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Sex Trafficking or Secondary Exploitation: The Truth Behind America's Failing War Against Modern Slavery

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Abstract

In recent years there has been a substantial increase in public awareness of human trafficking in the United States. There are more anti-trafficking task forces, hotlines, and survivor services than ever before. However, a critical historical analysis on the origins and secondary exploitation of anti-trafficking efforts has been remarkably omitted from the present discourse. Historically, the concept of sex trafficking has been mired with sensationalized and fictionalized stories as well as secondarily exploitative policies that push ulterior motives and alternate agendas. This article presents a nuanced chronology of sex trafficking awareness, while exploring the efficacy of America's antitrafficking interventions, which support the need for more analytical and discerning advocacy.

Keywords: Human Trafficking, Sex Trafficking, Labor Trafficking, Trafficking, Prostitution, Secondary Exploitation, History, Forced Labor, Trafficking in Persons, Modern Slavery

Introduction

The term "human trafficking" generally refers to the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat, force, coercion, abduction, fraud, or deception, for the purpose of exploitation. Juveniles, unlike adults, cannot consent to exploitation and therefore *should* be considered victims of trafficking if they were exploited¹. This definition encompasses two general forms of human trafficking: labor trafficking and sex trafficking.

Labor trafficking is defined as the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (TVPA, 2000).

¹Although juveniles *should* be considered victims of trafficking if they were exploited, commercially sexually exploited minors continue to be criminalized in the United States. This is mostly likely due to the fact that some minors involved in commercial sex are not actively exploited, but instead are engaging in "survival sex."

Sex trafficking, on the other hand, is defined as when a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age (TVPA, 2000).

The modern concept of human trafficking did not start becoming internationally popularized until the year 2000.

On October 28, 2000, the U.S. Congress enacted the Trafficking Victims Protection Act (TVPA), which set up actions to combat trafficking in persons. Specifically:

1. Coordinate and monitor anti-trafficking activities through an interagency task force;
2. Prevent human trafficking through vocational training, education, and human trafficking public awareness campaigns;
3. Protect human trafficking survivors by not detaining them in correctional facilities, providing them with medical care and other assistance, and protecting them and their families from revictimization and/or deportation; and
4. Strengthening prosecution and punishment of human traffickers (TVPA, 2000).

Less than two months after the TVPA was adopted in the United States, the United Nations met in Palermo, Italy, and adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime—colloquially known as the Palermo Protocol. The purpose of the protocol was threefold:

1. To prevent and combat trafficking in persons, paying particular attention to women and children;
2. To protect and assist the victims of such trafficking, with full respect for their human rights; and
3. To promote cooperation among states' parties in order to meet those objectives (Protocol to Prevent, 2000).

In recent years, there has been a substantial increase in public awareness of human trafficking. There are more anti-trafficking task forces, hotlines, and survivor services than ever before; however, most are unaware of the sorted history behind sex trafficking efforts, which includes a litany of false allegations and secondarily exploitative agendas.

Secondary exploitation can take many forms. Generally, it can be defined as the act of making use of or benefiting from a human trafficking survivor's victimization or the human trafficking phenomenon (Mehlman-Orozco, 2017a). For example, a human trafficking survivor could be exploited by a third party who wants to tell the victim's story in order to draw attention to themselves or their organization (Cojocar, 2016). Politicians also use human trafficking and/or the stories of victimizations appeal to their constituency and garner accolade (Mehlman-Orozco, 2017b). However, anti-trafficking efforts have been historically secondarily exploited to push ulterior agendas such as:

1. To pass well-intentioned laws regarding age of consent;
2. To further discriminatory policies regarding anti-miscegenation and segregation; and
3. To legitimize evangelical efforts for instituting morality, such as prohibition.

Maiden Tribute of Modern Babylon

The concept of sex trafficking was first introduced to the world in July 1885². The Pall Mall Gazette published a four-part exposé written by W.T. Stead entitled “The Maiden Tribute of Modern Babylon,” which detailed the trafficking of children in the commercial sex industry in London (Stead, 1885).

The articles were translated into multiple languages and disseminated globally. Readers were appalled by the revelation that children were being bought and sold as sex slaves in puritanical England, but the reality was that significant portions of the exposé were fabricated and/or staged by the author.

Stead worked with two members of the Salvation Army—Josephine Butler and Bramwell Booth—to get in touch with a reformed sex worker and brothel-keeper named Rebecca Jarret (Josephine Butler, n.d.). Stead asked Jarret to help him uncover the realities of sex trafficking in London for a story, so she contacted an old associate, a procuress named Nancy Broughton. Broughton explained that she had a 13-year-old virgin named Eliza Armstrong, whose alcoholic mother Elizabeth was in need of money (Le Feuvre, 2015). Jarret lied and told Eliza’s mother that her daughter was to serve as a maid to an old gentleman, but later claimed she believed Mrs. Armstrong understood that she was selling her daughter into prostitution. Eliza’s mother agreed to sell her daughter for a total of £5 — equivalent to approximately £805 in 2024—and on June 3, 1885, the bargain was made.

