

LEGAL AND SCHOLARLY RESOURCES RELATED TO

SEX TRAFFICKING VICTIM-OFFENDER INTERSECTIONALITY

Though criminal justice stakeholders are increasingly, albeit oftentimes unknowingly, confronted with the complex issue of ST-VOI, little has been written to explain this phenomenon.⁵¹ Accordingly, this section analyzes court opinions and scholarly articles that are directly related to this issue. It also provides an analysis of related criminological theories that are potentially applicable in the ST-VOI context.

“BOTTOM”

The terms “bottom” and “stable” are street terms used by pimps and traffickers to describe the players in their internal hierarchies, typically established as a means to control their victims. As the Eleventh Circuit’s definition of the term “bottom” indicates, this term remains misunderstood and is focused on the offending conduct while failing to acknowledge the coercion and control that may have led a sex trafficking victim to engage in this conduct. For that reason, this report does not seek to define “bottom.” Rather, this section examines some of the circumstances in which the term has been applied to sex trafficking victims. This review of the term “bottom” seeks to provide context for why this term is not used in this field guidance to describe a sex trafficking victim who commits acts of sex trafficking. Instead of relying on an ill-defined and often derogatory term, this field guidance utilizes the term sex trafficking victim-offender intersectionality, or ST-VOI.

I. WHAT IS A VICTIM-OFFENDER IN THE SEX TRAFFICKING CONTEXT?

As defined in this field guidance, a sex trafficking victim-offender is a sex trafficking victim who is alleged to have committed acts of sex trafficking. In this context, victim-offenders are commonly referred to as a “bottom.” However, since the term “bottom” is a street term that pimps and traffickers use to establish hierarchy among their victims, this field guidance does not use the term “bottom” to describe sex trafficking victims who allegedly commit acts of sex trafficking. Nevertheless, given the prevalence of the term “bottom,” its use and application to ST-VOI are briefly discussed here to provide context for eschewing the term in identifying and responding to victim-offenders.

Although the term “bottom” seems to suggest that the individual is the least important person in a trafficker’s “stable,” or group of prostituted persons,⁵² the “bottom” is oftentimes the most important. The “bottom” keeps the other prostituted persons compliant with the trafficker’s demands and serves as a “buffer[], intended to protect the real criminals from prosecution.”⁵³

As defined by the Eleventh Circuit in *United States v. Pipkins*, a “bottom” is “a trusted and experienced prostitute” whose place is “[a]t the top of the pimp’s organization.”⁵⁴ This definition, although illustrative of the “bottom’s” place in the hierarchy, is somewhat misleading; it solely focuses on the role the “bottom” plays for the trafficker and fails to acknowledge that the “bottom” is also a victim of trafficking.⁵⁵ In fact, sex trafficking victim-offenders are often “trafficked in the same way as every other victim” in that they are “recruited and groomed” and “promise[d] . . . love and a better life.”⁵⁶ Victim-offenders also experience abuse and degradation by the trafficker, as all victims do, and oftentimes, their psychological and physical abuse is even more severe. Further, traffickers

may use the hierarchy created by the position of the victim-offender to manipulate victims by forcing them to compete against each other for the status of “bottom” and, likewise, for the trafficker’s affection. A trafficker may use this as a type of reward system, “demot[ing] and promot[ing] different girls to punish or reward them” for certain behavior.⁵⁷

Upon “promotion” to this new position, the victim-offender takes on a role that looks less like that of a victim of trafficking and more like that of a trafficker. “Bottoms,” generally, are responsible for handling the trafficker’s affairs, maintaining order, collecting money from other victims and recruiting new victims into the criminal enterprise.⁵⁸ Thus, despite their own victimization, victim-offenders may commit criminal offenses resembling those committed by the trafficker.⁵⁹

Indeed, the victim-offender’s position and conduct present a significant challenge for prosecutors seeking appropriate charges.⁶⁰ Should a victim-offender, themselves a victim of commercial sexual exploitation, be prosecuted as an offender for the acts they committed, seemingly, of their own volition? As one author explained,

*United States law states that victims of human trafficking should not be “inappropriately” penalized for acts committed “as a direct result of being trafficked,” but does not offer further guidance. When exactly, then is penalization appropriate? Is some criminal conduct so severe that it cannot be excused? And what does the term “direct” mean? How close must the cause-and-effect between victimization and the victim’s criminal conduct be to meet this standard?*⁶¹

This author acknowledges the complexity of cases involving a victim-offender who harms a third party and urges prosecutors to “carefully consider the circumstances underlying any crime committed by a trafficking victim prior to bringing charges against such victim in order to ensure that the victim is not inappropriately penalized for acts committed pursuant to their victimization.”⁶²

Another author argues that only some victim-offenders “deserve leniency” while “others are no less autonomous and culpable than traffickers who entered the trade voluntarily.”⁶³ This author also suggests that prosecution in a criminal court is the appropriate forum for determining which victim-offenders “deserve” such leniency and which “deserve” to be convicted of trafficking others.⁶⁴ To aid criminal justice stakeholders in determining the appropriateness of charges, the following sections of this review focus on why a sex trafficking victim may engage in conduct that violates the sex trafficking law.

II. EXAMINING THE RELATIONSHIP BETWEEN VICTIMIZATION AND OFFENDING

A. The “Victim-Offender Overlap,” Generally

One means of assessing the criminal culpability of sex trafficking victim-offenders is by examining their role in the trafficking organization through the lens of the “victim-offender overlap,” a criminological term that refers to the relationship between the victimization and offending patterns of individuals.⁶⁵ This framework recognizes the existence of different roles in the commission of an offense: “victims” (those upon whom the crime is committed), “offenders” (those who commit the crimes), and “victim-offenders” (individuals who have been both victims and perpetrators of crimes).⁶⁶ Furthermore, there is a sliding scale of innocence and blame in the perception of criminal acts, and, especially in victim-offender scenarios involving crimes of inter-personal and/or sexual violence, the offender and the victim may swap roles or be simultaneously both a victim and a criminal.⁶⁷

Notably, a 2012 literature review found that while a “rather strong overlap” exists between offenders and victims, the relationship is moderated by various risk factors.⁶⁸ The study found that some types of offenses created stronger relationships between victimization and offending than others.⁶⁹ Furthermore, as another study noted, “[t]he victim-offender relationship is robust, having been found in the United States as well as other countries, over time, across various contexts, and within various demographic subgroups.”⁷⁰ While research on the victim-offender overlap in the context of sex trafficking is sparse, existing research on victim-offenders generally may be applied analogously to better understand the phenomenon of victim-offender intersectionality in the sex trafficking context.

