

THE MULTIPLICITY OF TRUTHS ABOUT HUMAN TRAFFICKING: BEYOND “THE SEX SLAVE” DISCOURSE

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Abstract:

Dominant anti-trafficking discourse adopts a single voice in presenting the victim of trafficking as a young, innocent and naïve woman who is deceived and coerced into the sex industry. She suffers physically at the hands of individual men: traffickers, procurers and clients. This is informed by a neo-abolitionist perspective. This article aims to serve as a critique of this discourse by presenting the polarization between two camps in trafficking literature: neo-abolitionists, who see human trafficking as a grave human rights violation that amounts to slavery and equates sex work with trafficking, and pro-rights that perceive it as something within unauthorized international migration, initiated by the women themselves who want to ameliorate their lives. Through a critical literature review, I echo the position of pro-rights group and note that trafficking must be understood and addressed within the larger framework of exploitation of undocumented workers that are vulnerable to exploitation, not from an isolated and distinct location that aims to identify and paternalistically protect “passive victims”.

Keywords: sex work, anti-trafficking, human trafficking, sex slave.

1. Introduction

From the late 1990s, international organizations, national governments, human rights, religious and feminist groups, academics and practitioners have attempted to understand, quantify and combat human trafficking from distinct positions.¹ Even though the world population is rarely well-informed about the human rights violations around the world, when it comes to human trafficking, almost everyone knows what it is about, since the trafficking victim is constructed quite clearly through news reports, feature films and documentaries that exclusively focus on female sex slaves.² This dominant discourse is favoured by neo-abolitionists who base their research on service providers, police, anti-trafficking focused human rights Non-Governmental Organizations' (NGOs) accounts, women in brothels or “rescued” and “saved” women’s experiences, all of whom equate human trafficking with sexual exploitation.

1 Virginia M. Kendall, “Greasing the Palm: An Argument for an Increased Focus on Public Corruption in the Fight Against International Human Trafficking”, *Cornell International Law Journal*, 44(1), (Winter 2011), 33.

2 Johan Lindquist. “Images and Evidence: Human Trafficking, Auditing, and the Production of Illicit Markets in Southeast Asia and Beyond”, *Public Culture*, 22(2), (Spring 2010), 224-225.

The United Nations Office on Drugs and Crime report of 2009 notes that sexual exploitation constitutes 79% of the human trafficking cases while forced labour is approximately 18% according to data collected from 155 countries.³ Women are considered to be the main victims of trafficking who are vulnerable to deception and exploitation.

Trafficked women are the commodity in the sex trafficking process. Like cattle who are sold from one farmer to the next, trafficked women are passed between traffickers and brothel owners. While trafficked women may be able to identify a brothel owner or individual traffickers, they are usually unaware of the main criminal players behind trafficking rings.⁴

This perception informs the global trafficking discourse and legislation as well as anti-trafficking campaigns. Women are presented as voiceless, passive, childlike victims⁵ who have no say in their lives.

Despite having a marginal position in trafficking NGO circles, pro-rights scholars have contributed to literature on human trafficking extensively. They argue that anti-trafficking campaigns conflate forced sex with migrant women and slavery and “the spectacle of enslaved bodies repeated in media accounts creates a national panic over the movement of people across borders more broadly”.⁶ This anxiety expands the surveillance power of the state to intervene in sexual activity with the argument that they are ensuring national security. This policy finds collective support among the national population to keep the homeland clear from criminal networks. The image of trafficking and criminality together results in broad support for the substantial increase in state power to detain and deport more immigrants.⁷ Only a few deceived and coerced women in sex industry are considered to be deserving of protection. Hence, pro-sex rights advocates argue that trafficking must

3 United Nations Office on Drugs and Crime, 2009, *Global Report on Trafficking in Persons*, Available at http://www.unodc.org/documents/Global_Report_on_TIP.pdf, accessed on: January 23, 2012.

4 Jo Goodey. “Sex trafficking in women from Central and East European countries: promoting a 'victim-centred' and woman-centred' approach to criminal justice intervention”, *Feminist Review*, 76, (Apr 2004), 37.

5 Ratna Kapur. “The Tragedy of Victimization Rhetoric: Resurrecting the “Native” Subject in International/Post-Colonial Feminist Legal Politics”, *Harvard Human Rights Journal*, 15, (Spring 2002): 2-5; Claudia Aradau. “The perverse politics of four-letter words: Risk and pity in the securisation of human trafficking”, *Millennium Journal of International Studies*, 33(2), (Mar 2004), 251-257.

