for such victims and their minor children” to keep their actual residence unknown to the perpetrator (Missouri §589.663; see also North Carolina §15C-1; Texas §56.83; Wisconsin §165.68). Florida goes further to protect the locations of service providers who cater to survivors (§787.06) and a handful of states criminalize those who break confidentiality. To this point, California (§273.7) and South Carolina (§16-1-100) ensure the privacy of human trafficking survivors. More specifically, in South Carolina it is unlawful to disclose, “information about a trafficking victim or certain shelters or unlawfully entering the grounds of certain shelters” (§16-1-100).

Less common victim rights included efforts to demonstrate a victim is trusted by law enforcement. Along these lines, two states prohibited law enforcement from requiring human trafficking survivors to submit to polygraph examinations as conditions to investigate or prosecute human trafficking cases (Kansas §22-4614; Minnesota §611A.26). The details to which states addressed victims’ rights varied as well. Missouri, for instance, simply states that human trafficking survivors are afforded all rights given to

them by the Trafficking Victims Protection Act of 2000 (Missouri 566.223).<sup>17</sup> Indiana, however, has a very comprehensive statute outlining additional victims' rights:

(a) An alleged victim of an offense under section 1 of this chapter: (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim; (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including: (A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public. This subsection shall be administered by law enforcement agencies and the Indiana criminal justice institute as appropriate. (§35-42-3.5-4)

Likewise, Oklahoma also included among their rights prompt housing, medical and mental health care, and access to food (§21-748.2).

Thirty-one states addressed supporting survivors of human trafficking. Ten service categories were identified among these statutes (see Table 9). States most commonly committed their Legislatures to collaborating with service providers in a holistic support of survivors (N = 12). In this regard, Connecticut stated that, “The Office of Victim Services within the Judicial Department shall [... develop] a uniform curriculum to address rights and services for such victims” (§54-234). Eleven states had victim notification laws in place. Georgia (§17-17-6) and Connecticut (§54-234), for example, require law enforcement to inform victims of their rights upon initial contact. North Carolina further stated that law enforcement must notify human trafficking survivors of their eligibility for services within 96 hours of being identified (§15C-10). Other common services provided among these laws included temporary and permanent

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<sup>17</sup> These rights can include—but are not limited to—access to T-Visas, eligibility for government assistance programs, and civil suits against traffickers (TVPA, 2000; TVPRA, 2003).

housing (N = 10), medical treatment (N = 9), and legal assistance (N = 8). New Mexico offered the most services by a single state and included:

case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation, translation services and English language instruction, job training, job placement assistance and post-employment services for job retention, childcare, advocacy services, state funded cash assistance, food assistance, services to assist the victim and the victim's family members; and, other general assistance services and benefits as determined by the children, youth and families department or the human services department. (§30-52-2)

It is worth noting that within medical treatment, only two states included alcohol and drug abuse treatment (Alabama §12-15-701; New Mexico §30-52-2).

In addition to the services summarized in Table 9, there were many provisions to meet the needs of undocumented citizens who have experienced human trafficking victimization. In other words, seven states required that law enforcement apply for nonimmigrant T or U visa for all qualifying survivors<sup>18</sup> (Arkansas §12-19-104; Iowa §915.51; Montana §44-4-1503; New Mexico §30-52-2; North Dakota §12.1-41-17; Vermont §2663; Wyoming §6-2-709). Furthermore, Iowa and North Dakota specifically state that all human trafficking victims are eligible for state-benefits regardless of immigration status (§915.51 and §12.1-41-17, respectively).

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<sup>18</sup> Victims who qualify for T-Visas include 1) victims of “severe forms of human trafficking,” 2) located in the “United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking”, 3) “comply with any reasonable request from a law enforcement agency for assistance in the investigation or prosecution of human trafficking (unless you are under the age of 18 or you are unable to cooperate due to physical or psychological trauma)”, and 4) can demonstrate that one would “suffer extreme hardship involving unusual and severe harm if you were removed from the United States” (U.S. Citizenship and Immigration Services, 2018).



Table 9. Services offered to human trafficking survivors

	Case Management	Education	Family Services	General Services	Housing	Job Assistance	Legal Assistance	Medical	Mental Health	Notification	Other
Alabama	X	X			X		X	X	X		X
Arkansas										X	
California				X							
Colorado				X							
Connecticut				X				X			
Delaware				X							
Florida				X							
Georgia										X	
Idaho				X							
Illinois					X						
Indiana									X		
Iowa	X									X	
Kentucky				X	X						
Louisiana				X	X			X			
Michigan	X						X	X		X	
Minnesota			X		X						
Mississippi				X							
Missouri					X						
Montana										X	
Nevada				X							
New Mexico	X	X	X		X	X		X	X		X
North Carolina				X							
North Dakota			X								
Oklahoma					X		X	X	X	X	X
Oregon	X			X							
Pennsylvania		X			X	X	X	X	X		
South Carolina		X				X	X	X	X	X	X
Texas										X	
Vermont							X			X	
Washington							X			X	
Wyoming	X	X			X		X	X		X	
Total	6	5	3	12	10	3	8	9	6	11	4

Other immediate services that victims may need after exiting human trafficking includes mental health counseling (N = 6) and case management (N = 5). Pennsylvania, for example, includes mental health services among the many “health services” that are offered to human trafficking survivors (§3055). Secondly, case management was defined broadly and included advocacy services such as Oregon’s, “Advocacy for children who have been victims of commercial sexual exploitation” (§147.480). Afterward, during a later stage in the recovery process, victims can receive tutoring (Alabama §12-15-701) and job training (Pennsylvania §3055; New Mexico §30-52-2).

Additional services – labeled as “Other” in Table 9 – that were offered in some states included language interpretation, food assistance, and cash-advances (New Mexico §30-52-2; Oklahoma §21-748.2). At least three states provided services to the families of victims (e.g., childcare) in addition to family planning services (e.g., plan B; Minnesota §626.556; New Mexico §30-52-2; North Dakota §12.1-41-19). Family-planning services, however, were restricted in North Dakota, which specifically prohibited providers from using state funding to “perform, refer for, or encourage abortion” as part of their family planning services (§12.1-41-20). To fund services, 26 states had statewide crime victim funds that contribute to supporting human trafficking survivors.

Other equally important guidelines are statute of limitations, which were addressed in 15 states. These limitations required cases be brought to trial in as little as five-years (Alabama §13A-6-158) or at any time (i.e., an unlimited statute of limitations; Alaska §12.10.010; Mississippi §99-1-5; Nevada §171.083; Texas §1-12-12.01; Utah §76-1-3-301; Vermont §4501; Washington §9A-04-080). Nevada (§171.083) stipulates that the initial report to law enforcement must be made within four years of the offense.

Alaska has a similar requirement as Nevada, but survivors there have 10 years to file a report (§12.10.010).

States also extended, paused, or tolled the statute of limitations for a variety of reasons. To illustrate, Iowa's statute of limitations can be extended by three years if a previously unmatched DNA profile is later identified in a human trafficking case (§802.2D). The age of the victim also extended the statute of limitations. Accordingly, Illinois, starts the statute of limitation after a victim reaches 18 years of age (§720-5/3-6). Nevada had one of the most complex statute of limitations laws. It states:

An indictment must be found, or an information or complaint filed, for any offense constituting [...] sex trafficking of a child as defined in NRS 201.300, before the victim is: (1) Thirty-six years old if the victim discovers or reasonably should have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches that age; or (2) Forty-three years old if the victim does not discover and reasonably should not have discovered that he or she was a victim of the sexual abuse or sex trafficking by the date on which the victim reaches 36 years of age. (Nevada §171.083)

In addition to age, Alabama allows reporting delays for reasons, “resulting from the human trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services”, which do not count toward the statute of limitations (§13A-6-158).

#### *Victims in the Courtroom*

Lastly, there were many statutes relevant to human trafficking survivors and their experience in the courtroom. In particular, New Mexico stated that,

A victim's ability to cooperate shall be determined by the court, if that issue is raised by a human trafficking victim advocate. The victim is not required to cooperate if the court determines that the victim is unable to cooperate due to physical or psychological trauma. (New Mexico §30-52-2).