B. Criminological Theories Purporting to Explain the “Victim-Offender Overlap”

Although the exact cause of the victim-offender overlap is unknown, social scientists theorize that the phenomenon can be partially explained by two criminological theories: the “cycle of violence theory” and the “routine activities theory.” Both incorporate aspects of “social learning,” or the concept that individuals learn behaviors by observing others engaging in those same behaviors.⁷¹ Social learning theory “suggests that violent, deviant, and other criminal behaviors are learned by the child from their parents (or other relatives)” and that these behaviors are repeated through imitation.⁷² The two theories discussed below use the social learning theory in different ways to explain the victim-offender overlap.

The “Cycle of Violence Theory”

The “cycle of violence theory” rests on the idea of “violence breeding violence” or, more specifically, “abuse breeding abuse.”⁷³ In a literature review examining the impact of children’s exposure to domestic violence, researchers noted, “[C]hildren may be significantly affected by the experience of domestic violence in their lives, the impact of which may resonate intergenerationally with their own involvement in adult violence.”⁷⁴

Although the “cycle of violence theory” generally applies to familial relationships, this theory can be used to understand non-familial sex trafficker-sex trafficking victim relationships as well. First, trafficking victims, including sex trafficking victim-offenders, oftentimes have a history of childhood abuse, which may perpetuate the cycle of violence in their lives. Additionally, even if a sex trafficking victim-offender and their trafficker are not biologically related, there oftentimes exists a “family” dynamic and intimate relationship between them.⁷⁵ Therefore, the “cycle of violence” can manifest in this relationship as well, with the trafficker first abusing the sex trafficking victim-offender and the victim-offender eventually exploiting other sex trafficking victims in return. This may be further exacerbated by the fact that childhood abuse, along with other factors such as young age, limited brain development and a lack of knowledge and experiences, often “contribute to a victim’s obliviousness that the trafficker is victimizing and exploiting [them].”⁷⁶ Accordingly, sex trafficked youth may normalize negative relationships with their traffickers, which may affect their relationships with others.⁷⁷

Notably, research “cautions, however, that there is rarely a direct causal pathway leading to a particular outcome.”⁷⁸ Thus, although the “cycle of violence theory” fails to fully explain the phenomenon of ST-VOI or to account for stranger-on-stranger crime, it can be used to understand the position of a sex trafficking victim-offender as both the abused and the abuser.

The “Routine Activities Theory”

In addition to the “cycle of violence theory,” the “routine activities theory” can serve to partially explain the behavior of a sex trafficking victim-offender and inform why a victim-offender should not simply be viewed as a trafficker. This theory posits that criminal behaviors are not static; instead, they vary by situation.⁷⁹ As noted in one study, “routine activities theory” “focuses on the circumstances in which crime is committed rather than the characteristics of those who commit it.”⁸⁰ To discern the circumstances prompting a criminal offense, proponents of the “routine activities theory” examine whether there is “(a) a motivated individual, (b) a suitable target, and (c) the absence of a capable guardian.”⁸¹ This theory is context- and environment-specific; therefore, “even behaviors relating to sexual offending can be highly variable from one situation to another.”⁸²

In the 2012 literature review discussed supra in Part II.A, the researchers examined the “routine activities theory” in the context of the victim-offender overlap. Those researchers found that, according to this theory, the association with delinquent peers in the absence of adult supervision can increase the likelihood of both victimization and offending.⁸³ This study also concluded that “[d]elinquent peers can function as agents that provide an individual with tangible and intangible rewards for delinquent/criminal behavior.”⁸⁴

Based on this theory, the actions of a sex trafficking victim-offender are distinguishable from those of a trafficker because the victim-offender’s environment differs completely from that of the trafficker. A trafficker never loses autonomy and is responsible for creating an environment of control and coercion. Conversely, a victim-offender is subject to psychological

and physical abuse, manipulation and control.⁸⁵ This type of environment can affect “the way people treat each other, leading to the normalization of negative and abusive relationships.”⁸⁶ Thus, the victim-offender’s environmental circumstances may lead to committing acts of trafficking.

III. LEARNING BY ANALOGY: COMPARING SEX TRAFFICKING VICTIM-OFFENDERS TO VICTIM-OFFENDERS IN INTIMATE PARTNER VIOLENCE

Currently, no empirical studies have analyzed the victim-offender overlap in the context of commercial sexual exploitation. However, studies on Intimate Partner Violence (IPV) may be instructive in applying the victim-offender framework to better understand sex trafficking victim-offenders.⁸⁷ The Centers for Disease Control and Prevention defines IPV as “physical violence, sexual violence, stalking and psychological aggression (including coercive tactics) by a current or former intimate partner.”⁸⁸ Studies of IPV can be informative when applied to trafficker-victim relationships because of the similar dynamics between some trafficking relationships and IPV relationships: both types of relationships commonly involve “violence between two individuals who are in a relationship and interact on a routine basis . . . [which] repeatedly brings potential victims and perpetrators in close proximity to one another.”⁸⁹ Furthermore, as in relationships where IPV occurs, in trafficker-victim offender relationships, “the violence itself can increase the likelihood of additional violence. The intimate crime event . . . has the potential to create motivation and opportunity for subsequent violence, either during the same incident or in future fights.”⁹⁰

Other similarities between these two contexts exist as well. A study, conducted in 2016, examined the victim-offender overlap in relationships where IPV occurs and found that “substance use, negative temperament, living with non-spousal partner, and feeling isolated” are all positively associated with being both a victim and a perpetrator of IPV.⁹¹ If generalizable to a sex trafficking victim-offender context, this finding is particularly significant: sex trafficking victim-offenders, by the very nature of their position, face social isolation.⁹²

Although similar in many ways, there is, however, a notable difference between IPV victim-offenders and victim-offenders in the sex trafficking context: in relationships where IPV occurs, the violence is directed from one partner to the other and is often committed in either self-defense or retaliation. In contrast, sex trafficking victim-offenders commit offenses against other exploited individuals. How, then, can a sex trafficking victim-offender’s conduct also be explained as an act of self-defense? As one author wrote, sex trafficking victims may have “unconventional reactions to their victimization.”⁹³