6 Felicity Schaeffer-Grabiell, “Sex Trafficking as the ‘New Slave Trade?’”, *Sexualities*, 13(2), (Apr 2010), 154.

7 Aradau, 2004; 253; Nandita Sharma, “Neoliberal Borders: Review of Migration, Agency and Citizenship in Sex Trafficking”, *Feminist Review*, 99, (Nov 2011), e7-e9; Schaeffer-Grabiell, “Sex Trafficking”, 154.

be considered and addressed through the vulnerabilities of a larger immigrant population. Yet this approach finds support only among a few groups, and its influence is far more limited compared to the neo-abolitionist agenda. Since this understanding requires an irrevocable change in the politics, security approach and immigration policies of Western nations, it is not adopted. The easier version of granting protection to a few victims while punishing others remains uncontested.

The problems with the current trafficking discourse are the following: it relies on the construction of human trafficking based on gender and racial stereotypes that denies women's agency, establishes a single framework for victimhood that most unauthorized migrants cannot meet⁸ and overly focuses on sexual exploitation of women that makes other types of labor exploitation unseen⁹.

This article joins those of pro-rights scholars and criticizes the dominant neo-abolitionist discourse and its inability to address violations of the human rights of immigrants in a broader perspective by constructing sex workers solely as victims. This approach, instead of addressing inequalities between countries, created as a result of colonial practices and capitalism, reinforces the patriarchal discourse through the construction of women immigrants as victims, and as individuals who are incapable to cross international borders by their own initiative and sell their bodies to generate income.¹⁰

The structure of this article will be as follows. First, the research methods will be described. Second, the definition of trafficking and the debate on imaginary differences between trafficking and smuggling will be explored. A third section contextualizes debates around sex work and presents the positions of the neo-abolitionists and pro-rights groups and problematizes neo-abolitionist assumptions in relation to real life experiences of trafficked women. The fourth section articulates the construction and search of the trafficking victim and her distinction

8 Jennifer K. Lobaz, "Beyond Border Security: Feminist Approaches to Human Trafficking", *Security Studies*, 18(2) (2009), 322.

9 Laura Agustin, *Sex at the margins: Migration, Labour Markets and the Rescue Industry*, (New York: Zed Books), 2007, 191; Elizabeth Bernstein, "The Sexual Politics of the "New Abolitionism"", *Differences: A Journal of Feminist Cultural Studies* 18(3), (2007), 133; Julietta Hua and Holly Nigorizawaga, "US Sex Trafficking, Women's Human Rights and the Politics of Representation", *International Feminist Journal of Politics*, 12(3-4), (Nov 2010), 404; Julia O'Connell Davidson, "New Slavery, old binaries: human trafficking and the borders of freedom", *Global Networks-A Journal of Transnational Affairs*, 10(2), (Mar 2010), 250-5; Marie Segrave and Sanja Milivojevic, "Sex trafficking: A new agenda". *Social Alternatives*, 24(2), (2005), 11.

10 Agustin, "Sex at the margins", 32; Jo Doezema, *Sex Slaves and Discourse Masters, The Construction of Trafficking*, (London: Zed Books), 2010, Kapur, "The Tragedy of victimization rhetoric", 28; O'Connell Davidson, "New slavery: old binaries", 249-250.

in relation to undocumented migration. A final section discusses the problems with current anti-trafficking campaigns.

Legal, policy, empirical and discourse level research is extensive in human trafficking. In order to engage in a dialogue with this diverse body of literature from various disciplines, perspectives and contexts a literature review is undertaken. The literature compilation is based on desk research through three different databases: Web of Science categories (Social Sciences Citation Index), JSTOR, and Wiley Online Library, and semi-structured interviews with academics who focus on sex work and street sex workers, as well as representatives of sex work NGOs that work on criminalization of sex work through international academic conferences and NGO meetings in Canada. The literature research is limited to the period between 2000 and 2011. This review is relatively comprehensive, but by no means exhaustive. It will be seen that the literature has proliferated from mid-2000s.

The advice given by King, Keohane and Verba¹¹ as the decision as to which observation to select is crucial for the outcome of the research and the degree to which it can produce determinate and reliable results olds for a critical literature review as well. The selected databases returned with articles that conform to the dominant perception of human trafficking as well as critical ones. It is argued that the selected articles present a good sample of the current literature as a result of intersecting citations and bibliographies of these articles.