New Mexico acknowledges that a victim’s testimony is not always required when it would cause additional trauma. When victims do testify, there are a series of rape shield laws protecting them from certain types of questioning. For example, 12 states made evidence of the “victim's past sexual behavior including but not limited to the victim's marital behavior, divorce history, or general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards” inadmissible in court (e.g., Washington §9A-44-020). Many of these states, however, had exceptions for rape shield laws when such evidence is, “Offered by the prosecution in a criminal case to prove a pattern of trafficking by the defendant” (Delaware §787; see also Georgia §16-5-46; Kansas §21-5502; Mississippi §9-7-3-54.6; Montana §45-5-708; New Hampshire §633:7; New Jersey §2C:14-7; North Dakota §12.1-41-11; Pennsylvania §3018; South Carolina §16-3-2020; Vermont §3255). Relatedly, South Carolina made inadmissible the “implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section” (§16-3-2020). In this regard, South Carolina is acknowledging that consent expressed under duress of abuse should not be used as a defense.

Eight states allow direct and cross examinations to be videotaped outside of the courtroom and then presented to the jury (California §1347.1; Indiana §35.37.4.6; Michigan §750.462g; Nevada §174.228; New Mexico §30-52-2; Tennessee §24-7-120; Virginia §18.2-360; Washington §9A-44-150). In four states, however, this provision was

reserved for minors.<sup>19</sup> In contrast, New Mexico's statute broadly included all survivors of human trafficking,

A victim's ability to cooperate shall be determined by the court, if that issue is raised by a human trafficking victim advocate. The victim is not required to cooperate if the court determines that the victim is unable to cooperate due to physical or psychological trauma. (New Mexico §30-52-2).

In this statute, New Mexico highlights circumstances when a victim may be unable to testify.

In addition to victim testimony, experts can also testify in human trafficking cases. In this regard, five states discussed the role of expert testimony in human trafficking cases (Illinois §725-5/114-1; Indiana §35-37-4-6; Michigan 750.462g; Nevada 201.305; New Jersey 2C:44-1.1). Nevada, for instance, acknowledged the importance of expert testimony to contextualize the behaviors exhibited by victims of trauma to the jury:

In a prosecution for pandering or sex trafficking pursuant expert testimony [...] concerning: 1. The prostitution subculture, including, without limitation, the effect of physical, emotional or mental abuse on the beliefs, behavior and perception of the alleged victim of the pandering or sex trafficking that is offered by the prosecution or defense is admissible for any relevant purpose, including, without limitation, to demonstrate: (a) The dynamics of, and the manipulation and psychological control measures used in, the relationship between a prostitute and a person who engages in pandering or sex trafficking [...] and (b) The normal behavior and language used in the prostitution subculture. (§201.305)

Like Nevada, Michigan allows expert testimony regarding the psychological consequences of human trafficking (§750.462g). Furthermore, expert testimony can be used to demonstrate to the court that a human trafficking survivor should not be

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<sup>19</sup> States have different age limitations when this provision can be used: 13 years-old or younger (Tennessee §24-7-120), less than 14 years-old (Nevada §174.228; Washington §9A-44-150), or 15 years-old or younger (California §1347.1).

compelled to testify because it would cause such person “serious emotional distress such that the protected person cannot reasonably communicate” (Indiana §35-37-4-6).

While survivors may enter the courtroom to testify against their traffickers, they have also at times found themselves in courtrooms as defendants for crimes related to their victimization (e.g., prostitution). When this occurs, human trafficking victimization may qualify in some states for charge exemption, affirmative defenses, and/or expungement of prior convictions (N = 35). In this regard, Kentucky states that, “Human trafficking victims shall [...] Not be jailed, fined, or otherwise penalized due to having been trafficked,” and instead be referred to appropriate service providers (§21-748.2). Victims, however, in these statutes were occasionally referenced as ‘defendants’. Table 10 demonstrates one of these instances in the context of affirmative defenses. In Alabama (§13A-6-159), the phrase “human trafficking victim” is solely used; whereas Arizona (§13-3214) refers to them as “the defendant.”

*Table 10. A Comparison of How Survivors are Framed in the Law*

Framing the Survivor as a “Victim” Alabama (§13A-6-159)	Framing the Survivor as a “Defendant” Arizona (§13-3214)
In a prosecution for prostitution, or a sexually explicit performance defined in this article, of a human trafficking victim for the victim's illegal acts engaged in or performed as a result of labor servitude or sexual servitude, it shall be an affirmative defense that the person was a victim of human trafficking.	A. It is unlawful for a person to knowingly engage in prostitution. [...] D. It is an affirmative defense to a prosecution under this section that the defendant committed the acts constituting prostitution as a direct result of being a victim of sex trafficking.

**Perpetrator Centeredness**

The third and final theme that emerged in the data involved laws that were perpetrator centered. This theme included statutes related to the adjudication, conviction, and sentencing of human trafficking perpetrators. In this section, four sub-themes are

discussed: 1) affirmative defenses, 2) offense severity, 3) aggravating and mitigating factors, and 4) penalties.

### *Affirmative Defenses*

There were three states with affirmative defenses for perpetrators of human trafficking and businesses who perpetuate human trafficking (Mississippi §97-3-54.1; Texas §21.02; Wyoming §6-2-202). Texas included the lengthiest affirmative defense statute for perpetrators of human trafficking, stating that:

(g) It is an affirmative defense to prosecution under this section that the actor: (1) was not more than five years older than: (A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or (B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim; (2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and (3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense: (A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or (B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c). (§21.02)

In contrast to Texas, Mississippi only offered affirmative defenses to business entities who were charged with human trafficking if, “the enterprise had in place adequate procedures, including an effective complaint procedure, designed to prevent persons associated with the enterprise from engaging in the unlawful conduct and to promptly correct any violations of this chapter” (§97-3-54.1).

These laws also noted instances when affirmative defenses are prohibited.

Accordingly, in Colorado, defendants cannot claim they did not know the age of the minor, or that the minor consented to being sex trafficked (§18-3-504; see also California §236.1; Colorado 18-3-504; Indiana 35-42-3.5; Kentucky L-529-180; Louisiana §14-1-II-C-46.3; Maryland 11- 303-3; Mississippi 97-3-54.1; Missouri 566.210; Montana 45-5-

704; Nevada 201.300; North Dakota 12.1-41-04; Pennsylvania §3051; Tennessee 39-13-309; Wyoming 6-2-706).<sup>20</sup>

*Offense Severity*

The legal severity of human trafficking across all states is summarized in Table 11.<sup>21</sup> In terms of class, human trafficking was most often classified as a Class B/II Felony (N = 20) and Class C/III Felony (N = 17). Unusual classifications of human trafficking included Florida’s life felony, which is punishable with life imprisonment (§787.06). States use these classifications serve to highlight varying levels of severity for different types of human trafficking. The next section will discuss the specific factors that are aggravated and mitigated in human trafficking perpetration.

*Table 11. Offense Seriousness and Penalties for Human Trafficking*

	n	%
<b>Offense Seriousness</b>		
Class A Felony/Class I Felony	13	26%
Class B Felony/Class II Felony	21	42%
Class C Felony/ Class III	18	36%
Class D Felony/ Class IV Felony	8	16%
First Degree	18	36%
Second Degree	16	32%
Third Degree	4	8%
Fourth Degree	1	2%
Unclassified Felony	1	2%
Class Y Felony	1	2%
Other	12	24%
<b>Penalties</b>		
Fine	33	66%
Early Release Eligibility	8	16%
Protection Orders	5	10%
Firearm Possession	5	10%
Injunctions	9	18%

<sup>20</sup> Their labor trafficking laws, however, do not make this similarly explicit (§18-3-503).

<sup>21</sup> The categories in Table 11 are not mutually exclusive, and, therefore, should not be construed as independent state assessment of seriousness. Several states, for example, offered several offense severity assessments for perpetration differences. The class system is best utilized for comparing human trafficking offense seriousness with other crimes; whereas, the degree designation highlights the severity of different variations of human trafficking.



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Imprisonment	35	70%
Mandatory Sentencing	12	24%
Mandatory Sex Offender Registration	17	34%
Asset Forfeiture	24	48%
Other	14	28%

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### *Aggravating and Mitigating Factors*

States varied in the factors that aggravated and mitigated human trafficking offenses. One of the most common aggravating factors for human trafficking related to the age or death of the victim. Nebraska, for instance, had a tier system to aggravate and mitigate human trafficking offenses based on the age of the victim and characteristics of the crime (see Figure 4).

