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Master's Thesis

What's the Problem with Sex Trafficking?
A case study on the European Union's Policy and Legal Framework

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Term: Fall 2020
Subject: Political Science (International Affairs)
Course code: 5SK30E

Abstract

This study questions the way sex trafficking is constructed by the EU in their public policy exploring what potential implications exist by the way sex trafficking is problematised. Hence, the objective of this study is to understand how the EU constructs the problem of sex trafficking in their policies, and how this can lead to further policy implications for eradicating sex trafficking. This research analyses the three main policy documents by the EU; *Directive 2001/36/EU*, its strategy document *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016* and *Council Directive 2004/81/EC*. The discourse analysis called *What's the problem represented to be?* will be used as method. It also analyses through the theories of *Intersectionality* and *Governmentality*. The results reveal that sex trafficking is a problem of law enforcement, welfare, and illegal immigration. Sex trafficking is constructed as a crime that violates fundamental rights, encourages gender inequality, and threatens the security in the EU. The way the EU constructs victims endorses gender and racial stereotypes. Furthermore, not much efforts are on reducing root causes for trafficking, as main the focus is on the transportation rather than on the exploitation of the victim.

Key words: WPR, Policy, European Union, Sex trafficking, Governmentality, Intersectionality

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Acknowledgments

I would like to offer my special thanks to my supervisor Martin Nilsson, for his consistent support, guidance and encouragement during this research.

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Table of contents

List of Tables

List of Abbreviations

CDA   Critical Discourse Analysis

EU   The European Union

WPR   What's the Problem Represented to be?

1   Introduction

1.1   Background

Sex trafficking has got a substantial global response where the majority of countries have adopted an Anti-trafficking legislation (Orme & Ross-Sheriff, 2015). Yet, despite the efforts to combat sex trafficking, the scope of it is continuously increasing. Not least in the European Union (EU), where sex trafficking is the most reported form of human trafficking with 95 percent of all registered victims are women and girls (European Commission, 2018a). Reports show that 56 percent of all registered victims between 2015-2016 were non-EU citizens, whereas 44 percent were EU citizens (European Commission, 2018b). Although the majority of the trafficking victims were non-EU citizens, an overwhelming 84 percent of the suspected traffickers held an EU-citizenship between 2015-2016 (European Commission, 2018b). The data from the same years demonstrated that 74 percent of these suspected traffickers were male, whilst among those of non-EU citizenship, the male percentage showed 54 percent. However, there is a lack of resources in order to make real assessments of the number of people trafficked, but it is estimated that around 880,000 people are exploited for trafficking in Europe, whilst approximately 700,000 of them are sexually exploited (Realstars, 2020).

In order to eradicate sex trafficking, governments create public policy to address the issue. Policies include goals and means to achieve them (Howlett & Cashore, 2014:17-18). They could be described as a course of action or government programs (Bacchi, 2009:ix). Sex trafficking could therefore be constructed differently depending on how it is problematised by the government (Bacchi, 2009:xi) and the choice of the government on how to do something or not to do something (Howlett & Cashore, 2014:18). Hence, the way a phenomenon is constructed in the policy affects the society and its

population as in who gets what, who is included and excluded, and how people are represented.

The EU is among other influential global actors who identifies eradication of human trafficking as a priority to their policy agenda (Caneppele & Mancuso, 2012). The EU defines sex trafficking as a form of gendered violence that disproportionately affects women (European Commission, 2018a). The member states have an obligation of taking gender specific actions to assist and protect victims. However, the EU strives for a gender equal Europe (European Commission, 2020a) and acknowledges sex trafficking as deeply rooted in gender inequality amongst other root causes (EIGE, 2018). Some of their key objectives to reach gender equality is to end gender-based violence and challenge gender stereotypes.

Hence, in 2011 the EU established a new legal and policy framework regarding sex trafficking, *Directive 2011/36/EU*, replacing the former *Council Framework Decision 2002/629/JHA*. The new directive integrates a gender perspective whilst also being victim-centric (European Commission, 2020b). As a complement to the directive, the EU formed a complementing strategy document, *The EU strategy towards the eradication of trafficking in human beings for the period 2012-2016.*

However, despite the EU's efforts to eradicate sex trafficking, previous research on the former Directive 2002/629/JHA has criticised the approach for focusing on law enforcement and migration control rather than to redress the measures for the issue (Askola, 2007; Krieg, 2009; Berman & Friesendorf, 2008). Additionally, it has also shown that the discourse of sex trafficking in general tends to reinforce gender and racial stereotypes (Lobasz, 2009; Bravo, 2007; Nelson-Butler, 2015). Similar findings have been discovered within research on the EU and its sex trafficking discourse (Krieg, 2009; Askola, 2007).

Apart from the criticism on the EU's former approach, there is not much studies on the new approach. Conducting a similar study on the new approach enables an understanding of how the problem of sex trafficking is constructed in the policies by the EU today. It would highlight the usage of public policy by governments, and encourage policy makers to review their way of constructing problems in policies. Hence, this study examines how the EU constructs the problem of sex trafficking and what potential implications could be produced by the way sex trafficking is presented.

1.2   Problem Formulation

Sex trafficking both within the EU and into EU occurs in great amount every year. The fact that sex trafficking is considered a violation of the fundamental rights and an act of violence against women and girls emphasises the importance of the eradication of it. Although previous research on sex trafficking has highlighted that race and racial characteristics also play a role in determining the victim (Bravo, 2007; Bryant-Davis & Tummala-Narra). It has revealed that the discourse of sex trafficking victims tends to further endorse gender stereotypes (Lobasz, 2009; Doezema, 1999), which does not aspire to gender equality. Despite the emphasis on the importance of actual representation on victims of sex trafficking, there is an expressed need for investigation on how actors construct problems, as that determines how the problems will be handled.

However, the EU is a powerful actor in the international community, consisting of 27 member states. Thus, what the organisation sets on the agenda and how they do that has a significant role in the issue of sex trafficking. Its policy and legislation framework applies to all of its member states. Cooperation with other organisations and countries outside of the EU makes the EU more influential globally. Therefore, it is of importance to understand and to uncover how the EU constructs sex trafficking as a problem and the potential implications of this construction.

Although not much attention is paid on the current approach of the EU. This study will provide the research field with new insights on the current approach.

1.3 Research Objective

The objective of this study is to understand how the European Union constructs the problem of sex trafficking in their policies, and how this can lead to further policy implications for eradicating sex trafficking. Furthermore, research questions have been formulated to achieve the objective;

- What is the problem with sex trafficking?
- How is sex trafficking constructed in the policies?
- What potential implications are produced by the way the problem is represented?

In order to uncover the way sex trafficking is constructed and problematised, I will examine the EU's policy framework on eradicating sex trafficking. This study does not seek to find solutions to eradicate sex trafficking, but rather to problematise the way policies are problematising problems. Therefore, I will use a method of discourse analysis specialised within policy analysis, called *What's the problem represented to be?* (WPR) by Carol Bacchi. This method is more of a *problem-questioning* rather than *problem-solving* oriented. To further understand how governing takes place and its impact on people, the findings will be analysed through the analytical framework that I created consisting of the direction of application of the WPR approach, the *intersectionality* theory and *governmentality* theory. The WPR approach consists of six interrelated questions that are asked to the policy documents.

1.4 Structure

This study consists of six chapters, where the first chapter called *Introduction* presents the topic and the objective of the study. In the second chapter,

Literature Review, previous research within the field of sex trafficking will be presented and discussed. The chapter *Analytical Framework* presents the direction of application of the six questions in the WPR approach, and the theories of intersectionality and governmentality. The fourth chapter, *Methodological Framework*, explains the method that is used in this study, which is the WPR approach that is a discourse analysis. It presents the material, the scope of the study and the operationalisation of this study. The following chapter *Analysis* consists of both the findings and analysis of the findings. The chapter is largely divided into three subchapters based upon the WPR approach. In the final chapter *Conclusion*, the focus is laid upon answering the objective of the study and the research questions.

2   Literature Review

This chapter presents the previous research in the field of sex trafficking. It is divided into four sections. The first section *Representations of Victims and Stereotypes,* presents previous research on how victims have generally been represented in public discourses. The second section *Sex Trafficking on State and Inter-State Level,* focuses on previous studies that investigate how governments should act to combat sex trafficking. The third section *Sex Trafficking in the EU,* presents research that focus specifically on the EU and its policy framework in sex trafficking. The last section *Summary and Research Gap* summarises the chapter and discusses the research gap.

2.1   Representations of Victims and Stereotypes

Previous research on how sex trafficking victims are represented have had different focus, some on the gender dimension (Lobasz, 2009; Demir and Finckenauer, 2010; Doezema, 1999; Gębska, 2020), others on additionally dimensions of identity (Bravo, 2007; Nelson-Butler, 2015; Bryant-Davis & Tummala-Narra, 2017; Ray, 2015).

Lobasz (2009) criticises current social constructions of trafficked persons (for the purpose of sexual exploitation) which rely on gender stereotypes where women and children are framed as victims and men as actors. Although there is an increased trend in human trafficking where the recruiter is a woman rather than a man, as it seems like women more easily inspire trust (Gębska, 2020).

Though it seems like the dominating trafficking discourse is that of men being victims of labour exploitation, portraying the crime as an issue of labour regulations rather than a crime (Lobasz, 2009). Women are portrayed as passive actors seduced or kidnapped by traffickers, which conflicts with how many trafficked women perceive themselves. In fact, many women make their own decisions in the early stage of trafficking, where they choose to join

the trafficker (Lobasz, 2009; Doezema, 1999, Demir and Finckenauer, 2010), but are being lied to about the working conditions (Doezema, 1999; Demir and Finckenauer, 2010). Another question that has been raised regarding women as victims is if all these women really are victims, as some of them know the conditions and been there before and yet, decide to do sex work again (Demir and Finckenauer, 2010).

A study focusing on victim blaming in sex trafficking has shown that victim blaming plays an important role for the hindrance of victim identification, care and protection (Digidiki & Baka, 2020). Victim blaming is one of the significant reasons behind underreporting of victimisation. Furthermore, social and emotional exclusion in society has an impact of increasing the vulnerability of the victim. This furthers their re-victimisation and hinders efforts of healing and reintegration into society.

However, Demir and Finckenauer (2010) find that despite previous victimisation of sex trafficking, almost one fifth of the victims in their study reported that they were looking for opportunities to re-enter the destination country for sex work. Additionally, most of the women that have chosen to do sex work have referred to its lucrativeness.

Moreover, sex trafficking discourses tend to encourage gender-based stereotypes of women's capabilities, which results in a perception of victims as innocent, naïve, being kidnapped and sexually exploited (Lobasz, 2009). These women are the 'true' victims of sex trafficking. Portraying victims as such creates hierarchies of victims where those that have chosen to do sex work do not get same kind of sympathy, and those that are trafficked for non-sex labour could easier be categorised as illegal immigrants. Hence, there is a need for greater attention to the construction of trafficked persons as their representations could reproduce sexist and racist stereotypes which harms the trafficked and marginalised people.

The conducted research by Bravo (2007) is consistent with the conclusion by Lobasz (2009) on the reproduction of sexist and racist stereotypes in the discourse. Bravo claims that women of colour are seldom recognised as victims of sex trafficking. The author compares modern slavery (as to say modern trafficking) to the trans-Atlantic slavery in the 1800s-1900s, and stresses that race today is not as important as during the trans-Atlantic slavery. The modern slavery seems to be recognised as a purely economic slavery with elements of race in the mixture. However, race and racial characteristics still play a role in determining who is to be the victim, the value of the victim, and lastly, what type of enslavement meant for the victim.

