Framing and Representation: The Every-Shifting Definition of Human Trafficking

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My first explicit exposure of the term "human trafficking" was as a senior in high school. Yes, I had heard about sex trafficking and the prevelance of sweat shops, but never once had I actually learned about human trafficking, the highly complicated, highly nuanced, and highly *widespread* issue, in full. Upon being briefly exposed to the issue in high school, the topic piqued my interest and I went on to research more about it. I read about manufacturing practices and the process behind the retrieval and production of raw material for textiles, household items, and electronics. I even found a website that would tell you how many "enslaved individuals" were likely involved in the production process of all of the goods one typically uses on a daily basis (transportation, clothing, leisure items, electronics, makeup, toiletries, food etc.) based off of certain metrics the website asked the user to provide.

This was an eye-opening experience for me. I found out that coffee and cocoa—two products I consumed almost daily—were two of the most commonly exploited goods. I never thought twice how so many fabrics, like acrylic, polyester, and nylon, are highly toxic and greatly affect the vulnerable communities who are manufacturing them, due to their close and constant exposure to many harmful toxins and chemicals used in the production process, such as chlorine bleach, formaldehyde, PFCs, and ammonia. This revelation led me to researching further about the issue, and something I commonly read was how even though slavery is outlawed today, there are more slaves now than ever before in history and how trafficking is a form of modern-day slavery, a claim that is heavily debated.

One of my main goals with my research is to delve into the history of how human trafficking has been framed and presented to the American public, analyzing the ways the issue has been shaped by both legislation and the media which has led to the issue being widely misrepresented, misunderstod, and incorrectly taught. Another goal of my research is to consider

how mistakes in the way the issue is understood and spoken about lends itself to excluding certain types of human trafficking, such as organ trafficking, while also wrongly criminalizing adjecent non-criminal practices, such as prostitution.

This leads me to my first question, what exactly is human trafficking and how is it defined? According to The United Nations "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime" (known simply as the Palermo Protocol) trafficking in persons is defined as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" ("United Nations Convention against Transnational Organized Crime and the Protocols Thereto.").
To summarize, the defining traits of trafficking according to this definition include (1) the transportation of a person, (2) the use of force, fraud, or coercion, and (3) exploitation. A point to note with this definition is how the consent of the person being trafficked is irrelevant.

Now, this definition is broad, and with how open-ended it appears to be, there is no surprise how trafficking is often likened and confused with smuggling and migration. These issues may all have overlap and similarities, but a key distinction is that human smuggling falls under "migration" i.e. the voluntary movement of individuals, and not human trafficking, as smuggling is the *consensual* and *voluntary* movement of individuals across national borders.

Trafficking, on the other hand, is understood as a non consensual activity, and does not necessarily need to include the crossing of national borders (which is a criteria for smuggling) (Parreñas).

Another definition we can look to is the one outlined in the *Victims of Trafficking and Violence Protection Act of 2000* (TVPA of 2000). According to this act, trafficking is defined as "any act including commercial sex induced by force, fraud, or coercion, or any act in which the person induced to perform such act has not attained 18 years of age; or includes 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." The act also claims "human trafficking is an extension of the degrading institution of slavery which continues throughout the world today in the 21st century. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today as at least 700,000 persons annually, primarily women and children, are trafficked within or across international borders and approximately 50,000 women and children are trafficked into the United States each year" ("Federal Anti-Trafficking Laws.").This definition understands human trafficking as either (1) any non consensual sex act, including any and all sex acts, regardless of consent, performed by minors, and (2) the movement or harboring of persons for non consensual and exploitative work. This stark contrast in sexual and non-sexual acts mirrors the apparent split between sex trafficking and all other forms of human trafficking, which we will go into later in this paper.

Now with these definitions laid out, one can see how it lends itself to a lack of clarity within the issue of human trafficking. The biggest factor for this is due to the broadness of the

definition, which can lead to diverging interpretations on what the issue comprises, and its constant amending and redefining, partly for specificity purposes and partly for political reasons.

The first point of consideration is to look into the heavy emphasis on "exploitation" particularly "sexual exploitation" as a key component for trafficking, as defined by the Palermo Protocol. This emphasis on exploitation is unhelpful as it diverts attentions away from human trafficking an issue that *by definition* must include the transportation of a person (along with coercion or deception). This is dangerous, especially when considering how if policy and lawmakers ignore this distinction, their ability to properly recognize human trafficking as an issue separate from merely exploitation is compromised.