2. Trafficking v. Smuggling

The parallels that can be drawn between the twentieth century white sexual slavery and the current concern of sex-trafficking are informative: in both cases the press created moral outrage, different groups such as advocates and reformers have struggled over the definition of the phenomenon and the legislators attempted to create solutions within the framework of homeland security and state sovereignty.¹²

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Conventions Against Transnational Organized Crime (Palermo Protocol)¹³ defines trafficking in persons as the following:

11 Gary King, Robert O. Keohane and Sidney Verba. *Designing Social Inquiry: Scientific Inference in Qualitative Research*, (Princeton: Princeton University Press), 1994, 128.

12 Amy Foerster, "Contested Bodies – Sex trafficking NGOs and Transnational Politics, *International Feminist Journal of Politics*, 11(2), (2009), 151-2. For a detailed analysis of white slavery discourse see Doezema, "Sex slaves and discourse masters".

13 As its name clearly shows, the Palermo Protocol is an addition to the UN Convention Against Transnational Organized Crime, which means that it focuses more on

...the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.¹⁴

In the Palermo Protocol, the definition of trafficking may seem straightforward as if the victims are easy to identify but in most cases, "it is much more difficult, if not impossible, to decide whether someone has been "voluntarily smuggled" or "involuntarily trafficked".¹⁵

Smuggling and trafficking are defined differently in international law¹⁶. Smuggling is differentiated from trafficking since the criminal act is thought to lie in the illegal border crossing. Hence, in smuggling the state is considered to be the victim¹⁷ since it is the undocumented migrant that violates the state borders through their illegal entry. In the case of trafficking the criminal act lies in the exploitation of the migrant. While, the consent of the individual is taken for granted in smuggling, trafficking, conversely, is considered to be forced.¹⁸ Smuggled migrants are

criminal activities than the protection of women's human rights. This is to say, the Protocol gives discretion to the states to selectively protect the victims who are willing to witness and denounce their traffickers. Musto, Jennifer. L. "What's in a name? Conflations and contradictions in contemporary US discourses of human trafficking", *Women's Studies International Forum*, 32(4), (Jul-Aug 2009), 283.

14 United Nations Crime and Justice Information Network, 2000, http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf, accessed on: April 7, 2011.

15 Nicole Lindstrom, "Regional sex trafficking in the Balkans - Transnational networks in an enlarged Europe", *Problems of Post-Communism*, 51(3), (2004), 45.

16 Protocol Against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention Against Transnational Organized Crime was also introduced in 2000 alongside the Palermo Protocol. http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_smug_eng.pdf, accessed on: April 10, 2011.

17 Musto, "What's in a name", 282-3.

18 Jo Doezema, "Sex Slaves and Discourse Masters", 138; Doezema, Jo. "Now You See Her, Now You Don't: Sex Workers at the UN Trafficking Protocol Negotiation", in *Social & Legal Studies*, 14(6), (Mar 2005), 67; Musto, "What's in a name", 282.

presented as in control and mostly imagined to be men. On the contrary women are considered to be vulnerable, dependent victims like children.¹⁹

The definition of trafficking does not provide a clear distinction between the experiences of victims of trafficking from that of other group of exploited immigrants. Trafficking is presented as a sub-form of 'illegal' migration, but one that is different to smuggling. Even though trafficking is a process that ranges from the recruitment to the exploitation of human beings, individuals who are constructed as criminals, smuggled or unauthorized immigrants can end up in situations that would be considered in the framework of exploitation as listed in the Protocol.²⁰ For example, workers who have crossed borders legally can be subject to severe human rights violations, such as passport confiscation, confinement, holding of wages, physical violence and threat.²¹

3. Contextualization of Sex Work

Doezema notes that conceptualizing the force vs. consent (voluntary) debate is "one of the most compelling and persistent problems in the sex work."²² The dichotomization of willing sex workers and victim of trafficking debate assumes that one can easily identify consent and force and that these categories are mutually exclusive.²³

Despite the fact that neither prostitution nor slavery is a new reality, the vocabulary of sexual slavery became very popular and this understanding had immense influence in the agendas of anti-trafficking campaigns and policies²⁴

Two international organisations that played significant roles in the definition of human trafficking during the negotiations of Palermo Protocol demonstrate the two

19 Aradau, "The perverse politics of four-letter words", 253-255; Julia O'Connell Davidson, "Will the Real Sex Slave Please Stand up?", *Feminist Review*, 83, Sexual Moralities, (2006), 9.

