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Disability and the Risk of Vulnerability to Human Trafficking: An Analysis of Case Law

Caroline Jagoe[a], Pei Ying Natalie Toh[a], and Gillian Wylie[b]

[a]Department of Clinical Speech and Language Therapy, Trinity College Dublin, the University of Dublin, Dublin, Ireland; [b]School of Religion, Theology, and Peace Studies, Trinity College Dublin, the University of Dublin, Dublin, Ireland

ABSTRACT

Persons with disabilities have been recognized to be at a heightened risk for human-rights violations but they remain under-represented in human trafficking research. This study seeks to determine how disability interacts across the trafficking journey. A systematic search identified 22 law case reports. Analysis suggests that traffickers exploit a variety of factors in relation to persons with disabilities, including functional difficulties; need for assistive devices; socio-economic difficulties; social and therapeutic needs. The Taxonomy of Vulnerability is applied to the findings to reveal the universality of human vulnerability as well as the particularity of the risks faced by persons with disabilities where situational and societal factors do not sufficiently protect and promote their rights as enshrined in the Convention of the Rights of Persons with Disabilities.

KEYWORDS

Disability; human trafficking; vulnerability; case law; UN convention of the rights of persons with disabilities

Introduction

Disability is a complex phenomenon and understood as "resulting from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others [. . .] (United Nations General Assembly, 2006: preamble, (e)). As a result of inequality and discrimination, persons with disabilities experience higher rates of disadvantages compared to those without disabilities, including poorer health outcomes, lower educational achievement, lower employment rates, higher rates of poverty and reduced participation in the community (World Health Organisation [WHO], 2011). In addition, disability intersects with other characteristics, such as race and gender, to produce unique "multiple and intersecting forms of discrimination [which] create a substantively distinct life experience for persons with disabilities" (United Nations Disability Inclusion Strategy [UNDIS], 2018, p. 7). Although persons with disabilities are often assumed to be disproportionately affected by the factors that increase vulnerability to trafficking, there remains limited intersection between healthcare and human trafficking research (Sweileh, 2018), and the interaction between disability and human trafficking continues to be neglected in research, practice, and policy (United Nations Convention on the Rights of Persons with Disabilities [UNCRPD], 2021). Despite the relative neglect of the topic, recent discussions, largely in the legal literature (Carey & Peterson, 2020; Dalu, 2021), point to the need for further research at the intersection of human trafficking and disability.

The UNCRPD (United Nations General Assembly, 2006) takes a human rights-based approach to disability by recognizing persons with disabilities as right-holders and asserting that impairment cannot justify the denial of human rights (Degener, 2016). Article 16 of the CRPD requires that

CONTACT Caroline Jagoe cjagoe@tcd.ie Department of Clinical Speech & Language Studies, Trinity College Dublin, 7-9 South Leinster Street, Dublin, Ireland

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state parties "take measures to prevent all forms of exploitation, violence, and abuse by ensuring appropriate [. . .] assistance and support" (United Nations General Assembly, 2006), and Article 27(2) specifically requires that "States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour" (United Nations General Assembly, 2006). Several other articles of the UNCRPD are relevant to protection from human trafficking, including Article 14 (liberty and security of the person), as well as articles outlining rights with regard to access to justice (article 13), and participation in public life, cultural life and recreation (articles 29 and 30), for example.

There are no satisfactory estimates for the number of trafficking victims with disabilities, due in part to the fact that 'trafficking' is a contested concept. For example, the internationally endorsed definition in the United Nations General Assembly (2000) provides a convoluted definition, indicative of differing views behind its negotiation on how key terms such as consent, coercion and agency are understood. Differing interpretations lead to empirical and political complexities associated with determining instances of trafficking and producing reliable statistics in general (Lobasz, 2019), a complexity compounded by the fact that there are multiple ways of defining and measuring disability (see, Palmer & Harley, 2012 for review). Several global and national reports describe how having a disability may compound a person's risk of vulnerability for human trafficking. Persons with disabilities may be driven to seek opportunities in exploitative situations because of poor economic and social circumstances related to the stigma and marginalization they face within their communities (United States Department of State [U.S.DOS], 2016). Unequal power dynamics may increase susceptibility to exploitation by caregivers (The Office for Victims of Crime Training and Technical Assistance Center [OVCTTAC], n.d.) and social isolation, disempowerment and invisibility are factors that contribute to the risk of commercial sexual exploitation for persons with learning disabilities (Franklin & Smeaton, 2017). However, persons with disabilities continue to be excluded from anti-trafficking efforts because of disability-based discrimination and exclusion, including barriers in accessing the justice system for legal recourse (U.S.DOS, 2016). These factors suggest that persons with disabilities might face particular risks perhaps positioning them as a group considered 'vulnerable' to human trafficking.

To date, there has yet to be a centralized study which examines the scope of evidence on how disability contributes to the risk of vulnerability to human trafficking, despite the fact that it is a characteristic which is likely to intersect with other individual and contextual characteristics to yield unique experiences of inequality (UNDIS, 2018), and influenced by the socio-cultural context. This study aims to fill this research gap by addressing the following three objectives:

(1) To provide a conceptual framework for understanding the ways in which disability can create vulnerability to trafficking by applying an existing framework – the Taxonomy of Vulnerability proposed by Mackenzie et al. (2014);
(2) To investigate the extent, nature and range of literature and case reports that examine the link between disability and the risk of vulnerability to human trafficking, through the methodology of systematic review; and
(3) To evaluate what types of functional difficulties are more commonly featured in the cases of human trafficking, and how the nature of the disability interacts with the means and sector of trafficking.

