

Australia and the traffic in women into sexual exploitation

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The number of women and children trafficked internationally each year, mainly for the sex industry, is estimated by experts in the field as 700,000 to 2 million. On the international stage this traffic has been understood as a modern form of slavery. Recognition of the seriousness of the issue has led to the Protocol on trafficking of the UN Convention on Transnational Organised Crime (2000). Presently Australia has signed the Convention but not the Protocol. The traffic in women for sexual exploitation is not a new issue. Feminists worked, through a special committee on the traffic at the League of Nations, for 20 years to create a convention which became the UN Convention against Trafficking in Persons and the Exploitation of the Prostitution of Others (1949). Australia did not sign this convention.

Several factors have led to an explosion in trafficking for sexual exploitation in the late twentieth century. Increasing sexual liberalism in the west after the so-called sexual revolution of the 60s and 70s, and the resulting creation of a considerable pornography industry, led to a greater acceptance of men's sexual exploitation of women. There has been an increasing polarisation between the world's rich and poor. A large number of military conflicts, particularly civil wars, have created vulnerable populations of women. The increasing impoverishment of post-communist countries has led to the 'Natasha trade' in which Russian women desperate for survival are being trafficking in pornography and prostitution around the world. Military prostitution created by the US in Asia, and now everywhere that UN peacekeepers go, has created an explosion of prostitution industries. Internet technology has greatly increased the scope for sexual exploitation.

During the 1990s what has come to be called 'people smuggling' became a major concern for rich nations. Unfortunately there is an increasing tendency to subsume the trafficking of people into forced labour under the category of people smuggling. In fact, these phenomena are quite different. Whilst smuggling of migrants can be seen as a crime against the state and involves a mutual interest between the smuggler and the smuggled, trafficking is a crime against the persons trafficked. Persons who are 'smuggled' are generally left to fend for themselves in their destination counties, having already paid off the smugglers. They have physical freedom and, if not apprehended, are able to search for a means to survival. Trafficked persons are usually in debt slavery to the traffickers and the debt has to be repaid after arrival in the country of destination. Trafficked persons generally remain under the control of the traffickers until able to pay off their debts. In the case of women trafficked into prostitution in particular, the women may, as has happened in Melbourne, be kept behind bars. They can be sold on again and again, and are sometimes unable to break free of debt bondage. The debts they have to repay are between 15 and 18 thousand dollars. The 'debt' may be constantly increased as a result of imagined or extortionately priced services by the trafficker to the women. 'Smuggled' people are not delivered to slavery in the same way. Trafficking is a human rights crisis for the trafficked.

Australian legislation:

In 1999, in response to developing concern about this issue in Australia, new legislation came into force which amended the criminal code's provisions on slavery. The new 'Sex Slavery' legislation imposes penalties on those responsible for trafficking women, defined narrowly as involving force or deception, into slavery-like conditions in Australia. It is unknown how many of the women brought to Australia would be seen as having been trafficked into slavery-like conditions under the terms of this legislation. An Australian Institute of Criminology report notes that the majority of women know that they are coming to work in prostitution but are unlikely to know the conditions under which they will have to work (e.g. confiscation of passports and documents, having to service 500 men to pay off debts incurred in their travel before being paid, and being kept behind bars). There have currently been no prosecutions under the new legislation. There is no federal police unit to investigate trafficking and only South Australia has put in place complementary legislation. The Sex Slavery legislation relates only to traffickers and does not relate to the trafficked women, who are routinely deported to their countries of origin on discovery to the detriment of successful prosecution and of their own safety. The US introduced new legislation in 2000 which provides protection and support to victims. The European Union has developed a Framework Proposal to do the same.

Is Australia part of the international economy of trafficking for sexual exploitation? A 2001 Australian Institute of Criminology report remarks that 'The extent of trafficking to Australia is largely unknown, although incidence appears to be low' (Tailby 2001:3). However, as reports on trafficking in other countries point out, estimating the extent of the trade is very difficult because it is hidden. According to DIMA reports of women apprehended by that agency, the number of women working illegally in the sex industry located in Australia has increased from 56 in 1996-7 to 243 in 1998-9 and decreased slightly to 190 in 1999-2000 (DIMA 2001:69). Considering that those apprehended are likely to represent only a small number of those involved it should be recognised that Australia does have a trafficking problem.

