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Human Trafficking: A Multidisciplinary Approach
to Addressing Biases Within the American Legal System

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Abstract

In the United States today, sex trafficking is a widely recognized problem. There is a well-developed legal framework in place to address such cases; law enforcement and legal practitioners undergo training. Despite these efforts, human trafficking survivors often face the unjust perception of being perpetrators rather than victims. Their attempts to escape exploitation are not always seen as acts of self-defense. This paper delves into the reasons behind the low credibility of survivors and the factors that contribute to downplaying their traumatic experiences. I argue that individuals most at risk—such as people of color, women, those from low socio-economic backgrounds, individuals with disabilities, and those struggling with addiction—are disproportionately subjected to trafficking and exploitation. The convergence of multiple vulnerabilities further heightens this risk, both before trafficking occurs and after, when they find themselves in the criminal justice system. Various biases are ingrained on the institutional level, and state representatives inevitably reinforce them. These biases manifest in judgments based on race, gender, speech patterns, or simply neglecting information that does not meet original expectations. This paper aims to address the issue of prejudicial verdicts against sex trafficking survivors using a multidisciplinary approach. I claim that merely changing laws will not suffice; a comprehensive understanding of the complexities of all involved social actors is necessary to improve the situation.

Introduction

Imagine a girl from a poor family. She runs away from abusive parents and has nowhere to sleep, but on the street, a man approaches her and offers food and shelter. He takes care of her, supports her, and gives her drugs to reduce the stress. However, his apparent kindness soon turns sinister as he coerces her into prostitution, exploiting her vulnerability and taking all her earnings. When she attempts to resist, he subjects her to physical violence and threats against her loved ones. Despite the immense challenges, she summons the courage to reclaim her agency. Once, when one of her abusive "clients" is asleep, she kills him, steals the money, and drives away in his car. She has just escaped modern-day slavery. With newfound determination, she sets out to forge a new life filled with hope for a regular life with a nice job and a loving partner.

But she killed a man and stole from him. As a result, the court sentences her to a lengthy prison term. Let's say 51 years. This is the story of Cyntoia Brown from Tennessee (State v. Cyntoia Denise Brown). Or maybe she must pay \$150,000 restitution to the family of the man she killed. The very same man who forced her into physical and emotional abuse. That's the story of Pieper Lewis from Iowa (State of Iowa v. Pieper Lewis). Or maybe they are assessed \$1 million bail for killing a sex trafficker and a mass producer of child pornography with underage Black girls, some as young as age 12, and setting his house on fire. That's the story of Chrystul Kizer from Wisconsin (State v. Kizer, 2022 WI 58).

Taken together, the stories of Cyntoia Brown, Pieper Lewis, and Chrystul Kizer illustrate a grim reality where the American legal system fails to adequately protect and understand the unique circumstances of trafficked women, particularly those of color. Instead of recognizing the desperate measures taken by survivors as acts of self-defense intended to break the cycle of exploitation, the system often disproportionately penalizes them, revealing deep-seated biases that intersect along lines of race and gender. As I delve deeper into the structural and individual biases within the legal framework and legal practices, it becomes evident that a multidisciplinary approach is necessary to reform how these cases are judged and handled.

I argue that the design of the American legal system has substantially hindered the ability of legal professionals to effectively handle trafficking cases in support of survivors. This claim is not solely based on the acknowledged embedded racist bias (Levinson et al., 2012) but also on the presence of gender bias (Tuerkheimer, 2017) within the system. This paper will demonstrate through an intersectional analysis how the vulnerabilities that women of color face place them in an inherently disadvantaged position vis-à-vis the legal system. My goal is to address the gap in discussing the structural and individual factors that contribute to such circumstances where prolonged physical and psychological abuse is not considered relevant in investigations of self-defense acts (Barnes, 2015).

This paper is structured to methodically examine the complex interplay between legal structures and implicit biases within the realm of human trafficking. It begins with a Methodology section that delineates the theoretical frameworks and methodological approaches applied throughout the study.

Following this, the Sources and Data section details the sources and literature utilized in this research, illustrating how these choices enhance the current academic discourse. This section elucidates diverse perspectives integrated into the study and underscores the contribution of this work to the broader field of human trafficking research.

The subsequent chapter on Human Trafficking as a Phenomenon describes the trends and patterns within human trafficking, with a particular focus on identifying the challenges encountered by survivors, law enforcement, and legal practitioners. It aims to contextualize the human and systemic dimensions of trafficking and highlight the complexities.

The Legal Framework section reviews critical legislative instruments, including the Trafficking Victims Protection Act, the Castle Doctrine, and the Stand Your Ground law. It critically assesses how these laws, while ostensibly neutral, are imbued with historical biases that disproportionately disadvantage specific societal groups.

Following the legal framework, the paper transitions into an examination of Implicit Biases. This section delves into the biases that potentially influence judicial outcomes, such as racial and gender prejudice, favoritism of certain speech patterns, and unconscious cognitive. It provides an in-depth analysis of how unconscious cognitive biases skew justice and perpetuate inequality.

Overall, this paper seeks to provide a nuanced understanding of the systemic inequities that exacerbate the challenges faced by marginalized groups within the context of human trafficking and legal adjudication. Through this comprehensive and multi-dimensional analysis, the study contributes to the ongoing discussions aimed at reforming legal practices and policies to foster a more just and equitable society.

Methodology

The definition of human trafficking employed in this paper is based upon the Palermo Protocol, an international legal instrument aimed at combating human trafficking (UN, 2000). Article 3 of the Protocol defines trafficking the following way:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms

of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

The United Nations General Assembly adopted the Palermo Protocol in 2000 as a supplement to the United Nations Convention against Transnational Organized Crime. This protocol became a foundation for other laws all over the world, including the United States.

The Trafficking Victims Protection Act (TVPA), the cornerstone of the federal U.S. anti-trafficking legislation, as amended (22 U.S.C. § 7102), recognizes sex trafficking and labor trafficking. Following the Palermo Protocol, TVPA defines severe forms of sex trafficking 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” (18 U.S.C. § 1591).

Since the Department of Justice passed and implemented this legislation only after 2000, it is only then that a significant shift in legal procedures and social values occurred. Thus, the cases chosen for my study also took place in the 21st century. Throughout this study, I describe and analyze various legal cases. While not all are directly related to human trafficking, they all contribute to the examination of how American society reached a point where attempting to escape modern slavery is considered unforgivable.

The victim-centered approach adopted in this paper is a more recent methodological innovation in criminology and is not always implemented in human trafficking cases. "Victim-centered

approach" is an umbrella term that includes such approaches as "Start by Believing," "Forensic Experiential Trauma Interview," and "Trauma-Informed Interrogation and Prosecution" (Center for Prosecutor Integrity, 2023). The core of victim-centered justice is a belief that persons who experience traumatic events are unable to provide an accurate and coherent account of the incident, so any inconsistencies in the complainant's account should be attributed to trauma. By ensuring the safety, well-being, needs and choices of survivors are taken care of, this approach puts their rights and dignity at the forefront of all efforts.