20 O'Connell Davidson, "New slavery: old binaries", 250-252.

21 Heeg, Jennifer. "Gender, International Trafficking Norms and Gulf Migration", (Paper presented at International Studies Association Conference 15-19 March 2011, Montreal); Minna Viuhko, "Human Trafficking for Sexual Exploitation and Organized Procuring in Finland", *European Journal of Criminology*, 7(1), (Jan 2010), 70-71.

22 Doezema, "Sex Slaves and Discourse Masters", 24.

23 Nandita Sharma. "Travel agency: a critique of anti-trafficking campaigns", *Refuge*, 23(3), (Mar 2003), 59-61.

24 Bernstein, "The Sexual Politics", 133-136; Musto, "What's in a name", 283-285; Doezema, "Sex Slaves and Discourse Masters", 173. For a detailed account of the neo-abolitionist politics that is promoted through the marriage of secular feminists, evangelical Christian and anti-trafficking organisations, see Bernstein (2007).

camps in their attitudes to selling sex²⁵: Coalition against Trafficking in Women (CATW) a neo-abolitionist organisation and Global Alliance against Traffic in Women (GAATW) holds a pro-rights perspective. According to CATW and other neo-abolitionist scholars no consent is possible in prostitution²⁶ since it is a result of gendered vulnerabilities²⁷ and amounts to sexual servitude. Pro-rights activists on the other hand, do not see sex work different than other income generating activities²⁸ The same reality is understood through different social locations and presumptions towards the world and the sex industry. This polarization is a result of seemingly irreconcilable ontological and epistemological assumptions hold by neo-abolitionist and sex-work groups. While the former has an absolute position on sex industry and political and economic influence, the latter group has a more nuanced understanding of the issues of force and consent.

4. Sex Work as Exploitation

Feminist abolitionism can be seen as:

[a]ction taken in an effort to end sex trafficking that is motivated by a belief that such trafficking harms women in ways tending to sustain and perpetuate patriarchal structural inequalities.²⁹

The efforts of women to eradicate prostitution are not contrary to efforts to eradicate other and all forms of slavery and indentured servitude.³⁰ Neo-abolitionists treat prostitution as a problem of violence, economic inequality, discrimination, and desperation. For them, prostitution is largely inseparable from "sex trafficking," the victims of which are mostly girls and women who are bought and sold for sex with men.³¹

25 Doezema, "Now You See Her", 64.

26 CATW lobby groups' suggested definition of trafficking for the Palermo Protocol during negotiations was: "the recruitment, transportation within or across borders, purchase, sale, transfer, receipt or harbouring of a person for the purposes of prostitution, sexual exploitation, exploiting the marriage of such a person, exploited labour, or slavery-like practices with or without the consent of the victims" (my emphasis) (CATW, 1999 as quoted in Doezema, "Now you see her", 72).

27 U Vindhya, and S. Dev, "Survivors of Sex Trafficking in Andhra Pradesh : Evidence and Testimony", *Indian Journal of Gender Studies*, 18(2), (Jun 2011), 147-158.

28 Agustin, "Sex at the margins", 31-33; Doezema, "Now you see her", 75; Doezema, "Sex Slaves and Discourse Masters", 2010, 138.

29 Michelle M. Dempsey, Sex Trafficking and Criminalization: In Defense of Feminist Abolitionism, *University of Pennsylvania Law Review*, 158(6), (2010), 1733.

30 Dempsey, "Sex trafficking and criminalization", 1732; Keathe Morris Hoffer, "A Response to Sex Trafficking Chicago Style: Follow the Sisters, Speak Out", *University of Pennsylvania Review*, 158(6), (2010), 1832-1833.

31 Morris Hoffer, "A Response to Sex Trafficking", 1843.

Morris Hoffer notes that “staggering cruelty of prostitution” is revealed and continued to be revealed through the partnership of grassroots organizations, survival leadership, elected politicians and local research in Chicago.³² She quotes various studies conducted within that Chicago context that reveal systematic violence against “prostitutes” by male clients and pimps at alarming rates: over 70% of prostitutes were threatened with a weapon, punched, robbed at multiple occasions, or were subject to forcible sexual penetration. Hence, prostitution is considered to be violence against women, “both a symptom and mechanism of sex inequality”.³³

The neo-abolitionists ontologically maintain that the social world we live in is not egalitarian and it is defined by patriarchy. Epistemologically, sex work is considered as bad and dehumanizing, in the sense that no woman could or would choose it but instead they are marginalized and pushed into sex work.³⁴ Therefore, since there is no real choice from the perspective of women, the gap of power between the sex worker and her male client leads to the ultimate male domination and then to violence against women.³⁵ Since sex work is considered to be antithetical to women’s rights, all sex workers are considered to be victims of trafficking. This approach exclusively perceives human trafficking victims as the women in sex industry but tends to ignore the larger problem of violations of unauthorized migrants’ rights.

