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### **The Invisible Women: Have Conceptions About Femininity Led to the Global Dominance of the Female Human Trafficker?, 7 Alb. Gov't L. Rev. 143 (2014)**

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# THE INVISIBLE WOMEN: HAVE CONCEPTIONS ABOUT FEMININITY LED TO THE GLOBAL DOMINANCE OF THE FEMALE HUMAN TRAFFICKER?

*Samuel Vincent Jones\**

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\* Professor of Law, The John Marshall Law School. The author extends a special thanks to the *Albany Government Law Review* staff for inviting me to contribute to its symposium edition on human trafficking. The author greatly appreciates the research assistance of Sabrina Jadunandan, Chelsea Braden and Meredith Hough.

I left Baltimore, and went to live with Master Thomas Auld, at St. Michael's, in March, 1832 . . . . We of course were now almost entire strangers to each other. He was to me a new master, and I to him a new slave. I was ignorant of his temper and disposition; he was equally so of mine. A very short time, however, brought us into full acquaintance with each other. I was made acquainted with his wife not less than with himself. They were well matched, being equally mean and cruel.

—Frederick Douglass<sup>1</sup>

Virtually no academic or media attention has been dedicated to female traffickers, or female delinquency, in general.<sup>2</sup> Human trafficking, like other crimes, has been myopically constructed, marketed, and viewed through news reports, cinema, literature, and criminal statutes as a heinous male-perpetrated offense against women and girls, rendering the female trafficker practically invisible.<sup>3</sup> This essay questions the soundness and viability of continued reliance on the female victim-male culprit paradigm, used by many countries to prevent human trafficking. It confronts contemporary assumptions about femininity, violence, and aggression, calling particular attention to American cultural suppositions about femaleness that have detrimentally influenced our capacity to properly identify and quantify female human traffickers. In so doing, this essay attempts to take a first step in reducing the knowledge gap relative to female traffickers that remains so extant in human trafficking discourse.

## INTRODUCTION

Despite a vast number of initiatives and policy measures aimed at combating human trafficking,<sup>4</sup> observers note that there has

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<sup>1</sup> FREDERICK DOUGLASS, NARRATIVE OF THE LIFE OF FREDERICK DOUGLASS, AN AMERICAN SLAVE 45 (1845).

<sup>2</sup> Loraine Gelsthorpe, *Female Offending: A Theoretical Overview*, in RESEARCH HIGHLIGHTS IN SOCIAL WORK 44: WOMEN WHO OFFEND 13, 15 (Gill McIvor ed., 2004) (stating that “there has been relatively little theorizing about women and crime . . . .”); CORAMAE RICKEY MANN, FEMALE CRIME AND DELINQUENCY (1984) (recognizing that there is “a conspicuous lack of social scientific data on female miscreant[s.]”); BELINDA MORRISSEY, WHEN WOMEN KILL: QUESTIONS OF AGENCY AND SUBJECTIVITY 33 (2003) (stating that “traditional legal discourse has historically neglected the study of female criminality”).

<sup>3</sup> See MANN, *supra* note 2.

<sup>4</sup> E.g., U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 5, 15 (2010)

been a marked increase in the number of persons trafficked worldwide,<sup>5</sup> without any appreciable upsurge in the number of trafficker convictions since the passage of the Trafficking Victims Protection Act (TVPA).<sup>6</sup> Commentators note that recent assessments of current anti-human trafficking measures convey a humbling and pessimistic picture of their effectiveness.<sup>7</sup> Such facts raise serious questions as to whether legal academics, law enforcement professionals, and nongovernmental organizations (NGOs), both national and international, truly understand the complexities of the human trafficking phenomenon adequately enough to curtail the seemingly incessant and highly effective endeavors of today's human traffickers.

Indeed, several years ago, the United Nations identified a global deficiency in knowledge about human trafficking and a need for countries to engage in more extensive research, intelligence gathering, and information sharing, regarding profiles of today's human traffickers.<sup>8</sup> Many countries, including

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(noting that in the *2010 Trafficking in Persons Report* that marked the ten-year anniversary of the TVPA, the "3P" paradigm ("prevention, protection, prosecution") that has structured U.S. anti-trafficking policy was expanded to include a fourth "P," partnerships, which recognized that "[c]ombating human trafficking requires the expertise, resources and efforts of many individuals and entities. It is a complex, multi-faceted issue requiring a comprehensive response of government and nongovernment entities in such areas as human rights, labor and employment, health and services, and law enforcement. It requires partnerships among all these entities to have a positive impact.") ; Sindhu Kavinamannil & Kimberly Vinci, *Slave Labor to Support US Contracts*, 7 J. INT'L PEACE OPERATIONS 11 (2012) (noting that "On Monday, March 26, 2012, a bill was proposed in both the U.S. House and Senate entitled 'End Trafficking in Government Contract Act of 2012.' . . . The bill specifically targets U.S. contractors working in Iraq and Afghanistan, holding them accountable for committing or tolerating labor trafficking abuses.").

<sup>5</sup> Nilanjana Ray, *Looking at Trafficking Through a New Lens*, 12 CARDOZO J.L. & GENDER 909, 910 (2006).

<sup>6</sup> See Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000) (codified as amended in scattered sections of 8 U.S.C., 18 U.S.C., 20 U.S.C., 22 U.S.C., 28 U.S.C., 42 U.S.C.); PARDIS MAHDAVI, *GRIDLOCK: LABOR, MIGRATION, AND HUMAN TRAFFICKING IN DUBAI* 30 (2011) (noting that "convictions of traffickers have not noticeably increased since the passage of the TVPA").

<sup>7</sup> Ray, *supra* note 5.

<sup>8</sup> U.N. Global Initiative to Fight Human Trafficking, *The Vienna Forum Report: A Way Forward to Combat Human Trafficking* 15 (2008), <http://resourcecentre.savethechildren.se/sites/default/files/documents/1361.pdf> [hereinafter *Vienna Forum Report*] (for example, "[r]aising awareness . . . was crucial in order to identify and effectively punish human traffickers. This was especially the case concerning those who might not fit the common stereotype of a trafficker, such as women.").

the United States, attempt to curtail human trafficking from a female victim-male culprit perspective, relying on a construction of human trafficking and single framework for delinquency that ignores female autonomy and male vulnerability, virtually negating any potential for female perpetrators and male victims to be detected.<sup>9</sup> The United Nations warned that countries should resist the temptation to adopt anti-human trafficking measures that were grounded in gender-based generalizations or “stereotypes” rather than factual evidence—evidence which was beginning to indicate that an alarmingly high number of females were trafficking men, women, and children.<sup>10</sup>

Subsequent to its warning, in what observers recognized as the “first international report into the [full] scope of human

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<sup>9</sup> See generally U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 18 (2011) (criticizing countries that “ignore certain types of human trafficking, such as the forced labor of men and boys.”); Peter Dodenhoff, *John Jay Scholars on Human Trafficking*, JUSTICE MATTERS, 12 (2012) (“Within the realm of sex trafficking, an entire population is being lost in the shuffle . . . . ‘No one wants to hear about boys involved in this,’” pointing to a John Jay College of Criminal Justice study of sex trafficking victims under age eighteen years that indicated forty-four percent of the victims were boys); Rocio Garza, *Addressing Human Trafficking Along the United States-Mexico Border: the Need for a Bilateral Partnership*, 19 CARDOZO J. INT’L & COMP. L. 413, 428 (2011) (stating that “Internal human trafficking within Mexico is also an issue particularly with Mexican men and boys [who] are trafficked from southern to northern Mexico for forced labor.”); Anke Sembacher, *The Council of Europe Convention on Action Against Trafficking in Human Beings*, 14 TUL. J. INT’L & COMP. L. 435, 440 (2006) (“Men and boys are also affected by human trafficking, only these victims are often not included in statistics as a result of overnarrow definitions by some states.”); Letter from Ann Jordan, et al., to Ambassador John Miller (Apr. 21, 2005), available at <http://www.nswp.org/resource/letter-the-us-department-state> (stating that “. . . the U.S. government is well aware, in many countries, no data exist on the trafficking of men because many governments and researchers use a definition of ‘trafficking’ that is limited only to women, or only to women in prostitution. Data collected according to such limited definitions of trafficking cannot support the fact sheet’s assertions.”).

