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## ARTICLE

### Smuggling Conspiracies

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#### ABSTRACT

*Amid growing political polarization, human trafficking remains one of the few social causes that retains universal bipartisan support. Nowhere was this clearer than Florida in the spring of 2023, when Governor Ron DeSantis passed widely popular human trafficking reforms. Despite a legislative session marked by national controversy over the state's extreme anti-immigrant proposals that year, DeSantis' rhetoric on human trafficking specifically called for the protection of immigrant victims. The story behind the 2023 reforms reveals not a benevolent change of heart or momentary hypocrisy, but an ominous call towards racist tropes plaguing human trafficking and immigration reform for centuries. This Article conducts an extensive legislative history and argues that DeSantis' legislative efforts tap into theories popularized by QAnon, a far-right decentralized web of conspiracies. In doing so, Florida echoes historical racial narratives and utilizes dog whistles to further justify an expansion of its immigration enforcement powers. The strategy behind Florida's efforts to generate anti-immigrant hysteria has extended to other states and is now being carried out on a national stage under the new Trump administration. This Article contends that advocates must meet this growing threat by crafting multidisciplinary counter-narratives that directly confront the role of race and reject the respectability politics dominating mainstream trafficking discourse.*

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## INTRODUCTION

Immigrant victims of human trafficking seem to have found themselves an unlikely champion: Ron DeSantis. In the spring of 2023, DeSantis approved the passage of one of the nation's most extensive anti-immigrant bills to date, prompting swift outcry from grassroots organizations and civil rights groups alike.<sup>2</sup> Yet in the same week, Florida's notoriously anti-immigrant governor quietly signed into law a series of human trafficking bills aimed at protecting victims of trafficking, specifically calling for the security of vulnerable immigrants.<sup>3</sup> Although DeSantis' seemingly contradictory stance slipped under the radar of immigrant rights advocates, his trafficking reforms present an equally grave threat to the livelihoods of immigrant Floridians.<sup>4</sup>

Florida's latest entry into human trafficking enforcement is a window into the new strategy for immigrant restrictionists, one that recycles historical anti-immigrant narratives by pulling on recent conspiracy theories promoted by QAnon. By creating new dog whistles for these conspiracy theories, DeSantis pioneers a model for immigration restriction through other areas of law and

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<sup>2</sup> Jim Saunders, *DeSantis Signs Immigration Crackdown Bill into Law*, SOUTH FLORIDA SUN-SENTINEL (May 11, 2023), <https://www.orlandosentinel.com/2023/05/10/desantis-signs-immigration-crackdown-bill-into-law/>.

<sup>3</sup> S.B. 1690, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 7064, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 7064, 2023 Leg., Reg. Sess. (Fla. 2023); Press Release, Ron DeSantis, *Governor Ron DeSantis Signs Legislation to Combat Human Trafficking* (May 16, 2023), <https://www.flgov.com/2023/05/16/governor-ron-desantis-signs-legislation-to-combat-human-trafficking/>.

<sup>4</sup> Throughout the Article, I will use the term "immigrants" to refer to the population of people affected by this legislation. While undocumented immigrants are often most vulnerable to immigration enforcement, it is worth noting that the category of noncitizens include individuals with varying degrees of authorization to live and work within the U.S. who might face unique threats of deportations from interactions with the criminal state or employers. Furthermore, many citizens face increased hostility as a result of anti-immigrant legislation because they are racialized as undocumented, or because they exist in mixed-status families. For lack of a better term, I will continue to use "immigrants" as a broad term to encompass all these populations. See Phillip Connor, *Protected, Yet Undocumented: The U.S. Case of Growing Liminal Immigration Status and the Theoretical, Advocacy, and Policy Implications for the U.S. and Beyond*, 28 INT'L MIGRATION REV. 2118 (2024) (outlining the increasing use of temporary statuses and its implication for those who hold them); San Juanita García, *Racializing "Illegality": An Intersectional Approach to Understanding How Mexican-Origin Women Navigate an Anti-Immigrant Climate*, 3 SOCIO. OF RACE AND ETHNICITY. 474 (2017) (analyzing the process of racialization of Mexican women in the context of "illegality" through qualitative research); Kati L. Griffith & Shannon Gleeson, *Trump's 'Immemployment' Law Agenda: intensifying Employment-Based Enforcement and Un-Authorizing the Authorized*, 48 SW. L. REV. 475 (2019) (examining the experience of TPS workers in light of Trumps' threat to workplace and immigration protections).

gains unconstitutional state powers in the process.<sup>5</sup> Anti-immigrant narratives fueled by Florida's actions have generated increasingly bipartisan anti-immigrant policies in other state and federal legislatures, presenting existential threats to immigrants and their advocacy groups. Trump's initial days in office have already magnified these threats and shown his intent to replicate Florida's actions at the national level by weaponizing smuggling and harboring provisions against immigrant allies and promoting conspiratorial theories on trafficking and immigration.<sup>6</sup>

This Article maps the far-right strategy to generate anti-immigrant hysteria, placing Florida's reforms into a longer history of racial narratives in the anti-trafficking movement. The connection between these mainstream narratives and QAnon conspiracies reveals that DeSantis' human trafficking rhetoric calls on dog whistles that confuse who the victims of human trafficking really are. These dog whistles, rooted in America's deep history with race and gender, allow DeSantis to mobilize his political base towards anti-immigrant conspiracies under the guise of human trafficking enforcement, a bipartisan social issue. By placing DeSantis' actions in this context, this Article argues that Florida's latest bills are part of larger narratives found throughout the history of immigration law, such as the racialization of "bad immigrants" and the weaponization of fear around "white slavery", while fueling new conspiracies that immigrants are insidious members of international trafficking syndicates.

Far-right conspiracies play a critical role in augmenting Florida's immigration enforcement powers by allowing DeSantis to create new criminal penalties targeted towards immigrants that

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<sup>5</sup> The term dog-whistle politics refers to the use of coded language in political messaging, often to mask racist remarks. See Ian Haney-Lopez, *DOG WHISTLE POLITICS: HOW CODED RACIAL APPEALS HAVE REINVENTED RACISM AND WRECKED THE MIDDLE CLASS* (2014).

<sup>6</sup> Memorandum from the U.S. Dep't of Justice, General Policy Regarding Charging, Plea Negotiations, and Sentencing (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388541/dl>. (stating "Illegal trafficking and smuggling of children and other humans are a horrific byproduct of illegal immigration.").

sets them onto deportation pipelines. A reading of Florida's statutes which considers DeSantis' conspiratorial narratives illustrate the potentially grave effects of Florida's masking immigration enforcement through human trafficking. Some of these effects include the growing threat of targeting immigrant rights organizations and spreading vigilantism among the public. Ultimately, DeSantis' smuggling and trafficking reforms will reinforce the conditions that make immigrants susceptible to human trafficking and other labor crimes.

This Article calls for advocates to unroot the pre-existing framework within mainstream trafficking discourse and push narratives to counter the growth of these conspiracies. Highlighting the hypocrisy of DeSantis' actions may allow advocates to call out the racist intent behind these dog whistles, thereby creating an opportunity to discomfort white audiences to whom these conspiracies are directed. Renewed attention on the nuances of human trafficking provides a window to complicate the narratives supporting conspiratorial hate, mobilizing coalitions towards inclusive policies that address the systemic roots behind the inequities DeSantis purports to combat.

Part I outlines the legal framework for federal and state human trafficking laws, before discussing the technical components of Florida's reforms. Part II analyzes the historical connection between human trafficking and immigration laws, along with the latter's influence in creating racialized narratives within modern trafficking discourse. Part II also provides a history of QAnon's rise and its use of human trafficking conspiracies to gain new adherents. Part III details Florida's blueprint for immigration encroachment and conspiratorial fear mongering, beginning with a systematic analysis of the documents and debates in the legislative history surrounding the trafficking and smuggling reforms. Part III further calculates the effect of the trafficking laws and their rhetoric on Florida's powers to prosecute immigrant Floridians and immigrant rights groups.

Finally, Part IV suggests a strategy to combat the new restrictionist agenda by creating counter-narratives to both the conspiratorial dog whistles as well as the racialized narratives that have plagued human trafficking advocacy for centuries.

## I. LEGAL FRAMEWORK FOR HUMAN TRAFFICKING PREVENTION

This Part outlines the legal framework for human trafficking prevention, including state and federal enforcement regimes as well as enforcement trends within the past few decades. Additionally, this Part describes the changes made by Florida's new trafficking and smuggling legislation.

### A. Federal and State Human Trafficking Enforcement Regimes

Though human trafficking is universally condemned by politicians,<sup>7</sup> government experts have yet to provide a tailored legal definition or an accurate account of the problem.<sup>8</sup> This is in part because human trafficking advocacy is centered around providing aid to individual victims, and thus legal definitions are often created to encompass the broad range of harms that victims may experience.<sup>9</sup> In reality, the economic, legal, and social conditions that drive human trafficking primarily relate to economic exploitation.<sup>10</sup> Yet, popular understanding of human trafficking is centered around the incidental acts leading to that exploitation.<sup>11</sup> These include acts like kidnapping or transporting, though in reality, these actions are not prerequisites for human trafficking to occur.<sup>12</sup>

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<sup>7</sup> Julie Dahlstrom, *The Elastic Meaning(s) of Human Trafficking*, 108 CAL. L. REV. 379, 388 (2020).

<sup>8</sup> Annie Smith, *The Underprosecution of Labor Trafficking*, 72 S.C. L. REV. 477, 486, 495 (2020).

<sup>9</sup> Hila Shamir, *A Labor Paradigm for Human Trafficking*, 60 UCLA L. REV. 76, 80 (2012).

<sup>10</sup> *Id.*

<sup>11</sup> Alfonso Lopez de la Osa Escribano, *Addressing Human Trafficking from a Comparative Legal Perspective Mexico-United States*, 42 HOUS. J. INT'L L. 521, 522 (2020).

<sup>12</sup> *Id.*

Human trafficking is perhaps best defined as “a process through which individuals are placed or maintained in an exploitative situation for economic gain.”<sup>13</sup> The United Nations is credited for developing the first legal framework for human trafficking,<sup>14</sup> defining its core elements as an (1) act, such as recruiting or harboring, (2) which uses unlawful means for (3) exploitation.<sup>15</sup> U.S. federal laws have notably departed from this definition in the development of its own human trafficking laws by dividing the U.N. framework into two categories: sex trafficking and labor trafficking.<sup>16</sup> Their definitions are almost identical, differing only in that sex trafficking is for the “purpose of a commercial sex act” and that labor trafficking is for the purpose of “labor or services.”<sup>17</sup>

Despite the substantial similarities, the enforcement of each of these crimes is widely divergent. Even though labor trafficking is more common, sex trafficking victims are afforded more protection and face less difficulty proving their cases in court.<sup>18</sup> Labor trafficking is generally under-prosecuted,<sup>19</sup> but considerable resources are expended to combat sex trafficking.<sup>20</sup> For example, in 2023, labor trafficking cases comprised only 3% of national trafficking-related prosecutions, while sex trafficking accounted for the remaining 97%.<sup>21</sup>

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<sup>13</sup> *Id.* at 529.

<sup>14</sup> See Sabrina Balamwalla, *Trafficking in Narratives: Conceptualizing and Recasting Victims, Offenders, and Rescuers in the War on Human Trafficking*, 94 DENV. U. L. REV. 1 (2016) (for historical background behind development of criminal law framework in UN. The definition is: The (1) recruitment, transportation, transfer, harboring or receipt of persons, (2) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, (3) for the purpose of exploitation).

<sup>15</sup> Janie Chuang, *Exploitation Creep and the Unmaking of Human Trafficking Law*, 108 A.J.I.L. 609, 616 (2014).

<sup>16</sup> 22 U.S.C. § 7102(11)(A), 22 U.S.C. § 7102(11)(B).

<sup>17</sup> *Id.*

<sup>18</sup> Stephanie Durr, *The Intersection of the U.S. Immigration System and Human Trafficking: A Legalized Labor of Injustice*, 40 MISS. C. L. REV. 173, 174 (2022).

<sup>19</sup> Smith, *supra* note 7, at 478-79.

<sup>20</sup> *Id.* at 495.

<sup>21</sup> HUMAN TRAFFICKING INST., 2023 FEDERAL HUMAN TRAFFICKING REPORT (2024), <https://data.traffickinginstitute.org/wp-content/uploads/2024/06/2023-Federal-Human-Trafficking-Report-WEB-Spreads-LR.pdf>.

Even where enforcement mechanisms are robust, many states have capitalized on human trafficking as a means to promote other agendas. States often have duplicative laws criminalizing human trafficking to supplement federal enforcement, and these laws provide opportunities for state legislators to distort the definition of human trafficking. For example, due in part to the strong political mobilization behind the cause of sex trafficking, advocates have pushed for an expansion of their state definitions of sex trafficking to include other concerns, including domestic and sexual violence.<sup>22</sup> Although these victims undoubtedly merit protection, scholars and practitioners have expressed concerns that the ever-expanding definition of sex trafficking ultimately disserves victims in the long term by undermining the gravity of the crime.<sup>23</sup> Additionally, several states have capitalized on this expansion to utilize human trafficking laws to ban all commercialized sex work.<sup>24</sup> These state efforts, though often unsuccessful, thereby collapse the important distinction between forced and consensual commercial sex work and attempt to misuse government resources to criminalize women undertaking a valid economic enterprise.<sup>25</sup> Both examples illustrate how human trafficking laws have been expanded in states to allow these governments to engage in other spheres of enforcement, such as domestic violence or sex work.

However, there has been a growing chorus of scholars and advocates in recent decades calling for a reframing of human trafficking around labor to properly encapsulate the contours of the issue.<sup>26</sup> This includes an increased awareness about the conditions that perpetuate trafficking, such as fear of government authorities, which create substantial overlap between marginalized populations and susceptibility to trafficking.<sup>27</sup> For example, immigrants can face several barriers

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<sup>22</sup> Dahlstrom, *supra* note 6, at 401-02.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 414.

<sup>25</sup> *Id.*

<sup>26</sup> See Chuang, *supra* note 14, at 609-613; Shamir, *supra* note 8, at 78-84; Dahlstorm, *supra* note 6, at 381-87.

