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The Confluence of Gender and Poverty: The Shameful History of the Trafficking of Poor Persons for Sexual Exploitation

Jody Raphael

INTRODUCTION

For years now, a fundamental disagreement about prostitution and trafficking for sexual exploitation has raged with no sign of abatement. Those wishing to preserve the sex trade industry from regulation and control argue that individuals have the human right to sell their bodies free from state intervention;¹ other feminists see prostitution as a site of resistance and cultural subversion.² Abolitionists assert there is a human right to be free from the violence and

¹ See Lin Lean Lim, *Trafficking, Demand and the Sex Market* (Mar. 12, 2007) (“The idea that the entire commercial sex market should be eradicated in order to tackle the problem of trafficking for prostitution is as draconian and wrong-headed as the idea that it is necessary to eliminate demand for carpets in order to address the problem of forced and child labour in the carpet industry.”) (quoting BRIDGET ANDERSON & JULIA O’CONNELL DAVIDSON, *IS TRAFFICKING IN HUMAN BEINGS DEMAND DRIVEN? A MULTI-COUNTRY PILOT STUDY* 10-11 (2003)), http://www.sexworkeurope.org/sites/default/files/resource-pdfs/lim_lin_lean_trafficking_demand.pdf (asserting that “anti-prostitution measures would be a violation of the human right and civil liberty to go into an occupation of her own free choice”). In June 2014, Amnesty International USA debated a proposed policy “based on the human rights principle that consensual sexual conduct between adults—which excludes acts that involve coercion, deception, threats, or violence—is entitled to protection from state interference” but did not approve the policy. Amnesty International, *Summary: Proposed Policy on Sex Work*, [https://www.amnesty.se/upload/files/2014/04/02/Summary of proposed policy on sex work.pdf](https://www.amnesty.se/upload/files/2014/04/02/Summary%20of%20proposed%20policy%20on%20sex%20work.pdf).

² See ERIN O’BRIEN, SHARON HAYES & BELINDA CARPENTER, *THE POLITICS OF SEX TRAFFICKING: A MORAL GEOGRAPHY* 201 (2013) (claiming that the sex trade industry represents the rise of a new, positive “recreational sexual ethic” which includes “sex without commitment, anonymous and promiscuous.” This is considered by some to be bad sexuality because it sits outside an idealized understanding of love, relationships, and family).

exploitation that are an integral part of the sex trade industry.³ Preservationists advocate decriminalization of prostitution, arguing that trafficking constitutes only a small part of the industry and can be eradicated.⁴ Abolitionists make the case for dismantlement of the sex trade industry through criminalization of the customer based on the fact that it is customer demand that creates a profit motive for traffickers to satisfy through force, threats, and coercion against others.⁵

This Article's purpose is not to resolve this long-standing, often abstract dispute among feminists. It is readily apparent, however, that recent increased attention to trafficking for sexual exploitation has put the focus on harms to

3 See, e.g., JANICE G. RAYMOND, NOT A CHOICE, NOT A JOB: EXPOSING THE MYTHS ABOUT PROSTITUTION AND THE GLOBAL SEX TRADE xxxvii (2013) (arguing that prostitution is "politically constructed 'out of men's dominance and women's subordination,'" it is "the buying and selling of human beings," and that the premise of prostitution is "women exist to be used"); SHEILA JEFFREYS, THE INDUSTRIAL VAGINA: THE POLITICAL ECONOMY OF THE GLOBAL SEX TRADE 10 (2009) (explaining how prostitution is organized around the basic proposition that "women have the stereotyped role of providing their bodies for men's pleasure with no concern for their feelings or personhood"); Michelle Madden Dempsey, *Sex Trafficking and Criminalization: In Defense of Feminist Abolitionism*, 158 U. PA. L. REV. 1729, 1737 (2010) (adding the observation that discrimination is at play because women and girls of a particular social caste, class, race or ethnicity, or those who have suffered former sexual abuse, "are thought to be suited to a life of prostitution, based on the conditions of their birth or subsequent abuse.").

4 See, e.g., Julia O'Connell Davidson, *Convenient Conflations: Modern Slavery, Trafficking, and Prostitution*, OPEN DEMOCRACY (Nov. 4, 2014), <https://www.opendemocracy.net/beyondslavery/julia-o'connell-davidson/convenient-conflations-modern-slavery-trafficking-and-prostitut> ("[I]ndependent academic research suggests that only a tiny minority of workers in the UK sex industry fit the criteria recognized by the relevant authorities as constitutive of 'trafficking[.]'"); Jo Doezeema, *Loose Women or Lost Women? The Re-emergence of the Myth of 'White Slavery' in Contemporary Discourses of 'Trafficking in Women'*, INT'L STUD. CONVENTION (Feb. 16–20, 1999), <http://www.walnet.org/cs/papers/doezeema-loose.html> (claiming that the majority of trafficking cases involve women who know they are going to work in the sex trade industry, but who might have been lied to about the conditions under which they will have to work); Ronald Weitzer, *New Directions in Research on Human Trafficking*, 653 ANNALS AM. ACAD. POL. & SOC. SCI. 6, 7-8 (2014) (citing a number of small research studies finding little evidence of deception or coercion); Erin O'Brien, *Fuelling Traffic: Abolitionist Claims of a Causal Nexus Between Legalised Prostitution and Trafficking*, 56 CRIME LAW SOC. CHANGE 547, 548 (2011) (making the argument that legalized prostitution does not involve social acceptance of prostitution that necessarily leads to an increase in the trafficking of women).

5 See Dempsey, *supra* note 3, at 1753 (arguing that by purchasing sex, one encourages conduct by traffickers that is often harmful to prostituted people; "[p]eople who buy sex, in other words, are complicit in the harms directly inflicted by traffickers and abusive pimps, in virtue of the market demand generated by the buyers' purchase of sex and the influence this demand has on the conduct of traffickers and abusive pimps."); MARY LUCILLE SULLIVAN, MAKING SEX WORK: A FAILED EXPERIMENT WITH LEGALISED PROSTITUTION (2007) (presenting data about the expanded sex trade industry in Australia after legalization of prostitution, documenting an increase in illegal brothels and strip clubs, and the growth of trafficking to meet this exploding demand); JEFFREYS, *supra* note 3, at 196 ("[P]rostitution is a harmful cultural practice of male dominant societies which is based upon women's subordinate status. Legalization/decriminalization does not provide a solution but an exacerbation of the harms that are integral to this practice.").

individuals; if large numbers of persons have been coerced or forced into the sex trade and kept there against their will, views of prostitution and opinions about legalization must follow. Not surprisingly, here too there is no agreement. Abolitionists present large trafficking prevalence figures.⁶ Preservationists argue that only a small percentage of individuals in the industry have been trafficked.⁷

In fact, both data claims are lacking in evidence.⁸ Widely quoted trafficking prevalence figures have convincingly been shown to rest on dubious methodology

6 See, e.g., KEVIN BALES, *DISPOSABLE PEOPLE: NEW SLAVERY IN THE GLOBAL ECONOMY* 8 (1999) (estimating that over 27 million people are living in slavery across the world). The Global Slavery Index, produced by the Walk Free Foundation, estimates 35.8 million persons worldwide are victims of human trafficking in 2014. *Global Slavery Index Overview*, WALK FREE FOUNDATION, <http://www.globalslaveryindex.org/findings>. The Polaris Project, a Washington, D.C. based advocacy organization, estimates on its web site that 4.5 million individuals are trafficked for sex globally, *Sex Trafficking in the U.S.*, POLARIS, <http://www.polarisproject.org/human-trafficking/sex-trafficking-in-the-us>.