Nelson-Butler (2015) and Bryant-Davis and Tummala-Narra (2017) claim that racial and ethnic stereotypes are other forms of oppression which influences the vulnerability of a person to be trafficked. The mixture between racist ideology and racial, ethnic and gender discrimination has the ability to increase the demand of marginalised persons. Since human trafficking includes the process of dehumanising and devaluing the person, further stereotypes of them enhances the acceptability of trading, exploiting and discarding them (Bryant-Davis & Tummala-Narra, 2017). Moreover, ethnically marginalised women and girls are at higher risk of facing violence partly due to their history of sex trafficking during colonialism, exploitation, stereotypes and subordination in society, amongst other factors.

Bryant-Davis and Tummala-Narra (2017) highlight the lack of attention which the role of stereotypes plays since it has an impact on both trafficking and commercial sex. For instance, the notion that Asian women are inherently obedient and submissive consequently makes them more desirable for labour and sex work. That African women are hypersexual, animalistic and immoral and thus, unrapable.

Nevertheless, Ray (2015) argues that women in general are disadvantaged because of their gendered and subordinated status and thus, are the

dominating gender in trafficking. Hence, to combat trafficking the author stresses the necessity to investigate gender norms. Additionally, both Ray (2015) and Nelson-Butler (2015) recognise the importance of other social categories of a woman's identity that intersect with her gender, which are determining her vulnerability.

In multicultural societies, the victim is less visible as all races interact and blend in although they would belong to the minority (Bravo, 2007). Racial minorities are expected to be subordinates in the society and thus they get little public attention. Whilst for the majority that is not expected to be the subordinated will be hidden for this reason. Thus, it has become hard to detect the victim in the society.

2.2 Sex Trafficking on State and Inter-State Level

Previous studies focusing on combating sex trafficking on state and inter-state level have highlighted the importance of a collaboration between destination and origin countries for an efficient (Friesendorf, 2007; Jonsson, 2019) and a better integration of victims (Caneppele and Mancuso, 2012).

Caneppele and Mancuso (2012) claim that the situation of human trafficking looks different depending on country and time and thus, there is a need for effective national policies. These policies should include actions based upon the domestic characteristics of human trafficking, but also monitoring the changes in the phenomenon to change the policies accordingly. However, Friesendorf (2007) claims that there is a need for a framework consisting of prosecution, protection and prevention in order to reduce trafficking, where governance puts emphasis on the area of prevention. Whilst Vance (2012) emphasises the importance of intervention and empowerment. Vance argues that governments largely focus on protection and the application of criminal law, that they fail to notice numerous alternatives to interventions within the frame of human rights. However, the author stresses the need for multiple

interventions, and not a 'one-size-fits-all'. It is stressed that protectionist interventions aiming at rescuing the victim are both patronising and ineffective if there are no consultations about what remedy the rescued desires.

However, numerous of available research on sex trafficking recognise the poor socioeconomic conditions of the victim as the primarily motivation for leaving their country and seek labour across countries (Demir & Finckenauer, 2010; Marinova & James, 2012; Jonsson, 2019). It is argued that the focal point should be to create economic opportunities so that people would not have to seek labour across countries and become potential victims. Thus, it is of importance to reduce poverty and discrimination in countries of origin, in order to counter-trafficking (Friesendorf, 2007). As for the countries of destination, Demir and Finckenauer (2010), Marinova and James (2012) and Jonsson (2019) encourage a reconsideration of the narrow in migration policies. Offering migration and employment opportunities to those at risk of trafficking would help them as well as rejuvenate the aging Western Europe. Destination countries are recommended to create more effective strategies aiming at reducing the demand for trafficked women.

However, another factor that has an impact on trafficking is the police corruption in a country (Jonsson, 2019). In countries where there is a lack of protection for the citizens, it becomes easier for traffickers to recruit their victims without much risk of law enforcement officials searching for the missing victim. Furthermore, the law enforcement officials and the traffickers can engage in a beneficial relationship where bribes are involved. Ultimately, this results in traffickers having more control of their victims in transit and destination countries with small risk of detention. Since victims that learned to not trust the police will be less prone to interact with the authorities to ask for help and to bear witness against their traffickers. In regard to corruption, Marinova and James (2012) add in their study that transnational crime uses

the presence of widespread corruption, which enables the smuggling of people across international borders.

2.3   Sex Trafficking in the EU

There is a lack of recent research on sex trafficking in the EU focusing on its policy and legal framework to eradicate sex trafficking. Existing research on this particular topic analyses the previous directive of the EU (Askola, 2007; Krieg, 2009; Berman & Friesendorf, 2008), which today is replaced with a new directive, perspective and strategy. Nevertheless, previous studies on this topic have been criticising the EU for not approaching Anti-trafficking as an issue of gender inequality (Askola, 2007). Although these studies mutually agree that the EU approach to sex trafficking focuses upon law enforcement and migration control (Askola, 2007; Krieg, 2009; Berman & Friesendorf, 2008).

However, the EU claims to have a humanitarian intention of protecting victims, whilst Krieg (2009) stresses in her study that this approach is overshadowed by the intention to limit irregular migration. In line with Krieg (2009) and Askola (2007), Marinova and James (2012) stress that the issue of trafficking in the EU to some extent overlaps with the controversial issue regarding how member states should handle the immigrants within their borders, regardless of being legal or illegal. Berman and Friesendorf (2008) claim that the approach which the EU built in response to trafficking is benefiting other practices such as stronger borders and internal law enforcement, rather than comprehensive measures to redress the issue. Likewise, Vance (2012) emphasises that many governments embrace programs which close borders, covered in morality or women's rights.

Additionally, Krieg (2009) claims that the approach of the EU further creates a false opposition between innocent victim and guilty migrant. This framing could reinforce the already established gender and racial stereotypes. On top

of that, Askola (2007) emphasises the need for identifying the gendered factors that underpins sex trafficking.

Nonetheless, even though member states are following the EU directive on combating sex trafficking, a study by Marinova and James (2012) shows that the legalisation of prostitution leads to an increase of human trafficking. Interestingly, since the perspective on prostitution differs between the countries in the EU.

Following Marinova and James (2012) discovery of divergences within the EU member states, Bressan (2012) conducted a study on sex trafficking, focusing on the legal measures of the member states on trafficking and to what extent these measures approximate the EU requirements. It is shown that there are substantial divergences between regulations among member states, with a range between fully compliant to non-compliant.

2.4   Summary and Research Gap

The fact that the gender dimension plays a key role in sex trafficking is undeniable. Studies focusing on other social categories than gender prove the importance of implementing a broader perspective of sex trafficking than solely a gender perspective. Furthermore, numerous of researchers call for a reconstruction of the victim representation in the sex trafficking discourse. They highlight the issue of the dominating discourse being gender and racial stereotypical which is harmful for the victims. Additionally, researchers on sex trafficking on state and inter-state level agree that it is the responsibility of the state to combat sex trafficking, and there is a need for a cross-country collaboration. It also displays different opinions of how governments should combat sex trafficking. Several researchers argue that governments should be focusing on creating opportunities that reduces vulnerability to trafficking.

Although there is some research on sex trafficking in the context of the EU, most of these studies are outdated, as they were conducted upon the former

policy framework of the EU. The new framework is changed in content and perspective. Another change is the additional strategy document that sets to fill the gaps that are in the Directive 2011/36/EU.

However, previous studies have shown that despite the humanitarian intention which the EU claims to have in protecting victims, their underlying intentions are beyond combating sex trafficking. Migration control seems to be the most argued reason. Interestingly, it is claimed that their approach reinforces gender and racial stereotypes. Yet, the current approach the EU takes on remains unstudied. The discourse which the EU presents to the wide audience about the problem of sex trafficking remains unquestioned and unanalysed. Furthermore, based upon previous research it is understood that it is important to study the way victims are perceived and handled. It is also important to study the way the government governs the issue of sex trafficking.

3 Analytical Framework

Previous research has demonstrated different levels of analysis on the topic of sex trafficking; governmental level and group level. It is acknowledged that there is a need to examine how sex trafficking is constructed by the government but also the construction of the victims and its consequences. Furthermore, previous research reveals that the issue of sex trafficking and how governments tackle the issue depends on their governance and how they portrait groups of people. Hence, the analytical framework created for this study consists of the *Intersectionality* theory, *Governmentality* theory and the six questions of Carol Bacchi's WPR approach. They are particularly chosen to cover the multiple levels of analysis that the research field requests.

The WPR approach is a methodology that provides for a policy analysis that this study takes upon. The approach is also used as an analytical tool, and therefore is appropriate to include its analytical features together with the theories and build this analytical framework. In this way it would make more sense for this research. However, the analytical features are the six interrelated questions that are asked to the policy documents.

Intersectionality will be used to analyse the gender perspective of the EU, as well as the way the EU categorises people, for instance who are included and excluded in the policy. As the EU claims that the gender perspective is necessary to implement as women are still not equal, intersectionality examines to what extent the gender perspective addresses the inequalities in society. However, previous studies have shown that the discourse of sex trafficking tend to reinforce gender and racial stereotypes. Hence, intersectionality is suitable since it is a critical theory examining hidden power structures in society and explains how they intersect and create further oppression or opportunity. Intersectionality as a theory is special in this subject as its multidimensional nature of identity makes a research within

qualitative methods to appear natural and necessary (Shields, 2008). Intersectionality complements the WPR approach as it emphasises the power relations and what it makes to people.

Governmentality is appropriate since the purpose is to examine how the phenomenon is understood, practiced, and defended by the EU rather than the EU itself. Furthermore, previous studies on the EU have shown that they tend to construct sex trafficking in a particular way, although not explaining what enables this practice. Hence, this theory will be used to analyse this area and hopefully fill this gap in the research field. However, governmentality has largely been used on a nation-level in research. Although as Walters (2004:155) suggests, I will perceive the EU as a 'government'. Furthermore, the WPR approach studies governance rather than government (Bacchi, 2009:xx). Thus, governmentality is a suitable theory as it complements the WPR by providing further insights on governance to a greater extent than solely the WPR.

Nevertheless, the analytical framework is built in a way which the building stones complement one another, as each one analyses on a different level. For instance, governmentality analyses the governance of the issue of sex trafficking through the governing practices and the dominant discourse on sex trafficking. Whilst intersectionality would add to this analysis by further revealing what power relations between groups are being brought up into the light in that dominant discourse. Since intersectionality analyses power relations, it takes into consideration the history of the superiority and subordination of people in society. These components for this analytical framework will enable a further analysis on possible challenges of problematising sex trafficking the way that the EU does, through its governance as well as through its way of (re)producing inequalities. Furthermore, although gender is the most pervasive, visible and codified social category, it is not always the most important one (Shields, 2008).

However, Bacchi (2009:xix-xxi) highlights that the task of the WPR is to focus on how problems are represented, rather than to identify real problems. The WPR is a concept of problematisation as the ground of its analysis (ibid:ix-xv). Bacchi describes the problematisation as the understanding of how something is presented as a 'problem'. Furthermore, in most government policies it is not officially declared that there is a 'problem' in which the policy will address and remedy. The 'problem' is implicitly understood in the notion of policy. Thus, the WPR attempts to make the 'problems' that are implicit in public policies explicit.

The rest of this chapter is divided into three subchapters, *The Six Questions of the WPR*, *Intersectionality* and *Governmentality*.

3.1   The Six Questions of the WPR

"Question 1: What's the 'problem' […] represented to be in a specific policy?" (Bacchi, 2009:2).

The first question to answer bases upon the argument that what is suggested to be done, is based on how you feel about something (Bacchi, 2009:2-3). Therefore, by examining the proposed policy intervention (proposals for change), it will expose how the issue is thought about and valued. However, these proposals may be direct or indirect stated in the governing texts (Bacchi, 2018).