Through this conceptual approach and analysis of case reports, the paper will conclude by suggesting that anti-trafficking approaches should include efforts to address the factors that perpetuate vulnerability to trafficking and should empower groups considered vulnerable to claim their fundamental rights (Office of the High Commissioner For Human Rights [OHCHR], 2011). This approach advocates targeting "the root causes that increase people's vulnerability to trafficking like inequality, poverty, discrimination, stigma and prejudice" (OHCHR, 2011, p. 52).

Conceptualizing 'Vulnerability' in Relation to Disability and Trafficking

While it is helpful to understand the needs of groups facing a higher risk of vulnerability to human trafficking, 'vulnerability' is itself a contested concept. While often used to refer to an assumed trait of a group considered to require specific protection, it has also to be conceptualized as a "universal, inevitable, enduring aspect of the human condition" (Fineman, 2008, p. 8). Vulnerability, in the context of human trafficking, has been defined as "a condition resulting from how individuals negatively experience the complex interaction of social, cultural, economic, political and environmental factors that create the context for their communities" (Clark, 2008, p. 69), shaping the context in which trafficking occurs and the individual's capacity for response (United Nations Office on Drugs and Crime [UNODC], 2013). For example, since human trafficking often involves movement across international borders, the Determinants of Migrant Vulnerability (DOMV) Model provides a conceptual tool for describing the factors that render migrants 'vulnerable' to violence, abuse, exploitation, or rights violations (International Organisation for Migration [IOM], 2019). Hynes et al. (2018) used the DOMV model in the context of human trafficking to explore the factors which contribute to risk of vulnerability and that provide protection or enhance resilience to trafficking. An example based on an individual with a disability is presented in Figure 1. The first level of the model addresses ascribed identity characteristics which include gender, age, or ethnicity; as well as physical, sexual, or mental health factors and it is at this level that the impairment related to a disability would feature. The second level (household and family) and the third level (community) involve relationships within a household and within a community respectively, reflecting the fact that interpersonal connections may impart protective relationships or provide a context in which an individual experiences a risk of exposure to exploitation. The fourth level is structural and includes the economic or political climate as well as social norms that might support violence and discrimination against certain groups of people. There exists a complex interplay of factors within and across levels of the model, and an individual tends to experience a constellation of factors contributing to a risk of vulnerability for human trafficking (Hynes et al., 2018).

The concept of 'vulnerability' is equally contested in disability studies where overarching concerns about the potential for this term to perpetuate harmful social perspectives of persons carrying the label, abound. The term vulnerable, in this regard, can have a "paternalistic and patronising effect"

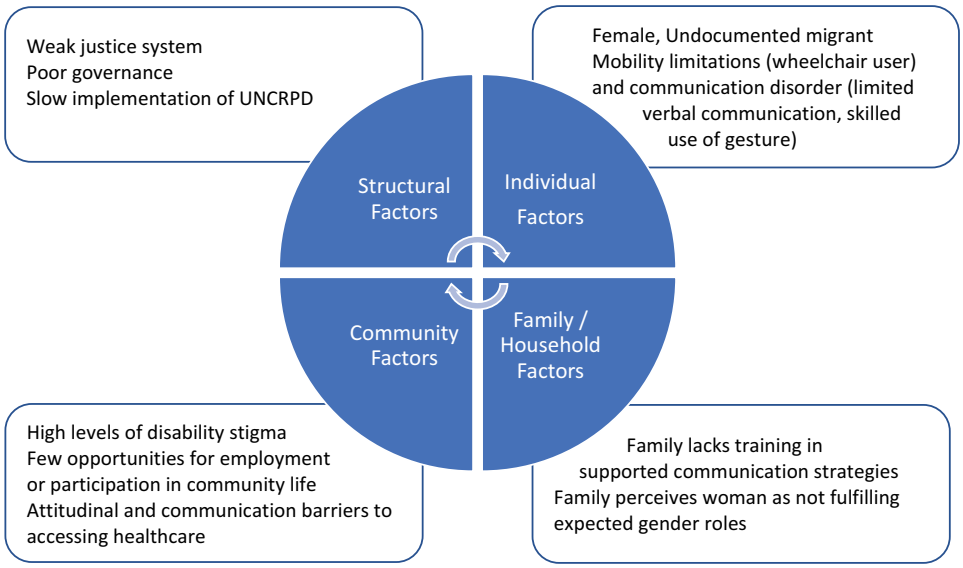


Figure 1. The Determinants of Migrant Vulnerability (DOMV) Model illustrated with reference to a woman with a disability with regards to risk of trafficking (adapted from IOM, 2019).

(Brown, 2011, p. 318), portraying persons with disabilities as passive recipients of care, paradoxically restricting their freedom and agency. Focusing on the specification of vulnerability in a particular group, such as persons with disabilities, ignores the universality of vulnerability (Scully, 2014). However, it is also true that individuals experience vulnerability in different ways and in different situations. Existing analyses of disability and human trafficking take a somewhat unidimensional view on vulnerability occurring at this intersection, focusing instead on the legal context and consequences (e.g., Carey & Peterson, 2020).