One assumption underpinning this project is that all the actors in the criminal justice system have good intentions and aspire to ensure justice for all parties involved. Even though this assumption is a significant stretch, its purpose is to underscore that altering the attitudes of these participants might not significantly impact the outcomes unless the systematic changes are implemented on a broader scale.

A helpful perspective for understanding human trafficking survivors' experiences is intersectional theory (Crenshaw, 1997). It explores how various aspects of identity intersect with systems of oppression, such as the legal system or inherent biases. It offers a nuanced framework for understanding how different forms of discrimination and marginalization shape one's lived reality. In the context of human trafficking and sexual assault, intersectional theory allows us to recognize that survivors' experiences are shaped not only by their status as victims of trafficking but also by other intersecting factors, such as their race, gender, socioeconomic status, health state, or immigration status. As it will be shown further, the most vulnerable individuals are more likely to become victims of trafficking, but even if they survive, both their background and the experience of trafficking account for intersectional vulnerabilities.

By examining how different forms of oppression and discrimination intertwine with one's vulnerabilities beyond and within the legal system, I aim to contribute to the scholarly discourse on human trafficking and gaining understanding structural inequalities perpetuate trafficking and injustice.

Sources and Data

Within this study, I attempt to combine lenses of lawyers, criminologists, sociologists, anthropologists, sociolinguists, and social psychologists. This unique combination of diverse perspectives is designed both to help appreciate the complexity of the phenomena of human trafficking and to draw attention to certain gaps that can be addressed.

This paper primarily relies on secondary sources, including academic articles and extensive scientific investigations, to offer a comprehensive analysis. Additionally, primary sources, such as trial cases and laws, are utilized to provide illustrations and clarifications.

These secondary sources encompass a wide range of scholarly literature, empirical studies, and research reports on various aspects of human trafficking, including its causes, consequences, legal basis, its causes, legal practices, challenges faced by legal practitioners, and implicit biases that might affect the outcomes of a trial.

The resulting findings derive both from purely academic research and investigations commissioned by scholars for the Department of Justice. Their combination plays a vital role in achieving my objective of comprehending how survivors of modern slavery can be convicted to harsh sentences, as illustrated in the introductory part. Diversifying sources allows me to represent the perspectives of scholars across various disciplines, as well as insights from practitioners whose decisions actually impact someone's life.

Extensive studies by sociologists and criminologists Amy Farrell, Cassia Spohn, and Coleen Owens underlie the ideas presented in the first chapter. These authors were involved in multiple studies related to human trafficking and revealed some patterns and trends typical for this phenomenon (Spohn, 2013; Farrel et al., 2012; Farrell et al., 2014; Owens et al., 2024). Their findings on reasons not to prosecute trafficking cases are of particular interest to this paper, as they provide nuanced knowledge of why prosecution does not take place and what obstacles prosecutors can face on personal, institutional, and systemic levels. While their investigations provide a detailed picture of how the system works on the level of trafficking survivors and prosecutors, they barely touch on jurors' and judges' perspectives and how they affect outcomes.

The section devoted to the legal framework is based to a significant extent on books and articles by Virginia Kendall and Markus Funk on child exploitation and trafficking (Kendall & Funk, 2016). As experienced legal practitioners, they outline all the relevant legal bodies and explore their strengths and loopholes. Their findings are complemented by the doctoral dissertation of Janae E. Thomas, a legal attorney and global studies PhD student, focusing on Stand Your Ground law and its implementation in Florida (Thomas, 2023). Her critical analysis of the laws and their historical background served as an inspiration for this paper to deconstruct not only these laws but also other invisible factors affecting trial results.

This is where the findings of social psychologists Daniel Kahneman and Jonathan Haidt come into play. Their research, though never explicitly aimed at improving the legal system, describes the universal nature of human beings and the implicit biases we all possess when drawing conclusions (Kahneman, 2011; Haidt, 2012). In the case of the criminal justice system, keeping these insights in mind can be a helpful tool for overcoming personal prejudice. In addition to biases described by economists, this section addresses other factors that can influence one's perception, such as racial and gender biases based on appearance (Eberhardt, 2019), speech patterns (Conley et al., 2019; Slobe, 2016), or any other factors that emphasize that a victim belongs to a different community than jurors.

Human Trafficking as a Phenomenon

Human trafficking, affects approximately 50 million people globally (ILO, IOM & WFF, 2022), generates over \$150 billion in profits annually (DHS Countering Human Trafficking, 2022), and constitutes a formidable transnational criminal enterprise. Despite its pervasive scale, human trafficking remains largely invisible (Ashcroft, 2003). Vast scholarship has helped to understand the general patterns and trends of who is at higher risk of being subjected to exploitation and why these individuals act in accordance with their traffickers' demands.

Human trafficking manifests in numerous forms today, ranging from widely recognized crimes such as forced prostitution or pornography production to lesser-known areas such as agricultural labor, begging, child soldiering, construction, domestic servitude, forced marriage, mining, portering, vending (Quirk, 2007), and trafficking for organs (Budiani-Saberi & Columb, 2013).

Contemporary stereotypes portray trafficking victims as young girls from foreign countries who are manipulated, lied to, and often kidnapped and forced into prostitution (a stereotype certainly based on cold, hard reality). However, male and female children of all ages, both from the United States ("domestic trafficking") and abroad ("transnational trafficking"), make up the unfortunate demographic of victims (Kendall & Funk, 2016).

Human traffickers employ a range of coercive and manipulative techniques to convince victims to follow them, stay with them, and to later exploit their victims for profit (Dank et al., 2014). Of course, there are cases of kidnapping and physically forcing someone into a situation. Still, most traffickers use psychological tactics such as tricking, defrauding, manipulating, or threatening victims into providing commercial sex or exploitative labor (Vijayarasa, 2016).

One method involves offering initial help or kindness to individuals who may be vulnerable or in desperate situations, such as runaways, substance abusers, and domestic violence survivors (Office to Monitor and Combat Trafficking in Persons, 2020). Traffickers may pose as benefactors, promising victims employment, education, or a better life in a new location. This initial act of kindness can create a sense of indebtedness and trust, making victims more susceptible to manipulation as they become reliant on their traffickers for support (Hopper & Hidalgo, 2006).

Once victims are under their control, traffickers often resort to threats and intimidation to maintain their power (Kim, 2010). This can include physical violence, verbal abuse, or threats against the victim's loved ones. By instilling fear and a sense of helplessness, traffickers effectively silence any attempts at resistance or escape. Victims may feel trapped and believe that compliance is their only option for survival (Kendall & Funk, 2016).

The feeling of being trapped experienced by victims of human trafficking can be intensified if traffickers confiscate victims' passports and other forms of identification (Farrell et al., 2012). It immediately complicates moves and searches for a new job even when there are no locks on the doors of where victims are held. Some traffickers need their victims to travel, for example, to a hotel or a party where they are going to be trafficked to clients (Jeng et al., 2022).