7 See, e.g., *supra* note 4. There is one major definitional problem that can affect estimates of trafficking for sexual exploitation—the lack of a standard, agreed-upon definition of “coercion.” Preservationists are more apt to adopt a more stringent definition, finding more situations than not voluntary as opposed to coerced. See Sally Engle Merry, *How Big Is the Trafficking Problem? The Mysteries of Quantification*, OPEN DEMOCRACY (Jan. 28, 2015), <http://www.opendemocracy.net/beyondslavery/sally-engle-merry/how-big-is-trafficking-problem-mysteries-of-quantification> (claiming that the picture is more complex, in which smuggling and labor migration blur with what has been labelled as trafficking; “A young woman may leave her village in search of a job that will support her family or her children, expecting to work in a factory but discovering that sex pays better. Alternatively, she may take a job in a bar only to learn she is expected to do sex work as well. Women may be trafficked by neighbours or relatives as well as by organized crime bosses. Moreover, it appears that the majority of exploited labour do jobs other than sex work, and that they are coerced by a range of factors including poverty, kinship obligations, fear of violence, debt, and even the desire for the trappings of modernity.”); see also Anthony Marcus, Amber Horning, Ric Curtis, Jo Sanson & Efram Thompson, *Conflict and Agency Among Sex Workers and Pimps: A Closer Look at Domestic Minor Sex Trafficking*, 653 ANNALS AM. ACAD. POL. & SOC. SCI. 225, 233 (2014) (claiming that some of their respondents were not coerced by pimps; “[h]owever, many of our sex worker respondents who were recruited by pimps had gone into the situation knowing that they were trading an oppressive situation in a shelter, group home, or natal family for a pimp who might prove violent, abusive, or exploitative. In such situations, pimps offered an alternative and little enticement seemed necessary.”); cf. Jane E. Larson, *Prostitution, Labor, and Human Rights*, 37 U.C. DAVIS L. REV 673, 676, 698 (2004) (defining “voluntary bondage” as “an individual consent[ing] to (or ‘contract[ing] for’) conditions of labor that cannot be reconciled with her human dignity” and arguing that “[s]uch work for abolition is not based upon a derogation of the agency of the worker, but upon a recognition that, for reasons of economic need and cultural position, any person may find herself consenting to bondage.”).

8 However, most academic writing on sex trafficking is not empirically based. See, e.g., Sheldon X. Zhang, *Beyond the ‘Natasha’ Story—A Review and Critique of Current Research on Sex Trafficking*, 10 GLOBAL CRIME 178, 179 (2009) (documenting that most journal articles heavily rely on anecdotal stories rather than empirical research). See also Lisa Fedina, *Use and Misuse of Research in Books on Sex Trafficking: Implications for Interdisciplinary Researchers, Practitioners, and Advocates*, 16 TRAUMA, VIOLENCE & ABUSE 188 (2015).

and to be mere guesses.⁹ The inability to construct a representative sample of individuals in prostitution, due to the clandestine nature of the industry, means researchers will never be able to actually ascertain the prevalence of trafficking within it.

Recently the debate has spilled over into the policy-making sphere, where dueling academics have attempted to influence new laws and policies on prostitution based on their views of the prevalence of trafficking for sexual exploitation.¹⁰

The current prevalence argument about trafficking occurs in a vacuum, without reference to historical evidence about trafficking for the sex-trade industry. If trafficking was always an integral part of prostitution in England and North America, and not a new phenomenon related to economic migration during globalization, it would be more likely to remain an integral part of the industry, and eliminating it would prove more difficult because of its long history. This Article views the current prevalence debate through an historical lens. Part II considers a host of past examples involving exploitation of poor individuals for profit. Part III examines the history of pimping and trafficking¹¹ within the sex-trade industry and whether, given this record, trafficking can be as easily prevented as preservationists allege. Part IV provides a framework for moving beyond the current barren debate

⁹ See Weitzer, *supra* note 4 at 12; Fedina, *supra* note 8. See also Ronald Weitzer, *Miscounting Human Trafficking and Slavery*, OPEN DEMOCRACY (Oct. 8, 2014), <http://www.opendemocracy.net/beyondslavery/ronald-weitzer/miscounting-human-trafficking-and-slavery>. The analyses conclusively determine that widely quoted figures on human trafficking are guesses, based not on reliable social science methodology, but on non-standardized and non-comparable sources, including estimates from law enforcement and helping agencies, as well as media reports.

¹⁰ In February 2014, the European Parliament backed an advisory proposal from Mary Honeyball recommending the Nordic model of prostitution that legalizes the selling of sex but criminalizes its purchase. Prior to the vote, ninety-one academics from around the world signed on to a critique of Honeyball's report, alleging inaccurate data. Seventy-nine academics responded with a letter of their own, supporting Honeyball. See Maya Oppenheim, *MEPs Vote to Criminalise Buying Sex*, THE GUARDIAN (Feb. 26, 2014, 10:35 AM), <http://www.theguardian.com/global-development/2014/feb/26/meps-vote-criminalise-buying-sex-european-parliament>. A copy of the critique of the Honeyball Report, *A Critique of the "Report on Prostitution and Sexual Exploitation and Its Impact on Gender Equality" by Mary Honeyball, MEP*, can be found at <http://www.sexworkeurope.org/campaigns/tell-european-parliament-vote-against-criminalisation-clients/critique-report-prostitution>. In 2014, as Canada considered a new law incorporating the Swedish model, eventually approving it, dueling academics again weighed in to argue about the data. Three hundred researchers world-wide opposed the bill, stating that it was scientifically ungrounded. See *Open Letter: 300 Researchers Call for Decriminalization of Sex Work in Canada*, STRAIGHT.COM (Mar. 27, 2014, 9:41 AM), <http://www.straight.com/news/615581/open-letter-300-researchers-call-decriminalization-sex-work-Canada>.

¹¹ In this paper, the terms "pimping" and "trafficking" are used interchangeably.

about trafficking prevalence by looking at sex-trafficking prevalence data within the context of world history.

I. COERCION OF POOR PEOPLE THROUGHOUT HISTORY

From slavery to organ donation, human history has been the story of forceful or coercive recruitment of poor and vulnerable persons into work for which willing volunteers have been lacking. This history should inform our responses to the debate about trafficking for sexual exploitation within the sex-trade industry.

A. Slavery

Slavery has been a durable and integral part of human existence, dating back to ancient times in Greece, Rome, and Spain, to late old English society, Merovingian France, Viking Europe, the Byzantine Empire, Italy, the Muslim world, and Russia. The practice of slavery only came under sustained attack during the last quarter of the eighteenth century, when it was at the peak of its historic performance.¹² In the New World, slavery began early; after 1500, for three and a half centuries, more than twelve million African slaves were transported across the Atlantic, with four million to the United States alone.¹³ The sources of African slaves were numerous and included those captured in warfare, kidnapped individuals, persons in debt, individuals punished for crimes, and children sold into slavery by their parents.¹⁴ Historians argue for the importance of slavery in the development of capitalism in the Atlantic world, not just in agriculture, as the profits from slave labor enabled owners to move into banking and finance.¹⁵ On plantations, owners enjoyed complete control over workers and the labor process, a power that no manufacturer enjoyed in the nineteenth century.¹⁶ Slave owners used torture on their workers—a widely accepted practice.¹⁷ In addition, many slave owners, their sons, and overseers sexually coerced or raped the wives and daughters of slave families.¹⁸

¹² See DAVID BRION DAVIS, *THE PROBLEM OF SLAVERY IN WESTERN CULTURE* 31 (1966).

¹³ See DAVID BRION DAVIS, *INHUMAN BONDAGE: THE RISE AND FALL OF SLAVERY IN THE NEW WORLD* 182 (2006).

¹⁴ See ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH: A COMPARATIVE STUDY* 105 (1982).

¹⁵ See Sven Beckert, *Slavery and Capitalism*, *THE CHRONICLE REVIEW* (Dec.12, 2014), <http://chronicle.com/article/SlaveryCapitalism/150787/>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See, e.g., DAVIS, *supra* note 13, at 202 (describing the sexual abuse of a slave by her owner).