That same day, Jarrett then took Eliza to a midwife and abortionist named Louise Mourez, who examined the 13-year-old girl and attested to her virginity and sold Jarrett a bottle of chloroform (Derry and Derry, 2020). Eliza was taken to a brothel and lightly drugged to await the arrival of her purchaser— Stead—for the purpose of his story. After he entered Eliza's room, she awoke and screamed, prompting Stead to leave. He later wrote about the staged abduction as if it were an actual incident of trafficking.

Stead’s story resulted in horrified panic on child prostitution, which drastically modified public opinion on the appropriate age of consent and the exploitive nature of the commercial sex industry in England and the Americas. For example, The Criminal Law Amendment Act 1885, later dubbed the “Stead Act,” raised the age of consent from 13 to 16. The story gained



Figure 1. Political Cartoon Suggesting W.T. Stead was Secondarily Exploiting and Sensationalizing Sex Trafficking for Fame, Money, and Popularity (Zimmerman, 1885).

² Note: Discussions of sex trafficking and “white slavery” predate this publication; however, the Maiden Tribute of Modern Babylon appears to be the first internationally disseminated exposé.

international attention because it was particularly shocking that members of puritanical England's elite ruling class were allegedly engaging in such perverse forms of sexual victimization against children.

While much of the world was in shock and awe, discussing ways to combat this newly discovered scourge, others thought the story was borne from less than altruistic reasons and accused Stead of secondarily exploiting the topic of child sex trafficking by sensationalizing the issue for fame, money, and popularity (see Figure 1). Moreover, although Stead's "investigative journalism" did successfully demonstrate the existence of the child sex trafficking trade, his investigative methods were questionable and later found to be illegal. The acts committed against Eliza Armstrong led to Stead's conviction for abduction and a three-month term of imprisonment at Coldbath-in-the-Fields and Holloway prisons (Brown, 2019). While Stead was perhaps well intentioned—using a fabricated story of sex trafficking to catalyze a legislative change to the age of consent, there is no empirical evidence to suggest that this did anything to prevent or reduce the incidence of sex trafficking. This was perhaps the first incident where a false allegation of sex trafficking was used as a means to an end for another cause.

White Slave Traffic

Following the international media attention about the Maiden Tribute of Modern Babylon, the United States, as well as many other countries, began legislating regarding age of consent and combating "sex trafficking". One of the most notable laws was the White-Slave Traffic Act of 1910, also known as the "Mann Act" (1910). However, instead of addressing sex trafficking or "modern slavery," the Mann Act was secondarily exploited to push alternate agendas; for example, to enforce anti-miscegenation during the Jim Crow era.

One of the most infamous prosecutions under the White-Slave Traffic Act of 1910 was against the beloved heavy weight boxing champion Jack Johnson.

At the height of the Jim Crow era, Jack Johnson became the first African American heavyweight boxing champion of the world. By 1903 he had won at least 50 fights against both black and white opponents. Prior to his first world heavyweight championship fight against white Canadian boxer Tommy Burns, The New York Times wrote, "If the black man wins, thousands and thousands of his ignorant brothers will misinterpret his victory as justifying claims to much more than mere physical equality with their white neighbors" (Buse, n.d). Johnson won and his win strengthened racial animosity among whites, who called for a "White Hope" to take his title away.

Boxing promoters fed into the racial tensions in the early 1900s, billing Tony Ross, Al Kaufman, Victor McLaglen, Jack O'Brien, Carl Morris, and Stanley Ketchel each as a "White Hope" or "Great White Hope" to defeat Johnson, but they each failed (The Buffalo Commercial, 1911 and The Winnipeg Tribune, 1914). Ketchel even lost two teeth, left in Johnson's right glove, in the process.

In 1910, former heavyweight champion of the world James J. Jeffries came out of retirement to challenge Johnson, saying, "I am going into this fight for the sole purpose of proving that a white man is better than a Negro" (Morse, 2020). Johnson won handedly; Jeffries team threw in the towel in round 15 and the bout was later described as "one of the most farcical heavyweight championship fights on record" (The Winnipeg Tribune, 1914). The result

catalyzed race riots across the country (Roseberg review, 1910). Many whites were humiliated, while blacks were jubilant.

At the time, Johnson was covered in the press more than all other notable black men combined (Early, n.d.). In 1912, he opened a successful and luxurious desegregated restaurant and nightclub, which he ran with his white wife. That same year, he was arrested and charged with “white slavery” or “sex trafficking”.

In the early 1900s charges of “white slavery” or “sex trafficking” could be levied for miscegenation. Johnson’s arrest was catalyzed by his own mother-in-law, who was upset that her white daughter had married the black boxer, so she complained to authorities that he had kidnapped her, prompting his arrest for “white slavery.” When his wife refused to cooperate in the case, the charges were dropped, until a previous girlfriend named Belle Schreiber, agreed to testify, leading to his conviction in 1913. In the media coverage it was alleged that he gave “improper literature” to “white girls.” Specifically, government officials presented evidence that Johnson gave the girls love stories that “weave romances of improper relations of white women with negroes” (Oregon Daily Journal, 1912). One of the titles was “Love Knows No Race” and another was “My Affair with a Golden Brown Man.” According to prosecutors, Johnson would distribute the documents for the purpose of interesting “white girls in negroes” (see Figure 2).

The white girls, described as “victims,” were allegedly of foreign parentage, “who do not draw the color line as closely as Americans” (Oregon Daily Journal, 1912). Johnson was purported to have said “all white women seem to ‘fall’ for him, and that he could win any of them,” which “disgusted” white fight promoters to such a degree that they barred the heavyweight champion from appearing in fight centers around world.