Traffickers often implement strict surveillance measures, closely monitoring the movements and interactions of their victims to prevent any attempts at escape. In case victims are in public spaces,

like hotels or airports, they are usually taught the narrative that they should convey if someone attempts to communicate with them (e.g., *A.G. v. NorthBrook Indus.*).

Another common tactic used by traffickers is debt bonding (e.g., *Rantsev v. Cyprus and Russia*). Traffickers exploit individuals who are in financial distress by offering loans or advances that come with exorbitant interest rates or fees. Victims are then forced into a cycle of debt, making it nearly impossible for them to repay what they owe. This creates a sense of perpetual servitude, as victims feel compelled to work off their debt under exploitative conditions (Hall & Wysocky, 2014).

Furthermore, traffickers often implement strict surveillance measures, closely monitoring the movements and interactions of their victims to prevent any attempts at escape (UN, 2021). Isolation is also a key component of the trafficker's strategy, as they work to cut off victims from their support networks and outside assistance, leaving them feeling utterly alone and dependent on their captors (Owens et al., 2014). Sometimes, when one trafficker controls a few victims, they can compel them to do what is asked by threatening their "colleagues," who often become their social, close affiliates in such a desperate situation and social isolation (Kendall & Funk, 2016).

In addition to these techniques, it is not uncommon for traffickers to collaborate with corrupt law enforcement officials (IBA, 2016). Traffickers may pay law enforcement officers to turn a blind eye to their illicit activities, such as crossing the border and renting ten rooms in a hotel. Law enforcement authorities can even provide traffickers with advanced warnings of impending raids, and, most frequently, discourage victims from reporting crimes and other tactics (Kendall & Funk, 2011). As a result, victims are often left feeling abandoned, helpless, and without recourse, further perpetuating their cycle of exploitation and suffering (e.g., *Rantsev v. Cyprus and Russia*).

Finally, traffickers often employ psychological manipulation to control their victims. They may use tactics such as gaslighting (manipulative tactic wherein an someone undermines another's sense of reality by invalidating their experiences, perceptions, or emotions), manipulation of emotions, or isolation to break down victim's sense of self-worth and autonomy (Sigurvinsdottir et al., 2020). By undermining victim's confidence and sense of reality, traffickers gain greater control over their actions and decisions.

Taken together, it is necessary to recognize the complexities and challenges of human trafficking that are already known thanks to almost 20 years of research. Without this understanding, it is impossible to comprehend why trafficked people might choose to comply with the demands of traffickers or even kill their abusers rather than seek help from the police. When trafficked women enter the legal system, they are already at a disadvantage due to both their social status and having a crime on their hands.

Trafficking Survivors as Witnesses

It is not hard to guess that very few cases find their way to court (Farrell et al., 2014). The reality is that this is not only because it might be truly hard to reveal trafficking situations but also due to the lack of cooperation between victims and law enforcement authorities (Walker-Rodriguez & Hill, 2011). The latter often expect victims to come forward and self-report that they are being exploited, but due to the aforementioned factors, this is rarely the case (Kendall & Funk, 2016). Consequently, many victims remain invisible to law enforcement and support services (McGough, 2013).

Sometimes, thanks to someone's tips, through their own investigation, or, most rarely, through a survivor's report, law enforcement authorities detect trafficking and preemptively take measures to rescue victims from their oppressors (Farrell et al., 2012). Being trained in this paradigm, officers might wrongly expect self-reports and gratitude for their actions (Kendall & Funk, 2016). Instead, trafficking victims often do not self-identify as victims—an effort to protect their already damaged psyche—and start to defend their offenders and justify their own actions (Jorge-Birol, 2008). This mindset can be displayed through unwillingness to cooperate or the lack of discernable emotions, the so-called flat-face reaction (Nainggolan & Angelia, 2022). Such kind of behavior immediately leads to law enforcement treating a survivor as someone who should be scrutinized and challenged (Kendall & Funk, 2016). As such, the cycle begins. Victims fear law enforcement, law enforcement views victims skeptically, and traffickers win because traditional law enforcement techniques fail (Farrell et al., 2019).

In a successful case, when law enforcement manages to save trafficking survivors, there is still no guarantee that the case will go to court. The case will not be prosecuted unless there is a person ready to provide witness testimony (Spohn, 2014). If five people were exploited but only four

agreed to present evidence in court, such a case would have a chance. However, if there is only one known victim and they disagree to cooperate and go through this prolonged, challenging, and potentially re-traumatizing process, a case will not even be taken on (Spohn, 2014).

While a victim's testimony is not legally mandated, prosecutors often exercise their discretionary power to pursue cases where such testimony exists (Spohn, 2014). It is only the victim's testimony that is deemed as direct evidence—a firsthand account of events by an eyewitness. Circumstantial evidence refers to information or material in a legal case that does not directly prove a fact but allows a judge or jury to infer that fact based on the evidence presented. In other words, even if law enforcement authorities have gathered extensive circumstantial evidence during their investigation, such as condoms, lubricants, clothing, money, customer ledgers, photographs, digital files, or people's impressions about an event they did not directly witness (e.g., they were talking on the phone with a witness when the crime took place), this still would not be considered sufficient by a prosecutor (Kingshott, 2014).

Victim testimony is so crucial because its presence significantly increases the likelihood of winning a case (Spohn, 2014). It is worth keeping in mind that since victims usually come from disadvantaged backgrounds, they might already have some negative experience of interaction with law enforcement and such "stubbornness" by state representatives only makes them less willing to cooperate (Viki et al., 2006).

Both objective and subjective factors influence assessments of a case's potential success. On the one hand, prosecutors' considerations include the availability, reliability, and sufficiency of the existing information and evidence (Spohn, 2014). On the other hand, prosecutors draw from their experience to anticipate the reactions of judges and juries (Frohmann, 1991).

The difficulties in receiving the victim's testimony also stem from a few different reasons. First and foremost, trafficking victims do not always identify themselves as such, primarily due to the psychological effects of post-traumatic stress disorder (PTSD) and impact referred to as the Stockholm syndrome (Khan-Leonard, 2020). Further, everyone questions survivors' credibility: what did they do wrong that they were subjected to trafficking? Why did they not try to escape? Why do they protect traffickers? Why are they not willing to cooperate? (LaFree, 1980) Many actions of trafficking victims do not fit the stereotypical image of a "perfect" victim (Spohn, 2014).

This complication only gets worse if a survivor appears to also be involved in substance abuse or prior involvement in criminal activities (Steffensmeier et al., 1998). This is often the case because people from disadvantaged backgrounds often find stress relief in these available methods, and these are exactly the same people who are at high risk of being trafficked (Greenbaum, 2017). Numerous misconceptions about an "ideal" victim, who has lived a happy, healthy life before being kidnapped, might significantly reduce one's credibility (Christie, 1986; Shwarz, 2018).

Moreover, in those rare cases when trafficking survivors find themselves in a courtroom, their victim testimonies are frequently marred by inconsistencies (Powers, 2023), which only provokes an increase in suspicion toward survivors. These inconsistencies may stem from the traumatic nature of their experiences, resulting in fragmented memories that resurface over time (Baumle, 2018). However, it does matter during the legal process because consistency in testimonies helps judges and jurors analyze whether the person is lying or being honest. The added layer of a "flat" facial expression adds to jurors' difficulty in understanding victimization (Kendall & Funk, 2016).