<sup>27</sup> *Id.*



to trusting government officials such as social isolation, deportation concerns, and language barriers.<sup>28</sup> As a result, undocumented immigrants are the second-most likely group to experience human trafficking.<sup>29</sup> The renewed understanding of how and to whom trafficking occurs can open avenues to stronger solutions that address the underlying exploitation behind trafficking.<sup>30</sup>

One such example is the creation of the T Visa program. This visa allows for undocumented victims of human trafficking to receive lawful immigration status in exchange for their collaboration with law enforcement officials. Created in 2000, the program reflects an awareness about the unique barriers to reporting in the undocumented community. While the T Visa certainly has its benefits, advocates have criticized the program for its long waiting periods and excessive requirements, which limit its protection of undocumented persons who might otherwise be unwilling to come forward.<sup>31</sup> Many trafficking victims are detained by ICE despite the existence of the T Visa, indicating that the program is easily undermined by the strength of the larger immigration system.<sup>32</sup>

Several of the acts constituting elements of human trafficking are themselves federal crimes, such as human smuggling and harboring. Unlike human trafficking, human smuggling and harboring are crimes against a nation's borders, not individual victims. While exploitation is central to human trafficking, it is not required for smuggling or harboring to occur, and in fact many times the person who is harbored or smuggled is a willing participant. Human smuggling is

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<sup>28</sup> Mirelle Raza & Kyleigh Feehs, *Dispelling Sex Trafficking Conspiracy Theories: The Truth Behind Who is Recruited by Traffickers and How*, 29 WM. & MARY J. RACE, GENDER, & SOC. JUST. 653, 668-679 (2023); Shamir, *supra* note 8, at 110-12.

<sup>29</sup> HUMAN TRAFFICKING INST., 2023 FEDERAL HUMAN TRAFFICKING REPORT (2024), <https://traffickinginstitute.org/wp-content/uploads/2024/06/2023-Federal-Human-Trafficking-Report-WEB-Spreads-LR.pdf>.

<sup>30</sup> Shamir, *supra* note 8, at 112 – 20.

<sup>31</sup> See Durr, *supra* note 17, at 188-192; Jennifer Chacon, *Trafficking and the Shallow State*, 12 U.C. IRVINE L. REV. 61, 87-105 (2021).

<sup>32</sup> Durr, *supra* note 17, at 180-81.

defined at the federal level as transporting a noncitizen into the U.S. through any place that is not a designated port of entry, regardless of whether the noncitizen is authorized to enter the country.<sup>33</sup> Harboring is poorly defined at the federal level, as its definition varies by circuit, so much so that some have argued that its definition has lost almost all meaning.<sup>34</sup> However, harboring generally refers to concealing a noncitizen who does not have authorization to be present in the U.S. from immigration authorities.<sup>35</sup> Notably, while human trafficking is an area where states may add to the federal government's enforcement, immigration laws are strictly an area of exclusive federal purview.<sup>36</sup>

### B. Florida's Trafficking and Immigration Reforms

Florida has some of the most expansive human trafficking protections nationwide.<sup>37</sup> DeSantis added to Florida's enforcement regime by signing four trafficking bills in the spring of 2023.<sup>38</sup> These laws increase penalties for those who commit human trafficking offenses, and expand the actors that could be prosecuted for human trafficking.<sup>39</sup> For example, under the new legislation, entities that are more tangentially connected to human trafficking, such as adult film theatres and motels, face criminal liability for ignoring trafficking that could be occurring on their premises.<sup>40</sup> Additionally, the bills allocate more funding to resources for victims and initiatives to

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<sup>33</sup> 8 U.S.C. §§ 1324(a)(1)(A)(i)-(ii).

<sup>34</sup> See Chuang, *supra* note 14, at 631; Memorandum in Support of Plaintiffs' Motion for a Preliminary Injunction at 5-16, The Farmworker Ass'n of Fla., *et al.* v. DeSantis, No. 23-CV-22655-RKA (S.D. Fla. Aug. 8, 2023).

<sup>35</sup> See 8 U.S.C. § 1324(a)(1)(A)(iii).

<sup>36</sup> Kleindienst v. Mandel, 408 U.S. 753, 766 (1972) ("The Court without exception has sustained Congress' 'plenary power to make rules for the admission of aliens and to exclude those who possess those characteristics which Congress has forbidden.'") (quoting *Boutilier v. Immigr. and Naturalization Serv.*, 387 U.S. 118, 123 (1967)).

<sup>37</sup> Jennifer Brinkley, *A Path Forward: Florida's Efforts to Combat Human Trafficking*, 71 S.C. L. REV. 639, 672 (2020).

<sup>38</sup> S.B. 1690, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 7064, 2023 Leg., Reg. Sess. (Fla. 2023); S.B. 7064, 2023 Leg., Reg. Sess. (Fla. 2023).

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

raise awareness about human trafficking, including a requirement for certain establishments to display informational signs on the issue.<sup>41</sup>

Almost simultaneously, Florida enacted a more controversial bill on human smuggling.<sup>42</sup> Human smuggling is often conflated with human trafficking, and yet these terms refer to completely different acts, as discussed above. While human smuggling at the federal level is primarily aimed at criminalizing those who assist people crossing the border unlawfully, Florida's statute created a new state smuggling felony for anyone who transports across state lines an immigrant who originally entered the U.S. outside of a designated checkpoint.<sup>43</sup> Among other harsh anti-immigrant measures, the bill also banned undocumented Floridians from obtaining drivers' licenses, effectively closing their right to private travel.<sup>44</sup> Florida's criminal statutes were additionally amended so that penalties of human smuggling mirrors human trafficking.<sup>45</sup> As initially proposed, the bill would have additionally made it a harboring crime to drive, live with, or even run errands for someone who originally entered the country without authorization (regardless of whether they have since acquired legal status, such as DACA).<sup>46</sup> Although the harboring provisions were later dropped from the final bill, the message to immigrant Floridians is clear: you are not welcome here.<sup>47</sup>

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<sup>41</sup> *Id.*

<sup>42</sup> S.B. 1718, 2023 Leg., Reg. Sess. (Fla. 2023).

<sup>43</sup> The category of immigrants who "entered without inspection" does not exist elsewhere in federal immigration laws and notably includes some individuals who have legal status to live and work within the country. The smuggling statute was quickly challenged by immigrant rights groups and is currently being litigated on several constitutional issues. However, this paper will not focus on these arguments as they have already been expertly explained in these advocates' briefs. See Memorandum in Support of Plaintiffs' Motion for a Preliminary Injunction, *supra* note 33.

<sup>44</sup> S.B. 1718, 2023 Leg., Reg. Sess. (Fla. 2023).

<sup>45</sup> *Id.*

<sup>46</sup> *Florida is Now Where Religious Freedom Goes to Die*, TAMPA BAY TIMES (April 19, 2023), <https://www.tampabay.com/opinion/2023/04/20/florida-is-now-where-religious-freedom-goes-die-editorial/>.

<sup>47</sup> Ana Goni-Lessan and John Kennedy, *Industries Brace for Worker Exodus; Will New Immigration Law Leave Florida's Crops Unpicked, Tourist Hotels Short of Staff and Construction Sites Idle?*, THE FLORIDA TIMES-UNION (June 26, 2023), (reporting that "DeSantis gave [migrants] a warning, 'Do not come to Florida'"); John Kennedy,

## II. HUMAN TRAFFICKING AND IMMIGRATION RESTRICTION

This Part analyzes racist human trafficking narratives that originated in immigration laws, particularly during the era of Chinese exclusion. These narratives can be traced to modern human trafficking discourse and have provided fertile ground for the QAnon to generate interest in its far-right web of conspiracies.

### A. Historical Racial Narratives in Human Trafficking Law

Although human trafficking and immigration are not often discussed together as social justice issues, their histories are inextricably intertwined. Both areas of the law are deeply shaped by racial prejudice, often with human trafficking playing the role of justifying fear towards nonwhite noncitizens. This relationship continues to frame current human trafficking discourse and perpetuates problematic human trafficking enforcement trends, even as immigration laws have shifted away from explicit racial categories.

Some of the nation's first federal immigration laws, the Page Act and the Chinese Exclusion Act, were both direct reactions to the influx of Chinese workers to the West Coast. Working-class Californians responded to new immigrants and the subsequent decline in working conditions by stirring up a moral panic that connected this phenomena to contemporaneous understandings of race.<sup>48</sup> Just as chattel slavery was justified by notions of Black racial inferiority, white Californians began pushing the narrative that all Chinese laborers were "slaves" for accepting poor working conditions, and thus racially inferior.<sup>49</sup> Similarly, as mainstream society

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*House Oks Harsh Penalties Aimed at Illegal Immigration*, HERALD-TRIBUNE (May 4, 2023) (quoting several opponents of the bill, calling it "cruel").

<sup>48</sup> Kerry Abrams, *Polygamy, Prostitution, and the Federalization of Immigration Law*, 105 COLUM. L. REV. 641, 658-59 (2005); Mae M. Ngai, *Chinese Gold Miners and the 'Chinese Question' in Nineteenth-Century California and Victoria*, 101 J. OF AM. HIST. 1082, 1097 n.4 (2015). See also Eithne Luibhéid, ENTRY DENIED: CONTROLLING SEXUALITY AT THE BORDER 28 (2002).

<sup>49</sup> *Id.*

dismissed women's sexual desires, Chinese practices of polygamy and the growing market for Chinese prostitution were assumed to be nonconsensual and quickly connected to their supposed racial predisposition towards "slave-like" conditions.<sup>50</sup> These projections led to the widespread conclusion that all Chinese women were "sex slaves" trafficked for the purpose of polygamy and prostitution in the U.S.<sup>51</sup> This fear was inextricably linked to white supremacist concerns that white men would develop relationships with, and potentially contract diseases from, Chinese prostitutes.<sup>52</sup> The moral hysteria was crucial to the passage of the Page Act, banning entry to any individuals with "lewd and immoral purposes", and the Chinese Exclusion Act, banning Chinese immigrants explicitly. Both national immigration laws categorically excluded most Asian immigrants based on harmful stereotypes about Chinese people. Yet the Page Act and the Chinese Exclusion Act formed the basis of U.S. immigration policy and influenced racialized human trafficking policy for decades to come.

Soon after the passage of the Page Act, white nationalist anxieties were directed towards a growing fear of interactions between white women and nonwhite men.<sup>53</sup> Lorelei Lee documents how policymakers imprinted capture narratives from the Page Act to develop the concept of "white slavery" to describe white women being trafficked by nonwhite men, leading to the adoption of the Mann Act.<sup>54</sup> The Mann Act criminalized interstate travel for "debauchery" and "other immoral purpose", evoking the nation's history of racial subjugation to mobilize the fears that white people might be subjected to the same horrors.<sup>55</sup> The conception of "white slavery", and its descendant

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<sup>50</sup> Erika Lee, *AT AMERICA'S GATES: CHINESE IMMIGRATION DURING THE EXCLUSION ERA: 1882-1943* (2003); Abrams, *supra* note 47, at 653, 659.

<sup>51</sup> *Id.*

<sup>52</sup> Luibhéid, *supra* note 47, at 38.

<sup>53</sup> Lorelei Lee, *The Roots of "Modern Day Slavery": The Page Act and the Mann Act*, COLUM. HUM. RTS. L. REV. 1199, 1226-32 (2021).

<sup>54</sup> *Id.* at 1231, 1235.

<sup>55</sup> Lee, *supra* note 52, at 1211-14.

term “modern slavery”, as a war cry against human trafficking, reflects (1) the thematic root of racial purity in capture narratives, and (2) the precedent of immigration controls as a solution to trafficking.

Both concepts are evident in the remaining history of trafficking and immigration laws. For example, in developing the national harboring and smuggling laws, legislators emphasized similar arguments from the era of Chinese exclusion to conceptualize Mexican workers as pitiful victims, unable to properly advocate for better labor conditions due to their race.<sup>56</sup> Simultaneously, legislators considered Mexican workers a national disease threat to the white majority, using racist tropes so frequently that the bill became commonly referred to as the “Wetback Bill.”<sup>57</sup> Eisha Jain argues that this essentialized understanding of immigrants, which conceptualized Mexican immigrants as individual workers without ties to the country, is why harboring and smuggling are so poorly defined.<sup>58</sup>

These narratives surrounding human trafficking have proven persistent today. In the media and in courtrooms, legal scholar Sabrina Balgamwalla frames human trafficking cases as typically organized around three main actors: the “innocent victim”, the “evil offender”, and the “good rescuer”.<sup>59</sup> The “innocent victim” is imagined as a white, virgin, female who was physically forced into being trafficked.<sup>60</sup> Meanwhile, the “evil offender” is imagined as a malicious, male foreigner who takes advantage of the victim due to reprehensible cultural norms.<sup>61</sup> The “good rescuer” is represented by a United States government official who saves the innocent victim from harm.<sup>62</sup> In

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<sup>56</sup> Eisha Jain, *Immigration Enforcement and Harboring Doctrine*, GEO. IMMIGR. L.J. 147, 161-62 (2010).

<sup>57</sup> *Id.* at 157.

<sup>58</sup> *Id.*

<sup>59</sup> Balgamwalla, *supra* note 13, at 11.

<sup>60</sup> *Id.* at 12.

<sup>61</sup> *Id.* at 24.

<sup>62</sup> *Id.* at 26.

reality, trafficking cases are often much more complicated as, for example, victims are usually not completely innocent,<sup>63</sup> offenders can be sympathetic parties who share a relationship with the victim,<sup>64</sup> and the rescuer may end up arresting or otherwise harming victims in their attempts to save them.<sup>65</sup>

The archetypes in trafficking cases reinforce prosecution trends prioritizing sex trafficking cases as well as in victims neatly fit this narrative. Furthermore, mainstream trafficking narratives impede effective policy to address human trafficking. For example, the T Visa program reflects this paternalistic understanding of trafficking by casting the U.S. government as the “good rescuer” who “saves” an “innocent” immigrant victim that was tricked by a malicious trafficker, by providing immigration status as an award for collaborating with law enforcement. Yet by definition, the T visa is a reactive solution that only provides benefits to individuals after they have been victimized, rather than addressing the reality that the criminalization of immigration status by U.S. authorities is a structural condition that makes undocumented individuals vulnerable to any crime or form of workplace exploitation. Rather than absolve the conditions that lead to trafficking, mainstream trafficking narratives entrench problematic misconceptions and make it more difficult for victims to get justice.

More broadly, racialized narratives often direct policymakers towards tough-on-crime solutions that involve greater policing from the “good rescuer”, often directed towards the immigrant communities archetyped as “evil offenders” or sex workers perceived as victims.<sup>66</sup> Additionally, the moral panics around sex work and immigration has led a large swath of the

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<sup>63</sup> *Id.* at 14-23.

<sup>64</sup> *Id.* at 23-24.

<sup>65</sup> *Id.* at 27.

