

# Legislative discrepancies: an analysis of Missouri's current human trafficking laws and the need to improve its legal protection of victims

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## Abstract

**Purpose** – Human trafficking (HT) is a local, national and international problem with a range of human rights, public health and policy implications. Victims of HT face atrocious abuses that negatively impact their health outcomes. When a state lacks protective laws, such as Safe Harbor laws, victims of HT tend to be seen as criminals. This paper aims to highlight the legal present gaps within Missouri's anti-trafficking legislation and delineates recommendations for the legal protection of victims of HT and betterment of services needed for their reintegration and healing.

**Design/methodology/approach** – This case-study is based on a policy analysis of current Missouri's HT laws. This analysis was conducted through examining current rankings systems created by nationally and internationally recognized non-governmental organizations as well as governmental reports. Additionally, other state's best practice and law passage of Safe Harbor legislations were examined. The recommendations were based on human rights and public health frameworks.

**Findings** – Missouri is a state that has yet to upgrade its laws lately to reflect Safe Harbor laws. Constant upgrades and evaluations of current efforts are necessary to protect and address HT at the state and local levels. Public health and human rights principles can assist in the upgrading of current laws as well as other states' best-practice and integration of protective legislation and diversion programs to both youth and adult victims of HT.

**Research limitations/implications** – Laws are continually being updated at the state level; therefore, there might be some upgrades that have taken place after the analysis of this case study was conducted. Also, the findings and recommendations of this case study are limited to countries that are similar to the USA in terms of the state-level autonomy to pass laws independently from federal law.

**Practical implications** – If Safe Harbor laws are well designed, they have greater potential to protect, support and assist victims of HT in their process from victimization into survivorship as well as to paving the way for societal reintegration. The creation and enforcement of Safe Harbor laws is a way to ensure the decriminalization process. Additionally, this legal protection also ensures that the universal human rights of victims are protected. Consequently, these legal processes and updates could assist in creating healthier communities in the long run in the USA and around the world.

**Social implications** – From a public health and human rights perspectives, communities in the USA and around the world cannot provide complete protection to victims of HT until their anti-trafficking laws reflect Safe Harbor laws.

**Originality/value** – This case study, to the best of the authors' knowledge, is a unique analysis that dismantles the discrepancies of Missouri's current HT laws. This work is valuable to those who create policies at the state level and advocate for the protection of victims and anti-trafficking efforts.

**Keywords** Human trafficking, Law, Safe harbour, Protection, Criminalisation, Human rights, Public health

**Paper type** Case study

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## Introduction

Human trafficking (HT) is *modern-day slavery*. Victims of HT are trapped under the control of their traffickers and suffer constant inhumane abuses (Polaris Project, 2019; United Nations Office of Drugs and Crime, 2014; US Department of Justice, 2018). The outcomes of their victimization lead to long-lasting morbidities and even mortality. Therefore, HT is a public health and human rights concern that requires prompt attention from the legal, health care and social service systems both locally and globally (Beauchamp, 1976; Bromfield, 2016; Clayton *et al.*, 2013; Greenbaum and Crawford-Jakubiak, 2015; Jordan *et al.*, 2013; Maclas-Konstantopoulos, 2016; Polaris Project, 2019; Reid and Piquero, 2014). Although most victims of HT are found mostly in regions of Africa and Asia, the USA is not exempt from such criminal activity. In the past two decades, countries around the world have created some anti-trafficking laws. Even though the USA ranks high (3rd place) out of the ten top countries in the world that are working toward better protective policies on behalf of victims of HT, anti-trafficking state-level laws lack uniformity with federal law across the country (Global Slavery Index, 2019; Share Hope International Center for Justice & Advocacy, 2018). This lack of uniformity, at the state level, places victims as criminals within the justice system. It also creates barriers to receive needed assistance as victims try to reintegrate into the society (Polaris, 2015).

Therefore, this case study analyzes the current status of Missouri's anti-trafficking laws and the protection or lack of thereof, of victims of HT with the goal to call state-level legislators in Missouri, the rest of the states in the USA and countries abroad to ensure their laws are protecting victims of HT and not criminalizing them. Missouri, although it also receives high or somewhat acceptable rankings in terms of its progress made in the past several years for creating anti-trafficking laws, it continues to fail to fully protect its victims of HT; especially those who have experienced sex trafficking. Just like Missouri, many states throughout the USA, have lagged to upgrade their anti-trafficking laws to completely protect victims of HT within their jurisdictions and are far from being uniform across the country (National Conferences of State Legislatures, 2020). Unfortunately, when states fail to upgrade their laws in alignment with federal laws, these inconsistencies lead to the criminalization of both nationals and foreign-born victims of HT. When victims are not pardoned and their trafficking forced criminal activity not vacated or sponged by the state-level legal systems, victims of HT will continue to face legal barriers even after entering their healing process. Lastly, as the world continues to move forward by integrating protective laws and suitable assistance to victims of HT, this analysis can abet with providing foundational approaches that aim protective legislative passage. In particular, this analysis can be useful to countries that follow a similar legal system where states have the autonomy to pass state-level laws that do not necessarily are required to mirror federal law.

