

2017

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Recommended Citation

Gray, Brittany (2017) "Exploring Impacts of Administrative Discretion on Human Trafficking Victims,"
SPNHA Review. Vol. 13: Iss. 1, Article 5.
Available at: <https://scholarworks.gvsu.edu/spnhareview/vol13/iss1/5>

Exploring Impacts of Administrative Discretion on Human Trafficking Victims

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Abstract

In a world where succeeding in one's occupation is dependent upon following policies and fulfilling obligations, human rights and ethics may fall secondary. As a result, policy and institutionalized processes and behaviors have the potential to overlook and infringe upon the rights of human trafficking victims. By exploring fictional stories of a human trafficking victim and law enforcement, this paper examines how flawed policy and cultural perspectives can negatively influence administrative discretion. To illustrate how street level bureaucracy may further harm victims of human trafficking, the narratives compare how treatment of individuals may vary based on the perception of them as an illegal economic immigrant, refugee, or victim of modern day slavery.

Keywords: administrative discretion, street level bureaucracy, human rights, ethics, human trafficking, modern day slavery

Despite the ignorance or firm disbelief that human trafficking exists in the United States, it does. In fact, the 2016 Trafficking in Persons Report (TIP Report) identified the U.S. as one of the top three countries of victim origin, along with Mexico and the Philippines. Unfortunately, current policy has a tendency to treat victims of human trafficking as members of a surplus population, one that – because of race, gender, ethnicity, or political and economic status – lacks the protections and rights normally afforded citizens of a nation state. By exploring fictional stories of a human trafficking victim and law enforcement, this paper illustrates how administrative discretion may be negatively influenced by flawed policy, ignorance, and distorted perspectives.

In a world where succeeding in one's occupation is dependent upon following policies and fulfilling obligations, human rights and ethics may fall secondary. To illustrate how street level bureaucracy may further harm

victims of human trafficking, the narratives compare how the treatment of individuals may vary based on which surplus population they belong to, such as illegal economic immigrants, refugees, or victims of modern day slavery. Regrettably, current policy addresses each independently, blind to the fact that an individual may belong to all three populations, if not more. Furthermore, connecting these narratives to administrative discretion provides the opportunity to better understand and develop ethical alternatives to approaching human trafficking in the United States.

Methodology

The purpose of this research is to explore how flawed policy and cultural perspectives can negatively influence administrative discretion. To investigate how street level bureaucracy may further harm victims of human trafficking, several research methods were implemented. In addition to an extensive literature review, a combination of formal and informal interviews and attendance at a law enforcement training were utilized.

Formal and Informal Interviews

As noted prior, both formal and informal interviews were conducted. I led six formal interviews with Illinois and Michigan officers; each participant was asked the same set of questions—see Appendix A. All six officers expressed the need to conceal their identities, as well as their departments.’ With anonymity the officers felt more comfortable describing the challenges and shortfalls of addressing human trafficking, refugees, and illegal immigrants. None of the participants had received human trafficking training while attending police academy. Answers varied whether their past or current departments discussed human trafficking.

While some officers mentioned that their prior or current departments held human trafficking in high priority, others stated it was over-looked because it was thought that human trafficking didn’t occur in their jurisdiction. Of the six interviewees, only one had attended human trafficking training seminars. Of the four who hadn’t, two chose to research human trafficking on their own so they would be prepared if a situation was discovered. Of the six officers, only two had experienced instances of modern day slavery while on duty. Due to confidentiality, details of the cases could not be disclosed. Of the six interviewees,

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two stated they experienced situations where their ethics were put into question as a result of fulfilling occupational obligations. Once again, due to confidentiality, the officers were not able to disclose more details. Though levels of human trafficking efforts varied, all interviewees stated human trafficking awareness was critical for both local and state law enforcement.

Informal interviews were conducted with three human trafficking victims and one Michigan officer. Framed as a discussion, interviews with the trafficking victims focused on how one was trafficked, their time in bondage, interactions with law enforcement, and their struggles with the judicial system. Though none of the victims were trafficked in the same manner, they all were trapped in similar forms of bondage. Their traffickers utilized similar fear tactics, both psychological and physical, and forced their victims into similar lines of work. In addition, each stated they had run-ins with police but that no one suspected or inquired about them being a victim. Though all three are now free from their oppressors, each is struggling with the judicial system to either prosecute their traffickers or receive critical assistance.

The informal interview with a Michigan officer was also framed as a discussion. This individual helped shed light on the difficulties of working in a department where human trafficking is not a priority. The officer continuously asked for trainings or to explore potential cases but to no avail; their superiors felt human trafficking was not taking place in their jurisdiction. May it be noted that several cases have been identified within their jurisdiction.

Law Enforcement Training Seminar

In an effort to conduct more holistic research, I also attended a human trafficking training designed for law enforcement. There were approximately sixty attendees, the levels of human trafficking awareness varying from officer to officer—some had no idea it was in Michigan, others had arrested traffickers. Many of the officers disclosed in confidence that they were unclear about many federal and state human trafficking policies, and that they hoped to get a better understanding by attending the training. In addition, several of the officers felt they didn't know how to identify or address situations of human trafficking. Though the training helped the officers better understand policy and modern day slavery, it left them confused as to how to respond to instances of human trafficking.