<sup>66</sup> Elena Shih, *Not In My “Backyard Abolitionism”: Vigilante Rescue against American Sex Trafficking*, 59 SOCIOLOGICAL PERSPECT. 66, 69 (2016).

antitrafficking movement to embrace vigilantism from middle-class white citizens, extending the reach of state policing to nonstate actors.<sup>67</sup> Their combined surveillance on immigrant workplaces for their suspected involvement in human trafficking incentivizes employers to legally distance themselves from their workers or further isolate their workers from potential sources of support. For example, low-wage employers will commonly use temporary staffing agencies or recruiters to redirect scrutiny onto middlemen, a process referred to as a process of “workplace fissuring.”<sup>68</sup> Yet these agencies and recruiters often use workers’ information gaps to push workers into exploitative conditions, including human trafficking.<sup>69</sup> This ironic example illustrates the problematic effects of racialized narratives as well as one mechanism through which immigration status structurally perpetuates workplace precarity.<sup>70</sup>

#### B. The Rise of QAnon

These false narratives have most recently found a home in QAnon, a right-wing political movement that has mobilized hundreds of Americans in support of seemingly outlandish conspiracy theories, most famously the belief that many prominent politicians are involved in an extensive child sex trafficking ring that might only be stopped by the likes of Donald Trump.<sup>71</sup> While QAnon is commonly viewed as a fringe group, they have had the most success in indoctrinating people by beginning with simpler theories, particularly the notion that sex

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<sup>67</sup> *Id.* at 71.

<sup>68</sup> David Weil first termed the phrase “workplace fissuring” to describe how larger employees devolve responsibility for their operations into smaller companies or even workers themselves, such as through staffing agencies or gig work. See David Weil, *THE FISSURED WORKPLACE: WHY WORK BECAME SO BAD FOR SO MANY AND WHAT CAN BE DONE TO IMPROVE IT* (2014).

<sup>69</sup> See *supra* note 27.

<sup>70</sup> See Shirley Lung, *Criminalizing Work and Non-Work: The Disciplining of Immigrant and African American Workers*, 14 U. OF MASS. L. REV. 290, 296 (2019).

<sup>71</sup> Angela Boettcher, *QAnon: What the Viral Conspiracy Theory Can Teach Us About the Mainstream Sex Trafficking Debate*, 37 BERKELEY J. GENDER L. & JUST. 195, 195 (2022).



trafficking is widespread and could happen to anybody, anywhere.<sup>72</sup> Their use of mainstream trafficking narratives has allowed QAnon to gain popularity on this specific theory, particularly as it unlocks the potent political weapon of fear for white women.<sup>73</sup>

Although a concern for human trafficking may seem innocuous enough, the particular tone of QAnon's theories perpetuate misinformation and create pipelines for ordinary Americans into white supremacy. QAnon's success is directly attributable to the "choose-your-own-adventure" style to its theories, which enable people to adopt softer, more approachable messaging without necessarily adhering to more extreme theories from the start.<sup>74</sup> Furthermore, QAnon's depiction of human trafficking has entered mainstream discourse largely undetected because it builds on the racialized narratives that already exist within mainstream trafficking discourse. As a result, QAnon fearmongering seems plausible and noncontroversial because capture narratives already perpetuate the myth that white women and children are among the most vulnerable to trafficking.

While QAnon adherents would argue that their concern over "saving the children" is nonpartisan and race-blind, QAnon's exclusive focus on the vulnerability of white women and children ultimately pulls many into its core conspiracy of a "modern-day blood libel" and serves white-supremacist ends.<sup>75</sup> The archetypes about trafficking align well with themes in the far-right agenda: racial purity, a strong police state, vigilante justice, and misdirected hate towards immigrants. Human trafficking has thus become a vital entry point into QAnon and enabled it to

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<sup>72</sup> *Id.* at 210-11.

<sup>73</sup> *Id.*

<sup>74</sup> Leah A. Plunkett, *Breakfast with a Q-A-Mom: Understanding & Combatting the Stealth Threat of Women Engaged with Digital Domestic Terrorist Organizations*, 3 NOTRE DAME J. EMERGING TECH. 1, 18-20 (2022).

<sup>75</sup> *Id.* at 14-15.

enter mainstream discourse largely undetected, creating a wildly popular pipeline to mobilize voters into the far-right agenda.<sup>76</sup>

As a result, sex trafficking and human trafficking more broadly has gained attention in mainstream politics, particularly for the far-right in justifying increased policing and tough-on-crime policies.<sup>77</sup> Most recently, QAnon supporters have latched onto the movie *The Sound of Freedom*, a box-office hit that has popularized many of QAnon's false theories on human trafficking through the story of a U.S. federal agent stopping a child sex trafficking ring in Mexico.<sup>78</sup> This movie exemplifies many of the harmful stereotypes embodied in QAnon's theories: the omnipresent threat of human trafficking to children, the predisposition of certain non-white cultures towards trafficking, and the importance of strong U.S. male leaders to protect society from these heinous acts.<sup>79</sup> It was eagerly embraced by far-right politicians, leading to a special screening at Donald Trump's golf club and the passage of the "Sound of Freedom Act" in Alabama, mandating life imprisonment for child trafficking.<sup>80</sup> In adopting these narratives, the far-right has continued the legacy of arguments once brought by supporters of the Page Act.<sup>81</sup>

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<sup>76</sup> *Id.* at 4, 9; See also PRRI, *The Persistence of QAnon in the Post-Trump Era: An Analysis of Who Believes the Conspiracies*, 2 (Feb. 2022), <https://www.prri.org/wp-content/uploads/2022/02/PRRI-Feb-2022-Qanon-final.pdf>, (finding that around 34% of Americans reject QAnon's theories).

<sup>77</sup> Boettcher, *supra* note 70, at 217.

<sup>78</sup> Brian Whitaker, *Unsuitable for Parents: A QAnon Fairy Tale*, NEW LINES MAGAZINE (Nov. 30, 2023), <https://newlinesmag.com/argument/unsuitable-for-parents-a-qanon-fairy-tale/>; Shannon Bond, *QAnon Supporters are Promoting 'Sound of Freedom.' Here's Why*, NPR (Jul. 19, 2023), <https://www.npr.org/2023/07/19/1188405402/qanon-supporters-are-promoting-sound-of-freedom-heres-why>.

<sup>79</sup> *Id.*

<sup>80</sup> David Smith, *Trump Hosts Screening of Sound of Freedom, a Hit with QAnon Devotees*, THE GUARDIAN (Jul. 20, 2023), <https://www.theguardian.com/us-news/2023/jul/20/donald-trump-sounds-of-freedom-screening-golf-course-qanon>; Office of the Alabama Governor, *Governor Ivey Signs Sound of Freedom Act, Making Alabama's Anti Human Trafficking Law Toughest in the Nation*, GOVERNOR.ALABAMA.GOV (Apr. 17, 2024), <https://governor.alabama.gov/newsroom/2024/04/governor-ivey-signs-sound-of-freedom-act-making-alabamas-anti-human-trafficking-law-toughest-in-the-nation/>

<sup>81</sup> *Id.* at 214-18.

### III. FLORIDA'S GUIDE FROM CONSPIRACY TO CRIMINALIZATION

This Part outlines how Florida's smuggling and trafficking provisions encroach upon immigration enforcement. Part A analyzes the first step in Florida's strategy to influence immigration law by confusing human trafficking and human smuggling as social issues. As evident through the legislative history of these reforms, the confusion provides DeSantis an opportunity to promote false, racist narratives criminalizing immigrants as human traffickers through bipartisan legislation. Calling upon QAnon theories, DeSantis successfully shifts national immigration discourse by promoting conspiratorial hysteria and obfuscating the role of race in immigration reform.

Part B explores the potential next steps in Florida's strategy by examining the material implications of these reforms in terms of their impact on immigrant rights and workplace precarity. I argue that the trafficking and smuggling legislation presents new threats that DeSantis' enforcement powers may be used to target immigrants and their allies. Furthermore, these laws and their accompanying rhetoric will have immediate harms to immigrant Floridians, including increased vulnerability to human trafficking and other workplace rights violations.

#### A. How Trafficking Rhetoric is Used to Legislate Anti-Immigrant Conspiracy

##### i. *Legislative History Confuses Social Issues*

DeSantis highlights his trafficking bill as a move to protect immigrants, yet the rhetoric surrounding both the trafficking and smuggling bills points to different intentions. An analysis of the legislative history and local news from DeSantis' campaign trail illustrates that conservative politicians in the state have entangled the issue of human trafficking with the issue of immigration. The result is that DeSantis and Florida legislators have pushed negative stereotypes to criminalize

undocumented immigrants as traffickers and smugglers while simultaneously using stories of their plight in their advocacy for new legislation.

Florida's expressed sympathy for immigrant victims of trafficking should be highly scrutinized in light of the smuggling bill, which was introduced by the same legislators and sows intense deportation fears in accessing basic survival needs like healthcare. The anti-immigrant agenda of the smuggling bill's supporters was clear from its proponents in the state legislature, who discussed the need to control the "invasion" happening at the "open" border.<sup>82</sup> Although some conservative state legislators expressed sympathy for the plight of undocumented persons,<sup>83</sup> Florida rejected many amendments attempted at creating humanitarian carveouts in the smuggling bill for relatives, pastors, schoolteachers, EMTs, and more.<sup>84</sup> In fact, legislators explicitly stated that the smuggling bill's intended effect is to take away any reason for immigrants to come to Florida.<sup>85</sup>

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<sup>82</sup> Senator Ingoglia, SB 1718's sponsor, argued on the closing of the bill on the Senate floor, "Currently, right now, there are 660,000 migrants waiting at our southern border right now, waiting for Title 42 to end. That is three times the amount the Russians put on the Ukrainian border right before they invaded. So, you tell me, is that an invasion or not?" Fla. S. Sess., recording of proceedings, at 03:54:23-03:54:44 (April 28, 2023, at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true).

<sup>83</sup> Many legislators in support of SB 1718 discussed the difficulties of being undocumented. For example, Senator Mayfield discussed how undocumented Floridians are routinely robbed and killed on their way home from work because criminals understand that they cannot open bank accounts and thus carry cash. Fla. S. Sess., recording of proceedings, at 03:46:05-03:47:01 (April 28, 2023, at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true). Ironically, this same story of the same Florida street was told by an opponent of SB 1718, who was advocating for an amendment that would remove SB 1718's ban on municipal IDs for undocumented people so that they may open bank accounts. Fla. H. Sess., recording of proceedings, at 01:21:00-01:21:30 (May 1, 2023, at 11:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_6lzzc253-202305011100&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_6lzzc253-202305011100&Redirect=true). The amendment did not pass. SB 1718 (Amendment 411147).

<sup>84</sup> SB 1718 (Amendment 128091), SB 1718 (Amendment 528921), SB 1718 (Amendment 059615), SB 1718 (Amendment 784443), SB 1718 (Amendment 446659), SB 1718 (Amendment 851515), SB 1718 (Amendment 143159), SB 1718 (Amendment 239391), SB 1718 (Amendment 128091).

<sup>85</sup> Fla. S. Sess., recording of proceedings, at 04:04:03-04:03:05, (April 28, 2023, at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (quoting Sen. Ingoglia, who argued that SB 1718 was created to "stop the incentives for [immigrants] to come over")

This goal is shared by Ron DeSantis, who uses immigration as a frequent talking point. However, his discourse on immigration was often intertwined with his human trafficking policies during the advocacy of both the smuggling and trafficking bills. According to DeSantis and state legislators, the true cause of human trafficking is an influx of immigrants at the U.S. southern border, allowing drug cartels to enter the country and exploit vulnerable people.<sup>86</sup> For example, DeSantis argues that, “smuggling ... endangers Floridians, [and] generates huge sums of money for [transnational criminal organizations] which are used to further ... human trafficking” As a result, DeSantis’ solution to the problem of human trafficking is to implement harsh immigration policies that institute harsh penalties to those crossing the border, including the use of deadly force.<sup>87</sup>

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<sup>86</sup> *Too Slowly, Florida Gets Tougher on Human Trafficking*, SOUTH FLORIDA SUN SENTINEL (May 16, 2023), <https://www.sun-sentinel.com/2023/05/16/too-slowly-florida-gets-tougher-on-human-trafficking-editorial/> (reporting that in a public speech, “the governor linked trafficking to a favorite talking point: the flow of ‘illegal aliens’ into the United States”); Liam Edgar, *Florida Grand Jury Says State Must Toughen Laws to Fight ‘The Rising Tide of Human Smuggling’*, THE FREE PRESS (Dec. 13 2022), <https://www.tampafp.com/florida-grand-jury-says-state-must-toughen-laws-to-fight-the-rising-tide-of-human-smuggling/> (reporting on a state grand jury created by DeSantis, which published a report that concluded that “smuggling ... endangers Floridians, [and] generates huge sums of money for [transnational criminal organizations] which are used to further ... human trafficking”); Fla. S. Sess., recording of proceedings, at 03:47:28-03:47:57, (April 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (Sen. Mayfield stating “ When we talk about human trafficking, and everyone on this floor wants to stop human trafficking- crossing the border is a pathway of human trafficking coming into our country. And that is what we are trying to accomplish with this bill, is bringing to attention what is happening.”); Fla. S. Sess., recording of proceedings, at 03:56:47-03:58:03, (April 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (Sen. Ingoglia stating “Florida law... defines human trafficking as modern day slavery. It’s in our statutes. It is so bad in our southern border in Mexico, that NGOs... know that women and children are being assaulted. They are being murdered. And they are being raped... And the federal government is complicit in it. And the states by having these magnets are also unfortunately complicit. We may not know it, but we are enabling and fostering the environment where this modern day slavery actually exists.”); Margie Menzel, *Florida Attorney General Pushes State to be More Aggressive with Feds over Human Trafficking*, WFSU-NPR (June 18, 2024), <https://www.wusf.org/politics-issues/2024-06-18/human-trafficking-ashley-moody-florida-attorney-general-pushes-state-more-aggressive-feds> (quoting DeSantis’ attorney general in stating “And certainly, in the last few years with the wide-open border and the lack of enforcement of the rule of law as it pertains to the border, [human trafficking enforcement] has been an even greater challenge”).

<sup>87</sup> J. David Goodman and Nicholas Nehamas, *DeSantis Calls for ‘Deadly Force’ Against Suspected Drug Traffickers*, N.Y. TIMES (June 26, 2023), <https://www.nytimes.com/2023/06/26/us/politics/ron-desantis-border-drug-traffickers.html>.