## Contextualizing human trafficking in the USA and abroad

In the USA, sex and labor trafficking are common manifestations of HT. HT is a crime that is not limited to any race, sex, age or location (US Department of Justice, 2018; Polaris Project, 2019). Victims of HT suffer a range of abuses that impact their whole persona – physically, emotionally, psychologically, sexually and spiritually (Baldwin *et al.*, 2015; Crisp, 2012; Estes and Weiner, 2001; Greenbaum, 2014; Macy and Graham, 2012; Reid, 2016; Reid and Piquero, 2014; Ravi *et al.*, 2017; Richie-Zavaleta *et al.*, 2019). Sex trafficking victims besides being subjugated to grotesque daily abuse by perpetrators and sex buyers, the secretive nature of the crime leaves victims isolated, as well as unidentified or unnoticed by social and health-care providers (Barnert *et al.*, 2016; Ravi *et al.*, 2017; Recknor *et al.*, 2017; Richie-Zavaleta *et al.*, 2019). In the past decade, the adverse health outcomes of HT victims have been researched and observed. Some of these well-known consequences of trafficking trauma comprise:

- reproductive health issues such as sexually transmitted infections (STIs);
- severe intentional physical and sexual injuries such as punches, broken bones, burns and rapes; and
- mental health issues such as post-traumatic stress disorder and depression (Greenbaum, 2014, 2016; Greenbaum and Crawford-Jakubiak, 2015; Hossain *et al.*, 2010; Jordan *et al.*, 2013; Munsey *et al.*, 2018; Ravi *et al.*, 2017; Reid, 2016; Richie-Zavaleta *et al.*, 2019; Tracy and Macias-Konstantopoulos, 2017).

While foreign-born victims are brought into the USA in the thousands, 14,000-17,000 annually; it is estimated that 1 in 7 homeless youth is at risk of becoming a victim of sex trafficking given their high vulnerability (Share Hope International Center for Justice & Advocacy, 2018). The estimated prevalence of HT in the USA and internationally is yet completely reliable because of both the complexity of the issue and the lack of a unified data collection system. Nonetheless, some international collaborative efforts have worked together to established an estimated prevalence of those trapped in HT around the world and nationally. In 2016, 40.3 million people globally were estimated to be slaves; for the USA, the estimated number was 403,000 (Global Slavery Index, 2018). According to Polaris Hotline Report (2018), there are 4.8 million sexually trafficked people globally. From those who face sex trafficking, 25 per cent of victims are children between the ages of 11-14 years, and most often, 75 per cent are female when compared to their male counterparts (Polaris, 2018b; Toney-Butler and Mittel, 2018). Approaches to address their risks before victims are trapped in this trauma are essential to prevent future victimization.

Research also points to the fact that victims of sex trafficking are typically recruited and trapped during their youth; thus, creating adverse sequels throughout their lifespan (Bromfield, 2016; Smith and Vardaman, 2011; Reid and Piquero, 2014). As a result, victims of HT are robbed of their human rights, dignity and the opportunity to live a healthy life (Greenbaum and Crawford-Jakubiak, 2015). Understanding the risk factors that are present for youth and their recruitment will further assist public health officials at identifying youth in the community that perpetrators may pursue and establish laws that prevent, protect and assist at-risk populations. Comprehending sex trafficking risk factors also allows for better intervention approaches within the USA and abroad. Consequently, understanding the multi-level complexities of this inhumane crime, it has the potential to address the issue more holistically (Table I).

According to Toney-Butler and Mittel (2018), childhood trauma, specifically sexual abuse, has the highest indication for exploitation in HT. Specific populations are at a higher risk of sex trafficking on an individual level including those whose gender is not-conforming, lesbian, gay, bisexual, transgender and questioning groups, foster-care recipients, youth with substance abuse disorder, those with physical impairments, intellectual disabilities, ethnic minorities and Native Americans (Clayton *et al.*, 2013; Reid and Piquero, 2014; Toney-Butler and Mittel, 2018). Identifying vulnerable populations and creating protective

**Table I** Multi-level analysis of key risk factors for HT

Levels	Key risk factors for HT
Intrapersonal level	History of child abuse, neglect, maltreatment, homeless, runaway, lesbian, gay, bisexual, transgender and queer youth, history of systems involvement (juvenile justice/child welfare), substance misuse, feeling unwanted, unloved and rejected
Interpersonal level	Family conflict, disruption, dysfunction-abuse, neglect, maltreatment and rejection of child/behavior
Community level	Peer pressure, social norms, social isolation, gang involvement, under-resources schools, neighborhoods, communities and part of judicial system
Societal level	Lack of awareness of commercial and sex trafficking, hyper-sexualized cultural values, lack of resources for at-risk youth or adults, lack of protective laws for victims and the deterring criminalization of perpetrators

laws will assist in the prevention of such atrocities and eventually reduce the prevalence rates locally and globally.