#### Class II Felony

- Minor under the age of 16 and;
- Use of overt force or threat of force

#### Class IIA Felony

- Any other form of trafficking of minors or;
- Trafficking of an adult resulting in serious injury or use of physical restraints

#### Class III Felony

- Any person who benefits from human trafficking perpetration

*Figure 4. Nebraska's (§28-831) tier system to aggravating and mitigating human trafficking*

Alternatively, Washington was more simplistic by only aggravating human trafficking to a Class A Felony under four circumstances, “(i) Involve committing or attempting to commit kidnapping; (ii) Involve a finding of sexual motivation under [human trafficking] (iii) Involve the illegal harvesting or sale of human organs; or (iv) Result in a death” (§9A-40-100). Similarly, New York only aggravated labor trafficking from a Class D Felony to a Class C Felony when controlled substances were used to, “impair said person's judgment” (§135.37).

Sex and labor trafficking are generally treated with equal severity in the law; however, a couple of states aggravated sex trafficking and mitigated labor trafficking.

South Dakota, for instance, treats sexual exploitation more severely than forced labor.

Figure 5 displays these differences.

First Degree  
Human Trafficking  
§22-49-2

- Committing or attempt to commit kidnapping
- Victim under the age of 18 years
- Involve prostitution or procurement of prostitution
- Result in the death of a victim
  
- Class 2 felony

Second Degree  
Human Trafficking  
§22-49-3

- Recruits, harbors, transports, provides, or obtains, by any means, another person knowing that force, fraud, or coercion will be used to cause the person to engage in:
  - prostitution
  - forced labor
  - involuntary servitude
  
- Class 4 felony

*Figure 5. Comparing human trafficking in the first degree and second degree in South Dakota*

#### *Penalties*

Punishing human trafficking perpetrators is done in a variety of ways among the states. Before a defendant is adjudicated, suspected human traffickers can be limited in their eligibility for pre-trial release, release during trial and sentencing, and/or early parole (Arizona §13-715; Oklahoma §21-13.1; Ohio §2967.19). To illustrate, Texas (17.032) and Washington (10-64-025) specifically restricts personal bonds and pre-sentencing release for individuals charged with human trafficking.

After being convicted, imprisonment accompanied by large fines were the most common penalties for persons convicted of human trafficking (see Table 11). In this regard, mandatory minimums were as short as seven years (e.g., New Hampshire §633:7) and as long as 25-years to life imprisonment (e.g., Pennsylvania §9714; Texas §20A.03).

Wyoming had stricter guidelines when the victim is a minor. More specifically, human trafficking is, “punishable by imprisonment for not less than five (5) nor more than fifty (50) years unless the victim is a minor in which case it is a felony punishable by imprisonment for not less than twenty-five (25) nor more than fifty (50) years [...]” (Wyoming §6-2-702). In contrast, Pennsylvania had one of the greatest penalties for human trafficking – life imprisonment (§9714). In addition to these sentencing guidelines, Hawaii also offered points of consideration for determining sentence severity within the offered guidelines, such as, “(a) The time for which the victim was held in servitude; and (b) The number of victims involved in the offense for which the defendant is convicted” (§707-783).

Another common penalty for human trafficking perpetrators was asset forfeiture (N = 24). In simple terms, this involves the forfeiture of “any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section [related to human trafficking]” (Florida §787.06). In determining what can be seized, Massachusetts included a detailed list of assets that could be forfeited:

- (i) all conveyances, including aircraft, vehicles or vessels used, or intended for use, to transport, conceal or otherwise facilitate a violation of [human trafficking];
  - (ii) all books, records and research, including microfilm, tapes and data which are used, or intended for use, in violation of [human trafficking];
  - (iii) all negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for forced labor or services or sexual servitude, all proceeds traceable to such an exchange, including real estate and any other thing of value, and all negotiable instruments and securities used or intended to be used to facilitate any violation of [human trafficking]; and
  - (iv) all real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenances or improvements thereto, which is used in any manner or part to commit or to facilitate any violation of [human trafficking].
- (§IV-I-265-56)

For similarly detailed asset forfeiture laws, refer to Pennsylvania (§3021).

States used the monetary value of these assets in a number of ways. Montana only generally stated that:

Upon conviction, the property subject to criminal forfeiture is forfeited to the state and proceeds from the sale of property seized under this section must be distributed to the holders of security interests who have presented proper proof of their claims up to the amount of their interests in the property. The remainder, if any, must be deposited in the crime victims compensation account provided for in 53-9-113. (§45-5-707)

In contrast to Montana, Pennsylvania allocated 30 percent of the funds to further investigate/prosecute human trafficking cases and the remaining balance was to be spent financially supporting grants programs and victim services (§3021). Mississippi had the most complex formula for allocating money recovered from asset forfeitures. This law stated,

Unless otherwise provided herein, all personal property which is forfeited under this section shall be liquidated and, after deduction of court costs and the expense of liquidation, the proceeds shall be divided as follows: (a) If only one (1) law enforcement agency participates in the underlying criminal case out of which the forfeiture arises, fifty percent (50%) of the proceeds shall be forwarded to the State Treasurer and deposited in the Relief for Victims of Human Trafficking Fund, and fifty percent (50%) shall be deposited and credited to the budget of the participating law enforcement agency. (b) If more than one (1) law enforcement agency participates in the underlying criminal case out of which the forfeiture arises, fifty percent (50%) of the proceeds shall be forwarded to the State Treasurer and deposited in the Relief for Victims of Human Trafficking Fund, twenty-five percent (25%) of the proceeds shall be deposited and credited to the budget of the law enforcement agency whose officers initiated the criminal case and twenty-five percent (25%) shall be divided equitably between or among the other participating law enforcement agencies, and shall be deposited and credited to the budgets of the participating law enforcement agencies. In the event that the other participating law enforcement agencies cannot agree on the division of their twenty-five percent (25%), a petition shall be filed by any one of them in the court in which the civil forfeiture case is brought and the court shall make an equitable division. (§97-3-54.7)

Finally, it is important to note that a couple of states allocated asset forfeiture funds directly to survivors (i.e., Michigan §750.462f; New Hampshire §633:9).

Less common penalties included mandatory sex offender registration for individuals convicted of sex trafficking (e.g., New York §420.35; Oregon §163A.005). Additionally, Florida requires that “those convicted, or has pled nolo contendere or guilty,” to human trafficking must undergo mandatory HIV testing (Florida §775.0877). In terms of parole, Massachusetts required the first five years of a sentence be served before becoming eligible for early release (§IV-I-265-50). Oklahoma was more restrictive by requiring that those convicted of human trafficking, “serve not less than eighty-five percent (85%) of any sentence of imprisonment [...] prior to becoming eligible for consideration for parole” (§21-13.1; see also Arkansas §16-93-618).

Lastly, there was a small trend where states addressed penalties for other individuals who perpetuate human trafficking but did so more indirectly. For example, Oklahoma criminalizes anyone who neglect to report or prevent human trafficking,

Any person who knowingly and willfully fails to promptly report suspected trafficking in children or who interferes with the prompt reporting of trafficking in children and who is licensed by a state entity shall be reported to the licensing entity and may be subject to discipline, including license revocation or suspension. (§21-870)

Vermont more broadly criminalizes the use of one’s property in the facilitation of human trafficking:

No person shall knowingly: (1) permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking; (2) receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or (3) permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking. (§2654)

In some instances, businesses are also held accountable. Consequently, if human trafficking is found to occur within a business entity (e.g., motel) in North Dakota the penalties can result in, “a. A fine of not more than one million dollars per offense; b. Disgorgement of profit from activity in violation of this chapter; and c. Debarment from state and local government contracts” (§12.1-41-07). In contrast, South Carolina holds business entities accountable with prison sentences in their law that states, “A business owner who uses his business in a way that participates in [human trafficking] must be imprisoned for not more than ten years [...]” (§16-3-2020).

Similarly, Missouri holds companies accountable for allowing human trafficking to occur on their web-based services:

A person or entity commits the offense of promoting online sexual solicitation if such person or entity knowingly permits a web-based classified service owned or operated by such person or entity to be used by individuals to post advertisements promoting prostitution, enticing a child to engage in sexual conduct, or promoting sexual trafficking of a child after receiving notice under this section. (§566.103)

These examples demonstrate an emerging trend of bystander-related laws being adopted by states that require members of the public to report potential human trafficking cases.