The goal of this question is then to identify the problem representations in specific policies (Bacchi, 2009:4).

"Question 2: What presuppositions or assumptions underlie this representation of the 'problem'?" (Bacchi, 2009:4).

The second question addresses the underlying presuppositions or assumptions of the identified problem representations from the first question (Bacchi, 2009:4-5). Bacchi stresses that if you propose to do certain things in

the policy, you assume that the 'problem' is 'such and such'. For instance, if a training program for women is introduced, then it is assumed that women lack training. 'Presupposition' refers to the background 'knowledge' that is taken for granted. Analysing the presuppositions enables identifying the conceptual premises that supports the problem representations.

The goal of the second question is to identify and analyse the meanings which must be present for the specific problem representation to be consistent or make sense (Bacchi, 2009:5). Question two attempts to identify the thoughts behind the problem representations.

The question is not why something happens but rather how it is possible for something to happen, and what meanings are necessary to be present in order for something to happen (Bacchi, 2009:5). The analysis includes the cultural values underpinned in a problem representation.

Bacchi (2009:7) explains that examining the binaries that appear in policies and how they function facilitates the understanding of the issue. Example of a binary is male/female. It is argued that one side of the binary is excluded by the other side, whilst one side is considered privileged, more important and valued than the other side.

Moreover, Bacchi (2009:7-8) states that policies consist of concepts which are abstract, as people fill them with different meanings. Hence, a task is to identify the key concepts within the problem representations and to see what meanings are given to them.

Categories could be identified, as they are described as concepts which are a central role in how governing takes place (Bacchi, 2009:9). The main focus is *people* categories since they are central to governing processes. It affects how people come to view themselves and others. Examples of categories are age, gender and sexuality, whereas people categories could be mothers and citizens.

The task for identifying binaries, key concepts and categories is to examine how they function to give specific meanings to problem representations (Bacchi, 2009:9).

"Question 3: How has this representation of the 'problem' come about?" (Bacchi, 2009:10).

The third question focuses on the process of how a problem took on a particular shape (Bacchi, 2009:10-11). That is done by looking at specific developments and decisions that contribute to the formation of the problem representations. Therefore, tracing the history of the current problem representation is important to understand the evolution of it. It could reveal the power relations, where some groups are more influential than others in ensuring that the problem representation 'sticks'.

The purpose of the third question is to emphasise the conditions that enables a certain problem representation to form and assume dominance (Bacchi, 2009:11)

"Question 4: What is left unproblematic in this problem representation? Where are the silences? Can the 'problem' be thought about differently?" (Bacchi, 2009:12).

This question asks for what fails to be problematised (Bacchi, 2009:12-13). It does not only highlight other ways to think about the issue, but the fact that specific policies are limited by how they represent the 'problem'.

The goal is to raise for reflection and consideration of the issues and those perspectives that are silenced in the identified problem representations (Bacchi, 2009:13). It emphasises the tensions and contradictions in the problem that is represented.

"Question 5: What effects are produced by this representation of the 'problem'?" (Bacchi, 2009:15).

The approach assumes that some problem representations create difficulties for those who belong to certain social groups more than for those of other groups (Bacchi, 2009:15-16). The attention has to be to the effects that come with the particular problem representations. However, there are three effects that are analysed.

Analysing the discursive effects will identify the assumptions and presuppositions that are within the problem representations, and the silences that these discourses contain (Bacchi, 2009:16). The identified problem representation and the discourses that frame them, makes it difficult to think in other ways. It limits the kinds of social analysis that can be produced. The silencing is an effect that needs to be observed.

The subjectification effects are the effects where the subjects are constituted in certain ways in the discourse (Bacchi, 2009:16-17). It could be understood as the discourses create certain subject positions available. Thus, who we are and how we feel about ourselves and others is partly due to an effect of the subject positions made available in public policies. Bacchi stresses the necessity in reflecting upon the impact of problem representations on people that are targets of the policy.

Lived effects focuses on the material impact of problem representations since how problems are represented directly affects the lives of people (Bacchi, 2009:17-18). Materials are described as access to the different kinds of resources such as food and housing.

The goal of this question is to identify the aspects of a problem representation that are harmful effects for which group, and that it may need to be re-evaluated (Bacchi, 2009:18).

"Question 6: How/where has this representation of the 'problem' been produced, disseminated and defended? How could it be questioned, disrupted and replaced?" (Bacchi, 2009:19).

The last question addresses the possible resistance, as there exist several discourses on an issue which are complex and sometimes inconsistent (Bacchi, 2009:19). Discourses could be perceived as assets or resources for re-problematisation.

The goal of the question is to pay attention to the means where some problem representations become dominant, and to the possibility to challenge problem representations which are perceived as harmful (Bacchi, 2009:19).

3.2   Intersectionality

Intersectionality is a concept used to analyse how different power structures interplays and produces inequality (ISOF, 2015). The term intersectionality stems from the word *intersect*, which means to cross. The idea of intersectionality is that the imbalances of power that exist in a society are not separated but intersect and reproduce each other. Intersectionality has been used in Feminist Theory to analyse how socio-cultural hierarchies and power structures intersect and create inclusions/exclusions of the discursive and institutionalised constructed categories such as gender, sex, ethnicity, race, nationality age and class (Lykke, 2005). These categories cannot be separated or understood in isolation, but rather are creating a mutual social constructing oppression that can look different in different situations (ISOF, 2015). The intersection creates not only oppression but also opportunity (Shields, 2008). Although an intersectional group could be disadvantaged to one group but advantaged to another. The basic assumption in the theoretical formulation of intersectionality is that intersectional categories are defined in relation to one another. Furthermore, to understand the individuals from a perspective of groups, it is of importance to compare group differences and similarities.

Identities are fluid since they can change over time (Shields, 2008). Although some identities have been found in all historical periods and cultures. It can

vary as to how and to whom the social identity is applicable, and what social meanings are attached to the category.

However, the theoretical cornerstone for intersectionality stems from the research field of the production and reproduction of inequalities, oppression and dominance (Shields, 2008). Kimberlie Crenshaw (1991), the professor who coined the term intersectionality, claims that the context of violence against women in identity politics is problematic since the violence that women experience is not solely based on their sex, but also on other dimensions of identities such as race and class. Thus, ignoring differences within groups will contribute to tension among groups. Crenshaw explains that intersectional subordination does not need to be intentionally produced. It is rather an outcome of an imposition of one burden which interacts with other vulnerabilities to produce an additional dimension of disempowerment.

Nevertheless, research applying the intersectionality perspective has a standpoint consisting of the idea for positive social change (Shields, 2008). Intersectionality in the context of public policy uncovers the nature of limitations and exclusions that exists in traditional methods of producing policy (Hankivsky and Cormier, 2011). It is argued that intersectionality recognises that an approach of one-size-fits-all is ineffective, as focusing on single markers such as gender, consequently leads to false categorisation of people. The argue is that it does not reflect the lived realities. It has been discovered that policies are not neutral since they are not experienced in same way by all of the populations. Furthermore, there is a need of taking into consideration of differences and the needs that are related.

However, policy interventions on violence against women have attempted to extend to all women, although without considering that violence has multiple causes and women who experience it are situated differently (Hankivsky and Cormier, 2011). Thus, they also seek different kinds of support systems (Crenshaw, 1991). However, Crenshaw (2011) highlights that language

barrier is one of the structural problems which women who do not speak the national language of the host country is facing. It limits her opportunities of taking advantage of the support services and to the security services that these shelters provide.

An intersectionality analysis encourages to look beyond the most apparent dimensions of inequality and to recognise other underlying intersecting disadvantages of the subject positions (Hankivsky and Cormier, 2011). It matters how persons are socially constructed. Therefore, it is of importance that marginalised and vulnerable groups are represented within policy-making processes.

3.3 Governmentality

The concept of *governmentality* that was originally coined by Michel Foucault, pays attention to the relationship between government and thought (Larner & Walters, 2004:2). Thought becomes governmental to the point that it turns technical as it attaches itself to technologies to improve states (Murray Li, 2007). Thought and techniques together is composed of institutions, analyses, procedures, tactics and calculations, which forms governmental interventions. These practices originate from norms of the cultures, society and social groups (Clegg, 2019).

Governmentality attempts to explain the governing practices and the necessary rationality of government which enables governing (Joseph, 2010). Hence, governmentality is not merely about the behaviours of institutions, but also about the discursive framework that provides meaning for their practices through constructing certain objects or subjects of governance. It raises awareness of how institutions and their practices have come to operate the way they do.

Foucault defines the term *government* as the "conduct of conduct" since the concern of the government includes the wellbeing of its population rather

than only the state and the administration (Murray Li, 2007; Lemke, 2002). Hence, government is a term that ranges from governing itself, to governing others (Lemke, 2002). Although it is impossible to control and regulate every action of the individual, the government creates desires for education, habits, aspirations and beliefs (Murray Li, 2007). Their aim is to foster beneficial processes and diminish the destructive ones. The language of today's governmentality consists of encouraging citizens to become more active and responsible beings (Joseph, 2010). This is performed through discussions of rights, obligations and moral responsibility, and the economic dimension.

Governmentality has become popular within studies of power, resistance, order and subjectivity (Larner & Walters, 2004:3). Governmentality could be compared to other forms of power, for instance sovereignty. Although governmentality is a different type of power, it is dispositional since it concerns ordering people and things. The power is exercised from a distance (Murray Li, 2007). It enables a focus on the subtle methods of power that are exercised through a network of institutions, practices, techniques and procedures that performs as to regulate social conduct (Joseph, 2010). Thus, governmentality is mainly a matter of techniques, strategies and practices. Governmentality enables us to investigate how a certain governmental rationality is characterised by certain rules, practices and techniques, and how it generates specific action-orientations. It provides critical understandings of how our societies are constituted (Larners & Walters, 2004:2) and the way they include cultural processes of self-formation (Clegg, 2019).

However, governmentality has largely been applied on the nation level as many of the traditional scholars work in the area of education, sociology and criminology (Larner & Walters, 2004:5). Hence, being occupied by the issues on the home front, leaving international relations in a distance. Walters (2004:155-156) emphasises governmentalisation between, across and above the systems of states since political debates also affect regional and global

economies as they do national economies. Walters argues that governmentality encourages in analysing political formations such as the EU by examining certain subjects and objects among other things, which they bring into existence.

In order to make sense of how the intersectionality and governmentality will be used in this study, a table has been created down below. The theories are broken down into concepts and indicators. However, each concept is more or less relevant depending on what is to be analysed. It also means that several concepts could be analysed together at the same time. However, further explanation of how to operationalise the analytical framework itself will be presented at the end of the next chapter.