In addition to being ousted from the fighting arena, which was regulated by white men, it was reported that resolutions “unanimously adopted at a mass meeting of negroes” repudiated him as a member of the “colored race” (The Missoulian, 1912). According to the media, the resolution denounced the “mating of whites and blacks as inharmonious with moral ethics” (The Byron Blade, 1912). The meeting concluded with urging “negro mothers” to “encourage their children to be satisfied with their own color and people” (The Byron Blade, 1912).

Jack Johnson remained a convict of “white slavery” sex trafficking until he was posthumously pardoned by President Donald Trump on May 24, 2018 (Eligon and Shear, 2018).

The White-Slave Traffic Act or “Mann Act”— named after Congressman James Robert Mann of Illinois—made it a felony to engage in interstate or foreign commerce transport for “any woman or girl for the purpose of prostitution.” (Mann Act, 1910) This was the first law used to address the issue of “sex trafficking” in the United States. However, the interpretation and application was heavily racialized and secondarily exploited for decades. Men of color, like Jack Johnson, were often erroneously criminalized for “white slavery” simply for being in an adult, consensual relationship with a white woman.



Figure 2. False Allegations of "White Slavery" or Sex Trafficking Against Champion Boxer Jack Johnson (Oregon Daily Journal, 1912)

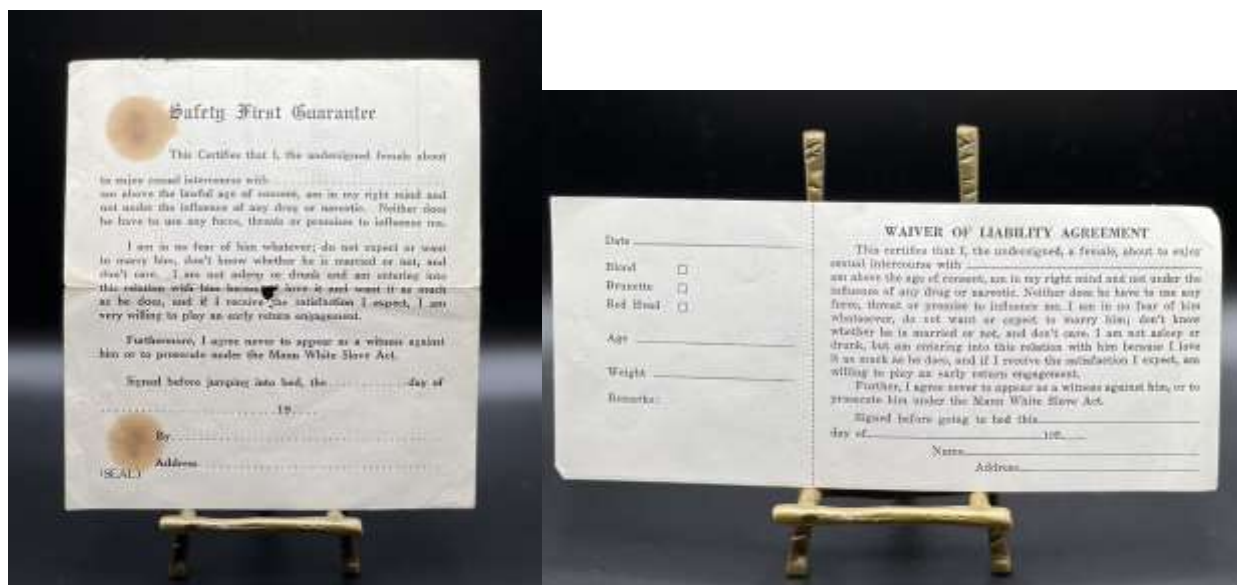


Figure 3. Sexual Consent Cards Referencing the Mann Act

False accusations of trafficking became a prominent topic of discussion in America when actor Charlie Chaplin (McCabe, 2010), and later musician Chuck Berry (Chuck Berry, 2009), were charged with “sex trafficking;” Charlie Chaplin (white) was acquitted and Chuck Berry (black) was found guilty by an all-white and all-male jury. In response to false allegations and the overly broad definition of “trafficking, some men began carrying “sexual consent cards” (see, for example, Figure 3).

In addition to secondary exploitation for the purpose of anti-miscegenation, fabricated and sensationalized stories about sex trafficking were also used to push Jim Crow laws for segregation, prohibition policies for the abstention of alcohol, and dance halls (St. Louis Star, 1913 and see Figure 4), as well as to justify Japanese internment camps during World War II (Mehlman-Orozco, 2023). These are a few of the many examples of secondary exploitation involving ulterior-motive agendas.