<sup>10</sup> See generally *Vienna Forum Report*, supra note 8, at 14–15; Samuel V. Jones, *The Invisible Man: The Conscious Neglect of Men and Boys in the War on Human Trafficking*, 2010 UTAH L. REV. 1143, 1178–79 (2010) [hereinafter *The Invisible Man*] (citing multiple sources indicating that women are increasingly engaging in human trafficking); Dianne Scullion, *Gender Perspectives on Child Trafficking: A Case Study of Child Domestic Workers*, in GENDER AND MIGRATION IN 21ST CENTURY EUROPE 45, 55–56 (Helen Stalford et al. eds., 2009) (discussing how an increasing number of women are playing an active role in child trafficking). See also Julie Bindel, *Women Sex Trafficking Other Women: The Problem Is Getting Worse*, THE GUARDIAN (Apr. 22, 2013), <http://www.guardian.co.uk/lifeandstyle/2013/apr/22/women-sex-trafficking-women-problem> (emerging evidence indicates that increasing numbers of female traffickers are involved in the trafficking of minors).

trafficking,”<sup>11</sup> the United Nations found that an overwhelmingly disproportionate number of human traffickers were in fact not males, but females, and that female traffickers may outnumber male traffickers worldwide.<sup>12</sup> Since then, legal scholars have attempted to comprehend and to resolve complexities unique to the human trafficking phenomenon from distinct vantage points with meticulous insight and creative thought.<sup>13</sup> Although there is

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<sup>11</sup> Yuko Narushima, *Women the New Pimps in Human Trafficking*, THE SYDNEY MORNING HERALD, Feb. 13, 2009, at 7, <http://www.smh.com.au/world/women-the-new-pimps-in-human-trafficking-trade-20090212-85zr.html>.

<sup>12</sup> U.N. Office on Drugs & Crime, *Global Report on Trafficking in Persons* 6 (Feb. 2009), [http://www.unodc.org/documents/Global\\_Report\\_on\\_TIP.pdf](http://www.unodc.org/documents/Global_Report_on_TIP.pdf); U.S. DEP'T OF STATE, *TRAFFICKING IN PERSONS REPORT 11* (2008) (“Female trafficking victims in Europe and Central and South Asia are frequently recruited and trafficked into prostitution by other women . . . .”); U.N. Gift, *The Vienna Forum to Fight Human Trafficking, Profiling the Traffickers* 8, 12, U.N. GIFT B.P.: 016 (Feb. 13–15, 2008), <http://www.unodc.org/documents/human-trafficking/2008/BP016ProfilingtheTraffickers.pdf> [hereinafter *Profiling the Traffickers*] (describing situations of families being collaboratively engaged in trafficking operations and detailing, and stating that the recruitment of victims involves significantly more females); Narushima, *supra* note 11 (“The first international report into the scope of human trafficking, published yesterday, found a disproportionate number of female perpetrators, more than in any other crime, selling other women into slavery in countries including Australia.”); Janet Shaw Crouse, *Do Female Pimps Do it Better?*, TOWNHALL.COM (Sept. 17, 2009), [http://townhall.com/columnists/janiceshawcrouse/2009/09/17/do\\_female\\_pimps\\_do\\_it\\_better/page/full](http://townhall.com/columnists/janiceshawcrouse/2009/09/17/do_female_pimps_do_it_better/page/full) (last visited Sept. 16, 2013) (acknowledging that, “[a]ccording to the United Nations, there are now more female traffickers than male. The number of women involved as pimps in sex trafficking is disproportionate to the number of female perpetrators in other criminal activity.”); Associated Press, *United Nations Discovers Most Human Traffic Perpetrators are Women*, FOXNEWS.COM (Feb. 12, 2009), <http://www.foxnews.com/story/0,2933,491904,00.html> (last visited Sept. 16, 2013) (“Women commit crimes against women, and in many cases the victims become the perpetrators . . . . They become the matrons of the business and they make money. It’s like a drug addiction.”).

<sup>13</sup> E.g., Cheryl Nelson Butler, *Sex Slavery in the Lone Star State: Does the Texas Human Trafficking Legislation of 2011 Protect Minors?*, 45 AKRON L. REV. 843, 846 (2012) (explaining how state legislation can be employed to effectively combat human trafficking); Ryan Dalton, *Abolishing Child Sex Trafficking on the Internet: Imposing Criminal Culpability on Digital Facilitators*, 43 U. MEM. L. REV. 1097, 1144 (2013); Diane L. Fahey, *Can Tax Policy Stop Human Trafficking?*, 40 GEO. J. INT’L L. 345, 398–99 (2009) (explaining how provisions in the tax code might be employed as an effective anti-trafficking measure); Kathleen Kim, *The Coercion of Trafficked Workers*, 96 IOWA L. REV. 409, 416 (2011) (asserting that anti-trafficking efforts can become more efficient through expanding our understanding of “situational coercion” within the human-trafficking framework); Britta S. Loftus, *Coordinating U.S. Law on Immigration and Human Trafficking: Lifting the Lamp to Victims*, 43 COLUM. HUMAN RIGHTS L. REV. 143, 144–45 (2011) (asserting that trafficking laws and immigration laws have developed in isolation, resulting in inconsistencies within both bodies

no shortage of well-conceived and thorough research, there has been scant consideration of the manner in which conceptions about femininity and masculinity have erroneously influenced our comprehension of the human trafficking conundrum, and stymied our potential to properly identify and quantify perpetrators of human trafficking.

### I. FEMALE VICTIM-MALE CULPRIT REASONING PRECLUDES PROPER DETECTION OF FEMALE TRAFFICKERS

The notion that primarily women and girls are victims of exploitation and violence has special resonance in human trafficking discourse. The great weight of media commentary and purported public awareness commentary has been centered on female victims.<sup>14</sup> There appears to be widespread consensus among legal observers that the overwhelmingly vast majority of accounts of the human trafficking experience are delivered through melodramatic, episodic depictions of women and girls, typically of Caucasian descent, being horrifically enslaved and trafficked for sex, with the victim's misery particularly highlighted for cinematic and emotional impact.<sup>15</sup> Stephanie

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of law, and advocating for a coordinated governmental approach to immigration enforcement and human trafficking laws); Johnny E. McGaha & Amanda Evans, *Where Are the Victims? The Credibility Gap in Human Trafficking Research*, 4 INTERCULTURAL HUM. RTS. L. REV. 239, 244 (2009) (arguing that anxiety over citizenship fosters a fear of authority in victims, which contributes to poor detection of human trafficking victims); Amanda Peters, *Disparate Protections for American Human Trafficking Victims*, 61 CLEV. ST. L. REV. 1, 16–20 (2013) (arguing that domestic human trafficking victims are a neglected category of human trafficking victims and increased federal initiatives are required to address their needs); Hila Shamir, *A Labor Paradigm for Human Trafficking*, 60 UCLA L. REV. 76, 98–99 (2012) (making the argument that structural labor market conditions and practices that shape workers' vulnerability and inferior bargaining power in the workplace warrant the adoption of a labor model to combat human trafficking).