This philosophy is demonstrated clearly in the smuggling bill. Legislators frequently used human trafficking as a reason to support harsh immigration measures, by arguing that immigrants entering the country were being smuggled, and that once in the country, they were contributing to human trafficking. Human trafficking became a central argument for the smuggling bill, as legislators argued:

“When we talk about human trafficking, and everyone on this floor wants to stop human trafficking- crossing the border is a pathway of human trafficking coming into our country. And that is what we are trying to accomplish with [the smuggling bill], is ringing to attention what is happening”.<sup>88</sup>

The irony of his solution is that his policies punish the very people DeSantis is purporting to protect.

DeSantis and his allies often embed themselves further in this contradiction. In speaking about human trafficking, the Florida governor at times correctly notes that immigrants make up a considerable swath of trafficking victims.<sup>89</sup> However, DeSantis then shifts the blame to human smuggling, and by implication immigration itself, rather than human trafficking to account for immigrant exploitation.<sup>90</sup> Under this logic, undocumented status creates vulnerability to trafficking, and thus the federal immigration scheme has failed undocumented trafficking victims

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<sup>88</sup> Fl. S. Sess., recording of proceedings, at 03:39:26-03:43:41 (April 28, 2023, at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (Sen. Martin arguing for the smuggling bill, saying “We have human trafficking. We have sex trafficking. We have drug trafficking. We have terrorists crossing our borders. And we have all of the consequences that goes along with each of those problems.”); *Id.* at 03:47:28-03:27:57, (Sen. Mayfield stating that “When we talk about human trafficking, and everyone on this floor wants to stop human trafficking- crossing the border is a pathway of human trafficking coming into our country. And that is what we are trying to accomplish with [SB1718], is ringing to attention what is happening.”); *Id.* at 03:49:04-03:49:08 (Sen. Mayfield stating that proponents of SB 1718 are trying to ensure that “children are not being brought for human trafficking to be used as slavery to work”).

<sup>89</sup> Ron DeSantis, *supra* note 2.

<sup>90</sup> Liam Edgar, *supra* note 85 (reporting on a DeSantis’ grand jury’s statement that “illegal aliens being smuggled into the state are put into a vulnerable position and are often exploited”).

by allowing individuals to enter the country in the first instance. In a perverse twist of irony, Florida legislators took this logic a step further by arguing that the smuggling bill was actually in the interests of undocumented immigrants. During legislative debates, proponents of the bill pointed to the vulnerability undocumented workers face in the margins of society, arguing that the anti-smuggling bill would ultimately serve their interests by calling on the federal government to enact comprehensive immigration reform.<sup>91</sup> By this account, the people who assist an undocumented person in any way, including giving them a ride in their car, are responsible for their existence in the country, and their subsequent trafficking or exploitation. In attempting to criminalize their assistance, as the smuggling bill is intended to do, DeSantis' response to this supposed issue would have been to further isolate an undocumented person from potential sources of support, again increasing the likelihood that an unreported trafficking crime could occur.

Ultimately, it is difficult to ascertain from DeSantis' rhetoric who exactly is being guarded against whom. A listener is likely to think that human smuggling is in some way related to human

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<sup>91</sup> Fl. S. Sess., recording of proceedings, at 03:39:15-03:43:49, 03:46:05-03:46:30 (April 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (Sen. Martin arguing, "Because of the failures of our federal government on our entire immigration process, we have human trafficking, we have sex trafficking, we have drug trafficking, we have terrorists crossing our borders, and we have all the consequences that go along with each of these problems ... the consequences of illegal immigration, not because the illegal immigrants are bad people, but because of what the system does to them, and how they are supposed to react in that system and survive in that system ... Because of [undocumented] status, [immigrants] did not call law enforcement. Guess who figured that out? The criminals, the gangs. There's derogatory terms to refer to illegal immigrants on the streets on payday because they don't have banks. They don't have banks because the federal government won't give them status. And as a result, there's individuals walking [...] around with a lot of cash in their pockets. They get robbed, and they get murdered. [...] If they came through legally, if they had status, if they weren't scared to talk to law enforcement, if they knew they could have a bank account, they wouldn't have problems. They wouldn't be targeted. They wouldn't die. They wouldn't end up in our hospitals after being victims of violent attacks. [The smuggling bill] stops that. We have to let the federal government know that these individuals who are coming here want to participate. They want to follow the law."; and Sen. Mayfield explaining, "You look at the pictures, and you look at the people that live on the borders and [...] there have been families who have been shot, the one couple whose husband was beaten up. We may not have that in Florida right now, but that is the attention that is needed to get the federal government to understand we have a problem in our country. And [the smuggling bill] is a part of what that is.")

trafficking, when in reality these crimes are completely different.<sup>92</sup> This creates a subtle justification for harsh immigration tactics, in effect weaponizing human trafficking as a social justice issue against undocumented immigrants. The effect of this kind of interchangeability is to confuse immigration advocates with human traffickers, to confuse victims of trafficking with illegal drug cartels, and ultimately to confuse a genuine social issue with an excuse for open hostility towards a vulnerable population.

*ii. Confusion Fuels Conspiracies in the Far-Right Agenda*

The resulting conspiratorial confusion of human trafficking and immigration creates two contradicting narratives: one where undocumented immigrants are victims of trafficking and another where immigrants are perpetrators of trafficking. The tension between these narratives cuts against the common popular understanding of human trafficking survivors as innocent victims, as the taint of “illegality” of a victim soils the narrative of a “pure” trafficking survivor. While seemingly irreconcilable, the existence of these two opposing narratives is vital to justifying immigration restrictionism— first, by fueling QAnon theories on trafficking to further other far-right agendas and avoid substantive trafficking reform; second, by reinforcing the “good/bad” immigrant binary to promote negative stereotypes and re-entrench restriction as the baseline for immigration reform.

In his push for legislative change in human trafficking enforcement, DeSantis and his administration spoke extensively on human trafficking stories with a particular focus on young, white-coded girls and women as victims.<sup>93</sup> He is not alone. Local news outlets covering the human

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<sup>92</sup> *Too Slowly, Florida Gets Tougher on Human Trafficking*, SOUTH FLORIDA SUN SENTINEL (May 16, 2023), <https://www.sun-sentinel.com/2023/05/16/too-slowly-florida-gets-tougher-on-human-trafficking-editorial/> (reporting that “human smuggling is a different, albeit related, problem [to human trafficking]”).

<sup>93</sup> *Id.* (reporting that, at SB 1690’s signing, a victim of child sex trafficking spoke on her experience while being trafficked); Whitney Ray, *Grand Jury Releases Shocking Report*, OFFICE OF ATTORNEY GENERAL ASHLEY MOODY



trafficking bills similarly reported considerably on stories of children and young women involved in sex trafficking rings, centering many of the advocates working directly with the state's Attorney General on the issue.<sup>94</sup> State legislators echoed this call in their push for anti-smuggling reform, frequently re-telling stories of white-coded victims who died at the hands of undocumented persons.<sup>95</sup>

Furthermore, DeSantis and other anti-immigrant state politicians frequently appeal to the concept of “angel families,”<sup>96</sup> a term popularized by Trump and prevalent among QAnon conspiracies to refer to people who have died at the hands of unauthorized immigrants.<sup>97</sup> The focus on dead citizens, regardless of whether the deaths were accidental, justifies Florida's harsh and dehumanizing immigration tactics. Additionally, the fear of random victimization by immigrant minorities ties in neatly with QAnon conspiracy theories that anyone, at any time, might be made into a victim of human trafficking.

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(Mar. 30, 2023), <https://www.myfloridalegal.com/newsrelease/21st-sw-grand-jury-releases-shocking-report> (quoting Florida's Attorney General as saying “Thank [you] Gov. DeSantis for standing up for children ... [Biden] is allowing horrific harm happen to these children”); Jorge Borges, *DeSantis Signs Legislation to Combat Human Trafficking in Florida*, TAMPA FREE PRESS (May 16, 2023), <https://www.tampafp.com/desantis-combat-human-trafficking-florida/> (reporting on the signing of human trafficking bills and quoting DeSantis as having said “I am signing this legislation to better protect vulnerable children”).

<sup>94</sup> *Id.* (reporting that “a deadly and illicit child sex trade flourishes” in the state); Savannah Parvu, *At 12, I Was Sex-Trafficked from a Florida Hotel Room; The Legislature Has the Power to Stop the Horror that I Lived Through. It Should, for the Sake of Other Little Girls*, TAMPA BAY TIMES (Apr. 24, 2023), <https://www.tampabay.com/opinion/2023/04/25/12-i-was-sex-trafficked-florida-hotel-room-column/#:~:text=The%20Legislature%20has%20the%20power,sake%20of%20other%20little%20girls.&text=My%20nightmare%20began%20when%20I,a%20Central%20Florida%20hotel%20room>.

<sup>95</sup> Fla. S. Sess., recording of proceedings, at 02:01:45-02:02:10, 02:26:52-02:27:10 (May 2, 2023 at 11:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_6lzzc253-202305021100&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_6lzzc253-202305021100&Redirect=true).

<sup>96</sup> Fla. S. Sess., recording of proceedings, at 02:01:45-02:02:10, 02:26:52-02:27:10 (May 2, 2023 at 11:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_6lzzc253-202305021100&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_6lzzc253-202305021100&Redirect=true).

<sup>97</sup> See, for e.g., Donald Trump, *Remarks by President Trump and Members of the Angel Families on Immigration*, TRUMP WHITE HOUSE ARCHIVES (Jun. 22, 2018), <https://trumpwhitehouse.archives.gov/briefings-statements/remarks-president-trump-members-angel-families-immigration/>; Will Sommer, *RNC Speaker Cancelled After Boosting QAnon Conspiracy Theory about Jewish Plot to Enslave the World*, DAILY BEAST (Aug. 27, 2020), <https://www.thedailybeast.com/rnc-speaker-boosts-qanon-conspiracy-theory-about-jewish-plot-to-enslave-the-world-1>.

This type of rhetoric blows the same dog whistles seen time and time again in the history of human trafficking policy. By recycling the narratives on “modern slavery” and highlighting “capture” stories of women and children in Florida, DeSantis and his allies subtly call on ideas in our popular imagination to cast immigrants as “evil offenders” in his human trafficking narratives.<sup>98</sup> In particular, DeSantis frequently evokes imagery of large insidious transnational drug cartels operating at a wide-scale, sophisticated level, and in doing so implies that many immigrants are traffickers who are entering the country to continue their criminal agenda.<sup>99</sup> This implication is irrefutably false—federal data confirms that perpetrators of human trafficking are overwhelmingly U.S. citizens.<sup>100</sup>

The continued focus on sex trafficking cases and the “criminal offenders” behind them illustrates how intertwined far-right conspiratorial efforts are vital to mainstream trafficking narratives in the U.S. Fear of sex trafficking is a vital entry point to QAnon conspiracies based in thinly-veiled anti-immigrant racism, and thus it is important that these cases remain at the forefront to justify misinformed fears about immigration and anti-immigration policy.<sup>101</sup> Furthermore, the contrast between the “pure” victims highlighted by DeSantis and media outlets and the

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<sup>98</sup> Fla. S. Sess., recording of proceedings, at 03:56:47-03:58:03, (April 28, 2023, at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (Sen. Ingoglia stating “Florida law... defines human trafficking as modern-day slavery. It’s in our statutes. It is so bad in our southern border in Mexico, that NGOs... know that women and children are being assaulted. They are being murdered. And they are being raped... And the federal government is complicit in it. And the states by having these magnets are also unfortunately complicit. We may not know it, but we are enabling and fostering the environment where this modern-day slavery actually exists.”)

<sup>99</sup> See, for e.g., Ron DeSantis, *Stop the Invasion*, RONDESANTIS.COM, <https://rondesantis.com/mission/stop-the-invasion/> (campaigning on a promise to stop “millions of illegal aliens... including criminal aliens and individuals suspected by the US government of terrorism”, “Mexican drug cartels [that] have capitalized on Biden’s failure by trafficking humans and drugs across the border at record levels”, and the “illegal transnational human smuggling syndicate.”)

<sup>100</sup> Undocumented noncitizens comprised 2.9% of all defendants in federal human trafficking cases in 2021. See Bureau of Justice Statistics, *Human Trafficking Data Collection Activities, 2023*, U.S. DEPARTMENT OF JUSTICE 4 (Oct. 2023), <https://bjs.ojp.gov/document/htdca23.pdf>.

<sup>101</sup> QAnon supporters often seize news stories about large sex trafficking cases to lend legitimacy to their own conspiracies, increasing public buy-in. See Boettcher, *supra* note 70, at 211-12, 216-17.

undocumented immigrant victims tainted by their “illegality” reinforces the narratives that lead to the under-prosecution of labor trafficking of immigrant men.<sup>102</sup> Although DeSantis highlights the plight of immigrant victims of trafficking, the creation of the prototype immigrants as the “criminal trafficker” is necessary to prioritize QAnon anti-immigrant theories justifying conservative immigration policy over actually helping undocumented victims of trafficking crimes. Thus, the conflicting immigrant narratives as innocent victim and criminal perpetrator are used in different aspects of the trafficking legislation and immigration policy debate to both justify anti-immigration legislation and neglect labor trafficking crimes inflicted upon immigrant communities.

The acknowledgement of immigrants as potential victims of trafficking plays an equally important role in upholding immigration restrictionism by garnering bipartisan support for trafficking reforms and creating a race-neutral front that absolves white listeners of discomfort.<sup>103</sup> Race-neutrality is achieved by creating a small subset of immigrants who are “deserving” of protection from the state, shielding far-right politicians from accusations of bias towards certain types of victims. In doing so, the criminal/victim narratives replay the same good/bad immigrant dichotomy that throughout history has served to ultimately uphold the existence of borders.

The precursor to Chinese Exclusion, the Page Act, is an illustrative example. As DeSantis paints all immigrants as transnational human and drug traffickers, anti-Chinese restrictionists once painted all Chinese women as prostitutes who were sex trafficked into the

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<sup>102</sup> See Balamwalla, *supra* note 13, at 21-23.

