

HUMAN TRAFFICKING AND SEXUAL ASSAULT

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Trafficked persons are particularly susceptible to sexual assault and exploitation. Traffickers commonly use sexual violence as a tool to assert power and control over women, children, and men, regardless of the type of trafficking they are engaging in.

Intersections between sexual assault and human trafficking

Human trafficking and sexual assault are both traumatic crimes, premised upon the power, control, abuse, and exploitation of another human being. Sexual assault can be verbal, visual, physical, or anything that forces a person to be subjected to or engage in unwanted sexual contact. Examples of this include: inappropriate touching, rape, attempted rape, child molestation and abuse, incest, voyeurism, exhibitionism, or fondling.¹ Sexual harassment, which may include requests for sexual favors and obscene and suggestive language, is not only unlawful in its own right; it also can lead to sexual assault.

Neither human trafficking nor sexual assault has a single perpetrator or victim profile. Trafficking and sexual assault victims and perpetrators can be found among the ranks of men, women, transgender persons, minors, seniors, and persons with disabilities. Furthermore, both traffickers and perpetrators of sexual assault largely prey upon marginalized populations, such as immigrants, minorities, economically disadvantaged persons, LGBTQ individuals, and persons with disabilities.

There is a common misconception that sexual violence occurs only in sex trafficking. Although not all people who work in the sex industry are trafficked, those that are engaged in the commercial sex industry, including trafficking victims, are at an extremely high risk of sexual assault. However, the unfortunate truth is that sexual violence occurs in almost every type of trafficking situation including the commercial sex industry, servile marriages, and in cases of forced labor. In all of these situations it is important to remember that no one agrees to be sexually assaulted or trafficked despite appearances of consent at various stages of the trafficking or sexual assault. Examples of the ways in which sexual assault can occur and be overlooked during the course of different types of trafficking situations include:

- **Commercial Sex Industry:** Although not all people who work in the sex industry are trafficked, those that are engaged in the commercial sex industry are at an extremely high risk of sexual assault. Because sex work is so stigmatized, sexual assaults suffered by sex workers are both underreported and undervalued.²
- **Domestic Violence and Servile Marriage:** There are an increasing number of cases in which traffickers force their intimate partners and spouses to perform services and labor, such as domestic work, working at family businesses, or sex work. Often, the trafficking victim is emotionally manipulated, coerced, or forced into having sex with his or her intimate partner/trafficker and/or other individuals. For the LGBTQ communities in particular, marital rape and intimate partner sexual violence are under-identified and underreported.³
- **Workplace:** Sexual assault in formal and informal workplaces is under-reported and under-identified. Workplace sexual harassment occurs when the perpetrator of the assault and/or the trafficker is also the victim's employer (or an agent of the employer) and the harmful act occurs on the job. This definition encompasses situations in which the perpetrator is a co-worker, or even a non-employee such as a customer, if the employer "knew or should have known

¹ See Lukima, Joyce. *Sexual Assault Fact Sheet*. National Sexual Violence Resource Center and the U.S. Dept. of Health and Human Services (2012), available at <http://www.womenshealth.gov/publications/our-publications/fact-sheet/sexual-assault.cfm>.

² See *Human Trafficking and Sex Worker Rights*. Freedom Network (April 2015), available at <http://freedomnetworkusa.org/about-us/policy-advocacy/freedom-network-factsheets-2>.

³ See *Human Trafficking and Domestic Violence*. Freedom Network (April 2015), available at <http://freedomnetworkusa.org/about-us/policy-advocacy/freedom-network-factsheets-2>.

of abuse that involved the workplace and failed to take prompt and appropriate remedial action.”⁴ Sexual assault and/or harassment of trafficking victims is common in restaurants, bars, domestic work, factories, agriculture, and home care industries.

Working with survivors of sexual assault and trafficking through a collaborative, victim-centered approach

It is highly likely that first responders and service providers working with either sexual assault or trafficking survivors will come across victims of both crimes. Survivors of both crimes have wide-ranging needs that can best be addressed through the joint efforts of law enforcement agencies, legal aid organizations, cultural or community-based organizations, victim advocates and caseworkers, interpreters, health care providers, and social welfare associations. Agencies that encounter and work with trafficked persons and sexual assault survivors face additional challenges that can be best addressed through a multipronged, victim-centered identification and service model. Such an approach stresses that empowering the survivor, providing support to aid in rebuilding their self-determination, and respecting their choices are the most effective means of assisting survivors.⁵

Identification remains difficult because it is particularly challenging for survivors to come forward due to the social and cultural stigmas attached to trafficking and sexual assault.⁶ Victim blaming is still common in both crimes. Trafficking victims are often blamed or dismissed because of perceptions of their immigration status, any past criminal or sexual history, and whether they accepted money for their labor/services.⁷ Sexual assault victims are often blamed for their choice of clothing, relationship histories, alcohol or drug use, sexual behavior, and/or *compliance* in some aspect of the assault that is misjudged as *consent*.⁸ Survivors need the space to self-identify and report these crimes. A victim-centered practice promotes a non-judgmental approach that supports victims as they try to rebuild their lives.