Table 1 - Analytical Framework

Theoretical approach	Concepts	Theoretical definitions	Indicators
Intersectionality	Sociocultural hierarchies	- Implies a hierarchical order of social categories in society where certain group(s) and social identity(s) are subordinated to others - Implies a structural oppression	- Identity categories in the policy - References to subordinated categories - Differently treated
Intersectionality	Women as a heterogenic group	- Women cannot be identified as a homogenic group as other categories create additional vulnerabilities and disempowerment - There is a need for different kinds of support systems for different kinds of needs - Homogeneous references to women assign stereotypical traits	- Inclusion of other identity categories than gender - Adjusted measures and assistance - Social meanings attached to identities - Acknowledgement of dimensions of vulnerabilities - Non-binary language

Theoretical approach	Concepts	Theoretical definitions	Indicators
Governmentality	Self-formation of the EU	- Practices originates from norms of culture, society and social groups - Creates certain desires for the population - Implies a governing of its population and their well-being	- Shared values and norms - Common aspirations for a future Europe - Expected implementations and actions on EU- and nation level - Policy implementations - Beneficial processes
Governmentality	Governance	- Discursive frameworks that gives meaning for their practices through constructing objects and subjects - Practices and government rationality that enables governing - Language of governmentality - Methods of power that are exercised through a network to regulate social conduct - Generates specific action-orientations	- References to rights, obligations and responsibilities - Law regulations - Policy implementations - Common aspirations for a future Europe - The EU strategy to eradicate human trafficking 2012-2016 - Expected implementations and actions on EU- and nation level

4 Methodological Framework

4.1 Research Design

The research design developed for this study is called a qualitative case study, which is a common way to do qualitative inquiry (Stake, 2008:119-120). The study is characterised as qualitative research as it relies on qualitative textual data such as policy documents (Creswell, 2009:173, 176-177). Another characteristic of qualitative research that is applicable for this study is that it is interpretive. It means that I interpret what I understand based upon my own backgrounds, prior understandings, contexts and history of sex trafficking, the EU, governance and inequality among others.

The design for this study is defined as a case study. It is called a case study since I have chosen to study the case rather than the methodology of it (Stake, 2008:120). The case that has been chosen is the EU's policy framework on sex trafficking, and is therefore a single case. It is most suitable as this study seeks to understand how the EU constructs the issue of sex trafficking through their policy framework and potential implications of their way of constructing. Case studies within social science are mainly conducted to explain and understand particular processes and relations in societies and the connections between them (Yin, 2006:28).

However, 'case study' as a term draws attention to what specific can be found out about the single case (Stake, 2008:120). It is about understanding the ways the EU operates in this subject matter rather than to enable a generalisation from it. Sex trafficking is a phenomenon that is in constant increase in recent years, despite the global awareness and increased actions taken by various actors on all levels. The EU is an interesting case since the organisation consists of 27 states within Europe that together established a common policy to eradicate sex trafficking.

Nevertheless, to understand a case usually requires an investigation of how things get done, although the referent in a case study is the case itself and not the method (Stake, 2008:120). Policy and strategy documents are great materials to understand how things get done as they clearly state what needs to be done. The aim of the research strategy is to contribute to the gathered knowledge about the EU and sex trafficking on a policy level (Yin, 2006:17).

The study examines how the problem of sex trafficking is constructed and what implications could be produced by this problematisation. The type of questions that are asked in this study are 'how' and 'what' questions They are typically of explorative and descriptive characteristics of both qualitative- and case study (Yin, 2006:21-23). The question of *How* is asked in order to describe the phenomenon of sex trafficking and its context in the policy, while the question of *What* is asked to explore the problematisations.

Qualitative researchers often use a theoretical lens to analyse their studies, which is yet another characteristic of a qualitative research. This study will take on an abductive reasoning (Bryman, 2012:401), as it does not seek to test a theory nor to produce a theory, but rather to use a theory to make sense of the data gathered. The analytical framework that was presented in previous chapter provided a guideline for analysing the outcome from different perspectives and levels.

However, as mentioned in the previous chapter, the WPR approach by Bacchi is used as a method for this study. This method is particularly chosen before other types of methods since it suits the purpose of this study. The focus is on analysing the understanding of sex trafficking as a social problem, rather than centring the attention around how to counter sex trafficking more effectively (Bacchi, 2009:xix-xxi). The WPR is developed specially to approach policy analysis. Policy is about meaning creation and the task is to identify how meanings are created (ibid.:7). Policies are expressed in the form of language,

in which meaning is created through the specific language use. Hence, it is useful to approach a discourse analysis for the purpose in this study.

4.2   What's the Problem Represented to be?

The WPR approach is a form of discourse analysis. The field of discourse analysis consists of different disciplines where each one of them differentiates from one another (Tannen, et al., 2015:1). Thus, *discourse* and *discourse analysi*s have different meanings to different scholars. Some scholars define discourse as anything "beyond the sentence", whilst it is for others a study of language use. Bacchi (2009:7) claims that a discourse could be thought of as meaning systems, including values, assumptions, presuppositions and conceptual logics.

The WPR approach is argued to be a critical mode of analysis since it enables questioning the taken-for-granted assumptions that are built in the government policies (Bacchi, 2009:xv-xvi). Although Bacchi (2018) does not characterise it as a form of critical discourse analysis (CDA). The argument is that the understanding of discourse is different. Whilst CDA according to Bacchi (2018), focuses on the ways people shape argument, the term discourse in the WPR approach refers to both language and language use, and the socially produced forms of knowledge. It limits what is possible to think, write or speak about a particular social object or practice (Bacchi, 2009:35). Discourses accomplish things since they enable things to happen. Hence, Bacchi argues that the approach is different to the traditional analysis of the use of language. CDA is used as a tool for other intentions than that of WPR, since CDA is a tool for analysis of debates or forms of argumentations and to identify metaphors and other sorts of language use (Bacchi, 2018). WPR is used as a tool for reflecting upon the assumptions within "problem representations".

The discourse analysis in this approach has two main goals; [1] to uncover the underlying assumptions and presuppositions in problem representations and [2] to identify and reflect upon the silences (Bacchi, 2009:7).

The notion of 'policy' has a cultural dimension as it is shaped by historical, national or international contexts, and could be stated as a cultural product (Bacchi, 2009:ix-x). Policy fits into the interpretation of the role of the government. Therefore, when investigating its sources and how it functions, we will understand how governing takes place and what implications there are for those that are governed. However, the term 'policy' is largely associated with a program, a direction for action. Public policy then, is a term describing government programs. Policy is assumed to be a good thing, that it 'fixes things up'. 'Fixing' is understood as there is a problem.

Policies form the 'problems' rather than addressing them (Bacchi, 2009:ix-x). However, the term 'problem' in the approach refers to the type of change that is implied in the policy proposal. *How* a 'problem' is represented or constituted matters (Bacchi, 2009:1). The representation carries all kinds of propositions for how the issue is understood and how the people involved are treated and are endorsed to think about themselves.

It is of importance to question the problem representations that are positioned within public policies to see what is included and excluded (Bacchi, 2009:ix-xv). By suggesting that an issue is an issue, some parts of a story are being untold. WPR focuses on the ways problematisations are central to governing processes. To understand how we are governed, there is a need to investigate the problem representations that are positioned within the policies and policy proposals. There is a need to examine the 'problems' which are presumed to exist and how these are thought about. By doing this, we will gain insights into 'the thought' that directs governing practices.

4.3 Material

The selected material is public documents concerning sex trafficking in the EU. The material for the analysis consists of three policy and legislation framework documents of the EU. These instruments will fulfil the purpose of the study, which is to understand how sex trafficking is constructed as a problem and how this construction could lead to further policy implications the way it is represented. These documents are the main documents which forms the EU's framework to eradicate sex trafficking. However, the three documents are;

[1] *Directive 2011/36/EU* of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA,

[2] *Council Directive 2004/81/EC* on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities,

[3] The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016

The Directive 2011/36/EU and Council Directive 2004/81/EC target different groups of sex trafficking victims. While the Directive 2011/36/EU is the main document, it targets the EU citizens. The Council Directive 2004/81/EC targets the third-country national citizens (non-EU citizens). However, the purpose of the directive 2004/81/EC is to set conditions for granting residence permit to third-country national who are victims of sex trafficking (Council of the European Union, 2004, Article 1).

The third document is the strategy document that complements the Directive 2011/36/EU and thus, is a significant material for analysis. The document

provides the basis and direction for the EU policy in this area (European Commission 2020a; European Commission, 2012). Creswell (2009:180) argues that policy documents will enable me to get access to the language or words which the EU are using. These documents are valued by the EU since they have given attention to the compilation. They serve as written evidence. However, using documents as source of material is stable as the documents can be examined multiple times. They are precise and covers a lot since they consist of exact names, time and events (Yin, 2006:112).

Other types of material that are used in this study are mainly of primary material, which means that the information collected are directly from the source (Creswell, 2009:183). The majority of the sources used are from the EU and previous research. However, secondary materials are used mainly when access to primary material is unavailable. Secondary material is information that is written in second-hand by others.

4.4   Limitations and Delimitations

As this study has an interpretive inquiry characteristic, it means that the material and data that is used will be interpreted based upon my knowledge and understanding. Furthermore, the choice of theories to view the data produces a certain representation of the problem. However, the purpose of the study is not to analyse how a problem is interpreted by the reader, but rather how it is constructed in the policies.

Possible delimitations are the type of data that is not gathered for an analysis of discourse on sex trafficking as discourses could be found through other types of mediums as well, such as press releases and news articles. Although, this study seeks only to understand how the problem of sex trafficking is constructed in governing texts, that is to say policy documents. Bacchi (2018) stresses that there is no need to look for material outside the policy when studying problem representations, since they are located within the policy

although other types of governmental documents could contain implicit problem representations. Hence, understanding the discourse that the EU creates in other types of mediums is not a necessity for this purpose. The focus on this study rests upon the policy level, rather than on any other level since the purpose of this study is to seek understanding of how the EU constructs the problem of sex trafficking, rather than how effective their policy is. Furthermore, the materials chosen are proposed and produced by the European Council, Parliament and Commission and so the material will be considered to be from their perspectives. However, it is of importance to remember that the members of each institution are representatives of the member states.

Although sex trafficking is included in the definition of organised crime by the EU, this study will mainly be focusing on sex trafficking and the content in the policy framework. However, based upon previous research there might be subtle ways the EU handle other issues under the coverage of trafficking. Therefore, if these issues are detected they will be analysed and discussed, otherwise not.

However, the EU has cooperation with other actors such as the African Union, and naturally, they have jointly established action plans. However, the EU will still operate according to how they perceive the problem and their assumptions about it. Hence, the action plan documents are not part of materials that are analysed. They are however, still interesting as material used for the purpose of analysing the outcome of the findings and will be used in this way.

The different directives and the strategy document which the EU and its members are obliged to follow, have been established during different period. Yet, they are all equally relevant, whilst the dates are less of a relevance as the EU operates based upon these directives. Their values, principles and goals are still the same. This means that in terms of timeline, it will mainly

cover from 2004 until 2020. However, the history of sex trafficking in the context of policy implementation in the EU is relevant to understand the development of the problematisation of sex trafficking. Hence, the former policy directive *Council Framework Directive 2002/629/JHA* and sources such as previous research on that directive is relevant. However, the main focus is on the current *Directive 2011/36/EU* that came to replace the former one in 2011.

This study is rather of a *problem-questioning* characteristic than a *problem-solving*. The focal point is not to understand sex trafficking, but rather how sex trafficking is constructed and the implications that comes with it. Therefore, the choice of the theories is not on theories that focus on sex trafficking, but rather on governance and power inequalities. Another reason for this decision is that such theories would enlarge the study to an extent where it would complicate the process to reach the objective. Hence, the study will take upon both the governmental/supranational level that governmentality and WPR offer, but also on individual/group level that intersectionality and WPR offer.

4.5   Validity and Reliability

The validity and reliability in a qualitative research cannot be measured in the same way as in a quantitative research (Patel & Davidson, 2003:102-103). In a qualitative research, validity and reliability is about the ability to describe how the researcher has collected and processed the data in a systemic way. However, it has been an ambition to ensure the trustworthiness. In terms of material, the used ones in this study have been critically evaluated based upon authenticity, publisher and tendency. When it comes to transparency, the way this study operates in every step is explained in details.

It is of importance that the study fulfils its purpose and answers the research questions. Therefore, the analytical framework has been operationalised and

broken down into indicators, concepts and blocks. The WPR is operationalised in the next sub-chapter. Consistency is important in order to stay within the scope of the project. Hence, all choices made in the study have been relevant for the purpose and the arguments presented.