<sup>14</sup> E.g., Lucas Kavner, *Ashton Kutcher and Demi Moore Launch 'Real Men Don't Buy Girls' Campaign* [video], HUFFINGTON POST (Apr. 11, 2011, 2:28 AM), [http://www.huffingtonpost.com/2011/04/11/ashton-kutcher-demi-moore-trafficking\\_n\\_847291.html](http://www.huffingtonpost.com/2011/04/11/ashton-kutcher-demi-moore-trafficking_n_847291.html) (last updated June 10, 2011, 6:12 AM) (noting that Demi Moore and Ashton Kutcher launched a media campaign, *Real Men Don't Buy Girls*, which featured cameos of other high-profile celebrities to bring awareness to child sex trafficking); Laura M. Holson, *Charity Fixer to the Stars*, N.Y. TIMES, Dec. 5, 2010, at ST1.

<sup>15</sup> See Cynthia L. Wolken, *Feminist Legal Theory and Human Trafficking in the United States: Towards a New Framework*, 6 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 407, 414–16 (2006) (claiming that media portrayals of human trafficking have harmed victims that do not conform to the "Hollywood-created"

Limoncelli notes that journalists routinely play on the anxiety and imagination of those concerned about “white slave traffic” with sensationalized accounts of “young women and girls being drugged, kidnapped, and sold” for sex.<sup>16</sup> She asserts that such portrayals have thoroughly manipulated conceptions about human trafficking and inspired belief that virtually all victims of human trafficking are female victims of sex trafficking.<sup>17</sup> Inherent in this deeply entrenched viewpoint that women and girls are constant victims of horrific sexual exploitation and unspeakable violence is the idea that that men are the culprits and perpetrators of these crimes.<sup>18</sup>

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description of the typical human trafficking victim and that legal academics have failed to address the full spectrum of human trafficking and typically call for a “victim-centered “ approach to human trafficking). See also Robert Uy, *Blinded by Red Lights: Why Trafficking Discourse Should Shift Away from Sex and the “Perfect Victim” Paradigm*, 26 BERKELEY J. GENDER L. & JUST. 204, 209–11 (2011); Kay B. Warren, *Borders, Diaspora, and Trafficking: Troubling the Victim/Trafficker Dichotomy in Efforts to Combat Human Trafficking: The Unintended Consequences of Moralizing Labor Migration*, 19 IND. J. GLOBAL LEG. STUD. 105, 106 (2012).

<sup>16</sup> STEPHANIE A. LIMONCELLI, *THE POLITICS OF TRAFFICKING: THE FIRST INTERNATIONAL MOVEMENT TO COMBAT THE SEXUAL EXPLOITATION OF WOMEN* 29 (2010).

<sup>17</sup> See *id.*

<sup>18</sup> See, e.g., Jennifer M. Chacón, *Misery and Myopia: Understanding the Failures of U.S. Efforts to Stop Human Trafficking*, 74 FORDHAM L. REV. 2977, 3021 (2006) (noting that in the Victims of Trafficking and Violence Protection Act of 2006, “sex traffickers” were depicted as “foreign” men or men of color who seek to exploit innocent victims); Jo Phoenix, *Governing Prostitution: New Formations, Old Agendas*, 22 CAN. J.L. & SOC’Y 73, 90 (2007) (recognizing that in many anti-trafficking strategic documents, there are numerous “references to ‘pimps,’ ‘traffickers,’ ‘dealers,’ ‘sexual abusers,’ ‘coercers,’ and a host of other criminal men”); Ana Isabel Vallejo et al., *Back to Freedom: From Surviving to Thriving*, Panel Discussion at the Intercultural Human Rights Law Review Annual Symposium, 7 INTERCULTURAL HUM. RTS. L. REV. 35, 40 (2012) (including a question asked of a sex trafficking survivor that begins, “I know the media depicts traffickers as being a part of organized crime rings or being typically men and so forth . . .”). But see Jennifer M. Chacón, *Tensions and Trade-offs: Protecting Trafficking Victims in the Era of Immigration Enforcement*, 158 U. PA. L. REV. 1609, 1616 (2010) (“[T]raffickers—[are] almost always identified as noncitizen men or men of color, but occasionally includ[e] noncitizen women . . .”); Meredith Flowe, *The International Market for Trafficking in Persons for the Purpose of Sexual Exploitation: Analyzing Current Treatment of Supply and Demand*, 35 N.C.J. INT’L L. & COM. REG. 669, 678 (2010) (recognizing that “[t]raffickers are often identified as men,” but noting the roles women play in trafficking operations); Stephen C. Parker and Jonathan T. Skrmetti, *Pimps Down: A Prosecutorial Perspective on Domestic Sex Trafficking*, 43 U. MEM. L. REV. 1013, 1019, 1023, 1029 (2013) (generalizing domestic sex trafficking victims as female, though acknowledging certain studies that show a substantial percentage of traffickers and pimps being female); Kendall Vitale, *Barricading*

The idea is driven by a semi-conscious, nearly instinctive broader presumption in American culture that females are, almost invariably, victims of violent crime rather than perpetrators, and that males are habitual perpetrators of violent crimes rather than victims. This popular type of social interpretation, which I have coined, *female victim-male culprit reasoning*, has become so prevalent in American culture that it is rarely challenged, and remains widely publicized despite vast evidence to the contrary relative to many aspects of criminal jurisprudence.<sup>19</sup>

### A. Conceptions About Female Autonomy, Violence, and Aggression

In many cultures, it is a widely accepted belief that women are quite capable of violence and aggression.<sup>20</sup> A woman's physical aggression is often seen as natural and a non-deviant result of female gender.<sup>21</sup> Anthropologists have found that females in more than eighty contemporary societies engage in physical violence in public.<sup>22</sup> For instance, Venezuelan women have a reputation for exerting physical aggression on their husbands.<sup>23</sup> Rwandan women are remembered for assisting in the massacre of the Tutsis by machetes and grenades.<sup>24</sup> Aboriginal women of Australia are notorious for physically fighting in public.<sup>25</sup> Dahomean women of Benin, West Africa, were full-time, elite professional soldiers known for their ferocity and success during battle, and, according to the French Foreign Legionnaires and Marines, superior to Dahomey's excellent male soldiers.<sup>26</sup> Celtic

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*the Information Superhighway to Stop the Flow of Traffic: Why International Regulation of the Internet is Necessary to Prevent Sex Trafficking*, 27 AM. U. INT'L L. REV. 91, 101 (2011) (describing the typical trafficker as a man, but noting roles that women often play in trafficking operations).

<sup>19</sup> See MANN, *supra* note 2, at xi ("Members of both sexes are certainly capable of and involved in criminal behavior" and that "[c]rime is not the exclusive domain of males").

<sup>20</sup> See PATRICIA PEARSON, WHEN SHE WAS BAD: HOW AND WHY WOMEN GET AWAY WITH MURDER 13–16 (1998) (providing several examples of women participating in violent campaigns).

<sup>21</sup> *Id.* at 14.

<sup>22</sup> *Id.* at 13.

<sup>23</sup> *Id.* at 13–14.

<sup>24</sup> *Id.* at 16.

<sup>25</sup> *Id.* at 14.