The similarities of slavery and human trafficking are startling. Labor shortages throughout history force compulsion into undesirable and degrading work.¹⁹

After law in the United States abolished slavery, the demand for inexpensive cotton continued to be met in a variety of exploitative ways. Those picking cotton were remunerated or worked plots of land and paid with a share of the crop (“sharecropping”), but all lived from hand to mouth due to being tied to land by contract and their need to pay off their debts for supplies.²⁰

Yet more stringent methods would be needed to find free or cheap labor. Landowners leased prisoners, who were treated with violence or shot if they tried to escape.²¹ From evidence from county courthouses and the National Archives, journalist Douglas Blackmon has documented the practice of the deliberate capture and imprisonment of thousands of indigent Blacks under the flimsiest circumstances, who were then leased to owners of mines, farms, and factories for periods as long as ten months.²² The men were apprehended through a cabal of sheriffs, town marshals, and labor procurers.²³ For example, after a plea for more cotton pickers in August 1932, police in Macon, Georgia, scoured the town’s streets, arresting sixty black men on vagrancy charges and immediately turning them over to a plantation owner.²⁴ “Two Mississippi sheriffs reported making between \$20,000 and \$30,000 each” in a single year from this practice in 1929.²⁵

¹⁹ See Karen E. Bravo, *Exploring the Analogy Between Modern Trafficking in Humans and the Trans-Atlantic Slave Trade*, 25 B.U. INT’L L.J. 207, 265 (2007) (concluding that rather than a peculiar institution, slavery has been an integral part of human existence). Orlando Patterson’s definition of slavery is applicable here. “[S]lavery is,” he wrote, “the permanent, violent domination of natally alienated and generally dishonored persons.” See PATTERSON, *supra* note 14, at 13. Slaves were homeless and disconnected from their new country and totally isolated, like homeless girls recruited from the streets by pimps into the sex trade industry. They are, in Patterson’s words, the ideal tools for the traffickers—alienated, unattached, and deracinated. *Id.* at 7. Approving Patterson, David Brion Davis describes the isolation and vulnerability of slaves, attributes also shared by trafficking victims: “This absence of a past and a future, of a place in history and society from which to grow in small increments, made each slave totally vulnerable. This may be the very essence of dehumanization.” DAVIS, *supra* note 13, at 37.

²⁰ See SVEN BECKERT, *EMPIRE OF COTTON* 281–86 (2014).

²¹ *Id.* at 290.

²² DOUGLAS A. BLACKMON, *SLAVERY BY ANOTHER NAME: THE RE-ENSLAVEMENT OF BLACK PEOPLE IN AMERICA FROM THE CIVIL WAR TO WORLD WAR II* 129 (2008).

²³ *Id.* at 375.

²⁴ *Id.*

²⁵ See *id.* (describing the many ways black people were coerced into difficult and degrading labor). Blackmon estimates more than a hundred thousand being falsely arrested and sent to forced labor camps throughout the South, “operated by state and county governments, large corporations, small-time entrepreneurs, and provincial farmers.” *Id.* at 7. Nearly every sheriff and town marshal in southern Alabama made his primary living in human trafficking. When men weren’t arrested on

If the allegations in Ferguson, Missouri, are to be believed, this pattern of exploitation of the poor has never been eradicated. In 2015, a U. S. Department of Justice report criticized the city for disproportionately ticketing and arresting African Americans, many on minor or trumped up charges, solely to balance the budget.²⁶ In the same year, civil rights groups filed a lawsuit charging that officials in two Missouri towns, Ferguson and Jennings, deliberately stopped indigent residents for traffic offenses, jailing them if they did not pay the fines.²⁷ This deliberate practice, it was alleged, brought in fines and court fees that comprised the second largest source of revenue for the city, a total of \$2.6 million.²⁸

B. *Forced Prostitution in Nazi Labor Camps*

Just at the time that officials in Macon, Georgia picked up black men on vagrancy charges and turned them over to plantation owners, slavery reappeared in Europe, when it housed the largest single slave empire in five centuries of modern history; slave labor was introduced in Germany, the Soviet Gulag, Japan, and

trumped up charges, they were “lured to remote timber camps deep in the forests with promises of solid wages and good working conditions.” *Id.* at 152. But when they arrived “the men and boys” found themselves in prisons, “held against their will . . . , fed and housed miserably, worked under brutal circumstances, and paid little or nothing.” *Id.* These were augmented by men leased from jails across the state. Violence was used to prevent resistance. A three-inch-wide leather strap with an eighteen-inch long whipping end was used on the buttocks, back and legs and was effective in preventing escapes. These practices continued until Pearl Harbor and the American involvement in World War II. *Id.* at 145, 377.

²⁶ See Matt Apuzzo, *Justice Department to Fault Ferguson Police, Seeing Racial Bias in Traffic Stops*, N.Y. TIMES (Mar. 1, 2015), http://www.nytimes.com/2015/03/02/us/justice-department-report-to-fault-police-in-ferguson.html?_r=0.

²⁷ *Id.*

²⁸ See Spencer S. Hsu, *Missouri Cities Sued Over Municipal Court Practices*, WASH. POST, (Feb. 8, 2015), https://www.washingtonpost.com/local/crime/ferguson-and-jennings-mo-sued-over-municipal-court-practices/2015/02/08/256da2d2-ae4f-11e4-abe8-e1ef60ca26de_story.html. Nor is this practice limited to the towns of Ferguson and Jennings. Hsu cites an October 2014 study by the nonprofit group Better Together, finding “that municipal courts in St. Louis and St. Louis County collected nearly half of the \$132 million in fines paid statewide, despite being home to fewer than 1 in 4 Missourians[,]” and he reports that another lawsuit by the Southern Poverty Law Center complains that Montgomery, Alabama “required those found guilty to pay fines immediately or sit in jail to pay off debts at a rate of \$50 a day, or \$75 a day if they agreed to perform janitorial tasks.” *Id.* In May 2015, the Missouri legislature passed a law capping the amount of general operating revenue from traffic tickets a municipality can collect at 12.5 percent. See Mitch Smith, *Missouri Lawmakers Limit Revenue from Traffic Fines in St. Louis Area*, N.Y. TIMES, (May 8, 2015), <http://nytimes.com/2015/05/09/us/missouri-lawmakers-agree-to-limit-revenue-from-traffic-fines.html>. Nor is this practice limited to the South or the Midwest. An April 2015 report found aggressive enforcement of traffic violations and imposition of financial penalties had a disproportionate impact on poor and working class people in California. See Timothy Williams, *Economic Disparity is Seen in California Driver’s License Suspensions*, N.Y. TIMES, (Apr. 8, 2015), <http://www.nytimes.com/2015/04/09/us/disparity-is-seen-in-california-drivers>.

Africa.²⁹ Forced prostitution was also commonplace; Nazis compelled women and girls to serve labor camp commanders and their superiors with sex, under threat of punishment, which included face-beating with nail-studded boards or hosing the women and girls down in cold weather before assembled prisoners.³⁰

C. “White Slavery”

Historians now estimate that more than half of all white immigrants to the continental colonies south of New England were unfree workers.³¹ Although thousands of indentured servants signed up for the colonies voluntarily, others were transported against their will because there never was a sufficient supply of such “voluntary” labor.³² “Among the first . . . were children. Some [sent] by impoverished parents seeking a better life for them . . . [O]thers were forcibly deported. In 1618, the authorities in London [swept] up hundreds of [street] urchins from the slums,” against their parents’ will and shipped them to Virginia where they were indentured to planters to work in the tobacco fields.³³ “50,000 to 70,000 convicts . . . were transported to Virginia, Maryland, Barbados, and England’s other [colonies] before 1776”; mirroring today’s money-making stop-and-frisk policies, some were brought before local justices and told the only way to save themselves was to agree to transportation.³⁴ Kidnapping too was endemic, as gangs were reportedly paid by planters’ agents for men brought across the Atlantic.³⁵ Despite laws passed against

²⁹ See SEYMOUR DRESCHER, *ABOLITION: A HISTORY OF SLAVERY AND ANTISLAVERY* 415–55 (2009) (describing the reversion to slavery that occurred in Europe in the mid-twentieth century). Hitler himself declared, “Human culture cannot be developed any further without creating a certain modern form of bondage or, if you like, slavery.” *Id.* at 428.

³⁰ *Id.* at 439. See also Mareike Fallet & Simone Kaiser, *Concentration Camp Bordellos: ‘The Main Thing was to Survive at All,’* SPIEGEL ONLINE INT’L (June 25, 2009, 6:50 PM), <http://www.spiegel.de/germany/concentration-camp-bordellos-the-main-thing-was-to-survive-at-all-a-632558.html>. One of the most distinctive features of coerced labor in Asia was the systematic conscription of women for sexual services. Estimated numbers of women forced into prostitution range from 80,000 to 200,000, of which approximately 80 percent were Koreans. *Cf.* DRESCHER, *supra* note 25, at 450.

³¹ See David W. Galenson, *The Rise and Fall of Indentured Servitude in the Americas: An Economic Analysis*, 44 J. ECON. HIST. 1, 9 (1984) (estimating that “75 percent or more of Virginia’s settlers in the seventeenth century were servants”). Galenson explains that “a majority of all hired labor in preindustrial England was provided by . . . youths of both sexes, normally between the ages of 13 and 25, who lived and worked in the households of their masters, typically on annual contracts. [Thus,] it is not surprising that the . . . institution” was imported into the New World. *Id.* at 2–3.