4.6   Operationalisation

The analytical framework created for this study enables the answering of the research questions in this study. The research questions are "What is the problem with sex trafficking?", "How is sex trafficking constructed in the policies?", and "What potential implications are produced by the way the problem is represented?". However, Table 1 in the chapter *Analytical Framework* consisted of the intersectionality and governmentality theories broken down into concepts and indicators to enable the operationalisation. Although, the WPR offers a directive of application to the study, there is still a need to visually present how I will approach the policy documents as well as the analysis. Hence, the table 2 below has been created.

Table 2 - The WPR

Block 1	Block 2	Block 3
What's the Problem?	Why is it a Problem?	What's Left Unproblematic?
Question: 1	Question: 2, 3, 5	Question: 4, 5, 6
What is the problem? What should be done?	What are the assumptions and presuppositions about the problem? Why is it important? What effects are produced? How is it legitimised?	What is not problematised? What effects are produced? How can it be questioned?
Directive 2011/36/EU Directive 2004/81/EC The Strategy Document	Directive 2011/36/EU Directive 2004/81/EC The Strategy Document	Directive 2011/36/EU Directive 2004/81/EC The Strategy Document

As the table presents, the six questions have been divided and some have been put together in the same 'block'. The blocks have been created to simplify the different themes that the questions in the WPR carry and to organise the findings in a logical way. The first block is mainly descriptive about sex trafficking in the policy frameworks, whilst the second block is both descriptive and explorative and the third block is mainly of explorative characteristics. However, the legal instruments chosen as material of analysis in this study will be used in all blocks to answer the questions. Therefore, each material will have to be re-read several times. Additionally, since the materials have different objectives, they have different content. Thus, they are more or less relevant for analysis depending on what part of the analysis and the focus of the analysis. For instance, the first question in the first block "What is the problem?" will be answered mainly through the Directive 2011/36/EU, as the strategy document mainly serves as a complement to the Directive 2011/36/EU. Although because of the purpose, the content in the strategy document will be more relevant in the question "What should be done?" in the first block.

However, question five is used both in the second and third block, although in the second block it will be used to answer what effects are produced by the way the problem is problematised. Whilst in the third block, the effects produced by the way the problem is unproblematised.

Furthermore, the concepts and indicators of the theories together with the questions of the WPR will guide the analysis of the findings. However, intersectionality will be mainly used to analyse how the social constructed groups are (or not) represented, what power hierarchies are created and what potential implications exist by the way persons are constructed or excluded. Hence, intersectionality will be of most use in those parts where questions focus on the victim and the EU's approach to 'handle' the situation of the

victim, such as identification. Governmentality on the other hand, will be used to analyse what enables the EU to govern the way they do. From norms of cultures and values to practices of implementations and strategies.

Other material will be added to the analysis in order to make sense of the findings. For instance, the EU's documents such as *The Treaty on European Union* are used to enable an understanding of their values. Previous research that was presented in the chapter *Literature Review* will be used to understand and analyse the findings.

The following chapter is the *Analysis*, and is divided into the three blocks. The first block, *What's the Problem?,* consists solely of question one, whilst block two, *Why is it a Problem*?, consist of the second, third and fifth question. The last block, *What's left Unproblematic?*, answers the question four, five and six. Before entering each block, there will be a short description on the content of the block.

5 Analysis

5.1 What's the Problem?

This section presents the first question in Bacchi's approach, namely *What's the problem?* With the following question, *What should be done?*. Hence, the first block is mainly attempting to identify the problem representations. However, the governmentality and intersectionality theories will be used in order to clarify some details in the findings.

Nevertheless, the EU claims in their policy documents that the problem of sex trafficking is that sex trafficking is a serious crime and a violation of fundamental rights by the Charter of Fundamental Rights of the European Union (European Parliament & Council of the European Union, 2011, Preamble 1). A consistent layout in the Directive 2011/36/EU is primarily the concern for trafficking as a crime, and secondary the protection of the victim. Hence, there are two dominating levels of the subject-matter identified in the policy documents; [1] sex trafficking as an institutional problem, and [2] sex trafficking as a society problem. However, sex trafficking is considered as an institutional problem since it concerns lack of efficient law enforcements and judicial cooperation. Sex trafficking is considered as a society problem since the victims pose welfare and education welfare problems as well as judicially.

However, the Directive 2004/81/EC focuses on the residence permit for third-country national victims and thus, presents a different subject-matter, that is the conditions for a temporary residence permit.

This block is divided into three subsections; *Lack of Law Enforcement and Judicial Cooperation, Victims as Problem* and *The unwillingness to Cooperate*. Each of the section presents different problem representation(s). Although it is important to note that it is possible to identify multiple problem representations so I have chosen to focus on the dominating ones.

5.1.1 Lack of Law Enforcement and Judicial Cooperation

The EU identifies sex trafficking as a serious crime within the frame of organised crime (European Parliament & Council of the European Union, 2011, Preamble 1). Pervading encouragements of further judicial and lawful actions and enforcements throughout the policy documents show that the underlying problem representation is the inadequate law enforcements in the EU. The EU recognises that eradicating sex trafficking requires further law enforcements. Recurring terms in the policy are *penalty*, *prosecution*, *offence*, and *law enforcement*. These terms are used in different contexts, demonstrating how the problem represents to be foremost an issue of law enforcement.

For instance, the level of penalty that exerts on the perpetrators of trafficking is used as a measurement to demonstrate the increased concern among the member states regarding trafficking, rather than trafficking itself, "The levels of penalties in this Directive reflect the growing concern among member states regarding the development of the phenomenon of trafficking in human beings." (European Parliament & Council of the European Union, 2011:2).

The level of penalty also depends on the situation of the victim, "When the offence is committed in certain circumstances for example, against a particularly vulnerable victim, the penalty should be more severe." (European Parliament & Council of the European Union, 2011:3). However, rules for penalty and offences are important for eradicating sex trafficking (ibid., Article 1). Along with the rules for penalty and offences, it is clearly described what acts are punishable (ibid., Article 2) and of the liability of legal persons (ibid., Article 5). However, in order to govern others successfully, it is of importance that there is a strong public order in societies, where the population is following the laws that are set by their own norms (Clegg, 2019). By increasing the penalty for the criminal liable person, the authorities are demonstrating how problematic the act of trafficking is.

Another area which is important for eradicating sex trafficking on institutional level is the competence of the officials and prosecutors, "Law enforcement officials and prosecutors should be adequately trained in particular with a view to enhancing international law enforcement and judicial cooperation." (European Parliament & Council of the European Union, 2011:3). This implies that it is not certain that the means, that are necessary to function between the borders are available. It results in a lack of resources at the level of international law enforcement and judicial cooperation. However, competence within the area of trafficking (ibid., Article 7, Article 8, Article 9.3-4) is a necessity that could imply that there is a possibility of lack of resource in not only competence but also information and communication. It implies that member states should increase their cooperation with the cross-border police and between each other. Their increased cooperation would increase the security in the EU. It is of importance to have cooperation and partnerships with other actors of third countries (European Commission, 2012).

Nevertheless, the EU orders its member states to take appropriate actions to sex trafficking by implementing appropriate criminal penalties on punishable acts. Sex trafficking is demonstrated as a problem of inadequate law enforcement and lack of international cooperation among member states and affected actors. Thus, there is a need to have efficient law enforcement. Law enforcement should focus on prosecution of the criminal liable persons and the member states should focus on issuing the appropriate penalty to the criminal liable person. In terms of governmentality, the EU encourages its member states to be more active in eradicating sex trafficking through further enforcement and cooperation, in order to protect its citizens from the crime, and punish those who are not being a lawful citizen. Furthermore, by promoting the rights of the individual, as well as the responsibility that has to be taken by the individual, and the obligations of the state (Joseph, 2010).

Hence, the discursive framework that is constructed for this problem, is that the act of trafficking is a horrible act that needs to be eliminated by law enforcement, and the persons committing the act deserves punishment.

5.1.2   Victims as Problem

For the victims of sex trafficking, the EU recognises that it is of most importance that they are given the assistance, support and protection necessary and it should be available to them. In order for the victim to have the right to the assistance and support, the authorities have to first establish that the person might have been subjected to trafficking (European Parliament & Council of the European Union, 2011, Article 11.2). Furthermore,

> It is necessary for victims of trafficking in human beings to be able to exercise their rights effectively. Therefore assistance and support should be available to them before, during and for an appropriate time after criminal proceedings. (European Parliament & Council of the European Union, 2011:3)

Hence, it is a responsibility of the member states to ensure that the victims have access to their legal rights, and that they are protected by the legal system (European Parliament & Council of the European Union, 2011, Article 11). The EU recognises that women and children who are in vulnerable position are particularly prone to become victims of sex trafficking. However, based upon the social categories that can be identified within the EU's documents that according to intersectionality (ISOF, 2015) enables oppression and vulnerability, is that of gender and age. The term vulnerability is explained once, and that is in the strategy document. It is explained that trafficking is

> [...] rooted in vulnerability to poverty, lack of democratic cultures, gender inequality and violence against women, conflict and post-conflict situations, lack of social integration, lack of opportunities

and employment, lack of access to education, child labour and discrimination. (European Commission, 2012:1)

Hence, a woman or child that is in a vulnerable position is vulnerable to any of these factors. The vulnerable position creates a disadvantage to the rest of those within the group of women (Shields, 2008).

Nevertheless, the victims are offered legal protection during and after the investigation and proceedings that ensures their legal rights (European Parliament & Council of the European Union, 2011, Article 12). The victim protection will in different ways protect them from being re-victimised during the criminal proceedings (ibid., Article 12.4.d). For instance, a protection from unnecessary questioning of the victim's private life. This implies that the authorities could be harmful for the victim and thus, the victim gets protection from the authorities by the authorities. Thus, the problem also becomes a problem of the rule of law that guarantees for the fundamental respect before the law to the victim (European Commission, 2020c). Protection serves as a safeguard for the victim as for their rights, since they will be protected from prosecution or punishment for criminal activities as a consequence of being trafficked (European Parliament & Council of the European Union, 2011, Preamble 14).

However, the right to protection is offered in relation to the criminal proceedings and to encourage the victim to act as witness against their perpetrators, and to protect them from retaliation, intimidation and from the risk of being re-trafficked (European Parliament & Council of the European Union, 2011, Preamble 19). Although previous research has proven that victims could be re-victimised by the society which results in exclusions in society (Digidiki & Baka, 2020). Victim blaming in society is problematic since it can hinder from enabling a protection to the victim.

Furthermore, the victim seems to pose other kinds of problems for the union and the member states. For instance, it is stated in Article 11.7 of the Directive 2011/36/EU that member states are to meet the needs of the victims from a health perspective,

> Member States shall attend to victims with special needs, where those needs derive, in particular, from whether they are pregnant, their health, a disability, a mental or psychological disorder they have, or a serious form of psychological, physical or sexual violence they have suffered. (European Parliament & Council of the European Union, 2011:8)

The condition of the victim and its needs depends on the pre-existing disabilities or disorders, as well as the consequences of being trafficked. Hence, sex trafficking is a welfare problem where victims that have special needs are to be assisted in this matter by the host country. To get access to the services, the victims must be provided with clear information about their rights, which seems to be an issue that the authorities struggle with (European Commission, 2012). The problem is not only that the victim does not have the knowledge about their rights, but also that the appropriate authorities lack the competence to provide the victim with accurate service in terms of information.