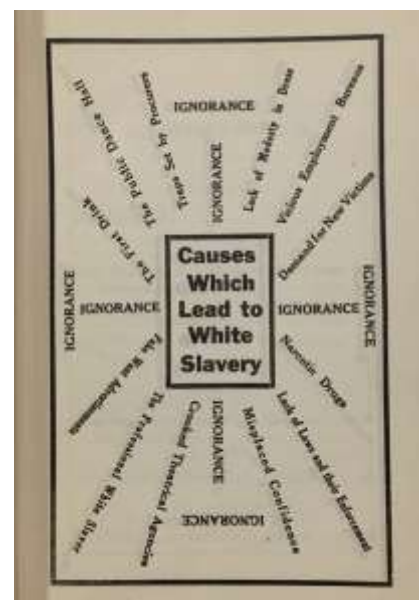


Figure 4. Excerpt from Dance Hall to White Slavery (Lytle and Dillon, 1912)

These forms of overt secondary exploitation began to wane during the civil rights movement, which lasted approximately from 1954 to 1968 and the topic of sex trafficking was not legislatively revisited until the 1990s, leading to the passage of the Trafficking Victims Protection Act in 2000.

Modern Slavery

The Trafficking Victims Protection Act (TVPA) was adopted in response to both international importation of commercial sexually exploited persons into the United States (The News Journal, 1999) and domestic cases of exploitation, such as *United States v. Kozminski*, 487 U.S. 931 (1988). In that case, a couple Ike and Margarethe Kozminski and their son John Kozminski were accused of recruiting two men with noticeable mental incapacities for the primary

purpose of living and working on their farm, where they each received \$15 per week for their labor, working seven days a week, for up to 17 hours a day. Eventually, the men received no pay at all for their work, sustained actual or threatened physical abuse, and threats of re-institutionalization if they did not comply with the Kozminskis. In addition, the Kozminskis made “efforts to isolate the men from contact with the outside world through a pattern of verbal and physical abuse.” The Kozminskis were convicted in District Court, but appealed the decision to the Sixth Circuit Court of Appeals, asserting that the District Court erred in broadly defining the term “involuntary servitude” to include psychological coercion.

The Sixth Circuit agreed with the Kozminskis, reversed the District Court, and remanded the case to be heard once again in Federal District Court with amended language to aid in determining the definition of involuntary servitude. Per the Sixth Circuit’s decision, in order to convict the Kozminskis on the basis of psychological coercion, the U.S. Government had to prove that the two men were members of a vulnerable class – a minor, an immigrant, or mentally incompetent. However, before the case could be heard, the U.S. Government appealed the Sixth Circuit’s decision to the U.S. Supreme Court, challenging the scope of the involuntary servitude’s application.

The Supreme Court doubled down on the decision of the Sixth Circuit, preventing the prosecutors from expanding the definition of involuntary servitude to require threat of or sustained physical coercion. In doing so, the United States Supreme Court reversed the decision of the District Court and reversed the convictions of the Kozminskis for involuntary servitude, requiring clarifications to the jury instructions.

This case set precedent that the type of involuntary servitude prohibited by the Thirteenth Amendment is limited to that “enforced by the use or threatened use of physical or legal coercion.” The legislative history of the TVPA reveals that, in enacting § 1589, Congress sought to expand *Kozminski’s* limited definition of coercion under § 1584, stating that “[s]ection 1589 will provide federal prosecutors with the tools to combat severe forms of worker exploitation that do not rise to the level of involuntary servitude as defined in *Kozminski*.” See H.R. Conf. Rep. No. 106-939, at 101, as reprinted in 2000 U.S.C.C.A.N. 1380, 1393.³

Unfortunately, the legal parameters of the TVPA were intentionally left vague in order to achieve consensus and has resulted in the indiscriminate conflation of legal concepts and misidentification of victims (Chuang, 2014). In fact, many experts agree that the anti-trafficking field is a strikingly ‘rigor-free zone’ when it comes to defining the concept’s legal parameters.

Even the International Labor Organization recognizes:

There are questions concerning what is meant by terms such as “coercion”, “deception”, “fraud”, “abuse of power or of a position of vulnerability”, “control over another person” and “exploitation”. Without further clarification there is a risk that interpretations of these terms may continue to diverge widely from one country to another or even within countries, from

³ Recognized by the Tenth Circuit in *United States v. Kaufman*, 546 F.3d 1242, 1263 (10th Cir. 2008).

one researcher or practitioner to another. Without clear operational indicators there is also a risk that researchers and practitioners may not recognize trafficking when they see it – **or see trafficking where it does not exist**” (ILO, 2009).

As a result, more covert forms of secondary exploitation have continued in the United States with ulterior motives and agendas masquerading as anti-trafficking allegations and interventions.

“Trafficking” to the Rescue

Most recently, an increasing number of tort attorneys are filing lawsuits against innocent businesses for “human trafficking” or “facilitating human trafficking” when the facts do not support these accusations. Some situations do not involve human trafficking and in cases where human trafficking is found to have occurred, the Defendants are typically unwitting third parties to the human trafficking situation and certainly did nothing to facilitate it, suggesting that the lawsuits may be motivated by money, as opposed to culpability.

Any modern-day abolitionist would agree that human traffickers should undoubtedly be held criminally and civilly accountable for their crimes and human trafficking survivors should be provided with services and protected from revictimization and erroneous criminalization. However, persons who are not survivors of human trafficking—a modern form of slavery—should not engage in secondary exploitation and falsely claim to be victims for the sole purpose of litigation strategy.

Unfortunately, certain Plaintiff attorneys are admittedly pleading non-trafficking cases as trafficking claims. For example, as explained in an article entitled *Trafficking to the Rescue?*, which was published November 2020 in the *UC Davis Law Review*, civil litigators are confronted with imperfect legal responses to gender-based harms. Essentially, the author argues, that in cases that don’t involve trafficking, such as domestic violence and sexual assault, civil litigators are circumventing judicial hurdles by reframing the crimes as acts of “human trafficking.”