First responders who are particularly well-positioned to identify and support trafficking victims include: criminal law enforcement agencies that work with sexual assault, child sexual abuse, and domestic violence survivors, child advocacy centers, sexual assault service providers, sexual assault nurse examiners,⁹ health care providers, and child and social welfare agencies. Other responders trained to identify sexual assault and sexual harassment are civil law enforcement agencies (e.g. Equal Employment Opportunity Commission and state labor agencies) and legal/social services agencies that deal directly with employment and labor violations, which have the ability to screen for trafficking and assist with U- and T-visas and other forms of legal relief.

Many victims suffer from harmful physical, sexual, and mental health effects of the combined trafficking and sexual assault that they experience. Understanding the effects of such complex, compounded trauma can help first responders to better identify survivors and address their needs. Some examples include: injuries resulting from physical and sexual violence, sexually transmitted infections, sterility, miscarriages, impacts of forced or coerced abortion, and drug or alcohol dependency.¹⁰ Psychological harm may include flashbacks, eating disorders, hyper-vigilance, memory loss, acute fear and distrust, suicidal thoughts, anger, shame, grief, and/or disassociated ego states, over-sexualized behavior, Post-traumatic Stress Disorder (PTSD), or depression.¹¹ If trained to identify these physical and behavioral patterns, first responders and service providers can provide survivors with appropriate support and referrals for legal and social service agencies that

⁴ Bruggeman, Jean and Elizabeth Keyes, *Meeting the Legal Needs of Human Trafficking Victims: An Introduction for Domestic Violence Attorneys & Advocates*, AMERICAN BAR ASSOCIATION, 18-19 (2009).

⁵ See generally Jordan, Ann D. *Human rights or wrongs? The struggle for a right-based response to trafficking in human beings*. 10 GENDER AND DEV. 1 (2002).

⁶ Clawson, Heather J. and Nicole Dutch. *Identifying Victims of Human Trafficking:*

Inherent Challenges and Promising Strategies from the Field. U.S. Dept. of Health and Human Services (2008), available at <http://aspe.hhs.gov/hsp/07/HumanTrafficking/IdentVict/ib.pdf>.

⁷ See generally Srikantiah, Jayashri. *Perfect Victims and Real Survivors: The Iconic Victim in Domestic Human Trafficking Law*, 87 BOSTON U. LAW REV. 157 (2007).

⁸ Ullman, Sarah E., et. al. *Structural Models of the Relations of Assault Severity, Social Support, Avoidance Coping, Self-Blame, and PTSD Among Sexual Assault Survivors*. 31 PSYCHOLOGY OF WOMEN QUARTERLY 1 (2007).

⁹ Williamson, Erin, Nicole M. Dutch, and Heather Clawson. *Medical Treatment of Victims of Sexual Assault and Domestic Violence and Its Applicability to Victims of Human Trafficking*. U.S. Dept. of Health and Human Services (2010), available at <http://aspe.hhs.gov/hsp/07/HumanTrafficking/SA-DV/index.pdf>.

¹⁰ Martin, Sandra and Rebecca Macy. *Sexual Violence Against Women: Impact on High-Risk Health Behaviors and Reproductive Health*. VAWnet, a project of the National Resource Center on Domestic Violence/Pennsylvania Coalition Against Domestic Violence (2009), available at http://www.acf.hhs.gov/trafficking/about/fact_sex.pdf.

¹¹ Yuan, Nicole P., Mary P. Koss, and Mirto Stone. *The Psychological Consequences of Sexual Trauma*. VAWnet, a project of the National Resource Center on Domestic Violence/Pennsylvania Coalition Against Domestic Violence (2006), available at http://new.vawnet.org/Assoc_Files_VAWnet/AR_PsychConsequences.pdf.

can assist survivors with the critical trauma-informed care needed following their horrific experiences of crime and victimization.

Recommendations

1. Recognize that sexual assault can occur in all forms of human trafficking, in all contexts of employment, families, and intimate partnerships.
2. Understand the interwoven dynamics, similarities, and differences between human trafficking and sexual assault; assess for both sexual assault and trafficking, and seek all possible services and legal remedies available.
3. Adapt and build upon existing sexual assault services to support trafficked persons; encourage collection of sexual assault evidence (rape kits) and referrals to rape crisis centers in trafficking cases where sexual assault has occurred; follow mandatory reporting laws in minor commercial sexual exploitation cases according to age of consent laws.
4. Use victim-centered, rights-based, non-judgmental identification and services models when working with survivors of trafficking and sexual assault.
5. The U.S. government, including all agencies that provide funding for services for survivors of human trafficking, should issue grants to ensure that full reproductive healthcare is available to victims of sexual assault.