³² *Id.* at 9.

³³ DON JORDAN & MICHAEL WALSH, *WHITE CARGO: THE FORGOTTEN HISTORY OF BRITAIN’S WHITE SLAVES IN AMERICA* 12–13 (2007) (“[H]alf of [these children] were dead within a year”).

³⁴ *Id.* at 13.

³⁵ *Id.* at 12–14.

the practice, the gullible and the drunk were lured into makeshift prisons and held before being shipped out.³⁶ Recruiting agents, known as “spirits,” who worked for merchants, lured children with sweets and promises of a good life in the New World.³⁷ Thus a large portion of the white colonial population of America was brought over by deceit and misrepresentation, echoing the current blandishments of sex traffickers.

By the end of the eighteenth century in the continental United States, indentured servitude had all but disappeared,³⁸ but these practices have retained their appeal in certain quarters. In 2013, a National Rifle Association Board member and conservative columnist promoted a plan “for undocumented immigrants to become United States citizens . . . after five years of indentured servitude,” spent in building a border fence between Mexico and the United States.³⁹ Eight hundred and seventy thousand prisoners in the United States are also currently coerced into work, under threat of punishment, for median wages of twenty and thirty-one cents an hour.⁴⁰

D. *Trade in Cadavers*

Sometimes the profit motive compels outright murder. In nineteenth century England “it was illegal to dissect the body of anyone who was not an executed murderer.”⁴¹ Yet the number of executed murderers could not keep up with medical science’s demand for corpses. In 1828 a notorious Edinburgh pair “were brought to trial for murdering tramps in order to supply [an Edinburgh University professor] with cadavers to dissect.”⁴²

Current coerced “donations” of kidneys, to meet the needs of rich natives and foreigners, continue the nineteenth century practice. Approximately 500 Indians

³⁶ *Id.*

³⁷ *Id.* (“[Kidnap gangs] were reportedly paid [two British pounds] . . . for every athletic-looking young man they brought aboard.”).

³⁸ See Galenson, *supra* note 27, at 13.

³⁹ Meredith Bennett-Smith, *Ted Nugent Immigration Plan Calls for Undocumented ‘Indentured Servants’ to Build Border Fence*, HUFFINGTON POST (May 13, 2013, 5:26 PM), http://www.huffingtonpost.com/2013/05/13/ted-nugent-immigration-plan-indentured-servants_n_3268511.html/.

⁴⁰ Beth Schwartzapfel, *Modern-Day Slavery in America’s Prison Workforce*, AM. PROSPECT, <http://prospect.org/article/great-american-chain-gang>. Prisoners in Texas, who labor without pay, can be assigned to work in the fields under armed-guard supervision, in what looks like a continuation of plantation labor, or forced employment of those accused of fabricated crimes who were leased out to private entities to work in plantations, coal mines, and factories. *C.f.* BECKERT, *supra* note 20, at 290.

⁴¹ ROSEMARY ASHTON, *VICTORIAN BLOOMSBURY* 108 (2012).

⁴² *Id.*

allegedly had their kidneys removed by a team of doctors running an illegal transplant operation in India, reported in 2008, where poor Indians were kidnapped, duped, forced at gunpoint to undergo operations, or persuaded to sell their organs.⁴³ Homeless beggars, handcart pullers, and sweepers were said to be targeted.⁴⁴

E. *Naval Impressment*

Consider too, the long-time acceptability of violent methods of recruitment for the British Navy. Between 1688 and 1815, approximately 250,000 experienced seamen were forcibly taken from private merchant marine ships to meet the manpower needs of the British Royal Navy.⁴⁵ These seamen received wages for their labor and were free at the conclusion of wars.⁴⁶ After boarding ships, press gangs using cudgels (clubs) or pistols and cutlasses forced men with seafaring skills into the Navy; violence was necessary because the service could not compete with the wages paid by private merchants and the dangers of war did not entice experienced sailors.⁴⁷ Press gangs received bounties for the men they captured.⁴⁸ Because the Royal Navy was not averse to employing a variety of punishments, including flogging, gagging, ducking, or forcing seamen to wear a wooden collar or run the gauntlet for disobedience, resistance after impressment was infrequent.⁴⁹

F. *The “Empire of Cotton”*

The story of the invention of water-powered machines for spinning cotton in the late eighteenth century provides an object lesson in how new demands for labor were met historically. Because the factory was a novel method of organizing labor,

⁴³ Amelia Gentleman, *Kidney Thefts Shock India*, N.Y. TIMES (Jan. 30, 2008), <http://www.nytimes.com/2008/01/30/world/asia/30kidney.html>.

⁴⁴ Amelia Gentleman describes the case of twenty-five-year-old Mr. Mohammed who was approached by a man as he waited at an early morning labor market by the Old Delhi train station. The man offered him one-and-a-half months’ work painting, with free food and lodging. Mohammed said he was driven four or five hours to a secluded bungalow, where he was placed in a room with four other young men under two armed guards. When he was asked why he was locked inside, the guards slapped him and threatened to shoot him if he asked any more questions. One-by-one the young men were taken away for operations. *Id.*

⁴⁵ DENVER BRUNSMAN, *THE EVIL NECESSITY: BRITISH NAVAL IMPRESSMENT IN THE EIGHTEENTH-CENTURY ATLANTIC WORLD* 6 (2013).

⁴⁶ *Id.* at 30.

⁴⁷ *Id.* at 57.

⁴⁸ *Id.* at 26.

⁴⁹ *Id.* at 160. Although the British government forced large numbers of its subjects, most notably prisoners and vagrants, to serve as settlers, no group paid a higher cost for maintaining the empire than sailors, who “were not targeted...for their [race or class], but for their talents”. *Id.* at 35. Naval impressment was yet another example of violent coercion to meet specific labor needs.

it became necessary to devise a means of enticing or forcing individuals out of their homes to join this emerging industrial proletariat. To operate the very first machines in Quarry Bank Mill in northern England in 1784, ninety children between the ages of ten and twelve were recruited from nearby poorhouses, a practice sanctioned by the state and community until 1841.⁵⁰ The children, attached for seven years to the factory as “parish apprentices,” worked twelve hours a day, six days a week.⁵¹ Apprentices reported being beaten and suffered other humiliating and painful punishments when they did not comply with factory rules.⁵² Up to half of all cotton workers were children, orphans, or those coerced by their parents.⁵³

Industry “recruit[ed] the weakest members of society first, those with the fewest resources to resist.”⁵⁴ Male heads of households were encouraged to coercively supply the labor of their wives and children, and prisoners were also used as labor.⁵⁵ Oppressive conditions and physical violence prevailed in the cotton mills, with state and community turning a blind eye.⁵⁶

Eventually laws setting labor standards and prohibiting child labor, as well as the rise of labor unions, ameliorated some of these conditions in the United States. Today the work, however, has migrated to countries that have large quantities of poor persons who can be exploited in what are now called sweatshops.⁵⁷ The long history of cotton manufacturing illustrates that forced and coerced labor was not an aberration in the development of capitalism, but has always been at its core.⁵⁸

Nor were these likely the only severe work conditions. In his 1844 report on working class conditions in England, Frederick Engels reported sexual aggression by

50 BECKERT, *supra* note 20, at 62.

51 *Id.* at 178.

52 *Id.*

53 *Id.* at 188. Beckert describes the experiences of eight-year-old Ellen Hootton, brought by her mother to the factory to supplement the family’s meager income. Hootton worked for five months without pay from 5:30 a.m. until 8 p.m. She reported being beaten twice a week. One day when she arrived late to work, her overseer hung an iron weight around her neck of twenty pounds and made her walk up and down the factory floor. *See Id.* at 176–77.

54 *Id.*

55 *Id.* at 188.

56 *Id.* at 192.