<sup>26</sup> ROBERT B. EDGERTON, WARRIOR WOMEN: THE AMAZONS OF DAHOMEY AND THE NATURE OF WAR 2 (2000).

women are known to have fought gallantly and ferociously against the legendary powerful Roman legions.<sup>27</sup> Approximately forty percent of the notoriously tough Viet Cong regimental commanders were women.<sup>28</sup> Israeli women have served on the front line in Israel's armed conflicts and have commanded combat units in the Israeli Defense Force.<sup>29</sup>

In contemporary Americanized western cultures, such as that in the United States, violence and aggression are habitually interpreted or characterized as masculine features.<sup>30</sup> Observers claim that when violence is perpetrated by a woman, her behavior is frequently not interpreted as the actions of an autonomous, psychologically sound adult, but rather as the product of mental or emotional illness, due to gender-based oppression or exploitation, attendant to a male culprit.<sup>31</sup> The culturally driven belief that women are intrinsically nonviolent and nearly incapable of aggressive behavior emanates from our relative expectations and interpretation of femininity.

Belinda Morrissey argues that our understanding of femininity is predominantly based on the idea that women are inherently "passive."<sup>32</sup> Morrissey points to a study of psychiatrists' and probation officers' court reports of women offenders, which reveals a societal obsession with recasting a "woman's role in the crime as non-agentic, depicting her as having had no idea of what she was doing, or else as forced into criminal behavior by a male accomplice."<sup>33</sup> Morrissey argues that female crimes are thus

<sup>27</sup> See *id.* at 8.

<sup>28</sup> MICHAEL S. NEIBERG, *WARFARE IN WORLD HISTORY* 89 (2001).

<sup>29</sup> *Id.* See also NANCY LEVIT, *THE GENDER LINE: MEN, WOMEN, AND THE LAW* 27 (recognizing that Israeli preschool-aged girls are much more likely than American girls to display physical aggression and "even more likely, in many instances, than American boys to participate in aggressive encounters.").

<sup>30</sup> See PEARSON, *supra* note 20, at 7 (suggesting that violence is an implicitly male construct illustrated by the image of the "chest-beating ape evolved into the soldier").

<sup>31</sup> See Cheryl Hanna, *Bad Girls and Good Sports: Some Reflections on Violent Female Juvenile Delinquents, Title IX & The Promise of Girl Power*, 27 *HASTINGS CONST. L.Q.* 667, 670 (2000) ("As to the causes of female violence many point to poverty, neglect, sexual abuse, sex and race discrimination, mental illness, eating disorders, and all of the other 'usual suspects'—who are usually men.").

<sup>32</sup> See MORRISSEY, *supra* note 2, at 34.

<sup>33</sup> *Id.* See also RONALD B. FLOWERS, *WOMEN AND CRIMINALITY: THE WOMAN AS VICTIM, OFFENDER, AND PRACTITIONER* 83 (1987) ("[F]ew women pass through the criminal justice system and end up behind bars, those who do are almost all poor, almost all from racial minorities, and almost all accused or convicted of non-violent crimes.") (alteration added) (citations omitted) (internal quotation

habitually “recategorized as . . . natural disaster[s] [or] . . . traged[ies],” which transformed the female offender into a victim of a devastating event over which she neither had control nor could have prevented.<sup>34</sup> She explains that mainstream legal discourse is replete with the use of female “pleas of passivity and diminished responsibility [that] reinforce entrenched stereotypes of femininity, whereas [male] pleas of partially diminished agency are considered aberrant and antithetical to cultural conceptions of active masculinity.”<sup>35</sup> Morrissey attributes the perpetuation of this preordained understanding to a societal preference “to view certain women as victims, as more sinned against than sinning, even when committing a crime.”<sup>36</sup> Morrissey asserts that while non-agentic interpretations and portrayals of female criminals based on their assumed passivity contradict the claim that women are full-fledged moral subjects and autonomous agents, non-agentic interpretations are not “necessarily disadvantageous for individual women in terms of sentencing,” because women who avail themselves of the passivity claim “frequently receive little or no penalty.”<sup>37</sup>

In line with Morrissey, Julia Wood explains that in our culture, women are not perceived as assertive, powerful, or ambitious, but rather as subordinate, passive, and submissive; thus, they are viewed as lacking agency or moral autonomy.<sup>38</sup> Wood attributes Western culture’s perception of females as passive to the value and assumptions Western culture assigns to caregiving, which is

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marks omitted).

<sup>34</sup> MORRISSEY, *supra* note 2, at 34.

<sup>35</sup> *Id.* at 35 (alteration added).

<sup>36</sup> *See id.*

<sup>37</sup> *See id.* *See also* PEARSON, *supra* note 20, at 61–62 (“Women are still receiving preferential treatment in the justice system. In 1987, twenty-two out of every one hundred persons arrested for serious crimes . . . were women. Yet only ten out of one hundred persons convicted for serious crimes were women, and five out of one hundred persons imprisoned for those crimes were women. In 1986, 48 percent of New York women convicted of homicide actually went to prison, whereas 77 percent of men did . . . . By 1995, the average prison sentence for women convicted of killing their spouses was six years, a full decade less than the average sixteen and a half years for convicted wife-killers.”) (alteration added) (internal quotations omitted); Sebastian Murdock, *Elizabeth Coast’s False Rape Claim Leads to 2 Months Jail in Virginia*, *The Huffington Post* (Aug. 20, 2013) [http://www.huffingtonpost.com/2013/08/20/elizabeth-coast-rape-lie\\_n\\_3784718.html](http://www.huffingtonpost.com/2013/08/20/elizabeth-coast-rape-lie_n_3784718.html) (A woman that falsely accused a man of raping her—only to admit she lied years later—is sentenced to sixty days in jail, to be served on the weekends, while the innocent man spent four years in prison because of the false charge).

<sup>38</sup> JULIA T. WOOD, *WHO CARES? WOMEN, CARE, AND CULTURE* 146 (1994).

seen as a woman's obvious and traditional role in Western society.<sup>39</sup> Wood cites positions advanced by Carol Gilligan and other influential scholars, which hold that women have an "essential goodness, purity, compassion, empathy, and/or other qualities that set them apart from men."<sup>40</sup> According to Wood's observations, a woman's role as the primary caregiver is not only a culturally designated or socially constructed role, but also one for which American women are perceived to be inherently more fit than men to perform because of their perceived natural innocence, compassion, and passivity.<sup>41</sup> Wood's observation bears witness to the impact of early Western theorists who argued that the biological nature of women was antithetical to crime and that deviancy was inherently linked to "maleness" and "masculinity."<sup>42</sup> Even more tellingly, Wood's assertion helps explicate the seemingly natural societal inclination to protect and exonerate female deviancy in nearly every circumstance in which a female's conduct fails to comport with legal prescriptions and proscriptions.

Indeed, scholars note that male offenders are often protective of their female partners, and police officers are less likely to arrest female offenders—facts that reduce female crime statistics and lead to a false assumption that females are nonviolent and passive.<sup>43</sup> The comparative low rates of conviction of females, coupled with societal expectations of female passivity, ultimately facilitate American approaches to female violence and aggression that excuse or justify female violence, rather than prevent or punish it.

In Patricia Pearson's influential work, *When She Was Bad: How and Why Women Get Away with Murder*, Patricia Pearson posits that American culture is obsessed with constantly "seek[ing] a preemptive cause [or exonerative excuse] for female transgressions that preserves an emphasis on [female] victimization."<sup>44</sup> Pearson explains that "[in American] culture, we

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<sup>39</sup> See *id.* at 18, 20.

<sup>40</sup> See *id.* at 19. But see NANCY LEVIT, *THE GENDER LINE: MEN, WOMEN, AND THE LAW* 26 (1998) ("Primate studies and human research testing the maternal instinct hypothesis find no significant differences between males and females in their capacity to nurture.") (internal quotations omitted).