States vary in their 1) conceptualization of human trafficking, 2) degree of victim centeredness, 3) approaches to perpetrators, and 4) responses to human trafficking. In this regard, each state can be interpreted as a microcosm illustrating how human trafficking can be addressed. Through these data, differences and similarities between states can inform future legal reform. In the subsequent and final chapter, the implications for these differences will be discussed.

## CHAPTER 5: DISCUSSION

Human trafficking is a global violation of human rights (Geneva, 2017). There are two general forms of human trafficking: sex and labor trafficking. While sex trafficking involves adult entertainment industries and illegal prostitution (Banks & Kyckelhahn, 2011), labor trafficking can occur in a wide variety of legal industries such as agriculture, entertainment, domestic servitude, hospitality, restaurant, construction, fishing, and manufacturing (Bouché, 2017). For these reasons, anyone—men, women, and children—could be victimized (Clawson, Dutch, Solomon, & Grace, 2009; Earls & David, 1989; Kyckelhahn, Beck, & Cohen, 2009; Meshkovska, Siegel, Stutterheim, & Bos, 2015; Rajaram & Tidball, 2018). In the USA, state and federal legislation have guided the criminal justice system’s response to human trafficking. Despite its importance, little is known about what states are doing—from a legislative standpoint—to combat human trafficking. To fill this gap, this study explored the landscape of all state-level human trafficking codes and procedures throughout the Nation.

In this endeavor, a critical content analysis of 982 human trafficking state statutes was undertaken. The sample was derived using a Boolean search of relevant terminology on a larger dataset containing all state criminal justice codes and procedures. Through a data-driven approach, drawing from grounded theory, an extensive coding scheme was created, and pilot tested. The final coding scheme was overt and observed the presence or absence of specific themes. To ensure objectivity, the data were then analyzed by two independent reviewers in a double-blind process. A third, independent reviewer re-coded



disagreements in the preliminary coding and assessed the data's reliability. The final analysis was two-fold. First, the findings were summarized in a series of raw counts that demonstrated the number of states that addressed specific areas of law. Secondly, these analyses provided an in-depth and nuanced understanding of the law through example-text.

It is the purpose of the final chapter to connect prior literature with the findings of the current study, in addition to making recommendations for policy and future research. Next, the limitations of the present study, in addition to areas of future research, are acknowledged. Finally, this chapter will provide concluding remarks regarding on the bigger picture of human trafficking.

In this study, three themes were identified: 1) conceptualizing human trafficking, 2) victim centeredness, and 3) perpetrator centeredness. Across themes, it was rare for states to be legislatively consistent. In regards to the former, most states—like the TVPA (2000)—defined human trafficking as involving actions (e.g., transportation), means (e.g., force), and purposes (e.g., exploitation; Gallagher, 2010); though, there were states with vaguer conceptualizations (Alabama §13A-6-152; Alaska §11.41.360; Connecticut §53A-192A). In addition to human trafficking, states had generally agreed-upon definitions of victims (e.g., Hawaii §707-780) and debt bondage (e.g., Delaware §787; Vermont §2651). States, however, lacked a consensus on how to conceptualize several legal elements related to human trafficking (e.g., coercion and exploitation).

In fact, states lacked a consensus on many policies across all four themes. In other words, victims and offenders are held to radically different policies that depend on where they live. States, for instance, had different policies to identify victims of human trafficking. States, such as Pennsylvania, were vague and stated that law enforcement should take “reasonable steps” to identify victims (§3052). In juxtaposition, nine states had human trafficking taskforces with detailed responsibilities on how to identify and connect victims to services (Arkansas §12-19-101; Colorado §18-3-505; Delaware §787; Kentucky §040; Mississippi §97-3-54.9; Michigan §752.991; Rhode Island §11-67-7; South Carolina §16-3-2050; Washington §7-68-350). Likewise, Table 9 highlights the different resources provided to victims across the states. This patchwork of available resources is inconsistent with the prolonged and often complex trauma that human trafficking victims experience and that requires comprehensive, wraparound services (Barnard, 2014; Busch-Armendariz et al., 2016; Owens et al., 2014).

Furthermore, victims – in these laws - are only somewhat protected from secondary victimization across the states. Survivors, for example, are often compelled to testify and are subjected to cross examination in 42 states (sans California §1347.1; Indiana §35.37.4.6; Michigan §750.462g; Nevada §174.228; New Mexico §30-52-2; Tennessee §24-7-120; Virginia §18.2-360; Washington §9A-44-150). New Mexico, in contrast, does not require survivors to testify when they are suffering from “physical or psychological trauma,” but this was evaluated on a case-by-case basis by judges (§30-52-2). When victims do testify, only 12 states had rape shield laws in place for human trafficking survivors. In terms of expert testimony, Nevada did the most to acknowledge the importance expert testimony to contextualize the behaviors and experiences of sex

trafficking survivors to a jury (§201.305). Specifically, Nevada allowed expert testimony to contextualize how trauma, abuse, and manipulation that leads victims to appear consensual in their actions to engage in prostitution (§201.305). The fact that only a handful of states adopted similarly progressive policies, calls attention to the need for nationwide legislative reform.

Moreover, across all three themes there was a notable disconnect between policy and current—yet growing—phenomenological research of human trafficking. To exemplify this discrepancy, survivors of sex trafficking have often been victims of repeated sexual violence, which can result in unwanted pregnancies (Falb et al., 2011; Ryan, Rosenstock, & Goldmann, 2018). It could be construed, therefore, that bans on abortion services and providers may be politicizing this phenomenon and somewhat controversially overreaching.<sup>22</sup> In contrast, only 17 states mandate sex offender registration for convicted sex traffickers.

A possible explanation for this discrepancy is the, temporal lag between legislative action and developments in social phenomena are well-documented regarding advancements in technology (Malan, 2018) and are due to the lengthy, bureaucratic, and often political processes involved in codifying new legislation. Additionally, experts and journalist alike have documented increasingly “inherently anti-science attitudes” among governments, politicians, and the public (Siegel, 2019, para. 20; see also Funk, Hefferon, Kennedy, & Johnson, 2019; Morgan, Collins, Sparks, & Welch, 2018). Even when the public trusts scientists, there tends to be an “ambivalence about science” among Americans (Funk & Huff, 2001, para. 14). This phenomenon is, in part, attributed to a

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<sup>22</sup> North Dakota (§12.1-41-21), for example, penalizes traffickers who forced their victims to obtain abortions.

lack of basic scientific understanding, pre-existing belief systems, and partisan politics (Funk et al., 2019; Morgan et al., 2018). When the public does not demand evidence-based policy from politicians, then science often does not guide political decision-making (Siegel, 2019). As a result, progression and adoption of evidence-based policies are often slowed.

States were consistent, however, in their disproportionate policies addressing sex and labor trafficking. In other words, though every state had a definition for sex and labor trafficking, states tended to emphasize the former in their policies. The 14 states that encouraged businesses to advertise the National Human Trafficking Hotline, highlight this discrepancy (see Table 8). The most common establishments included, adult entertainment, lodging, and highway rest stops, which are primarily associated with sex trafficking (Polaris Project, 2012). In contrast, industries associated with labor trafficking, such as agriculture, personal care facilities (e.g., nail salons), and hospitality services are discussed less frequently—if at all (Bouché, 2017). In some instances, policies treated labor trafficking as inherently less serious than sex trafficking (see Louisiana §14-1-II-C-46.2 and §14-1-II-C-46.3, respectively). Substantively, these analyses found that states lack consensus, legislative action did not reflect the scientific literature, and greater legislative specificity in sex trafficking (than labor trafficking).

Regarding offense severity, states frequently to recognize the severity of human trafficking. The overwhelming majority of states classified human trafficking as a Class C felony/Class III Felony or higher (see Table 11). Most states had three degrees of severity human trafficking (first, second, and third, degree). In other words, there was often three variations of human trafficking in most states Moreover, states consistently

aggravated human trafficking in instances where the victim was a minor, overt and/or threat of force existed in the case, the victim died, or the victim suffered severe physical injury (see discussion on Aggravating and Mitigating Factors). Furthermore, sex and labor trafficking were generally treated with equal severity under the law; however, there were rare exceptions (see South Dakota §22-49-2 and §22-49-3 respectively).<sup>23</sup>

### **Policy Implications**

From these analyses, there are five key policy implications. These policies address a need for: 1) consistent and comprehensive legislation, 2) equal consideration for labor and sex trafficking, 3) statewide victim rights and services, 4) recognition that victims are not criminals, and 5) legislation consistent with extant literature.