Drawing together the universality and particularity of vulnerability, Mackenzie et al. (2014) propose a taxonomy of vulnerability as a multifaceted state which has three intersecting sources – inherent, situational and pathogenic. Inherent vulnerability is a result of our humanity, both intrinsic and as a function of our bodily demands, our dependence and our natures as affective and social beings. However, the taxonomy can account for the notion that individuals may experience inherent vulnerability to different degrees. A person with mobility difficulties, for example, may have a higher risk of falling. Situational vulnerability may be "caused or exacerbated by the personal, social, political, economic, or environmental situations of individuals or social groups" (Mackenzie et al., 2014, p. 7). Building on the example above, on an uneven surface, or in the absence of a ramp and railing to access a building, the individual with mobility difficulties may experience a fall. The vulnerability is a consequence of both the intrinsic factors and the situational factors. In this case the physical disability arises from an interaction between the impairment and the environment, a view of vulnerability that is in line with the World Health Organization's International Classification of Health, Disability and Functioning (WHO, 2011). This example provides an opportunity to introduce the concepts of dispositional and occurrent vulnerability – two states of vulnerability proposed in the taxonomy of Mackenzie et al. (2014). Dispositional vulnerability refers to potential vulnerability, while occurrent is the actual vulnerability. The individual with mobility difficulties may have had a dispositional vulnerability to falling, but in the context of surfaces or inaccessible building access, this vulnerability is 'manifest' and becomes occurrent. As another example, research suggests that poor mental health may contribute to the risk of trafficking (Oram et al., 2015), with the authors recognizing the interaction with marginalization and economic insecurity (here considered situational vulnerabilities). Finally, pathogenic vulnerability is a subset of situational vulnerability which arises in contexts of dysfunctional or abusive institutions – including interpersonal relationships – that increase powerlessness.

In light of these considerations, in this paper we use the phrase 'risk of vulnerability' (that is, that there always exists a dispositional vulnerability, which in given certain situations, restrictions and conditions may become an actual/occurrent state of vulnerability). The phrase 'risk of vulnerability' then, rather than vulnerability alone, should underscore the idea of a dynamic state in which individuals vary in the resources available to them at any given time and in any given context.

Methods

This study was originally envisaged as entailing two parallel components: a scoping review of the academic literature, alongside an analysis of case law systematically identified from Case Law database of the Human Trafficking Knowledge Portal. The systematic search of five biomedical and social science databases (CINAHL, EMBASE, PsychINFO, PUBMED and Web of Science) ultimately yielded only 3 articles for inclusion (Search strategy and search strings available in Supplemental File 1; summary of findings in Supplemental File 2). Although new literature is emerging, (e.g., Dalu, 2021), the relative dearth of literature meant that the academic papers analyzed were more useful as a supplement than a subject of primary analysis.

The focus of this paper is the analysis of the case law identified through the Human Trafficking Knowledge Portal, and the process was guided by the first five stages of Arksey and O'Malley's (2005) scoping review methodological framework: Identifying the research question; Identifying relevant sources; Selecting sources (screening); Charting the data; Collating, summarizing, and reporting the findings. The sixth stage (Consultation) was not included in this study.

Identification and Selection of Relevant Sources

The Case Law database is a comprehensive global database of prosecuted human trafficking cases. To identify articles relevant to this study, free-text terms were used to search the Case Law database. A pilot search using other terms from the comprehensive search strings developed from the academic literature suggested that the degree of specificity in the case law was limited with regard to the nature of the disability/impairment and therefore the search was limited to the core conceptual term "disability" and 3 other related terms ("disabled," "handicap," "disorder"), as well as the specific terms "deaf," "blind," "paralysed," "mute."[1] The Case Law Database does not allow for complex Boolean phrases and therefore each term was used separately. In addition to the search, individual cases relevant to the study were identified from reports published by UNODC, and later retrieved from the Case Law database via their unique UNODC case numbers. All records in which person(s) with disabilities, as described in the CRPD [United Nations General Assembly, 2006], were identified as victims, traffickers or consumers at the time of trafficking were included for data extraction.

Data Extraction and Charting

The data from each case was charted on a standardized data charting form designed in Microsoft Excel for the purpose of the study. This form allowed for documentation of general case information (UNDOC case identifier, year of verdict), the nature of human trafficking (the acts, means, purposes and sectors of human trafficking), the demographic characteristics of the persons with disabilities (age, gender and type of disability) as well as relevant qualitative data from the contextual case information and legal reasoning (e.g., cases in which the exploitation occurred within an institutional setting, nature of the deception where it involved exploitation of needs arising from disability).

Data Synthesis: Collation, Summaries and Reports

Numerical and content analyses were undertaken to fulfil the objectives of the study. Numerical analysis was used to identify the nature and distribution of the records included in the scoping review. Content analysis, following the inductive approach outlined by Elo and Kyngäs (2008), was used to derive themes which contribute to an understanding of how disability might heighten the risk of vulnerability to human trafficking. Qualitative information under each header of the data extraction table was coded, aggregated, and organized into categories. First, the qualitative data on the extraction sheet was read repeatedly in an active way to identify potential patterns and underlying meanings. The next step involved coding the data, categorizing the codes, and grouping them under broader, higher-order categories. This was followed by data abstraction, where the categories were assigned meaning, organized into generic categories, and finally named with "content-characteristic words" (Elo & Kyngäs, 2008, p. 111). The overall synthesis process was iterative- if data did not fit into existing categories, prior categories were modified, or new categories were included accordingly.

