

The Wrong Debate: Reflections on Why Force is Not the Key Issue with Respect to Trafficking in Women for Sexual Exploitation

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This short piece is a contribution to debates within feminism and beyond about trafficking in women. A charge that the research unit (Child and Woman Abuse Studies Unit, London Metropolitan University) I work in is now very familiar with, is that we fail to make distinctions between women who are 'forced' and those who are 'migrant sex workers'. Rather than explicitly defend our work and practiceⁱⁱⁱ, I want to use this opportunity to argue that this is the wrong debate to be having, if we are interested in making a difference in the lives of women and girls. This is for two reasons: firstly, that most definitions of trafficking are much wider than 'force'; and secondly because to focus on force alone plays into the hands of both traffickers and exploiters who will escape sanction except in the most extreme cases and those law enforcement officials who arrest, detain, prosecute and summarily deport women and girls detected in other countries.

Just to place my cards squarely on the table, I do think trafficking for sexual exploitation and human smugglingⁱⁱⁱ are serious problems throughout Europe. From the work we have done, and our contacts with many activists and practitioners in central and eastern Europe we can tell horror stories: of girls dumped out of speed boats in Vlore, Albania; of women spread against walls and beaten in Macedonia; of young women kidnapped and raped in Kosovo; of weekly murders of Albanian and Nigerian women in Italy; and of women and girls literally sold in markets in Bosnia. But just as with domestic violence and child sexual abuse most trafficking is more mundane, involving everyday, routine power and control relationships. That said, however, there has to be a space in which one can cite the worst cases, because they are real, they happened, and are happening, to real women, without being accused of over dramatisation. At the same time I deplore the use of such stories as an emotive 'ace in the pack' when the arguments become complicatedⁱⁱⁱ.

Who is in and who is out: the definition debate

At both a conceptual and policy level clear differentiation between human smuggling and trafficking has been re-iterated, most recently in the UN Convention on Transnational Organised Crime. Whilst human smuggling can be understood as a form of assisted migration in contexts where legal migration channels are increasingly restricted, trafficking involves human rights violations ranging through kidnapping, deception to forms of debt bondage. But whilst such distinctions can be made in words and law, in reality the categories are often overlapping. Anyone placing themselves in the hands of smugglers surrenders a degree of control over their fate, and for some the outcome may be being trafficked into sexual exploitation, or forms of forced and bonded labour. Further complexities emerge when, in the case of deceptive recruitment into trafficking, it is clear that women believe that the contract they are making is to be smuggled in order to take up a legitimate employment offer. And looking at the question from the other angle, whilst at lower levels many smugglers are small-scale operators assisting those who feel they have few options other than to illegally migrate, many are also traffickers, not only exploiting those they transport, but subjecting

them to 'dangerous and inhumane' treatment, such as locking them in vehicles and containers without water and food for days on end.

Applying the categories of 'forced' and 'free' prostitution to trafficking has been an attempt to create space for women ^{liv} who, it is argued, choose to move countries in order to work in the sex industry. In this perspective it is only restrictive immigration rules that 'force' women to resort to third parties to facilitate their journey. Whilst not disputing that some women do choose prostitution as a source of income, there are questions that need to be asked here. This model might explain movements between neighbouring countries, but it is extremely unlikely that large numbers of women – who everyone acknowledges are coming from situations where they are unemployed and in poverty – could afford to travel between or across continents. It is also an open question how they find their way into sex markets thousands of miles away, without facilitation, or even direct recruitment. Few can arrive without considerable debts, and quite how their circumstances are different from debt bonded trafficked women, and why in this case such circumstances do not constitute human rights violations remains to be explained.

Many women's NGOs in countries of origin, also question the notion of 'choice', central to the 'free' prostitution discourse, arguing that in a context where there is high and increasing female unemployment, sex discrimination in the labour market, routine sexual harassment for those who do have paid employment, and economies ravaged by organised crime (Global Survival Network, 1997; Radovanovic & Kartusch, 2001) the choices and options available to women are minimal.

At a policy level, the notion of 'force' being the definer of trafficking sits uneasily with the now widely accepted definition within the UN Optional Protocol of Trafficking in Human Beings, known widely as the Palermo Agreement. Along with force, coercion and threat, not only does the definition of trafficking include deception and human rights abuses such as debt bondage, deprivation of liberty and lack of control over one's labour, it is also applied to situations and conditions within borders. Interestingly, there are increasing suggestions that internal trafficking has strong links with cross-border trade in women (UNICEF et al, 2002). The Palermo definition calls into question the conditions in which all prostitution takes place, regardless of its legality in national law. It makes clear that trafficking is about sexual exploitation: in so doing, it implicitly sets a different set of parameters for what can constitute 'free' prostitution.