*Recommendation 1: States should implement consistent, comprehensive, and evidence-based legislation.*

First, states generally agreed that human trafficking should be punishable by incarceration and large fines (see Table 11) but were less agreeable on protection orders, firearm possession, and sex offender registration for human trafficking perpetrators. Research shows that victims may not seek social support services or the criminal justice system for fear of retaliation from their traffickers (Barnard, 2014; Reid, 2012). Therefore, states should consider the impact protection orders and firearm repossessions could have on the safety of human trafficking victims. Regarding, sex offender registration, human trafficking is frequently associated with sexual violence (Falb et al., 2011; Ryan, Rosenstock, & Goldmann, 2018). For this reason, states should implement sex offender registration for traffickers when it aligns with the characteristics of their

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<sup>23</sup> It will be continued later that states should not adopt policies similar to South Dakota (§22-49-2 and §22-49-3) and instead, legislate labor and sex trafficking equally.

criminal activity. Table 11 and past sentencing decisions for human trafficking cases can help generate discussion on which penalties should apply to traffickers. Likewise, several states prohibited affirmative defenses in two situations: 1) the defendant claimed to not know the age of the victim and 2) the victim consented while being under the age of 18 years-old. These provisions should be applied more broadly to human trafficking cases since most states already prohibit similar affirmative defenses in sexual assault cases involving minors (RAINN, 2020).

In addition to traffickers, individuals and businesses that contribute to human trafficking should also be penalized (Bocinski, 2017; Mahmoud & Trebesch, 2009). States were novel and varied, in how they addressed these entities. Several states, for instance, recognized that human traffickers do not often act alone in their perpetration; rather, individuals generate demand (e.g., Johns) and profit from human trafficking (e.g., a motel that is a known location for suspected sex trafficking or businesses who knowingly exploit labor; Polaris Project, 2015). As such, laws should address these offenders. States, however, did not widely adopted methods to address these issues. Regarding those who drive demand in the trafficking industry, legislatures should adopt policies that criminalize the purchasing of sex from trafficking victims. In doing so, agencies should also avoid treating survivors as criminals. Research further supports the use of demand reduction policies, over supply-reduction strategies (Cyrus & Vogel, 2015; Shively, Kliorys, Wheeler, & Hunt, 2012). Likewise, legislatures should criminalize those who allow human trafficking to occur on their property or in association with a business (in person and online) in an effort to reduce demand (Aronowitz, 2019).

*Recommendation 2: Labor trafficking requires more legislative action*

Secondly, states need to ensure that they are affording sex and labor trafficking equal attention in the law. States, in these analyses, appeared to be aggravating sex trafficking and mitigating labor trafficking (see South Dakota §22-49-2 and §22-49-3, respectively). Treating one form of exploitation as inherently more severe than the other could be problematic when growing research demonstrates that labor trafficking may occur as frequently—if not more often—than sex trafficking and both result in long-term consequences for victims (Cannon et al., 2018; Tuner-Moss et al., 2014; U.S. Department of State, 2019; Zhang, 2012). States, therefore, should steer away from policies that aim to prioritize these crimes over one another.

Luckily, states are already addressing this gap by criminalizing the “nonpayment of wages” in conjunction with labor trafficking. Moreover, while most states mirrored the TVPA (2000) and did not require force, fraud, or coercion in sex trafficking cases involving minors, Michigan (§750.426e) applied this to all child trafficking victims. Regardless of the type of exploitation, children remain one of the most vulnerable and susceptible to exploitation populations impacted by human trafficking (Kyckelhahn, Beck, & Cohen, 2009). In some cases, children are drawn towards human traffickers because they offer a means of survival (Ark of Freedom Alliance, 2019; Chisolm-Straker et al., 2018; Hyde, 2005; Martinez, 2006). Laws, therefore, should recognize that children cannot consent to any type of labor under these circumstances and adopt Michigan (§750.426e) like policies. For these reasons, when it comes to defining, identifying, and responding to human trafficking, it is important that states equally address how human

trafficking exists outside of sexual exploitation (Cannon et al., 2018; Tuner-Moss et al., 2014; U.S. Department of State, 2019; Zhang, 2012).

*Recommendation 3: States should implement statewide, victim rights, and services.*

States should communicate, collaborate, and learn from one another to promote consistent and comprehensive legislation. In this regard, 32 states have legislation designed to meet the unique—and many—needs of survivors. State coverage, however, of services varies and often only meets a handful of the complex, multifaceted needs of survivors (see Table 9). States most often address the need for case management, medical and mental healthcare, housing, and legal assistance, which is consistent with the needs of survivors found in the literature (Falb et al., 2011; Ryan et al., 2018; Herrington & McEachern, 2017; Hossain et al., 2010; Oram et al., 2012; Ryan, Rosenstock, & Goldmann, 2018; National Survivor Network, 2016; Polaris Project, 2014; Zimmerman et al., 2009). Services that were less recognized, but supported in the literature, include alcohol and substance abuse treatment, educational opportunities, job training, food assistance, cash-advances, childcare, and family-planning services (Aron, Janine, & Lisa, 2006; Falb et al., 2011; Office of Public Affairs, 2013; Owens et al., 2014; Ryan, Rosenstock, & Goldmann, 2018). These data, therefore, highlighted the need for more widespread, state-supported victim rights and services. All states—including the 18 states who did not have statewide victim services legislation—should evaluate their support of survivors and adjust legislation where gaps exist. Table 9, Figure 2, and service-providing agencies should be used as reference tools to begin these conversations.<sup>24</sup> In

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<sup>24</sup> Service providing agencies can include, but is not limited to, case workers, rape crisis advocates, nonprofit organizations, counselors, shelters, and anyone else who provides for human trafficking survivors.



addition to these resources, states should frequently reevaluate their states' victim rights and services in response to the growing literature.

*Recommendation 4: States should not treat survivors as criminals*

An emerging trend in these analyses is the decriminalization of human trafficking survivors. During the period victims are under the control of a trafficker, they are often forced into criminal activity (e.g., prostitution), which can result in arrests and convictions (Marsh, Anthony, Emerson, & Mogulescu, 2019). Unfortunately, survivors are often tasked with obtaining their own criminal record relief (Marsh et al., 2019). As a result, survivors often face barriers to accessing employment, housing, and educational opportunities once they exit human trafficking (National Housing Project, n.d.; Federal Student Aid, U.S. Department of Education, n.d.). To address this barrier, states should create policies that provide a clear pathway and providers for survivors to receive criminal record relief. While some states acknowledged the possibility for survivors, no state directly alleviated this burden or expressed how victims go about getting their record expunged.

As a symbolic gesture, states should start by addressing the targets of trafficking as “survivors” or “victims,” as opposed to “defendants” (refer to Table 10). Though human trafficking survivors may have engaged in criminal behavior (e.g., prostitution), it is important that the criminal justice system acknowledges their victimizations as the source of their actions. Furthermore, “victim” or “survivor” labels are a socially constructed term that legitimizes the credibility of an individual’s victimization (Hoyle, Bosworth, & Dempsey, 2011). By labeling survivors as “criminals,” it strips them of their legitimate victimhood. The act of mislabeling, in practice, can contribute to the secondary

victimization survivors experience in their interactions with police officers and prosecutors (Villacampa & Torres, 2019). Since law and policy lay the foundation for guiding criminal justice practitioners, it is imperative to address mislabeling in the language of the law.

*Recommendation 5: States should follow the development of extant literature and reform their laws accordingly*

The final policy implication demonstrates a need for legislation to be evidence-based. To an extent, legislative reform will always be behind the rapidly growing body of human trafficking scholarship. There were, however, a few ways that legislation did not align with contemporary research on human trafficking. To keep up with developments, states should consider broadening their conceptualizations of coercion and exploitation to recognize the various methods traffickers use to attract and coerce their victims.<sup>25</sup> On a positive note, many states have already taken on this task. Florida (§787.06) and North Dakota (§12.1-41-04) have model statutes, in this regard, with extensive definitions of coercion that address unique situations—such as mental/physical impairments—that should be adopted Nationwide. Moreover, the inclusion of debt bondage in 25 states demonstrates a growing trend that a key element of human trafficking cases has been legislated – albeit slowly (United Nations Office of Drugs and Crime, 2015).