The Author, Ms. Julie Dahlstrom, describes that civil litigators invoke the TVPRA because:

1. Statutes of limitations are short in domestic violence and sexual assault cases;
2. It allows for Plaintiffs to file claims against third parties who knowingly benefit from a “venture;” and
3. TVPRA provides an avenue for civil litigators to circumvent existing insurance exclusions that deny coverage for intentional torts, including many domestic violence and sexual assault cases.

Ms. Dahlstrom acknowledged that the proper avenue for addressing these judicial hurdles for gender-based harms is through legislative change. In fact, some legislators have already begun to make changes to address these issues for gender-based crimes like sexual assault. For example, in February 2019 New York Governor Andrew Cuomo signed into law the Child Victims Act, loosening the tight statute of limitations for state sexual assault cases, and providing victims with a one-year window in which to file previously time-barred civil claims.

Yet, Plaintiff attorneys are continuing to circumvent judicial hurdles in sexual assault cases by

pleading them as violations to the TVPRA instead. For example, in Ms. Dahlstrom's published article, she cited a Zoom interview with one Plaintiff attorney where he was quoted as stating, "I tell clients . . . get a copy of the (insurance) policy, look at it, and figure out how I am going to get coverage here. That's what it all boils down to" (Dahlstrom, 2020, p. 27). He went on to state that "blue states are good, red states aren't good" for victims of sexual abuse in state civil claims and for that reason, "We are always looking at federal law" (Dahlstrom, 2020, p. 28).

Another Plaintiff attorney was quoted as stating, "judges can perceive that plaintiffs' attorneys are filing TVPRA claims to get around the two year statute of limitations but using the TVPRA is not an "end run" or "trickery" because "we're using a law that's been made available to us" (Dahlstrom, 2020, p. 28). The same attorney was also directly quoted as saying, "[T]he benefit of the TVPA . . . [is] there are no artificial state tort reform caps. There's no caps at all" (Dahlstrom, 2020, p. 25). While these attorneys may perceive his "use" of the TVPRA as innovative, others may perceive this as secondarily exploitive, deceptive to judges, and in contrast with the congressional intent.

A third Plaintiff attorney was quoted as stating, finding a federal cause of action "just seems to open up a lot of doors..." and "I will say at least in the [TVPRA] cases we are pursuing, the perpetrators are judgment proof. Institutions, if you have the right institution, they have assets or they have significant insurance" (Dahlstrom, 2020, p. 26-27).

A fourth Plaintiff attorney was quoted as stating, "statutes of limitations are a major problem — in fact, the number one problem — for a plaintiff trying to proceed under state law claims" for sexual assault victims (Dahlstrom, 2020, p. 28). This same attorney also stated, "statutes of limitations are reasons one through thirty [why to invoke the TVPRA] because you lose any state law claim in any state that hasn't extended in" (Dahlstrom, 2020, p. 59). The attorney went on to claim, "(You have a floor of 150,000 dollars [in liquidated damages] per [TVPRA] violation. And attorney's fees under Section 1595. Those don't exist under state law claims, and they're powerful incentives to bring these claims, which is what Congress intended." (Dahlstrom, 2020, p. 25).

As mentioned previously, human traffickers should undoubtedly be held criminally and civilly accountable for their crimes and human trafficking survivors should be provided with services and protected from revictimization and erroneous criminalization. However, the topic of modern slavery and the protections afforded by the TVPRA, as well as other state-level trafficking statutes, should not be secondarily exploited by persons who are not victims of human trafficking. "Trafficking" claims are not intended to "rescue" non-trafficked persons, as certain Plaintiff attorneys suggest (Dahlstrom, 2020); making use of or benefiting from the human trafficking phenomenon is the very definition of secondary exploitation.

"Anti-Trafficking" Interventions

In addition to concerns regarding the pleading of non-trafficking claims as "trafficking" allegations, secondary exploitation concerns arise with regards to the mandating of ineffective anti-trafficking interventions that exhibit high rates of misidentification through low rates of sensitivity and specificity. Herein, the term sensitivity is defined as the ability of law enforcement, service providers, and other third parties to correctly identify true victims

of human trafficking (true positive). The term specificity refers to the ability of law enforcement, service providers, and other third parties to correctly identify persons who are not victims of human trafficking (true negative). In regard to sex trafficking victim identification, low sensitivity means that even if these protocols were implemented, victims of human trafficking would continue to be misidentified as non-victims, criminals, or co-conspirators. Low specificity means that even if these protocols were implemented, persons who are not victims of human trafficking would be misidentified as being possible victims.

For example, the FAA Extension, Safety, and Security Act of 2016, requires air carriers to provide initial and annual flight attendant training regarding recognizing and responding to potential human trafficking victims. The Blue Lightning Initiative (BLI), led by the Department of Transportation, the Department of Homeland Security, and U.S. Customs and Border Protection, is an element of the DHS Blue Campaign. The BLI trains aviation industry personnel to identify potential traffickers and human trafficking victims, and to report their suspicions to federal law enforcement.