<sup>41</sup> See WOOD, *supra* note 38, at 19.

<sup>42</sup> MCIVOR, *supra* note 2, at 16.

<sup>43</sup> FLOWERS, *supra* note 33, at 83; MANN, *supra* note 2, at 5.

<sup>44</sup> PEARSON, *supra* note 20, at 57. See also MCIVOR, *supra* note 2, at 17 (explaining the ways in which the law uses biological attributes of females to

are [simply] not [conditioned] to view well-mannered, pretty young women as possible criminals”; like Morrissey, Pearson points to studies indicating that “[law enforcement] officers have been found to identify female offenders ‘with their mothers, sisters, or daughters,’” and are “‘reluctant’ to arrest them,” resulting in many female offenders not making it beyond the detention stage.<sup>45</sup> Pearson notes that while excuses for or justifications of criminal behavior are not unique to female offenders, it is different for male and females in American society because Western men are reluctant to concede that anger and aggression are natural attributes of woman, and, therefore, invest great effort in using exonerative constructions for female behavior that they do not use for male conduct.<sup>46</sup>

Pearson argues that the false perception of female passivity is not unique to males, but prevalent also among females who often interpret themselves as intrinsically and fundamentally innocent and incapable of transgression.<sup>47</sup> Pearson maintains that the ideology of masculine dominance and feminine submission is so prevalent in American culture that it operates to absolve women of their agency, creating an interpretation of female transgressions as being the offspring of a female’s lack of reasonable choice, rather than moral autonomy.<sup>48</sup> In line with Pearson, Anne Coughlin notes that American criminal jurisprudence has not held women accountable for their criminal conduct, on the ground that females lack sufficient control over their deeds.<sup>49</sup> In contrast, a male offender is expected to resist any pressure in his life that might compel him to commit a crime.<sup>50</sup> In short, American culture depicts the female criminal

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excuse delinquent behavior, such as “links between post-natal depression and crime” and taking menopause and menstruation into account).

<sup>45</sup> PEARSON, *supra* note 20, at 36–37.

<sup>46</sup> *Id.* at 42.

<sup>47</sup> *See id.* at 43.

<sup>48</sup> *See* PEARSON, *WHEN SHE WAS BAD: VIOLENT WOMEN & THE MYTH OF INNOCENCE* 40 (1997).

<sup>49</sup> Anne M. Coughlin, *Excusing Women*, 82 CALIF. L. REV. 1, 5 (1994) (noting that American “criminal law has been content to excuse women for criminal misconduct on the ground that they cannot be expected to” resist male pressure).

<sup>50</sup> *Id.* *See also* Heather Leigh Stangle, *Murderous Madonna: Femininity, Violence, and the Myth of Postpartum Mental Disorder in Cases of Maternal Infanticide and Filicide*, 50 WM. & MARY L. REV. 699, 716 (2008) (“[L]aws reveal[] [that] current jurisprudence has already institutionalized myths of female non-violence in a number of ways.”); Bert H. Hoff, *CDC Study: More Men than Women Victims of Partner Abuse*, STOP ABUSIVE AND VIOLENT

offender—almost incestuously—as a victim, rather than a perpetrator of crime, despite her conduct.

*B. How Female Victim-Male Culprit Reasoning Influenced the Trafficking Victims Protection Act (TVPA)*

The performative influence of female victim-male culprit reasoning is not only reflected in American criminal jurisprudence and media discourse relative to female delinquency in general;<sup>51</sup> it also represents—to the chagrin of countless victims—the conceptual basis upon which the TVPA was imagined, founded, and is largely enforced.<sup>52</sup> Cynthia Wolken notes that discussions among U.S. policymakers leading up to the TVPA were saturated with characterizations of the typical human trafficking victim being a “white female.”<sup>53</sup> Karen Bravo points out that it was U.S. lawmakers’ fixation on protecting “white women” from slavery that propelled many of the senatorial debates leading to the enactment of the TVPA.<sup>54</sup> Perhaps the most exhaustive treatment and examination of the influence of female victim-male culprit reasoning upon the TVPA is found in Yvonne Zimmerman’s recent work, *Other Dreams of Freedom: Religion, Sex, and Human Trafficking*.<sup>55</sup>

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ENVIRONMENTS (SAVE) (Feb. 12, 2012), <http://www.saveservices.org/2012/02/cdc-study-more-men-than-women-victims-of-partner-abuse/> (pointing to a CDC and Department of Justice study that revealed that more men than women are victims of intimate partner physical violence and psychological aggression, but noting that more than “\$1 billion is spent to help female victims,” while there are “virtually no services” or funding for male victims of “severe physical violence by an intimate partner”).

<sup>51</sup> See *The Invisible Man*, *supra* note 10, at 1149 (“The traditional narrative obscures the plight of male victims.”).

<sup>52</sup> *Id.* at 1162 (stating that it was the bureaucratic obsession with the iconic or perfect victim that gave rise to the TVPA and that the TVPA is enforced as a law primarily designed to protect females). See also Victims of Trafficking and Violence Protection Act of 2000, H.R. 3244, 106th Cong. (2000) (enacted), available at <http://www.state.gov/j/tip/laws/61124.htm> (stating the Act’s purpose as protecting trafficking victims, whom it identifies as predominantly women and children); U.S. DEPT OF STATE, OFF. TO MONITOR AND COMBAT TRAFFICKING IN PERSONS, TRAFFICKING IN PERSONS REPORT 360–61 (2012) (discussing how, in the U.S., state and local law enforcement efforts are predominantly geared toward sex trafficking investigations and prosecutions to be in compliance with TVPA standards).

<sup>53</sup> Wolken, *supra* note 15, at 410–11, 415.

<sup>54</sup> 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, 249 (2007).

<sup>55</sup> See generally YVONNE C. ZIMMERMAN, *OTHER DREAMS OF FREEDOM: RELIGION, SEX, AND HUMAN TRAFFICKING* 25–27 (Aaron W. Hughes ed., 2013)

Zimmerman points out the TVPA was conceived based a premise that the sexual exploitation of women represented the crux of human trafficking, but demeans females by denying their empowered and morally autonomous nature.<sup>56</sup> She notes that the rhetorical formation of the TVPA typecasts men in the role of trafficker and women as perpetual victims of sexual violence.<sup>57</sup> In doing so, Zimmerman argues that the TVPA erroneously presumes all women to be “passive,” “vulnerable,” “powerless,” “incompetent,” and “innocent” by nature, and that such traits are as intrinsic to “femaleness,” as sexual immorality, violence, and moral depravity are purportedly inherent in “maleness.”<sup>58</sup> Zimmerman reasons that this narrow and flawed conception of femininity and masculinity led to an inefficient comprehension of the human trafficking phenomenon.<sup>59</sup> Zimmerman’s observations about the misuse of gender-based generalizations and conceptions regarding female passivity, like Morrissey’s, Wood’s, and Pearson’s, appears to validate the concern expressed by the United Nations that stereotypical notions of gender and violence were driving anti-human trafficking measures in many countries.<sup>60</sup>

## II. THE FEMALE HUMAN TRAFFICKER REVEALED

As demonstrated, the reality of female traffickers goes against everything Americans “intuitively” feel about femininity and a female’s propensity for violent, morally depraved conduct. The notion that the number of female human traffickers may exceed that of male traffickers, and that female traffickers may be just as effective and violent as male traffickers, strike some American

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(discussing the influence that the view of women as victims had on the passage of the TVPA).