57 BECKERT, *supra* note 20, at 441.

58 *Id.* at 441. Violence and coercion continue to play an important role in the empire of cotton to this day as workers are still held as virtual prisoners in factories. *Id.* at 441 (“The violence of market making—forcing people to labor in certain locations and in certain ways—has been a constant throughout the history of the empire of cotton.”).

mill owners among their female operatives, stating that factories were “the gates of hell” for young girls.⁵⁹

Another common Victorian practice was parents selling their children of four, five, or six years to climb up chimneys to clean them, the custom flouting existing law.⁶⁰ The breaking in of the children for this task was violent, as their flesh had to be hardened beforehand by having it rubbed with painful chemicals.⁶¹ One master sweeper is quoted as saying, “In learning a child you must use violence. I shudder now when I think of it. I have gone to bed with my knees and elbows scraped and raw, and the insides of my thighs are scarified.”⁶²

G. *Fukushima City*

The recent clean up of Japan’s damaged Fukushima nuclear plant provides another instance of poor persons as targets of labor procurers looking for workers when volunteers are in short supply. In 2013, Reuters followed a recruiter who prowled the train station in a northern Japanese city before dawn to find homeless men to assist in cleaning radioactive soil and debris in Fukushima City for less than the minimum wage.⁶³ An investigation found that only a third of the money allocated for wages by the top contractor made it to the workers; the rest was skimmed by middlemen, and some of the homeless men ended up in debt after fees for food and housing were deducted from their wages.⁶⁴ A follow-up story documented the dangerous conditions in which the men worked, some involving large leaks of contaminated water that both damaged the environment and put workers in jeopardy.⁶⁵ According to the investigation, workers were given inadequate information and training, and no review of safety procedures.⁶⁶

⁵⁹ Engels wrote that “the threat of discharge suffices to overcome all resistance in nine cases out of ten, if not in ninety-nine out of a hundred.” SIMON HEFFER, *HIGH MINDS: THE VICTORIANS AND THE BIRTH OF MODERN BRITAIN* 86 (2013)

⁶⁰ *Id.* at 789.

⁶¹ The elbows and knees were rubbed with brine, and the small children had to be beaten, kicked, and stamped upon by nailed boots until they would do exactly what they were told. *Id.* at 782.

⁶² *Id.*

⁶³ See Mari Saito & Antoni Slodkowski, *Special Report: Japan’s Homeless Recruited for Murky Fukushima Clean-Up*, REUTERS, (Dec. 30, 2013, 4:22 AM), <http://www.reuters.com/article/2013/12/30/us-fukushima-workers-idUSBRE9BT00520131230>.

⁶⁴ *Id.*

⁶⁵ Hiroko Tabuchi, *Unskilled and Destitute Are Hiring Targets for Fukushima Cleanup*, N.Y. TIMES, (Mar. 16, 2014), <http://nyti.ms/1gDKpLL>.

⁶⁶ See *id.*

II. HISTORY OF SEX TRAFFICKING IN ENGLAND AND THE UNITED STATES

Although trafficking for sexual exploitation is often seen as part and parcel of globalization,⁶⁷ its exploitation clearly has more ancient origins. Understanding the history of trafficking can assist in putting competing allegations of prevalence in their proper context.

Trafficking for sexual exploitation involves recruiting, harboring, transporting, providing, obtaining, patronizing, or soliciting individuals in the commercialization of sex acts.⁶⁸ The word “pimp” appeared in English around 1600 and meant “a person who arranges opportunities for sexual intercourse with a prostitute.”⁶⁹ One historian of medieval England has found numerous documented instances of deceptive recruitment of poor women into prostitution, as well as outright kidnapping.⁷⁰ Young poor women looking for positions as servants in London were targeted by “bawds,” or pimps, go-betweens, or madams, who promised jobs in service but took them instead to stews, or brothels, often disguised as bathhouses, from which it was often difficult for the women to extricate themselves.⁷¹ In eighteenth century London, widespread publicity was given to the common practice of brothel-keepers, mostly women, of enticing or kidnapping young girls into prostitution, and the practice continued; one contemporary in the

⁶⁷ RAYMOND, *supra* note 3, at 121–22 (arguing that the sex trade industry has been a key economic development strategy for emerging economies); *see also* JACQUI TRUE, *THE POLITICAL ECONOMY OF VIOLENCE AGAINST WOMEN* 59 (2012) (stating that the flourishing of trafficking is linked with women’s low socioeconomic status and their lack of economic rights in the context of neoliberal globalization).

⁶⁸ 22 U.S.C. § 7102(9) (2000). The Trafficking Victims Protection Act criminalizes human trafficking and defines “severe forms of trafficking in persons” as “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained eighteen years of age.” Passed by the U.S. Congress in 2000, the federal law does not require transportation between state lines or U.S. borders for the trafficking definition to be met. 22 U.S.C. § 7102(8) (2000).

⁶⁹ Holly Davis, *Defining ‘Pimp’: Working Towards a Definition in Social Research*, 18 SOC. RES. ONLINE 3 (2013). Davis claims that the Oxford Dictionary (2001) suggests that the word traces back to the 16th century and is of unknown origins, which is also supported by the Merriam-Webster Dictionary (2011). *Id.*

⁷⁰ RUTH MAZO KARRAS, *COMMON WOMEN: PROSTITUTION AND SEXUALITY IN MEDIEVAL ENGLAND* 4, 58, 61 (1996).

⁷¹ *See id.* at 11–12, 35–36, 39, 54, 57 (1996). Karras describes the experiences of Ellen Butler, who had been looking for a position as a servant in London when she met a man named Thomas Bowde, who asked if she wanted a good job. He took her to his house on the Stews side of the river and “would have compelled her to do such service as his other servants do there.” *Id.* at 57. When she refused, he brought an action against her in the court of the bishop of Winchester in Southwark for a sum she would never be able to pay, so that she would have to remain in prison unless she agreed to work for him in prostitution. *Id.* at 57–58. Records also indicate that mothers sold their daughters “divers times and hath taken money for the same.” *Id.* at 63.

1830s estimated that approximately 400 persons in London alone profited from such kidnappings on a regular basis.⁷² A detailed study of news reports from the western United States in the mid-to-late nineteenth century has found numerous mentions of mothers who are active in prostitution, putting their children into prostitution as well.⁷³

In Victorian London, contemporary journalists documented how poor young girls, who either had no parents or were away from home looking for work, were coerced or tricked into prostitution; others were sold into prostitution by their parents, some of whom were already in the sex trade.⁷⁴

Activist Emma Goldman registered the existence of pimps, called “cadets,” on the streets in 1911 in New York City, who were recruiting, protecting, and profiting

72 See Antony E. Simpson, ‘The Mouth of Strange Women is a Deep Pit’: Male Guilt and Legal Attitudes Toward Prostitution in Georgian London, 4(3) J. CRIM. JUST. & POPULAR CULTURE 50 (1996). “Women servants looking for employment were subject to organized exploitation of this kind” as employment agencies were fronts for the purpose of luring female domestics into enforced prostitution at home or in the colonies. These practices are described in Defoe’s novel *Moll Flanders*. *Id.* at 56. “Prices charged for [the widespread practice of] intercourse with children were higher than for [other] encounters.” *Id.* at 62.

73 See ANNE M. BUTLER, DAUGHTERS OF JOY, SISTERS OF MISERY: PROSTITUTES IN THE AMERICAN WEST, 1865-90 39-40 (1985). Court records show prostitution became a family affair, with mothers and children going to jail together. *Id.* at 39. A Denver newspaper reported on a case that brought a shocked community response: “A Mrs. Whatley, who keeps a cigar store . . . has a daughter only 15 years old, who has been a prostitute . . . for nearly 3 years, and the most shocking feature . . . is that her own mother deliberately led her into evil courses[.]” *Id.* at 41. Not content with employing her daughter, Mrs. Whatley solicited a twelve-year-old who told police she had often stayed with men at Mrs. Whatley’s. *Id.*