5. Sex Work as Labor

Pro-rights academics note that sex work is a legitimate income generating activity, and the women engaged in this form of work belongs to the working class. By removing the moralizing discourse from the discussions, they call for protection of sex workers’ rights and a safe working environment.³⁶ They focus on women who have initiated their own immigration processes either through their private contacts (family or friends) or criminal networks. While pro-rights activists and academics accept the fact that there are women who are coerced to engage in sexual work³⁷

32 Ibid, 1837.

33 Ibid, 1839.

34 Ibid, 1836-1843.

35 Lobazs, “Beyond Border Security”, 335.

36 Agustin, “Sex at the margins”, 38; Doezema, “Now you see her”, 80-83.

37 Bernstein, “The Sexual Politics”, 131; O’Connell Davidson, “Will the real sex slave”, 11; Laura. M. Agustin. “Sex, gender and migrations: Facing up to ambiguous realities”, *Soundings*, 23, (Spring 2003), 89-91; Laura M. Agustin, “Migrants in the Mistress’ House: Other Voices in the ‘Trafficking’ Debate”, *Social Policy*, 12(1), (Spring 2005), 98.

neo-abolitionists do not accept the fact that sex work can be considered only as an income generating activity since it is inherently exploitative.³⁸

The pro-rights perspective considers that there is no absolute truth about sex workers and that women who engage in sex work might be doing it willingly or, as it is used widely, 'voluntarily'. Yet, pro-rights scholars found the force vs. voluntary debate unproductive and not reflective of the reality.³⁹ Since we cannot talk about pure rational choice in individual decision, women in the sex industry are neither sex slaves nor *entirely* free individuals engaged in *fully* consensual sex work⁴⁰. Women have agency and they can consent to work in the sex industry. All women who work as sex workers are not necessarily torn; they can be unharmed by their sexual experiences.⁴¹ Epistemologically, they recognize that forced prostitution exists and does not deny the reality of the horrifying testimonies of forced sex workers. However, these negative experiences do not reflect the absolute truth. Sex work in itself is neither violence nor a human rights abuse. Sex workers do exist and arguing that sex work is dehumanizing means denying the very existence of them.⁴² Feminist academics within this group take issue with the conflation of sex work with trafficking and argue for the need to consider human trafficking within a wider framework of vulnerability of unauthorized immigrants as a result of the inaccessibility or the inexistence of legal immigration options.

The imagination of all sex workers within the framework of slavery does not reflect the actual working conditions for most sex workers. This is not to claim that force and coercion does not exist in this sector (as it is widespread in other forms of unregulated labour) and they intersect with the inequalities of race, gender, race, class and nationality; the accounts of overt abduction, deception and coercion that inform the arguments of abolitionists reflect the exception instead of the norm.⁴³

38 Goodey, "Sex trafficking in women", 37; Dempsey, "Sex trafficking and criminalization", 1732; Morris Hoffer, "A Response to Sex Trafficking", 1843.

39 O'Connell Davidson, "Will the real sex slave", 14.

40 Sharma, "Travel agency: a critique", 60-62; Rutvica Adrijasevic and Bridget Anderson. "Anti-Trafficking Campaigns: Decent? Honest? Truthful?", *Feminist Review*, 92, (2009), 151; Samantha. T. Godec. "Between rhetoric and reality: exploring the impact of military humanitarian intervention upon sexual violence - post-conflict sex trafficking in Kosovo", *International Review of the Red Cross*, 92 (877), (2010), 242.

41 Wendy Chapkis, "Trafficking, Migration, and the Law: Protecting Innocents, Punishing Immigrants", *Gender and Society*, 17(6), (Dec 2003), 928; Doezema, "Sex Slaves and Discourse Masters": 72; Agustin, *Sex, gender and migrations*, 90.