<sup>56</sup> *Id.* at 25.

<sup>57</sup> *Id.* at 26 (noting that the TVPA’s depictions of a victim as someone characterized by feelings or conditions of “helplessness and powerlessness are not attached to a gender-neutral depiction of ‘trafficking victims’ who might be male, female, or alternatively or indeterminately gendered. Rather, these attributes depict the quintessential trafficking victim [as] . . . a woman or minor (girl) child.”).

<sup>58</sup> *Id.* at 25–27.

<sup>59</sup> *Id.* at 27.

<sup>60</sup> See DEP’T OF PUB. INFO., Comm. on Elimination of Discrimination Against Women, *Human Trafficking, Migration, Discriminatory Stereotypes Among Issues as Women’s Anti-discrimination Committee Takes Up Indonesia’s Report*, U.N. GENERAL ASSEMBLY WOM/1643 (July 27, 2007).

observers as highly unlikely or even ludicrous. But scholars who have examined the activities and profiles of female traffickers note that female traffickers often “train the trafficking victims, run the brothels, and maintain control of their victims through violent means.”<sup>61</sup> In fact, some observers have found that “the control mechanisms used by the female traffickers have been particularly brutal.”<sup>62</sup> Such findings are consistent with the observations of criminologists and scholars specializing in female violence and aggression.

For instance, as Patricia Pearson explains, “[w]omen commit the majority of child homicides in the United States, a greater share of physical child abuse, an equal rate of sibling violence and assaults on the elderly, about a quarter of child sex[] abuse, an overwhelming share of the killings of newborns, and a fair preponderance of spousal assaults.”<sup>63</sup> Ronald Flowers observes that women comprise the “majority of terrorist group members”<sup>64</sup> in the United States, and “have consistently proved themselves more ferocious and more intractable in these acts than their male counterparts. There is a cold rage about some of them that even the most alienated of men seem quite incapable of emulating.”<sup>65</sup> Lovisa Stannow points out that in male youth detention centers, “among the boys who were sexually abused in custody, more than nine in ten were [sexually] victimized by female staff.”<sup>66</sup> A cursory review of human trafficking cases and reports in the United States, though lamentably underpublicized in American mainstream media, indicate that females can be, and have been, just as violent, organized, manipulative, and cruel as male traffickers. As illustrated later in this essay, the female trafficker’s ability to manipulate trust, and organize and employ violence—particularly against victims who are not in a position to offer much physical resistance, such as children—appears to rival that of male human traffickers.

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<sup>61</sup> LOUISE SHELLEY, *HUMAN TRAFFICKING: A GLOBAL PERSPECTIVE* 17 (2010).

<sup>62</sup> Bindel, *supra* note 10 (quoting Leigh Ivens, an anti-trafficking advocate for the Poppy Project).

<sup>63</sup> See WHEN SHE WAS BAD, *supra* note 48, at 7.

<sup>64</sup> FLOWERS, *supra* note 33, at 135.

<sup>65</sup> *Id.* at 136.

<sup>66</sup> Lovisa Stannow, *Sexual Abuse and the Juvenile Justice System*, MOVE TO END VIOLENCE (July 18, 2013), <http://www.movetoendviolence.org/blog/sexual-abuse-and-juvenile-justice-system>. See also ALLEN J. BECK ET AL., U.S. DEPT. OF JUSTICE, *SEXUAL VICTIMIZATION IN JUVENILE FACILITIES REPORTED BY YOUTH*, 2012, at 23 (2013) (nine out of ten is an estimation based on the figure of 89.1% males who reported sexual activity with female staff).

### A. *Highly Capable Ring Leaders and Organizers*

Female traffickers appear unqualifiedly capable of leading human trafficking rings, particularly those involving family members in a way that permits them to conspire and control the human trafficking operation at various levels within the ring.<sup>67</sup> To cite but a few examples, consider the convicted human traffickers Gladys Vasquez Valenzuela, Mirna Jeanneth Vasquez Valenzuela, Gabriel Mendez, Maria de los Angeles Vicente, and Maribel Rodriguez Vasquez (collectively referred to as the “Vasquez ring”).<sup>68</sup> Through the use of promises of legitimate employment in the United States, the all-female Vasquez ring lured Central American women from their homes across the U.S.-Mexico border.<sup>69</sup> After the women reached a desired destination, members of the Vasquez ring forced the women into prostitution and controlled the women through the use of torture and beatings, including threats of rape and murder of their family members.<sup>70</sup> Similarly, convicted human traffickers Noris Elvira Rosales Martinez and Ana Luz Rosales Martinez (the “Martinez ring”) operated a human trafficking ring out of Hudson County, New Jersey, and smuggled Honduran women and girls into the United States.<sup>71</sup> The Martinez ring forced the women and girls to charm male customers through various forms of physical torture and unusual cruelty.<sup>72</sup> In one instance, a member of the Martinez ring forced a pregnant woman to ingest drugs that killed her unborn child.<sup>73</sup>

Likewise, Jing Ping Chen, also known as, “Sister Ping,” or “Little Sister Ping,”—who, though appearing incapable of “harsh language” and “violence” because of her feminine appearance, as one observer notes,—is notoriously thought of as “one of the most ruthless gang leaders in Europe.”<sup>74</sup> “Ping is believed to have

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<sup>67</sup> See *Profiling the Traffickers*, *supra* note 12, at 5, 8 (discussing women’s roles in trafficking rings and “situations of families being collaboratively engaged in trafficking operations”).

<sup>68</sup> Samuel V. Jones, *Human Trafficking Victim Identification: Should Consent Matter?*, 45 IND. L. REV. 438, 488 (2012) [hereinafter *Consent*].

<sup>69</sup> *Id.* at 488–89.

<sup>70</sup> *Id.* at 489.

<sup>71</sup> *The Invisible Man*, *supra* note 10, at 1177.

<sup>72</sup> *Id.* at 1177–78.

<sup>73</sup> *Id.* at 1178.

<sup>74</sup> Tony Thompson, *Snakehead Empress Who Made Millions Trafficking in Misery*, THE OBSERVER (July 6, 2003), at 13, <http://www.theguardian.com/uk/2003/jul/06/immigration.china>; *Snakeheads and Little Sister Ping Run Human*

smuggled more than 200,000 men and women into the EU and her organisation” is linked to the deaths of fifty-eight people, “whose bodies were found in an air-tight truck at Dover in June 2000.”<sup>75</sup> As one report explains, she runs a “criminal empire that combines the efficiency of a modern conglomerate with vicious, punitive violence.”<sup>76</sup> Not to be confused with Jing Ping Chen, is Cheng Chui Ping, also known as “Sister Ping,” [who] was convicted of money laundering, immigrant smuggling and trafficking in kidnapping proceeds.<sup>77</sup> Chen ran a criminal empire worth millions, she was known to employ gang members to imprison immigrants in New York City warehouses until her “fees” were paid and is responsible for the deaths of multiple immigrants.<sup>78</sup> Similarly, Rimma Fettisova, was the ringleader of one of the largest prostitution rings in Los Angeles history.<sup>79</sup> Fettisova trafficked her own minor daughter into prostitution, and sold smuggled Russian immigrants for sex in Los Angeles and Beverly Hills, earning five to eight million dollars in a twenty-two-month time span.<sup>80</sup>

### *B. Cruelty and Inhumane Treatment Relative to Sexual Exploitation*

Contrary to what some might be inclined to believe, female traffickers also operate sex trafficking operations separate and apart from criminal organizations quite effectively, with no apparent abatement in the level of violence and cruelty inflicted upon the victims, including children and the mentally impaired. For instance, Cristina Andres Perfecto pled guilty to sex trafficking of two thirteen-year-old girls, whom she transported

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*Trafficking Empire*, THE N.Z. HERALD (Apr. 7, 2001), [http://www.nzherald.co.nz/world/news/article.cfm?c\\_id=2&objectid=181615](http://www.nzherald.co.nz/world/news/article.cfm?c_id=2&objectid=181615) [hereinafter THE N.Z. HERALD] (referring to Jing Ping Chen as “Little Sister Ping”).