However, it is clearly expressed that child victims are identified as an additional problem as they are more vulnerable than adults to become trafficking victims (European Parliament & Council of the European Union, 2011, Preamble 8). Member states should stipulate education for the child victim (ibid., Article 14.1). The problem is then that child victims are a matter of education welfare. The child victim is protected under the *Rights of the Child*, where the host country should take the best interests of the child under consideration.

Before the victims are able to have access to these services, they first have to be identified by the authorities, which is one of the EU's priorities (European Commission, 2012). It is claimed that there are many sectors in society that could potentially come into contact with the victim. It is important to be able to identify them for two reasons; [1] to rescue the victim and [2] to investigate and punish the trafficker. Officials and officers that are likely to come into contact with victims should have regular training that is "aimed at enabling them to identify and deal with victims and potential victims of trafficking." (European Parliament & Council of the European Union, 2011:10). Hence, the problem representing is that the available data of the victims might not be sufficient in order for the people in these sectors to be able to recognise a victim or a potential victim, which affects their competence in their work. It affects the knowledge about the victim and their efficiency in prevention actions.

Nevertheless, the prevention approach should be focusing on the root causes creating vulnerability to people to trafficking and to reduce the demand for the form of trafficking (European Commission, 2012). Prevention should be done by awareness-raising campaigns, cooperation with civil society organisations, and research programmes on reducing the demand (European Commission, 2012; European Parliament & Council of the European Union, 2011, Article 18.2). However, much emphasis is put on identifying the victim in order to break the act of trafficking.

The main problems with sex trafficking regarding the victims are that the EU has to ensure that the victims are protected by the rule of law, but also that sex trafficking is a welfare problem. Although as Joseph (2010) claims about the language of the governmentality, the EU encourages the individual's rights by addressing their lack of access to their legal rights because they have been trafficked. Hence, the obligations are to give access to their rights in terms of protections, assistance and support. To prevent sex trafficking,

further measures are needed to enable identification of victims. Member states should focus on reducing the demand for trafficking.

5.1.3 The Unwillingness to Cooperate

The Directive 2004/81/EC aims at providing third-country national victims of human trafficking with residence permit, assistance and protection (Council of the European Union, 2004, Preamble 9-12). However, the objective of the directive is to define the conditions for the third-country national victim to be granted a residence permit (ibid., Article 1). Although, the third-country national is only able to be granted a residence permit if they cooperate with the authorities to combat trafficking or actions which facilitate illegal immigration. It is the responsibility of the member state to "inform the person concerned of the possibilities offered under this Directive." (Council of the European Union, 2004:3).

The third-country national victim is granted a reflection period that would allow them to decide whether or not they want to cooperate with the competent authorities (Council of the European Union, 2004, Article 6.1). Cooperation with the authorities means that the victim of trafficking or subject of smuggling is encouraged to denounce their traffickers or smugglers. During the reflection period, the third-country national victim has access to treatment such as medical treatment, standards of living, psychological assistance, translation, safety and protection needs (ibid., Article 7). Nonetheless, there are no details on minimum duration for the reflection period.

The authorities will decide on a temporary residence permit when the reflection period is over, or earlier if the victim has already fulfilled the criterion (Council of the European Union, 2004, Article 8). That is if the victim has clear intentions to cooperate with the authorities to combat trafficking, and if the victim still has any relation to the suspects of the trafficking acts.

Despite the objective of the Directive 2004/81/EC, it seems like the main problem the EU aims to tackle is not trafficking, but rather illegal immigration (Council of the European Union, 2004, Preamble 1-2). Trafficking is considered relevant in the subject matter. Hence, the problem is not that victims of third-country nationals have been trafficked into the EU, but whether or not they could or are willing to provide essential information to the authorities about the traffickers and their network. The problem is also the lack of information that the authorities have in order to persecute the criminal liable persons. That information could be found through non-EU citizens, and the EU and its members are dependent on the information that the victim obtains.

The fact that the victim has been trafficked is not sufficient to be granted a temporary residence permit. The residence permit is conditional for the victim and could be argued to not be victim-centric. Additionally, it is of importance that the victim provides information that the authorities will judge as valuable and trustworthy. The conditions for persons of third-country national is similar to that of a trade. From the intersectionality perspective, a victim of trafficking is already subordinated, to then additionally be a non-EU citizen creates further oppression (Shields, 2008; ISOF, 2015). An already vulnerable person becomes even more vulnerable because they do not belong to the 'right' constructed group and consequently do not to have opportunities to the services as the advantaged group. However, from the governmentality perspective, this 'special' treatment that the EU-citizens receive is both beneficial for themselves but also for the union, since they will have a sense of belonging. Member states prioritise their people and each other's peoples first, which creates this sense of union.

5.2   Why is it a Problem?

The second block attempts to answer question two, three and five in the WPR approach. It focuses on the questions why sex trafficking is a problem, why it is important to work against sex trafficking, what effects are produced and how

it is legitimised. This section describes the arguments that the EU presents to eradicate sex trafficking, and attempts to understand in what ways and how these explanations are enabled.

This section is divided thematically under the headlines of; *Human Rights Violations, Gender Inequality, Illegal Immigration,* and *Democracy and Security.*

5.2.1 Human Rights Violations

The EU considers the act of trafficking a violation of the fundamental rights and the principles of human dignity (European Parliament & Council of the European Union, 2011, Preamble 33). Although the EU identifies trafficking violating a number of other freedoms that includes in human rights and democracy ideas, such as the prohibition of slavery, torture and inhuman or degrading treatment or punishment and forced labour, child rights, the right to effective remedy and fair trial. Thus, the victims that have been exposed to any act under Article 2 (ibid.) have been deprived of their rights that are defined in the *Charter of Fundamental Rights of the European Union* (European Union, 2000) but also *The Treaty on European Union* (European Union, 2012). These rights are considered to represent the deep-seated cultural values in the EU and its member states and thus, part of the EU's governance. It is part of the EU's fundamental worldviews and is referred to when they problematise trafficking. To make sense of the problem of sex trafficking, the problem has to be connected to something that breaks the cultural norms and values, and the fundamental rights is one of the main key concepts embedded in the problematisation of trafficking.

These fundamental rights and the concept of human rights that the EU established within their organisation, has a history that dates further back than when it was proclaimed in December 2000 (Marzocchi, 2019). Fundamental rights were guaranteed in 1950 by the *European Convention for the Protection of Human Rights and Fundamental Freedoms* and signed by all

member states. The charter should be addressed by all institutions and bodies of the EU and the member states when they implement an EU law.

These rights are considered as cultural values that all member states of the EU and the EU together share which Clegg (2019) stresses is a form of governmentality. The practices that are carried out by the EU and its member states are based upon their cultural and social norms that they share and nurture. By implementing values and making them legally binding, does not only create aspirations and beliefs that are supposed to have a positive impact on its people (Murray Li, 2007), but is a way of governing others (Lemke, 2002). All member states do not have a choice than to respect and follow the law and the ones who do not follow this law, will not only face criticism from the EU as organisation, but also from other member states.

Therefore, by governing others in this form the EU does not only exercise their power on their member states but they create a sense of belonging among the member states, and a sense of care for the well-being for its citizens. Therefore, actions such as providing assistance, support and protection to the victim is a result of their values, that has reflected upon their action-oriented practices (Joseph, 2010). Furthermore, by having established these fundamental rights as a foundation for all practices enables a naturalisation of their actions, strategies and techniques since they are justified through the language of rights, obligations and responsibility that is typical for governance (Joseph, 2010).

5.2.2 Gender Inequality

Trafficking is a problem for society because it targets different groups in a society, where men and women are trafficked for different purposes (European Parliament & Council of the European Union, 2011, Preamble 3). The EU identifies that the victims of sex trafficking are mainly women and claims that sex trafficking is deeply rooted in gender inequality and violence against women. Therefore, in order for sex trafficking to cease to exist, these

causes must be eradicated. Gender inequality is understood as something which makes women especially vulnerable, it is something that affects women. The meaning attached to the concept of gender equality in the context of sex trafficking is the problem of the lack of gender equality. The existence of gender inequality. It is displayed by implementing a gender perspective on the policy framework to strengthen the prevention of the crime and to protect the victims (ibid., Article 1). The gender perspective has not always been obvious in the EU's history, neither the protection of the victim.

The former Directive 2002/629/JHA did not include the gender perspective or any prevention or protection measures. However, it is mentioned that child victims are to be offered assistance (Council of the European Union, 2002, Article 7.3). Additionally, the Article 8 in the current Directive 2011/36/EU, is a new addition which was absent in the former directive. The article states that victims cannot be persecuted for any criminal activity that they have been compelled to commit (European Parliament & Council of the European Union, 2011, Article 8). Hence, to protect the victim their consent is never relevant in the context.

Nevertheless, the gender dimension in trafficking for sexual exploitation is tackled with the concept of gender equality that is a shared value in the EU, and an aspiration for an equal Europe. Equality is one of the values which the EU is founded on, and is identified in the *Treaty on European Union* (European Union, 2012, Article 2). The consistent strive for equality enables the EU to unite but also to control that these values and goals are not being violated by its members. Although since the EU values equality and has implemented a gender perspective into all of their policies (European Commission, 2020a), it is no doubt that gender inequality still persists, as sex trafficking (among other problems) still exists. The existence of sex trafficking is a threat to what the EU aspires to achieve. This is similarly as the fundamental rights mentioned before, identified as a form of

governmentality (Lemke, 2002; Murray Li, 2007). Gender equality is not only a shared value and aspiration among all actors involved, but has become a mandatory perspective that has to be present on a supranational level. By implementing it on all of the EU's policies, member states are also to comply. It is a form of 'governing others' since controlling itself in this case, influences others. Additionally, the aim of governmentality is to foster beneficial processes and diminish the destructive ones (Murray Li, 2007). Implementing the gender equality perspective is argued to be a beneficial process that is necessary to implement for a secure and equal Europe, whilst gender inequality becomes destructive.

It is acknowledged that there is a hierarchy, where women are subordinated in society, as they are the main reference group. However, the superior group, which according to Bacchi (2009:7) the binary to the subordinated, is not directly mentioned in the documents. The assumed privileged group is silenced, although there is a clear statement of the existence of gender inequality. The framing of women and children as vulnerable and victims while perpetrators remain silenced and unidentified has the effect which limits the social analysis that could be produced (Bacchi, 2009:16).

Furthermore, the data that is collected on the victims are of their gender, age, form of exploitation and citizenship (European Commission, 2012). Though the data collection is mainly based upon the two social categories; gender and age, that translates into women and children. Women are then recognised as a homogenic group, whilst children are another (Lykke, 2005). This 'knowledge' produced about victims could be argued to be simplified. Rather than identifying what factors create vulnerabilities to victims of sex trafficking, the EU assumes that women and children are more vulnerable solely because of their gender and age. Hence, this assumed 'knowledge' about the victims limits the understanding of the complex issue (Bacchi, 2009:7). There are other circumstances that create vulnerability of a person, such as

gender norms and culture, poverty and socioeconomic conditions (Ray, 2015; Demir & Finckenauer, 2010). There are factors that are based upon one's institutionalised constructed categories that could be more determining than gender and age that produce inequality in a society (ISOF, 2015; Lykke, 2005; Nelson-Butler, 2015), that makes a person vulnerable to trafficking.

5.2.3 Illegal Immigration

Although third-country national victims of trafficking also have access to assistance, support and protection, their support system is limited since they are not citizens of the EU. Hence, if the authorities decide not to grant the victim a temporary residence permit, they are no longer allowed to stay in the host country and will no longer have access to the services. This is a problem for the victim rather than for the affected member state or the EU.