The BLI training was developed based on feedback from aviation industry “experts” and human trafficking survivors. The training is 25 minutes in length, and is comprised of four lessons that include:

1. What is Human Trafficking?;
2. Indicators of Human Trafficking Activity;
3. Reporting Suspected Human Trafficking;
4. Indicator Challenge (U.S. Department of Transportation, n.d.)

One of the supposed “indicators” or “red flags” that airlines were trained on was “a non-genuine relationship; particularly parent/guardian-child” (see Figure 5) (Blue Lightning Initiative. N.d.). However, there was absolutely no empirical evidence to support this “indicator” or “red flag” as being a valid sign of trafficking and anecdotal evidence suggests that it may have remarkably low rates of specificity.

According to multiple airline patrons, employees began falsely accusing and/or initiating investigations for trafficking against predominately mixed-race passengers, even though they were law abiding (for examples, see Table 1).



Figure 3. Blue Lightning Initiative for Aviation Personnel "Indicators"

Table 1

Examples of Human Trafficking “Red Flag” Indicia Resulting in False Allegations and Claims of Racial Profiling

Case Name/Number	Year	Allegations
PETER DELVECCHIA, et al., Plaintiffs, v. FRONTIER AIRLINES, Inc., et al., Defendants. Case No. 2:19-cv-01322-KJD-NJK	2019	Plaintiff Peter DelVecchia (“Peter”) and his twelve-year old son, Plaintiff A.D., contracted with Defendant Frontier Airlines to fly from North Carolina to Las Vegas. Plaintiff Peter is Caucasian and his son, A.D. is African-American. Defendant Warren then falsely accused Peter of engaging in illegal human trafficking and sexual assault. Based upon the allegations of the complaint, the assault and the accusations were based on Warren's belief that an older white man should not be traveling with a younger black child. Warren had discussed these beliefs with the rest of the flight crew, the other defendants. They concurred in his belief that the situation was “improper” and that Peter showed inappropriate affection to A.D. Warren then forced A.D. to leave his seat and father. He was forced to sit in the rear of the plane where an adult male sat between A.D. and the aisle. The father and the son were not allowed to reunite for the duration of the flight (DelVecchia v. Frontier Airlines, 2020).
MacCarthy v. Southwest Airlines, Inc. 1:2023cv01975	2023	Mary MacCarthy of Los Angeles and her 10-year-old daughter, Moira, were flying to Denver. When they arrived in Denver, MacCarthy said, she and her daughter were met on the jetway by two Denver police officers. The mother and daughter were cleared, but police report noted that officers were responding to a “possible Human Trafficking reported by Southwest flight attendant,” which Ms. MacCarthy believed was racial profiling (MacCarthy v. Southwest Airlines, 2023 and Jenn and Lemos, 2021).
N/A	2021	Lakeyjanay Bailey, a 21-year-old Black woman, was traveling from Denver to Dallas with her 4-year-old adoptive sister, Olivia, who is white. When the pair landed at Dallas Fort Worth International Airport, authorities were waiting for them inside the gate. The incident report said that Frontier Airlines requested police to investigate the matter after a passenger on the plane was concerned about a possible human trafficking incident involving a female born in 2001 who was traveling with a female born in 2017 (Wang, 2021).
N/A	2015	Kathleen Chan and Jay Serrano, are residents of Astoria, Queens, who were returning from a holiday trip to the Dominican Republic. When their American Airlines flight landed at JFK Airport, the flight captain asked everyone to stay seated. After about 20 minutes, three-armed Port Authority police officers entered the plane and asked Chan

Case Name/Number	Year	Allegations
		to escort them outside. Chan, an Asian woman, and Serrano, a Puerto Rican man, were told that the flight crew had alerted the police that it was a possible case of sex trafficking (Nolan Brown, 2016), even though the couple were in a consenting adult relationship and actually lived together.
N/A	2017	Brian Smith, from Arizona, was travelling back from a trip to Florida with his wife Renee and their three children, including Georgianna, 16, who the couple adopted from China. Mr. Smith said as the family got off their Southwest Airlines flight in Phoenix, he was approached by police who said a flight attendant had “some concerns about the person you’re with.” Southwest Airlines later released a statement: “Our flight attendants do receive training in recognizing expert-identified, common behavioral indicators of human trafficking. Following conversations with authorities on the ground after the flight, we’re continuing our conversation with the family and with our employees whose valuable vigilance is aimed at aiding law enforcement in successfully stopping a growing number of trafficking situations.” (“Man wrongly,” 2017).
N/A	2017	Oswaldo Maciel had been flying back to New York from a trip to Cancun to visit family with his fairer skinned young daughter on March 1, when another passenger accused him of child trafficking. When the plane touched down at Newark Airport, Mr. Maciel and his daughter were allegedly approached by a number of officers from the Port Authority and Customs and Border Patrol, escorted off the plane and interrogated. Mr. Maciel’s wife stated the incident was based on nothing more than a racially charged observation (“Father interrogated,” 2017).

Additionally, persons erroneously accused of trafficking and/or reported to the police as victims have started to file lawsuits alleging defamation. For example, Marcia Festen and E.L. recently filed a lawsuit against Eastside Medical Center LLC, Robin Lowman White, Elizabeth Davlantes, and Jane Marilyn Pineda on July 3, 2022 (Case No. 1:22-cv-02646-MHC) in the United States District Court Northern District of Georgia Atlanta Division asserting claims of defamation, slander and libel because E.L. was erroneously reported to the police as a suspected victim of trafficking.