<sup>103</sup> See *Id.* (discussing how trafficking bills have reached bipartisan support despite QAnon rhetoric surrounding them); Lilian Jimenez, *America's Legacy of Xenophobia: The Curious Origins of Arizona Senate Bill 1070*, 48 CAL. W. L. REV. 279, 312 (analyzing how racialized laws were disguised in neutral language to gain mainstream popularity).

country.<sup>104</sup> But in order to justify the wholesale exclusion of almost all Chinese women, a certain small number of Chinese immigrants must have been accepted into the country because they ostensibly could not *all* be prostitutes.<sup>105</sup> Historians argue that this filter, usually favoring rich married women, was critical to the creation of the prostitution narrative by giving a concrete basis behind what was essentially an arbitrary decision by immigration officials, and by splitting the Chinese immigrant community internally.<sup>106</sup>

Since then, the divide between deserving and undeserving immigrants has plagued substantial challenges to immigration reform.<sup>107</sup> Often, the contrast between “good” and “bad” immigrants ultimately serves to redirect the conversation on immigrant justice onto which groups belong on which side and thus which immigrants are deserving of state protection and which are deserving of state enforcement/violence, rather than whether borders are necessary in the first instance.<sup>108</sup> The drawing and redrawing of the line between these groups can change public opinion and lead to some substantive protections, such as the Dreamers’ activism around DACA.<sup>109</sup> But in

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<sup>104</sup> Theories that all Chinese women were prostitutes originated in misunderstanding of cultural practices of polygamy and soon became widespread throughout the nation. Abrams, *supra* note 47, at 659. The drafter of the Page Act, Horace Page, claimed that 90% of Chinese females in the U.S. were prostitutes. George Anthony Peffer, IF THEY DON'T BRING THEIR WOMEN HERE: CHINESE FEMALE IMMIGRATION BEFORE EXCLUSION, 36 (1999).

<sup>105</sup> Kitty Calavita, *Collisions at the Intersection of Gender, Race, and Class: Enforcing the Chinese Exclusion Laws*, 40 L. & SOC'Y REV. no. 2 249, 275-76 (2006); Luibhéid, *supra* note 47, at 41-44.

<sup>106</sup> *Id.*

<sup>107</sup> Rebecca Sharpless, “Immigrants are Not Criminals”: Respectability, Immigration Reform, and Hyperincarceration, 57 HOUST. L. REV. 691, 702-06 (2016). See also, for e.g., Elizabeth Keyes, *Race and Immigration, Then and Now: How the Shift to “Worthiness” Undermines the 1965 Immigration Law’s Civil Rights Goals*, 57 HOW. L. J. 899, 914-24 (2014); Jennifer M. Chacón, *Citizenship Matters: Conceptualizing Belonging in an Era of Fragile Inclusions* 52 U.C. DAVIS L. REV. 1 (2018); Alina Das, *Inclusive Immigrant Justice: Racial Animus and the Origins of Crime-Based Deportation*, 52 U.C. DAVIS L. REV. 171, 194-95 (2018); Sophia Denuyl, *The Particular Harms of the “Good Immigrant” Versus “Bad Immigrant” Construction on Black Immigrants in the United States*, 36 GEO. IMMIGR. L. J. 755, 762-74 (2022).

<sup>108</sup> Keyes, *supra* note 106 at 924-29.

<sup>109</sup> For an analysis of the “good/bad” immigrant dichotomy in DACA reform, see generally M. Isabel Medina, *Reflections on the DACA Cases in the Supreme Court - The “Illusion of Freedom”*, 99 N.C.L. REV. ADD. 35 (2020).

other cases, the line just becomes another border that strengthens the legal and social category of people alienated from their rights.<sup>110</sup>

Here, the latter seems to be the case. Acknowledging the tension between immigrants as offenders and victims of human trafficking could potentially challenge these narratives by illustrating their oversimplification of how trafficking most often occurs in immigrant populations. Instead, the allure of a potential immigrant victim of trafficking provides a race-neutral concrete basis on which DeSantis may promote the theory of widespread transnational criminal activity perpetrated by undocumented immigrant criminals. The discussion of immigrant victims has resulted in little accountability to the exploitation of immigrants.<sup>111</sup> In fact, the same far-right legislators are now championing the end of the T-Visa, which would remove the few protections that exist for immigrant victims of trafficking.<sup>112</sup>

This ironic effect of Florida's set of human trafficking bills thereby illustrates how human trafficking is a convenient political tool of the far-right to advance anti-immigration legislation. Human trafficking is an excellent social cause for politicians like DeSantis to champion because it is a legitimate, well-documented problem that has been manipulated to invoke fear into and politically mobilize well-to-do white women to support harsh immigration measures.<sup>113</sup> It also provides for an excellent red herring, shifting the blame onto the "evil offenders" of human

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<sup>110</sup> See *supra* note 106. See also Sharpless, *supra* note 106, at 706-709, 711-12. Angelica Charzaro, *Beyond Respectability: Dismantling the Harms of "Illegality"*, 52 HARV. J. ON LEGIS. 355, 376-77 (2015).

<sup>111</sup> As discussed in the next section, the prosecution of human trafficking cases has not refocused on immigrant victims of trafficking. Rather, enforcement efforts remain focused on sex trafficking cases and frequently continue the confusion of immigration and human trafficking issues.

<sup>112</sup> Ken Cuccinelli, *Mandate for Leadership: The Conservative Promise - Department of Homeland Security*, PROJECT 2025, 141 (2024) (calling for the end to the T-Visa and U-Visa as part of Project 2025 reforms); See also Ryan Koronowski, *Project 2025 Is Already a Reality in Many States*, CENTER FOR AMERICAN PROGRESS (Sep. 12, 2024), <https://www.americanprogress.org/article/project-2025-is-already-a-reality-in-many-states/> (discussing DeSantis' implementation of Project 2025 agenda items).

<sup>113</sup> Boettcher, *supra* note 70.

trafficking—a statement which is often a dog whistle for punishment of undocumented immigrant minorities—while evading actual, substantive reform in labor or immigration policy that currently leaves many undocumented immigrants ripe for trafficking exploitation.<sup>114</sup> In the process, more and more people buy into the narrative that immigrants are human traffickers, fueling the set of conspiracies that justify further anti-immigrant action.

## B. How Conspiracies Cement the Dual Identity of Immigrant Floridians

### i. *Circumventing Preemption Creates Problematic Prosecutorial Powers*

In addition to fueling anti-immigrant conspiracies, the focus on human trafficking allows DeSantis to circumvent immigration preemption issues in his smuggling bill. Legislative history illustrates that the smuggling bill's true purpose is to shift the national narrative on immigration by creating an atmosphere of fear, rather than to actually prosecute immigrants for violations of the new law. Meanwhile, legislative history suggests that the trafficking bill was meant to target immigrants conducting transnational crimes. While these goals may initially seem nonthreatening, the statutory connections between smuggling and trafficking expand Florida's powers to illegitimately target immigrants and their allies for well-intentioned activities. Current prosecutorial efforts and new state initiatives indicate that Florida's right is continuing down a darker path towards further criminalizing immigrant groups and radicalizing ordinary citizens into conspiratorial vigilantes.

While there is no question that the smuggling bill is hostile to immigrants, the actual end goal of the policies within the smuggling bill is ambiguous. Legislators and DeSantis frequently describe their efforts as “sending a message” to the federal government, hoping that other states

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<sup>114</sup> Chuang, *supra* note 14.

will join the call to push Congress into passing comprehensive immigration reform.<sup>115</sup> Advocates of the smuggling bill have explicitly stated they do not know whether the bill will work, and that the message that the bill sends is the most important aspect of the legislation.<sup>116</sup> The substantive policy provisions, such as the ending of municipal licenses to undocumented people, the restrictions on travel, and the changes to the employment verification process, seem to be arbitrary details to the bills' proponents. This is perhaps why many of these provisions are so poorly defined and why legislators rejected proposals to provide more precise definitions.<sup>117</sup>

In fact, many legislators predicted challenges to the smuggling bill's constitutionality. Since immigration is normally an area of exclusive federal purview, such an obvious attempt to influence immigration policy is likely to get stricken down by the courts.<sup>118</sup> However, DeSantis has accomplished his goal of garnering national attention on the issue. By framing the immigration debate around federal inaction, DeSantis and other far-right politicians justify harsh measures by creating an atmosphere of crisis and thus hysteria over an "invasion".<sup>119</sup>

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<sup>115</sup> Fl. H. Sess., recording of proceedings, at 1:54:44-1:54:45 (May 2, 2023 at 11:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_6lzzc253-202305021100&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_6lzzc253-202305021100&Redirect=true) (quoting Rep. Fine, who stated "We cannot solve the problem in Washington, but we can send a message that says in Florida, we've had enough."); Fl. S. Sess., recording of proceedings, at 03:47:03-03:47:05 (April 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (quoting Sen. Mayfield, who says that "this is what [SB 1718] is, it is bringing attention to the federal government that we have a problem").

<sup>116</sup> Fl. S. Sess., recording of proceedings, at 03:49:53-03:50:02 (Apr. 28, 2023 at 10:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202304281000&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202304281000&Redirect=true) (quoting Sen. Mayfield, who argued, "Is this really going to fix the problem? I don't know... I can tell you what it is doing. It is bringing attention to the people in our country that we have a problem.").

<sup>117</sup> Memorandum in Support of Plaintiffs' Motion for a Preliminary Injunction, *The Farmworker Ass. of Florida, et. al. v. Ron DeSantis*, Case No. 23-CV-22655-RKA (D. Fla. Filed Jul. 17, 2023), 8-12, Aug. 8, 2023.

<sup>118</sup> Already, the smuggling bill was enjoined by a Florida District Judge. *Federal Court Temporarily Blocks Key Provisions of Florida's Anti-Immigrant SB 1718*, AMERICAN IMMIGRATION COUNCIL (May 22, 2024), <https://www.americanimmigrationcouncil.org/news/federal-court-temporarily-blocks-key-provision-floridas-anti-immigrant-sb-1718>.

<sup>119</sup> Pratheepan Gulasekaram & S. Karthick Ramakrishnan, *THE NEW IMMIGRATION FEDERALISM* (2015), 72-75.

Rhetoric framing the immigration debate around transnational crime and instituting tough-on-crime penalties grew traction over the past year, influencing even Democratic lawmakers to advocate for harsher immigration laws.<sup>120</sup> The effectiveness of this narrative joins a growing number of states passing outlandish laws to send equally powerful messages.<sup>121</sup> However, the far-right appetite for actually implementing policy is ambiguous, especially as Florida begins to realize the disastrous effects of its smuggling laws. In a perverse twist of irony, legislators behind the smuggling bill are now begging immigrant farmworkers to stay in Florida, promising that the bill was never intended to be actually enforced.<sup>122</sup>

The motives behind Florida's new trafficking law are also questionable. While states are permitted to have duplicate enforcement on human trafficking, the rhetoric used by DeSantis and his supporters suggest that the target of their trafficking enforcement is likely undocumented immigrants who are members of transnational crime organizations. Human trafficking should be prosecuted; however, Florida's enforcement priorities can discriminatorily target noncitizens over citizen offenders. DeSantis could also expand human trafficking definitions even further to fit a new host of activities it wishes to curb, as many states have done with sex trafficking provisions and prostitution. This possibility would track with Florida's smuggling efforts—civil rights

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<sup>120</sup> Marcos Montoya Andrade & Dr. Ray Serrano, *A New Wave of Hate: The Anti-Immigrant Legislative Boom Since 2020*, LEAGUE OF UNITED LATIN AMERICAN CITIZENS (2024), [https://lulac.org/a\\_new\\_wave\\_of\\_hate/](https://lulac.org/a_new_wave_of_hate/). See also, for e.g., Daniella Diaz & Ali Bianco, *Laken Riley Act Passes Senate on Bipartisan Vote*, POLITICO (Jan. 20, 2024), <https://www.politico.com/live-updates/2025/01/20/donald-trump-inauguration-day-news-updates-analysis/laken-riley-act-senate-00199518>.

<sup>121</sup> *Id.*; see also Tom Jawetz, *Recent Anti-Immigrant State Laws Break New Grounds of Illegality*, CENTER FOR AMERICAN PROGRESS (Jul. 22, 2024), <https://www.americanprogress.org/article/recent-anti-immigrant-state-laws-break-new-grounds-of-illegality/>.

<sup>122</sup> Grey Moran, *A Florida Immigration Law is Turning Farm Towns into 'Ghost Towns'*, CIVIL EATS (Feb. 7, 2024), <https://civileats.com/2024/02/07/a-florida-immigration-law-is-turning-farm-towns-into-ghost-towns/>; Thomas Kennedy (@tomaskenn), X (Jun. 5, 2023, 12:05 PM), <https://x.com/tomaskenn/status/1665751602840338437?s=20&mx=2>; Thomas Kennedy (@tomaskenn), X (Jun. 5, 2023, 10:31 AM), <https://x.com/tomaskenn/status/1665727928167014403?s=20>.



advocates have pointed to the confusion in Florida's smuggling laws as creating an "impermissibly vague" new category of crimes in violation of their state powers.<sup>123</sup>

DeSantis' efforts are especially concerning given the statutory overlap between trafficking, harboring, and smuggling statutory definitions. In Florida, smuggling and harboring can each lead to a human trafficking charge if the victim experienced coercion and the trafficking was for the purpose of exploitation.<sup>124</sup> Florida effectively expanded the legal definition of smuggling, and though unsuccessful in its harboring legislation, is at significant risk of expanding the harboring definition. Both actions would widen the scope of activities subject to human trafficking enforcement to include genuine assistance to immigrants, subject only to the limitations of what is considered "coercion" and "exploitation".

However, as discussed above, DeSantis' anti-smuggling arguments inflate concepts of coercion and exploitation by including assistance to immigrants as "facilitating" their undocumented migration and subsequent workplace exploitation. If smuggling or harboring can now legally be accomplished by providing humanitarian assistance, and if material or legal resources can be normatively warped into alleging coercion and exploitation, then DeSantis has armed himself with enough narrative power to start conflating immigrants and their allies as human traffickers and potentially bring criminal charges against them.

Florida's prosecution of human trafficking and smuggling illustrate this growing threat. Almost immediately, immigrant Floridians began facing smuggling charges for transporting their

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<sup>123</sup> Memorandum in Support of Plaintiffs' Motion for a Preliminary Injunction, *The Farmworker Ass. of Florida, et. al. v. Ron DeSantis*, Case No. 23-CV-22655-RKA (D. Fla. Filed Jul. 17, 2023), 6, Aug. 8, 2023.