Developing the Narratives

To illustrate the potential impacts of administrative discretion on human trafficking victims, I utilized a fictional narrative to tell the story of a victim and her struggles with both law enforcement and the judicial system. Information gathered through the literature review, interviews, and police training helped shape how the victim (Maria) was trafficked, her time in bondage, and how she was perceived by law enforcement. Though the narrative is fictional, it provides a glimpse into the reality faced by many human trafficking victims. However, it should be noted that the following narrative is only one potential example. In the story of Maria, she attempts to escape violence in Guatemala but falls victim to labor traffickers. This is a narrow scope of research, considering victims may be of any gender, age, or nationality, and experience different forms of bondage—labor trafficking, sex trafficking, or even a combination of the two.

The Stories of Maria: The Journey North

Eva and Carlos felt threatened by the increasing gang activity and violence in Guatemala, especially because sexual assault and trafficking were on the rise in their region and they had a young teenage daughter, Maria. Afraid for their daughter's future, Eva and Carlos made the heart-wrenching decision to send Maria to live with her uncle in Arizona who had been living in the States legally for the past few years. With relatively few resources available to them, the couple reluctantly turned to a local "coyote" to help their daughter make the treacherous journey across the border. A few weeks passed before the coyote was finally ready to take his next trip. After sharing tearful farewells with her mother and father, Maria climbed into a van of fellow travelers, most of who were heading north in search of jobs in the U.S., and waved goodbye until her parents were specks on the horizon. The trip proved daunting. The coyote provided few resources and not nearly enough food and water for everyone traveling through the desert. Dehydration and malnutrition quickly set in amongst the group. Tragically, Maria died before they reached the border; her body left for the desert to consume.

Or...

Nearly three weeks after their departure, the coyote told the exhausted travelers they were less than a day's journey from their destination. Maria looked at her fellow travelers as each mustered a weak smile—but for different reasons. Some were meeting up with family members already living in the states, while others were looking for financial opportunities, or, like Maria, escaping dangerous situations back home.

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Upon crossing the border, the coyote curtly explained that his journey was over and that his “friends” would take the group the rest of the way. Though Maria was nervous about this new group of strangers, she was too tired to question the situation. After traveling many hours, they arrived at a house and were escorted indoors. Finally, the travelers were told their trip was over; that they had finally made it to the United States. But before they could begin celebrating, the new guides started aggressively pushing the weary travelers to various parts of the house. A woman grabbed Maria and despite her best efforts to fight her aggressor, Maria was simply too weak from her travels to resist. She soon found herself locked in a room with three other girls.

The following morning, Maria and the other travelers were forced to begin work at a nearby garment factory. After several hours with no breaks, one traveler attempted to flee. Maria watched as the woman was shoved to the ground by one of the overseers and dragged out of the room. One of the other captors proceeded to explain that he knew where each of their families lived in Guatemala, and that he would hurt their loved ones if they didn’t cooperate or work efficiently. He finished by telling everyone not to go to the police, and to trust he was doing them a favor by saying so. He described the brutality of police officers and horrible conditions of prisons, and threatened them with deportation. From then on, Maria worked 12 to 16 hour days, seven days a week. She was given no wages and only meager amounts of food and water. If she performed unsatisfactorily, she was physically beaten and then forced back to work. And on more than a handful of occasions, she was sexually assaulted by one of the male “supervisors.” Maria felt as if there was no escape from her imprisonment.

One day after several months of servitude, Maria looked up from her sewing machine to see police officers in the factory doorway. She was hopeful but frightened. She had no idea whether the police were there to help or hurt her.

Officer Johnson and his department had been investigating a local garment factory for quite some time, and today was the day they were going to raid the establishment. It was suspected that the employees of the garment factory were in the U.S. illegally and now the officers had the opportunity to find out for sure. Some were in full uniform while others were equipped in raid gear, even those with nothing to hide would be intimidated. Upon arriving at the location, they filed out of their vehicles and began a search of the premises. They had to ensure their own protection, as well as that of those inside. Upon entering the building, they began filtering into the many rooms. Officer Johnson was the first to stumble upon the laborers; he stood in the doorway as he quickly calculated how many workers were in the room.

The stories of Maria and Officer Johnson are fictional. Nevertheless, they present realistic possibilities compiled from real-life scenarios and empirical research. Accounts from refugees and children at the border provided insight to the hardships faced while crossing the desert (Preston, 2014; O’Neil, 2014; Walser, McNeill, & Zuckerman, 2011), and

testimonials from human trafficking survivors speak to the fear tactics, work conditions, and repercussions of bondage (Bales & Soodalter, 2009; Batstone, 2010; Bales, 2012). Legal actions taken within the stories are based on current policies, criminal cases, and instances of (mis)classification of human trafficking victims as criminals (Bales & Soodalter, 2009; Batstone, 2010; Loftus, 2011; Elizondo, 2014; Brennan, 2014; Martin & Yankay, 2014; TIP Report, 2014; Simanski, 2014). Therefore, the stories provide a glimpse of the many realities faced by those trapped in bondage within the U.S.