### ***US criminalization of sex trafficking and lack of uniformity of federal law at the state level***

For the first time, in the year 2000, the US Government criminalized trafficking of persons through the creation of the Trafficking Victims Protection Act (TVPA). In the USA, the two most-common forms of trafficking are sex and labor. This public law describes sex trafficking as a “commercial sex act induced by the force, fraud or coercion, or in which the person induced to perform such an act has not attained 18 years of age” (22 USC § 7102 (11)(A)). The term *sex trafficking* also includes the “recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act” (22 USC § 7102 (12)). Labor trafficking, also known as *involuntary servitude* is described as, “any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint” (22 USC § 7102 (8)(A)). [TVPA \(2000\)](#) has gone through several reauthorizations since its initial passage with the purpose of creating a more comprehensive law including the creation of *Safe Harbor* laws and the reposition of assets to assist victims as they transition to social services for their healing process as well as other changes ([Richie-Zavaleta et al., 2019](#)). Although the USA passed the TVPA two decades ago, state-level laws of HT continue to fail in ultimately protecting victims and criminalizing suspects because they do not fully reflect the federal law. They also have been very slow in creating anti-trafficking laws and their definitions are, at times, not comprehensive ([Richie-Zavaleta et al., 2019](#); [Wagner and Wagley, 2017](#)). Thus, state-level laws and policies that do not continuously update their HT regulations and reflect federal laws leave victims of HT unprotected ([National Conferences of State Legislatures, 2020](#); [Polaris, 2015](#); Share Hope International Center for Justice & Advocacy, 2018). As a result, many times, victims are treated as criminals in the judicial system or lack the support needed to have a successful transition to full rehabilitation. Missouri’s current trafficking laws, just like many other states, fail to fully protect victims of HT because they have not incorporated complete immunity. As of 2020, 17 provide immunity and diversion programs and 3 more provide only immunity. Based on the analysis of authors, only 35 states vacate criminal records of victims of sex trafficking who were forced to prostitution and other criminal activities during their trafficking victimization. Two others vacate only minors ([National Conferences of State Legislatures, 2020](#)). Unfortunately, state-level inconsistencies not only leave victims of HT unprotected legally, but also, they fail to protect their human rights.

### **Case study policy analysis methodology**

This case study is a policy analysis of Missouri’s HT laws. This analysis and recommendations proposed throughout this paper are based on *Safe Harbor* laws and the *Uniform Act on Prevention of and Remedies for Human Trafficking (Uniform Act)* ([Polaris, 2015](#)). *Safe Harbor* laws create immunity from prosecution related to any prostitution-related crimes during victims’ trafficking exploitation to minors (anyone under the age of 18 years old) and in few cases even adults ([National Conferences of State Legislatures, 2020](#)). These types of regulations also encompass the provision of needed services to the victims of HT when exiting victimization. The *Uniform Act* broadens the definition of *Safe Harbor* laws by including minor victims of labor trafficking who may have a criminal record ([National Conferences of State Legislatures, 2020](#)). Additionally, recommendations also include a financial-based benefit approach, public health and human rights frameworks.

These recommendations resulted from the detailed analysis and the review of two major ranking systems created by *Shared Hope International* and *Polaris*. These two nationally

and internationally recognized non-governmental organizations provide a grading system based on different rubrics that allow policymakers to see whether their state-level laws mirror federal anti-trafficking legislation [[Shared Hope International, 2017](#); [Shared Hope International, 2018](#), [Polaris Hotline Report \(2018\)](#)]. Another goal of these ranking systems is to rate each state in the USA in terms of effectiveness on the decriminalization, protection and assistance of victims of HT within their state legislation. The ranking systems analyzed in this case study included:

- Toolkit 2018 State Action. National Change, Protected Innocence Challenge (2017 and 2018); and
- [Polaris Hotline Report \(2018\)](#).

Additionally, Missouri Trafficking laws and the US Department of Health and Human Services Region VII 2017 Report were analyzed in this case-study as well. Missouri laws related to HT encompassed:

- Abusing an Individual Through Forced Labor Penalty §566.203;
- Federal Trafficking Victims Protection Act of 2000 to Apply, When – Affirmative Defense – Procedures to Identify Victims, Training on Protocols §566.223;
- Contributing to Human Trafficking: Penalty §566.215.1;
- Property Subject to Forfeiture §513.607; and
- Sexual Trafficking of a Child: Penalty §566.212, Trafficking for the Purpose of Slavery, Involuntary Servitude, Peonage or Forced Labor: Penalty §566.206 (US Department of Health and Human [Services, 2017](#)).

Missouri was chosen for this case study policy analysis because although Missouri ranks high in some aspects of its HT legislation through the already stated ranking systems and reports, there are still areas that require policy enhancement to protect victims of HT better. The areas that are needed to be upgraded comprise the following:

- the decriminalization of youth who are forced to prostitution and gang-related activities resulting from their trafficking victimization; and
- stronger criminalization of suspects to deter their engagement in trafficking.