<sup>124</sup> Florida defines human trafficking as "transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person." Fla. Stat. §787.06(2)(d); Florida defines human smuggling as "transport[ing] into this state an individual who the person knows, or should know, is illegally entering the United States from another country." Fla. Stat. §787.07; *see also* Fla. Stat. §787.06(3)(d) (generally requiring coercion to attach criminal penalties).

coworkers in their vehicles,<sup>125</sup> and noting increased racial profiling.<sup>126</sup> Law enforcement has magnified efforts to arrest potential human traffickers.<sup>127</sup> In doing so, Florida officials have focused extensively on detailing the immigration status of the arrested and labeling them as smugglers, and called on other anti-immigrant and racist dog whistles on their use of drugs or government assistance.<sup>128</sup> In human smuggling cases, officials have accused the arrested of being human traffickers and potentially parts of large transnational criminal organizations.<sup>129</sup> Even after the state smuggling bill was enjoined, state attorneys have taken federal smuggling cases and described smuggling as a gateway to human trafficking, where prosecutors could then bring “life penalties.”<sup>130</sup> Florida is keen to prosecute these cases, even where the federal government has declined to do so.<sup>131</sup>

<sup>125</sup> Syra Ortiz Blanes and Mary Ellen Klas, *The SFHP Troopers Have Made the Only Three Arrests under Enhanced Human-Smuggling Law*, THE MIAMI HERALD (Oct. 08, 2023), <https://www.miamiherald.com/news/local/immigration/article280125839.html>.

<sup>126</sup> See Fla. H. Sess., recording of proceedings, at 02:20:16-02:20:20 (May 1, 2023 at 11:00 AM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_6lzzc253-202305011100&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_6lzzc253-202305011100&Redirect=true). (Rep. Chambliss stating “I would even question how you would even [enforce SB 1718] without some form of racial profiling”); Juan Carlos Chavez, *Florida’s Immigration Crackdown is 3 Months Old. How’s that Going?*, TAMPA BAY TIMES (Oct. 04, 2023), <https://www.tampabay.com/news/florida-politics/2023/10/04/floridas-immigration-crackdown-is-3-months-old-hows-that-going/#:~:text=Three%20months%20after%20the%20law,Highway%20Safety%20and%20Motor%20Vehicles>.

<sup>127</sup> Greg Wehner, *Florida Law Enforcement Makes Record Number of Arrests During Human Trafficking Operation*, FOX NEWS (Aug. 20, 2024), <https://www.foxnews.com/us/florida-law-enforcement-record-arrests-human-trafficking-operation> (discussing Florida’s launch of a new human trafficking program called “Operation Summer Shield”, focused on preventing children from becoming victims of human trafficking during the summer).

<sup>128</sup> Greg Wehner, *Florida Human Trafficking Sting Nabs 157 People, Including 25 Illegal Immigrants*, FOX NEWS (Oct. 17, 2024), <https://www.foxnews.com/us/florida-human-trafficking-sting-nabs-157-people-including-25-illegal-immigrants> (quoting a Florida Sheriff behind the arrests, who noted at the press conference that the U.S. “gave [one arrested woman] free travel, free housing, free food, free medical care” and that “there is a wide-open border where fentanyl is coming across”).

<sup>129</sup> Janine Stanwood & Chris Gothner, *Sheriff: 5 Jailed in Keys Part of a ‘Very Well Organized’ Human Trafficking Operation*, LOCAL 10 NEWS (Aug. 21, 2024), <https://www.local10.com/news/local/2024/08/21/sheriff-5-jailed-in-keys-part-of-very-well-organized-human-trafficking-operation/> (reporting on a Florida Sheriff’s comment that arrested individuals accused of smuggling are a part of a “human trafficking, human smuggling operation”).

<sup>130</sup> Skyler Shepard & Luli Ortiz, *West Palm Beach Man Among Suspects Accused of Smuggling 20 Foreign Nationals*, CBS 12 NEWS (Aug. 21, 2024), <https://cbs12.com/news/local/west-palm-beach-man-among-suspects-accused-of-smuggling-20-foreign-nationals-south-florida-news-miami-dade-monroe-county-august-21-2024>.

<sup>131</sup> Bethany Blankley, *Law Enforcement Officials Continue to Apprehend Violent Offenders Off Florida Coast*, CENTER SQUARE (Aug. 21, 2024), [https://www.thecentersquare.com/florida/article\\_3726d37e-6022-11ef-af22-efab90410ef.html](https://www.thecentersquare.com/florida/article_3726d37e-6022-11ef-af22-efab90410ef.html).

While all these allegations of overlapping crimes are potentially true, and the number of actual cases is small, their effect is far greater. These enforcement actions fuel the conspiratorial confusion and enable Florida police to patrol highways by pulling over immigrants under suspicion of trafficking or smuggling, likely by way of racial profiling.<sup>132</sup> Then, Florida can make arrests and prosecute cases that the national government declines to, and call immigration enforcement to have immigrants deported on the basis of their criminal convictions.<sup>133</sup> In a roundabout way, DeSantis gains immigration enforcement powers through his human trafficking regime.

DeSantis hinted that he intends to expand on the state legislature's bills by further criminalizing other forms of assistance by recharacterizing it as harboring or smuggling.<sup>134</sup> His attorney general and other conservative think tanks, including Project 2025, have aimed their next target at NGOs that provide humanitarian assistance to immigrants under the same logic. Since the passage of the trafficking and smuggling laws, DeSantis has continued to intermingle and expand the definitions of human smuggling and human trafficking in the direction of criminalizing

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<sup>132</sup> Before SB 1718 was enjoined, Florida's smuggling cases all involved immigrants driving other immigrant workers and getting pulled over by police. Manuel Bojorquez, *Florida's Immigration Law Brings Significant Unintended Consequences, Critics Say*, CBS NEWS (Jan. 12, 2024), <https://www.cbsnews.com/news/florida-immigration-law-significant-unintended-consequences/>; Yacob Reyes, *Florida's Immigration Law Leads to Arrests of Undocumented Drivers*, AXIOS TAMPA BAY (Oct. 11, 2023), <https://www.axios.com/local/tampa-bay/2023/10/11/florida-immigration-law-arrests>; Miguel Octavio, *Deeper Dive: New Immigration Laws Taking Effect in Florida*, WTSP (Apr. 8, 2024), <https://www.wtsp.com/article/news/politics/florida-immigration-laws-hernando-county/67-72dbd867-5cde-4f70-9d45-05656d83163b>.

<sup>133</sup> 8 U.S.C. §1227(a)(2)(A)(i)-(iii). DeSantis is currently proposing mandating all officials to participate in deportation programs which require state and local police to report any deportable persons to ICE. Ron DeSantis, *Governor Ron DeSantis Announces Proposals for Immigration Special Session*, FLGOV.COM, <https://www.flgov.com/eog/news/press/2025/governor-ron-desantis-announces-proposals-immigration-special-session> (Jan. 15, 2025). For a more detailed analysis of the "prison to deportation pipeline", including its disproportionate effect on Black immigrants, see also Karla M. McKanders, *Immigration and Racial Justice: Enforcing the Borders of Blackness*, 37 GA. ST. U. L. REV. 1139 (2021).

<sup>134</sup> Gary Fineout, *Florida Grand Jury Calls for New Tax to Curb Illegal Immigration*, POLITICO (Nov. 27, 2023), <https://www.politico.com/news/2023/11/27/florida-grand-jury-wire-transfer-tax-illegal-immigration-00128755>; DeSantis has also eagerly capitalized on Donald Trump's inauguration as momentum to pass more anti-immigrant legislation in a special session, including proposals to increase penalties for smuggling or trafficking crimes. See Kimberly Leonard et al., *Don't Be 'Passive': DeSantis Needles Legislators with New Hard-Line Illegal Immigration Proposals*, POLITICO (Jan. 23, 2025), <https://www.politico.com/news/2025/01/15/ron-desantis-immigration-proposals-00198418>.

benevolent activities. In 2024, Florida redefined “transnational crime organizations” as organizations that “routinely facilitate... the international trafficking of... humans, or... the international smuggling of humans”, which could come to include immigrant rights groups who, according to DeSantis, routinely provide humanitarian assistance that runs afoul of smuggling and trafficking provisions.<sup>135</sup> And in 2025, Florida created a state “Board of Immigration Enforcement” to support federal immigration enforcement, including by investigating state officials supportive of immigrants and their allies.<sup>136</sup> Criminal charges to advocacy organizations could be disastrous, even if unsuccessful, as it would undermine their relationships with the vulnerable communities they serve and their ability to remain financially viable.

Florida has therefore laid the groundwork to take its efforts to curb immigration another step forward by using its human trafficking laws to influence immigration policy. In doing so, Florida’s new bills lay a pattern of masking immigration enforcement through other areas of law, which may continue to creep into human trafficking enforcement. Anti-immigrant policymakers may sidestep thorny issues with state immigration enforcement, given that human trafficking is a popular bipartisan area for state intervention and triggers less scrutiny from courts.<sup>137</sup> Furthermore, in the context of human trafficking’s historical narratives, any potential prosecution of immigration assistance from other immigrants or NGOs would strengthen the conspiracies connecting the two issues.

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<sup>135</sup> S.B. 1036, 2024 Leg., Reg. Sess. (Fl. 2024).

<sup>136</sup> Fla. Stat. §908.1031; Carrie Farrow, *Florida Emphasizes Strict Enforcement of State, Federal Immigration Laws*, 10 TAMPA BAY (Mar. 12, 2025), <https://www.wtsp.com/article/news/regional/florida/florida-immigration-enforcement-accountability-dashboard-report-failures/67-f5500c80-1e61-4a6a-8d84-45529286513a>

<sup>137</sup> See generally, Britta Loftus, *Coordinating U.S. Law on Immigration and Human Trafficking: Lifting the Lamp to Victims*, 43 COLUM. HUMAN RIGHTS L. REV. 143, 147 (2011).

But even absent formal state action, there is cause for concern in localizing enforcement of transnational crimes. While states may legitimately provide additional protection to victims, DeSantis' rhetoric also contains conspiratorial fear mongering that might turn ordinary citizens to policing others who are perceived as threatening traffickers. Indeed, this has happened before. Although state involvement in immigration enforcement has traditionally been formally discouraged,<sup>138</sup> state governments and even ordinary citizens often turn to immigrant vigilantism, attempting to enforce immigration laws on their own in the face of federal inaction.<sup>139</sup> In contrast, states have previously never had any issues passing human trafficking enforcement laws, likely in part because the issue receives widespread support.<sup>140</sup>

However, the rise of human trafficking conspiracy theories has prompted local vigilantism from ordinary citizens across the country, in a very similar fashion to anti-immigrant communities.<sup>141</sup> Now, under Florida's new trafficking laws, increased liability from hotels and other establishments for human trafficking may prompt companies to train their staff on how they can police human trafficking themselves.<sup>142</sup> In addition to deputizing more private actors, Florida magnified its efforts to spread vigilantism in the community about human trafficking through community events and the creation of a public hotline that connects directly to law enforcement.<sup>143</sup> The state is continuing to experiment with other ways to expand vigilantism, such as a certification

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<sup>138</sup> *Arizona v. United States*, 567 U.S. 387 (2012).

<sup>139</sup> Patrick Strickland, *The US-Mexico Border Has Long Been a Magnet for Far-Right Vigilantes*, TIME (Feb. 17, 2022), <https://time.com/6141322/border-vigilantes-militias-us-mexico-immigrants/>.

<sup>140</sup> See generally, Loftus, *supra* note 136, at 171-72.

<sup>141</sup> Melissa Gira Grant, *QAnon is Using the Anti-Trafficking Movement's Conspiracy Playbook*, THE NEW REPUBLIC (Aug. 19, 2020), <https://newrepublic.com/article/158974/qanon-operation-underground-railroad-sex-trafficking>.

<sup>142</sup> See, e.g., Office of the Attorney General - State of Florida, *AG Moody Launches 100% Club & New Tools to End HT*, MyFloridaLegal.gov (Jan. 12, 2022), <https://www.myfloridalegal.com/newsrelease/ag-moody-launches-100-club-new-tools-end-ht>.

<sup>143</sup> Mitch Perry, *Some Human Trafficking Advocates Object to Florida's New Tip Line*, FLORIDA PHOENIX (May 22, 2024), <https://floridaphoenix.com/2024/05/22/some-human-trafficking-advocates-object-to-floridas-new-tip-line/>.

program for commercial truckers to report suspected human trafficking to police.<sup>144</sup> Recent history from Joe Arpaio in Arizona has shown that hotlines for human trafficking can be weaponized to encourage laypeople to racially profile and report their immigrant neighbors.<sup>145</sup> In the context where DeSantis has equated driving other immigrants to smuggling, and smuggling to trafficking, it is easy to see how Floridians may soon start over-reporting by racially profiling other drivers. The new legislation provides race-neutral justification for regular drivers, police, and immigration authorities on the road to suspect criminal activity from ordinary Floridians.<sup>146</sup>

Other anti-immigrant states have taken vigilante efforts even further. In Missouri and Mississippi, state legislators introduced immigrant “bounty hunter” programs that would allow vigilantes to report persons suspected of being undocumented, not unlike Florida’s programs to certify truckers and hotel workers to report suspected human traffickers.<sup>147</sup> Meanwhile, vigilantism promoted by QAnon theories about the ubiquity of sex trafficking has generated an online vigilante justice movement that has grown increasingly violent, leaving many hospitalized.<sup>148</sup> While violent anti-immigrant vigilante movements are unfortunately not a new phenomena, the new QAnon evolution of anti-immigrant strategy presents unique risks because social media has generated a

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<sup>144</sup> Florida Highway Safety and Motor Vehicles, *Highway Heros*, FLHSMV.gov, <https://www.flhsmv.gov/safety-center/human-trafficking/commercial-drivers/>.

<sup>145</sup> Mary Romero, *Keeping Citizenship Rights White: Arizona’s Racial Profiling Practices in Immigration Law Enforcement*, L. J. FOR SOC. JUSTICE 98, 103 (2011).

<sup>146</sup> Federal immigration authorities enjoy additional powers to stop any person without a warrant within 100 miles of the U.S. borders, which encompasses Florida. 8 U.S.C. § 1357(a)(3); 8 C.F.R. § 287.1(b).

<sup>147</sup> See Marianne LeVine, *Mississippi Lawmaker Wants Bounty Hunters to Find Undocumented Immigrants*, THE WASHINGTON POST (Jan. 24, 2025), <https://www.washingtonpost.com/immigration/2025/01/24/reward-reporting-illegal-immigrants-mississippi/>; Kacen Bayless, *Missouri Republican Proposes \$1,000 Bounty Program to Turn in Undocumented Immigrants*, THE KANSAS CITY STAR (Dec. 6, 2024), <https://www.kansascity.com/news/politics-government/article296685389.html>.