The problem for Maria is that current policy treats her as a member of a surplus population, one that – because of race, gender, ethnicity, or political and economic status – lacks the protections and rights normally afforded citizens of a nation state (Rubenstein, 1983). Not only is she a member of one surplus population, she belongs to at least three. Maria can be described as a human trafficking victim, an illegal (economic) immigrant, and a refugee. Regrettably, current policy addresses each population independently, blind to the fact that an individual can belong to all three categories, if not more. Even if the police who found Maria recognized the complexity of her situation, which set of policies would they reference to prosecute or assist her? Would they treat her as a criminal or as a victim? Ethically speaking, Maria should foremost be identified as a human trafficking victim. This classification will provide her with critical resources and services she wouldn't otherwise receive, for example, trauma-informed counseling and removal of criminal records directly related to her time as a trafficking victim. However, human trafficking as a crime has only been present for 16 years, meaning, there is much to be learned and improved.

Human Trafficking in the United States

Despite the ignorance or firm disbelief that human trafficking exists in the United States, it does. In fact, the 2016 Trafficking in Persons Report (TIP Report) identified the U.S. as one of the top three countries of victim origin, along with Mexico and the Philippines (US Department of State). According to the Trafficking Victims Protection Reauthorization Act of 2013 (TVPA), there are two types of modern day slavery:

- **Sex trafficking:** the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion,

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or in which the person induced to perform such act has not attained 18 years of age;

- **Labor trafficking:** the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (TVPA, 2000; 22 U.S.C. § 7101).

Though anyone of any gender, ethnicity, age, mental state, nation state, can be trapped in a world of bondage; some populations are at a higher risk. These include but are not limited to: children in the welfare and juvenile systems, runaway and homeless youth, indigenous peoples, migrant workers (legal and illegal), persons with limited English proficiency, persons with disabilities, and LGBTI individuals (TIP Report, 2016).

Difficulties with identification. Despite a clear definition and awareness of vulnerable populations, there are still many challenges in identifying and assisting victims of human trafficking. One such challenge is the difficulty in simply identifying victims. As a result, case numbers are low, which has led some to believe that it is not as prevalent as estimated. For example, only 610 foreign-national trafficking victims and 694 victim family members received T-Visas in 2015, despite 5,000 available (TIP Report, 2016). These visas allow the individual and the family to remain in the United States and avoid returning home where recidivism or cultural shame may occur. These numbers are low; however not all victims are foreign nationals. As mentioned prior, one of the top countries for victim origin is the United States. In addition to the skewed perspective that trafficking isn't rampant, the fact that it happens very much behind closed doors also contributes to its hidden nature.

Unlike other nations where trafficking is public and blatantly obvious, trafficking in the U.S. happens in homes, online websites such as backpage.com, or right in front of you without you knowing. It can be the domestic helper next door, the lady doing your nails, the prostitute on the corner, the laborer in the field, or the person cooking your dinner, just to name a few. Adding to the difficulty of identifying victims, traffickers have developed strategies to make it even more challenging. For instance, they often move their victims from place to place to reduce recognition or relationship building, and utilize webpages that are difficult to retrace back to the trafficker. Another contributing factor is a lack of training amongst those who are on the frontlines, including but not limited to: healthcare professionals, emergency service providers, law enforcement, social

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services agencies, policy makers, and the general public (TIP Report, 2016; McDonald, 2014). Lastly, victims might not view themselves as such. They may deem themselves unworthy or deserving of their situation (Nichols & Heil, 2015), or identify as illegal immigrants, and/or criminals (Lofuts, 2011). As demonstrated in the story of Maria, traffickers may further ingrain this belief in their victims to further entrap them in bondage. As a result, there isn't a great rapport between law enforcement and trafficking victims. Many victims fear the police for a multitude of reasons.

Judicial implications of misidentification. Many victims may have had poor experiences with the police in the past or associate them with corruption (Nichols & Heil, 2015). For example, a victim of sex trafficking working the track may have been previously arrested for prostitution and not identified as a victim by law enforcement, therefore discouraging the victim from asking for assistance in the future. Survivors of trafficking have also indicated it's hard to come forward to the authorities when the clients you serve happen to be judges and attorneys. The very people who are qualified to help you are victimizing you, whether they are aware of your situation or not.

Policy changes have greatly improved legislation regarding modern day slavery, but that doesn't mean they are properly implemented. Laws change and departments are notified, but resources often are not provided to law enforcement for training or guidance. As a result, victims are penalized for implementation shortfalls (Farell & Pfeffer, 2014). Law enforcement personnel are currently not mandated to receive human trafficking training, which leads to the misclassification of victims as refugees, illegal immigrants, drug dealers, prostitutes, or simply victims of exploitation (McDonald, 2014). This can lead to individuals being prosecuted as criminals rather than assisted as victims. In addition, a lack of training may lead to insufficient knowledge of resources and services available to victims. As a result, survivors may be denied critical support such as temporary immigration status in the US, health services (physical, emotional, and mental), and basic needs such as safe housing.