*The ideal victim is expected to react to their aggressors and to their [victimization] in socially accepted ways. This condition of achieving ideal victim status does not account for the coping techniques that trafficked [persons] may have adopted in order to survive their ordeal. Traffickers often break [victims] in prostitution using rape, torture, and abuse. Tactics of intimidation, threats, lies, deception, and emotional manipulation are used by traffickers to engender psychological control over a victim and to destroy [their] physical and psychological [defenses]. Additionally, a trafficked [person] may form a personal relationship with [their] attacker as [they] become[] dependent on them for survival. A captor’s bursts of abuse and torture may be punctuated by moments of kindness or generosity, causing the trafficked [person] to develop feelings of closeness or reliance on them.*⁹⁴

In addition to these abusive and coercive tactics, traffickers prey on their victims’ psychological and emotional vulnerabilities,⁹⁵ forcing their victims to compete for the trafficker’s affection through a hierarchy-based rewards system.⁹⁶ Upon promoting a victim to the top of the hierarchy, a trafficker may promise the victim, among other things, that they will no longer have to engage in commercial sex. In return, the victim must supervise the others and commit acts that violate the sex trafficking law.⁹⁷ Accordingly, the sex trafficking victim-offender often does not commit such acts because they genuinely want to hurt those individuals; instead, the sex trafficking victim-offender may perceive no choice but to engage in such behavior.⁹⁸ In other words, the acts committed against other victims may be done out of self-defense to avoid abuse by the trafficker or to escape their own sexual exploitation.

Sex trafficking victim-offenders may also differ from IPV victim-offenders because a sex trafficking victim-offender's trafficking conduct is not necessarily violent. Many acts of sex trafficking committed by sex trafficking victim-offenders are actually absent of physical violence, including recruitment, harboring, advertising and economic or emotional control or coercion. However, recruitment may also be a form of self-defense or self-protection because it is a way for the victim-offender to reduce the degree of their own exploitation.⁹⁹

In summary, although victims of IPV and sex trafficking victim-offenders can have distinct experiences, the similarities between these populations seem to indicate that the victim-offender framework can help lawyers, advocates and social scientists to better understand sex trafficking victim-offenders. Both groups are victims of abuse and trauma, which influences behavior and can lead to the commission of offenses as a method of self-defense or self-preservation. Similarly, in both IPV and sex trafficking victim-offender circumstances, someone with whom the individual has close, oftentimes daily, contact caused the abuse and trauma.¹⁰⁰ Based on these similarities, one can extrapolate that sex trafficking victim-offenders, like many victim-offenders in IPV, become victim-offenders not because they want to engage in crime, but because they can perceive few alternatives.

IV. PERCEPTIONS OF AGENCY, CONTROL AND AUTONOMY IN THE SEX TRAFFICKING CONTEXT

A pernicious problem in identifying and developing responses to ST-VOI is that the nature of traffickers' control over sex trafficking victims often perpetuates the perception that victims are acting with autonomy or possess a degree of agency that is inconsistent with their actual experience. Thus, while a sex trafficking-victim offender may appear to act with some degree of agency when engaging in conduct that violates the sex trafficking law, a deeper look at the victim-offender's experiences may contradict that notion of free will. Indeed, as one author wrote,

[T]he fact that these [victims] have power and status within the [trafficking] organization is not incompatible with the notion that they are actually unable to leave; to the contrary, traffickers can seek to maintain control by strategically meting out power and status to those who are most submissive. Though the intuition may be that more participation in the enterprise means more actual agency[,] and thus more grounds for punishment[,] . . . the opposite is actually true.¹⁰¹

In addition, traffickers use a number of means to assert and maintain control over their victims, including victim-offenders. Traffickers oftentimes engage in physical violence or threats of physical violence, which may be directed toward the victim or the family of the victim, including the victim's children.¹⁰² "Traffickers have [also] been known to use public displays of violence against one victim to keep others in line." Further, control can be "much more subtle and psychological . . . The trauma they experience may depend upon the age at which the victim was trafficked, the nature of the exploitation, the length of time the victim was exploited, the degree of violence to which the victim was exposed, and the degree of stigma which the victim faces upon return to his or her home."¹⁰³

"Relationships built on traumatic bonds possess an intense level of loyalty or attachment."¹⁰⁴ One researcher described a process akin to "brainwashing," "the deliberate creation of culture shock through isolation, alienation, and intimidation in order to weaken a person's ego strengths. By this means, the person becomes vulnerable to alien ideas and behaviors that would usually be rejected."¹⁰⁵

As another author explained,

There is a growing body of research about the effects of trauma that is sustained over time, such as in human trafficking . . . Over time, these victims lose not only a sense of control over their "self," but also lose a sense of "self" altogether. The abuser's logic becomes their logic. The abuser's decisions and directions take over, and they lose capacity for independent decision-making. Their perception of reality is altered. They may believe that the abuser treats them well even in the face of facts clearly demonstrating that the abuser has regularly threatened them with physical and other harm and invaded their bodily integrity. Scientists do not yet fully understand how this process, known as traumatic bonding or trauma-coerced attachment,

plays out inside of the brain. However, its presence has been regularly observed as a normal human response to sustained abuse and control over time.

When deciding when to prosecute trafficking victims for crimes induced by their perpetrators, the potential impact of traumatic bonding is relevant to criminal intent. Prosecutors must consider whether it is in the interest of justice to prosecute a person for conduct that was a normal human response to abusive control over time, rather than an independently developed desire or intent to do harm.¹⁰⁶

In addition, trauma bonding may impact a victim-offender's attitude, which in turn may affect whether those in the criminal justice system perceive the victim-offender to have acted of their own volition. As one author stated,

The [victim-offender] may display belligerence, coldness, evasiveness, or nonchalance. When victims act that way, even experienced law enforcement officials may be more likely to think of the victims as criminals or as being disrespectful of law enforcement. In truth, the victims may display those attitudes as a result of psychological and neurobiological processes . . . These behaviors may be the result of fear or trauma and, in some cases, of the victim's "traumatic bonding" or "trauma-coerced attachment" to the trafficker.¹⁰⁷

Further, traffickers may create or exploit other vulnerabilities, such as isolation, lack of social networks, lack of education or substance use disorders, to maintain control.¹⁰⁸ The trafficker's "complete domination strip[s] away the [sex trafficking victim-offender's] agency: although [they] commit offenses against other victims, they do so at the command of or for the sake of the [person] trafficking [them] and the other victims."¹⁰⁹