Next, the heavy emphasis, by the media, law makers, and experts, on the sexual exploitation and sex trafficking component of human trafficking is an issue of its own. One of the most obvious reasons for this is due to the fact of the undeniable overlap between sex trafficking, prostitution and pornography. Some scholars, such as Siddharth Kara, go as far as equating prostitution with sex trafficking, offering no room for distinctions and nuances. He is not alone in doing this. Many anti-trafficking advocates blindly extend the narrative of "helpless and vulnerable" women and children who have been roped into prostitution against their wills to all involved in prostitution, in order to gain more public support, especially for anti-trafficking initiatives, including programs, policies, and legislation (Chapkins). Much of the public, non-scholarly discourse available about human trafficking focuses solely on women and children who are sexually exploited, which can be seen when searching up human trafficking on the internet and on most mainstream news sites; the overwhelming focus is on prositution, sex trafficking, and sex trafficking rings/schemes, with minor attention given to other forms of trafficking, such as labor and organ trafficking.

The focus on female victims of sex trafficking can be attributed historically to anti-prostitution campaigns in England by started by Josephine Butler, a 19th century feminist. Since then, there has been much discourse over the specifics and scope of human trafficking. Furthermore, claims about trafficking made by groups opposed to prostitution and pornography gained much traction; however, such claims were not always accurate and sometimes blown out of proportion in order to acheieve certain legal restrictions over protitution for separate reasons. Because of all these claims and diverging agendas, most of the scholarship pertaining to trafficking has focused on claims about sex trafficking, especially the claim that all forms of prostitution and pornography are coersive and exploitative.

Due to the heavy focus on sex trafficking prior to 2000, the official language surrounding trafficking, such as the definition provided by the Palermo Protocol, sought to redefine trafficking to include various forms and possible victims. However, the media still focused on trafficking of women and children for sexual exploitation. This narrow representation of trafficking on part of the media led to an increased public and political interest in this particular focus, leading to a myriad of articles, books, and films surrounding sex trafficking/exploitation, causing a cycle of misrepresentation. As the media and news covered sex trafficking, the public became interested in the issue, and policymakers saw this and kept sex trafficking as their focus, other forms of media continued to express and represent this particular focus, and so the cycle continued.

Lastly, the constant redefining and reframing of trafficking from the 1900s up until recently, in response to differing legal focuses regarding trafficking, has caused a general confusion among scholars and the public alike in the issue of trafficking. For roughly the last century, human trafficking was essentially synoymous with sex trafficking. In the Anti Human

Trafficking Conventions of 1904, 1933, and 1949, they only addressed and regarded sexual forms of trafficking as legitimate and relavent (Foor). In the 1990s, the issue of trafficking extended from focusing on trafficking exclusively in prostitution and other sexual acts, to including trafficking in instances of illegal immigration. Although this was a step in the right direction, trafficking was still heavily misrepresented which can be seen in a case study of 2,462 newspaper articles exclusively dealing with human trafficking (and not migrant smuggling or prostitution) which found that fewer than one hundred news articles used the phrase "human trafficking" or "trafficking in persons" between 1990 and 1995. If news sources or the media covered issues of labor exploitation in the early 1990s, they did not use the term "trafficking" to define it (Farell).

In 1993, at the UN Human Rights Conference, the distinction between prostitution and sex trafficking was finally established (Farrell). And the following year, the United Nations began an investigation of the relationship between forced prostitution and trafficking, further distinguishing trafficking from prostitution, finally recognizing prostitution as a legitimate form of work, and attributing the prior misconceptions of prostitution as trafficking to the earlier definition of trafficking given in the 1949 Convention on the Suppression of Trafficking in Persons and the Exploitation of the Prostitution of Others, which solely focused on the movememnt of women for prostitution purposes. This investigation was critical in diverting trafficking away from merely prostituion.

By the mid-1990s, the term human trafficking was finally gaining more attention from the news and media, however, the focus of human trafficking simply shifted from protitution to the trafficking of women and children for commercial sex, still framing the issue as a sexually exploitative-natured women's issue. Labor trafficking and the trafficking of men or boys was

nonexistent. Along with this narrow framing of trafficking from the news and media, many articles linked trafficking with a slew of other issues, including those of poverty and abuse, adding further confusion to the definition of trafficking. Another focus of human trafficking during this time was the framing of child prostitution with regards to the prevelance of AIDS and HIV. Many mistakingly thought they would be less likely to contract infections and HIV from young prostitutes, so much of the media at this time focused on sex-trafficking from child prostitutes in third-world countires, in hopes to highlight the dangers of child prostitution along with the spreading of AIDS.