Maria the Immigrant

The police filed into the room, asking the workers for their identification. Officer Johnson first spoke to a young woman named Maria. When he asked for her visa and paperwork, she was unable to present them. The other officers produced the same results...no documentation. The workers were quickly detained, and the owner charged

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with knowingly hiring illegal immigrants. Since it was his first offense, he was facing minimal fines: \$250-2000 per illegal employee.

Within 48 hours the workers were transferred to immigration authorities and transported to a nearby detention center. Facing deportation, Maria was informed by her immigration officer that she would be granted a hearing to defend herself beforehand. After a long nervous wait, Maria's court date finally arrived. Unfortunately, she did not have funds to hire an attorney and was unaware of assistance programs available to her. As a result, Maria was unable to effectively defend herself and prevent her deportation. Though the thought of seeing her parents again brought some comfort, Maria was worried whether Guatemala had gotten worse while she was gone. She was afraid of being sexually abused and trafficked by the local gangs. She couldn't handle going through it yet again.

Immigration in United States

The state of illegal immigration is discernable through the Department of Homeland Security's (DHS) Annual Report. In 2013, approximately 662,000 aliens were apprehended by DHS, sixty-four percent having come from Mexico. Of these, U.S. Immigration and Customs Enforcement (ICE) detained 441,000. As a result, roughly 438,000 aliens were removed from the U.S. Of these, 74% were from Mexico, 11% Guatemala, 8.3% Honduras, and 4.8% El Salvador. Many of these individuals are simply trying to escape hardships in their home countries and seeking economic opportunity in the United States. To achieve this aim, however, individuals are forced to travel across dangerous swaths of desert and may put themselves at risk of injury, death (Archibold, 2007) or being trafficked. In the past, individuals would utilize safe, key border areas to cross into the United States, but recent crackdowns on illegal immigrants and border reinforcement initiatives have forced these travelers to attempt riskier routes (Thompson, 2008). This is inhumane. Individuals like Maria are having their personal human rights violated by border security individuals simply fulfilling occupational obligations.

Impacts of administrative discretion. Border security and law enforcement are simply doing their jobs, and doing them well. Unfortunately, inadequate policy has inadvertently caused law enforcement to ignore basic human rights for the sake of administrative bureaucracy. Some may even argue that this behavior falls under the umbrella of 'administrative evil.' According to the concept, an individual may unknowingly (or knowingly) do evil by simply fulfilling their

occupational obligations. One method of further masking this type of evil is manipulation of language, such as dehumanizing individuals by turning them into objects or negative entities. It's easier to implement unjust immigration policies and border security when you refer to the individuals as 'illegals, aliens, welfare leeches, and job thieves' rather than 'people, individuals, parents, and children' (Adams & Balfour, 2014). Not to say this is a viewpoint of law enforcement, but our culture struggles with the concept of immigration, which has led to extreme arguments, both negative and positive. In the case of Maria, authorities would deem her an illegal immigrant, as she would not meet the qualifications of the Immigration and Nationality Act. She would face potential deportation while her employers are simply charged with hiring illegal employees. Not only is Maria's status as a human trafficking victim not considered, law enforcement was not able to prosecute her offenders or initiate her journey to recovery. Furthermore, her traffickers are free and able to continue subjugating vulnerable populations for their economic benefit. In sum, Maria was a victim of administrative evil perpetuated by flawed policy and administrative discretion.

Perspectives and institutionalized behaviors perpetuate this offense. First, immigration policy is a hot topic in the United States, often resulting in its precedence over alternative scenarios. Second, trafficking is largely overlooked by law enforcement in immigration cases. For example, if authorities believe or know the workers are legal, there is an assumption that their rights are being protected. It is thought that labor, occupation, housing, and health agencies are ensuring migrant workers are protected and receive their entitled basic needs. However, worker conditions are not a priority unless someone makes a specific complaint (McDonald, 2014). In addition, authorities know that a complaint system is in place for migrant workers to speak out against their employers. In some situations, however, employers may use fear tactics to prevent workers from coming forward and making a complaint. These fears may develop, for instance, from threats of being fired and deported without pay, being blacklisted by potential employers, or doing harm to one's family. Legal migrant work can easily escalate into a form of bondage, another reality to be considered by law enforcement.

Though migrant workers do not have the same rights as U.S. citizens, they still possess more rights than those in the states illegally. Unlike the legal migrant workers, law enforcement views individuals in the state illegally as just that, illegals. The idea that individuals may be in the U.S. as asylum seekers to avoid conflict back home, is often over looked. The

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idea that an individual may be a human trafficking victim often isn't in the forefront either. In fact, an individual could have been in the U.S. legally on a work visa, but then trapped into bondage, forcing them to stay in the country after their visa expired. Therefore, it is critical that those who are working directly with surplus populations help change this perspective. By treating individuals with respect and utilizing victim-centered interview tactics, the exploited may trust local authorities and organizations enough to report misconduct and labor infractions. Unfortunately, law enforcement often doesn't receive ample training, which may perpetuate the confusion between labor exploitation and human trafficking (Farrell and Pfeffer, 2014).