Accordingly, understanding how a sex trafficking victim-offender's experiences and vulnerabilities affect their perceived autonomy and motivation when allegedly engaging in conduct that violates the sex trafficking law is an essential part of responding fairly to these cases. In fact,

The Ninth Circuit has held that an expert's testimony about the role of a [sex trafficking victim-offender] may have "helped the jury evaluate [her] testimony that she was acting at [her trafficker's] direction, not on her own accord." In other cases, experts have testified that traffickers exert "total control" over their victims and can force them to victimize other victims at their behest. When subject to such total control, trafficking victims, including [sex trafficking victim-offenders], are not exercising agency to freely decide to engage in trafficking offenses against other victims, but are acting out of a need to protect themselves and please their trafficker.¹¹⁰

The issue may also be framed as one of agency theory.¹¹¹ As one author emphasizes, it is important not to "view [sex trafficking victim-offenders'] offenses in isolation because sex trafficking victim-offenders act under the command of or for the benefit of their trafficker."¹¹²

Finally, analyzing sex trafficking victim-offenders in light of intersectionality is also important because, as another author argues, without it, "victim blaming is all that is left. The absence of intersectionality in sex trafficking cases results in pathologizing of victims,"¹¹³ while also failing to acknowledge that the vulnerabilities of victims, created by their intersecting identities, is "the lynchpin [sic] of [their] exploitation."¹¹⁴ Therefore, it is important to understand, through these theories of agency and intersectionality, that sex trafficking victim-offenders likely "perpetrate these offenses not of their own volition, but because of their own victimization."¹¹⁵

END NOTES

- ¹Christine Raino & Eliza Reock, *What's in a Name?: Lack of Consistency in Child Sex Trafficking Laws May Hurt Our Children*, SHARED HOPE INT'L (Feb. 21, 2017), <https://sharedhope.org/2017/02/21/whats-in-a-name>.
- ²See page 57 for list of JuST Response Council members.
- ³See page 48 for a discussion of existing research on victim-offender overlap.
- ⁴18 U.S.C. § 1591 (2012) (defining the crime of sex trafficking and the required punishment if convicted).
- ⁵Christine Raino, *When Difficult News is the Most Important News*, SHARED HOPE INT'L (Dec. 20, 2019), <https://sharedhope.org/2019/12/20/when-difficult-news-is-the-most-important-news/>.
- ⁶22 U.S.C. § 7102(12) provides, "[t]he term 'sex trafficking' means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act." Pursuant to 22 U.S.C. § 7102(4), "[t]he term 'commercial sex act' means any sex act on account of which anything of value is given to or received by any person." 22 U.S.C. § 7102(11)(A) defines "severe forms of trafficking in persons" as "sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age."
- ⁷See Marinella Marmo & Nerida Chazal, *The Trafficked Woman: Ideal or Blameworthy Victim?*, in 7 ADVANCES IN SOCIOLOGY RESEARCH, 125-140, 133 (Jaworski, J. ed., 2010) (citations omitted).
- ⁸See LAURIE ANNE PEARLMAN & KAREN W. SAAKVITNE, *TRAUMA AND THE THERAPIST: COUNTERTRANSFERENCE AND VICARIOUS TRAUMATIZATION IN PSYCHOTHERAPY WITH INCEST SURVIVORS* (1995).
- ⁹See *id.*; see also JON G. ALLEN, *COPING WITH TRAUMA: A GUIDE TO SELF-UNDERSTANDING* 227 (1995).
- ¹⁰See Eldra P. Solomon & Kathleen M. Heide, *The Biology of Trauma: Implications for Treatment*, 20 J. INTERPERSONAL VIOLENCE 51, 53 (2005) (explaining how stress affects the brain, which causes physical differences in the brains of those who have experienced trauma).
- ¹¹*Hearing on Trauma-Informed Care in Schools Before the H. Comm. on Educ. & Labor*, 166th Cong. (2019) [hereinafter *Hearing on Trauma-Informed Care*] (statement of Dr. Nadine Burke Harris, Surgeon General of California).
- ¹²*Id.*
- ¹³See Heather B. MacIntosh & Valerie E. Whiffen, *Twenty Years of Progress in the Study of Trauma*, 20 J. INTERPERSONAL VIOLENCE 488, 489 (2005); see also RONALD T. POTTER-EFRON, *HANDBOOK OF ANGER MANAGEMENT: INDIVIDUAL, COUPLE, FAMILY, AND GROUP APPROACHES* 229 (2005).
- ¹⁴J. Douglas Bremner, M.D., *Traumatic Stress: Effects on the Brain*, 8 DIALOGUES IN CLINICAL NEUROSCIENCE 445 (2006).
- ¹⁵*Id.*
- ¹⁶*Id.*
- ¹⁷See *Hearing on Trauma-Informed Care*, *supra* note 11.
- ¹⁸Hans-Peter Kapfhammer, *Acute and Long-term Mental and Physical Sequelae in the Aftermath of Traumatic Exposure: Some Remarks on "The Body Keeps the Score"*, 30 PSYCHIATRIA DANUBINA, 254, 256 (2018).
- ¹⁹*Id.* at 269.
- ²⁰See ALLEN, *supra* note 9.
- ²¹See Claudia Peña, *Trauma Abounds: A Case for Trauma-Informed Practices*, 26 UCLA WOMEN'S L.J. 7, 7-12 (2019).
- ²²See *id.*; see also HEATHER J. CLAWSON ET AL., U.S. DEP'T OF HEALTH & HUMAN SERVS., *TREATING THE HIDDEN WOUNDS: TRAUMA TREATMENT AND MENTAL HEALTH RECOVERY FOR VICTIMS OF HUMAN TRAFFICKING* (2008).
- ²³See Kristin A. Hom & Stephanie J. Woods, *Trauma and Its Aftermath for Commercially Sexually Exploited Women as Told by Front-Line Service Providers*, 34 ISSUES MENTAL HEALTH NURSING 75 (2013).
- ²⁴See Mazedra Hossain et al., *The Relationship of Trauma to Mental Disorders Among Trafficked and Sexually Exploited Girls and Women*, 100 AM. J. PUB. HEALTH 2442 (2010).
- ²⁵See *id.*
- ²⁶See CLAWSON ET AL., *supra* note 22.
- ²⁷Hanni Stoklosa et al., *Human Trafficking, Mental Illness, and Addiction: Avoiding Diagnostic Overshadowing*, 19 AMA J. ETHICS 23, 25-26 (2017).
- ²⁸See Alexandra Cook et al., *Complex Trauma in Children and Adolescents*, 21 FOCAL POINT 4, 4 (Winter 2007).
- ²⁹See *id.*
- ³⁰*Id.*
- ³¹Georgina Clifford et al., *Developing an Emotion- and Memory-Processing Group Intervention for PTSD with Complex Features: A Group Case Series with Survivors of Repeated Interpersonal Trauma*, 9 EUR. J. OF PSYCHOTRAUMATOLOGY 1, 6 (2018), <https://doi.org/10.1080/20008198.2018.1495980>.
- ³²See *What is C-PTSD?*, BEAUTY AFTER BRUISES, <https://www.beautyafterbruises.org/what-is-cptsd> (last visited Jan. 16, 2020).
- ³³*What is Complex Trauma?*, BLUE KNOT FOUND., <https://www.blueknot.org.au/Resources/Information/Understanding-abuse-and-trauma/What-is-complex-trauma> (last visited Jan. 16, 2020).
- ³⁴See *id.*
- ³⁵*Id.*
- ³⁶See MORTON BARD & DAWN SANGREY, *THE CRIME VICTIM'S BOOK* (1986).
- ³⁷See *id.*
- ³⁸See Rachel Wamser-Nanney et al., *Trauma Exposure, Posttraumatic Stress Disorder, and Aggression Among Civilian Females*, J. INTERPERSONAL VIOLENCE 1 (2019), <https://doi.org/10.1177/0886260519860894>.
- ³⁹See *id.*
- ⁴⁰See Wamser-Nanney et al., *supra* note 38.
- ⁴¹See Vittoria Ardino, *Offending Behaviour: The Role of Trauma and PTSD*, 3 EUR. J. PSYCHOTRAUMATOLOGY (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3402156/pdf/EJPT-3-18968.pdf>.
- ⁴²See *id.* at 1.
- ⁴³*Id.* at 2.
- ⁴⁴*Id.*
- ⁴⁵See ANDREA J. NICHOLS ET AL., *SOCIAL WORK PRACTICE WITH SURVIVORS OF SEX TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION* 192-217 (2018); Cheryl Nelson-Butler, *The Racial Roots of Human Trafficking*, 62 UCLA L. REV 1464 (2015).
- ⁴⁶This statistic reflects legislation enacted as of August 1, 2018. Applicable statutes include: Miss. Code Ann. § 97-29-51(3); S.C. Code Ann. § 16-3-2020(G); N.M. Stat. Ann. § 30-52-1(E); Wyo. Stat. Ann. § 6-2-708(a).
- ⁴⁷Unless otherwise indicated, this statistic reflects legislation enacted as of August 1, 2018. Applicable statutes include: Colo. Rev. Stat. Ann. § 18-3-504(2.5) (affirmative defense for trafficking of a minor); Iowa Code § 710A.3; Kan. Stat. Ann. § 21-5426(e) (minors only); Ky. Rev. Stat. Ann. § 529.170 (as long as the trafficking act did not result in death or serious physical injury to the victim); Miss. Code Ann. § 97-3-54.1(5); Nev. Rev. Stat. Ann. § 201.303; N.J. Stat. Ann. § 2C:13-8(c); N.C. Gen. Stat. § 14-43.16(a); Okla. Stat. tit. 21, § 748(D); S.C. Code Ann. § 16-3-2020(F); Vr. Stat. Ann. tit. 13, § 2652(c)(B)(2); Wis. Stat. § 939.46(1m). Notably, Montana removed this protection during its 2019 legislative session. Mont. Code Ann. § 45-5-710 provides trafficking victims with an affirmative defense to charges for prostitution, promoting prostitution, and nonviolent offenses; however, Senate Bill 147, enacted May 8, 2019, amended the definition of "crime of violence" under Mont. Code Ann. § 46-18-104(2)(a) to now include trafficking offenses, rendering the affirmative defense law inapplicable to trafficking charges.