Furthermore, undocumented citizens comprise many human trafficking victims in the USA (Banks & Kyckelhahn, 2011; De Vries & Farrell, 201). States should, therefore,

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<sup>25</sup> Traffickers can employ many strategies to coerce and exploit victims such as threats, physical/emotional/sexual abuse, fraud, debt bondage, alcohol and substance dependency, and withholding necessary documentation (Baldwin et al., 2015; Herrington & McEachern, 2018; Hopper & Hidalgo, 2006; Jayson, 2013; Sanchez et al., 2019; Raghavan & Doychak, 2015)

adopt policies that acknowledge and address this population. Five states are currently accomplishing this by criminalizing the falsifying, withholding, and/or destroying of immigration or citizenship documentation (Hawaii §707-787; Mississippi §97-3-54.2; Missouri §566.103; Oklahoma §21-446), which should be adopted more broadly. Likewise, undocumented citizens take unique risks by coming forward and, therefore, have unique needs that are not often being met by the observed statutes (Barnard, 2014; Renzetti et al., 2015; Trafficking in Persons Report, 2018). Accordingly, states should address needs such as legal assistance for applications for T nonimmigrant status, language interpretation, and eligibility for state-benefits regardless of immigration status. In theory, could help facilitate prosecutions in addition to, make T nonimmigrant status visas—and other necessary services—more accessible to this vulnerable population.

Many victims are initially recruited as children, which can have lasting consequences (Chisolm-Straker et al., 2018; Gibbs et al., 2018). Accordingly, victims who seek external help as adults, should still be eligible for special considerations that are commonly afforded to minors. For example, many states mirrored the TVPA (2000) by removing the force, fraud, or coercion evidentiary requirement in instances of sex trafficking of minors. Louisiana, however, extended the age threshold to all sex trafficking survivors under the age of twenty-one (§46.2; see also Illinois §720-5/3-6; Nevada §171.083). All states should extend statute of limitations for human trafficking when the survivor was a minor at the time the victimization began.

In terms of secondary victimization, states should consider how their policies impact the victim when 1) report and 2) charges are filed against the trafficker. Regarding the former, research extensively highlights the trauma human trafficking survivors endure

and the long-term consequences of this kind of victimization (Herrington & McEachern, 2017; Hossain et al., 2010; Oram et al., 2012; Ryan, Rosenstock, & Goldmann, 2018). Furthermore, there is evidence to show how victim cooperation with the criminal justice system can result in secondary victimization (Reid, 2010; Villacampa & Torres, 2019). This research has resulted in a demand for victim-centered prosecutions in human trafficking cases (French & Liou, 2016). In other words, victim-centered prosecutions recognize that survivors experience additional trauma by cooperating with the criminal justice system and attempt to minimize this effect by considering the needs of the victim and prioritizes the healing process (French & Liou, 2016). States, therefore, should tailor their laws to recognize that human trafficking victims as survivors of trauma and eliminate secondary victimization. States, such as Alabama, reflect this sentiment by allowing delayed reporting, “resulting from the human trafficking situation” to not count towards their human trafficking statute of limitations (§13A-6-158).

Furthermore, states should adopt policies that aim to reduce secondary victimization (see Table 12). Videotaped examinations, for example, for child witnesses and victims has been advocated for and utilized for quite some time (Hill & Hill, 1987; MacFarlane, 1985). For children, the ability to testify out-of-court, with less people, and in more comfortable conditions can improve the quality of the testimony and decrease the secondary victimization that comes with participating in the criminal justice system (Wilson & Davies, 1999). Similarly, in adult sexual assault cases, the option for videotaped testimony is also supported as a less-stressful, re-traumatizing alternative to the courtroom (Ellison & Munro, 2014; Taylor & Joudo, 2005; Westera, McKimmie, Kebbell, Milne, & Masser, 2015). In response to this, eight states offered this option.

Unfortunately, in four of these states, it was only offered for children under the age of 13 years-old (Tennessee §24-7-120), 14 years-old (Nevada §174.228; Washington §9A-44-150), and 15 years-old (California §1347.1). Given the potential benefit of videotaped testimony, states should broadly adopt this policy for all human trafficking survivors, regardless of age. Alternatively, states should also consider adopting New Mexico’s policy that does not require a victim’s testimony, on a case-by-case basis, if it would cause severe “physical or psychological trauma” (§30-52-2).

*Table 12. Policy Recommendations to Reduce Secondary Victimization During Trial*

<b>Policy Recommendation</b>	<b>Impact</b>	<b>Examples in the Law</b>
<b>Give all survivors the option to videotape their testimony for the jury</b>	Provides an option for survivors to testify, while reducing the negative psychological impact	California §1347.1; Indiana §35.37.4.6; Michigan §750.462g; Nevada §174.228; New Mexico §30-52-2; Tennessee §24-7-120; Virginia §18.2-360; Washington §9A-44-150
<b>Emphasize the importance of expert testimony</b>	Helps juries connect traumatic victimization to why victims may seem to consent to being trafficked	Illinois §725-5/114-1; Indiana §35-37-4-6; Michigan §750.462g; Nevada §201.305; New Jersey §2C:44-1.1
<b>Rape shield laws</b>	Prevents “victim-blaming” questioning that is irrelevant to demonstrating the culpability of the offender on trial	Delaware §787; Georgia §16-5-46; Kansas §21-5502; Mississippi §9-7-3-54.6; Montana §45-5-708; New Hampshire §633:7; New Jersey §2C:14-7; North Dakota §12.1-41-11; Pennsylvania §3018; South Carolina §16-3-2020; Vermont §3255; Washington §9A-44-020

In addition to videotaped testimonies, secondary victimization could also be reduced with expert testimony and rape shield laws. Though there are no studies to date

that link expert testimony to better case outcomes, the Office for Victims of Crime recommends expert testimony to help contextualize the, “unfamiliar actions of victims in context to support and enhance the credibility of their testimony at trial” (2020, para. 1). In contrast, many scholars advocate that rape shield laws can tremendously benefit survivors, in part, by reducing secondary victimization in sexual violence adjudications (Anderson, 2002; Loewen, 2015; Janzen, 2015; Spohn & Tellis, 2012). South Carolina, for example, specifically made it inadmissible to suggest that the appearance of consent to certain acts could be used as a defense (§16-3-2020). By reducing secondary victimization, in theory, more survivors will feel comfortable coming forward and cooperating with the criminal justice system (Cohn, Zinzow, Resnick, & Kilpatrick, 2013; Patterson, 2011; Patterson & Campbell, 2010).

Bystander intervention laws are another gap in state legislation. Oklahoma’s bystander intervention policy can punish anyone who fails to report suspected incidences of human trafficking; however, this policy is not widely adopted (§21-870). The importance of bystander intervention policies has been emphasized in other types of sexually violent crimes (Brown, Banyard & Moynihan, 2014; DeGue, Valle, Holt, Massetti, Matjasko, & Tharp, 2014) and should equally be applicable in human trafficking cases. The emphasis on these policies is due to the fact that human trafficking survivors rarely identify as victims and—even when they do—are unable or unwilling to risk reporting (Barnard, 2014; Langberg, 2005; Nichols & Heil, 2015; Reid, 2012). It is paramount, therefore, for the public to intervene whenever possible and be held criminally liable when they do not. A step in the right direction, would be to implement laws that promoted bystander intervention through education and awareness. These types

of public awareness campaigns have empirically been shown to increase reporting among bystanders and victims alike (Bouche et al., 2016). For these reasons, states should implement laws that compelled business establishments to advertise the National Human Trafficking Hotline to its customers and employee training. Furthermore, industries associated with both sex and labor trafficking should equally be adopted into these policies.<sup>26</sup>

### **Limitations and Areas of Future Research**

Research endeavors are never without limitations and with any limitation there is an opportunity to improve upon the existing research in future analyses. Accordingly, this section discusses four limitations and recommendations for future research. First, there is an inherent subjectivity in any content analysis design. In this study, however, the coding scheme, coupled with three independent reviewers and subsequent reliability checks contributed to a more objective interpretation of the data (Schreier, 2012; McAlister et al., 2017). Legal professionals, however, due to their experience in the field, may have slightly different interpretations than what is presented in this text. There is, however, a legislative push to make the law accessible to lay persons, which would reduce discrepancies in interpretation (Newberry, 2017). Future analyses may draw comparisons of how legislation is interpreted between non-lawyers and legal professionals and the meaningful impact of the differences.