74 *The Maiden Tribute of Modern Babylon* was a series of newspaper articles on child prostitution appearing in the London *Pall Mall Gazette* in July 1885. Editor W. T. Stead posed as an individual seeking out a virgin girl. When he asked whether these girls come consensually, he was told they were rarely willing and did not know for what they were coming into. A small portion of girls were procured by gentlemen promising marriage. Others were pressured into the trade by their family. The journalist related another case he verified: “To oblige a wealthy customer an eminently respectable lady undertook that whenever the girl was fourteen or fifteen years of age she should be strapped down hand and foot so that all resistance save that of unavailing screaming would be impossible. Anything can be done for money, if you only know where to take it.” W. T. Stead, *The Maiden Tribute of Modern Babylon* 2, THE PALL MALL GAZETTE, July 6, 1865, at 5. Some historians find these accounts to be exaggerated, an example of yellow journalism. See, e.g., JUDITH R. WALKOWITZ, PROSTITUTION AND VICTORIAN SOCIETY: WOMEN, CLASS, AND THE STATE, 246-47 (1980). Stead’s journalist accounts, however, are confirmed by a book by a Victorian unknown author called *My Secret Life*, which documented over a thousand encounters the author had with women in prostitution. He too documents the fact that children from poor families were viewed as economic commodities. See STEVEN MARCUS, THE OTHER VICTORIANS: A STUDY OF SEXUALITY AND PORNOGRAPHY IN MID-NINETEENTH-CENTURY ENGLAND 159 (1974) (accepting the facts alleged in the book as true, viewing them as an example of men in Victorian England who pursued sexual freedom into “brutishness and ugliness and dead indifference[.]” a situation the author asserts could still be true today).

from poor immigrant women and girls.⁷⁵ Goldman believed that although prostitution has existed throughout the ages, it developed into “a gigantic social institution” in the nineteenth century in the United States, due to the growth and congestion of large cities, and lack of adequate wages; the larger the sex trade industry, the greater the demand for labor to meet its needs.⁷⁶ Because American conditions served to flood the market with thousands of girls needing money, Goldman averred there was no need to import them from abroad.⁷⁷ Given the current poverty and inequality in the United States, Goldman’s 1911 observations may well hold true today.

Allegations of large numbers of women and girls trafficked to the United States for prostitution in the nineteenth and early twentieth centuries have been found to be exaggerated, but instances of international sex trafficking in American history have been documented. With the opportunity to work on construction of the first transcontinental railroad, Chinese immigration to California from 1866-1871 increased. Chinese gangs exploited the situation by establishing brothels with Chinese women anywhere that the Chinese men were to be found.⁷⁸ Historians have found that thousands of women, usually from the southern coast of China, were kidnapped or tricked into leaving to serve the men in these brothels.⁷⁹

However, by focusing on the importation of girls and women into the United States for prostitution and not on the economic and social factors promoting prostitution and sex trafficking among local residents, as pointed out by Emma Goldman as early as 1911, less historical attention has been paid to local trafficking practices that continue under the radar.⁸⁰ In a study of child sexual abuse in twentieth-century England, for example, two researchers found that practices of coercing children into the sex trade continued into that century.⁸¹

75 EMMA GOLDMAN, *The Traffic in Women*, in ANARCHISM AND OTHER ESSAYS 183, 198 (1910).

76 *Id.* at 187.

77 *Id.* at 196. See also GAYLE RUBIN, *The Traffic in Women: Notes on the “Political Economy” of Sex*, in TOWARD AN ANTHROPOLOGY OF WOMEN 157, 175 (Rayna R. Reiter, ed., 1975) (arguing that far from being confined to the primitive world, trafficking in women becomes more pronounced and commercialized in more civilized societies).

78 LOUISE SHELLEY, HUMAN TRAFFICKING: A GLOBAL PERSPECTIVE 146 (2010).

79 *Id.*

80 *Id.*

81 See ALYSON BROWN & DAVID BARRETT, KNOWLEDGE OF EVIL: CHILD PROSTITUTION AND CHILD SEXUAL ABUSE IN TWENTIETH-CENTURY ENGLAND 3 (2002), (examining the archives of large children’s charities, finding prostitution in evidence, and in some cases practices from within the family; “[T]he evidence accumulated is sufficient to make a convincing case for the continued existence of child prostitution throughout the twentieth century While the evidence is sometimes indirect and tangential it is significant and builds to undermine the depiction of child prostitution as purely a phenomenon of late twentieth-century society.”).

Thus there is considerable evidence that pimping and trafficking have continued unabated for hundreds of years. Recent research on trafficking for sexual exploitation in the United States finds similar methods of recruitment and coercion used in earlier times; three major trafficking scenarios, described below, are currently employed by pimps or traffickers in the United States appear in research samples: recruitment through romantic blandishments, actual kidnapping, and parental coercion aimed at very young children.

Although research remains sparse, between twenty and thirty percent of women and girls in research samples report being introduced to prostitution by boyfriends, who provide food, gifts, and shelter to needy girls, such as runaways; later the boyfriends coerce the women to support them in return, by providing sex to others.⁸² Pimps use other recruitment strategies, pretending to be talent agents or owners of modeling agencies or recording companies.⁸³ Newspaper accounts of

82 In a study of 222 women in prostitution in Chicago, almost twenty percent of the women stated they had entered prostitution through the urgings of their boyfriends. Jody Raphael & Deborah L. Shapiro, *Violence in Indoor and Outdoor Prostitution Venues*, 10 VIOLENCE AGAINST WOMEN 126 (2002). In a later Chicago study of one hundred young girls, all under the control of a pimp at the time of interview, researchers found that 38% were recruited by boyfriends, who provided them with love and attention, food, clothing, and shelter. Jody Raphael, Jessica Ashley Reichert & Mark Powers, *Pimp Control and Violence: Domestic Sex Trafficking of Chicago Women and Girls*, 20 WOMEN & CRIM. JUST., At 89, 95 (2010). Researchers spent six months on the streets of Ohio interviewing six women in prostitution who were involved with pimps, documenting the methods used by the men to recruit the women, including providing them with attention, protection, and love. The women said their boyfriends told them repeatedly they were beautiful and this asset could transform their meager existence into an exciting life with a man who appreciated them. Later, all of the women experienced unpredictable violence from their pimps, along with the sense of love and admiration, which, like conditions suffered by battered women, served to hold them in the relationship. Celia Williamson & Terry Cluse-Tolar, *Pimp-Controlled Prostitution: Still an Integral Part of Street Life*, 8(9) VIOLENCE AGAINST WOMEN 1074, 1081, 1086-87 (2002). See also Alexis M. Kennedy, Carolin Klein, Jessica T.K. Bristowe, Barry S. Cooper & John C. Yuille, *Routes of Recruitment: Pimps' Techniques and Other Circumstances That Lead To Street Prostitution*, 15(2) J. AGGRESSION, MALTREATMENT & TRAUMA 1-19 (2007) (documenting how, in a sample of thirty-two women in prostitution, most of them currently involved, pimps inculcate love and sense of attachment combined with a sense of indebtedness for gifts, clothing, money, or drugs).

83 Twenty-five ex-pimps interviewed in Chicago revealed the different strategies they used: "I had many games to cop a girl. I would tell them I was an agent. I would say I designed clothes. I even told them I sang with certain bands and managed different people.' . . . Another explained that he recruited groupies or girls trying to be stars: 'I told them I was an agent. I got them back stage.' But after they ran away from home and then were dropped from show business, they came to the pimp[.]" One bragged, "It's impossible to protect all girls from guys like I was because that's what we do. We eat, drink and sleep thinking of ways to trick young girls into doing what we want them to do." Jody Raphael & Brenda Myers-Powell, *From Victims to Victimiziers: Interviews with 25 Ex-Pimps in Chicago* 5 (2010), http://newsroom.depaul.edu/pdf/family_law_center_report_final.pdf. See also Ian Urbina, *For Runaways, Sex Buys Survival*, N.Y. TIMES, Oct. 26, 2009, <http://nytimes.com/2009/10/27/us/27run>

actual kidnappings of girls on the streets in low-income neighborhoods are also frequent.⁸⁴

Another category of pimps or traffickers in the United States are family members, most often fathers or foster fathers, who view a female child as a money-making entity. Although it is nearly impossible to measure the extent of this occurrence, numerous newspaper articles and accounts from victims, now adults, testify to the fact that these men groom their daughters by means of continual sexual assault.⁸⁵ Later, they sell them for sex, often at ages as young as five years old and through early adolescence.⁸⁶ Violence and threats of violence are used to keep the

aways.html (describing interviews with twenty-four incarcerated pimps and documenting the many methods used to entice runaway girls into prostitution).