Expert Testimony as Evidence

The reason why the testimony of a victim is crucial in legal proceedings lies in the nature of the evidence (Legal Information Institute, 2024). While items like financial records, electronic communications, or physical objects can be valuable pieces of evidence, they may not on their own suffice to establish guilt (UNODC, 2017). Instead, they contribute to building a broader picture of the case, often in conjunction with direct testimony.

Jurors are typically chosen from a pool of eligible citizens within the court's jurisdiction and are not required to have any expertise (28 U.S.C. §1861). Therefore, it is essential for the attorneys to ensure that jurors fully understand the context of trafficking activities and crimes. They can do this by inviting expert witnesses who have the necessary qualifications and expertise in the relevant field (Hamid et al., 2022).

Expert opinion can assist the court in drawing a judgment for decision makers who lack such expertise (Sarkar, 2018; Rajamanickam & Rahim, 2014). Legal attorneys review their credentials, experience, publications, conflicts of interest, and reputation within their field and, finally, prepare them for testimony (Stygall, 1994). Expert guidance and testimony can expose trafficking as a

structural problem of intersectional inequality, sexualized violence, and coerced prostitution to opposed to flawed perceptions of the victim's immorality (Cook, 2019). In cases of sex trafficking, these experts may shed light on immigration laws, child molestation, traffickers' manipulation tactics, methods to evade detection, cybersecurity related to pornography, threats of violence, health impacts, and psychological trauma (Kendall & Funk, 2016).

A notable illustration of these challenges can be found in the case of *U.S. v. Romero* from Illinois, which unfolded in 1999, a time before international standards for combatting human trafficking were established and comprehensive local legislation was in place. In this case, a mother reported the suspected kidnapping of her 12-year-old son, Erich, by an individual he had met online. Despite her pleas for an investigation, law enforcement initially hesitated to take action due to limitations in existing laws. At the time, only cases involving physical violence were legally recognized as human trafficking, while psychological coercion and manipulation were not adequately addressed and penalized. Therefore, under the laws of Illinois and federal law, the voluntary departure of minors, even if influenced by deception or coercion, was not considered a criminal act.

Nevertheless, a state prosecutor decided to pursue charges against a man suspected of human trafficking and production of child pornography. Law enforcement officers apprehended the suspect while he was accompanying a young boy on a bus. Upon searching the man's residence, they discovered other boys of similar ages, along with many boxes containing child pornography, which the eldest boy was attempting to destroy under the trafficker's orders. To build the case, the prosecutor enlisted the support of several experts, including an FBI agent specializing in child exploitation, an expert in countersurveillance techniques utilized by traffickers, an expert on the use of beepers commonly employed by traffickers to coordinate illicit activities, and a psychiatrist who provided insights into the emotional challenges and Attention Deficit Disorder of a boy that made it impossible for him to consent to the trip. Despite the lack of established legal frameworks, the prosecutor's diligent efforts ultimately led to the successful prosecution of the perpetrator. Shortly after the time of this Illinois case, the Palermo Protocol and the Trafficking Victims Protection Act (TVPA) were adopted.

Despite the success of expert testimony in cases like the one concerning Erich, mental health professionals are infrequently called upon to testify in similar cases. This is surprising given that

significant psychopathology can influence survivors' behaviors, and mental health professionals can testify to the relevance of this phenomenon (Zhang & Datta, 2022). Several studies reported that sex trafficked minors experience a heavier burden of trauma-related and other psychological symptoms than non-trafficked, age-matched minors with other traumatic exposures or adverse experiences (Shaw et al., 2017; Ottisova et al., 2018).

In consideration of cases mentioned in the beginning of this paper, about young women who were subjected to sexual exploitation and later convicted for taking action against their abusers, psychiatric expertise was the only means for victims of sex trafficking to communicate the continued sexual abuse they have endured. Without relevant expertise, legal discussions often focus solely on the crime itself, neglecting the circumstances that caused it.

For instance, Cyntoia Brown received a life sentence at the age of 15 without parole for 51 years. She never had the chance to mention in court the fact that she was trafficked and abused. The only event discussed in detail was her murder of a man who was sexually assaulting her, not her reasoning of why she preferred this desperate act. After spending 15 years in jail, she was released due to massive national and international support from celebrities and the general public, as well as the strategic efforts of her defense attorneys. They argued that she killed a man involuntarily due to her mental illness, which stemmed from her mother's alcohol and cocaine addiction during pregnancy. Being affected by the substances as a fetus, they argued, she later could not control her emotions and actions.

While Cyntoia has been released, the issue of exploitation remains unaddressed, and her trafficker has never been arrested or convicted. Instead, what is prominent in Cyntoia's case is that she is a woman of Hispanic descent, adopted by a different family, from a low socioeconomic background, with a mental disability. She is involved in committing crimes against a person and crimes against property, and she has run away from home—a combination of vulnerabilities, most of which have not been mentioned or considered relevant.

One prevalent psychiatric condition contributing to this vulnerability is Battered Partner Syndrome, which manifests as a form of PTSD (Walker, 2006). Initially conceptualized as Battered Woman Syndrome by Lenore E. Walker in 1979, the term was later broadened to Battered Partner Syndrome to adopt a more politically neutral stance and avoid exclusive reference to male

abusers (Hamel, 2013). This syndrome, akin to PTSD, is characterized by a pattern of signs and symptoms observed after an individual, typically a woman, has endured physical, sexual, or psychological abuse within an intimate relationship. The abuser, often but not exclusively male, exerts power and control over the partner, disregarding one's rights and feelings (code 995.81 at ICD-9).

Walker (1992) also postulated that female victims experience a form of learned helplessness stemming from unpredictable traumatic reactions, coupled with significant power differentials within the relationship. In such dynamics, women often feel perpetually fearful and disempowered, unable to resist during assaults. They harbor intense fears for their own safety and that of their children, yet also grapple with emotional dependency and self-blame, leading some to retract accusations against their abusers at a later stage (Walker, 1992).

One possible explanation for this practice lies in the field of survivors' credibility again: acknowledging a mental disorder in trafficking, survivors may inadvertently undermine their credibility and introduce additional complexities to legal proceedings (Farrell, 2012). It would be absurd to claim that in Cyntoia's case and other similar ones, there is only one victim, the deceased man, and a woman who has found her way to escape continuous sexual violence can only be deemed as a perpetrator.

Legal Framework

While prosecutors as street-level bureaucrats (Lipsky, 1980) employ their discretionary power to decide whether a case is potential enough to file charges, they also act within the legal system and follow state, federal, and international prescriptions.

The international standard for combating human trafficking, as outlined in the Palermo Protocol, emphasizes three primary pillars: prevention, prosecution, and protection of victims—the so-called '3P paradigm' (UN, 2000). Ratified in 2000, these standards introduced human trafficking as a global, pressing security problem.