[1]In this paper we use 'person with a disability' and 'disabled person' interchangeably. However in the search of the database other outdated or offensive terminology were included to avoid missing relevant cases.

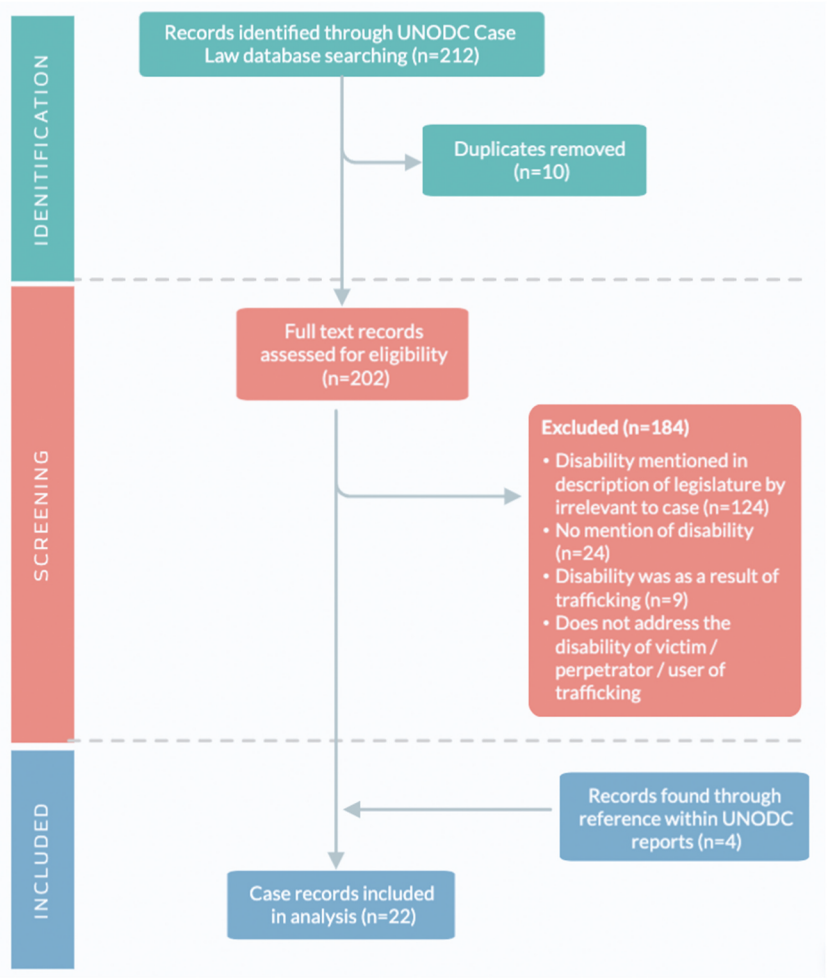


Figure 2. Adapted PRISMA flow diagram for the scoping review of the UNODC case law relating to trafficking in persons.

Findings

A total of 22 case records were included after the eligibility criterion (case in which person(s) with disabilities as described in the CRPD (United Nations General Assembly, 2006), are identified as victims, traffickers or consumers at the time of trafficking) and de-duplication were applied. The results and eligibility screening process are reported in Figure 2, an adapted version of the PRISMA flow diagram for the scoping review process (Peters et al., 2015). The findings are discussed within the framework of the Taxonomy of Vulnerability. Issues of agency and the complexity of vulnerability highlighted by the data are emphasized.

The UNODC Case Law database search yielded 212 cases, from which 10 duplicates were removed. After reviewing the full-text records of 202 cases, 184 cases were removed as they did not meet eligibility criteria. The cases were excluded because they mentioned disability in the description of the relevant legislation but not in relation to the case (n = 124); did not mention disability (n = 46); addressed disability as a result of trafficking (n = 9) or disability was mentioned without clear relevance to the victim of trafficking or perpetuator, such as describing the absence of a disability (n = 5). In addition to the 18 cases selected after full-text screening, 4 additional cases were identified from UNDOC reports and included. In total, 22 law cases were included in the study.

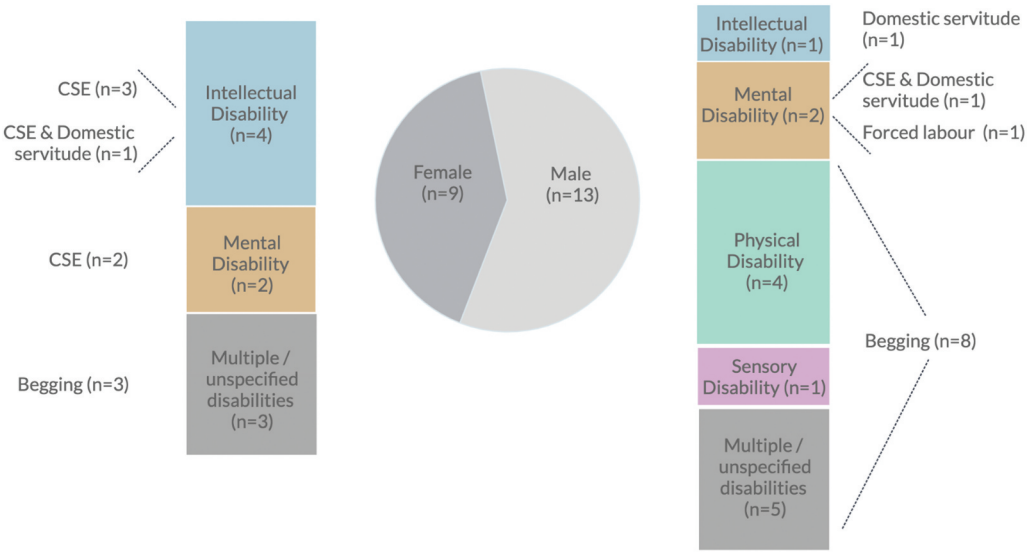


Figure 3. Gender, disability and sector of trafficking.