⁴⁸This statistic reflects legislation enacted as of August 1, 2018. Applicable statutes include: Ala. Code § 15-20A-5(28)-(29); Alaska Stat. § 12.63.010(a); Ariz. Rev. Stat. Ann. § 13-3821(A)(11)-(12); Ark. Code Ann. § 12-12-903(12)(A)(i)(cc); Cal. Penal Code §290(c)(236.1)(c)-(d); Colo. Rev. Stat. Ann. §16-22-103(1)(a); Del. Code Ann. tit. 11, § 4120(b)(1); Fla. Stat. Ann. § 775.21(4)(a)(1)(b); Ga. Code Ann. § 42-1-12(a)(10)(B.3)(iii); Haw. Rev. Stat. Ann. § 846E-1(1); Idaho Code Ann. §18-8306(2)-(3); Ind. Code Ann. § 35-42-4-4(b)-(c); Iowa Code § 692A.103(1); Kan. Stat. Ann. § 22-4902(a)(1)-(2); Ky. Rev. Stat. Ann. § 17.500(5)(a)(5)-(6); La. Rev. Stat. Ann. § 15:542(A)(1); Me. Rev. Stat. Ann. tit. 17-A, § 255-A; Md. Code Ann., Crim. Proc. § 11-704(a); Mass. Gen. Laws ch. 6, § 178D; Mich. Comp. Laws Ann. § 28.723; Minn. Stat. Ann. § 243.166(1b)(a)(2)(iii); Miss. Code Ann. § 45-33-23(h); Mo. Rev. Stat. § 589.414(6)(1)(f)-(7)(w)(x)(y); Mont. Code Ann. § 46-23-502(10); Nev. Rev. Stat. Ann. § 179D.097(1)(q); N.H. Rev. Stat. Ann. § 651-B:2(I); N.Y. Correct. Law § 168-a(2)(a)(i); N.C. Gen. Stat. § 14-208.6(5); N.D. Cent. Code § 12.1-32-15(1)(g); Ohio Rev. Code Ann. § 2950.01(E)(1)(a), (F)(1)(a), (F)(1)(g); Okla. Stat. Ann. tit. 57, § 582(A); Or. Rev. Stat. §§ 163A.005-163A.235; 42 Pa. Cons. Stat. § 7999.13-14; R.I. Gen. Laws Ann. § 11-37.1-3(a); S.C. Code Ann. § 23-3-430; S.D. Codified Laws § 22-24B1-2; Tenn. Code Ann. §§ 40-39-202(20), 40-39-212(a); Tex. Code Crim. Proc. Ann. arts. 62.051(a), 62.001(5)(B)-(B-1), (J)-(L); Utah Code Ann. §§ 77-41-102(11), 77-41-105; Vt. Stat. Ann. tit. 13, §§ 5402(a), 5407(a); Va. Code Ann. § 9.1-902(A)-(B); Wash. Rev. Code Ann. §§ 9A.44.128(10), 9A.44.130(1)(a); W. Va. Code Ann. § 15-12-2(b); Wis. Stat. § 301.45(1g)(a); Wyo. Stat. Ann. §§ 7-19-301(a)(viii), 7-19-302(a).