Maria the Refugee

Upon arriving at the location, the police filed out of their vehicles and began searching the premises. The officers and a few translators began explaining to the workers that they were there to ask a few questions. To help the workers feel at ease, the police began by asking innocuous questions such as how their day was or if they've been enjoying the warm weather. As they felt the workers becoming more comfortable, they began asking the more serious questions. Where were they from? Do you have a work visa or citizenship? How did you get here? Why did you leave your home and family, and travel to the U.S.?

At first, Maria was afraid to answer truthfully. Would her traffickers harm her family back in Guatemala? Would the police deport her back to the dangers of her home because she didn't have proper paperwork? Maria decided not to divulge the whole truth to avoid possible punishment from her traffickers but did explain why she had traveled to the U.S. Through the interview process, it became apparent to the officers that many of the workers were refugees who fled the recent conflict in Guatemala.

The police escorted the workers out of the factory and drove them to a nearby refugee center. Here Maria and the others waited until their court hearings to either grant them asylum, or deport them home as illegal immigrants. Though the conditions at the center were not the best, Maria was happy to be away from the factory and free from her abusers. Finally, the day came for Maria to testify in court why she fled her home in Guatemala. Though the process was a long and tedious one, Maria was eventually given an answer from the courts. She was granted asylum and sent to live with her uncle, her only legal guardian in the U.S.

Refugee status and asylum in the U.S. Without the police officers' training and past experience with migrant and refugee populations, it is possible that Maria wouldn't have received asylum.

According to United States law, a refugee is someone who is located outside of the U.S, is of special humanitarian concern to the U.S., was persecuted or fears persecution due to race, religion, nationality, political opinion, or membership in a particular social group, and is not firmly resettled in another country (Martin & Yankay, 2014). Though Maria may not technically qualify as a refugee due to her residence in the U.S., she qualified for asylum considering she was escaping a dangerous environment in Guatemala. According to DHS, individuals who meet the definition of a refugee and are already in the U.S., or at port seeking entry, may apply for asylum. Currently, the maximum of refugees that may be accepted into the United States is capped at 70,000. In 2015, the U.S. admitted 69,975 refugees who largely resettled in states such as Texas, California, and Michigan (DHS, 2015).

Impacts of administrative discretion. Despite this favorable outcome for Maria, it does not come without challenges. As with the immigration narrative, Maria's misclassification as an individual receiving asylum means she will not receive resources and services normally afforded to human trafficking victims. The officers, thankfully, recognized her potential refugee status and connected her to available resources and services. Though these resources are beneficial, they neglect her history as a human trafficking victim and may not fully assist her in her rehabilitative journey. Also, refugee assistance often ends after a transitional period of a few years. Unfortunately, this means Maria may face difficulties in finding appropriate assistance in the future.

However, recent events along the border suggest Maria might not have received this privilege. With the large number of women and children being found at the border, the U.S. has had difficulty deciding whether to treat them as illegal immigrants or refugees. From January through July 2014, more than 50,000 unaccompanied children were apprehended at the border. An additional 54,347 adults with children were also reported (DHS, 2014). According to the U.N., 60% of those arriving at the border can make legal claim to protection via asylum but many are not granted these rights. Most nations, including the U.S., are not adequately prepared to assist this volume of migrants. As a result, many fall through the cracks and may not receive support in filing for asylum.

This leaves border security and law enforcement officials in a difficult position. They are detaining individuals who are often simply seeking a better life, but are committing a crime simply for where they are, rather than a criminal act. Normally, the system for granting refugee and asylum status works appropriately, but the recent surge of families

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and unaccompanied minors at the border has challenged its efficiency. As a result, law enforcement may be facing ethical decisions, such as letting a family cross over illegally, or detaining and placing them in an overcrowded refugee camp until their court date. During WWII, the U.S. denied a ship of individuals seeking asylum from the Nazi regime. These human beings were forced to return to their home country, and many fell victim to the war and concentration camps. Though U.S. personnel didn't do anything illegal, hindsight has deemed it an ethical infraction and potential administrative evil (Adams and Balfour, 2014). If we look back at the events of today and treatment of individuals like Maria, will society deem it a moral infraction or proper policy implementation? What if Maria wasn't granted asylum and as a result, was deported and re-trafficked or killed by gang activity? Does this change the ethical implications of our administrative decisions?

Maria The Victim Of Human Trafficking

As the police entered the room, they began by stating they simply had a few questions to ask. After easing the workers minds with a little small talk, the police began asking if they had proper visas. Upon discovery of the workers' illegal status, the police inquired further. They asked questions such as, where are you from? How did you get here? Where do you live? How much are you paid for your work? Are you able to leave your home to buy groceries? Maria was confused. Why were they asking her if she was able to buy groceries? She was afraid to answer the questions for fear of her and her family's safety, but she thought it was a risk worth taking. After explaining how she had arrived at the factory and the abuses she had suffered, the officer realized the workers were possible human trafficking victims.