Finding of Case Reports

Of the 22 selected law cases, 18 cases were relevant to *victims of trafficking* with disabilities, three cases were related to the *traffickers with disabilities*, and three cases involved *persons with disabilities who exploited trafficked* people. In two cases, both the trafficking victim and the trafficker had disabilities. Most cases (12 of 18 reports involving victims with disabilities) involved trafficking in Europe (France, Sweden, Belgium, Russia, Serbia, Bosnia and Herzegovina, Finland, United Kingdom, and the Netherlands). Three cases took place in the USA, and one case each in the Philippines, Indonesia and Colombia. The cases involving persons with disabilities as traffickers or consumers occurred in France, China, Vietnam and Nigeria. The majority of these countries have ratified both the CRPD and the Palermo Protocol (Table 1).

Purpose and Sector of Trafficking: Influence of Victims' Disabilities and Gender

The cases analyzed involved at least 28 persons with disabilities.[2] The types of disabilities identified were intellectual disability (n = 5, across four reports), physical disability (n = 6, across three reports), mental disability (n = 7+, across five reports), sensory disabilities (n = 2, across two reports). Finally, eight persons with multiple or unspecified disabilities were represented across four cases.

The female victims of trafficking with intellectual disability were involved in Commercial Sexual Exploitation (CSE) (n = 3), or CSE and domestic servitude (n = 1), while the single male victim with intellectual disability was involved in domestic servitude. All cases of trafficking victims with physical disabilities and sensory disabilities involved begging. Trafficking victims with mental disability were exploited across all identified sectors. Finally, the eight individuals with multiple or unspecified disabilities were exploited for begging. Data on gender was disclosed in twelve reports, relating to 22 victims. Thirteen male victims were reported, while nine victims were females. These findings, disaggregated by gender and disability, are summarized in Figures 3 and 4.

[2]In one case (USA014), the case referred to "a conspiracy to hold mentally ill residents in involuntary servitude and forced labor in [. . .] a residential treatment group home". This case has been analyzed as three victims, but annotated as "3+" to indicate the probability of a multitude of victims beyond the three direct plaintiffs in the case.

Table 1. Countries of origin, destination and state of ratification of CRPD and Palermo Protocol.

Country of Origin	Country of Destination	CRPD Ratified (Origin; Destination)	Palermo Protocol Ratified (Origin; Destination)	No. Case Reports (no. of Victims)
Estonia	Finand	✓ ✓	✓ ✓	1(1)
Republic of Moldova	Russia	✓ ✓	✓ ✓	1(1)
Romania	Sweden	✓ ✓	✓ ✓	1(1)
Romania	France	✓ ✓	✓ ✓	2(3)
Serbia	Bosnia & Herzegovina	✓ ✓	✓ ✓	1(1)
Slovakia	Belgium	✓ ✓	✓ ✓	1(3)
Ukraine	Russia	✓ ✓	✓ ✓	1(5)
China	UK	✓ ✓	✗ ✓	1 (trafficker with disability)
Nigeria	UK	✓ ✓	✓ ✓	1 (consumer with disability)
Vietnam	Malaysia	✓ ✓	✗ ✗	1 (consumer with disability)
Bosnia & Herzegovina	Internal	✓	✓	1(2)
Columbia	Internal	✓		1
Indonesia	Internal	✓	✓	1 (1)
Serbia	Internal	✓	✓	1(1)
The Netherlands	Internal	✓	✓	1(1)
The Philippines	Internal	✓	✓	1 (1)
United Kingdom	Internal	✓	✓	1(1)
France	Internal	✓	✓	1 (consumer with disability)
USA	Internal	✗	✓	3 (5+) In 2 of these cases traffickers also had a disability)
TOTAL case reports (victims with disabilities) (traffickers with disabilities) (consumers with disabilities)				**22 (28) (3) (3)**

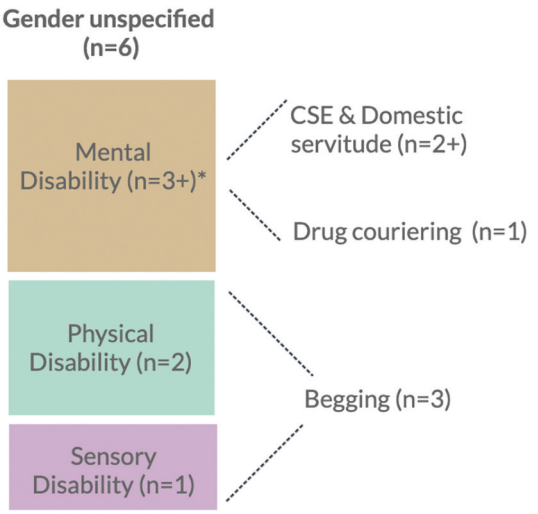


Figure 4. Disability and sector of trafficking in cases with gender unspecified.