Furthermore, as trafficking was predominately framed and thought of as an issue from Asia, Africa, and South America, the media subsequently covered the trafficking of white women, predominantly from Central and Eastern Europe in order to spread awareness of the ethnic diversity in trafficking victims. This served to garner attention from legislators in order to increase the scopes of trafficking laws so as to protect even the "young White women," who looked like the "girls next door" framing trafficking as an internal issue whose victims could be American citizens, for the first time. By the late 1990s, as prominent political figures like the Secretary of State Madeline Albright took active roles in organizations and campaigns against sex trafficking, human trafficking finally gained institutional legitimacy. However, as much of the discourse surrounding trafficking still limited the issue to a "women's problem," human trafficking was framed by the public, legislation and the media as a "women's rights issue" (Farrell).

Come 2000, with the definition provided by the Palermo Protocol, trafficking officially included other forms of non consensual and exploitative labor beyond the scopes of sexual labor, exploitation and prostitution. However, a rise in discourse seeking to distinguish forced and

unforced prostitution and sex trafficking rose once again, leading to still more debate on the definition of human trafficking. Despite this, many groups were able to reach a consensus that human trafficking was undeniably a crime that required a judicial response, regardless of what the specific acts of trafficking were taking place. This notion that trafficking was a criminal problem gained much popularity among politicians, and soon the media was used to facilitate the publicizing of the expansion of the definition of human trafficking as an organized crime issue. In the time between 199 and 2000, the number of human trafficking articles increased over 160 percent, and for the first time, there were many articles covering labor trafficking issues, instead of exclusively sex trafficking (Farrell).

By the year 2000, human trafficking was being framed as an organized crime issue rivaling that of drug trafficking. In the context of this framing, the need for legislation primarily focusing on the (1) identification and punishment of offenders and the (2) identification and rescuing of victims was recognized through the TVPA. Despite this act, the media still framed trafficking as an international issue with foreign victims and perpetrators, when in reality, the TVPA does not require that victims of trafficking need to be immigrants or moved; rather trafficking occurs with any forced labor or commencial sex act in which an individual is coerced, forced, or defrauded into.

Due to this misrepresentation of human trafficking in the media, a need for a redefinition in the issue is recognized; however, in light of the terriorist attack which occured on September 11th, 2001, the 2003 and 2005 reauthorizations of TVPA sought to establish links between terrorism and human trafficking, further diverting attention from the issue at hand and framing human trafficking as a national security issue. In 2011, the TVPA law lapsed and was attached as

an ammendment to the Violence Against Women Act in 2013 (“Federal Anti-Trafficking Laws.”).

The constant changes in the way human trafficking is framed and defined by the media, by policymakers, and by legislation has caused a great lack in consensus over what the issue actually is and what the focus should be on. This is very dangerous as the media has the power to influence the legislation surrounding human trafficking, as oftentimes an issue only gets as much legislative traction and legitimacy as the public demands. Moreover, the current legislation, even though it has expanded to include labor trafficking, still remains quite vague and doesn’t offer much in terms of victim identification and perpetrator criminalization, and has ignored a few important factors, such as how many victims of labor trafficking are not based in America, and many countries in which labor trafficking is taking place, do not have the appropriate legislation to internally resolve this issue. For example, a case of labor trafficking in Thailand involving fishman, was exposed, yet the victims had no protection and no action took place, as their legislation did not extend to including trafficking on open waters. The Associated Press covered the case and many of the trafficked fishermen called upon America to intervene and offer foreign aid, mentioning how America is complicit in trafficking when they allow the importation of foreign goods obtained by means of trafficking and not amending their legislation to counteract this (Geller).

Seemingly, if a trafficked individual is not covered by the law within the scope of what the legislation has to offer, they are ignored. No legal action is taken and their misery continues. Only when the media covers and exposes such injustices, prompting the public to demand change, is when legislation can likewise shift and amend to include a newly exposed niche within trafficking. The power and influence the media holds to “legitimize” aspects of human

trafficking in this way is both frightening and exciting. On the one hand, considering how little we hear about certain types of trafficking, such as organ harvesting/trafficking, the reality is not that it isn't happening, but rather that it simply isn't being covered by the media. This likely means that there is a lack of legislation for these specific types of trafficking, which is dangerous as victims are often helpless in such instances. On the other hand, the traction in which a single article can gain, shifting the way the public, and subsequently, legal authorities view trafficking, can lead to much needed positive change. However, the focus should not be to rely on certain news articles to expose new sectors or instances of human trafficking in order to prompt lasting or significant change. Instead, the focus should rather be to acknowledge the need to properly define the issue of human trafficking for both academia and the public, recognizing that since it is a highly complicated and nuanced issue, coming to a concise definition might be dificult yet very necessary, while also actively working to update legislation which can identify and rescue victims and also criminalize perpetrators. The language used to address the issue of human trafficking is powerful and must be taken seriously. The wrong language used to speak about human trafficking can be just as harmful as no language used at all.

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