84 In a 2012 case in Chicago, federal authorities said a pimp approached a 13-year-old multiple times on the West Side after she had run away, asking her to work for him performing sex acts and telling her to lie about her age. "After the girl repeatedly turned him down, he allegedly 'grabbed' her, threw her into his car, and gave her pills before dropping her off . . . to start working for him[.]" Rosemary Regina Sobol, *Two West Siders Accused of Sex Trafficking Underage Girls*, CHICAGO TRIB. (Mar. 4, 2014), http://articles.chicagotribune.com/2014-03-04/news/chi-chicago-sex-trafficking-20140304_1_complaint-13-year-old-girl-17-year-old-girl. See also Nancy Krause, *Cops Make Sex Trafficking Arrest; Say Missing Girls Held Against Will*, WPRI.COM (Jan. 17, 2015), <http://wpri.com/2015/01/16/cops-make-sex-trafficking-arrest-say-missing-girls-held-against-will> (describing the kidnapping and custody of three Massachusetts girls who were then used in prostitution against their will); Stephanie Chuang, *Sex Trafficking, Abductions, Sad Reality in Bay Area*, NBC BAY AREA (Jan. 29, 2013), <http://www.nbcbayarea.com/news/local/Sex-Trafficking-a-Reality-in-Bay-Area-188846671.html> (describing the abduction of a seventeen-year-old developmentally disabled young woman outside a grocery store; after being advertised on the internet, the young woman was sold to two violent and aggressive pimps who drugged and starved her for days).

85 Ten percent of the sample of one hundred girls under the control of a pimp said they were coerced into the sex trade industry by a family member. Raphael et al., *supra* note 54, at 96. Twelve percent of the sample of fifty-four women in prostitution asserted that they were forced to work on the streets by relatives or family members. *Id.* at 92.

86 Fifty-one minors in Ohio have been identified as probable victims of trafficking by their parents in exchange for drugs, rent, and cash over a nine-month period ending in March 2014. Five of them were age six or younger. Alan Johnson, *Ohioans selling sex with their own kids*, THE COLUMBUS DISPATCH (July 11, 2014), <http://www.dispatch.com/content/stories/local/2014/07/10/child-trafficking-study.html>. See also *Woman, Boyfriend Suspected of Trafficking Her Daughters, Including 14-Year-Old: Deputies*, NBC SOUTHERN CALIFORNIA, <http://nbclosangeles.com/news/local/Woman-Suspected-Trafficking-Her-Daughters-Including-14-Year-Old-With-Her-Boyfriend--295491641.html> (Mar. 7, 2015) (alleging a mother and her boyfriend were advertising her children on the Internet for prostitution); Press Release, The Federal Bureau of Investigation, *Former Blue Springs Woman Sentenced to 15 Years for Sex Trafficking of Daughter* (May 5, 2010) (on file with the Federal Bureau of Investigation) (describing how the child's mother and her boyfriend groomed and trained the child to become a sexual dominatrix, advertised on the Internet. The child was forced to engage in these activities, which included bondage, beatings, burning, and genital mutilation). See *Carnation woman accused of trying to sell teen daughter's virginity*, <http://blogs.seattletimes.com/today/2015/02/carnat>

victims from telling anyone; the girls are taught to fear arrest if they reveal what is occurring.⁸⁷ The potent mixture of love, confusion, and self-blame keeps the girls imprisoned in the sex trade until they are old enough to understand what is happening.⁸⁸

These documented recruitment tactics are identical to strategies employed by labor procurers and traffickers for sexual exploitation throughout the centuries. Promises of fur coats and love resemble the lure of sweets and a better life promised to vagrant children by “spirits” in eighteenth- and nineteenth-century England.⁸⁹ False allurements of modeling or music jobs mimic the blandishments of domestic employment promised to young girls who were new to the city in earlier centuries.⁹⁰ Outright kidnapping of individuals into slavery or indentured servitude throughout history continues, as girls are now grabbed off the streets for the sex trade.⁹¹ Mothers and fathers continue exploiting their own children, similar to earlier parents who put their girls out into cotton mills and the sex trade. These early practices have been documented in Victorian England and on the U.S. western frontier.⁹²

Most strikingly, like today’s pimps, labor procurers, with one exception, made the most vulnerable in society—poor, youth, women, prisoners, and the unemployed—the focus of their efforts; these were least likely to be able to resist, most likely to establish inappropriate ties to their recruiter as a result of their neediness, and least likely to obtain support from the rest of society.⁹³

ion-woman-accused-of-trying-to-sell-teen-daughters-virginity/ (last visited Feb. 6, 2015) (A mother tried to sell her daughter’s virginity to an Oklahoma trucker in exchange for rent money but was arrested before the act could occur).

87 Beth Smith, *Human Trafficking Survivor Speaks Out*, EVANSVILLE COURIER & PRESS (Dec. 31, 2014), <http://www.courierpress.com/news/human-trafficking-survivor-speaks-out-ep-852629412-324822781.html>.

88 See *id.* (quoting a survivor of parental pimping, “I thought I loved him, and he told me he loved me as a caregiver. I was emotionally attached to him and afraid of him. There are so many tactics that traffickers use to keep their victims silent.”). See also Kathleen Price, *Collapsing This Hushed House: Constructing Images of Child Prostitution in the United States*, in *GLOBAL PERSPECTIVES ON PROSTITUTION AND SEX TRAFFICKING: EUROPE, LATIN AMERICA, NORTH AMERICA, AND GLOBAL* 219 (Rochelle L. Dalla, Lynda M. Baker, John DeFrain, & Celia Williamson eds., 2011) (in which a survivor of parental pimping describes the confused mixture of love and fear).

89 See JORDAN & WALSH, *supra* note 28, at 130-31.

90 See Simpson, *supra* note 48, at 56.

91 See *id.* at 55; PATTERSON, *supra* note 14, at 115.

92 See BECKERT, *supra* note 20; BUTLER, *supra* note 49, at 39.

93 In interviews between researchers and twenty-five ex-pimps, the subjects told the researchers how they searched out the poor and vulnerable: “Any player can tell when a girl has the look of desperation that you know she needs attention or love. It’s something you start to have a sixth sense about.” Said another, “I helped girls who no one else would. I picked up throwaways and runaways and dressed them up and taught them how to survive.” RAPHAEL & MYERS-POWELL, *supra* note 55, at 5. These findings were corroborated in interviews with two dozen incarcerated pimps or

Slaves were branded or tattooed from the earliest times for the purpose of identification and to prevent their escape (a custom taken up by concentration camps overseers in the twentieth century).⁹⁴ The practice remains in use today in the United States. Pimps forcibly tattoo their recruits, often with the pimps' likeness, on the neck, lower back, thigh, chest, or buttocks,⁹⁵ proving that analogies to sex trafficking and slavery are appropriate. Because of the powerlessness of the victims, the evil— as it has occurred throughout the centuries—consists of “the ability to dominate other persons without check, the ability to do with them what you will, armed with assurance of impunity.”⁹⁶

Should we then view prostitution as being about the free exercise of sex and use of one's body, or should it, given this violent history, be seen as being about a profitable industry resting on the backs of the exploited? If the latter, ending trafficking and exploitation will prove as difficult as abolishing economic exploitation of blacks in the South since the prohibition of slavery. Eliminating trafficking for sexual exploitation will require far more effort than merely passing laws against it, or arresting pimps/traffickers, which to date do not appear to have made a dent in the problem. Indeed, understanding that profitable trafficking for sexual exploitation based on the disposable bodies of the poor has been embedded

traffickers, who explained they went after girls with low self-esteem and lack of options. Although teenage runaways involved more legal risks, juveniles fetch higher prices from customers and are easier to manipulate: “With the young girls, you promise them heaven, they'll follow you to hell,” said Harvey Washington,” who is serving a four-year sentence for pimping a seventeen-year-old. See Urbina, *supra* note 55.

94 Masters have always marked their slaves with visible symbols of their lowly status. Branding or tattooing was common in Egypt, the neo-Babylonian Empire, Roman Sicily, and in China, where a mutilation and tattooing system was employed to mark off slaves as a base class, imposing such stigma on succeeding generations. DAVIS, *supra* note 12, at 48–49.

95 See, e.g., Claudia Rowe, *No Way Out: Teen Girls Sell Bodies in Seattle*, SEATTLE POST-INTELLIGENCER (June 26, 2008, 10:00 PM), <http://www.seattlepi.com/local/article/No-way-out-Teen-girls-sell-bodies-in-Seattle-1277746.php> (describing a sixteen-year-victim of sex trafficking, whose pimp tattooed his name on her neck). As described in the 2009 *New York Times* investigation of runaways and sex trafficking, a sixteen-year-old named Roxanne was interviewed by an FBI agent, trying to get the girl to identify her pimp. Although he noticed a tattoo with initials on her neck, she denied being controlled by any one. Seventeen days later she was found stabbed to death. See Urbina, *supra* note 55.