Twelve of the 18 cases disclosed data on age, with 11 cases involving adults and two cases involving minors. One of the minors was involved in CSE, the other in begging. The adult victims were exploited across all identified sectors. The findings are consistent with the literature retrieved from the systematic search (Supplementary File 2). Reid (2018) found that girls with intellectual disability (ID) faced a disproportionately higher risk for exploitation in juvenile sex trafficking: 28% of their sample of female juvenile sex trafficking cases involved girls with ID, which was significant when compared to estimates that 1–3% of U.S. nationals have ID. Franchino-Olsen et al. (2020) reported that girls with severe physical disabilities and girls with low cognitive ability had a higher chance of experiencing minor sex trafficking, with six times and five times greater odds of experiencing minor sex trafficking respectively.

Analysis of Findings – Inherent and Situational Vulnerabilities of Victims with Disabilities

The analysis sheds light on factors that may contribute to a risk of vulnerability of being trafficked for persons with disabilities. Equally however, the evidence demonstrates that persons with a disability can be subject to similar exploitative practices compared to non-disabled victims, in terms of the acts, means and purposes of trafficking. Further disrupting the discourse of disability as vulnerability is the fact that in several cases, a person with a disability was the trafficker or exploiter. The Taxonomy of Vulnerability is used as an analytic lens in the discussion that follows, to avoid perpetuating harmful portrayals of persons with disabilities as people incapable of agency, but rather reflecting the complex social and structural factors that render an individual at risk of vulnerability to trafficking.

The case analyses reveals that traffickers exploited the socio-economic needs, relationship needs and therapeutic or rehabilitative needs of their victims with disabilities. While social, affective and physical needs as universal according to the Taxonomy of Vulnerability, individuals may differ in the degree to which they are at risk with inherent vulnerability interacting with the situational factors. The interaction between inherent and situational vulnerability with regard to purpose/sector of trafficking is perhaps clearest in the analysis related to persons with physical disabilities. For example, the inherent nature of physical disabilities as typically visible, may interact with situational factors to make persons with these disabilities a target for traffickers functioning in communities where begging generates 'good will' responses. However, situational vulnerability appeared to be relevant not only to the purpose/sector of trafficking, but also to the means. The data suggests that traffickers may exploit service needs (such as therapy, rehabilitation, healthcare) and requirements for assistive devices (such as protheses) to entrap victims. Trafficking victims were promised the provision of prostheses (ROU006, SRB001) and medical treatment (COL018), or therapeutic services (USA014, analyzed further under 'pathogenic vulnerability'). Although these needs can be viewed as an inherent and disability-specific vulnerability, in fact this risk of vulnerability can be viewed as an intersection between inherent and situational vulnerability. Rehabilitation services and devices such as protheses are costly and where the economic and political context does not provide social security and/or affordable and accessible healthcare services, persons with disabilities may be at risk of exploitation in their endeavors to meet their needs to assistive devices or therapeutic services.

Traffickers exploited the socio-economic needs of the victims with disability for entrapment schemes, including exploiting the limited opportunities for employment by promising opportunities to earn a living (PHL036, FIN001, UKR011). Traffickers were also found to have controlled their victims' financial resources, limiting their means to survive on their own outside of the exploitative arrangement. Numerous cases revealed that the traffickers kept all of their victims' earnings for themselves (ROU006, BEL029, SRB001, SRB016, BEL029), or used social security payments/social protection payments meant for the victim (USA162). In a case involving trafficking victims with physical disabilities (BEL029), the court concluded that the victims "were relying entirely on the defendant and did not have any other choice than to do whatever he would impose on them." These victims were wheelchair users and faced significant barriers to physical access, with evidence that they could not access other parts of the house where they lived. Such lack of social networks undermines opportunities for economic inclusion (U.S. DOS, 2016) thus exacerbating the victims' socio-economic marginalization. Socio-economic needs are

not unique to persons with disabilities, and research on human trafficking has demonstrated how these needs are exploited. However, persons with disabilities may face disproportionate risk of vulnerability in this regard as this group is more likely to experience multidimensional poverty, due to both decreased opportunities for employment or lower earnings (e.g., Mitra & Sambamoorthi, 2009; Trani & Loeb, 2012), and increased expenditure (e.g., Saunders, 2007).

Traffickers took advantage of the lack of community experienced by some persons with disabilities and also actively restricted access to their communities through unlawful imprisonment. In one case, (SWE016), the traffickers entrapped the victim by promising to find him a wife (and calling him their son). In another case (BEL029) the trafficker posed as a family member in order to gain access to the victims who were in an institution (discussed further in pathogenic vulnerability). These schemes exploit the inherent need for social connection, but appear to occur because of the situational vulnerabilities created by a cultural and social stigma against disability. This stigma contributes to self-isolation or isolation of the victim by family members, reducing access to peer networks, education and life skills needed to protect themselves from abuse (Women Refugee Commission, 2015).