It is easy to miss critical components of such HT legislation as there is a lack of evaluation of such laws throughout the USA and the rest of the world. When state-level legislation lacks *Safe Harbor* legislative protection and uniformity across the country, victims of HT are left forgotten and seen as criminals instead of protected. Worse yet, when victims of sex trafficking are finally able to exit their victimization, they lack the legal protection and adjudication of previous criminal records needed to reconstruct their lives and reintegrate successfully back into society ([Global Slavery Index, 2019](#); [Polaris, 2015](#)).

### Human rights and public health – creating stronger approaches

HT, as established earlier, is a violation of universal human rights ([United Nations Office of the High Commissioner of Human Rights, 2019](#); [United Nations Office of Drugs and Crime, 2014](#)). Therefore, the constant abuse and atrocities from rapes, STIs and physical assaults to the mental health sequels of this victimization even after leaving their suspects call for suitable human rights-based legal protection of such victims ([Greenbaum, 2014](#); [Hossain et al., 2010](#); [United Nations Office of the High Commissioner of Human Rights, 2019](#)). Universal human rights established through conventions, treaties and international law point to the need for protection of fundamental freedoms and liberties for all ([United Nations General Assembly, 1948](#)). Although international law and enforcement mechanisms are yet to be perfected, they present a legal obligation for each country in creating legal systems to protect vulnerable

populations within their jurisdiction, in this case, the legal protection of victims of HT. Therefore, creating protective laws in the context of HT ensures the decriminalization and support of victims of HT. Nonetheless, these legal efforts cannot be accomplished in silos. Collaboration of different sectors of society including public health efforts, medicine and social service providers and civil and legal society are needed to create the support required for such trauma and victimization (Richie-Zavaleta *et al.*, 2019).

Public health is defined by the World Health Organization (WHO) as the field that seeks to promote, assure, assess and monitor the health of communities through policy creation at the national and local levels of all communities throughout the world (World Health Organization, 2019). WHO's definition of public health, points to the existing connections between human rights and public health and their overlapping goals to protect and create mechanisms that ensure foundational structures that pave the way for healthy communities and the legal protection of everyone's universal human rights. Therefore, public health and human rights based-approaches must go together when addressing not only the legal state-level gaps but also the coordination of all services that are directed to victims of HT (Barnert *et al.*, 2016; Richie-Zavaleta *et al.*, 2019). One way of bringing public health and human rights goals together is by the passing of *Safe Harbor* laws and implementing the recommendations under the *Uniform Act* in a local and global context.

### Victims of human trafficking and the anti-trafficking laws in Missouri

According to the US Department of Health and Human Services Region VII 2017 report, in Missouri there were 388 reported cases and 997 potential victims of HT. This report also indicates a higher number of trafficked adult females when compared to their male counterparts and children. Polaris (2018a) confirms this gender-based discrepancy through its hotline report statistics as well (US Department of Health and Human Services, 2017). In this state, sex trafficking is the most common type of trafficking victimization (US Department of Health and Human Services, 2017; Polaris, 2018a). Sex trafficking in Missouri is mostly *vis-à-vis* massage parlors, escort services and pornography (Polaris, 2018a). It is important to note that although the report from Polaris (and the US Department of Health in Missouri) contains higher numbers of adult HT victims, there is also a high number of minors – 43 vs 63, respectively (Polaris, 2018a).

Even though Missouri has established some HT laws to protect victims of such abuses and prosecute their suspects (See Missouri's HT Laws):

#### *Missouri's HT Laws*

- Abusing an Individual Through Forced Labor Penalty §566.203.
- Procedures to Identify Victims, Training on Protocols §566.223.
- Contributing to Human Trafficking: Penalty §566.215.1.
- Property Subject to Forfeiture §513.607.
- Sexual Trafficking of a Child: Penalty §566.212.
- Trafficking for the Purpose of Slavery, Involuntary Servitude, Peonage or Forced Labor: Penalty §566.206.

It has also remained stagnant in the past several years concerning passing and implementing strong *Safe Harbor* laws. Missouri's stagnation has resulted in a lack of protection of HT victims, especially minors (Share Hope International Center for Justice & Advocacy, 2018). When victims of HT are pardoned from crimes during their victimization period, they have more significant opportunities to transition into survivorship and societal reintegration (Malkin, 2013). Suitable services at a minimum encompass rehabilitation and pardoning of crimes committed during the time trafficked (Shared Hope International, 2017;



[National Conference of State Legislatures, 2017](#)). Nonetheless, Missouri's trafficking law is missing this protective component. Thus, Missouri is an example of the importance of state-level laws in mirroring federal laws. When states fail to follow through with these recommendations and actions, their minors who are being forced into commercial sexual exploitation, they become criminals because of their forced prostitution and other related criminal activity under the state-level law. Victims of HT under the federal law are unable to consent to illegal sexual activity if they are younger than 18 years; therefore, they are protected legally from falling into criminalization. Missouri's state law has yet to follow the federal law status to legally protect minors even when they are a 17-year-old. Under federal law, even an adult who has experienced trafficking is protected from criminalization ([Walsh, 2016](#)). Because victims of HT are under the control of their suspects, their victimization represents coercion, including force and fraud, which are actions penalized by HT federal law ([Toney-Butler and Mittle, 2018](#)). Therefore, states that have yet to mirror such federal legislative laws should push to closing these current gaps. Failing to do so only perpetuates the re-victimization and criminalization of such populations in society.