<sup>75</sup> Thompson, *supra* note 74.

<sup>76</sup> THE N.Z. HERALD, *supra* note 74.

<sup>77</sup> Julia Preston, *Ringleader Gets 35-Year Term in Smuggling of Immigrants*, N.Y. TIMES, Mar. 17, 2006, at B1.

<sup>78</sup> *See id.* (quoting Assistant United States Attorney, Leslie C. Brown, who believes Ms. Cheng should be held responsible for the deaths of several individuals who drowned on a voyage she financed).

<sup>79</sup> Press Release, L.A. Cnty. Dist. Att’y. Office, *Female Ringleader of Largest Prostitution Ring in L.A. Sentenced to Prison* (Jan. 27, 2004), *available at* <http://da.co.la.ca.us/mr/archive/2004/012704b.htm>.

<sup>80</sup> Press Release, L.A. Police Dep’t., *Operation White Lace* (Dec. 5, 2002), *available at* [http://www.lapdonline.org/january\\_2003/news\\_view/21690](http://www.lapdonline.org/january_2003/news_view/21690); SHELLEY, *supra* note 61, at 90.

from Mexico to Tennessee, emotionally and physically abused, and forced into prostitution.<sup>81</sup> Similarly, Waquita Wallace pled guilty to sex trafficking after it was found that she beat, burned, tortured, and humiliated a mentally disabled teenaged girl and rented her out for sex.<sup>82</sup>

In another case, Shanaya Hicks admitted to forcing two girls and two adults to become prostitutes by confining them “against their will and subject[ing] them to repeated rapes and beatings.”<sup>83</sup> Similarly, Rubicela Montero, now convicted of involuntary sexual servitude of a minor, ran a sex trafficking operation out of a modest Chicago neighborhood.<sup>84</sup> She used her seventeen-year-old son as a brothel lookout and had him introduce her to a sixteen-year-old girlfriend of his from high school, who she lured into prostitution.<sup>85</sup> Montero would market the young girl for sex via text messages, pick her up from her high school, and take her to the brothel to have sex for money.<sup>86</sup>

### C. *Nonsexual Slavery*

Although research initiatives tend to focus on human trafficking for sexual exploitation, female human traffickers are intimately involved and invested in arranging and facilitating human trafficking of a nonsexual nature, such as domestic labor, particularly among physically vulnerable victims like women and children.<sup>87</sup> For example, Varsha Sabhnani, a millionaire business owner, “was charged with forced labor and involuntary servitude after one of the two Indonesian women whom Sabhnani . . . kept as slaves . . . escaped . . . .”<sup>88</sup> The victims were forced to perform domestic work and subjected to intolerable cruelty, including being beaten with broomsticks, slashed with knives, and forced to

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<sup>81</sup> *The Invisible Man*, *supra* note 10, at 1178.

<sup>82</sup> *Consent*, *supra* note 68, at 489.

<sup>83</sup> *Consent*, *supra* note 68, at 490 (alteration added).

<sup>84</sup> See Gregory Pratt, Special to the Tribune, *Little Village House Becomes Home to Brothel*, CHICAGO TRIBUNE, Feb. 14, 2013, at 11.

<sup>85</sup> See *id.* (explaining that Montero left her “son . . . at the brothel to watch the door.”).

<sup>86</sup> See *id.* See also Flint McColgan, *Woman on Trial for Human Trafficking*, MINOT DAILY NEWS, Sept. 13, 2013, at A1 (Trina Phuong Nguyen allegedly owned and managed a massage parlor where prostitution occurred).

<sup>87</sup> Scullion, *supra* note 10, at 55–56 (discussing how more women are playing an active role in child trafficking).

<sup>88</sup> *Consent*, *supra* note 68, at 489 (ellipsis added).

eat vomit.<sup>89</sup> Meshael Alayban, a Saudi princess, was charged with human trafficking after it was discovered that she held Kenyan women against their will and forced them into indentured servitude.<sup>90</sup> Maude Paulin, a former school teacher, held a fourteen-year-old Haitian girl captive “in[] her home after Paulin’s mother smuggled the girl into the United States.”<sup>91</sup> Paulin forced the young girl to clean, do laundry, and cook for fifteen hours a day; at night, Paulin would force the young girl “to bathe out of a bucket and sleep on the floor.”<sup>92</sup> On occasion, Paulin would beat the girl so severely that Paulin’s husband had to intervene to save her.<sup>93</sup> In another case:

[Sandra] Bearden agreed to home-school a twelve-year-old girl . . . [who] was sent from her family in Mexico to Bearden “to clean and provide childcare in exchange for [the] schooling.”<sup>94</sup> Once the girl arrived, Bearden forced her into domestic servitude[,] . . . kept her shackled in the backyard after she had completed her work for the day[,] . . . starved [her] . . . and would spray pepper spray in the child’s eyes when she fell asleep.<sup>95</sup>

When the child was finally rescued, she was “so weak that she had to be transported on a stretcher.”<sup>96</sup>

“Similarly, . . . Mabelle de la Rosa Dann transported a woman into the United States from Peru and forced her into domestic servitude.”<sup>97</sup> Dann, who exercised control over the woman through confiscation of her passport and identification, along with threats to falsely accuse the smuggled woman of theft if she tried to flee, “repeatedly subjected her [victim] to humiliating and degrading treatment.”<sup>98</sup> Similarly, Jasmin Rivera, who operated a Long Island bar with her brother, Antonio Rivera, lured women

<sup>89</sup> *See id.*

<sup>90</sup> Erika Aguilar, *Alleged Saudi Princess Human Trafficking Case Highlights Issue of Forced Labor of Domestic Servants*, SOUTHERN CALIFORNIA PUBLIC RADIO (July 12, 2013, 6:13 PM), <http://www.scpr.org/news/2013/07/12/38158/alleged-saudi-princess-human-trafficking-case-high/> (Saudi princess, Meshael Alayban, accused of human trafficking, after it was discovered that she was holding Kenyan women, and several others, against their will and forcing them to work inhumane hours).

<sup>91</sup> *Consent*, *supra* note 68, at 490 (alteration added).

<sup>92</sup> *Id.*

<sup>93</sup> *See id.*

<sup>94</sup> *Id.* at 491 (alteration and ellipsis added).

<sup>95</sup> *Id.* (alteration and ellipsis added).

<sup>96</sup> *Id.* (internal alteration omitted).

<sup>97</sup> *Id.* at 495 (ellipsis added).