While, in the majority cases, traffickers appeared to use the situational risk of vulnerability for entrapment purposes, in some cases there was a clear exploitation of inherent risk of vulnerability. This is clearest in relation to the use of deception as a means of trafficking with regard to persons with intellectual disabilities and mental disability. For case NLD008, the court emphasized that the trafficker was fully aware that the victim was easy to persuade and had difficulties saying "no" to anything, but continued to exert control over his victim. In case SWE016, the court highlighted that the victim had a tendency do as he was told and therefore 'was easy to affect and subjugate' due to his intellectual disability. In case PHL036, the court's finding that a 19-year-old victim was involved in prostitution as a minor was based on a psychologist's statement that "she (the victim) was functioning at a mildly-retarded level and did not think she was totally capable of protecting herself." For case FIN001 which involved sex trafficking of a victim with mental disability, the court ruled that the act was aggravated because it involved "a person whose capacity to defend herself was substantially diminished." Indeed, two of the included papers (Reid, 2018; Franchino-Olsen et al., 2020) found that girls with ID faced an elevated risk of being sex trafficked. Reid (2018) suggested that traffickers might take advantage of the girls' poor understanding of relationships, susceptibility to manipulation and inability to comprehend dangerous situations. Deception is one of the means of recruitment listed in Palermo, alongside coercion, and therefore not limited to persons with disabilities, but the risk may be higher for certain groups of people in terms of their inherent vulnerability due to a lower threshold for deception. The courts appeared to account for disability when assessing the evidence and applying the legal requirements in the prosecution of trafficking cases. For example, in case SWE016 the court acknowledged that the victim's intellectual disability might reduce the accuracy of dates and times in his evidentiary statement, which was accepted.

In keeping with the general literature on human trafficking, traffickers were found to deter victims from leaving exploitative situations by using threats of violence. Traffickers used threats of violence – exploiting the universal inherent vulnerability to fear of harm – to prevent their victims from reporting abuse (FIN001) or escaping (SRB001, MDA062). In some cases, these threats were perpetuated over digital communications (NLD008, GBR089). Traffickers also made threats against the victims' families to coerce victims into obedience (USA162, FIN001).

Pathogenic Vulnerabilities

The subversion of social responsibility required of societal structures and within relationships is at the heart of pathogenic vulnerability according to the Taxonomy of Vulnerability. The recruitment and exploitation of trafficking victims living in institutions indicate the presence of structural issues related to the operation and monitoring of these settings – instances of pathologic vulnerability. These situational vulnerabilities that arise from exploitative or damaging social relationships in the civic sphere or at the level of the state, are very clearly evident in the dataset and

analysis presented. In one case (USA014), at least three persons with disabilities who lived in "a residential treatment group home," where traffickers disguised exploitative activities as therapy and established exploitative rules and punishments. The traffickers maintained that the sexually-explicit acts and farm labor in nude were legitimate psychotherapy activities. The traffickers received funding from government, insurance companies and the residents' families for their illegitimate psychotherapy and nursing services. This case is quintessentially pathological, in which an organization which purportedly exists to support persons with disabilities at risk of vulnerability, exploits the inherent vulnerabilities (e.g., the need for social relationships, shelter, food) and situational vulnerabilities (lack of alternative home-based accommodation perhaps; lack of appropriate/affordable therapeutic options; weak oversight and accountability mechanisms) for the traffickers' gain. The pathogenic vulnerability is evident at the level of the institution, but also at the level of the state who provided funding for the services, arguably without the relevant oversight or regulation. This type of exploitation has been documented in other contexts, such as Ukrainian orphanages and adult institutions, where forced labor was disguised as rehabilitation and occupational training and residents were punished by violence if they declined to work (Disability Rights International, 2015).

In another case identified (BEL029) a trafficker recruited victims from an institution by means of deception, which possibly reflects the institution's shortfalls in safeguarding its residents. In this case, although the harm did not come directly from the institution itself, the mechanisms that should have protected the interests of the residents failed. Exploitative family relationships were also evident, with the parents of three victims receiving a portion of the income from the trafficking in the case of BIHx004 – another clear instance of pathogenic vulnerability.

Traffickers were found to gain their victims' trust by pretending to care for them like a family member (SWE016), or a lover (FIN001), or promising access to relationships, such as promising a victim to reunite her with her children (USA162) or assistance with finding a partner (SWE016). In these instances, deception preys on an inherent vulnerability but is exploited in the context of a 'relationship.' Where that relationship portrayed is one which should typically provide support and protection (such as family relationship, therapeutic contexts or institutional settings), the vulnerability arguably has a pathogenic source.

Protective Factors

As reported in the literature, supportive relationships and community connectedness contribute to resilience and protective factors (Herrman et al., 2011; Theron & Theron, 2010) and played a role in ending exploitation for some victims with disabilities in the reports analyzed. Connections with concerned family members and healthcare professionals played a protective role. A trafficking victim with mental disability (SRB016) was rescued from her traffickers on two occasions with assistance from her mother. A trafficking victim with ID (NLD008) received support from his social worker, who noticed that the victim had been missing appointments. The social worker facilitated a meeting between the victim and a community police officer, arranged his stay in another place to restrict interaction with the trafficker and compiled a record of text messages from the trafficker which was later presented as evidence in court.

Analysis of Case Reports Involving Traffickers with Disabilities

Three cases (USA162, USA014 and GBR015) involved persons with disabilities in the role of trafficker, all of whom were diagnosed with mental health disorders. All three cases involved CSE, with two cases additionally involving domestic servitude (USA162, USA014). In all three cases, the trafficker's disability was considered during prosecution of the crime.

Case USA162 involved a trafficker with bipolar mood disorder who experienced psychotic episodes and auditory and visual hallucinations, associated with an adverse childhood experience of being abused and trafficked for sex by her mother, who also had mental health difficulties. The trafficker filed

a procedural challenge against the court for their failure to consider mitigating evidence of her own abuse. However, the court rejected the trafficker's claim because of her primary role in the abuse and because her own abuse did not excuse her heinous conduct toward the victim.