Maria and the workers were soon escorted to local shelters and centers. She was given basic amenities and was able to speak to a counselor about her traumatic experience. While at the center, Maria learned that her potential human trafficking status could help her receive U.S. citizenship and rehabilitative support services if granted a T-visa. As part of the application process, Maria was told she needed to assist authorities in prosecuting her traffickers. She was afraid to speak in court in front of her abusers, but the attorney assured her they couldn't harm her while they were in custody.

During the trial, Maria's attorney told her they were having difficulty proving coercion. Without coercion or proof of her abuse, Maria's traffickers would only face charges for hiring illegal employees and a few minor labor infractions. After all the pain and anxiety she endured while helping the authorities prosecute her offenders, Maria feared she wouldn't be granted a visa and soon be deported to Guatemala.

Modern day slavery in the United States. The U.S. government currently complies with minimum standards for prevention, prosecuting traffickers, and protecting human trafficking victims. According to the TIP Report, the Federal government has prosecuted more cases, obtained more convictions, and continued to strengthen training at all levels of government (2016). Each state has enacted anti-human trafficking policy. Despite these advances, US prosecutions of human trafficking offenders only number in the hundreds. In the case of Maria, her status as a human trafficking victim was challenged by the potential inability to prove force, fraud, or coercion. How does one prove these methods when there are no chains on their wrists or locks on their door? If the police hadn't been trained in this scenario, it is possible Maria would have been misidentified, and denied her victim status and its attributing rights. For this reason, it is critical that law enforcement utilizes smart raids, rather than blind.

Loftus discusses the harm done by authorities that participate in blind rather than smart raids (2011). In these situations, authorities enter a work place expecting to find illegal immigrants working inside, not human trafficking victims, therefore pursuing the wrong line of questioning. With victims afraid to come forward and authorities focused on immigration status, many human trafficking victims may in fact be deported as criminals rather than assisted as victims. As a counter measure, some stakeholders argue that a victim-centered approach should be implemented in situations like these (TIP Report, 2010). By incorporating this concept into day-to-day operations, discretion can be exercised that would put the well-being of individuals first, not their potentially illegal immigration status. In the case of Maria, her traffickers may simply receive fines for having knowingly hired illegal aliens and avoid any human trafficking charges. If convicted, the trafficker may face 5 to 20 years of imprisonment and substantial fines, though it should be noted that crimes and punishments vary by state (TIP Report, 2016). In several cases, victims of modern day slavery have actually been punished more severely than their traffickers (TIP Report, 2010); yet another unintended consequence of street level bureaucrats fulfilling their employment responsibilities and upholding the law. Due to this narrow perspective of immigration and mobility in the U.S., those working with surplus populations may unknowingly (or not) ignore human rights and cause harm to individuals, for the sake of performing their job (Adams & Balfour, 2014).

Another disconnect between immigration and human trafficking policy stems from the multiple levels of government that may get

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involved. In regard to immigration cases, local and state governments are recommended not to act for it is typically under federal jurisdiction. Participation in anti-human trafficking cases, however, occurs at all levels of government (Loftus, 2011). Though authorities and local and state governments are encouraged to take action in human trafficking cases, they may try to avoid them in fear of overstepping immigration jurisdiction. This is another example of how simply doing one's job can result in unethical behavior. An officer of the law shouldn't have to fear overstepping their bounds when questioning immigrants about their legal status and work conditions.

Prostitution and human trafficking. Human trafficking policy issues, however, are not limited to the immigration narrative. Due to the relatively recent attention of modern day slavery, much of the legislation is ambiguous or incomplete. One such shortfall is policy relating to prostitution. Prostitution is a 'hot topic' in the anti-trafficking community, largely due to the perspective that prostitutes choose their line of work, even if out of desperation. Regardless of one's opinion on the matter, not all prostitutes choose their profession. Fear tactics, physical abuse, forced drug addiction, and malnutrition are just a few strategies implemented by traffickers to force women, men, and children into this line of work. As a result, prostitutes have been arrested and deported if illegal, while their 'johns' and 'pimps' faced small fines if anything. According to the TVPA, victims of 'severe' human trafficking should not be prosecuted for illegal citizenship or inappropriately detained, incarcerated, fined, or penalized for actions committed as a direct result of human trafficking (TVPA, 2000; 22 U.S.C. § 7101). Despite this globally recognized regulation, many modern day slavery victims experience or fear experiencing this exact situation.

Furthermore, federal law states that any minor participating in prostitution may not be prosecuted as a criminal - they are deemed human trafficking victims because they are not considered mature enough to genuinely consent to sexual activity (TVPA, 2000; 22 U.S.C. § 7101). However, not all states are aware or follow this law as minor prostitutes continue to be arrested and prosecuted (Irvine, 2013; TIP Report, 2014 & 2016). As of 2015, only 34 states had safe harbor laws to protect minors trapped in sex trafficking. Thankfully, a recent study suggests prostitution arrests are on the decline. Overall, the study found that arrests are down 17% and 40% in large cities (Farrell and Pfeffer, 2014). However, the researchers also acknowledge that the decline may be attributed to many factors, such as a change in police perspective and operations, or

a decrease in market demands. At the same time, there are also officers who feel that arresting the victim helps get the individual out of their situation (Farrell et al, 2016). This may be true, but it may also contribute to the distrust victims have for law enforcement. Not to mention, they are being treated as a criminal, rather than a victim. This status will deny them resources normally afforded to human trafficking victims and potentially cause challenges in the future. For example, approval for loans or housing may be difficult, let alone, employment. Focus needs to be shifted from illegal acts of prostitution to prosecuting ‘johns’ and ‘pimps;’ if you decrease demand, you shrink the market.