The UN definition concurs with the developing research base within Europe. For example, the vast majority of women interviewed in IOM return projects in four countries (IOM Bishkek, 2000; IOM Kosovo, 2001; IOM Tajikistan, 2001; IOM Yerevan, 2001), and research by an Albanian NGO (Koci, 2000), say they were deceived about what work they would undertake, or recruited in other illegal, coercive or deceptive ways.

Exploring definitional disagreements can appear an abstract, academic debate, but how trafficking is defined affects access to support, protection and redress and what actions are considered criminal acts. The anomalies such positions create in practice range from over-inclusive definitions that encompass all foreign women involved in prostitution, to the extremely restrictive which exclude anyone where there is no evidence of 'force' at the initial recruitment stage. An over-inclusive definition serves to legitimize heavy-handed law enforcement 'clean-up' campaigns that result in mass deportations, whilst ignoring both the traffickers and whether any nationals are being subjected to sexual exploitation. Under-inclusive definitions result in women being denied access to redress and support. For example, it appears that many law enforcement officials (and

other practitioners) in the Balkans are applying the most narrow definition, thus preventing the majority of foreign women detected accessing support services, and even subjecting many to terms of detainment and prosecution (UNICEF, 2002).

Whilst Palermo has resolved the definitional debate at policy levels, as yet very few countries who signed the convention, including the UK have translated it into national law. Within wider discussions about trafficking, and in service provision debate continues as to whether narrow or broader definitions should be used. The losers in this absence of coherent and consistent definitions are women and girls. In the context of debates amongst feminists and organisations providing services to women in the sex industry a useful conceptualisation (Derks, 1998) distinguishes between voluntary, bonded and involuntary prostitution, and between abusive recruitment and exploitative working and living conditions. Thus we have to look not only at how women enter the sex industry, but also the contexts and conditions within which they live and work.

The real debate

Trafficking has become an arena in which long standing debates about prostitution and the sex industry have been re-visited. The real question for feminists is whether we think the sex industry ever exploits women, and if so in what circumstances and under what conditions. There is a continuum of positions from those who argue that the sex industry is by definition exploitative, through to those who argue that most women exercise considerable choice and agency, and are thus not exploited. One area of clear agreement that forcible recruitment and control by force within the sex industry constitutes a form of violence against women. The extent to which women are deceptively recruited and held in conditions of bonded labour may be a matter of debate, but is there an argument that can be made to defend these practices, when we would not accept them in relation to other forms of employment?

What is at issue underneath these discussions is a representation within much contemporary feminist theory of victimisation and agency as contradictions in terms. We do not deny women's victimisation in situations of domestic violence when they exercise agency and return to violent men, yet a different logic seems to apply to trafficked women (and women in prostitution more widely) – that if they can be said to exercise any agency, then they are not victims/victimised. Much feminist work on violence, including my own early work (Kelly, 1987), sought to demonstrate that within the most constraining of contexts women acted – they used physical and psychological resistance strategies in the moments of violence, and developed coping and survival strategies both within ongoing abuse and in the aftermath. Work on the sex industry and wider feminist theories of agency would benefit from revisiting these ideas, and linking them with more recent developments, such as Eva Lundgren's (1998) concept of 'space for action'. Agency is exercised in context, and contexts are always more or less constrained by material and other factors. Lundgren argues that gender violence decreases women's space for action, whilst simultaneously increasing men's.

In relation to trafficking in Europe discussion needs to focus less on images of naive and poorly educated women, and more on the crisis for women in countries undergoing economic transition and/or post conflict reconstruction. There is a strong argument here for looking again at the concept of structural violence – the deepening of gender inequality, which has severely narrowed women's options and space for action. It is clear from most of the current research that few

women would choose prostitution if they had other choices – including paid employment in the fields many of them have trained for, or in the case of single mothers the state benefits they received until the early 1990s.

In search of common ground

Rather than rehearse tired and unresolvable debates in a new arena, is there an interest amongst feminists to find common ground? For instance, it is unlikely (however welcome it might be) that immigration restrictions will be loosened much in Western Europe in the near future. Rather than making a special case for liberalisation with respect to the sex industry, could we not link around an agreement that current migration policies have gendered impacts (see, for example, Taran and Moreno-Fuentes, 2002) and on that basis insist that, at least within the EU, less discriminatory regimes are instituted, which open up legal migration routes for women – both those who have skills and those seeking unskilled employment? Could we develop a framework for return and reintegration programmes for trafficked women and girls that is based on principles of promoting gender equality through providing education and training that enable them to compete in difficult labour markets, rather than confining them to gender segregated sectors such as craft and sewing? At a wider level gender equality is still residual, an 'add on' in development projects and post-conflict reconstruction, rather than a key priority. If feminists across Europe could find common cause around these issues the potential exists for campaigning to influence policy on migration so that the options available to women, their 'space for action' expand to the extent that the pressure to illegally migrate in any circumstances is lessened.

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