42 Musto, "What's in a name", 286; Doezema, "Sex Slaves and Discourse Masters", 24-26.

43 Bernstein, "The Sexual Politics", 131.

6. In search of the perfect victim

Drawing a line between undocumented migrants and victims of trafficking is not very easy, yet international and domestic law are created to make and apply this distinction. How do states “distinguish the innocent victims from those who knowingly break the law?”⁴⁴ The answer is through narratives and the construction of the “genuine” or “deserving” victim.⁴⁵

Legal frameworks such as the 2000 US Victims of Trafficking and Violence Protection Act (VTVPA) like Palermo Protocol not only differentiate between worthy victims and unworthy willing sex workers or undocumented migrants⁴⁶ but also gender human rights⁴⁷ by reasserting “troubling colonial and orientalist logics in representing victims”.⁴⁸ Women need to demonstrate “raw physical suffering” in order to be identified as victims.⁴⁹ This naïve and innocent victim is a childlike image is not reflected in the bodies of most women and they are considered as undeserving of support and protection.

Although the estimates of trafficked humans to the United States are very high and anti-trafficking provisions are in place, few potential victims were considered as real victims and offered relief under current provisions. The problem comes from the problematic understanding of human trafficking, and a ‘constricted concept of victimhood’⁵⁰ by the federal agencies only victims that appear to be under total control – during the entry to the US and their subsequent exploitation in labour and sexual services- of the trafficker are considered to be iconic victims and granted relief, other victims who cannot demonstrate the total control are considered to be undeserving.⁵¹ This is a result of the concerns of differentiating undocumented migrants from victims as well as “mandating victim participation in the prosecution of traffickers”.⁵²

In the US, for unauthorized immigrants to be identified as victims of trafficking they need to convey to Immigration and Customs Enforcement agents, as well as federal

44 Schaeffer-Gabieli, “Sex Trafficking as”, 156.

45 Chapkis, ““Trafficking, Migration, and the Law”, 929; Kapur, “The tragedy of victimization rhetoric”, 5; Godec, “Between rhetoric and reality”, 241-243; Jayashri Srikantiah, “The perfect victims and real survivors: the iconic victim in domestic human trafficking”, *Boston University Law Review*, 87(1), (2007), 160-161.

46 Soderlund, ““Running from the Rescuers”, 68-69.

47 Godec, “Between rhetoric and reality”, 240-242.

48 Hua and Nigorizawaga, “US Sex Trafficking”, 403.

49 Aradeu, “The Perverse Politics”, 262.

50 Srikantiah, “The perfect victims”, 211.

51 Ibid, 191.

52 Ibid, 158.

prosecutors, that they have not engaged in voluntary work, specifically sex work, nor become involved in voluntary border crossing. No matter how exploitative the conditions they had to suffer, if they do not manage to convince the prosecutors that they are passive victims, they will be considered criminals and will be deported.⁵³

Viuhko's study of court verdicts on human trafficking in Finland is instructive in showing the distinction made between deserving victims and undeserving prostitutes. In this case a criminal organization of Estonian and Finnish individuals deceived a mentally disabled woman into migrating to Finland, lied to her about the nature of the work and forced her to engage in sex work. Through this investigation, the law enforcement officials discovered 15 women whose sexual labour was exploited between the end of 2005 and early 2006. The court ruled that only the disabled woman was victim of trafficking, not the others. Even though not all these women were deceived or coerced, they were subject to many forms of control by their procurers. They did not have the chance to leave the sex industry when they wanted and their liberty was restricted. Yet only one woman was offered protection. This shows that if the women had consented to sex work they are not considered as genuine victims since they do not fit with the naïve and innocent image of human trafficking.⁵⁴

The real life stories of undocumented immigrants do not fit to the perception of trafficking. All potential trafficking victims in Scotland⁵⁵ came to the UK with the help of a facilitator. In most of the cases individuals recounted that they knew the nature of the work they were going to engage with and were not complaining about it. In some other cases, potential victims declared deception and/or coercion. Yet, most of them refused to receive victim support or accommodation designed for victims of trafficking and fled either before or after their interview.⁵⁶

53 Musto, "What's in a name", 285.

54 Viuhko, "Human Trafficking for", 65-70.

55 Lebov's (2010) small-scale study carried out between September 2007 and April 2008 that was based on semi-structured interviews with the NGO and police members as well as officials from UK Border Agency on the 79 victims of trafficking that came into contact with these agencies between March 2008 and April 2009. While majority of victims ($n = 50$; 63 percent) were women considered to be trafficked for sexual exploitation, the rest included men and women who were trafficked into other industries.