To add another level of complexity, prosecution comes with its own set of challenges. Since law enforcement may overlook instances of human trafficking, the appropriate forms of evidence may not be collected (Nichols & Heil, 2015). As a result, prosecutors may struggle to prove force, fraud, and coercion in their trafficking cases. The 2016 TIP report suggests that many prosecutors are charging traffickers with lesser crimes to ensure a conviction. These include but are not limited to kidnapping, sexual abuse, extortion, criminal enterprise, and money laundering. However, this only perpetuates human trafficking victims as a surplus population. Traffickers receive punishments that aren’t severe enough to scare them out of the industry, and victims are denied status and rights. In 2015, the DOJ only made 397 convictions, a small number considering the estimates of trafficking victims in the United States (TIP Report, 2016). Let’s say a victim, like Maria, does receive victim status. It doesn’t mean she will receive access to resources. Maria would receive case management, but her location may dictate what resources she may receive. Federally funded resources are limited to case management and resource referrals, such as: medical, dental and mental health services; substance abuse; shelter; translation services; immigration and legal assistance; job training. (TIP Report, 2016). Nonprofits and other social organizations often fulfill these services, but that doesn’t mean they’re free. If not, the victim might not be able to afford basic necessities, let alone counseling.

Law Enforcement and Human Trafficking

Participant observation at a law-enforcement training seminar for human trafficking, formal and informal interviews with law enforcement personnel, and survivor testimonials were utilized in assessing the reality of administrative perpetuation of human trafficking victims being denied protection in the Illinois/Michigan region. The areas of research included policy, perspectives, and resources.

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Law enforcement and policy. After discussing policy in these forums, multiple strengths and weaknesses were identified. According to law enforcement personnel, the departments are quick to review new legislation when it passes. Each received a docket, explaining the new or recently changed policy. As mentioned prior, however, that does not mean the policy will be properly implemented. For example, Federal legislation states trafficking victims may not be charged for crimes directly linked to their trafficked activities (TVPA, 2000; 22 U.S.C. § 7101). Officers are aware of this law, but if they're not trained to identify victims, how will they know if they're wrongly convicting someone? A few officers at the training were honest with their intent of learning more about the state laws pertaining to human trafficking. The ability to recognize that one needs to learn more has always been deemed a strength, but in this example, it also exposes the difficulty in interpreting policy. Legislation can be difficult to navigate, especially when the language is new to you. Human trafficking, like many subjects, has a unique vocabulary, but it is also a rather 'new' phenomenon despite its lengthy history. For example, Michigan didn't have human trafficking policies until 2006. If an officer isn't familiar with the trafficking vocabulary and concepts, it may lead to an incomplete understanding or misinterpretation of the law. This may lead to wrongful arrests or oversight of victims. Several survivors spoke of having contact with police and even being arrested. Of these, the officers never inquired as to the individual's safety, only their criminal activity. In part, perspective and resources are responsible for this shortfall.

Human trafficking awareness. At these forums, many thought human trafficking wasn't happening in their district. Others thought it was unlikely but understood the possibility. The remainder knew it was happening, as they had already encountered it. Being in the know is a critical piece in tackling human trafficking. Unfortunately, not everyone is informed yet. Several officers spoke of superiors who wouldn't take trafficking investigations or the idea of training seminars seriously. Alternatively, some spoke of specialized units for human trafficking investigations. However, even in these departments, not all of the officers were trained. It should be noted that a few of the officers have taken it upon themselves to learn more about human trafficking and its identifiers, despite it not being discussed in the work place. In addition to the perspective of human trafficking not happening "here," the immigration perspective was also discussed.

At the training for instance, a scenario was proposed to the class. Considering the class knew the subject was human trafficking, they automatically knew the individuals in the scenario were victims. When asked what they should do first, a quick response was to ask for the victim's documents. In this situation, the officer thought of it as a clue to identify a situation of human trafficking. Though not a case of mistaken status as an illegal, the officer quickly jumped to immigration status without thinking of the consequences. As a result, the prospective victim may act defensive and not inform police of the true situation.