Ultimately, although anti-trafficking training and interventions may be well-intentioned, they are largely untested or unsupported by rigorous empirical research. Extant information suggests that many “indicia” have low rates of specificity and misidentification persists.

Conclusion

Given the long history of racialization, hysteria, and misguided interventions on human trafficking, it is imperative to evaluate the veracity of trafficking allegations and the efficacy of anti-trafficking interventions.

The congressional intent of the Trafficking Victims Protection Reauthorization Act (TVPRA) is unequivocally to combat modern slavery. This intent is echoed in legislation and judicial decisions, as well as by anti-trafficking experts and advocates across the United States. Judicial decisions on human trafficking cases provide ample precedent on the types of allegations that fall within the scope of the Trafficking Victims Protection Act. Specifically, trafficked persons are typically denied unfettered access to education, healthcare, transportation, communication, housing, finances, communication, etc. Allegations that do not fit squarely within the congressional intent of human trafficking should be assessed through a scrutinous lens.

Similarly, efforts to combat trafficking should not be treated as a mandate or industry standard until they have been evaluated for efficacy, as well as sensitivity and specificity. Although many of these efforts may be well-intentioned, it is important not to violate civil rights in the name of modern abolitionism and these limited and valuable resources may be more effectively allocated elsewhere. More research is needed to empirically evaluate anti-trafficking trainings and remove misinformation.

Finally, it is important to recognize and address the history of secondary exploitation in sex trafficking allegations and interventions in the United States so that this practice discontinues and appropriate focus is paid toward effectively reducing the incidence of true forms of modern slavery.

This article contributes significantly to the existing literature by underscoring the importance of clearly defining human trafficking as a form of modern slavery and analyzing the intent and efficacy of anti-trafficking interventions. While there are more anti-trafficking task forces, hotlines, and survivor services than ever before; there is little to no evidence to suggest that these efforts are being limited to modern slavery, much less effectively achieving the goals of preventing crimes, protecting victims, and facilitating the prosecution of offenders. By exposing the sorted history behind purported “sex trafficking” efforts, which includes a litany of false allegations and secondarily exploitative agendas, the present article illustrates the importance of clearly defining trafficking as a pernicious form of modern slavery and prioritizing evidence-based evaluation, which would include measures for sensitivity and specificity. Contextually, false allegations of trafficking appear to be becoming increasingly common and the “red flags” of trafficking tend to be based on unsupported speculation or subjective belief, as well as profiling, as opposed to science. If anti-trafficking efforts are meant to be combating modern forms of abolitionism, a reformation toward evidence-based approaches is imperative. The present article provides important historical context, which can be used as a foundation for catalyzing this needed shift in the anti-trafficking field.

References

- Blue Lightning Initiative. (N.d.) *A Guide for Aviation Personnel to Recognize and Report Suspected Human Trafficking*, available at: <http://hiddeninplanesight.org/wp-content/uploads/afa-cobranded-blue-lightning-pocket-guide-5.pdf>
- Brown, S. J. (2017). *W.T. Stead: Nonconformist and Newspaper Prophet*. Oxford University Press.
- Buse, T. L. (n.d). Jack Johnson: Boxer, The Galveston Giant. East Texas History. Retrieved from: <https://easttexashistory.org/items/show/333#:~:text=The%20New%20York%20Times%20ran,victory%20sparked%20waves%20of%20racial>
- Chuang, J. A. (2014). Exploitation Creep and the Unmaking of Human Trafficking Law. *The American Journal of International Law*. (108) 4: 609-649.
- Chuck Berry is arrested on Mann Act charges in St. Louis, Missouri | December 23, 1959. (2009). HISTORY. <https://www.history.com/this-day-in-history/chuck-berry-is-arrested-on-mann-act-charges-in-st-louis-missouri>
- Cojocar, C. (2016). My experience is mine to tell: Challenging the abolitionist victimhood framework. *Anti-Trafficking Review*, 7, 12–38.
- Dahlstrom, J. (2020). Trafficking to the Rescue? *UC Davis L. Rev.*, 54, 1.
- DelVecchia v. Frontier Airlines*, Case No. 2:19-cv-01322-KJD-NJK (D. Nev. Mar. 24, 2020)
- Derry, C., & Derry, C. (2020). Louise Mourey and the ‘Maiden Tribute of Modern Babylon’. *Lesbianism and the Criminal Law: Three Centuries of Legal Regulation in England and Wales*, 83-122.
- Early, G. (n.d.). *Rebel of the Progressive Era*. Unforgivable Blackness: The Rise and Fall of Jack Johnson | Ken Burns | PBS. Retrieved June 8, 2024, from <https://www.pbs.org/kenburns/unforgivable-blackness/rebel-of-the-progressive-era>
- Eligon, J., & Shear, M. D. (2018, May 24). Trump Pardons Jack Johnson, Heavyweight Boxing Champion. *The New York Times*. <https://www.nytimes.com/2018/05/24/sports/jack-johnson-pardon-trump.html>
- Father interrogated for child trafficking because his daughter did not look like him. (2017). *News.Com.Au*. <https://www.news.com.au/travel/travel-updates/incidents/father-interrogated-forchild-trafficking-because-his-daughter-did-not-look-like-him/newsstory/dad68db2c0d0a3425a80b04c545fa245>
- ILO. (2009). Operational indicators of trafficking in human beings: Results from a Delphi survey implemented by the ILO and the European Commission. Retrieved from: http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_105023.pdf
- Jenn, S. & Lemos, G., *Mom says Southwest Airlines thought she was trafficking her biracial daughter*, CNN (2021), available at: <https://www.cnn.com/2021/11/07/us/southwest-airlines-human-trafficking-accusation/index.html>.
- Josephine Butler, Florence Booth and “The Maiden Tribute of Modern Babylon” | The Salvation Army*. (n.d.). Retrieved November 13, 2023, from <https://www.salvationarmy.org.uk/about-us/international-heritage-centre/international-heritage-centre-blog/josephine-butler-florence>
- Le Feuvre, C. (2015). *The Armstrong Girl: A child for sale: the battle against the Victorial sex trade*. Lion Books.