### ***Ranking systems and Missouri's scores***

In the process of keeping states accountable in terms of the legal protection of HT victims, two organizations focus their efforts on the examination of HT laws and regulations. These organizations are: *Shared Hope International* and *Polaris*. *Shared Hope International* provides a grade system for each state on a yearly basis. It reflects how a state did on their progress and strengthening of their HT laws in crucial areas being:

- decriminalization of juvenile victims of HT;
- addressing demand;
- legislative updates on the criminalization of perpetrators; and
- supporting systems to investigate and prosecute cases.

This organization not only centers its efforts on strengthening the law, but also focuses on law implementation and its effectiveness. In 2018, through the ranking of *Shared Hope International*, Missouri received a score of a B and an 87 out of 100 points for their HT laws ([Shared Hope International, 2018](#)). However, despite these high scores, there continue to be gaps in the laws. The progress report for Missouri was a zero for 2018 because of the lack of advancement of laws regarding sex trafficking ([Shared Hope International, 2018](#)). The assessment by *Shared Hope International* on Missouri's HT laws displays the opportunities present in current laws with detailed policy recommendations to strengthen the weakest components. These are as follows:

- criminalization of minor domestic sex trafficking;
- protective provisions for child victims; and
- coordination of services and evaluation of such initiatives ([Shared Hope International, 2018](#)).

Experts would quickly argue that the two most essential components of sex trafficking laws are: the decriminalization of victims and the protection of exploited youth ([Polaris, 2015](#)).

The second analyzed ranking was based on *Polaris'* assessment system. This system focuses on the progress of states as they move toward solving the issue of HT from legal protection as well as decreasing the demand. *Polaris* uses a tier grading system to rate the strength of HT laws throughout the USA. A tier 1 being the best score possible and tier 5 being the lowest score within the assessment. Some key categories *Polaris* uses to rate states on state-level laws include:

- definitions of both sex trafficking and labor trafficking;

- investigative tools for law enforcement;
- training on HT for law enforcement;
- lower burden of proof for sex trafficking of minors; and
- *Safe Harbor* laws to protect and assist victims of HT with past criminal records.

Under [Polaris Hotline Report \(2018\)](#) Missouri is rated in tier 3 because of the lack of victims' assistance laws in place.

### ***Safe harbor laws of Missouri***

At the state level, gaps in HT laws are highlighted in the lack of victims' recognition and traffickers' penalization of their crime. Part of the reasons as to why these gaps exist are related to the age of consent established in the current state laws ([Leary, 2015](#); [Smith and Vardaman, 2011](#)). *Safe Harbor* laws focus on pardoning and decriminalizing victims of sex trafficking to transition them into survivorship and not seeing them as the perpetrators of crime, especially when it relates to prostitution ([National Conference of State Legislatures, 2017](#)). Under the TVPA, federal law does not require proof of fraud, force or coercion to be present to convict someone of trafficking and provide victim status to children under 18 years of age ([Shared Hope International, 2017](#)). However, each state enjoys the freedom to determine the age of consent within their jurisdiction. Typically, states tend to establish consent, even if the victim is less than 18 years old. Additionally, even if the state has adopted *Safe Harbor* laws, there are inconsistencies throughout them all ([Barnert et al., 2016](#); [Shared Hope International, Center for Justice & Advocacy, 2018](#)). Therefore, these inconsistencies result in treating minors as adults at the state level, which leads to the criminalization of victims – minors and adults alike.

Another area in need of improvement is the section of Missouri sex trafficking law regarding criminal activity and gang-related behavior penalized under Missouri's jurisdiction. Under Missouri's HT law, minors (younger than 17 years) are pardoned if they were forced to prostitution during their time of HT victimization. However, if these minors were forced to engage in other crimes that were linked to gang activity, under Missouri's criminal law, these acts supersede HT law, and they are prosecuted as criminals and not as victims ([Shared Hope International Center for Justice & Advocacy, 2018](#)). This lack of legal protection possesses different ramifications. It perpetuates cycles of oppression, retraumatizes the victim of HT and blocks possible exiting of such inhumane victimization. This criminalization of victims also violates national and international laws that protect victims of HT ([TVPA \(2000\)](#); [United Nations Office of the High Commissioner of Human Rights, 2019](#)). Most importantly, it fails to protect minors under the state law.