However, in 1999 the European Council had a meeting where they expressed their determination to combat illegal immigration (Council of the European Union, 2004, Preamble 1-2). An area that the EU focused on was the targeting of those that engage in trafficking for economic exploitation of migrants. The Directive 2004/81/EC was drafted as a policy framework to provide the victims of trafficking with protection and assistance. It consists of the criteria for issuing the residence permit, conditions to stay for the victim and the rules for non-renewal and withdrawal (Council of the European Union, 2004, Preamble 10).

The conditions set by the EU is legitimised by arguing that the information which the victim obtains is highly vital for combating sex trafficking, targeting the criminal networks. By assuming that the victim has the information that could detect a criminal network puts the victim into a position where they are constructed as either willing to help, or unwilling to help. In other words, whether or not the victim receives residence permit depends on their 'willingness' to combat trafficking. Furthermore, the authorities determine whether or not the information that the victim provides

is considered 'valuable'. The third-country national victim is considered as an asset more than a victim of trafficking.

The idea of the EU is that of a solidarity between their peoples and therefore (European Union, 2012, Preamble), excluding third-country nationals. This desire is part of the EU's governmentality as they recognise there are different peoples within the EU, but desires for all peoples to have the same values and shared aspirations (Clegg, 2019). Thus, to foster this idea further, the policies and practices should reflect (Murray Li, 2007; Joseph, 2010). It does since those that are EU citizens benefit more than those that are not. Hence, being an EU citizen within the borders of the EU should provide the citizen with more security, and would create a sense of belonging, union among the people and trust to the union. Governmentality also includes the wellbeing of its population (Murray Li, 2007; Lemke, 2002) and non-EU citizens are not part of the EU's population and thus, the reflection of their practices. This perception of a union is a form of governmentality (Joseph, 2010) where they have established a discursive framework that justifies their practices.

Despite everything, the history of the EU has the consistent theme of taking care of their peoples first, by providing the necessity for a peaceful and secured region (European Union, 2020). Hence, if the third-country national that is not willing to share information, then they are not valuable. They are also protecting the criminals from the justice system.

Nevertheless, the Directive 2004/81/EC targets largely two different groups; [1] victims of trafficking in human beings and [2] those who have been a subject of an action that facilitates illegal immigration (Council of the European Union, 2004). There are however merely any people categories in the directive, as they are either referred to as 'third-country nationals' or 'child/minor'. However, there is no distinction between the two main groups even though they are exposed to different crimes. Referring them all to third-country nationals blurs the different situations between the groups. It is a

binary way of categorising the victims, the EU citizen and the non-EU citizen. By not constructing third-country national victims with additional social categories (even gender), the affected group is represented as 'strangers with no face' which becomes difficult to vision the reality of victims.

Although, taking the origin of purpose for the Directive 2004/81/EC into the context of the position of the victims of trafficking, the act of trafficking is not considered from either a human rights perspective nor from a gender perspective. Trafficking is not the main problem since illegal immigration is. Trafficking however, is a part that contributes to illegal immigration to the EU. To limit illegal immigration, the EU has to detect and dismantle criminal networks (Council of the European Union, 2004, Preamble 2) and as a consequence of trafficking, they have to provide service to the victims. Therefore, protecting the third-country national victim and giving them assistance and support, is not the main priority for the EU.

5.2.4 Democracy and Security

The act of trafficking is clearly defined in the policy documents and emphasised in all analysed documents as a serious (organised) crime. The maximum penalty in terms of years for aggravated crimes has increased from eight years in the former Directive 2002/629/JHA (Council of the European Union, 2002, Article 3) to ten years with the current Directive 2011/36/EU (European Parliament & Council of the European Union, 2011, Article 4). This modification is a demonstration of how the EU throughout the years has come to realise the gravity of trafficking, perhaps also that their actions are not enough. Although mostly to show that they are taking the crime seriously rather than believing that the modification will result in reduced criminality.

Nevertheless, the crime is not only harming victims but also the societies and economies (European Commission, 2018c). The act poses a threat to the societies. Trafficking is considered a threat from the economic perspective as trafficking generates billions of Euros for the perpetrators on a yearly basis

(European Commission, 2012). Thus, trafficking does not financially benefit the EU, as it solely benefits the criminal networks.

Nevertheless, it is claimed in the strategy document that trafficking is rooted in lack of democratic cultures, which is a threat against (the concept of) democracy, as the EU is founded on a set of principles of democracy enshrined in the *Treaty on European Union* (European Union, 2012, Article 2). Hence, the criminal liable persons committing the crime of trafficking and the act itself therefore pose a threat to the democratic EU. In terms of governmentality, democracy and democratic values are shared values and an aspiration in the EU. The act of trafficking is then threatening the stability of a democratic sphere that is built up and challenging the power of the EU to govern its population, as there are persons in the societies that do not share the same beliefs and aspirations. Thus, the EU struggles to hold power over persons committing these offences, since their governance of the people and social conduct (Larner & Walters, 2004:2-3) is not fully successful.

Furthermore, the EU is promoting certain values (in this case democracy, gender equality and human rights) by creating meanings attached to these concepts to keep their peoples/societies and institutions in check. The governance here is the promotion of certain values in order to limit others, and form a unity (Murray Li, 2007). It is a language of governmentality (Joseph, 2010). All of the member states and the EU has to comply with these concepts and these concepts should be present in their practices. In other words, the EU operates through these ideas that they have established. Terms such as democracy, rights and equality are used to promote their governmentality and to justify their practices. However, these norms are part of their culture and is reflecting upon their practices since they are implemented on policy level and are legally binding.

However, trafficking is a concern of security because trafficking is a crime that is not only harmful for the victim, but also for the state. The EU claims

that most traffickers have well-established networks that facilitate their work in moving victims across borders (European Commission, 2012). Trafficking undermines the safety of the states and in order to secure the states and the EU, it is important to eradicate trafficking by focusing on the law enforcement and cooperation within and across the borders. Further law enforcement in policies enables the EU to govern its member states, as they work to break the trafficking chain to hold the states secured.

The concept of trafficking as a threat to the EU is embedded in the discourse of crime, organised and transnational crime and criminal offences that are illegal, unlawful and against democratic values which do not belong to the societies in the EU. In order to tackle other crimes such as illegal immigration, there is a need to eradicate trafficking. Combating trafficking and organised crime will not only bring security to the member states. However, the form of governance which the EU exercises has a strong focus on law enforcement which centres around their member states proceeding with the actions specified. They are controlled by the EU to implement these, and the EU conducts progress reports to follow up on the policies and actions (European Commission, 2018c). Hence, the EU does not have to govern by controlling the individual citizens in the EU, but establishes control through policy frameworks and progress reports, consisting of goals, actions, desires and aspirations. It could be argued to be a successful form of governmentality (Murray Li, 2007), as these practices and techniques are to be implemented.

Before entering the third block, it is of worth to first summarise the two blocks so far, since the third block are heavily dependent on the findings and the analysis of the previous blocks. However, a short summary has been created through the table presented below.

Table 3 - Summary of the first and second block

What's the problem?		What should be done?	Why is it a problem?
- Trafficking in human beings - Inefficient law enforcement and judicial cooperation - A welfare problem for the societies		- Punish the criminal liable person based upon the acts in Article 2 - Implement the maximum of penalty stated in Article 4 - Ensure that victims are provided protection - Have affected persons (third-country nationals) denounce their traffickers	- The act of trafficking is a violation of fundamental rights (including violence against women) - Increases illegal immigration - Poses threats to the democracy and security
For whom?	By whom?		
- Vulnerable persons/victims - The EU	- Member states - Third-country nationals		

5.3 What is Left Unproblematic?

The third block answers the questions four, five and six in the WPR approach. It focuses on answering what is left unproblematic by the EU, if it can be questioned and what effects are produced. This section attempts to problematise the way the EU constructs the issue of sex trafficking and the how that could contribute to further implications.

The section is divided thematically and based upon both potential implications as well as the silences within the EU's discourse in sex trafficking. The headlines are as following; *The Binary View of Gender, Homogeneity and Stereotypes, The Hierarchies Between the Victims, Is Migration Part of the Problem?, Addressing the Root Causes* and lastly*, Protection for Who?*.

5.3.1 The Binary View of Gender, Homogeneity and Stereotypes

The EU acknowledges the subordination of women in the society and their vulnerability to become victims of sex trafficking, which is consistent with

what Ray (2015) claims in his research. However, Ray (2015) and other researchers claim that it is important to acknowledge other social categories as well (Bryant-Davis & Tummala-Narra, 2017; Nelson-Butler, 2015; Bravo, 2007). This point of view is considered to arrive from intersectionality. By exclusively identify gender as the solely category as target for sex trafficking is to be creating exclusion of types of oppressions that includes in trafficking (Lykke, 2005; Crenshaw, 1991). The socio-cultural hierarchies and power structures in the societies are simplified and translated into dichotomous, men versus women. Other types of power structures and hierarchies are not acknowledged by the EU.

Additionally, the notion 'violence against women' that the EU attaches to sex trafficking, consists of assumptions that all women experience the same violence, which is problematic according to intersectionality since women face different kinds of violence (Crenshaw, 1991). They are all not experiencing violence because of their gender. Other identity categories could be determining. Although since the majority of all sex trafficking victims are women and the power structure between men and women in society could be argued to be more widely acknowledged, this limits the social analysis that could be produced if other power structures were observed. This is problematic since other types of oppressions and violence that are involved in trafficking are being ignored (Bravo, 2007; Lobasz, 2009). This creates further disempowerment for the victims (Crenshaw, 1991). Additionally, the representation of the victim is greatly reduced and simplified.

However, the discourse of sex trafficking in the Europe and the United States throughout the history might have an impact to the current one. In the first half of the twentieth century, sex trafficking was called the 'white slavery' (Allerfeldt, 2019). The notion of kidnappings and sexual enslavement of girls and women for systematic exploitation. The 'white slavery' was a constructed discourse where trafficked victims were innocent and naïve women (Doezema,

1999). They were young, belonged to the working class and had been forced into sex work by 'evil foreigners'. Trafficked women were called 'white slaves', and the stories of white women being kidnapped and forced into prostitution reached international attention, encouraging international campaigns against 'white slavery' (Lobasz, 2009). The stereotyped assumption of the trafficking victim being a young, white and innocent contradicted the reality of trafficked victims during same period, as approximately 99 percent of all sex trafficked victims were women of colour. For instance, victims from Nigeria are among the most trafficked into the EU today (European Commission, 2018b), although Nigerian women have throughout history been stereotyped as a symbol of lust and overly fertile (Nelson-Butler, 2015).

Thus, when taking the history into consideration, race and other types of oppressions and stereotypes are still not problematised in the discourse of sex trafficking in the EU. Additionally, as the only acknowledged position is woman (or girl), other subject positions are unavailable in the discourse. Consequently, it is harder for those victims that have been trafficked based upon other vulnerabilities to make sense of the social world as they struggle to identify themselves with the available position(s) for a victim of trafficking. By already being in a disadvantaged position as a woman, the social category such as nationality would create either opportunity or oppression (Shields, 2008).

For the EU, it is then of importance to acknowledge the different types of oppressions that exists in sex trafficking, to address race and gender norms as well as stereotypes that are attached. Currently, the data which is collected on victims are solely based upon their gender and age, which does not give the authorities much to work with in detecting victims. Approaching policies by exclusions and limitations is ineffective as they create false categorisation of people (Hankivsky & Cormier, 2011). Furthermore, different situated women

seek different kinds of support (Crenshaw, 1991; Vance, 2012). The socioeconomic condition of the woman is an important factor that makes her vulnerable to trafficking. Hence, the analysis based upon gender is greatly simplified.