<sup>98</sup> *Consent*, *supra* note 68, at 495.

and girls to work as wait staff and hostesses.<sup>99</sup> Once the young women started working for them in the bar, Rivera and her brother forced them to have sex for money with bar patrons; if they refused, she beat, sexually assaulted, or threatened to reveal them to U.S. immigration authorities.<sup>100</sup> Likewise, convicted human trafficker Olga Mondragon “pled guilty to federal charges stemming from her participation in a human trafficking” ring.<sup>101</sup> Mondragon transported at least 120 women from El Salvador to the United States, where she abused and forced them into indentured servitude.<sup>102</sup>

#### *D. Use of Legitimate Businesses to Facilitate Human Trafficking*

In some instances, female traffickers used legitimate businesses in order to obtain or market their victims. “For instance, Rozina Mohd Ali . . . hired a woman through an Indonesian employment agency to work as a housekeeper . . . [and] Ali [had] brought the woman to the United States on a temporary visa.”<sup>103</sup> After the woman arrived in the United States, Ali confiscated her passport and identification, forced her to work under harsh conditions, and used threats and beatings to maintain control over her.<sup>104</sup> In another case, Jessica King persuaded girls to become prostitutes, took photographs of them wearing lingerie, and posted pictures of the girls on Craigslist to entice Craigslist website users to purchase sex from the girls.<sup>105</sup>

#### *E. Use of Femininity to Inspire Trust and Confidence*

Because of the prevalence of female victim-male culprit reasoning and the cultural inclination to view women as passive and nonviolent, female human traffickers are better able than male traffickers to establish relationships of trust and confidence with their victims, simply by exploiting their victims’ false conceptions about femininity to inspire trust and reliance in their

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<sup>99</sup> *Id.* at 491.

<sup>100</sup> *Id.*

<sup>101</sup> *Invisible Man*, *supra* note 10, at 1178.

<sup>102</sup> *Id.*

<sup>103</sup> *Consent*, *supra* note 68, at 492.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 490 (citations omitted).

victims.<sup>106</sup> The fact that some female traffickers are former prostitutes better positions them to exploit the vulnerabilities and ambitions of young, unsuspecting victims, in order to trap them into slavery.<sup>107</sup> For example, according to the probable cause statement filed against Tatiana Tye and Jazmine Finley, these female traffickers recruited their teenage victims by promising, “[t]hat it was better working for them as opposed to male pimps because they would not get beat up.”<sup>108</sup> Not surprisingly, victims of female traffickers have routinely expressed how deeply they trusted their female traffickers, only to be shocked and betrayed later by their traffickers’ deception and cruelty.<sup>109</sup>

In some cases, female traffickers act as mother figures to their victims. Often these victims become so emotionally attached to and trusting of the female trafficker that they are psychologically and emotionally incapable of freeing themselves from the exploitation, violence, and control of their female traffickers.<sup>110</sup> In

<sup>106</sup> See *Profiling the Traffickers*, *supra* note 12. See, e.g., KEVIN BALES & STEVEN LIZE, *TRAFFICKING IN PERSONS IN THE UNITED STATES* 26 (2005), <https://www.ncjrs.gov/pdffiles1/nij/grants/211980.pdf> (“Family involvement in human trafficking is a particularly salient feature of trafficking in women and children from West Africa to be domestic servants.”). See also Bindel, *supra* note 10 (“[V]ictims often describe how much they trusted the women and how shocked and betrayed they felt when they were subsequently deceived and exploited.”).

<sup>107</sup> Crouse, *supra* note 12. See also Narushima, *supra* note 11; Associated Press, *supra* note 12 (“Women commit crimes against women, and in many cases the victims become the perpetrators . . . [and] [t]hey become the matrons of the business and they make money. It’s like a drug addiction.”).

<sup>109</sup> *Two Arizona Teens Accused of Pimping Other Girls*, CNN.COM (Feb. 25, 2009, 8:00 PM), <http://www.cnn.com/2009/CRIME/02/25/teen.pimp/>.

<sup>109</sup> Bindel, *supra* note 10 (“[V]ictims often describe how much they trusted the women and how shocked and betrayed they felt when they were subsequently deceived and exploited.”).

<sup>110</sup> Angela Patrignani, U.N. Interregional Crime and Just. Research Inst., *Trafficking of Nigerian Girls in Italy: The Data, The Stories, The Social Services* 11, 30 n.18, Apr. 2010 (explaining that Nigerian victims, both adults and minors, are “thoroughly subdued to their exploiters and have a hard time to free themselves [because] the bond with their *maman* is very strong . . . .” In some ways, the Nigeria example is unique in that females play such an integral role in the human trafficking process that “trafficking from Nigeria is confirmed as a ‘business of women.’”) (alterations in original). See also SHELLEY, *supra* note 61, at 244 (explaining how some mothers exploit trafficked children as in the case of Judith Leekin, who adopted numerous children under four different names, netted \$1.68 million in subsidies designed to incentivize adults to adopt children whose age, background, or physical or mental disability makes it difficult for them to be adopted;” and, chose to neglect and physically abused the children,

other cases, female victims are lured into sexual enslavement “through direct recruitment by pimps and boyfriends”<sup>111</sup>—but what is almost entirely omitted from legal discourse that explicate such arrangements is that in many cases, the “boyfriend” is controlled by a female trafficker via money or threats. For instance, sisters Antonia and Librada Jimenez-Calderon recruited several impoverished young girls from Mexico into their sex trafficking ring by using their brothers to pose as boyfriends.<sup>112</sup> They ordered the males to pretend to love the girls and convince them to travel to the United States with the purported intent to get married.<sup>113</sup> Upon the young ladies’ arrival in the United States, they were forced into prostitution.<sup>114</sup>

Despite the heinous nature of the aforementioned accounts, like most news accounts that are not based on or do not comport with female victim-male culprit reasoning, they are virtually ignored by government officials, American mainstream media, and NGOs purportedly aimed at enhancing public awareness of human trafficking. Therefore, there is very little public awareness of the full spectrum of human trafficking, particularly as to the existence of female human traffickers or their capabilities, profiles, and methods. Despite United Nations warnings and overwhelming evidence of the prevalence of female human traffickers, the United States anti-human trafficking measures and mainstream media continue to adhere strictly to the female victim-male culprit model of human trafficking; this fact sheds new light on the rising incidence of human trafficking and dismal assessments of the effectiveness of anti-trafficking measures and efforts.

## CONCLUSION

One might reasonably think that the intricacies and unforgiving nature of human trafficking would render prevention measures impervious to culturally driven biases and assumptions about femininity—such as female victim-male culprit reasoning—

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and deny them schooling so she could live a luxurious lifestyle).

<sup>111</sup> Andrea L. Johnson, *A Perfect Storm: The U.S. Anti-trafficking Regime’s Failure to Stop the Sex Trafficking of American Indian Women and Girls*, 43 COLUM. HUM. RTS. L. REV. 617, 639 (2011–2012).

<sup>112</sup> *United States v. Jimenez-Calderon*, 183 F. App’x 274, 275–76 (3d Cir. 2006).

<sup>113</sup> *Id.* at 276.

<sup>114</sup> *Id.*

that strain or thwart efforts to prosecute traffickers and protect victims. But, as this essay demonstrates, nothing could be further from the truth. Today, U.S. criminal jurisprudence is hamstrung by a well-entrenched, culturally driven form of moral treason, under which criminal responsibility and accountability for aggression and violence appears largely relegated to one gender and essentially excused or justified for another gender, based on antiquated notions of agency and passivity that have little or no legitimacy. This culturally driven brand of justice has thwarted anti-human trafficking efforts, creating institutionalized incongruence under which we purport to combat human trafficking through the enactment of robust policies, procedures, and funding of initiatives aimed at curtailing the heinous enslavement and trafficking of human beings, while simultaneously overlooking the violent and calamitous suffering of certain populations of many victims because their victimizers are female rather than male. As this essay sets forth, physical aggression and violence are as coterminous with femininity as they are with masculinity. Thus, moral and legal distinctions between male and female human traffickers based on perceived notions of female passivity and male aggression should be presumed ineffective and counterproductive to U.S. efforts and obligations to end human trafficking.