Secondly, this study's sample is limited to the state criminal justice codes and procedures and does not include local, case, federal, territorial, or international law, nor

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<sup>26</sup> There are a wide variety of industries where human trafficking can occur including, but not limited to, adult entertainment, beauty/massage/salon, agriculture, entertainment, domestic servitude, hospitality, restaurant, construction, fishing, and manufacturing (Banks & Kyckelhahn, 2011; Bouché, 2017).

does it include court precedence. The data for this study was part of a larger endeavor to collect the entire criminal justice codes and procedures from every state. Case law, court precedence, and local laws/policies also exist in such abundance that there is the opportunity for within unit variation that was outside the scope of these analyses. While complimentary to these analyses, it would have been difficult to collect those data in all 50 states for an indefinite number of years. Future analyses should aim to study these other types of law and policy in manageable, but meaningful, segments.

The third limitation is the timeliness of the data. These data illustrate a snapshot of state human trafficking legislation as of the 2016 legislative session. In the last four years, however, states have continued to generate new policies for human trafficking across the country (Shared Hope International, 2019). For example, Safe Harbor Laws were not a prominent theme in this analysis; however, by the end of 2019, only 30 states in these data had banned the arrest of child sex trafficking victims for prostitution charges (Shared Hope International, 2019). Nevertheless, these data contribute a systematic understanding of emergent legislative themes and trends as a result of the rigorous research design. Given their recency, it is reasonable to assume that the laws presented in this study are still in effect. These analyses, therefore, still contribute meaningful insights to the landscape of human trafficking legislation. Since state laws are continuously evolving, future research should seek to replicate this research to understand how legislation changes over time.

Lastly, these data are limited in their ability to assess the effectiveness of specific laws. Simply put, these analyses do not purport to know the effectiveness of certain laws over others. There is, however, a breadth of literature that should be used to inform where



policy needs to develop. Bouche, Farrell, and Wittmer (2016), for instance, used data from a nationwide sample of human trafficking cases to determine that safe harbor laws, civil actions (i.e., civil restitution), and comprehensive state investment are effective at reducing case attrition. Our recommendations could, therefore, also reasonably contribute to better case outcomes for human trafficking investigations. In this vein, however, future research should aim to broaden our understanding of how laws impact case outcomes and victim satisfaction with the criminal justice system.

## **Conclusion**

Human trafficking is a heinous violation of human rights that leaves a lasting impact on victims. The Trafficking Victims Protections Act of 2000 and its subsequent reauthorizations have driven nationwide proliferation of human trafficking state laws. Despite this growth, a state-by-state comparison that highlights nuances in the laws is lacking in the literature. In response to this gap, the purpose of this study is to provide an in-depth, content analysis of state human trafficking legislation. Accordingly, the present research contributed a nuanced understanding of the Nation's laws. Across three themes—1) conceptualizing human trafficking, 2) victim-centeredness, and 3) perpetrator-centeredness—many states were innovative in their response to human trafficking. Nevertheless, states should seek out opportunities to strengthen their legislative codes by promoting consistency state-by-state, adopting evidence-based policies that meet the needs of a comprehensive response to human trafficking, and affording equal attention to labor and sex trafficking. In the fight to eradicate human trafficking, lawmakers should continue to learn, evolve, and innovate as our knowledge in this field progresses. In doing so, comprehensive legislation that is consistent with

current understandings of human trafficking—in theory—could result in more reports, arrests, and convictions, while helping and empowering survivors.

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## APPENDIX A

### Final Coding Scheme

\_\_\_\_\_ No. \_\_\_\_\_ State (Write the State's full name)

\*Where more than one statute addresses a concept, report both (unless otherwise instructed).

#### **Definitions**

Is a) human trafficking (labor or sex), b) domestic/commercial exploitation, or c) any other similar terminology defined in the state's statutes?

1a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

1b. If yes, are there separate definitions for labor and sex trafficking?

\_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

1y. Statute Citation:

1z. Statute Content:

Is human trafficking defined in terms of a required of acts or behaviors (i.e. recruitment, harboring, or transportation of victims, AND/OR use of force/coercion, etc...) of the perpetrator?

2a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

2b. Is human trafficking defined in terms of threat of required acts exclusively (i.e. the only thing discussed in the statute)?

\_\_\_\_\_ (binary: 1 = Yes; 0 = No)

2c. Is human trafficking defined in terms of required acts exclusively?

\_\_\_\_\_ (binary: 1 = Yes; 0 = No)

2d. Is human trafficking defined in terms of both?

\_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

2y. Statute Citation:

2z. Statute Content:

Is debt bondage (i.e. forcing someone to work for you, without pay, in order to pay off a debt, regardless if the debt is legitimate or not) an element of any statute related to human trafficking?

3a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

3y. Statute Citation:

3z. Statute Content:

Did the state suggest that human trafficking complimented another offense (i.e. racketeering, patronizing a victim of sexual servitude, organized crime, etc...)?

4a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

4y. Statute Citation:

4z. Statute Content:

Does the state establish a Human Trafficking Task Force?

5a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

5y. Statute Citation:

5z. Statute Content:

**Victim Centered**

Does the state define what a trafficking victim is (ex. A victim of human trafficking is defined as...)?

7a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

7y. Statute Citation:

7z. Statute Content:

Does the state give the victim the right to not testify in open court?

8a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

8b. If yes, is victim age is one of the contingency factors (i.e. Minor v. Adult based on the state's definition of Minor).

\_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

8y. Statute Citation:

8z. Statute Content:

Does the state specify rights of human trafficking victims that are not established by another code (i.e. right to have a victim advocate, etc... Note: the statutes may not always use the term "rights." Victim rights are broadly defined here)?

9a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

9y. Statute Citation:

9z. Statute Content:

Does the state discuss the victim's right to confidentiality (i.e. a victim's identity may remain confidential, conversations between a victim and advocate/interpreter is confidential, etc...)?

10a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

10y. Statute Citation:

10z. Statute Content:

Are victim services identified in the state's human trafficking statute (i.e. Free medical care/evaluation, specialized housing, etc...)?

11a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

11y. Statute Citation:

11z. Statute Content:

Are victims of human trafficking exempt from criminal charges that were committed while being a victim (a.k.a. "expungement" or "criminal record relief" – when your criminal charges are dropped because you were a victim at the time you committed the offense(s))?

12a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

12y. Statute Citation:

12z. Statute Content:

Are victims of human trafficking eligible for restitution (i.e. in which the victim is eligible to be given money from the government because they were victims. Exclude statutes that list restitution as a punishment for the offender)?

14a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

14y. Statute Citation:

14z. Statute Content:

Is the admissibility of a victim's prior sexual history discussed?

15a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

15y. Statute Citation:

15z. Statute Content:

Does the state have any statutes specifically pertaining to the victims' immigration statutes (ex. Emergency Visa application, statutes distinguishing between legal and nonlegal citizens, etc...)?

16a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

16y. Statute Citation:

16z. Statute Content:

Are polygraph examinations (i.e. lie detector test) mentioned in the context of victims?

17a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

17y. Statute Citation:

17z. Statute Content:

Does the state provide victims legal assistance with civil matters, not including civil law suits (Ex. help with eviction problems, family dependency cases, etc...Note: Exclude statutes dealing with civil lawsuits against a trafficker.)

18a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

18y. Statute Citation:

18z. Statute Content:

Does the state address civil action victims can take against their traffickers (Note: Include statutes related to a victim filing a civil lawsuit; exclude any other civil issue and include it in the previous code)?

19a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

19y. Statute Citation:

19z. Statute Content:

Does the state establish a Human Trafficking Fund (Note: The fund may be called something else (i.e. Victim-Witness Fund). The important part here is that the statute specifies that victims of human trafficking are eligible to receive money from this fund)?

6a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

6y. Statute Citation:

6z. Statute Content:

## **Process, Offense Seriousness, and Punishment**

Does human trafficking offense list aggravating factors?

20a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

21y. Statute Citation:

21z. Statute Content:

Does the human trafficking offense list mitigating factors?