Because of the discrepancies at the state-level legislative system and the lack of social service systems in place to support domestic minors who are sexually exploited, such victims continue to fall *into the cracks* of the system ([Barnert et al., 2016](#)). This means that juvenile victims of sex trafficking are either prosecuted as criminals or they are unidentified when encountering social and medical services ([Smith and Vardaman, 2011](#); [Greenbaum, 2014](#); [Maclas-Konstantopoulos, 2016](#)). This lack of protection and criminalization again violates both federal and international law ([United Nations Office of the High Commissioner of Human Rights, 2019](#)). According to [Shared Hope International \(2018\)](#), victims become retraumatized when they are restrained, contained and expected to prove their innocence. Therefore, this inefficient process places burdens and blame on the exploited minor. Juveniles may also experience further trauma when in diversion courts because they are required to testify against their perpetrator to prove their innocence.

Nevertheless, another vital disaccord that is present is child abuse and statutory rape laws, which are disconnected to the contextualization of HT laws. This disconnects results in the lack of protection and unjust treatment of victims and a direct violation of the federal HT



laws (Smith and Vardaman, 2011). Laws that criminalize not only place the blame on the victims, but also are directly related to adverse outcomes and further traumatization. There is extensive literature that points to the trauma and crisis these youth experienced before, during and after victimization of HT (Moore *et al.*, 2017; Reid and Piquero, 2014). Numerous advocates, public health professionals, social workers and researchers consistently point to the fact that prevention and access to rehabilitation are essential components for the healing process (Shared Hope International Center for Law and Policy, 2016). From a national perspective, within the USA, there are merely 14 states that have services for specifically sex trafficking victims (Bromfield, 2016). Missouri has limited services for victims of sex trafficking (US Department of Health and Human Services, 2017).

Lastly, a critical component that *Safe Harbor* laws offer is the coordination of suitable services for victims of HT. Regrettably, within Missouri's HT law and other similar state laws, there is a lack of coordination between state and federal law, compounding the risk for perpetuating victimization and criminalization of HT victims. The lack of application of federal recommendations and support on the state laws continue to limit resources, including crucial funding and efforts for the creation of a sustainable approach to solving this inhumane social peril (National Conferences of State Legislatures, 2018; US Department of Health and Human Services, 2017). Moreover, when a state lacks strong laws to protect victims of HT, it enables trafficking to thrive and victimization to continue. Here lies the urgent need in creating anti-trafficking law that is comprehensive and protective.

## Recommendation for comprehensive laws

### *Higher ranking states as role models*

Understanding Missouri's HT law, *vis-à-vis* sex trafficking and recognizing the need for its victims to have access to suitable and sustainable resources at multi-level approaches can lead to better health outcomes in the lives of the HT victims and provide comprehensive approaches that contain both public health and human rights frameworks (Wasch *et al.*, 2016). Following the example of other states such as New Jersey, could be a tremendous systemic change within Missouri to better protect its victims of HT. New Jersey, as a state, has received a 100 per cent score in relationship to sex trafficking laws. The recognition of states that received a high score, such as New Jersey, assists state lawmakers in formulating similar laws that prevent, protect and provide necessary services for HT victims. The *New Jersey Human Trafficking Prevention, Protection, and Treatment Act* was put into effect in May 2013 and its revisions enacted in July 2013 (US Department of Health and Human Services, 2017). A total of 19 different extensive sections cover the provisions for protection, pardoning, service provision and criminal charges associated with those involved in trafficking (Malkin, 2013). One key component of the anti-trafficking laws within New Jersey is the established monetary fund that is directly for survivors and prevention efforts. This funding source allows for *Safe Harbor* laws to have financial support within the system and become sustainable throughout the years to come. In New Jersey, victims of sex trafficking are treated as victims by the judicial system and not as criminals. Victims are pardoned for crimes that were committed during their trafficking and are offered protection and social services, including an intensive *Prostitution Offender Program* (Malkin, 2013).

Nebraska and Wyoming are other exemplary states. These two states are the only ones that provide both immunities from criminal charges and a diversion program for minors and adults. Besides immunity and diversion programming, vacating, sponging or sealing all criminal records can pave the way for a brighter future for victims of HT. These legal processes can avoid future barriers for survivors of HT when seeking social service assistance for housing, obtaining employment, pursuing higher education and fully engaging in their civil rights and obligations (National Conferences of State Legislatures, 2020). Yet, another example of decriminalization is Illinois. Under *Safe Children's Act*

enacted in 2011, Illinois has been successful at the decriminalization and protection of minors who have experienced sex trafficking as well (Tiwari, 2018).

### ***Coordination, collaboration and evaluation***

Moreover, coordination and collaboration of services – social and medical are essential for the transition of victimization into survivorship. For example, with the implementation of the *New Jersey Human Trafficking Prevention, Protection, and Treatment Act* updates of 2013, a HT commission was established as well as a 24-h hotline service with resources for survivors as they exit their victimization and need services (Malkin, 2013). The coordination of social and medical services including mental health are also important as part of any exiting programming. In addition to upgrading the state-level legislation to reflect federal updates, comprehensive and collaborative approaches are essential if trafficking is to be fought and overcome (Richie-Zavaleta et al., 2019).