The American federal government has enacted several relatively nuanced statutory schemes directed at the fight against domestic and international human trafficking. Kendall and Funk (2016) particularly emphasize the following efforts:

- The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008—Enhancing federal efforts to combat both international and domestic traffic in human beings.
- The Trafficking Victims Protection Reauthorization Act of 2005—Providing federal courts with jurisdiction over federal government employees and contractors for trafficking offenses committed abroad.
- The Trafficking Victims Protection Reauthorization Act of 2003—Creating an anti-trafficking watch list to keep pressure on countries of various tiers in the trafficking report; transforming trafficking into a RICO predicate offense; permitting victims to sue their traffickers in U.S. courts; and requiring that U.S. government contracts, relating to international affairs, contain clauses authorizing the United States to terminate governmental contracts if the contractor engages in human trafficking or procures commercial sexual services while the contract is in force.
- The Trafficking Victims Protection Act (TVPA) of 2000—Providing a two-tiered definition of trafficking that includes several forms of trafficking in persons and sex trafficking; transforming 18 U.S.C. § 1591 and 18 U.S.C. §§ 2421–2423 into the four primary statutes criminalizing prostituting minors in interstate commerce; and ensuring that foreign national victims are able to receive benefits and services to the same extent as refugees, following certification/eligibility determinations by the Department of Health and Human Services, Office of Refugee Resettlement.

These laws expanded criminal penalties for human trafficking offenses, provided resources for law enforcement responses to human trafficking, and created a federal civil remedy for human trafficking. They also defined human trafficking of children as a form of child abuse, included the production of child pornography as a form of sex trafficking, and expanded human trafficking offenses to include the purchase of commercial sex from minors or trafficked persons.

While the TVPA provides a framework for federal action against trafficking, states have the authority to enact their own laws and regulations to supplement federal efforts or address specific needs and challenges within their communities (Bender, 2023). Washington became the first state to criminalize human trafficking in 2003, followed by all the other states, with Wyoming being the last in 2013. Most of these first laws focused on the codification of state-level human trafficking crimes (Bouche et al., 2015). State penalties vary widely across the country. In some states the minimum penalty for any type of human trafficking is twenty years, while other states' maximum penalties range from five to ten years.

Criminalization legislation has been the fastest-diffusing and most prevalent type of legislation concerning the issue of human trafficking (Farrell et al., 2019). There are several potential reasons for this. First, making human trafficking a crime with stiff penalties is the "easiest" reform to target because it generally does not require the immediate outlay of state financial resources. Second, criminalization provisions targeting human trafficking are consistent with the more general "fear of crime" environment. That environment and political perspective have prompted state legislatures in the United States to become quite punitive, defining more problems as crimes, specifying stricter penalties for crimes, and promoting the use of "three-strikes" (harsher penalties for committing a serious criminal offense for the third time) and "truth in sentencing" (requirement to serve a significant portion of their prison sentences before becoming eligible for parole or early release) structures to ensure punishment (Garland 2001; Simon 2009). Human trafficking is no exception to this trend. (Farrell et al., 2019).

Challenges of Implementing the Laws

Two decades after the establishment of this legislation, researchers have had the opportunity to analyze its efficiency and effectiveness. All the findings can be roughly divided into two groups: institutional obstacles and personal decisions not to prosecute trafficking.

As for the former, it was found that both state prosecutors and judges are rarely familiar with human trafficking legislation, and, therefore, prosecutors intend to utilize familiar laws, such as those pertaining to rape, kidnapping, pandering, or promoting prostitution, rather than state anti-trafficking laws (Spohn, 2014). Alternatively, they send cases to the federal court, but those only work with larger scale crimes with many victims involved and big sums of illegal financial profits.

In other words, cases with one or few victims will not be prosecuted in the federal court and state prosecutors are unlikely to charge for human trafficking (Farrell et al., 2012).

Even when state prosecutors are willing to try the case, they must conduct an investigation. Frequently, such inquisition requires going to a different state, which is not surprising from the definition of human trafficking, but their department might not have enough resources or institutional buy-in. State prosecutors do not have the resources to travel to other states to collect evidence or interview witnesses, nor do they enjoy the benefits of institutional infrastructure or a unit within their own department dedicated to human trafficking (Farrell et al., 2012). These additional complications make it unviable to travel to other states to collect evidence or interview witnesses. A glance into interstate communication also does not bring much hope: even though there are requirements to cooperate, interstate cases are often deemed as less important and less prioritized (Ibid.).

Institutional obstacles are reinforced by the discretionary power of prosecutors (Culp, 1969). They decide whether they are going to file charges based on their predictions of how jurors and judges might perceive the evidence. They prefer to proceed with cases and accusations that are more likely to be accepted (Spohn, 2014). So, on the one hand, there may be social biases in the perceptions of the prosecutors themselves; on the other hand, they personally might believe in the necessity to prosecute but can decide against it if they do not picture how to win the given case. Finally, prosecutors often feel that they will not receive support from their colleagues, which does not contribute to prioritizing trafficking cases over other ones (Farrell et al., 2012). This lack of internal support, along with the professional perception of judges, jurors, and the public, can induce non-prosecution of human trafficking cases.

Self-Defense Regulations

As my study was sparked by three cases in which young women killed their abusers and were convicted to long prison sentences and hefty retribution payments, it is essential to also address self-defense legislation. The Castle Doctrine and Stand Your Ground laws are legal provisions that grant individuals the right to defend themselves and their property against perceived threats without the obligation to retreat from the situation (McClellan & Tekin, 2017; Messerschmidt, 2016).

Self-defense is using force or violence to protect oneself, or a third person, from imminent harm (Bender, 2023). Essentially, self-defense can be claimed in cases in which the victim reasonably perceives an immediate threat of imminent death, bodily injury, or severe harm. Each state allows a defendant to claim self-defense as a legal defense when accused of a violent crime, such as a murder charge (Farrell et al., 2014).

As noted by Janae E. Thomas, Stand Your Ground laws originated in judicial opinions dating back to the 1800s (e.g. *Beard v. United States*, 158 U.S. 550, 1895). These laws evolved alongside the development of the Castle Doctrine, which was the first official "no duty to retreat" law and applied to individuals protecting their homes (Thomas, 2023). Through examining the evolution of the Castle Doctrine, it becomes apparent that patriarchal ideals, wherein men are perceived as the protectors of their households and women as property, are reflected in both the expansion and limitations of this legal framework.

In cases of self-defense, particularly in the context of gender-based violence, there is often a disparity in the level of proof required of males and females (Thomas, 2023). Historically, societal attitudes and legal standards have placed a higher burden of proof on women when they claim self-defense compared to men (Keegan, 2013). This discrepancy stems from entrenched gender norms and stereotypes that view women as less capable of physical aggression and more prone to exaggeration or emotional responses (Greenberger & Blake, 1996). Men claiming self-defense may encounter more leniency and a lower threshold of proof than women when they are asked to demonstrate the reasonableness of their actions of violence: it is enough for men to show that they feared harm or injury (Thomas, 2023). Thus, an allegedly objective law does not, in fact, provide equal protection to men and women in cases of self-defense.