21a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

21y. Statute Citation:

21z. Statute Content:

Does the state provide affirmative defenses for human trafficking victims (Note: Other phrasing may include “A defense in the prosecution of...”)(Another note: May be common amongst prostitution statutes)?

22a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

22y. Statute Citation:

22z. Statute Content:



Does the state provide affirmative defenses for human trafficking perpetrators (Note: Other phrasing includes “A defense in the prosecution of...”)?

23a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

23y. Statute Citation:

23z. Statute Content:

Are there time limitations/statute of limitations to prosecute human trafficking?

24a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

24y. Statute Citation:

24z. Statute Content:

Does the state provide guidelines and procedures for law enforcement, specifically for human trafficking (i.e. mandatory reporting, training, any other way officers can help identify, protect and assist victims of human etc...)?

25a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

25y. Statute Citation:

25z. Statute Content:

Does the state address procedures for collecting evidence (i.e. wire-tapping, warrants, subpoenas, etc...)?

26a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

26y. Statute Citation:

26z. Statute Content:

Does the state address the role of expert testimony?

27a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

27y. Statute Citation:

27z. Statute Content:

Does the state define juvenile, minor, or child in human trafficking cases (a.k.a. age of minority or any other synonyms)?

28a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

28y. Statute Citation:

28z. Statute Content:

Are there statutes that specifically apply to minors (according to the State's definition of minors)?

29a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

29y. Statute Citation:

29z. Statute Content:

How does the state classify all definitions of human trafficking (Check all that apply)?

30a. \_\_\_\_\_ Class A Felony/Class I Felony (binary: 1 = Yes; 0 = No)

30ay. Statute Citation: \_\_\_\_\_ (open)

30az. Statute Content: \_\_\_\_\_ (open)

30b. \_\_\_\_\_ Class B Felony/Class II Felony (binary: 1 = Yes; 0 = No)

30by. Statute Citation: \_\_\_\_\_ (open)

30bz. Statute Content: \_\_\_\_\_ (open)

30c. \_\_\_\_\_ Class C Felony/ Class III (binary: 1 = Yes; 0 = No)

30cy. Statute Citation: \_\_\_\_\_ (open)

30cz. Statute Content: \_\_\_\_\_ (open)

30d. \_\_\_\_\_ Class D Felony/ Class IV Felony (binary: 1 = Yes; 0 = No)

30dy. Statute Citation: \_\_\_\_\_ (open)

30dz. Statute Content: \_\_\_\_\_ (open)

30e. \_\_\_\_\_ Class A Misdemeanor/ Class I Misdemeanor (binary: 1 = Yes; 0 = No)

30ey. Statute Citation: \_\_\_\_\_ (open)

30ez. Statute Content: \_\_\_\_\_ (open)

30f. \_\_\_\_\_ Class B Misdemeanor/ Class II Misdemeanor (binary: 1 = Yes; 0 = No)

30fy. Statute Citation: \_\_\_\_\_ (open)

30fz. Statute Content: \_\_\_\_\_ (open)

30g. \_\_\_\_\_ Class C Misdemeanor/ Class III Misdemeanor (binary: 1 = Yes; 0 = No)

30gy. Statute Citation: \_\_\_\_\_ (open)

30gz. Statute Content: \_\_\_\_\_ (open)

30h. \_\_\_\_\_ Class D Misdemeanor/ Class IV Misdemeanor (binary: 1 = Yes; 0 = No)

30hy. Statute Citation: \_\_\_\_\_ (open)

30hz. Statute Content: \_\_\_\_\_ (open)

30l. \_\_\_\_\_ First Degree (binary: 1 = Yes; 0 = No)

30ly. Statute Citation: \_\_\_\_\_ (open)

30lz. Statute Content: \_\_\_\_\_ (open)

30m. \_\_\_\_ Second Degree (binary: 1 = Yes; 0 = No)

30my. Statute Citation: \_\_\_\_ (open)

30mz. Statute Content: \_\_\_\_ (open)

30n. \_\_\_\_ Third Degree (binary: 1 = Yes; 0 = No)

30ny. Statute Citation: \_\_\_\_ (open)

30nz. Statute Content: \_\_\_\_ (open)

30o. \_\_\_\_ Fourth Degree (binary: 1 = Yes; 0 = No)

30oy. Statute Citation: \_\_\_\_ (open)

30oz. Statute Content: \_\_\_\_ (open)

30p. \_\_\_\_ Unclassified Felony (binary: 1 = Yes; 0 = No)

30py. Statute Citation: \_\_\_\_ (open)

30pz. Statute Content: \_\_\_\_ (open)

30q. \_\_\_\_ Class Y Felony (binary: 1 = Yes; 0 = No)

30qy. Statute Citation: \_\_\_\_ (open)

30qz. Statute Content: \_\_\_\_\_ (open)

30r. \_\_\_\_\_ Other (binary: 1 = Yes; 0 = No)

30qy. Statute Citation: \_\_\_\_\_ (open)

30qz. Statute Content: \_\_\_\_\_ (open)

What penalties are specified by the state for all definitions of human trafficking (check all that apply)?

31a. \_\_\_\_\_ Fine or Surcharge (binary: 1 = Yes; 0 = No)

31ay. Statute Citation \_\_\_\_\_ (open)

31az. Statute Content \_\_\_\_\_ (open)

31b. \_\_\_\_\_ Eligible for Pre-trial Release (binary: 1 = Yes; 0 = No)

31by. Statute Citation \_\_\_\_\_ (open)

31bz. Statute Content \_\_\_\_\_ (open)

31c. \_\_\_\_\_ Diversion or Post-Release (binary: 1 = Yes; 0 = No)

31cy. Statute Citation \_\_\_\_\_ (open)

31cz. Statute Content \_\_\_\_\_ (open)

31d. \_\_\_\_\_ Protection Orders (binary: 1 = Yes; 0 = No)

31dy. Statute Citation \_\_\_\_\_ (open)

31dz. Statute Content \_\_\_\_\_ (open)

31e. \_\_\_\_\_ Firearm Possession (i.e. Both the repossession of firearms and prohibition against purchasing new firearms) (binary: 1 = Yes; 0 = No)

31ey. Statute Citation \_\_\_\_\_ (open)

31ez. Statute Content \_\_\_\_\_ (open)

31f. \_\_\_\_\_ Injunctions (binary: 1 = Yes; 0 = No)

31fy. Statute Citation \_\_\_\_\_ (open)

31fz. Statute Content \_\_\_\_\_ (open)

31g. \_\_\_\_\_ Imprisonment (binary: 1 = Yes; 0 = No)

31gy. Statute Citation \_\_\_\_\_ (open)

31gz. Statute Content \_\_\_\_\_ (open)

31h. \_\_\_\_\_ Mandatory Sentencing (Note: This refers to when judge deviations are not allowed. Does not refer to sentencing guidelines.)

(binary: 1 = Yes; 0 = No)

Minimum: \_\_\_\_\_

Maximum: \_\_\_\_\_

31hy. Statute Citation \_\_\_\_\_ (open)

31hz. Statute Content \_\_\_\_\_ (open)

31i. \_\_\_\_ Mandatory Sex Offender Registration (binary: 1 = Yes; 0 = No)

31iy. Statute Citation \_\_\_\_ (open)

31iz. Statute Content \_\_\_\_ (open)

31j. \_\_\_\_ (Civil) Asset Forfeiture (binary: 1 = Yes; 0 = No)

31jz. Statute Citation \_\_\_\_ (open)

31jy. Statute Citation \_\_\_\_ (open)

31k. \_\_\_\_ Other (binary: 1 = Yes; 0 = No)

31kz. Statute Citation \_\_\_\_ (open)

31ky. Statute Citation \_\_\_\_ (open)

Is expungement for perpetrators of human trafficking discussed?

13a. \_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

13y. Statute Citation:

13z. Statute Content:



## Miscellaneous

Were there any interesting, unique, innovative, or for any other reason a statute did not belong to any other code, but was remotely relevant to human trafficking?

32a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

32y. Statute Citation:

32z. Statute Content:

In reading the state statutes, were there any statutes that for any reason did not belong with any other code and was irrelevant to human trafficking? (i.e. trafficking of food stamps, trafficking of dead bodies, etc...).

33a. \_\_\_\_\_ (binary: 1 = Yes; 0 = No)

Please provide the statute citation and content of the statute.

33y. Statute Citation:

33z. Statute Content: