

# HUMAN TRAFFICKING AND FILM: HOW POPULAR PORTRAYALS INFLUENCE LAW AND PUBLIC PERCEPTION

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## INTRODUCTION

Over the past fifteen years, human trafficking has emerged as “one of the great human rights causes of our time.”<sup>1</sup> During this time, federal anti-trafficking law has developed significantly,<sup>2</sup> and all fifty states have adopted

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<sup>1</sup> Barack Obama, U.S. President, Remarks by the President to the Clinton Global Initiative, Address at the Sheraton New York Hotel and Towers (Sept. 25, 2012), <http://www.whitehouse.gov/the-press-office/2012/09/25/remarks-president-clinton-global-initiative> [<https://perma.cc/K4JK-VZZ2>].

<sup>2</sup> *E.g.*, Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-14, 127 Stat. 54 (codified as amended in scattered sections of the U.S. Code) (including the Trafficking Victims Protection Reauthorization Act of 2013); *see also* William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457, 122 Stat. 5044 (codified as amended in scattered sections of the U.S. Code); Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164, 119 Stat. 3558 (codified as amended in scattered sections of the U.S. Code); Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (codified as amended in scattered sections of the U.S. Code); Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended in scattered sections the U.S. Code).

legislation to combat this grave human rights violation.<sup>3</sup> As anti-trafficking policies and programs have grown, so too has public attention to the problem. Today, human trafficking is regularly in the news.<sup>4</sup> In the United States, January is now recognized as National Slavery and Human Trafficking Prevention Month, for which the President has called upon “all Americans to recognize the vital role we can play in ending all forms of slavery and to observe this month with appropriate programs and activities.”<sup>5</sup>

Raising public awareness is an integral step in addressing social problems.<sup>6</sup> In that regard, the growth in public knowledge of human trafficking is a positive development. However, important questions persist: now that more people are aware of human trafficking, *what do they know about the issue? And where did they learn that information?*

As with other violent crime, only a fraction of the U.S. population has any personal experience with human trafficking<sup>7</sup>—which encompasses specified acts taken to exploit another person through “prostitution . . . or other forms of sexual exploitation, forced labour or services,

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<sup>3</sup> U.S. DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 381 (2013) [hereinafter TIP REPORT 2013], <http://www.state.gov/j/tip/rls/tiprpt/2013/> [<http://perma.cc/DS6B-NJAF>].

<sup>4</sup> From January 1, 2010 to May 14, 2014, 7924 newspaper stories in the United States mentioned “human trafficking,” “sex trafficking,” or “labor trafficking.” Search of “human trafficking,” “sex trafficking,” and “labor trafficking” in Westlaw U.S. Newspapers database from January 1, 2010, to May 14, 2014, WESTLAW, [https://a.next.westlaw.com/Browse/Home/News/Newspapers?transitionType=Default&contextData=\(sc.Default\)](https://a.next.westlaw.com/Browse/Home/News/Newspapers?transitionType=Default&contextData=(sc.Default)) (select “advanced” search; then input “human trafficking,” “sex trafficking,” and “labor trafficking” in “Any of these terms” field and select date range from January 1, 2010, until May 14, 2014).

<sup>5</sup> Press Release, President Barack Obama, Presidential Proclamation—National Slavery and Human Trafficking Prevention Month, 2014 (Dec. 31, 2013). President Obama first declared January National Slavery and Human Trafficking Prevention Month in 2010. See Press Release, President Barack Obama, Presidential Proclamation—National Slavery and Human Trafficking Prevention Month, 2011 (Dec. 22, 2010).

<sup>6</sup> See generally Beth Karlin & John Johnson, *Measuring Impact: The Importance of Evaluation for Documentary Film Campaigns*, 14 MEDIA & CULTURE J., issue 6 (2011), <http://journal.media-culture.org.au/index.php/mcjournal/article/view/444> [<http://perma.cc/FY92-C877>] (noting that raising public awareness is critical to both individual and social change).

<sup>7</sup> Russell Covey, *Criminal Madness: Cultural Iconography and Insanity*, 61 STAN. L. REV. 1375, 1378 (2009) (“Most people have little exposure to criminals . . .”).

slavery or practices similar to slavery, servitude or the removal of organs.”<sup>8</sup> Few individuals have met and talked with a survivor of human trafficking, at least not knowingly. A moderately bigger group, but still small percentage of the population, has attended conferences or other programs on human trafficking during which a survivor has discussed his or her experiences, but very few individuals have sat with survivors and listened to their perspectives.<sup>9</sup> That is not the only way to learn about human trafficking, of course, but it is also true that not many people take the time to read and analyze existing scholarly literature and research on human trafficking. Most of the public—including many individuals now working on anti-trafficking initiatives—garners much of what they know about human trafficking from media portrayals of the issue.<sup>10</sup> This is no different than any other issue, and even the savviest among us believes more from the media than we discard.<sup>11</sup>

Given the influence of popular media, its construct of human trafficking merits greater attention and analysis. Such closer examination matters not only to media specialists but also to researchers and advocates who focus

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<sup>8</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the U.N. Convention Against Transnational Organized Crime, art 3(a), *opened for signature* Dec. 12, 2000, T.I.A.S. No. 13127, 2237 U.N.T.S. 319 (entered into force Dec. 25, 2003). The crime of human trafficking has three elements: act, means, and purpose. *Id.* The act typically includes “recruitment, transportation, transfer, harbouring or receipt of persons”; the means includes force, fraud, or coercion (unless the victim is a minor); and purpose includes the various forms of exploitation listed above. *Id.*

<sup>9</sup> T.K. LOGAN, HUMAN TRAFFICKING IN KENTUCKY 36 (2007), <http://www.cdar.uky.edu/CoerciveControl/docs/Human%20Trafficking%20in%20Kentucky.pdf> [<http://perma.cc/SZ9P-4DMC>].

<sup>10</sup> See Lawrence M. Friedman & Issachar Rosen-Zvi, *Illegal Fictions: Mystery Novels and The Popular Culture Image of Crime*, 48 UCLA L. REV. 1411, 1413 (2001) (“Most of what people know (or think they know) comes, in short, from the media—fact, fiction, or halfway in between—that is, from movies, television, newspapers, magazines, and, of course, from books and stories”); see also Kimberlianne Podlas, “*The CSI Effect*”: *Exposing the Media Myth*, 16 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 429, 444 (2006) (“Empirical evidence shows that most people learn about law from the media . . .”).

<sup>11</sup> RICHARD L. FOX & ROBERT W. VAN SICKEL, TABLOID JUSTICE: CRIMINAL JUSTICE IN AN AGE OF MEDIA FRENZY 125–26 (2001) (reporting that the general public absorbs information, including incorrect information, from mass media); see generally Robert M. Entman, *How the Media Affect What People Think: An Information Processing Approach*, 51 J. POL. 347 (1989) (finding media shapes not only what issues people think about, but also what they think about those issues).

on law and policy.<sup>12</sup> Popular portrayals of human trafficking influence the prevailing understanding of human trafficking that, in turn, informs policy choices made to address the problem. If popular portrayals misrepresent the issue or overlook certain types of trafficking, a range of potential problems can result, including under-enforcement in certain areas, failure to identify victims, and insufficient resources to address the issue.

In this Essay, I aim to draw attention to these popular portrayals of human trafficking and their potential impact on our responses to the problem. The Essay focuses in particular on film, as movies can play a significant role in bringing hidden issues to light and raising public awareness.<sup>13</sup> And human trafficking is becoming a popular subject for the movie industry. Part I of this Essay briefly discusses how film both reflects and shapes cultural perspectives, which in turn influence and are influenced by law. Part II then examines three notable films—*Human Trafficking*, *Taken*, and *The Whistleblower*—exploring the messages they convey about human trafficking and highlighting some of the misconceptions in the films. Finally, Part III returns to the question of why this matters, detailing how popular narratives on human trafficking have been incorporated into law and policy.

## I

### LAW AND CULTURE IN FILM

Law and culture are deeply intertwined.<sup>14</sup> This principle is widely accepted and uncontroversial.<sup>15</sup> Each shapes and informs the other. As Russell Covey has written:

Perhaps the strongest and most accurate description of the causal relationship between culture and law is captured in the notion of the “feedback loop.” Cultural iconography is influenced by law, and law is influenced by

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<sup>12</sup> See *infra* Part III.

<sup>13</sup> Karlin & Johnson, *supra* note 6.

<sup>14</sup> See Naomi Mezey, *Law as Culture*, 13 YALE J.L. & HUMAN. 35, 46–47 (2001) (“law is recognized as both constituting and being constituted by social relations and cultural practices. In other words, law’s power is discursive and productive as well as coercive. Law participates in the production of meanings within the shared semiotic system of a culture, but it is also a product of that culture and the practices that reproduce it.”).

<sup>15</sup> See *id.* at 38–45 (reviewing prominent theories of and scholarship on the relationship between law and culture).

cultural iconography in a kind of endless process of production and reproduction. Although the idea of feedback loops suggests causal bidirectionality, we can hypothesize a number of quite plausible accounts in which culture does have a unidirectional causative impact on the shape of law in general . . . .<sup>16</sup>

In this ongoing interplay between law and culture, mass media—including television, film, and the Internet—collectively represent a powerful form of cultural expression.<sup>17</sup> Films convey ideas about both culture and the law.<sup>18</sup> Nicole Rafter explains that movies “never simply tell a story but, through the choices they make . . . also convey ideological assumptions about what is and what is not important.”<sup>19</sup>

However, it is not simply that films reflect ideologies that exist in society. Movies also contribute—sometimes at a subconscious level—to popular beliefs about criminal activity and other legal issues.<sup>20</sup> Susan Bandes writes, “Popular notions of what law is and ought to be . . . ‘contribute[] to the production of law’ in manifold ways.”<sup>21</sup>

With increasing coverage of human trafficking on television and a growing number of movies on human trafficking, media portrayals of this grave violation of human rights inevitably will shape—and have shaped—popular perceptions and policy debates.<sup>22</sup> As with other criminal activity, the current media construct of human trafficking provides the public with an explanation of the problem—what harms occur, who is responsible, and how we should respond. These cinematic and television portrayals of

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<sup>16</sup> Covey, *supra* note 7, at 1377–78 (footnote omitted).

<sup>17</sup> See, e.g., Susan Bandes & Jack Beerman, *Lawyering Up*, 2 GREEN BAG 2D 5, 6 (1998) (“Scholars of popular culture describe a more complex scenario, in which television has become (with some help from film and other mass media) our culture’s principal storyteller, educator, and shaper of the popular imagination. It not only transmits legal norms, but also has a role in creating them. Media images of law enforcement are, in the minds of many viewers, synonymous with reality.”).

<sup>18</sup> NICOLE RAFTER, *SHOTS IN THE MIRROR: CRIME FILMS AND SOCIETY* 83–84 (2d ed. 2006).

<sup>19</sup> *Id.* at 80.

<sup>20</sup> *Id.* at 76.

<sup>21</sup> Susan Bandes, *We Lost It at the Movies: The Rule of Law Goes from Washington to Hollywood and Back Again*, 40 LOY. L.A. L. REV. 621, 626 (2007) (quoting RICHARD K. SHERWIN, *WHEN LAW GOES POP: THE VANISHING LINE BETWEEN LAW AND POPULAR CULTURE* 18 (2000)).

<sup>22</sup> See *infra* Part III.

human trafficking help direct concerned citizens to focus on the aspects of the problem that are highlighted, as they are reported. Public pressure then brought to bear on policymakers to address human trafficking is based on these constructs of the problem. In this way, these popular portrayals of human trafficking can and do influence law and policy on the issue.<sup>23</sup>

Given the “feedback loop”<sup>24</sup> that exists between culture and law and the role that cultural imagery, including film, plays in shaping prevailing societal views, it is critical to appreciate how these popular portrayals influence understanding of and responses to human trafficking.

## II

### HUMAN TRAFFICKING AT THE MOVIES

Human trafficking is becoming a popular topic for the film industry.<sup>25</sup> That Hollywood<sup>26</sup> takes an interest in the issues of the day is not atypical; the Cold War between the United States and Soviet Union provided the basis for many successful spy movies,<sup>27</sup> and the Vietnam War spawned a generation of high-grossing films.<sup>28</sup> As human trafficking

<sup>23</sup> Cf. Ronald Weitzer, *The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade*, 35 POL. & SOC'Y 447, 448 (2007) (“In the social constructionist perspective, social conditions become ‘problems’ only as a result of claims-making by interested parties, claims that may or may not reflect actual social arrangements. Claims about ‘putative conditions’ are more consequential than the conditions themselves.”).

<sup>24</sup> RAFTER, *supra* note 18, at viii.

<sup>25</sup> See, e.g., POLARIS PROJECT, [http://www.polarisproject.org/storage/documents/Human\\_trafficking\\_films\\_full\\_list\\_with\\_summaries.pdf](http://www.polarisproject.org/storage/documents/Human_trafficking_films_full_list_with_summaries.pdf) [<http://perma.cc/8Z9P-GZZE>] (listing more than fifty films on human trafficking).

<sup>26</sup> I use the term “Hollywood” in this Essay as shorthand for the popular film industry, in which I include all major film studios, whether or not they are technically based in Hollywood, California.

<sup>27</sup> See, e.g., THE HUNT FOR RED OCTOBER (Paramount Pictures 1990) (earning \$200.5 million at the box office); TOP GUN (Paramount Pictures 1986) (earning \$356.8 million at the box office); ROCKY IV (United Artists 1985) (earning \$300.4 million at the box office); RED DAWN (United Artists 1984) (earning \$38.3 million at the box office); WARGAMES (United Artists 1983) (earning \$79.6 million at the box office); THE SPY WHO CAME IN FROM THE COLD (Paramount Pictures 1965) (earning \$7.6 million at the box office); DR. STRANGELOVE OR: HOW I LEARNED TO STOP WORRYING AND LOVE THE BOMB (Columbia Pictures 1964) (earning \$9.4 million in North American box offices); FROM RUSSIA WITH LOVE (United Artists 1963) (earning \$78.9 million at the box office). All box office revenue amounts are from BOX OFFICE MOJO, <http://www.boxofficemojo.com> (last visited Nov. 16, 2015).

<sup>28</sup> See, e.g., BORN ON THE FOURTH OF JULY (Universal Pictures 1989)

has emerged as an issue of popular interest, some older films have been reconceived as human trafficking films.<sup>29</sup> This Part begins by providing a brief description of three notable films on human trafficking. It then compares the cinematic portrayals of human trafficking to the realities of this form of exploitation.

#### A. An Overview of Three Films

For this Essay, I focus on three films: *Human Trafficking* (2005), *Taken* (2009), and *The Whistleblower* (2011). I start with *Human Trafficking*, a made-for-TV movie that aired on Lifetime Television. It is a significant film because it represents the first major foray into human trafficking by the commercial film industry in the modern anti-trafficking era.<sup>30</sup> With headliners Mira Sorvino and Donald Sutherland, it also represented an early effort to bring significant star power to the issue. Its generic title hints at the lack of prior coverage of the issue by film studios.

In *Human Trafficking*, young women and girls are trafficked in a variety of ways. One young woman in Europe takes a train to meet her “boyfriend” only to discover at her destination that he is a recruiter for a trafficking ring, while another is trafficked to New Jersey through a fake modeling agency. In Manila, an American girl vacationing with her family is abducted off the streets, while a Filipina girl is sold by her father. Mira Sorvino, who plays a New York Police Department detective, convinces the Immigration and Customs Enforcement (ICE) chief, played by Donald Sutherland, to let her go undercover as a trafficked woman,

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(earning \$161 million at the box office); GOOD MORNING, VIETNAM (Touchstone Pictures 1987) (earning \$123 million at the box office); FULL METAL JACKET (Harrier Films 1987) (earning \$46.4 million at the box office); HAMBURGER HILL (RKO Pictures 1987) (earning \$13.8 million at the box office); PLATOON (Hemdale Film Corp. 1986) (earning \$138.5 million at the box office); RAMBO: FIRST BLOOD PART II (Carolco Pictures 1985) (earning \$300.4 million at the box office); APOCALYPSE NOW (Omni Zoetrope 1979) (earning \$150 million at the box office); THE DEER HUNTER (EMI 1978) (earning \$49 million at the box office). All box office revenue amounts are from BOX OFFICE MOJO, <http://www.boxofficemojo.com> (last visited Nov. 16, 2015).

<sup>29</sup> See POLARIS PROJECT, *supra* note 25 (including the 1976 film, *Taxi Driver*, starring Robert DeNiro, on the list of human trafficking movies).

<sup>30</sup> See Erin, *It's Not All About Sex*, HUM. TRAFFICKING & MEDIA BLOG (July 6, 2009, 8:45 AM), <http://humantraffickingandmedia.blogspot.com/2009/07/it.html> [<http://perma.cc/4R4H-9JJM>] (noting that *Human Trafficking* was one of the first forays that mainstream media took into human trafficking).

and she saves the day, busting the trafficking ring.

The second film, *Taken*, is widely recognized as a film on human trafficking and reflects the increased profile of the issue.<sup>31</sup> *Human Trafficking* was made just four years earlier as a made-for-television movie on a cable network. In contrast, *Taken*, which debuted in 2009, grossed over \$225 million worldwide at the box office and has earned an additional \$90 million in U.S. video sales.<sup>32</sup> It represents the first “blockbuster” movie on human trafficking.

In *Taken*, Liam Neeson plays an ex-CIA operative whose daughter is abducted when she travels with a friend to Paris. Told that he has ninety-six hours to find her or his daughter will be lost forever to a sex trafficking ring, Neeson goes on a one-man crusade to get her back and saves her at the end.

Third, *The Whistleblower* recounts the story of an American police officer who takes a job as a peacekeeper in post-war Bosnia in 1999. After a short time in Bosnia, she discovers that girls and young women are being trafficked into prostitution. Even more troubling, she uncovers evidence suggesting that local police, U.N. peacekeepers, and other U.N. officials are complicit in the exploitation of these victims. Ultimately her efforts to work within the system to stop human trafficking fail, and she is compelled to go public with the evidence. The film is based on a true story.<sup>33</sup>

These three films are particularly relevant because they are often highlighted by advocates and other speakers at human trafficking programs and conferences.<sup>34</sup> They also represent three different types of film projects. *Taken* is a purely made-up Hollywood story intended as entertainment. *Human Trafficking* was produced as part of an advocacy strategy by Lifetime Television and selected anti-trafficking organizations to draw attention to the problem of human trafficking.<sup>35</sup> Finally, *The Whistleblower* is a Hollywood

<sup>31</sup> See, e.g., U.N. Global Initiative to Fight Human Trafficking, *Films on Human Trafficking*, UN.GIFT, <http://www.ungift.org/knowledgehub/media/films.html> [http://perma.cc/KW93-RMNN] (providing a list and synopses of films on human trafficking).

<sup>32</sup> TAKEN (EuropaCorp 2009), <http://www.the-numbers.com/movie/Taken#tab=video-sales> [http://perma.cc/YK5L-NEFE].

<sup>33</sup> See *supra* note 31.

<sup>34</sup> See, e.g., *supra* note 31.

<sup>35</sup> Kate Aurthur, *Lifetime's Place Is in the House (and Senate)*, N.Y. TIMES (Oct. 16, 2005), <http://www.nytimes.com/2005/10/16/arts/television/lifetimes-place-is-in->



version of a true story.<sup>36</sup> Therefore, examining these films also presents an opportunity to assess whether their different origins lead to portraying the issue of human trafficking differently.

### B. Cinematic Myths and Realities

*Human Trafficking*, *Taken*, and *The Whistleblower* are significant for the role they have played in raising the profile of the issue of human trafficking. Each correctly reflects the violent and coercive nature of human trafficking.<sup>37</sup> However, their portrayals of human trafficking also reinforce several misconceptions about the problem. This section focuses on five prominent themes in the three films that reflect particular “ideological assumptions about what is and what is not important.”<sup>38</sup>

Movie Myth #1: Human trafficking is only about sexual exploitation.

In *Human Trafficking*, *Taken*, and *The Whistleblower*, every victim is trafficked for sex. As Alicia Peters explains about anti-trafficking efforts, “a hyper-attention to sex has effectively excluded attention to other types of harm, including other forms of labor trafficking.”<sup>39</sup> Film is not the sole cause of this myopic construct of human trafficking, but it reinforces the problematic construct.<sup>40</sup> The reality is that

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the-house-and-senate.html [http://perma.cc/G4SM-BX28] (noting that anti-trafficking groups “brought the issue to Lifetime’s attention” and Lifetime’s “public affairs department organized conversations with groups like Equality Now and the International Justice Mission, which rescues trafficked girls from brothels. Taina Bien-Aimé, the executive director of Equality Now, called the discussions ‘substantive and serious.’”).

<sup>36</sup> Elisabeth Prügl & Hayley Thompson, *The Whistleblower: An Interview with Kathryn Bolkovac and Madeleine Rees*, 15 INT’L FEMINIST J. POL. 102 (2013).

<sup>37</sup> For discussion of the harmful consequences of human trafficking, see CATHY ZIMMERMAN ET AL., THE HEALTH RISKS AND CONSEQUENCES OF TRAFFICKING IN WOMEN AND ADOLESCENTS: FINDINGS FROM A EUROPEAN STUDY (2003), <http://www.lshtm.ac.uk/php/ghd/docs/traffickingfinal.pdf> [http://perma.cc/C8XH-9L5L], and Jonathan Todres, *Moving Upstream: The Merits of a Public Health Law Approach to Human Trafficking*, 89 N.C. L. REV. 447, 463–69 (2011).

<sup>38</sup> RAFTER, *supra* note 18, at 80.

<sup>39</sup> Alicia W. Peters, “*Things that Involve Sex are Just Different*”: *US Anti-Trafficking Law and Policy on the Books, in Their Minds, and in Action*, 86 ANTHROPOLOGICAL Q. 221, 225 (2013).

<sup>40</sup> Janie A. Chuang, *Rescuing Trafficking from Ideological Capture: Prostitution Reform and Anti-trafficking Law and Policy*, 158 U. PA. L. REV. 1655, 1727 (2010) (“With respect to non-sex sectors, there has been little

many individuals are trafficked for labor purposes.<sup>41</sup> Although estimating the number of human trafficking victims at any point is fraught with challenges,<sup>42</sup> the International Labor Organization, International Organization for Migration, and other respected agencies have determined that a significant percentage, and sometimes the majority, of trafficked individuals are labor trafficking victims.<sup>43</sup> Individuals are trafficked for labor in a wide array of industries including manufacturing, agriculture, construction, mining, fisheries, forestry, healthcare, hospitality and tourism, domestic service, restaurants, forced-begging operations, and others.<sup>44</sup> In short, sexual

attention paid to labor trafficking interventions . . . .”).

<sup>41</sup> Rebecca Surtees, *Trafficked Men as Unwilling Victims*, 4 ST. ANTHONY'S INT'L REV. 16, 18 (2008) (“Labour trafficking (of both women and men), by contrast, has been largely overlooked . . . .”).

<sup>42</sup> Obtaining accurate data on the number of victims is challenging at best, and current figures are estimates. For more on data-related issues, see, for example, Background Paper, UN.GIFT, The Vienna Forum to Fight Human Trafficking, 024 Workshop: Quantifying Human Trafficking, Its Impact and the Responses to It at 2–3 (2008), <http://www.unodc.org/documents/human-trafficking/2008/BP024QuantifyingHumanTrafficking.pdf> [<http://perma.cc/6ZQY-BT64>]. The background paper from the forum states:

The difficulties connected with researching human trafficking are related to the nature of the subject itself . . . .

. . . .

At present, statistical data on trafficking in persons frequently do not meet the basic standards for statistical accounting: at the global and regional levels, detailed data are simply not available and even when data are presented, they are frequently partial, incomplete and unreliable.

*Id.* Underreporting is a significant issue. *Id.* at 6–7, 14 (discussing reasons for underreporting, including victims’ vulnerability and fear that traffickers will seek retribution if they report them).

<sup>43</sup> See, e.g., INT’L LABOUR ORG., ILO GLOBAL ESTIMATE OF FORCED LABOUR: RESULTS & METHODOLOGY 13 (2012), [http://www.ilo.org/wcmsp5/groups/public/—ed\\_norm/—declaration/documents/publication/wcms\\_182004.pdf](http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_182004.pdf) [<http://perma.cc/EW4J-HRNZ>]

(“Of the total number of 20.9 million forced labourers, 18.7 million (90%) are exploited in the private economy, by individuals or enterprises. Out of these, 4.5 million (22% total) are victims of forced sexual exploitation, and 14.2 million (68%) are victims of forced labour exploitation, in economic activities such as agriculture, construction, domestic work and manufacturing”); JETTE CHRISTIANSEN & JONATHAN MARTENS, INT’L ORG. FOR MIGRATION, COUNTER TRAFFICKING AND ASSISTANCE TO VULNERABLE MIGRANTS: ANNUAL REPORT OF ACTIVITIES 18 (2011) (noting that as of 2010, labour trafficking has overtaken sexual exploitation as the main type of trafficking, seen in cases assisted by the International Organization for Migration).

<sup>44</sup> TIP REPORT 2013, *supra* note 3, at 9, 35 (noting that “[v]ictims of forced labor have been found in nearly every job setting or industry imaginable, including private homes, factories, restaurants, elder care and medical

exploitation deserves attention but it is not the only issue in the realm of human trafficking.

When sex trafficking is presented as representing “human trafficking,” it leads to overlooking the prevalence of labor trafficking and those individuals who are exploited in forced labor settings. Ultimately, all forms of human trafficking must be recognized and addressed.

Movie Myth #2: Only women and girls are trafficking victims.

If you watched these three films, you would think that young women and girls are the only victims of human trafficking. No boy or man is shown as a victim in any of these films. The reality is that while many women and girls are victimized, men and boys are too, as are transgendered individuals. Most studies and anti-trafficking interventions pay minimal attention to men and boys.<sup>45</sup> Yet, men and boys constitute a “significant percentage” of trafficking victims.<sup>46</sup> Men and boys are often at greater risk of trafficking for labor purposes, such as agriculture, construction, mining, and fisheries.<sup>47</sup> However, even in the context of sex trafficking, men and boys are at risk. One study on the commercial sexual exploitation of children (CSEC) in New York City found that 53.5 percent of the CSEC population was male, 42 percent was female, and 4.5 percent were transgendered youth.<sup>48</sup>

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facilities, hotels, housekeeping, child-rearing, agriculture, construction and landscaping, food processing, meat-packing, and cleaning services” and reporting on trafficking in mining, fisheries, and other industries).

<sup>45</sup> Surtees, *supra* note 41, at 16 (“Most studies and projects focus primarily, if not exclusively, on trafficking in women and children. Far less common is a consideration of trafficking in males, particularly adult men, with studies on the subject and targeted anti-trafficking interventions having been few and far between.”).

<sup>46</sup> TIP REPORT 2013, *supra* note 3, at 8; *see also* Samuel Vincent Jones, *The Invisible Man: The Conscious Neglect of Men and Boys in the War on Human Trafficking*, 2010 UTAH L. REV. 1143, 1147–58 (2010) (discussing the trafficking of men and boys).

<sup>47</sup> TIP REPORT 2013, *supra* note 3, at 35; WORLD BANK, PUB. NO. 122, SOCIAL DEVELOPMENT NOTES: CONFLICT, CRIME AND VIOLENCE 7 (2009), <https://openknowledge.worldbank.org/bitstream/handle/10986/11103/546830BRIOSDN01C10HumanOTrafficking.pdf?sequence=1&isAllowed=y> [<https://perma.cc/QV46-CQ7B>].

<sup>48</sup> RIC CURTIS ET AL., THE COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN IN NEW YORK CITY 33–34 (2008), [http://www.courtinnovation.org/sites/default/files/CSEC\\_NYC\\_Volume1.pdf](http://www.courtinnovation.org/sites/default/files/CSEC_NYC_Volume1.pdf) [<http://perma.cc/8KRW-CNDP>] (noting that the results likely underestimate the number of prostituted transgendered youth).

Although a host of factors contribute to the failure to identify boys who are sex trafficking victims, including boys' reluctance to self-identify as sexually exploited "due to shame and stigma," ECPAT-USA—a leading NGO working on child trafficking—finds that an important reason is a lack of adequate screening of boys by law enforcement and social services "rooted in the belief that boys are not victims of [commercial sexual exploitation]."<sup>49</sup> In other words, dominant perceptions of the problem, including the idea that women and girls are the targets, can lead to missing individuals in need of assistance.<sup>50</sup> Given the reluctance of men and boys to self-identify as victims, policies and programs that overlook them leave men and boys at heightened risk of harm.<sup>51</sup>

Conversely, there is also an assumption that traffickers and other perpetrators involved are men. As the United Nations Office on Drugs and Crime (UNODC) explains:

It might be assumed that human trafficking, where violence and threats are keys to the business, would likewise be overwhelmingly male dominated. But, surprisingly, the data on the gender of those convicted for trafficking in persons do not support this premise.

The data gathered on the gender of offenders in 46 countries suggest that women play a key role as perpetrators of human trafficking. In Europe, for example, women make up a larger share of those convicted for human trafficking offences than for most other forms of crime.<sup>52</sup>

Although one must be cautious in generalizing about traffickers based on conviction data, the UNODC report is

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<sup>49</sup> ECPAT-USA, AND BOYS TOO 5 (2013). ECPAT-USA is generally regarded as one of the leading NGOs working on trafficking and commercial sexual exploitation of children. The author serves on its Board of Advisors but did not play any role in the production of the *And Boys Too* report.

<sup>50</sup> It is not only film that overlooks men and boys: scholarly research does as well. See Jeffrey P. Dennis, *Women are Victims, Men Make Choices: The Invisibility of Men and Boys in the Global Sex Trade*, 25 GENDER ISSUES 11, 13 (2008) (reviewing 166 scholarly articles on the global sex trade and finding 84% speak exclusively of females). However, films have a much broader reach than scholarly research.

<sup>51</sup> Surtees, *supra* note 41, at 24–28 (discussing reasons why many men and boys do not self-identify as victims).

<sup>52</sup> UNITED NATIONS OFFICE ON DRUGS AND CRIME, GLOBAL REPORT ON TRAFFICKING IN PERSONS 10 (2009), [https://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](https://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf) [<https://perma.cc/R7T2-YR46>].

consistent with other research that finds that women often play a significant role in trafficking enterprises.<sup>53</sup> Films that show only male perpetrators and female victims reinforce an incomplete view of the problem. Overcoming these misconceptions is important not only in the identification of at-risk and exploited individuals but also for apprehending perpetrators of these crimes.

Movie Myth #3: Human trafficking's victims are white.

The overwhelming majority of the trafficking victims portrayed in these well-known films are white. In *Human Trafficking*, all of the victims are white, with the exception of one Filipina girl. Similarly, in *Taken*, all of the victims are white, with the exception of perhaps one girl who is on the screen only briefly and never identified. *The Whistleblower* shows only white victims. If these films were a person's only exposure to the problem of human trafficking, he or she would have to assume that almost all victims are white. Such a framing of human trafficking echoes early twentieth-century dialogues on the issue, which referred to the issue as the "white slave traffic."<sup>54</sup> Despite cinematic portrayals of white female victims from Eastern Europe as the quintessential victim, the reality is very different. Though interest in human trafficking increased following the perceived increase in trafficking of European girls in the wake of the Soviet Union's collapse, human trafficking is not

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<sup>53</sup> See Frank Laczko & Marco A. Gramegna, *Developing Better Indicators of Human Trafficking*, 10 BROWN J. WORLD AFF. 179, 189 (2003) (reporting the International Organization for Migration's research in Southeast Europe that found that over forty percent of recruiters were women); Kristiina Kangaspunta, Chief, Anti-Human Trafficking Unit, United Nations Office on Drugs and Crime, Presentation at the Vienna Forum to Fight Human Trafficking: Women Traffickers (Feb. 14, 2008), <http://www.ungift.org/docs/ungift/pdf/vf/traffickerworkshop/women%20traffickers.pdf> [<http://perma.cc/3QMP-VD3J>] (reporting on research examining data from seventy-eight countries, finding that forty-two percent of trafficking recruiters were women).

<sup>54</sup> See Nora V. Demleitner, *Forced Prostitution: Naming an International Offense*, 18 FORDHAM INT'L L.J. 163, 164-72 (1994) (providing a detailed review of the early development of international law on trafficking); see also Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Mar. 21, 1950, 96 U.N.T.S. 271; International Convention for the Suppression of the Traffic in Women and Children, Sept. 30, 1921, 9 L.N.T.S. 415; International Convention for the Suppression of the White Slave Traffic, May 4, 1910, 1912 Gr. Brit T.S. No. 20, at 267; International Agreement for the Suppression of the "White Slave Traffic," May 18, 1904, 35 Stat. 1979, 1 L.N.T.S. 83.

a new phenomenon.<sup>55</sup> Then and today, the majority of victims of trafficking and forced labor are people of color in and from developing countries, not white Europeans.<sup>56</sup> Even within the United States, a significant number of trafficking victims are people of color.<sup>57</sup>

The trafficking of white Europeans needs to be addressed, but as with the prior two misconceptions, the portrayal of human trafficking victims in films or other media as exclusively white can lead to overlooking other individuals who are vulnerable to human trafficking or already harmed by it.<sup>58</sup>

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<sup>55</sup> Congressional testimony leading up to the Trafficking Victims Protection Act focused on the surge in trafficking in the former Soviet Union and Eastern Europe, even though it simultaneously acknowledged that trafficking had been a problem for many years in Asia and that trafficking from the Soviet Union and Eastern Europe represented a small percentage of the overall total. See *The Sex Trade: Trafficking of Women and Children in Europe and the United States: Hearing Before the Comm'n on Security Cooperation in Eur.*, 106th Cong. 5 (1999) (statement of Anita Botti, Deputy Dir. for Int'l Women's Initiatives, President's Interagency Council on Women) (noting that about 4000 of the 50,000 women and children trafficked into the United States annually come from the former Soviet Union and Eastern Europe); 145 CONG. REC. 14,813-14 (1999) (statement of Sen. Wellstone) (discussing in detail women trafficked from the Former Soviet Union, while mentioning more briefly that then-First Lady Hillary Clinton had reported on young girls being sold by their families in Thailand).

<sup>56</sup> INT'L LABOUR ORG., *supra* note 43, at 16. The ILO reported that: The Asia-Pacific region accounts for by far the highest absolute number of forced labourers—11.7 million or 56% of the global total. The second highest number is found in Africa at 3.7 million (18%), followed by Latin America and the Caribbean with 1.8 million victims (9%). The Developed Economies and European Union account for 1.5 million (7%) forced labourers, whilst countries of Central, Southeast and Eastern Europe (non-EU) and the Commonwealth of Independent States have 1.6 million (7%). There are an estimated 600,000 (3%) victims in the Middle East.

*Id.*

<sup>57</sup> See Pantea Javidan, *Global Class and the Commercial-Sexual Exploitation of Children: Toward a Multidimensional Understanding*, 1 COLUM. J. RACE & L. 365, 379 (2012) (“[A] 2008 study on law enforcement contact with children involved in prostitution in six major U.S. cities found that African-American children are most heavily burdened with child poverty and African-American girls represent a highly disproportionate majority of arrests for the crime of prostitution.”).

<sup>58</sup> See, e.g., Radhika Coomaraswamy (Special Rapporteur on Violence Against Women, Its Causes and Consequences), *Rep. on Trafficking in Women, Women's Migration and Violence Against Women*, ¶ 55, U.N. Doc. E/CN.4/2000/68 (Feb. 29, 2000) (“Gender-based discrimination intersects with discriminations based on other forms of ‘otherness,’ such as race, ethnicity, religion and economic status, thus forcing the majority of the world's women into situations of double or triple marginalization.”); Heidi Box, *Human*

It may be that the selection of predominantly or exclusively white victims in each of these films is aimed at conveying to white audiences that human trafficking happens here in the United States and is not a problem only in other parts of the world.<sup>59</sup> Perhaps the producers believed it was necessary to focus on white victims in order to appeal to a broader audience in the United States.<sup>60</sup> Regardless of the underlying reason, the portrayal of almost exclusively white victims leaves a particular impression—that certain individuals count as victims, and, by implication, others may not be victims.

Movie Myth #4: Trafficking-related exploitation is rooted in other cultures, not ours.

All three films reinforce cultural stereotypes, portraying “other” cultures as exploitative by nature and Americans as saviors. In *Human Trafficking*, most of the traffickers, including the head trafficker, are Russian. Others are Eastern European or Filipino. The “rescuers” are American. Arguably even more problematic, all of the white girls and women in the movie are either misled or abducted by a trafficker, whereas the Filipina girl—the only nonwhite victim in the movie—is sold by her father. The othering in this message is clear: so-called “other” cultures prey on children and even sell their own children, but if harm comes to American children, it is due to the act of a deviant outlier

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*Trafficking and Minorities: Vulnerability Compounded by Discrimination*, HUM. RTS. & HUM. WELFARE, 28, 29 (2011), <https://www.du.edu/korbel/hrhw/researchdigest/minority/Trafficking.pdf> [<https://perma.cc/HKY8-SMAB>] (“Although membership in a minority group may not be the primary reason for exploitation, it may increase vulnerability to trafficking.”).

<sup>59</sup> Jonathan Todres, *Law, Otherness, and Human Trafficking*, 49 SANTA CLARA L. REV. 605, 616 (2009) (“[T]he narrative of the Other asserts that *only* the Other commits savage or barbarous acts. The humanity of the dominant group is presumed.” (footnote omitted)); see also Ratna Kapur, *The Tragedy of Victimization Rhetoric: Resurrecting the “Native” Subject in International/Post-Colonial Feminist Legal Politics*, 15 HARV. HUM. RTS. J. 1, 2 (2002) (“[T]he Third World victim subject has come to represent the more victimized subject; that is, the real or authentic victim subject . . .”).

<sup>60</sup> See Bernard Weinraub, *‘Beloved’ Tests Racial Themes At Box Office: Will This Winfrey Film Appeal to White Audiences?*, N.Y. TIMES, Oct 13, 1998, at E1 (“Privately, though, some top Hollywood producers and executives said that studios were particularly wary of backing serious movies on black themes, particularly those films with significant budgets geared to a broadly based adult audience.”).

who is not one of us.<sup>61</sup>

In *Taken*, there is a tiered othering. As the movie takes place in Paris, the least-worst “bad guys” are the French, who primarily play the role of corrupt and complicit government officials. Indeed, the main French official even explains that his actions are taken really just to meet his family’s expenses—“My salary is X. My expenses are Y. As long as my family is provided for, I do not care where the difference comes from. That is my entire involvement!” Next are the Albanians, who are the traffickers, and finally, there are wealthy Arabs who are the end purchasers who seek to violate innocent young girls. Again, it is an American who plays the role of savior. The racialized, tiered othering that plays out in *Taken* is not a new phenomenon. During World War II, propaganda distinguished between the Germans and the Japanese; narratives about the former certainly were negative but recognized their humanity at times by allowing for the possibility of good Germans; in contrast, the Japanese were portrayed consistently as subhuman.<sup>62</sup>

Not only is this tiered othering problematic for its portrayal of other cultures, it ignores important characteristics of U.S. culture. As Leti Volpp wrote in the context of child marriage:

Part of the reason many believe the cultures of the Third World or immigrant communities are so much more sexist than Western ones is that incidents of sexual violence in the West are frequently thought to reflect the behavior of a few deviants—rather than as part of our culture. In contrast, incidents of violence in the Third World or immigrant communities are thought to characterize the cultures of entire nations.<sup>63</sup>

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<sup>61</sup> See Todres, *supra* note 59, at 623–30.

<sup>62</sup> John W. Dower, *WAR WITHOUT MERCY: RACE AND POWER IN THE PACIFIC WAR* 81 (1986) (explaining that anti-Japanese sentiment typically “resort[ed] to nonhuman or subhuman representation, in which the Japanese were perceived as animals, reptiles, or insects”). Other descriptions tended to describe Japanese in childlike terms, playing on the narrative of the civilized versus uncivilized. *Id.* at 123. In contrast, the narrative used to describe Germans, while negative, was not as pervasively negative and allowed for a small number of so-called “good” Germans. *Id.* at 34–35. Indeed, the Japanese were more hated than Germans in the United States even prior to Pearl Harbor. *Id.* at 8 (“They were perceived as a race apart, even a species apart.”).

<sup>63</sup> Leti Volpp, *Feminism Versus Multiculturalism*, 101 COLUM. L. REV. 1181, 1186–87 (2001); see also Kapur, *supra* note 59, at 6 (“Women in the Third World are portrayed as victims of their culture, which reinforces



The reality is that U.S. citizens are traffickers, and U.S. citizens create much of the demand for goods and services provided by trafficked individuals—both sex and labor trafficking. *The Whistleblower*, the film based in part on true events, reflects a more complex picture with individuals of all nationalities, including Americans, engaged in the trafficking enterprise. An American still plays the part of savior, however.

To understand fully human trafficking and its root causes, we need to acknowledge the role that Americans play as traffickers and in fostering demand for the goods and services produced by exploited individuals. We also need to recognize that there are elements of U.S. culture—if one can say there is one culture in the United States or any country—that condone, or at least tolerate, violence against women and girls.<sup>64</sup> Indeed, discrimination against historically marginalized groups persists.<sup>65</sup> It is true that the United States has anti-discrimination laws, and in both law and public advocacy, the United States has condemned the sexual exploitation of children.<sup>66</sup> Yet other elements of society continue to promote the sexualization of children.<sup>67</sup> The picture is far more complex than can be addressed in this short Essay. The critical point is that in understanding

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stereotyped and racist representations of that culture and privileges the culture of the West.”).

<sup>64</sup> Matthew Fine, *Hear Me Now: The Admission of Expert Testimony on Battered Women's Syndrome—An Evidentiary Approach*, 20 WM. & MARY J. WOMEN & L. 221, 243 (2013) (discussing how the United States “continue[s] to tolerate a legal system that loses three women a day to domestic violence and sees another woman assaulted by her partner every nine seconds.”).

<sup>65</sup> See AM. CIVIL LIBERTIES UNION & RIGHTS WORKING GRP., THE PERSISTENCE OF RACIAL AND ETHNIC PROFILING IN THE UNITED STATES 9 (2009), [https://www.aclu.org/files/pdfs/humanrights/cerd\\_finalreport.pdf](https://www.aclu.org/files/pdfs/humanrights/cerd_finalreport.pdf) [<https://perma.cc/JW4D-BFJM>] (“[D]e facto racial disparities continue to plague the United States and curtail the enjoyment of fundamental human rights by millions of people who belong to racial and ethnic minorities.”).

<sup>66</sup> E.g., *supra* note 2 and accompanying text (listing anti-trafficking bills that Congress has passed in recent years). In addition, in 2002, the United States ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, G.A. Res. 54/263, U.N. Doc. A/RES/54/263 (May 25, 2000).

<sup>67</sup> AM. PSYCHOL. ASS'N, REPORT OF THE APA TASK FORCE ON THE SEXUALIZATION OF GIRLS 34–35 (2008), <http://www.apa.org/pi/women/programs/girls/report-full.pdf> [<http://perma.cc/R9KA-TY39>] (recognizing the lack of research on media sexualization of women and girls and its connection to increased demand for the sex industry, but suggesting that such a connection likely exists, particularly regarding the demand for child sex trafficking).

and responding to human trafficking, we need to acknowledge the role that we—the United States and its citizens—play in supporting spaces where such exploitation can continue to occur.

Movie Myth #5: “Rescue” is the end.

All three films focus on rescue as the ultimate goal. *Human Trafficking* and *Taken* essentially end with the successful rescue of trafficking victims (each has one additional postscript scene). *The Whistleblower*, tethered to the actual events it portrays, reflects a darker outcome, a sad reality in numerous cases. The lead character in *The Whistleblower* ultimately fails to save one young girl in particular and is unable to stop the trafficking ring. That other filmmakers, who are not tied to retelling an existing story, would opt to end with a successful rescue of victims is no surprise. However, the rescue narrative reinforces a misconception about human trafficking; in fact, rescue is not the end, but rather the beginning of an arguably more challenging stage—that of recovery and reintegration.

As danah boyd writes, “While the portraits [of human trafficking] that receive widespread attention are important for motivating people to act, understanding the nuance and pitfalls of the space [is] critical for building interventions that will actually make a difference.”<sup>68</sup> Successful interventions take time and repeated efforts. Rachel Lloyd, founder and chief executive officer of Girls Educational and Mentoring Services (a New York City organization that serves sex trafficking survivors), explains that relapse is part of the process and that an ongoing commitment to assisting exploited youth is necessary.<sup>69</sup>

The rescue narrative is problematic in other ways, as it often works to deny victims and survivors any agency. Ratna Kapur explains that the trafficking responses frequently “reinforce assumptions that women’s movement is coerced and primarily for the purposes of sexual exploitation, and that women themselves are helpless victims, incapable of

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<sup>68</sup> danah boyd, *Addressing Human Trafficking: Guidelines for Technological Interventions*, SOC. MEDIA COLLECTIVE (Apr. 8, 2013), <http://socialmediacollective.org/2013/04/08/technology-cse/> [<http://perma.cc/52YV-F6BG>].

<sup>69</sup> RACHEL LLOYD, *GIRLS LIKE US: FIGHTING FOR A WORLD WHERE GIRLS ARE NOT FOR SALE, AN ACTIVIST FINDS HER CALLING AND HEALS HERSELF* 186–87 (2011) (discussing the complexity of trafficking bonds and the issue of relapse).

choosing to move.”<sup>70</sup> The rescue narrative furthers this idea, yet we know that many victims and survivors choose to migrate initially and exhibit great strength throughout their ordeal.<sup>71</sup> Acknowledging and respecting the agency of victims and survivors is not only critical prior to rescue—as many victims who engage in self-help are not recognized as victims—but is also important in the post-rescue recovery process.

Responding to human trafficking effectively will require a sustained commitment to assisting survivors over an extended period of time. Equally important, it will require significant commitment to strengthening communities and reducing vulnerability so as to prevent the harm from occurring in the first place.<sup>72</sup> Hollywood can end a movie with a dramatic rescue, but advocates must ensure that a complete picture is advanced so that sufficient resources and attention are dedicated to aiding survivors in their journeys.

### III

#### POPULAR TRAFFICKING NARRATIVES REFLECTED IN LAW AND POLICY

As Elżbieta Goździak has written, “The dominant anti-trafficking discourse is not evidence-based but grounded in the construction of a particular mythology of trafficking.”<sup>73</sup> Given the limited evidence base and even more limited reliance on evidence-based research in the field of human trafficking, a critical question is what “evidence” is relied upon when designing law, policy, and programming. Film and other popular portrayals of human trafficking shape and reinforce a particular construct of human trafficking. In

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<sup>70</sup> RATNA KAPUR, *EROTIC JUSTICE: LAW AND THE NEW POLITICS OF POSTCOLONIALISM* 9 (2005).

<sup>71</sup> See Kinsey Alden Dinan, *Globalization and National Sovereignty: From Migration to Trafficking*, in *TRAFFICKING IN HUMANS: SOCIAL, CULTURAL AND POLITICAL DIMENSIONS* 58, 71 (Sally Cameron & Edward Newman eds., 2008) (noting that many victims start out by migrating); Glori G. Gray, Lilia Luna & Winston Seegobin, *Exploring Resilience: Strengths of Trafficking Survivors in Cambodia*, 24 *INT’L J. ADOLESCENT MED. & HEALTH* 363–65 (2012) (discussing the resilience of trafficked women and girls).

<sup>72</sup> See Todres, *supra* note 37, at 480–87.

<sup>73</sup> Elżbieta M. Goździak, *Children Trafficked to the United States: Myths and Realities*, 14 *GLOBAL DIALOGUE* 51, 51 (2012), <http://www.worlddialogue.org/print.php?id=534> [<http://perma.cc/UZ7E-BFU4>].

turn, these constructs and misconceptions “can translate into differences in the ways that legal problems are conceptualized, or even recognized.”<sup>74</sup> On the issue of human trafficking, most laws have not been adopted after evidence-based research.<sup>75</sup> Thus, popular conceptions of the problem matter.

A review of human trafficking laws reveals that many of these laws reflect the popular misconceptions found in movies and other media. The rescue narrative, with its focus on apprehending perpetrators and “saving” victims from immediate danger at the hands of the traffickers, is prevalent in both federal and state legislation. Beginning with the adoption of the Trafficking Victims Protection Act in 2000 and continuing with dozens of legislative acts at the federal and state level since then, the law on human trafficking has been primarily criminal-law centered.<sup>76</sup> Law enforcement is an essential element, but other critical components of a robust response have received significantly less in the way of resources. Most notably, services and support for victims and survivors are still lacking in many locales.<sup>77</sup> Federal legislation adopted in 2015 aims to address some of the gaps in services for victims and survivors,<sup>78</sup> but much more is needed to ensure that survivors have the support they need.

Related to the rescue narrative, the essentialized victim—the young woman or girl trafficked for sex—has

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<sup>74</sup> Covey, *supra* note 7, at 1382.

<sup>75</sup> See INSTITUTE OF MEDICINE & NAT’L RESEARCH COUNCIL, CONFRONTING COMMERCIAL SEXUAL EXPLOITATION AND SEX TRAFFICKING OF MINORS IN THE UNITED STATES 408 (2013) (commenting on the “lack of evidence-based research on and evaluation of existing laws and programs”).

<sup>76</sup> See Jennifer M. Chacón, *Tensions and Trade-Offs: Protecting Trafficking Victims in the Era of Immigration Enforcement*, 158 U. PA. L. REV. 1609, 1617–20 (2010); Chuang, *supra* note 40, at 1725–26; Jonathan Todres, *Widening Our Lens: Incorporating Essential Perspectives in the Fight Against Human Trafficking*, 33 MICH. J. INT’L L. 53, 57–67 (2011).

<sup>77</sup> INSTITUTE OF MEDICINE & NAT’L RESEARCH COUNCIL, *supra* note 75, at 260 (“[B]road consensus exists among professionals in each sector that serves victims/survivors of commercial sexual exploitation and sex trafficking that too few services are available to meet current needs.”).

<sup>78</sup> See, e.g., Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22, 129 Stat. 227, 230, 249–50 (establishing a fund to award grants to states and localities to combat trafficking, provide protection and assistance for victims of trafficking, and provide services for victims of child pornography); Preventing Sex Trafficking and Strengthening Families Act, Pub. L. No. 113-183, 128 Stat. 1919 (2015) (adopting legislation to protect children and youth at risk of sex trafficking).

shaped law enforcement efforts, leading to a prioritization of sex trafficking of women and girls over labor trafficking and the plight of exploited men, boys, and transgendered individuals.<sup>79</sup> Over the past decade, sex trafficking has received much more attention from law enforcement and victim-services organizations than labor trafficking.<sup>80</sup> This response is consistent with popular portrayals of human trafficking as primarily an issue of sex trafficking. In other words, when media portrayals focus little on labor trafficking or the exploitation of boys and transgendered youth, it leaves the impression that those issues do not exist or at least are not significant. Thus, policies built on that construct of the problem inevitably will emphasize addressing sex trafficking of women and girls.

Next, early anti-trafficking law prioritized services for foreign victims, reflecting the portrayal of the issue as largely located in or deriving from other parts of the world.<sup>81</sup> Since then, federal law has been amended to address domestic victims' needs, though services for trafficking survivors continue to be influenced by the popular notion that trafficking occurs elsewhere.<sup>82</sup>

Finally, current anti-trafficking law continues to pay too little attention to the root causes of these forms of exploitation and to developing successful prevention strategies.<sup>83</sup> The lack of emphasis on prevention, rather than responses after the harm occurs, reflects both popular notions that "rescue" is what is needed and an unwillingness to acknowledge that mainstream culture and consumerism contributes to the demand for exploited individuals.

In short, many of the laws adopted since 2000 to address human trafficking reflect several of the dominant misconceptions found in popular portrayals of the problem.

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<sup>79</sup> Jones, *supra* note 46, at 1146 (arguing that "men and boys are both more likely than women and girls to become victims of human trafficking and far less likely to receive legal protection").

<sup>80</sup> Peters, *supra* note 39, at 221–22, 225.

<sup>81</sup> Amanda Peters, *Disparate Protections for American Human Trafficking Victims*, 61 CLEV. ST. L. REV. 1, 16 (2013) ("American citizens receive fewer protections, may have to deal with greater bureaucracy to access what assistance is available, and may be prosecuted for sexual criminal offenses like prostitution in greater numbers than their foreign counterparts.").

<sup>82</sup> See *id.* at 40 ("Though the United States has recognized Americans as trafficking victims since at least 2005, it has yet to prove it by providing systematic and equal protections to this group.").

<sup>83</sup> See Todres, *supra* note 76, at 58–61.

These parallels do not establish causation, but there is evidence of a correlation between law and policy on the one hand and popular portrayals of human trafficking on the other. This correlation is indicative of the feedback loop between law and culture.

I am not so naïve as to expect that Hollywood will produce only documentaries. Moreover, law enforcement efforts and many other steps taken to date have produced some positive results. But they are not enough. Simply put, we are not going to prosecute our way out of this problem. A comprehensive, multisector response is needed, and currently key components of such a response to human trafficking remain largely overlooked and underdeveloped.<sup>84</sup> Therefore, it is important that policymakers, advocates, and the general population become more aware of what is missing from many popular portrayals of human trafficking.

#### CONCLUSION

The films highlighted in this Essay both reflect and reinforce many of the prevailing understandings of human trafficking. It is notable that *Human Trafficking*, a film that emerged as part of an advocacy strategy and involved input from anti-trafficking organizations, and *Taken* both mischaracterize aspects of the problem and potential solutions in strikingly similar ways. *The Whistleblower*, tethered to real-life events, portrays some of the same myths, though its ending is less Hollywood in nature. All of these films are part of the feedback loop between law and culture. Films and popular media that present skewed or incomplete conceptions of human trafficking reinforce a particular construct of human trafficking that then serves as the basis for action to address human trafficking.

Legislative action occurs when there is a critical mass of support for a response to a social problem. Karlin and Johnson explain, “Legislative change typically takes place beyond the social movement stage, when there is enough support to pressure legislators to change or create policy.”<sup>85</sup> If film and other media create a particular understanding of

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<sup>84</sup> See, e.g., INSTITUTE OF MEDICINE & NAT’L RESEARCH COUNCIL, *supra* note 75 (highlighting the importance of a comprehensive, multisector response, while noting that health care, education, and the private sector have been underutilized in anti-trafficking efforts to date).

<sup>85</sup> Karlin & Johnson, *supra* note 6.

human trafficking, then the push for legislative action will demand measures that are responsive to that construct. The problem with that process is that if the popular portrayals are wrong, or privilege certain stories over others, then legislative action will fall short of aiding all individuals at risk of or harmed by trafficking.<sup>86</sup>

I do not expect Hollywood to stop making action movies, but researchers and advocates who work on human trafficking can respond more effectively. First, scholars and advocates can do a better job of calling attention to the disconnect between cinematic (and other media) portrayals of human trafficking and the reality of the problem. The desire to keep celebrities engaged in particular social issues is understandable given the attention they can bring to an issue, but it does not mean that advocates need to remain silent in the face of inaccuracies.

Second, researchers and advocates can use the attention brought to this issue by film as an opportunity to educate the public on the reality of the problem. Film and television can be powerful tools for education, but it is important to ensure they are used effectively. Researchers and advocates can utilize human trafficking films to create a more inclusive discourse on the realities of human trafficking and what is needed for a comprehensive response to the problem.

Third, scholars and advocates can work together to ensure that policymakers are provided, and rely on, evidence-based research and other critical information to build law and policy responses.<sup>87</sup> That means evaluating laws and programs, ensuring that evidence-based research is conducted to better understand the problem and to assess the effectiveness of responses, and partnering with survivors and at-risk communities to ensure that their expertise informs law and policy initiatives.

At the close of *Human Trafficking*, Mira Sorvino's

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<sup>86</sup> See Dina Francesca Haynes, *The Celebrityization of Human Trafficking*, 653 ANNALS AM. ACAD. POL. & SOC. SCI. 25, 34–36 (2014) (discussing celebrities' involvement in anti-trafficking causes, their frequent misrepresentation of the issues, and "the willingness of legislators to take counsel from celebrities").

<sup>87</sup> See Robert E. Freeman-Longo, *Reducing Sexual Abuse in America: Legislating Tougher Laws or Public Education and Prevention*, 23 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 303, 316 (1997) ("Passing legislation should follow a process by which legislators research the issue, have some supportive evidence that the law will work, and are willing to allocate funds at state and federal levels to ensure states will carry out and uphold the law.")

character delivers a speech in which she says, “Modern day slavery is only occurring because we choose to ignore it.” That is correct.<sup>88</sup> Shining a spotlight on the issue is important. Equally important, we must ensure that the attention brought to the issue does not create false impressions about the problem that might prove harmful to the very individuals we aim to assist.

Educating the public on the reality of human trafficking and its attendant forms of exploitation and ensuring policymakers are presented with and act upon evidence-based research on the issue is no easy task. But preventing human trafficking is not easy, only essential.

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<sup>88</sup> Indeed, the closing speech by Mira Sorvino highlights several important truths about human trafficking. Sorvino has since become a vocal advocate on human trafficking. The issue is that a brief speech at the end of a film is unlikely to “undo” the impact of the imagery throughout the film in the minds of viewers, and so viewers are still likely to come away with misconceptions about the problem.