⁴⁹This statistic reflects legislation enacted as of August 1, 2018. Applicable statutes include: Ala. Code § 12-15-319(a); Alaska Stat. § 47.10.088(a); Ariz. Rev. Stat. Ann. § 8-863(B)(2); Ark. Code Ann. § 9-27-341(b)(3)(ix); Cal. Penal Code §236.1(c); Colo. Rev. Stat. Ann. § 14-10-129(3)(b)(XI); Conn. Gen. Stat. § 45a-717(g)(B); Del. Code Ann. tit. 13, § 1103(a)(4); Fla. Stat. Ann. § 39.01(71)(g); Ga. Code Ann. §15-11-310(a)(2); Haw. Rev. Stat. Ann. § 587A-4; 705 Ill. Comp. Stat. Ann. 405/2-21(5); Ind. Code Ann. § 31-34-1-3.5(a), 31-35-2-1; Iowa Code § 232.116(1)(o); Kan. Stat. Ann. §§ 38-2269(a), 38-2271(a)(7); Ky. Rev. Stat. Ann. § 625.090(2)(d)-(f); La. Child. Code Ann. art. 1015(l)-(m); Me. Rev. Stat. Ann. tit. 22, § 4055(1)(A)(B)(11); Md. Code Ann., Fam. Law § 5-323(d); Mass. Gen. Laws ch. 119 § 51A(a); Minn. Stat. Ann. § 260C.301(1); Miss. Code Ann. §93-15-121(h)(i)(4)-(7); Mo. Rev. Stat. §211.447(2)(4); Nev. Rev. Stat. Ann. § 432B.393(3)(a)-(g)-(h); N.C. Gen. Stat. §§ 7B-101(1)(d), 7B-111(a); N.D. Cent. Code § 27-20-44(1); Ohio Admin. Code § 5101:2-42-95(A)(1)(a); Or. Rev. Stat. § 419B.502, B.504; S.C. Code Ann. § 63-7-2570(9); S.D. Codified Laws § 26-8A-26.1; Tenn. Code Ann. §§ 36-1-113(a), (c), 37-1-147; Tex. Fam. Code Ann. § 161.001(b)(1)(L)(xv)-(xvi); Utah Code Ann. §§ 62A-4a-203.5, 78A-6-507; Wash. Rev. Code Ann. §§ 13.34.132, 13.34.180; W. Va. Code Ann. § 49-1-201; Wis. Stat. § 48.415(9m); Wyo. Stat. Ann. § 14-2-309(a)(iv).

⁵⁰This statistic reflects legislation enacted as of August 1, 2018 and includes vacatur laws that apply to convictions and/or delinquency adjudications for trafficking offenses. Applicable statutes include: Cal. Penal Code § 236.14(a); Fla. Stat. Ann. § 943.0583(3); Ind. Code Ann. § 31-37-22-11(b) (delinquency adjudications only); Idaho Code Ann. § 67-3014(1)-(2); Ky. Rev. Stat. Ann. § 529.160(1); Miss. Code Ann. § 97-3-54.6(5); Neb. Rev. Stat. Ann. § 29-3005(2); N.M. Stat. Ann. § 32A-3B-21 (delinquency adjudications only); S.C. Code Ann. § 16-3-2020(F); S.D. Codified Laws § 26-7A-115.1 (delinquency adjudications only); Tex. Fam. Code Ann. § 54.04012 (delinquency adjudications only) Wyo. Stat. Ann. § 6-2-708(c). Notably, Montana removed this protection during its 2019 legislative session. Mont. Code Ann. § 46-18-608 allows trafficking victims to vacate convictions for prostitution, promoting prostitution, and nonviolent offenses; however, Senate Bill 147, enacted May 8, 2019, amended the definition of “crime of violence” under Mont. Code Ann. § 46-18-104(2)(a) to now include trafficking offenses, rendering the vacatur law inapplicable to trafficking convictions.

⁵¹See, e.g., Sarah Crocker, *Stripping Agency from Top to Bottom: The Need for A Sentencing Guideline Safety Valve for Bottoms Prosecuted Under the Federal Sex Trafficking Statutes*, 111 NW. U. L. REV. 753, 774 (2017) (“Many scholarly articles have proposed legal solutions for dealing with prostitutes and trafficking victims; nevertheless, most have ignored the problem raised when a victim—still victimized and controlled by her trafficker—perpetrates trafficking offenses against other trafficking victims.”). See generally Marianelli Agbulos, *Female Perpetrators of Human Trafficking: Overlooked in the United Nations’ Anti-Trafficking Framework* (2017), https://www.academia.edu/36576018/Female_Perpetrators_of_Human_Trafficking_Overlooked_in_the_United_Nations_Anti-Trafficking_Framework (discussing the need for comprehensive research examining a victim-offender’s motives, activities, and behavior).

⁵²See *Prostitution Terminology & Slang*, GENDERBERG, <http://genderberg.com/boards/viewtopic.php?f=10&t=1244> (last visited Oct. 12, 2017) (defining “stable” as the “group of people under the control of a single pimp,” and noting that “[t]he choice of a farming word is not accidental. Pimps consider their victims to be no better than animals.”).

⁵³Isabella Blizard, *Chapter 636: Catching Those Who Fall, an Affirmative Defense for Human Trafficking Victims*, 48 UNIVERSITY PACIFIC L. REV. 631, 639 (2016).