The Castle Doctrine has been extended in situations where men are seen as protecting their families from intruders, while it has been restricted in cases where women are perceived as defending themselves from abuse by a co-inhabitant (Thomas, 2023). Therefore, granting immunity to the wife under this doctrine would imply giving her superior rights in her own home. However, this rationale does not seem to be grounded in sound principles, as many of these cases involve women who have been able to establish that the co-inhabitant man was an abuser (Catalfamo, 2006).

Consequently, by withholding immunity from the woman, American laws effectively grant the abuser superior rights but penalize a woman who acts in self-defense. This leads us to a discussion of other factors that might affect trial outcomes in the form of indirect and unconscious discrimination.

Implicit Biases

Legal frameworks such as the TVPA, the Castle Doctrine, and Stand Your Ground laws are intended to guide the resolution of cases. However, their effectiveness can be significantly influenced by the implicit beliefs held by legal professionals involved in the judicial process. Historical, systemic biases can be further entrenched by on-the-ground practices. In the context of sex trafficking trials, this means that legal attorneys, judges, jurors, and other involved actors may make decisions based on personal morals, even if it means acting beyond the rules (Keiser et al., 1999; Maynard-Moody and Musheno, 2003). Despite efforts within the legal framework to encourage objective judgments, unconscious preconceptions inevitably influence conclusions and must be taken into consideration.

Nearly thirty years of empirical and experimental studies and meta-analyses show that implicit biases are widespread (Kang et al., 2011). Research on implicit bias offers corroborated lines of evidence that quick associations and judgmental schemas can lead to distorted perceptions and evaluations, influencing everyone's decision-making and behavior. Such biases often play out along dimensions of race, gender, speech patterns, and cognitive prejudices.

Racial and Gender Prejudice

Scholarship on status characteristics explains how race and gender stereotypes might implicitly shape decision-making (Ridgeway et al., 2009; Wagner and Berger, 1997). According to these theories, race and gender are status cues that may lead people to subconsciously assume that members of non-majority groups have a lower status than those in the majority (Biernat and Kobrynowicz, 1997). These status stereotypes often result in diminished expectations of competence for minority-classed groups (Fridkin and Kenney, 2009; Haynie, 2002; Sigelman et al., 1995).

Implicit biases against people of color are deeply ingrained in societal structures due to historical and systemic discrimination. It is essential to recognize that some policies may have disparate impacts on certain racial or ethnic groups due to systemic biases or structural inequalities rather than explicit intent (Galvan & Payne, 2024). Nevertheless, it is through talk and action that dominance is expressed, reproduced, and challenged (Conley et al., 2019). Language affects our perceptions and, therefore, judgments and actions.

Nowadays, it would be fair to claim that many policies, such as racial profiling, redlining, voter suppression, and harsher sentencing laws, have contributed to the marginalization and disproportionate incarceration of people of color (Eberhardt, 2020). People of color are more likely to be perceived as threatening or dangerous and are disproportionately targeted for suspicion and scrutiny (Dube et al., 2023). Studies have shown that people of color are more likely to be stopped, searched, and arrested compared to their white counterparts, even when controlling for factors such as geographic distribution of crime rates (Baumgartner, 2020).

The targeting of people of color is so significant that the phenomenon of the school-to-prison pipeline has been widely discussed and considered in policy development (Wald & Losen, 2003). Many schools have law enforcement officers present to prevent gun violence and maintain safety. However, in reality, students from these schools are more likely to end up in prison due to harsh disciplinary practices and zero-tolerance policies (Skiba et al., 2014). Such policies result in severe punishments for minor infractions, such as suspension, expulsion, or even arrest, for behavior that would typically be addressed more leniently within the school environments in more affluent settings (Ruiz, 2016). These dynamics disproportionately affect marginalized communities, including people of color, those with disabilities, and those from low-income backgrounds (Malett, 2017). The consequences of the school-to-prison pipeline are profound, perpetuating cycles of poverty, incarceration, and disenfranchisement among marginalized youth (Nelson, 2017).

Less known but also extant are such trends as the foster care-to-prison pipeline (Goetz, 2020), homelessness-to-prison pipeline (Mayock & Sheridan, 2013), poverty-to-prison pipeline (Duque & McKnight, 2019), and trauma-to-prison pipeline (Baumle, 2018).

The care-to-prison pipeline, a concept gaining attention in recent years, highlights how individuals who are in need of mental health support or therapeutic care are often funneled into the criminal

justice system instead. Instead of receiving the care they require, they may encounter law enforcement officers who lack the necessary training to handle such situations with sensitivity and understanding (Sinko & Tolliver, 2021).

Similarly, individuals experiencing homelessness often face a myriad of challenges, including limited access to stable housing, employment, healthcare, and social services. As a result, they may engage in survival behaviors, such as panhandling or loitering, which can lead to their involvement with law enforcement (Skolnik, 2016). Homelessness is often criminalized through laws that prohibit activities such as sleeping in public spaces or camping, further exacerbating the likelihood of interaction with the criminal justice system (Foscarinis, 1999).

The poverty-to-prison pipeline presents a broader picture, not solely linked to homelessness but encompassing experiences of poverty that may lead individuals to resort to illegal activities out of necessity. People who experience poverty show similar symptoms to those who experience abuse or loss: intrusion, avoidance, chronic stress, and post-traumatic stress symptoms (Hennessey et al., 2004). Once involved in the criminal justice system, people of a lower socioeconomic class might struggle more to escape criminal treatment because they cannot pay bail even if this opportunity exists (Kang & Burton, 2014). Both poverty and racism cause the heightened risk of being monitored and targeted for punishment.

In many cases, girls are more vulnerable to experiencing physical or emotional abuse, circumstances that can elevate their likelihood of encountering the justice system (Baumle, 2018). Structural trauma resulting from poverty or racism, compounded by personal trauma such as violence and mistreatment, can funnel girls into prison. As DeAnna Baumle (2018) points out, despite the relatively stable levels of criminal activity among women and girls, there has been a significant surge in the incarceration rate for women in recent decades. Cyntoia Brown, Pieper Lewis, and Chrystal Kizer are prime examples of this trend.

Speech Patterns

Beyond policies, there are practices that further disadvantage people of color on a subtler level, such as language usage internalized through socialization (Conley et al., 2019). The use of racially coded language or microaggressions in everyday interactions, nonverbal cues, tone of voice, and

slightly different body language can perpetuate stereotypes and reinforce power dynamics, often without conscious awareness (Labov, 1973; Lakoff, 1973).

John Baugh coined the term "linguistic profiling" to highlight that linguistic discrimination can be used as a form of systemic inequality because people make assumptions about an individual's socioeconomic status, education level, or other characteristics based on their speech patterns or accent (Baugh, 2005). Thus, racial prejudice based on a speech pattern takes place at the societal level and might reinforce implicit biases and power imbalance.