Lastly, once states have upgraded and integrated these above-mentioned suggestions, the evaluation of such legislations must be evaluated through scientific measures. For example, Florida and Minnesota have been successful in their evaluation efforts (Wasch et al., 2016). The state of Minnesota was one of the first states to evaluate their *Safe Harbor* law called *No Wrong Door* and published a report called *The Safe Harbor First Year Evaluation Overview* (Wasch et al., 2016). This report provided statistical data on child welfare referrals and victims, among the local efforts present to fight sex trafficking (Wasch et al., 2016). The program was able to identify the strengths and weaknesses of the current law and implied the need for increased monetary support to meet the needs of victims such as housing and other social services needed. By implementing *Safe Harbor* laws, Minnesota has seen increased collaborative efforts with law enforcement, which has impacted the higher number of traffickers' convictions as well (Wasch et al., 2016). Another state that provides a model for research-based evaluation is Florida. Florida launched a pilot program called *Citrus Helping Adolescents Negatively impacted by Commercial Exploitation* (Wasch et al., 2016). This program was able to gather qualitative and quantitative data related to services given by the program. The results from their evaluation pointed to the lower rates of risky behavior, intentional misbehavior, delinquency, running away, sexual aggression and danger to others while receiving care (Wasch et al., 2016). Furthermore, evaluation and research efforts can support the passing of comprehensive and protective laws as well. Well-designed evaluations include:

- efficiency and efficacy of intervention;
- build on existing literature; and
- provide examples that can serve as models for states that lack current legislative and victim-centered services – social and medical.

Therefore, these evaluation efforts are critical in moving states forward to reach higher rankings under the different HT legal assessment systems hereinbefore mentioned.

### ***Financial benefits in addressing human trafficking***

Beyond the need for state-level legislation to reflect federal law and aiming for uniformity across the country and abroad, including a perspective based on *positive monetary incentives* could lead to best results in the anti-trafficking efforts (Rawal et al., 2013). The costs that are accrued by a child who is convicted and sentenced to the juvenile detention center are \$179,400 per year (Rawal et al., 2013). Children who are assisted and placed in safe homes resulted in only half of the cost of a child in the juvenile system. A study in Minnesota prevention efforts yielded a \$34 return on every \$1 investment. Children who are prosecuted for their time spent as a victim not only cost the state's financial burden, but it also negatively impacts the outcomes of post-victimization. Youth who are placed in juvenile

systems are more likely to go back to jail as they enter adulthood (Adams, 2011; Rawal et al., 2013). Protecting victims of HT instead of criminalizing them begins to decrease their likelihood of being criminalized and retraumatized. Minors who are not penalized as a result of their victimization are more likely to seek services as well (Rawal et al., 2013). Nonetheless, it is eminent that social service providers within the child welfare system are trained to best serve victims of HT. If not so, victims of HT who enter the child welfare system will continue to be targeted by traffickers. In 2012, 60 per cent of all children arrested for prostitution in Los Angeles were found recipients of the foster care system. Unfortunately, it is estimated that by the near future, sex trafficking crimes will exceed the demand and profits from illegal drugs and guns (Jordan et al., 2013). This prognostication highlights the needed prioritization of protective law development, upgrade, coordination of victim-centered efforts and evaluation of current legislation's impacts.

Understanding the current state-level legislation on whether it reflects federal law or not, it is a critical process to address the decriminalization of victims of HT in the USA and around the world. In the case of Missouri, there are already multiple agencies, coalitions and organizations that are working already in collaboration and partnership with local law enforcement agents. These collaborative efforts seek to improve not only the identification of sex trafficking victims – minors and adults alike, but also they are ready to continue the needed support for identified victims once regulations are upgraded. By revising and rewriting HT laws to provide immunity, diversion programming and vacating criminal records alongside financial support by resizing traffickers' assets, these efforts and collaboration will allow for better comprehensive victim-centered practices. If state-level laws become more reflective of federal law and uniform, victims of HT in the USA and abroad will possess greater opportunities to transition from victimization into reintegration. They will also most likely be able to receive the necessary support to overcome their trauma (Figure 1). Failing to upgrade state-level law will only continue the cycle of trauma and the lack of protection of victims of HT's universal human rights as they continue to be seen as criminals and not as victims of such inhumane crimes.