⁵⁴378 F.3d 1281, 1285 (11th Cir. 2004), *vacated*, 544 U.S. 902 (2005), *judgment reinstated*, 412 F.3d 1251 (11th Cir. 2005); see also *United States v. Daniels*, 685 F.3d 1237, 1242 (11th Cir. 2012) (describing a conversation where a victim-offender “briefed [another victim] on necessary hygiene, the appropriate prices to charge for certain services, and ‘just how to act with a trick’”); *United States v. Brooks*, 610 F.3d 1186, 1196 (9th Cir. 2010) (“[Bottom Girls are a] pimp’s most senior prostitute, who often trains new prostitutes and collects their earnings until they can be trusted”).

⁵⁵See Blizard, *supra* note 53, at 639 (“Bottom girls may actually be the most victimized out of all of the prostitutes working for a particular trafficker—they are in the position of bottom girl because they are the most submissive, and the traffickers maintain control over them by delegating power.”); see also Jessica Emerson & Alison Aminzadeh, *Left Behind: How the Absence of Federal Vacatur Law Disadvantages Survivors of Human Trafficking*, 16 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 239, 247-48 (2016) (sharing story of Shamere McKenzie, who was federally prosecuted as a co-conspirator in trafficking).

⁵⁶See Crocker, *supra* note 51, at 771.

⁵⁷*Id.*

⁵⁸See Blizard, *supra* note 53, at 639; Crocker, *supra* note 51, at 774-75 (discussing the responsibilities of a “bottom”).

⁵⁹See Crocker, *supra* note 51, at 775 (“Although bottoms perform different roles for different traffickers, many participate in recruitment of new victims and management of other prostitutes—thereby meeting § 1591(a)(1)’s element of recruiting or maintaining a person.”); see also Krystle M. Fernandez, *Victims or Criminals? The Intricacies of Dealing with Juvenile Victims of Sex Trafficking and Why the Distinction Matters*, 45 ARIZ. ST. L.J. 859, 885 (2013) (arguing that a sexually exploited teen may “[choose] to play the role of a ‘bottom girl’ as a means of protection”).

⁶⁰In fact, the issue of charging sex trafficking victim-offenders has sparked international attention:

The United Nations (Working Group on Trafficking in Persons, 2010) urges the non-punishment and non-prosecution of trafficked persons who may have committed offenses while trafficked victims. If crimes have been perpetrated under duress or force, Member States are urged to establish the principle of non-liability of the illegal acts committed by trafficked victims through a duress-based provision (a trafficked person is compelled to commit the offense) or through a causation-based provision (the offense committed by the trafficked person is directly related to the trafficking). The first provision would apply to those who are coerced into working for the criminal organization – such as recruiting new victims, working as drivers, money collectors or guards.

The duress and causation-based provisions would apply to victims who are in the country illegally, those forced to work in prostitution (in countries where prostitution is illegal), or forced to beg, steal or commit other offenses. Rather than viewing trafficked persons as criminals, they should be viewed through the lens of a human rights-based approach – and protected.

ALEXIS A. ARONOWITZ, INT’L STUDIES CTR., VICTIMS OF HUMAN TRAFFICKING: A COMPLEX ISSUE 12 (2015).

⁶¹Jeffrey H. Zeeman & Karen Stauss, *Criminal Conduct of Victims: Policy Considerations*, 65 U.S. ATT’YS BULL. 139, 139 (2017); see also Trafficking Victims Protection Act (TVPA) of 2000, 22 U.S.C. §§ 7101-14 (2012).

⁶²Zeeman & Stauss, *supra* note 61, at 140-41.

⁶³Alexandra F. Levy, *Innocent Traffickers, Guilty Victims: The Case for Prosecuting So-Called “Bottom Girls” in the United States*, 6 ANTI-TRAFFICKING REV. 130, 133 (2016).

⁶⁴*Id.* (“A criminal action, with its procedural safeguards and fact-sensitive inquiry, is the appropriate context within which to make a determination of culpability.”).

⁶⁵See generally Wesley G. Jennings et al., *On the Overlap Between Victimization and Offending: A Review of the Literature*, 17 J. AGGRESSION & VIOLENT BEHAVIOR 16 (2012) (reviewing theoretical, analytical, and historical approaches to the victim-offender overlap).

⁶⁶See Lisa R. Mufic et al., *The Victim-Offender Overlap, Intimate Partner Violence, and Sex: Assessing Differences Among Victims, Offenders, and Victim-Offenders*, 61 CRIME & DELINQ. 899, 900 (2015).

⁶⁷See Blanche Bong Cook, *Stop Traffic: Using Expert Witnesses to Disrupt Intersectional Vulnerability in Sex Trafficking Prosecutions*, 24 BERKELEY J. CRIM. L. 147, 157 (2019).

⁶⁸See Jennings et al., *supra* note 65, at 24 (examining 37 different studies and finding that 31 of these studies revealed evidence of the victim-offender overlap).

⁶⁹*Id.*

⁷⁰Marie Skubak Tillyer & Emily M. Wright, *Intimate Partner Violence and the Victim-Offender Overlap*, 51 J. RES. CRIME & DELINQ. 29, 34 (2014).

⁷¹See Wesley G. Jennings et al., *An Empirical Assessment of the Overlap Between Sexual Victimization and Sex Offending*, 58 INT’L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1466, 1468 (2014).

⁷²*Id.* (citation omitted).

⁷³See generally Cathy S. Wisdom, *Does Violence Beget Violence? A Critical Examination of the Literature*, 106 PSYCHOL. BULL. 3 (1989) (conducting a literature review of empirical studies examining the relationship between violent victimization as a child and later criminal offending).