In contrast, in the two cases in which traffickers with disabilities played supportive or secondary roles, the court regarded the traffickers' disabilities as mitigating factors in reducing their punishment relative to the primary trafficker. Case USA014 involved a trafficker with dependent personality disorder, who was aided and abetted her husband by holding their victims in involuntary servitude and forced labor in a residential treatment group home. Case GBR015 involved a trafficker diagnosed with depression, anxiety, obsessive compulsive disorder and phobias, who had assisted the primary trafficker with arranging a large number of flights to the destination country with full awareness that doing so served the purpose of prostitution.

Analysis of Case Reports Involving Persons with Disabilities as Consumers of Trafficking Services

Three cases (FRA013, GBR006, VNM006) involved disability among consumers of the services made available through trafficking. The type of disability was not specified in these cases. Cases FRA013 and GBR006 involved domestic servitude, with victims forced to care for the traffickers' disabled children. Case VNM006 involved CSE, where trafficked women were sold to male customers for sex and marriage, most of whom were elderly or disabled.

Discussion

The 22 UNODC case law reports analyzed shed light on both the factors that may contribute to a risk of vulnerability to human trafficking for persons with disabilities when considered from the perspective of the taxonomy of vulnerability. The analysis in this study demonstrated that traffickers exploited the socio-economic needs, relationship needs and therapeutic or rehabilitative needs of their victims with disabilities. What is clear from the analysis is that risk of vulnerability to trafficking is complex and multifaceted, and in the context of disability, intersects with layers of social disadvantage, exclusion and significant gaps in the promotion of the rights of persons with disabilities. Indeed, the false dichotomy of agency-versus-vulnerability is arguably central to the contested margins of both disability and human trafficking. A nuanced conceptualization of vulnerability is essential to reflect both the individual and environmental factors at play, and how agency is navigated in the reality of societal structures. Trafficking victims with disabilities made decisions related to socio-economic need and opportunity, healthcare or rehabilitation needs, or the need to participate in community. These decisions, taken in the face of risk, demonstrate agency operating in social contexts that are less than ideal. Our analysis suggests that complex understandings of vulnerability, such as that provided by the Taxonomy of Vulnerability (ToV; Mackenzie et al., 2014) or Determinants of Migrant Vulnerability model (DOMV; IOM, 2019) are helpful in analyzing these dynamics. In the application of the ToV to this dataset, all instances were cases of occurrent vulnerability in that the risk of vulnerability had been realized. The concept of dispositional vulnerability provides another useful complement to the DoMV by explicitly recognizing that some factors may be dispositional and 'activated' in certain situations (whether at the community, household or structural level). The ToV makes a particular contribution with the concept of pathogenic vulnerability, a useful concept when considering scenarios in which agencies in the civic space or state domain subvert their responsibilities to citizens, in this case citizens with disabilities.

The findings are in line with the DoMV conceptualization that factors at the household or community level (situational factors) can be protective. Analysis demonstrated the pivotal assistive roles performed by a concerned family member (household level) and healthcare professionals (community level). There has been growing recognition of the central role healthcare staff play as first responders to human trafficking, along with a call to strengthen their response through evidence-based education, advocacy for policy change and a strong prevention approach (Peck, 2020). This

protective factor may be especially relevant for persons with disabilities who have been found to have higher utilization of healthcare services (Bright & Kuper, 2018), and encounters with healthcare personnel present opportunities for victim identification and assistance.

Reliable data on disability in trafficking cases would allow for a more systematic picture to be built over time of the nature and extent of rights violations for persons with disabilities. The data presented suggested that there is a degree of interaction between the nature of the disability (physical, intellectual etc) and both the means and sectors of trafficking. The use of a common disability self-report tool, such as the Washington Group Questions (Washington Group on Disability Statistics [WGDS], 2016), is one way that such data could be gathered in a comparable way and documented with consistent terminology. In considering the framework of the short set of the Washington Group Questions (which asks about degree of difficulty across six domains of functioning – mobility, vision, hearing, cognition, communication and self-care), it is apparent that some types of functional difficulties are not represented in the 22 cases, specifically communication disabilities and difficulties with self-care. Systematic data collection on victims and perpetrators is warranted to understand the specific risks of different groups of persons with disabilities, and the barriers they may face in relation to accessing services or justice.

While the present study presents new insights on the intersection between disability and vulnerability in human trafficking, it is limited by the fact that the gray literature search was restricted to the UNODC case law database and the scope of the study could be expanded to include other relevant gray literature sources.

Despite a comprehensive search strategy, few published articles met the selection criteria and they presented data from the same geographical region. This indicates that existing research on the role of disability remains limited and points toward a dearth of representative global attention to the issue. Further research and a wider geographical range of studies are needed to understand the risk of vulnerability to human trafficking for persons with disabilities, particularly those who may have difficulty understanding and reporting or seeking legal recourse. Finally, although the vast majority of countries represented in the case reports, with the exception of the USA, have ratified the CRPD, there is need to strengthen the implementation and monitoring of the rights of persons with disability with regard to human trafficking and exploitation.

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ORCID

Caroline Jagoe http://orcid.org/0000-0002-3015-1550
Gillian Wylie http://orcid.org/0000-0001-5185-3888

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