The claim about prejudice ingrained in the level of language has been proved by the anthropologist Tyanna Slobe (Slobe, 2016). She has conducted an extensive linguistic analysis of the George Zimmerman trial case. Although this case is not directly related to human trafficking, it provides an outstanding example of how biases against speech patterns can influence conclusions.

The case was sparked by the following incident: Zimmerman, a neighborhood watch volunteer, fatally shot Trayvon Martin, an unarmed Black teenager, in Sanford, Florida, on February 26, 2012, while Martin was talking on the phone with his female friend, Rachel Jeantel. Zimmerman asserted self-defense, while Martin's supporters contended he was racially profiled by Zimmerman. Despite being charged with second-degree murder and manslaughter, Zimmerman was acquitted of all charges by the jury. The initial refusal by local police to arrest or charge Zimmerman sparked several weeks of protests across the country. Subsequently, law enforcement reversed their decision and charged Zimmerman with second-degree murder. His acquittal in 2013 prompted further demonstrations, and the resulting uproar became part of the growing national debate concerning the use of deadly force by police and citizen members of neighborhood watch patrols against African American individuals.

Slobe's analysis suggests that Zimmerman's lawyer "attempted to socialize the jury into a specific way of 'hearing [the phrase] *creepy ass cracker* [said by Martin] as a violent language.'" (Slobe, 2016). These linguistic nuances, commonplace within Martin's community, were perceived as aggressive, racist and aberrant by Zimmerman's community. The defendant's lawyers repeatedly suggested that Jeantel and Martin deviated in various ways from a linguistic ideal shared by them and the jurors. Essentially, all Jeantel's words were undermined; when she participated as a witness in the cross-examination, they placed her in a racial double bind (Conley et al., 2019). On one

hand, her comments could be interpreted as biased against white people; on the other hand, if she emphasized that anti-white racial slurs are used and tolerated in the Black community, she would still be putting Martin in a position where he might be perceived as someone who contemplates violence against white people.

In general, characteristics such as gender, race, ethnicity, class, caste, sexual orientation, geographical origin, and disability are commonly used to establish an individual's "Otherness" (Todres, 2009). This process of delineating between "them" and "us" often leads to the marginalization of certain individuals and communities, while granting privileges to those aligned with the dominant group, class, or country.

Such distinction often functions as an efficient, unconscious argument against someone, yet remains invisible because it is embodied in seemingly insignificant details such as pronouns and deictic markers like here-there, and this-that (Nesper, 2007). For instance, in Zimmerman's case, a defense attorney cross-examining Jeantel consistently referred to the non-white community in a manner that separated the jurors from Martin: "The culture you live in, in your community, uh, people call, people there call white people crackers" (Slobe, 2016). Used in any context, such words sharply contrast with their binary opposites and suggest physical, social, and moral distance.

A devalued and dehumanized perception of Martin facilitated disparate treatment. If "we", the dominant group, establish the norm, then only "they" commit savage and barbarous acts and deviate from the norm. Slobe (2016) demonstrates that in Zimmerman's case, the purpose was to mark witnesses (and their testimonies as members of this community) as deviant relative to the Standard American English community and to position the standard speaker community as morally superior because of its assumed colorblind orientation. Language ideologies are seldom neutral and can wield substantial influence in both affirming and contesting political power.

Another significant aspect of speech pattern that can also affect trial outcomes is related to gender, not race (Conley et al., 2019). Social-psychological experiments have shown that jurors tend to trust witnesses who speak assertively more than those who use "powerless" language. The latter, also known as a language of subordination, implies hedge words (kind of, sort of), polite forms (sir), tag questions appended to declarative statements (... , isn't it?), exaggerated imprecision about quantities ("it was about a mile, but I'm not very good at distances"), and a rising, inquisitive

intonation in normally declarative contexts ("six thirty?" in response to a question about when dinner will be ready) (O'Barr & Atkins, 2005). While "powerless" language is not solely gender-based, it predominantly characterizes the speech patterns of women (Conley et al., 2019). Women can learn the assertive manner of speech, but it requires a significant effort, and men typically do not suffer the disadvantage of speaking in a style that the legal system devalued.

Another finding about socialization relates to storytelling (O'Barr & Atkins, 2005). Men tend to build rule-oriented stories: they give details about events from start to finish with examples of actions. In contrast, women often emphasize the people involved in the described actions and their relationships with one another. The court usually considers these details irrelevant, preferring a rule-oriented, linear approach. Sociolinguists attribute the ability to construct such narratives to a skill developed in male-dominated professional fields because the original research was conducted in the 1980s. The socioeconomic dynamics might have changed; however, gender socialization still puts women at a disadvantage in these contexts (Illouz, 2008).

Cognitive Biases

Some other factors impacting trial outcomes are related to judges and jurors rather than the defendant and plaintiff. Research in moral psychology proves that intuitive decisions are often made quickly and effortlessly, guided by emotions, gut feelings, and deeply ingrained moral intuitions (Haidt, 2012). Cognitive biases are pervasive and affect people across various domains of life, including decision-making in law (Kahneman, 2011). These biases can lead to systematic errors in judgment, as individuals often rely on mental shortcuts and heuristics that can produce flawed or irrational outcomes.

Some common cognitive biases include confirmation bias, availability bias, anchoring bias, and overconfidence bias. Each of these biases can be identified and prevented if one is aware of the possible distortions. However, it is not easy due to the fact that intuitive judgments and emotional responses tend to dominate our decision-making processes, making it challenging to override them with rational arguments or evidence (Posner, 2000).

Confirmation bias involves seeking out, interpreting, and remembering information in a way that confirms one's preexisting beliefs or hypotheses while ignoring or discounting contradictory

evidence (Liden, 2023). In a legal trial, confirmation bias can lead judges and jurors to selectively focus on evidence that supports their initial impressions or inclinations, potentially overlooking or discounting evidence that contradicts their beliefs.

Another cognitive bias relevant to legal trials is availability bias, which occurs when individuals rely on information that is readily available in their memory when making judgments or decisions (Ross & Sicoly, 1979). In the context of a legal trial, availability bias can lead judges and jurors to overestimate the significance or likelihood of certain events or outcomes based on their salience or vividness in memory. For example, if a particular piece of evidence is particularly memorable or emotionally charged, it may loom larger in the minds of decision-makers, leading them to give it undue weight in their deliberations.

In turn, anchoring bias occurs when individuals rely too heavily on initial pieces of information, such as opening statements or initial witness testimony, when making subsequent judgments, leading to decisions that are anchored to these initial impressions (Bystranowski et al., 2021).

Representativeness bias is a cognitive bias in which individuals assess the likelihood of an event based on how closely it resembles a typical example or prototype of that event (Stroh, 2022). In other words, people tend to judge the probability of an outcome based on how well it matches their expectations or stereotypes rather than considering relevant statistical information or base rates. In cases of human trafficking, it is most frequently displayed as mistrust to a survivor because their actions and manner of speaking do not meet the expectations of the "right" victim.