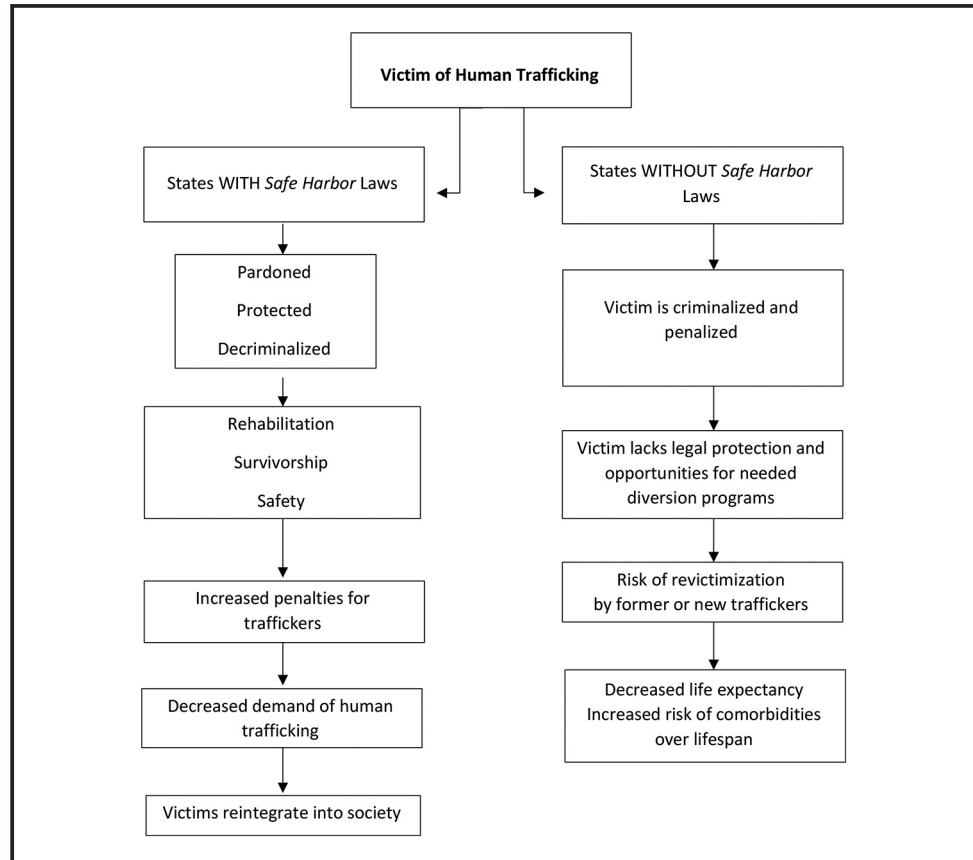
### ***Lack of uniformity in the state-level legislation and its negative impacts***

There are certainly challenges with the creation of *Safe Harbor* laws when they are not fully reflective of all the federal upgrades that have taken place in the past two decades. In New York, for example, their *Safe Harbor* law called *New York Safe Harbor for Exploited Children Act*, is drafted in a manner that fails to fully protect victims of sex trafficking (Tiwari, 2018). In New York, youth can still be arrested for child prostitution. Even though New York has incorporated a diversion program in its legislation, it only provides such services and opportunities if it is their first arrest (Tiwari, 2018). Laws with such gaps continue to fail victims in receiving full protection when their criminal record results from their trafficking experience. It also creates cycles of endless trauma stemming from the ineffective legal system (Tiwari, 2018). Connecticut's *Safe Harbor for Protected Children* law was established in 2010 and is the first to decriminalize children below age 16. However, knowing that victims of HT enter their victimization between the ages of 13 and 18, this legislation misses anyone above the age of 16 years (Tiwari, 2018). These discrepancies highlight the importance of including anyone who is 16 years old and older. Although, Connecticut is paving the road for comprehensive law, these modifications and upgrades are still required to protect all victims of trafficking fully. Understanding the challenges that other states are facing even when they have included *Safe Harbor* laws in their legislation is essential in ensuring comprehensive upgrades and amendments in the near and far future (Tiwari, 2018).

### **Future needs and limitations**

Future needs and opportunities include evaluating long-term outcomes of diversion programs and current *Safe Harbor* laws. The wide difference of *Safe Harbor* laws

**Figure 1** Outcomes of implementing comprehensive *Safe Harbor* laws at the state-level



throughout the country calls for evidence-based research and evaluation of their different impacts. It also calls for a comprehensive analysis and continuous assessment of the gaps and strengths. Another opportunity encompasses the application of frameworks here presented when updating or passing state-level law. Although federal law has been upgraded to contain comprehensive approaches to victims of HT, there continues to be a need for evaluation of such upgrades. Lastly, more research is greatly needed in assessing best laws to deter trafficking and demand.

This case study of Missouri's trafficking laws is limited to the ranking reports used for this policy analysis. These ranking reports although comprehensive, they represent the work of their non-governmental institutions. Additionally, the recommendations here presented are limited to those states within the USA and other similar countries that reflect a similar legal system. States in the USA have the authority and autonomy to create their own legislation independently from the federal government, something that not all countries possess.

### Conclusion

This paper analyzes the HT laws of Missouri and its lack of *Safe Harbor* updates. By lacking *Safe Harbor* laws at the state level, victims of HT are more likely to be criminalized and retraumatized. Consequently, they are more likely to continue suffering the negative impacts of their inhumane victimization. Moreover, this case study highlights the need to apply public health and human rights frameworks when upgrading current laws as well as seeking to reflect federal laws and upgrades when creating state-level legislation. By

understanding risk factors, discrepancies of current HT laws, best state-level practices that incorporate *Safe Harbor* laws and applying public health and human rights frameworks, the chances to protect and assist victims of HT are higher. Using *Safe Harbor* laws in Missouri, and any other state that has yet to pass such laws, is essential to move toward improving the protection and decriminalization of victims of trafficking. Lastly, collaborative efforts are of essence when creating victim-centered legal protection and suitable services.

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