However, it is stated that a victim of trafficking has no real alternative than to submit to trafficking (European Parliament & Council of the European Union, 2011, Article 2.2). Thus, the consent of the victim is always irrelevant (ibid., Article 2.4). A victim of sex trafficking is considered a passive actor. Although previous studies claim that many women in early stages choose to join the traffickers (Lobasz, 2009; Doezema, 1999, Demir and Finckenauer, 2010). Hence, this perception of the victim conflicts with the lived realities and could create difficulties for the victims to relate to, as the available position to them is to be a person of no real choice. Furthermore, portraying women as they have no real choice endorses the gender stereotypes which harms the victims (Krieg, 2009) and is ineffective for an equal Europe.

5.3.2 The Hierarchies Between the Victims

As mentioned before, third-country national victims that wish to get protection have to compromise with the authorities regarding information about their traffickers. The two groups relevant for the Directive 2004/81/EC are different. Whilst the person subjected to facilitate illegal immigration has committed the act with consent, the victim of trafficking either does not consent or their consent is considered irrelevant. Despite not having consent, the victim of trafficking can still be framed as either victim or accomplice 'if they protect the criminals by not informing about the criminal networks'. If they do not cooperate with the authorities, they do not earn to be fully protected. Hence, some victims would be considered real victims, whilst others as accomplice. Although already disempowered and subordinated, the victim in this situation would be exposed to further disempowerment, either intentionally or unintentionally (Crenshaw, 1991).

Another hierarchy among victims that is created is that of the EU citizen and the non-EU citizen, as they are treated differently depending on their nationality. It is problematic from the perspective of the non-EU citizen victim since their rights are limited and protection and other services are conditional. However, the fundamental rights and equality that the EU aims for are for its population, and not for all to enjoy.

5.3.3　Is Migration Part of the Problem?

The EU does not seldom connect trafficking in human beings with crimes such as irregular migration, although migration is not addressed in the Directive 2011/36/EU or the strategy document as a subject matter. Migration poses threat to the security, public order or a violation of the migration law in the host country by entering or staying undocumented. It could be perceived that the crime of trafficking is not officially deemed as a threat to the community or their border regime. However, since this perspective is not problematised, it could also be because it has been left out intentionally. Though this matter is not explicitly documented in the policies, they might have been implicitly negotiated. It could be that other competences within the EU have the responsibility to deal with this 'silenced issue'. Furthermore, the Directive 2004/81/EC seems to be an instrument intended to combat irregular immigration (Council of the European Union, 2004, Preamble 1-2) rather than combating human trafficking and protecting the victim. The Directive 2004/81/EC is only at use when the victim is of third-country national and for the purpose of issuing residence permit. Whilst the Directive 2011/36/EU is the main policy instrument for eradicating sex trafficking.

Nonetheless, the European Commission (2018c) claims in their progress report that the EU has partnerships with non-EU countries such as the Khartoum and Rabat Processes in order to combat human trafficking. However, the Joint Valletta Action Plan which the EU refers to regards challenges on migration and mobility between Africa and Europe (Rabat Process, 2018). The Valletta

partners are encouraged to work on reducing the risks of irregular migration. It is explained that in order to combat irregular migration, cooperation and mutual trust has to be established, whilst at the same time increasing the efforts to stop the trafficking in human beings and the smuggling of migrants. Hence, the action plan which the EU refers to is not solely focused upon combating trafficking as the primary goal is to combat irregular migration. Although irregular migration and smuggling of migrants are different to that of trafficking in human beings, it does not seem like there are any differences between them, which constructs a false opposition between innocent victim and guilty migrant (Krieg, 2009). However, even though with the new Directive in place, it could seem like the EU is attempting to control the migration through their approach to trafficking, which previous researches have shown (Askola, 2007; Krieg, 2009; Berman & Friesendorf, 2008). The response to sex trafficking therefore benefits other practices (Berman & Friesendorf, 2008).

Although the EU would have other intentions through their approach to trafficking, their approach in terms of governmentality and discursive framework (Joseph, 2010) is consisting of morality, rights, responsibility and democracy. This discursive framework enables the governing and the practices that are set out in 'the name of trafficking'.

5.3.4 Addressing the Root Causes

The prevention actions are mainly focusing on identifying and dealing with victims as well as discouraging demand (European Parliament & Council of the European Union, 2011, Article 18.3-4). However, the former one is the main priority. Although it is recognised that vulnerable positions are what makes victims submitting to trafficking. There is one paragraph acknowledging that trafficking is caused by being vulnerable to a set of factors in the policy framework. That paragraph was presented in the first block under the headline *5.1.2 Victims as Problem*. Factors such as poverty,

lack of opportunities, employment and access to education are recognised (European Commission, 2012).

Yet, there are not many efforts on reducing the vulnerability of a person. Issues such as social exclusion and economic vulnerability are the consequences of policies and practices which marginalise some people and produce vulnerabilities to trafficking (UNODC, 2008). The question asked is then how to prevent trafficking from happening? If efforts should mainly be on identifying victims then intervening the act of trafficking will not reduce trafficking. It will complicate the operations for the traffickers, and prevent the victim from further exploitation. Although the victim has already been exploited by that time. It could be argued that efforts should be on reducing the vulnerability of the victim. As previous studies argue that the focal point should be to reduce poverty and discrimination and create socioeconomic opportunities for people (Demir & Finckenauer, 2010; Marinova & James, 2012; Jonsson, 2019; Friesendorf, 2007).

Despite knowing the causes for persons to become vulnerable to trafficking, the EU largely problematises their gender and invests efforts in law enforcements, prosecution of criminal liable persons and identifying the victims. Furthermore, other social identities are also determining the vulnerability of a person (ISOF, 2015; Lykke, 2005). Hence, there is a need to further analyse what makes a person vulnerable to trafficking, or what causes a person to become trafficked, and how to reduce the vulnerability. Furthermore, in order for policies to be effective, they should be based on the domestic characteristics of human trafficking and monitored regularly (Caneppele and Mancuso, 2012).

5.3.5   Protection for Whom?

Although trafficking in human beings is described as an (organised) crime and a violation against the fundamental rights by the EU, it seems like their approach is based upon law enforcement, judicial cooperation and

prosecution of the criminal. The emphasis is on transportation, rather than on exploitation. The question that rises is then, who benefits the most from this approach? Although trafficking is harmful for both the victim and the state, it is not clear if trafficking is primarily a problem for the victim or the state. It is also unclear if the victim is the exploited person or the state. If the approach is based upon human rights, the focal point should be on exploitation. Additionally, the rights of the victims are frequently referred to in relation to their rights in criminal proceedings. Although previous studies by Berman and Friesendorf (2008), Askola (2007), and Krieg (2009) were conducted on the former Directive, it does seem like the EU still has a similar focus in the new directive, which is on law enforcement rather than redressing the issue of trafficking. Although the EU focuses on law enforcement, the absence of a problematising widespread police corruption raises the question of protection for whom.

There are several unproblematised areas in the EU's policy framework, as well as silences. Although it could be argued that implementing a gender perspective into the policy is progress, it still limits the way women are included and portrayed in the policy. It endorses gender stereotypes whilst ignoring other dimensions of oppressions that trafficked women face. Consequently, it could create hierarchies among trafficking victims. However, it seems like the root causes to trafficking is not properly addressed and the strategy to eradicate sex trafficking mostly focuses on breaking the process of trafficking rather than combating the root causes to sex trafficking. The issue of irregular migration is not explicitly mentioned in the policy, although it seems like eradicating sex trafficking is another way of controlling irregular migration. Consequently, the difference between a victim of trafficking and a guilty migrant is unclear which endorses racial stereotypes. It is also unclear if the approach to eradicate sex trafficking is to protect the victim or the state, and who benefits from the approach. It does seem like the

approach focuses more on the transportation rather than the exploitation of the victim.

6 Conclusion

Sex trafficking is a problem in constant increase globally, and not least in Europe. The way sex trafficking is understood and constructed determines how it will be handled. The purpose of this study has been to understand the way the European Union constructs the problem of sex trafficking in their policy, and how this can lead to further policy implications for eradicating sex trafficking. The material used for this purpose was the three policy and legal framework documents; *The Directive 2011/36/EU*, *The Council Directive 2004/81/EC* and *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*. However, the research questions in this study are;

- What is the problem with sex trafficking?
- How is sex trafficking constructed in the policies?
- What potential implications are produced by the way the problem is represented?

The answer to the first question is that there are different kinds of problems with trafficking. Sex trafficking is foremost a problem of law enforcement. The lack of efficient law enforcement and judicial cooperation between member states and other actors is considered problematic. Furthermore, the EU has to ensure that the victims are protected by the rule of law in terms of protection during criminal proceedings. Moreover, sex trafficking is a welfare and education welfare problem since the victims are of need of assistance and support regarding health and education among others things. The services offered to the victims reflect upon the values that the EU shares, which is a form of governmentality. Nevertheless, the Directive 2004/81/EC expresses the problem of illegal immigration and that tackling the issue of sex trafficking would decrease the volume of irregular migrants. The problem is also the willingness of the third-country national victims to provide information of their traffickers to the authorities or not.

The answer to the second question is that sex trafficking is a violation against the fundamental rights, a practice that encourages gender inequality and a form of violence against women. Sex trafficking is constructed as a threat to the security in the EU and its societies within the discourse of crime, where it is identified as part of organised and translational crime that are rooted in non-democratic values. These values do not belong in the societies within the EU, as the EU promotes concepts such as democracy, fundamental rights and gender equality. The governmentality analysis claims that these concepts are a form of governmentality language. Nevertheless, since trafficking undermines the security of the state and region, it is constructed as being important to combat trafficking through law enforcement and increased judicial cooperation. However, eradicating sex trafficking would also tackle other crimes such as illegal immigration.

The answer to the last question is that there are several potential implications identified in this study. These implications are left unproblematic and silenced according to the WPR approach. A great potential implication is the way the EU perceives victims of sex trafficking which affects their approach to eradicate trafficking. Gender and age are solely the social categories identified together with being in a vulnerable position, making a person vulnerable to trafficking. Although there are other dimensions of identities that lead to being vulnerable to trafficking. The intersectionality analysis discovers that the simplified representation of victims ignores other power structures that exists in the societies. Furthermore, the representation in the policy could endorse gender stereotypes. Another potential implication is the different kinds of treatments and expectations between the victims which could create hierarchies among the victims. There could be a risk of portraying victims as migrants, as cooperation with non-EU countries have shown to be focusing on tackling the issue of irregular migration while at the same time discussing sex trafficking. This endorses racial stereotypes.

There is not much emphasis on the root causes for trafficking and how to eradicate them in order to combat sex trafficking. It seems like the approach is focused on the transportation rather than on the exploitation, which makes one wonder who is the benefiter of the approach.

This study has demonstrated that policy documents not only consist of constructed problems but they could also be problematic in the way objects and subjects are constructed. The way problems are problematised and understood could be based upon their assumed reality and the actual underlying agenda. It has therefore demonstrated that policy documents are not neutral.

During the course of this research, it has been acknowledged that sex trafficking in the EU is understood as a part of a larger phenomenon than trafficking itself. Although due to the limits of this study, this has remained unexplored. A greater demonstration of how trafficking is used to cover for other practices could therefore bring value to the research field. Furthermore, it is recommended that further research explores what additional factors contribute to sex trafficking where victims are trafficked either within the EU, into the EU or out of the EU. Besides, the vulnerability of the victims differentiates from group to group and naturally the causes, the process of trafficking and the destination point look different. Consequently, it is assumed in this research that the policy framework created by the EU lacks in a comprehensive analysis of sex trafficking and its victims. Another recommendation is to study other organisations and their policy documents regarding sex trafficking and compare it with the EU. For the purpose of further understanding the issue on a policy level and to form efficient and sustainable methods of cooperation between actors.

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