56 Korin Lebov. "Human Trafficking in Scotland", *European Journal of Criminology*, 7(1), (Jan 2010), 82. For a detailed account of the limitations imposed by NGO and law enforcement personnel on accessing trafficked women in the UK, see Hoyle, Carolyn, Bosworth Mary and Dempsey, Michele. "Researching Trafficked Women: On Institutional Resistance and the Limits to Feminist Reflexivity", *Qualitative Inquiry*, 17, (Nov 2011), 769-779.

Hua and Nigorizawaga note that in the 2005 *United States v. Trakhtenberg* case, prosecutors brought charges against alleged traffickers relying on the evidence collected from 'victims'. Yet one woman, Eva Petrova (a pseudonym), noted that she was forced to recount her immigration to U.S. as a story of victimization in order to avoid prison as an illegal immigrant, which she refused and was therefore turned back to Russia. According to her account, she and four other Russian women were smuggled to U.S. with the intention to perform sex work in New Jersey and New York. She portrayed herself not as a victim of trafficking but as an individual who immigrated for labour opportunities.⁵⁷

The assumption of victimization that frames trafficking discourse is a reflection of patriarchal system that fails to see women's capability to do 'bad'; that is, to cross international borders willingly and illegally. These anti-trafficking narratives "establish a discourse of sex trafficking that constricts the ways in which trafficking and its subjects can be understood."⁵⁸ These groups create a dominant discourse that creates a schema to determine who is a genuine, deserving victim and who is a criminal. This discourse is based on problematic gender bias that produces women from the developing world as traffickable, helpless victims.⁵⁹ The women who are identified as potential victims of trafficking are also had seen as "disposable witnesses" who are used to prosecute the traffickers and deported when their assistance is no longer needed.⁶⁰

Consequently, through creating a uniform definition and understanding of trafficking, victims are constructed as a distinct and an easily identifiable group of individuals. There may be various potential victims, but only the ones that fit into pre-existing model will be granted protection. This is a result of a perception of sex work as repugnant, as sex workers' rights scholars such as Agustin⁶¹ and Doezema⁶² have noted. It also documents the fact that states invest in potential "citizenry through a moral framework, namely one that defines 'good moral character' through hetero-normative and patriarchal ideals of female sexuality".⁶³

57 Hua and Nigorizawaga , *US Sex Trafficking*, 401-403.

58 Ibid, 402.

59 Kapur, "The tragedy of victimization rhetoric", 5-7.

60 Patience Elabor-Idemudia. "Migration, Trafficking and the African Woman", *Agenda*, 58, (2003), 113.

61 Agustin, "Sex at the margins", 191.

62 Doezema, "Sex Slaves and Discourse Masters", Chapter 1.

63 Hua and Nigorizawaga , "US Sex Trafficking", 407.

7. The Problems with Current Anti-Trafficking Framework

Some scholars see the alliance between the religious reformers, state officials and feminists as efforts to protect and regulate female sexuality.⁶⁴ Some others argue that these efforts decrease already limited immigration options for women who want to work as sex workers⁶⁵

Saving and rescuing narratives do not contribute to women's rights since they are constructed in relation to articulation of women as 'victims' and strips women of their self-determination⁶⁶. Second, they contribute to cultural essentialism, presenting women from developing world as the victims of their 'cultures' and their backward conditions, where women are seen as 'commodities' by men easily transported and sold. Yet, this understanding ignores the legacies of colonialism and racialized regimes.⁶⁷

O'Connell Davidson notes that current human trafficking as modern slavery⁶⁸ discourse that aims to rescue and save trafficked women victims prevents efforts to form alliances between immigrant groups as well as immigrants and non-immigrants. Even though these groups share common interests in transforming the contemporary social, economic and political relationships, the conception of trafficking as modern day slavery not only discourages cooperation, but also creates a small number of 'deserving victims' from the broader group of unauthorized immigrants who are left 'undeserving' from rights and freedoms.⁶⁹

Anti-trafficking politics that are informed by neo-abolitionists follow a neoliberal agenda that positions the problems in 'deviant individuals' instead of mainstream institutions, "that seeks social remedies through criminal justice interventions rather than through a redistributive welfare state and that advocates for the beneficence of the privileged rather than the empowerment of the oppressed".⁷⁰ This approach does not criticize the social structures that drive individuals into unsafe migration patterns and exploitation of their labor, but asks them instead to stay where they are. The problems with the legal and social structures that subjugate immigrants remain hidden.