- Lytle, H.W., & Dillon, J. (1912). *From Dance Hall to White Slavery: The World's Greatest Tragedy*. Investigators for the Metropolitan Press.
- MacCarthy v. Southwest Airlines, Case No. 1:2023cv01975 (D. Col. August 3, 2023)
- Man wrongly accused of human trafficking teenage daughter. (2017, December 22). New.Com.Au. <https://www.news.com.au/travel/travel-updates/incidents/man-wrongly-accused-of-human-trafficking-teenage-daughter/news-story/0b541932de32ad24c66894fd86bc7ce4>
- McCabe, S. (2012). *Crime History: Charlie Chaplin on trial for 'white slavery'—Washington Examiner*.
<https://www.washingtonexaminer.com/news/crime/626103/crime-history-charlie-chaplin-on-trial-for-white-slavery/>
- Mehlman-Orozco, K. (2017a). *Hidden in plain sight: America's slaves of the new millennium*. Bloomsbury Publishing USA.
- Mehlman-Orozco, K. (2017). In Virginia race, human trafficking must be more than a talking point. The Hill. <https://thehill.com/opinion/campaign/358814-in-virginia-race-human-trafficking-must-be-more-than-a-talking-point/>
- Mehlman-Orozco, K. (2023). "Sound of Freedom" is a box office hit. But does it profit off trafficking survivors? USA TODAY. Retrieved November 13, 2023, from <https://www.usatoday.com/story/opinion/2023/08/04/sound-freedom-trafficking-secondary-exploitation/70464194007/>
- Morse, B. (2020). *Jack Johnson: Black boxer who sparked race riots after world heavyweight win* | CNN. Retrieved June 8, 2024, from <https://www.cnn.com/2020/07/03/sport/jack-johnson-fight-of-the-century-110-anniversary-boxing-cmd-spt-intl/index.html>
- Brown, O. E. (2016). Another Asian Air Traveler Detained Over Suspicions She's Being Sex Trafficked, *Reason*. <https://reason.com/2016/01/14/another-asian-woman-detained-at-airport/>
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. (2000). Retrieved from: <https://www.unhcr.org/media/protocol-prevent-suppress-and-punish-trafficking-persons-especially-women-and-children-1>
- Roseberg Review. (July 5, 1910). Race Riots Throughout the Country Following Negro's Victory Over Jeffries. *Roseberg Review*.
- Stead, W. T. (1885). The Maiden Tribute of Modern Babylon. *Pall Mall Gazette*.
- St. Louis Star. (1913). Dance Hall Is Stepping-Stone to White Slavery, Judge Says Juvenile Court is Inadequate to Cope With This Growing Evil Officials Are Charged With Being Lax in Enforcing the Laws. *St. Louis Star*.
- The Buffalo Commercial (1911). From White Hope to White Elephant: Such was the Sad Fate of Carl Morris, the Young Western Giant. Hopes are Hopeless. *The Buffalo Commercial*.
- The Byron Blade. (1912). Jack Johnson Repudiated. *The Byron Blade*.
- The Missoulian. (1912). Negroes Repudiate Johnson. *The Missoulian*.
- The News Journal. (1999). Bill seeks to protect sex trafficking victims. *The News Journal*.
- U. S. Department of Transportation. (n.d.) *Blue Lightning Initiative*, available at: <https://www.transportation.gov/administrations/office-policy/blue-lightning-initiative>
- United States v. Kaufman*, 546 F.3d 1242, 1263 (10th Cir. 2008).
- Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. H.R. 3244 (2000). Available at: <http://www.state.gov/j/tip/laws/61124.htm>

Ang, B., *Black Aurora woman questioned for trafficking white sister at Dallas airport*, Denver7 (2021), available at: <https://www.thedenverchannel.com/news/local-news/black-aurora-woman-questioned-for-trafficking-white-sister-at-dallas-airport>

White-Slave Traffic Act (Mann Act). (1910). Codified as amended at 18 U.S.C. §§ 2421-2424 (1982))

The Oregon Daily Journal. (1912). White Slavery Charges Against Pugilist Johnson. *The Oregon Daily Journal*.

Tribune, W. (1914). Will This Black "Cloud" Pass Today? Sporting Section of *The Winnipeg Tribune*.

Zimmerman, E. (1885). The bursting of a sensationalized bubble. *Puck Magazine*.