96 David Bromwich, *Working the Dark Side*, 37 LONDON REVIEW OF BOOKS 15, 16 (2015). Historian David Brion Davis describes slavery as the following: “Whatever privileges she or he may have gained could be taken away in a flash-leaving the slave as naked as an animal at an auction. This absence of a past and future, of a place in history and society from which to grow in small increments, made each slave totally vulnerable. This may be the very essence of dehumanization.” DAVIS, *supra* note 13, at 37.

in our culture for hundreds of years, provides an explanation for the difficulty recent efforts have encountered in eradicating it.⁹⁷

The hundreds of years of continuity in the control of others for economic gain demonstrates another important point: the practice of sex trafficking supplies an industry that was and is embedded in the economy and culture of the United States. Without the strength of demand, there would be little reason for the industry to need to augment the supply of available people with the generally unwilling, for whom the involvement seems to represent the best among poor choices. As Karen Bravo has written in a thoughtful comparison between earlier slavery and today's human trafficking: "An examination of various aspects of the economic underpinnings of the two forms of exploitation reveals, however, that modern trafficking in human beings is as interconnected with and central to contemporary domestic and global economies as was the trans-Atlantic trade and slavery to its contemporaneous economic systems."⁹⁸ To eliminate trafficking for sexual exploitation we must understand the extent to which the economic exploitation of human beings is either permitted or facilitated by contemporaneous legal, economic, and social systems, and it is these that must be dismantled.⁹⁹ All the social, political and economic forces that sustain trafficking must be confronted, including the sexual abuse and poverty that enable traffickers to coerce vulnerable individuals, and the interest of men in buying sex from minors.¹⁰⁰

Rarely do we undertake this necessary analysis when we minimize the abuse and violence experienced by victims of trafficking for the sex trade.¹⁰¹ Clearly, the

⁹⁷ In a trilogy of books, David Brion Davis explores the fact that after so many thousands of years slavery was made illegal in the nineteenth century, a not insignificant feat, given the many years of its history. He points out, however, that societies are still grappling with the racism that made slavery possible, and that other more subtle forms of contemporary exploitation need eradication because mere passage of laws does not eradicate cultural beliefs at one stroke of the pen. See Eric Foner, *Slavery in the Modern World: David Brion Davis's Pathbreaking Study of the Problem of Slavery*, THE NATION (Jan. 29, 2014), <https://www.thenation.com/article/slavery-modern-world/>.

⁹⁸ See Bravo, *supra* note 19, at 280.

⁹⁹ See *id.* at 293.

¹⁰⁰ Whether the very existence of a large number of vulnerable girls helps fuel the demand for paid sex needs to be considered; men's desires to buy sex may be encouraged by the large supply of vulnerable and powerless women available to them. See Lim, *supra* note 1.

¹⁰¹ See Penelope Saunders, *Traffic Violations: Determining the Meaning of Violence in Sexual Trafficking Versus Sex Work*, 20 J. OF INTERPERSONAL VIOLENCE 343, 354 (2005) (arguing that, as a way to end the current stalemate, advocates should engage more concertedly with the issue of violence as a human right and as an occupational health and safety concern). Cf. Ronald Weitzer, *The Movement to Criminalize Sex Work in the United States*, 37 J. L. SOC'Y 61 (2010), (arguing that attempts to end sex trafficking have developed into a moral crusade against all forms of commercialized sex). Weitzer's arguments consistently downplay the existence of violence and dehumanization in sex trafficking.

debate must squarely acknowledge the long and persistent history of labor exploitation within the sex trade industry, which forces a confrontation of the complexities of combating the abuse, and the need to dedicate a new commitment to eliminating the exploitation on which others' sexual freedom often rests.

III. HISTORY OF EXPLOITATION AND THE SEX TRAFFICKING PREVALENCE DEBATE

An inability to quote reputable data on the prevalence of trafficking for sexual exploitation has led some to question its very existence. However, it is likely that the lack of data about an illegal and hidden industry is just that—something that cannot be determined at this time with any accuracy.¹⁰² Considering the prevalence of labor procurers throughout history targeting the most marginal in society, and trafficking that can be traced as far back as medieval times, we have every reason to assume a continuation of the practice. Karen Bravo has reminded us that “[t]he world and human-to-human exploitation may not have changed as much as we would like to believe since the era of the trade in Africans...[L]ike the consumers of the past, we are dependent on the abhorrent exploitation of others.”¹⁰³

Although it is common for statements to be made that all forms of prostitution are growing on a yearly basis in the U.S.,¹⁰⁴ the leading authority on male customers has demonstrated that the actual percentages of men between eighteen and seventy-five years of age who have paid for sex has declined over time in the U.S.¹⁰⁵ He concludes, “There is no credible evidence to support the idea that hiring prostitutes is a common or conventional aspect of masculine sexual behavior among men in the United States.”¹⁰⁶ This finding supports the notion that

¹⁰² Preservationists continue to focus on trafficking from one country to another, when much of sex trafficking may be local—the recruitment of local individuals for the local industry, as Emma Goldman noted, as early as 1911 in the U.S. See GOLDMAN *supra* note 51.

¹⁰³ Bravo, *supra* note 19, at 295.

¹⁰⁴ See generally SIDDHARTH KARA, SEX TRAFFICKING: INSIDE THE BUSINESS OF MODERN SLAVERY (2009). See KATHRYN FARR, SEX TRAFFICKING: THE GLOBAL MARKET IN WOMEN AND CHILDREN 5 (2005).

¹⁰⁵ Martin A. Monto & Christine Milrod, *Ordinary or Peculiar Men? Comparing the Customers of Prostitutes with a Nationally Representative Sample of Men*, 58 INT’L J. OFFENDER THERAPY COMP. CRIMINOLOGY 802, 809 (2014) (comparing responses from men participating in the General Social Survey). Among men sampled between 2001 and 2010, approximately 13.9 percent reported having paid for sex during their lifetime, and 1 percent during the previous year; men sampled from 1991 to 2000 reported 16.1 percent during their lifetime but only 0.6 percent during the previous year. Older men were more likely than younger men to report having paid for sex during their lifetime, as they have had more years of adult sexual activity in which to have paid for sex, but they did not do so in the previous year. However, as Monto admits, 1 percent still is a large number—over a million men over eighteen.

¹⁰⁶ *Id.* at 815.

trafficking for sexual exploitation might also be decreasing because of reduced demand for paid sex over the years, but it does not mean that current activity is insignificant. Importantly, as paid sex is not an established sexual behavior for most men in the U.S., further decreasing its occurrence (and hence reducing the amount of trafficking) may not be as difficult as it might have been in earlier times. Further research with repeat or frequent customers could provide important information about their socioeconomic status, networks, and activities that would assist in our understanding more about these open enthusiasts of prostitution, as well as their knowledge of and attitudes about trafficking for sexual exploitation.¹⁰⁷

CONCLUSION

Historical considerations are important for how we frame and resolve the current debate about trafficking for sexual exploitation. Although it is tempting to discuss prostitution within today's values of sexual activity free from state interference, the existence of centuries-old sexual labor procurement practices should influence our approach in the current debate. As Steven Marcus, who wrote a noted book on sexuality in nineteenth century England, said, "[I]t may be useful to remind ourselves that the struggle for sexual freedom, at least in the lives of individual persons, requires considerable stepping over the bodies of others and that it is not only in political revolutions that crimes are committed in the name of liberty."¹⁰⁸

¹⁰⁷ *Id.* at 818. For example, The AIM Group, a media consultancy that tracks Internet escort advertising, has found yearly increases in the amount of advertising. Importantly, unique visits to sixteen sites that promote or advertise escorts have increased about 1 percent from year to year, with 5.7 million visits to the sites in February 2013, the last published report. Of course, visits to the sites do not prove purchase of sex. However, it seems important to better understand use of these sites within the context of new research on male use of paid sex. Mark Whittaker, *Backpage Raises Rates Again, Escort-Ad Revenue Jumps 55 Percent*, AIM GROUP (2012), <http://aimgroup.com/2013/04/01/backpage-raises-rates-again-escort-ad-revenue-jumps-55-percent>.

¹⁰⁸ MARCUS, *supra* note 50, at 159.