64 Stephanie Limoncelli. "Human Trafficking: Globalization, Exploitation, and Transnational Sociology" *Sociology Compass* 3(1) (2009), 82.

65 Doezema, "Now you see her", 81; Sharma, "Neoliberal Borders", e8; Agustin, "Sex at the margins", 191.

66 Godec, "Between rhetoric and reality", 241.

67 Kapur, "The tragedy of victimization rhetoric", 4-11.

68 For a detailed account of this approach see Kevin Bale, *Understanding global slavery: A reader*, University of California Press, Berkeley, 2005 .

69 O'Connell Davidson, "New Slavery, old binaries", 255-258.

70 Bernstein, "The Sexual Politics", 137.

Farrell and Fahy argue that the dominant portrayal of victims as young, innocent and naïve deceived and coerced into trafficking by organized criminal networks presented in the media and anti-trafficking campaigns prevents law enforcement from identifying victims of trafficking who were, most of the time, were smuggled into the US but ended up in conditions that would be considered trafficking. Some victims are identified and protected but trafficking is not deconstructed and discussed as an activity that is created by unequal distribution of capital or colonial policies.⁷¹ “Nor is trafficking discussed as tied to contemporary practises of imperialism, including US militarism abroad”.⁷²

Trafficking cannot be separated from the forces of liberalization; indeed trade liberalization, in one sense, underlines the economics of this exploitation. Even though current multilateral and regional models of liberalization highlights the free movement of capital, good, services and entrepreneurship; the labor is not liberalized; it remains immobile and confined to state borders. This discrepancy creates and increases the vulnerability of some population where labor is abundant and crossing international borders legally is not possible. Traffickers in this environment should not be perceived as solely criminals but profit-seeking entrepreneurs and trafficking as a profit-generating activity. Without liberalization of labour, anti-trafficking measures will not work.⁷³ Even though convincing, this argument remains limited in terms of a solution, since it assumes that liberalization will solve the problems imposed by globalization, increased poverty and gender disparities, neoliberal policies, unequal labor relations and border control.⁷⁴ This is exemplified by the human rights violations of legal migrants and their vulnerabilities⁷⁵. Disentangling labor and rights protection from immigration control⁷⁶ needs to be supplemented by deconstructing the clear distinction between undocumented migrants and trafficking victims.

71 Amy Farrell, and Stephanie Fahy. “The problem of human trafficking in the US: Public frames and policy responses”, *Journal of Criminal Justice*, 37(6), (2009), 617-618.

72 Hua and Nigorizawaga, “US Sex Trafficking”, 415.

73 Karen Bravo, “Toward a Labor Liberalization Solution to Modern Trafficking in Humans”, *Proceedings of the Annual Meeting (American Society of International Law)*, 102, (2008), 68-69.

74 Agustin, “Sex at the margins”, 191; Bernstein, “The Sexual Politics”, 137; Sharma, “Neoliberal Borders”, e8.

75 Andrijasevic and Anderson, “Anti-Trafficking Campaigns”, 152; Chapkis, “Trafficking, Migration and the Law”, 929; Heeg, “Gender, International Trafficking Norms”

76 Andrijasevic and Anderson, “Anti-Trafficking Campaigns”, 155.

8. Conclusion

The mismatch between the estimates of human trafficking victims by international and national organizations, and the very limited number of immigrants who are considered as genuine victims and offered relief under current provisions is a result of an exclusive understanding of human trafficking victim, who are constructed as an easily identifiable and distinct group. No matter how extensive exploitative conditions of the undocumented migrants are under, only the ones that fit within the pre-existing forms will be granted protection and the others will be treated as criminals.

The extensive use of moving images in anti-trafficking discourses is empirically striking in itself and bears no direct relation with the actual forms of violence that many migrants experience. Human trafficking has a depoliticizing function through the concern with — and intervention on behalf of — a particular type of migrant, namely, the victim rather than broader issues such as labor rights and the freedom of mobility. This neo-abolitionist understanding is inadequate in addressing the human rights of migrants who are susceptible to exploitation. This approach towards trafficking interventions may prove the suppression and intensifying regulation of migration rather than the protection of migrants themselves. Pro-rights perspective has the potential to protect the rights and freedoms of sex workers as well as broader immigrants. What is needed is not more evidence or quantification about particular types of victims “but, rather, a complete reframing of debates concerning the relationship between migration and exploitation.”⁷⁷

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77 Lindquist, “Images and Evidence”, 226.

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