Overconfidence bias is a cognitive bias wherein individuals tend to overestimate their own abilities, knowledge, or the accuracy of their judgments (Tang, 2023). This bias can lead individuals to have unwarranted confidence in their beliefs, decisions, or actions, often resulting in errors in judgment or decision-making.

Cognitive biases can be influenced by decision-makers' physical states. Research suggests that when individuals are physically uncomfortable, such as when hungry, fatigued, or overwhelmed, they tend to make more conservative judgments and deliver harsher verdicts. This can be attributed to depleted cognitive resources, which hinder rational and deliberative thinking. When tired, individuals may resort to cognitive shortcuts or heuristics, relying on automatic processes rather

than thorough analysis. As a result, they may make snap judgments or react impulsively, leading to harsher verdicts than they might otherwise deliver (Rawls, 1971).

Findings and Discussion

Addressing the multifaceted problem of human trafficking is complicated; otherwise, it would already have been solved. Yet, it persists, requiring a conscious, multidisciplinary approach to make progress. While there may be differing opinions on the severity of sentences for acts of self-defense and whether proactive self-defense is justifiable, there is a consensus that escaping slavery should not be punished. Sex trafficking, labor trafficking, and child soldiering—all of these perilous situations exemplify modern slavery. Therefore, the question arises: how do we reconcile legal standards, which typically analyze only the circumstances of a crime and judge through the lens of an average reasonable person, with a world where individuals, often from disadvantaged backgrounds, are penalized for being victims of trafficking and for their efforts to break free from exploitation?

I strongly believe that a victim-centered approach is the only appropriate way to engage with human trafficking survivors. This stance is grounded not only in the fundamental importance of respecting human rights and dignity, especially among those in positions of power, but also in our collective interest as a society in combating human trafficking and enhancing social safety. Ideally, trafficking cases should be prosecuted, a goal that becomes achievable when survivors are willing to cooperate with state authorities and when prosecutors assess a case as having a high likelihood of success. However, achieving this ideal can be complicated if survivors refuse to cooperate with law enforcement and legal professionals.

Survivors' unwillingness to participate in investigations can stem from various factors, with the most prominent being negative experiences with law enforcement and natural responses to the trauma of exploitation, such as Stockholm syndrome and PTSD. Failure to recognize traffickers as exploiters and themselves as victims inevitably obstructs an investigative process. Additionally, traumatic experiences may hinder survivors from cooperating fully with prosecution efforts, even if they initially agree to do so; inconsistencies are common in survivors' testimonies. These

inconsistencies can significantly reduce their credibility in the eyes of jurors, as testimonies are crucial in assessing honesty.

Factors such as disadvantaged backgrounds, potential involvement in crimes, substance abuse, speech differences, and racial and gender biases further contribute to decreased credibility, reinforcing the perception of jurors and survivors as belonging to different communities. This distinction can be pivotal in trial outcomes but is often difficult to discern, as it manifests as implicit biases and often requires thorough sociolinguistic and psychological analysis to identify. Nonetheless, awareness of such prejudices can be invaluable for legal practitioners and those who make decisions about one's future.

Individual biases against survivors of trafficking can be compounded by institutional obstacles. Since prosecutors have significant discretionary power to decide whether to pursue a case, they consider potential reactions from their colleagues, judges, jurors, the public. It is not uncommon for state prosecutors to pass a trafficking case to the federal level or to opt for charges of prostitution or pornography production instead of trafficking, either because they are unsure of the legal basis on trafficking, or they anticipate that judges may not be familiar with it.

When a case is taken up, prosecutors need to gather both direct and circumstantial evidence. This includes physical objects, witnesses, and experts who can help place the details of the case within a broader context. Expert testimonies are particularly crucial in prosecuting human trafficking cases, as they reveal and elucidate otherwise invisible patterns and details. Consequently, expert testimony can shift the focus from the crime itself to the underlying causes.

Despite all the evidence, testimonies, and personal opinions, decisions in the courtroom are made strictly in accordance with existing laws. Research indicates that trafficking regulations are often too new and not well-known among legal practitioners. Ironically, the long-standing self-defense regulations, such as the Castle Doctrine and Stand Your Ground laws, do not assist trafficking survivors either. These laws are inherently biased in favor of men, requiring women to provide substantial justifications for employing self-defense.

Biases inherent in legal practices, institutional barriers, and the personal preferences of prosecutors are further compounded by the cognitive biases of jurors and judges. Racial and gender prejudices,

which manifest in distrust of one's appearance, experience, or even speech patterns, are coupled with confirmation bias, availability bias, anchoring bias, and overconfidence bias. These biases are inevitable, and the diminished credibility of trafficking survivors only reinforces them.

Taken together, these findings suggest that societal standards, which have shaped the current legal framework and practices, have slightly changed. People have learned to recognize systemic and individual biases in multiple forms and should not favor biases which unjustifiably benefit white heterosexual men. Thus, legal practices should be updated to align with new knowledge and social values. Attempts to escape abuse and exploitation should not be solely treated as acts of violence but rather as acts of self-defense. Cases such as those of Cyntoia Brown, Pieper Lewis, or Chrystal Kizer should not be viewed without consideration of the traumatic experiences they endured.

An intersectional lens provides a vital tool in cases like the ones mentioned above, as it helps to notice that those who are treated as perpetrators are victims themselves. First, as women of color from low socioeconomic background, having experienced abuse and dependent on drugs, they found themselves in life circumstances where they were at their most vulnerable and were ready to receive help in any way and on any conditions. Second, they were beaten, threatened, drugged, and manipulated, could not leave their entrapment, and had to adjust physically and mentally to such life conditions. Third, trafficking experiences leave marks forever and it is incorrect to expect people to act as if nothing has happened to them. The image of an "ideal" victim is wrong, and it is vital to make judgements based on the given data rather than personal expectations shaped by popular culture. In other words, intersectional theory helps to better understand reasons of one's actions and notice how the alienating gap between "us" and "them" can be bridged with an intellectual effort.

Turning from sociology to existing judicial practices, legal practitioners can consider employing the so-called "rotten social background" defense, introduced by Judge David L. Bazelon in 1972 (*United States v. Alexander*, 471 F.2d 923). This approach implies that a defendant's culpability should be evaluated within the context of their social and economic upbringing.

Later, Richard Delgado expanded upon the implications of Judge Bazelon's dissent in *Alexander* and argued that poverty plays a significant role in driving individuals toward criminal behavior (Delgado, 1985). He laid out a thorough exploration of how characteristics comprise a "rotten

social background," such as malnutrition, unstructured home life, police discrimination, racial biases, community isolation, and limited opportunities for socioeconomic advancement. Delgado proposed the possibility of establishing a novel legal defense framework centered on the experiences of poverty and social marginalization. Ultimately, he advocated for an excuse defense that would absolve the individual from personal culpability while still holding them accountable for their actions.

Whatever approach is taken, legal professionals can take into account the findings of sociologists, anthropologists, social psychologists, and sociolinguists, combining them with the needs and norms of their professional community. At the end of the day, the criminal justice system is created for society, not society for the criminal justice system.

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