<sup>148</sup> Aric Toler et al., *Online ‘Pedophile Hunters’ Are Growing More Violent – and Going Viral*, N.Y. TIMES (Mar. 26, 2025), <https://www.nytimes.com/interactive/2025/03/26/us/pedophile-hunting-violence.html?searchResultPosition=1>.

profitable market for this enterprise and this violence has been thus far excused by the ubiquitous condemnation of human traffickers.<sup>149</sup>

The volume of government resources being poured into human trafficking enforcement, as well as the extensive educational outreach, lend legitimacy to QAnon's misinformed and implicitly racist theories that human trafficking is extremely prevalent across all sectors of the public and is being perpetrated by undocumented criminals. As Florida deputizes hotel owners, truckers, and other members of the public to safeguard against human trafficking, its government will have to contend with the potentially disastrous effects of localizing enforcement.<sup>150</sup>

*ii. Prosecution of Immigrant Victims Shows that Protections are Illusory*

While DeSantis champions his sympathy to immigrant victims of human trafficking, his reforms have quietly promoted vigilantism and expanded his prosecutorial powers against immigrants and their allies. These actions underscore the disingenuous nature of Florida's human trafficking protections. The expansion of human trafficking provisions is not completely of service to legitimate victims, particularly as the promoters of the law peddle far-right conspiracy theories that manipulate sympathetic ears through misinformation. The attempt to simultaneously criminalize and protect immigrant Floridians ultimately ensures that these new rights on paper are never realized, contributing to what Linda Bosniak terms the "dual identity" of undocumented immigrants.<sup>151</sup>

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<sup>149</sup> *Id.*

<sup>150</sup> Immigrant vigilantism has led to the unnecessary death and harm of immigrants, particularly along the border. See Strickland, *supra* note 138.

<sup>151</sup> Linda Bosniak, *Exclusion and Membership: The Dual Identity of the Undocumented Worker under United States Law*, 1988 WIS. L. REV. 955, 976 (1988).

Much of this paper has not discussed the benefits of these new human trafficking protections, but it is worth noting that increased human trafficking enforcement is not inherently problematic. Many of the human trafficking provisions, such as required sign postings in locations where trafficking victims are likely to see, have the potential to inform many of potential legal recourse and help end their exploitation. For immigrant Floridians, many workers are pressured into staying in unsafe or underpaid work under threat of deportation, and trafficking justice is a viable means to combat this workplace precarity.<sup>152</sup> DeSantis and his supporters are correct in identifying that the lack of federal immigration reform is a disservice to the millions of people with unequal rights in our society, in addition to rendering this population vulnerable to trafficking.

However, DeSantis' chosen method to achieve national immigration reform has much more immediate and impactful harm to immigrant Floridians. Florida's laws illustrate a broader state strategy of penalizing victims of the immigration system in order to spur a federal anti-immigrant reaction.<sup>153</sup> State legislators openly admitted that the true motive behind such harsh laws would be to illustrate that the current status of the "migrant crisis" is untenable and to inspire other anti-immigrant states like Texas to join the mission of making daily life for undocumented people in their state impossible.<sup>154</sup> This agenda is reflected through other recent restrictionist

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<sup>152</sup> See, e.g., Dina Francesca Haynes, *Good Intentions Are Not Enough: Four Recommendations for Implementing the Trafficking Victims Protection Act*, 6 U. ST. THOMAS L. J. 77, 79 (2008) (retelling the story of an immigrant trafficking victim who received the resources needed to combat the abuses she faced from her employer).

<sup>153</sup> In reality, the question of whether the federal government has failed to take significant action in amending the immigration system is a question of perspective. Some scholars suggest that this argument is more often than not used to justify state immigration policies that would otherwise be barred by federalism. See Gulasekaram & Ramakrishnan, *supra* note 118, at 72-75.

<sup>154</sup> Fla. S. Comm. on Rules, recording of proceedings, at 02:11:23-02:11:24, (Mar. 15, 2023, at 3:30 PM), [https://www.flsenate.gov/media/VideoPlayer?EventID=1\\_nty0d3lq-202303151530&Redirect=true](https://www.flsenate.gov/media/VideoPlayer?EventID=1_nty0d3lq-202303151530&Redirect=true) (Sen. Ingoglia, SB 1718's sponsor, stating that he hopes SB1718 "becomes sort of a piece of legislation that other states can mimic, specifically Texas. Because if we can get Florida and Texas to pass comprehensive, state-led, anti-illegal immigration reform .... The federal government will react.").



policies, such as the bussing of newly-arriving migrants to other states.<sup>155</sup> In reality, national trends illustrate that harsh immigration policies do little to decrease migration into the country.<sup>156</sup>

Ultimately, the choice to criminalize the existence of innocuous undocumented individuals will not lead to true justice in the realm of human trafficking.<sup>157</sup> After all, victims of human trafficking are commonly those without immigration status, or holders of temporary status such as H-2A visas.<sup>158</sup> Florida deputizes hospitals, employers, and other providers of social services as immigration gatekeepers, pushing undocumented people further into the shadows and making human trafficking far more likely to occur.<sup>159</sup> Even if legislators promise to never enforce the smuggling law, anti-immigrant rhetoric sows fear and distrust in government authorities that prevents immigrants from reporting crimes and seeking assistance.<sup>160</sup> This fear and distrust is multiplied exponentially by any potential misuse of the trafficking protections to target immigrants and their allies.

Thus, the impact of the trafficking protections to genuine victims seems minimal. While DeSantis extends more protections to trafficking victims, the overarching context discussed above

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<sup>155</sup> Edgar Sandoval, Miriam Jordan, Patricia Mazzei, and J. David Goodman, *The Story Behind DeSantis' Migrant Flights to Martha's Vineyard*, N.Y. TIMES (Oct. 2, 2022), <https://www.nytimes.com/2022/10/02/us/migrants-marthas-vineyard-desantis-texas.html>.

<sup>156</sup> Douglas S. Massey and Karen A. Pren, *Unintended Consequences of US Immigration Policy: Explaining the Post-1965 Surge from Latin America*, 38 POPUL. DEV. REV. 1, 3 (2012) ("US immigration policy often has very little to do with trends and patterns of immigration"); Douglas S. Massey, Jorge Durand, and Karen A. Pren, *Why Border Enforcement Backfired*, 121 AM. J. OF SOCIOLOGY 1557, 1557 (2016) ("The unprecedented militarization of the Mexico-U.S. border not only failed in its attempt to reduce undocumented migration, but backfired by increasing the rate of undocumented population growth").

<sup>157</sup> Brinkley, *supra* note 36, at 665.

<sup>158</sup> Loftus, *supra* note 136, at 177.

<sup>159</sup> Durr, *supra* note 17, at 174; Tampa Bay Times Editorial Board, *Florida is Now Where Religious Freedom Goes to Die*, TAMPA BAY TIMES, (April 19, 2023), <https://www.tampabay.com/opinion/2023/04/20/florida-is-now-where-religious-freedom-goes-die-editorial/> (quoting a local provider of services to immigrant families in need, "The proposed [bill] ... will only serve to force them into the shadows of society. We can do better.").

<sup>160</sup> Caroline Bettinger-Lopez et al., *The Effects of Anti-Immigrant Laws in the U.S. on Victims of Domestic Violence, Sexual Assault, and Human Trafficking: A Gender-Based Human Rights Analysis*, 23 HARV. LATINO L. REV. 17, 19-20.

suggests that DeSantis does not actually mean for these human trafficking protections to include immigrant victims. In spite of his rhetoric, DeSantis' government has taken more action to ensure that they may prosecute immigrants and their allies than dismantle labor exploitation. While this article has identified many instances where Florida encroaches on immigration enforcement through the issue of human trafficking, the majority of law enforcement efforts remain focused on sex trafficking cases, particularly of young, white-coded women.<sup>161</sup> Therefore, despite the efforts to include immigrant justice in the anti-trafficking movement, little has actually been done to achieve justice for immigrant victims of trafficking.

This irony is fundamental to DeSantis' narrative agenda, as discussed above, but also has material implications for immigrant Floridians. Amidst the growing threats of malicious prosecution, labor exploitation continues to be a grave problem that affects all low-wage workers in sectors occupied by immigrant Floridians.<sup>162</sup> This includes the potential increase in human trafficking as a form of labor exploitation, but also many other aftereffects of Florida's new laws. The continued marginalization of immigrants makes all forms of labor crimes more likely to occur, not only human trafficking.<sup>163</sup> The effects of immigrant workplace precarity affects all low-wage workers in their respective industries, not only noncitizens.<sup>164</sup>

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<sup>161</sup> From 2021-2024, Florida law enforcement reported 252 incidents of sex trafficking and 40 incidents of human trafficking. Florida Department of Law Enforcement, *UCR Incident-Based Reports*, FDLE.STATE.FL.US, <https://www.fdle.state.fl.us/CJAB/FIBRS>. At Florida's 2024 Human Trafficking Summit, the statewide human trafficking prosecutor described human trafficking as a phenomenon that almost exclusively occurs as sex trafficking cases of young women who are not otherwise marginalized by society. Rita Peters, *Human Trafficking Summit: Dynamics of a Human Trafficker - Transcript*, HUMAN TRAFFICKING SUMMIT, 5-13, <https://www.humantraffickingsummit.com/session-6>.

<sup>162</sup> See also Syra Ortiz Blanes, *Immigrant Workers Who Are Building South Florida Fight for Better Pay, Work Conditions*, MIAMI HERALD (Oct. 30, 2024), <https://www.miamiherald.com/news/local/immigration/article293785829.html>.

<sup>163</sup> Shirley Lung, *Criminalizing Work and Non-Work: The Disciplining of Immigrant and African American Workers*, 14 U. OF MASS. L. REV. 290, 296 (2019).

<sup>164</sup> *Id.*

Furthermore, employers are responding to the increased scrutiny on immigrant work by legally distancing themselves from their employees through workplace fissuring.<sup>165</sup> For example, as a result of the smuggling bill's mandatory E-Verify provisions, farmers are now considering using temporary staffing agencies as an alternative, which allows them to continue hiring undocumented workers without liability.<sup>166</sup> As discussed above, workplace fissuring has a well-documented effect of depressing wages, working conditions, and worker power.<sup>167</sup> In addition to circumventing scrutiny on immigration laws, workplace fissuring allows employers to escape liability for many other workplace crimes, such as wage theft, discrimination, and negligent workplace deaths.<sup>168</sup>

In conclusion, Florida's human trafficking reforms introduce new problematic prosecutorial powers and encourage vigilantism to target immigrants and their allies. The threat of these actions, in combination with the smuggling bill, promote rather than deter human trafficking of immigrant Floridians by multiplying their isolation and discouraging reporting. The minimal enforcement of labor trafficking cases for immigrant victims proves that the promise of these new human trafficking protections is unlikely to be realized. Instead, the overarching effect of

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<sup>165</sup> David Weil first termed the phrase "workplace fissuring" to describe how larger employees devolve responsibility for their operations into smaller companies or even workers themselves, such as through staffing agencies or gig work. See David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Harv. U. Press 2014).

<sup>166</sup> Lizbeth Gutierrez, *Plant City Farmer Sees Impact of Immigration Hiring Bill as Strawberry Season Gets Underway*, SPECTRUM NEWS (Jan. 4, 2024), <https://baynews9.com/fl/tampa/news/2024/01/04/farmer-details-impact-of-immigration-hiring-law>.

<sup>167</sup> Jess Forden, *Challenges for Workers in the Age of Fissured Jobs and Joint Employers*, ROOSEVELT INSTITUTE (2020), [https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI\\_Joint-employer\\_issue-brief\\_201904.pdf](https://rooseveltinstitute.org/wp-content/uploads/2020/07/RI_Joint-employer_issue-brief_201904.pdf); Catherine Ruckelshaus et al., *Who's the Boss: Restoring Accountability for Labor Standards in Outsourced Work*, NATIONAL EMPLOYMENT LAW PROJECT, 27-31 (2014), <https://www.nelp.org/app/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>.

<sup>168</sup> See, e.g., Steve Eder et. al., *The Hidden Truth Linking the Broken Border to Your Online Shopping Cart*, N.Y. TIMES (Nov. 17, 2024), <https://www.nytimes.com/2024/11/17/us/immigration-undocumented-migrants-jobs.html>; Marcela Valdes et. al., *Death on the Night Shift at Frozen Pizza Factories in Chicago*, N.Y. TIMES (Dec. 21, 2024), <https://www.nytimes.com/2024/12/21/us/immigration-undocumented-workers-jobs.html>.

DeSantis' reform is to promote further labor exploitation of low-wage workers in predominantly immigrant sectors.

#### IV. CREATING COUNTER-NARRATIVES

Champions of the far-right have found extremely effective narratives to expand immigrant hostility and state powers to regulate immigrants' lives. The following section suggests how counter-narratives in future human trafficking advocacy can be used to prevent and reverse the harmful conspiracies peddled by far-right politicians and QAnon. Advocates may use white discomfort to their advantage by highlighting hypocrisies within human trafficking legislation and complicating archetypes in human trafficking discourse. In doing so, advocates in the realms of human trafficking, immigration, and labor must collaborate to demonstrate the overlap between these issues, improving their ability to challenge systemic issues. This multidisciplinary approach will potentially increase public understanding of the nature of crimes against immigrant populations to prevent their further criminalization.

While this paper depicts a rather hostile attitude of many Americans towards immigrants of color, the conspiracies discussed here are effective only because they obfuscate the role of race in these policies. As effective as dog whistles can be, there is equal power in loudly identifying what is often unsaid.<sup>169</sup> Even amidst the growth of QAnon conspiracies, most Americans agree that it is not acceptable to be racist, and thus avoid the public perception of racism and thinking themselves as racist.<sup>170</sup> This starting place provides an opportunity to combat harmful narratives about immigrants and human trafficking by centering the hypocrisy of DeSantis' far-right policies.

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<sup>169</sup> Jimenez, *supra* note 102, at 312.

<sup>170</sup> *Id.*

Florida's smuggling and trafficking bills are a perfect example of this kind of hypocrisy. While Florida extends protections to human trafficking victims, it simultaneously exposes many Floridians to trafficking through its harsh smuggling policies and overall stance on immigration enforcement. Throughout the push for these policies, DeSantis and his supporters frequently claimed to be immigrant allies interested in combating trafficking of vulnerable groups. Advocates could combat DeSantis' harmful immigration narratives by illustrating that his interest in combating human trafficking is hypocritical given that his prosecution efforts have made no progress in actually assisting immigrant trafficking victims. There is additional hypocrisy in Florida's efforts to pass legislation that it has since admitted was never meant to be enforced in the first instance. These examples, and the many other instances of irony highlighted above, indicate that DeSantis' expressed concerns were no more than pandering to white audiences' desire to be non-racist.