- ⁷⁴Stephanie Holt et al., *The Impact of Exposure to Domestic Violence on Children and Young People: A Review of the Literature*, 32 INT'L J. CHILD ABUSE & NEGLECT 797, 807 (2008).
- ⁷⁵See Crocker, *supra* note 51, at 771-74 (discussing the role of the bottom girl in sex trafficking and the relationship between the bottom girl, other prostituted persons, and the trafficker).
- ⁷⁶*Id.* at 768; see LINDA A. SMITH ET AL., SHARED HOPE INT'L, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING 31-32 (2009) (finding that different studies have found between 70-95% of commercially sexually exploited children had been abused prior to being trafficked).
- ⁷⁷See GLOB. FAMILY CARE NETWORK, IN-SERVICE TRAINING: IDENTIFICATION, INTERVENTION, AND PREVENTION OF HUMAN TRAFFICKING FOR PROFESSIONALS 17 (2018).
- ⁷⁸Holt et al., *supra* note 74, at 807.
- ⁷⁹See Mark Farmer et al., *Sex Offending and Situational Motivation: Findings from a Qualitative Analysis of Desistance from Sexual Offending*, 60 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 1756, 1758 (2016) (citing R. Wortley & S. W. Smallbone, *Applying Situational Principles to Sexual Offenses Against Children*, in SITUATIONAL PREVENTION OF CHILD SEXUAL ABUSE 7 (R. K. Wortley & S. W. Smallbone eds., 2006)).
- ⁸⁰*Id.*
- ⁸¹*Id.* (citations omitted) (noting that "from a strong situationist perspective, motivation is also thought to be driven by environmental factors").
- ⁸²*Id.*
- ⁸³See Jennings et al., *supra* note 71, at 17.
- ⁸⁴*Id.*
- ⁸⁵See *supra* Part I of this review.
- ⁸⁶GLOB. FAMILY CARE NETWORK, *supra* note 77, at 17.
- ⁸⁷See generally Mufit et al., *supra* note 66; Tara N. Richards et al., *The Cycle of Violence Revisited: Distinguishing Intimate Partner Violence Offenders Only, Victims Only, and Victim-Offenders*, 31 VIOLENCE & VICTIMS 573 (2016); Tillyer & Wright, *supra* note 70.
- ⁸⁸MATTHEW J. BRIEDING ET AL., CTRS. FOR DISEASE CONTROL & PREVENTION, INTIMATE PARTNER VIOLENCE SURVEILLANCE: UNIFORM DEFINITIONS AND RECOMMENDED DATA ELEMENTS, VERSION 2.0 11 (2015).
- ⁸⁹Tillyer & Wright, *supra* note 70, at 36.
- ⁹⁰*Id.*
- ⁹¹*Id.* at 45.
- ⁹²See Amy Farrell et al., *New Laws but Few Cases: Understanding the Challenges to the Investigation and Prosecution of Human Trafficking Cases*, 61 CRIME, L. & SOC. CHANGE 139, 163 (2014) ("Social isolation and marginalization are common among all types of trafficking victims.").
- ⁹³Marmo & Chazal, *supra* note 7, at 133 (citations omitted).
- ⁹⁴*Id.*
- ⁹⁵See Susie B. Baldwin et al., *Psychological Coercion in Human Trafficking: An Application of Biderman's Framework*, 25 QUALITATIVE HEALTH RES. 1171, 1173-77 (2015) (describing the ways in which traffickers exercised control over their victims).
- ⁹⁶See Crocker, *supra* note 51, at 771-72.
- ⁹⁷*Id.*
- ⁹⁸Several sources have discussed the bottom girl's lack of agency. See, e.g., Crocker, *supra* note 51, at 773 ("The traffickers' physical abuse and complete domination [over bottom girls] strip away the bottoms' agency: although bottoms commit offenses against other victims, they do so either at the command of or for the sake of the man trafficking the bottom and the other victims.").
- ⁹⁹See *id.* at 771-72 ("Because many traffickers set quotas for their victims as a collective, it is logical but naïve for victims, including bottoms, to seek more victims for their stable in the hope that the trafficker will allow each victim to engage in fewer sex acts.").
- ¹⁰⁰See Tillyer & Wright, *supra* note 70, at 31.
- ¹⁰¹See Levy, *supra* note 63, at 132.
- ¹⁰²See ARONOWITZ, *supra* note 60, at 10.
- ¹⁰³*Id.* at 11.
- ¹⁰⁴Joan A. Reid & Shayne Jones, *Exploited Vulnerability: Legal and Psychological Perspectives on Child Sex Trafficking Victims*, 6 VICTIMS & OFFENDERS 207, 219 (2011).
- ¹⁰⁵*Id.* at 220; see GLOB. FAMILY CARE NETWORK, *supra* note 78, at 17 (describing how trauma bonds can result in the "normalization of negative and abusive relationships").
- ¹⁰⁶Zeeman & Strauss, *supra* note 61, at 143. Notably, the authors do suggest that there are circumstances when "it may be appropriate to charge adult sex trafficking victims who willingly assist the [trafficker] in recruiting [and otherwise managing] other sex trafficking victims, particularly when those additional victims include minors, persons with developmental disabilities, or other especially vulnerable individuals." *Id.* at 145. Even in such cases, however, the authors note that the interests of sex trafficking victim-offenders must be considered and balanced against the interests of those the victim-offender exploited. *Id.*
- ¹⁰⁷*Id.* at 140, 142.
- ¹⁰⁸See ARONOWITZ, *supra* note 60, at 10; Crocker, *supra* note 51, at 768; Francisco Zornosa, *Protecting Human Trafficking Victims from Punishment and Promoting Their Rehabilitation: The Need for an Affirmative Defense* 22 WASH. & LEE. J. C.R. & SOC. JUST. 177, 188 (2016); see also Agbulos, *supra* note 51, at 7 ("Female perpetrators are caught in a never-ending cycle of victimization and victimizing. Most of them have little or no education, which limits their employment options. They also know that their involvement in sex work, whether it began voluntarily or involuntarily, has made them tainted outcasts who cannot return to the community from which they came . . . (Ironically, being part of this group of perpetrators may give them the only sense of community now available to them.) And while it may seem heartless for someone who was a victim-turned-perpetrator to put another woman through the same experience, financial security, plus the accompanying feeling of empowerment, keep female perpetrators in their role: wealth and economic benefits outweigh traditional social values and traditional religious morals in which sex is valued as an act of procreation alone. To maintain her position, the female perpetrator must meet her recruitment quota, which means she must continue the cycle of enslavement.").
- ¹⁰⁹Crocker, *supra* note 51, at 773.
- ¹¹⁰*Id.* at 774.
- ¹¹¹See *id.* at 756 n.21 (quoting *Agency*, OXFORD ENGLISH DICTIONARY (3d ed. 2012)). Agency can be defined as the "[a]bility or capacity to act or exert power" independently. *Id.*
- ¹¹²Crocker, *supra* note 51, at 773-75.
- ¹¹³Cook, *supra* note 67, at 158.
- ¹¹⁴*Id.* at 171-73.
- ¹¹⁵Crocker, *supra* note 51, at 775.