Availability of resources. A lack of resources compounds the issue further. Officers described departments with no training, or specialized training for high-ups and special units. Only one of the patrol officers had attended a human trafficking training. Those who are likely to come across situations of trafficking should have the training, not just management. Though it would be nice to say training could fix this situation, the training itself has improvements to make. This particular training spoke negatively, highlighting gaps and shortfalls rather than opportunities and calls to action. The training covered the definitions of trafficking, vulnerable populations, identifiers to look for, and state policy, but it didn't instruct officers how to respond. The officers were frustrated when a clear line of action wasn't outlined, and began asking questions like, "where do you take a potential victim in the middle of the night when no shelters are open?" No definitive answer was given, as taking them to jail is looked down upon. Several survivors spoke of their encounters with the police, and repeatedly stated that our officers need more training so that they may identify and dissolve instances of human trafficking. However, identifying victims of trafficking becomes a different issue when you don't have the resources to provide for them.

In addition to training, a lack of funding was also discussed in the forums. Officers spoke of being shorthanded, that they were too busy responding to situations at hand to start investigations on human trafficking. Hiring extra officers would help, but funding for a new hire was another story. Others mentioned how expensive training can be, even if it's just the cost of them not performing their job while in the seminar. However, shouldn't such a cost be warranted?

Changing institutionalized behavior. Typically, cultural change does not happen overnight. It takes time to change institutional processes, and their associated perspectives. To effectively transform culture pertaining to human trafficking, changes will need to be implemented

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in several areas. These include, but are not limited to, training, funding, resources, perspective, and policy.

First, training should be state-mandated for all law enforcement personnel. Law enforcement officials are on the frontlines every day; they should be trained to identify and assist victims when encountered. Second, funding should be allocated to departments that are actively working to identify victims and charge traffickers, as well as the organizations the victims are referred to for assistance. Which alludes to the third, a critical need for resources. In 2015, only \$3.2 million was allocated to domestic trafficking services by the federal government (TIP Report, 2016). Resources need to be available for both the victims and the law enforcement personnel fighting for them, and at all levels; local, state, and federal. Fourth, perspectives need to change for both the officers and the victims. Officers are dependent on gaining a whole picture to perform their work efficiently, and they are wonderful at it. However, officers need to be informed that pieces to their pictures may be missing. The drug dealer in the backseat might be trafficked and face serious repercussions for being caught. The prostitute being arrested may be trapped in bondage, only to be pulled back in after being released. Human trafficking takes place in every country and every state and until that is understood, victims will continue to be overlooked and traffickers released to continue subjugating. For this reason, law enforcement should consider the concept of ‘choice’ when arresting such individuals. Yes, the individual committed a crime, but were they forced to? What if they were a victim? What would have happened had they refused their trafficker? Lastly, policy needs to change. Its approach needs to limit the risk for human rights infringement, and reinforce the responsibility of connecting victims to resources. Not only can perspective help change policy, it can also change the perspectives of those working within the policy.

With the fear of administrative evil being all too real, it is critical that our policy makers and administrators challenge their traditional thought processes and actions for ethical and moral validity. If not, ignorance of moral or unethical behavior can perpetuate its occurrence and escalate damage done. Though perhaps a dramatic example, a lack of ethical check-and-balances during the Nazi regime enabled normal people to ignore human rights for the sake of their employment, whether knowingly or not. Once again, if we were to look at the treatment of individuals like Maria with hindsight, would we speak with voices of protest or occupational responsibility?

Final Thoughts

This essay isn't about the shortfalls of law enforcement or the hindrances they face in combatting human trafficking. It is about the institutionalized processes and behaviors that may result in the infringement of rights held by human trafficking victims. This scenario could be played out for social workers, doctors, emergency first responders, teachers, and even the general public. The reality is that our policies and occupational responsibilities have the potential to overlook, and at times, further harm, our survivors of human trafficking.

As mentioned prior, some would argue that the treatment of this surplus population falls under the umbrella of administrative evil. Others, however, may argue that it is simply an oversight due to the relative newness of the crime- human trafficking. Others yet may argue that wrongful arrest is bound to happen, considering the frequency of arrests by law enforcement. Some would even try to disprove my argument by saying the officers were trying to be helpful in both the human trafficking and refugee narratives. However, just because one is ignorant of true situations or acted with good intentions, it doesn't mean that the victims' rights weren't violated. For example, space travel is complex and may expose its passengers to risk. That doesn't mean we should downplay that risk, even if the astronauts are aware of the potential for death. Yet, this is exactly what happened with the Challenger and Columbia disasters (Adams & Balfour, 2014). We can't accept the risk of wrongfully identifying someone as a refugee or illegal immigrant, but more importantly, we can't continue to treat humans as surplus populations. The story of Maria isn't just about misidentification, law enforcement and legislative hindrances; it is a story about the wrongful treatment of surplus populations.

Typically, surplus populations are recognized groups of people who receive fewer rights and protections from a nation-state because of a lack of belonging. As a result, many argue it's not the responsibility of the nation to support these populations, for example, illegal immigrants, prison populations, and refugees. However, victims of human trafficking as a surplus population are slightly different. Unlike other surplus populations that can't be refuted, many are not aware of human trafficking or refuse to believe it exists. This in itself perpetuates administrative evils afflicting victims of human trafficking. Once again, this research is not intended to place blame on our officers. It is simply an example to show how administrative discretion and flawed policy

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can cause harm. Unfortunately this infringement of human rights will continue until national perspectives change and/or acknowledge the existence and rights of human trafficking victims.

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