The very fact that Florida's right felt the need to do so illustrates the power of discomfort and how it might be turned against these narratives. The alternative defensive approach, which would seek to recast immigrants as victims and not criminals, is more likely to be simply dismissed as inaccurate or resolved by weak half-measure policies.<sup>171</sup> An offensive focus on racist hypocrisy is advantageous because its call to action to Floridians creates opportunities to reframe the issues and demand more than illusory promises.<sup>172</sup>

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<sup>171</sup> Angela Banks, *Respectability & the Quest for Citizenship*, 83 BROOKLYN L. REV. 1, 50-52 (2017).

<sup>172</sup> See also Gulasekaram & Ramakrishnan, *supra* note 118, at 92-95 (utilizing an empirical model to argue that states adopt anti-immigrant measures when there is rising political polarization and ethnonationalism, rather than changes to local demographics or labor markets).

Advocates must thus complicate harmful tropes by creating new counter-narratives, rather than merely accepting the preexisting narrative framework.<sup>173</sup> Drawing attention to Florida's hypocrisy creates an opportunity to highlight the stories of the many who do not fit neatly into the "innocent victim" archetype. While an immigrant victim's undocumented status may contradict the public's notion of who a "pure" trafficking victim may be, trafficking stories often contain facts that complicate the moralizing with regards to unauthorized presence. For example, many trafficking victims willingly enter the U.S. to work, but under the false impression that the work will be authorized by immigration authorities.<sup>174</sup>

Another alternative means to challenge human trafficking archetypes is to use this opportunity to highlight stories complicating the role of the "evil offender" and "good rescuer". Often, intermediaries such as staffing agencies or other middlemen are easier targets for human trafficking enforcement, as they fit neatly into the role of the "evil offender." Yet stories that discuss how deeply trafficking, and exploitation more broadly, are embedded into our economy allow for a more productive conversation about how systems perpetuate injustice and inequality. For example, cases implicating large corporations undermine stereotypes about the role of culture in human trafficking. Alternatively, increased awareness of DeSantis' harm to immigrant trafficking victims illustrates that rescuers may not always be "good" and thereby the flaws in "tough-on-crime" approaches to trafficking enforcement. In discussing the hypocrisy in Florida's actions, these stories can underscore the harm of these contradictory policies and push the public to think more broadly about human trafficking enforcement.

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<sup>173</sup> Elizabeth Keyes, *Beyond Saints and Sinners: Discretion and the Need for New Narratives in the U.S. Immigration System*, 26 GEO. IMMIGR. L. J. 207, 255-256 (2012).

<sup>174</sup> Allison Nasson, *Trafficking Without Traffickers*, 27 U. PA. J. L. & SOC. CHANGE 207, 208-09 (2024); Meghan L. Wright, *Fixing A Broken System: Recommendations to Improve the Policies and Practices that Leave Migrants Vulnerable to Trafficking*, 33 KAN. J. L. & PUB. POL'Y ONLINE 116, 116 (2023).

These counter-narratives must simultaneously disentangle the confusion between smuggling and trafficking in order to effectively dispel conspiracies on these issues. Strategic terminology has been a critical tool in DeSantis' approach, and advocates should take equal care in how counter-narratives are labeled. Given the intersectionality of the issues affecting victims of trafficking and immigration enforcement, advocates must take care in drafting narratives so as not to unintentionally re-entrench harmful tropes concerning trafficking, slavery, or immigration.<sup>175</sup>

Thus, in messaging these narratives, collaboration is required. The increasing interconnectedness of human trafficking and immigration issues on the far-right must be met with renewed coordination between advocates on each of these issues, in addition to other social justice movements. It is clear that immigration precarity perpetuates labor precarity, which in turn perpetuates human trafficking and other labor crimes.<sup>176</sup> It is also clear that the immigration enforcement regime is becoming increasingly carceral and local as states like Florida attempt to expand their immigration powers.<sup>177</sup> Therefore, advocates must be multidisciplinary in their approach in order to succeed. Furthermore, state and local policies deserve increased attention as they provide opportunities for early intervention on policies that might be mirrored on a national level, as Florida's harboring statute demonstrates.<sup>178</sup>

Recognizing that these areas are not siloed can lead to innovative solutions that serve multiple ends. For example, collaboration between labor and immigrant rights' advocates

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<sup>175</sup> This includes abandoning respectability politics and victim narratives in immigration and trafficking advocacy. Sharpless, *supra* note 106, at 706-712, 731-736, 755-761. *See also* Kathleen Kim et al., *Critical Immigration Legal Theory*, 104 B.U. L. REV. 1515, 1518-1521.

<sup>176</sup> Raza & Feehs, *supra* note 27, at 668-671; Shamir, *supra* note 8, at 105.

<sup>177</sup> Jennifer M. Chacón, *Immigration Federalism in the Weeds*, 66 UCLA L. REV. 1130, 1391-1393 (2019).

<sup>178</sup> Florida's harboring statute, which failed to pass after significant pushback from advocacy groups and the public, was arguably much harsher than Florida's smuggling statute. Under the proposed bill, any person who provided assistance to persons who had entered the country without authorization would face criminal charges. *See supra* note 43.

generated the Deferred Status for Labor Enforcement program, which encouraged immigrant victims of labor crimes to assist labor enforcement agencies by providing temporary legal status.<sup>179</sup> Immigration defense attorneys and public defenders have worked in tandem to create holistic models of representation that prevent immigrants from falling into prison-to-deportation pipelines.<sup>180</sup> Yet absent coordination, movements may suffer setbacks, such as the transferring of private prison contracts to immigrant detention centers.<sup>181</sup>

Therefore, highlighting the hypocritical nature of these policies is a means to trigger white discomfort and provide an opportunity to stall the harmful narratives pushed by DeSantis. Storytelling that effectively provides a more complex and accurate depiction of human trafficking can undo archetypes and mobilize more people towards inclusive policies. Even at a granular level, advocates can begin challenging problematic narratives in the stories they tell of their clients inside and outside of courtrooms.<sup>182</sup>

## CONCLUSION

Although DeSantis has claimed that his new human trafficking bills are meant to protect immigrant victims of this heinous crime, the legislative history and text of the statute indicate that they should instead operate as a warning call. Through human trafficking, far-right politicians have discovered a new way to peddle historical anti-immigrant stereotypes and tap into extremist

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<sup>179</sup> *About the DALE Campaign*, NATIONAL DAY LABORER NETWORK, <https://ndlon.org/dale-campaign/>; Bliss Requa-Trautz & Salvador G. Sarmiento, *Immigrant Workers and Advocates Call for Federal Whistleblower Protections to Address Employer Retaliation*, NATIONAL DAY LABORER NETWORK (Apr. 5, 2021), <https://ndlon.org/immigrant-workers-and-advocates-call-for-federal-whistleblower-protections/>.

<sup>180</sup> Andres Dae Keun Kwon, *Defending Criminal(ized) "Aliens" After Padilla: Toward A More Holistic Public Immigration Defense in The Era Of Crimmigration*, 63 UCLA L. REV. 1034 (2016).

<sup>181</sup> See, e.g., Davide Mamone, *As Louisiana Prison Population Drops, Private Firms Turn to Immigration Contracts for Revenue*, THE ACADIANA ADVOCATE, (Nov. 29, 2021), [https://www.theadvocate.com/acadiana/news/as-louisiana-prison-population-drops-private-firms-turn-to-immigration-contracts-for-revenue/article\\_1b71c034-4979-11ec-951b-1f4b7822c933.html](https://www.theadvocate.com/acadiana/news/as-louisiana-prison-population-drops-private-firms-turn-to-immigration-contracts-for-revenue/article_1b71c034-4979-11ec-951b-1f4b7822c933.html). Historically, immigrant rights and racial justice advocates have faced significant barriers to solidarity, in part to respectability politics. See Sharpless, *supra* note 106, 738-740.

<sup>182</sup> Keyes, *supra* note 172, at 252-256 (2012).



conspiracy theories. Florida's criminalization of everyday activities, along with its increased collaboration with federal immigration authorities and local vigilantes, allows the state to expand its abilities to put Floridians on deportation pipelines. Therefore, advocates must respond to this growing threat by creating multidisciplinary counter-narratives to disrupt conspiratorial fear mongering and redirect the immigration and trafficking discourse into more productive solutions.

It is likely that DeSantis will expand on Florida's new immigration and human trafficking bills by further legislation and executive action, including potentially targeting immigrant rights organizations and expanding activities subject to criminal penalties.<sup>183</sup> Anti-immigrant states are on a path to consistently one-up the other.<sup>184</sup> Many restrictionist states have already proposed or

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<sup>183</sup> Ronald Brownstein, *The GOP's Lurch Toward Extremism Comes for the Border*, THE ATLANTIC (July 21, 2023), <https://www.theatlantic.com/ideas/archive/2023/07/texass-immigration-policy-biden/674784/>.

<sup>184</sup> Micaela McConnell, *Immigrant Workers Help Florida Thrive. Anti-Immigrant Policies Threaten That.*, IMMIGRATION IMPACT (Jun. 26, 2024), <https://immigrationimpact.com/2024/06/26/immigrant-workers-help-florida-thrive-anti-immigrant-policies-threaten-that/>; Zachary Wolf, *The Surprising Details behind DeSantis' and Abbott's Immigration Stunt*, CNN (Sept. 15, 2022), <https://www.cnn.com/2022/09/15/politics/migrant-buses-desantis-abbott-what-matters/index.html> (describing Republican governors as in "a cynical competition to outdo each other" on immigration).

passed similar legislation,<sup>185</sup> as the Florida legislators intended.<sup>186</sup> Others are prosecuting nonprofits who provide assistance to immigrants.<sup>187</sup>

Following Trump's re-entry to the White House, DeSantis' strategy is being replicated on a national stage. For example, Trump signed the Laken Riley Act as the first bill of his new administration, tracking with his consistent use of "angel families" as a rallying call against immigrants.<sup>188</sup> Four days into his administration, the Trump administration halted federal funds to NGOs that serve immigrant populations to investigate the extent that their services are enabling their presence in the country, hinting at the same conspiratorial confusion created by DeSantis.<sup>189</sup> Trump has since directed the Department of Justice to prioritize prosecutions under harboring and

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<sup>185</sup> Texas has passed its own version of Florida's smuggling bill, which has led to increased racial profiling on the road. See *Driver Prosecutions, Immigrants, and "Smuggling" in Texas: Fueling a Mass Incarceration Crisis*, IMMIGRANT LEGAL RESOURCE CENTER (Jul. 2024), <https://www.ilrc.org/sites/default/files/2024-07/Driver%20Prosecutions%2C%20Immigrants%2C%20and%20%E2%80%9CSmuggling%E2%80%9D%20in%20Texas.pdf>. In Missouri and Mississippi, state legislators introduced immigrant "bounty hunter" programs that would allow vigilantes to report persons suspected of being undocumented, not unlike Florida's programs to certify truckers and hotel workers to report suspected human traffickers. See Marianne LeVine, *Mississippi Lawmaker Wants Bounty Hunters to Find Undocumented Immigrants*, THE WASHINGTON POST (Jan. 24, 2025), <https://www.washingtonpost.com/immigration/2025/01/24/reward-reporting-illegal-immigrants-mississippi/>; Kacen Bayless, *Missouri Republican Proposes \$1,000 Bounty Program to Turn in Undocumented Immigrants*, THE KANSAS CITY STAR (Dec. 6, 2024), <https://www.kansascity.com/news/politics-government/article296685389.html>. Alabama recently proposed its own harboring bill. Mike Cason, *Alabama Illegal Immigration Crackdown Bill Would Make it A Crime to Harbor People in Country Illegally*, AL.COM (Feb. 5, 2025), <https://www.al.com/news/2025/02/alabama-illegal-immigration-crackdown-bill-would-make-it-a-crime-to-harbor-people-in-country-illegally.html>. Iowa is also attempting to pass its own smuggling bill. Stephen Gruber-Miller, *'Smuggling' a Noncitizen Would Be a Crime under Iowa Bill Targeting Illegal Immigration*, DES MOINES REGISTER (Jan. 22, 2025), <https://www.desmoinesregister.com/story/news/politics/2025/01/22/iowa-legislature-advances-bill-creating-crime-of-smuggling-a-noncitizen-illegal-immigration/77876720007/>.

<sup>186</sup> See *supra* note 153.

<sup>187</sup> For e.g., Alejandro Serrano and Vianna Davila, *Attorney General Ken Paxton Targets El Paso Nonprofit that Offers Legal Services to Migrants*, THE TEXAS TRIBUNE (Sept. 26, 2024), <https://www.texastribune.org/2024/09/26/texas-ken-paxton-las-americas-investigation-lawsuit-immigrants/>.

<sup>188</sup> See Donald Trump, *supra* note 96; Adriana Gomez Licon, *What is the Laken Riley Act? A Look at the First Bill Trump Will Sign*, AP NEWS (Jan. 24, 2025), <https://apnews.com/article/what-is-laken-riley-act-trump-immigration-2667d626139ddf5a16d1533516eab18f>.

<sup>189</sup> Exec. Order No. 14159, 90 F.R. 8443, 84444, 8447 (2025) (creating taskforces, whose objective is "to end the presence of criminal cartels, foreign gangs, and transnational criminal organizations throughout the United States, dismantle cross-border human smuggling and trafficking networks, end the scourge of human smuggling and trafficking, with a particular focus on such offenses involving children, and ensure the use of all available law enforcement tools to faithfully execute the immigration laws of the United States.").

smuggling provisions, and in doing so makes the same conspiratorial connection between human trafficking, smuggling, and immigration.<sup>190</sup>

These actions do a disservice to the real and important work being done in advocacy for immigrant human trafficking victims. It is possible for human trafficking protections and immigration protections to work in unison to prevent exploitation, such as the creation of the T-visa program. Programs which create safety and security for the immigrant community may create an environment more conducive to proper reporting and prosecution of human trafficking crimes, though it does little to address the underlying vulnerabilities that make immigrants susceptible to trafficking in the first place.<sup>191</sup> In order to fully address these conditions, we must create legal pathways towards authorization, expand coverage of workplace protections regardless of immigration status, and detangle the immigration and criminal legal systems.

This Article scratches the surface of many critical themes, such as race and gender, as they intersect with our immigration, employment, and human trafficking laws. Ultimately, the historical and contemporary picture of these issues is much more complicated than DeSantis, or even this Article, suggests. Only through providing an accurate account can we begin to achieve real justice in these realms.

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<sup>190</sup> See *supra* note 5.

<sup>191</sup> *Id.* at 193.