Information about the size and shape of trafficking in Australia is presently anecdotal because no detailed study has been undertaken. Chris Payne, who headed the federal police operation responsible for investigating sex trafficking in Sydney from 1992-5, says that up to 500 trafficked women are working illegally in Sydney at any given time on false papers (Radio National The Law Report 15/11/2000). His view is that they are being kept in 'servile conditions'. They are extremely vulnerable and in no situation to control their conditions of work. Sometimes they do not know what country they are in, and have not heard of Australia. Mostly they think they are to work in prostitution, but sometimes they think they are going to work as waitresses. Relying on women to make complaints, he points out, is ineffective because there are many reasons including threats of violence, of retaliation against families, of police violence, of deportation, combined with lack of English and other information that make women unwilling or unable to complain, and thus invisible in the statistics.

The women Chris Payne dealt with and the women involved in the Gary Glazner case in Melbourne where 20-40 Thai women were held behind bars at the Clifton Hotel and put to work in debt bondage in legal and illegal brothels, probably knew their destination in prostitution. However some women are certainly trafficked into prostitution in Australia by deception. Deception was used in the case of 'Christina', featured on Lateline in 2000 who came to Australia to work as a cleaner and learn English (Lateline Sex Slavery 3/08/00). She was told she would have to repay \$40,000 by working in a brothel. She was controlled by violence and threats to herself and her family in Colombia. In the last year Amnesty International in Australia has been working on the cases of two trafficked women who have died in Villawood Detention Centre. One of the women, who died in a pool of vomit at 20 years, was apparently trafficked to Australia at 12 years old and continuously used in prostitution thereafter.

International efforts to combat trafficking of women for sexual exploitation are bedevilled by the ongoing controversy in UN and NGO fora as to whether prostitution should be regarded as violence against women and a violation of women's human rights, or as just a form of work or even of women's empowerment. In debates over the wording and contents of the Protocol on trafficking attached to the 2000 UN Transnational Crime Convention, lobby groups representing these different positions strove to get their interpretations into the document. Countries such as Australia, that have legalised, or intend to legalise, brothel prostitution, and some NGOs that took the position that prostitution should be seen as just a form of work like any other, wanted to write a clear forced/free distinction into the definition of trafficking. Those who favoured such a restricted definition wanted to exclude a category of 'voluntary' trafficking in which women and girls would be aware that their destination was the prostitution industry. If they had been successful, then most of the women trafficked into prostitution in Australia would have been excluded. In fact the definition agreed upon includes not only a comprehensive coverage of criminal means by which trafficking takes place such as force, coercion, abduction, deception or abuse of power, but also less explicit means, such as 'abuse of a victim's vulnerability' and the Protocol makes clear that where any of these means have been used, consent is irrelevant. This final definition, and other wording in the document, represent a compromise: those who see prostitution as a human rights violation are most satisfied with this.

The different understandings of trafficking held by rich (receiving) and poor (source) nations was highlighted in the debate on the Protocol. Trafficking in women and children was identified as a form of racial discrimination at the 2001 World Conference Against Racism. The conference Press Kit identifies such trafficking as one of the 5 key themes of the conference. One 'constant factor' in trafficking is recognised as 'the economic distinction between countries of origin and countries of destination' (WCAR 2001). Though trafficking between poorer countries and within them also takes place. The WCAR document points out that racist ideology fuels trafficking and that women of certain racial or ethnic groups suffer more abuses than other women. The Coalition Against Trafficking in

Women explains that government delegations in the Vienna meetings on the Protocol who supported a human rights definition of trafficking included mainly the poorer nations such as Bangladesh, India, Pakistan, Egypt, China, Colombia, Venezuela, Mexico which are source nations for the trafficking in women. CATW comments that 'In general, it was wealthy western and other industrialized countries – many of them receiving countries for victims of trafficking... including Holland, Germany, Denmark, Switzerland, Ireland, Australia, New Zealand, Japan, Thailand, Spain, Canada, and the U.K.' who supported the 'sex work' position.

Presently in rich countries sex entrepreneurs are having some real problems finding enough women who are so oppressed by child sexual abuse and neglect, by severe economic need or other pressing circumstances that they can be induced to enter brothels. In London, for instance, and in Amsterdam, trafficked women came to dominate off-street prostitution by the late 1990s. Trafficked women are cheap and even more powerless than other women in prostitution. In such countries sex entrepreneurs are keen to get governments to allow the importation of women to work in brothels legally. For this purpose a forced/free distinction is important.

Some participants in the Vienna process also favoured severing the link between trafficking and prostitution by making the Protocol apply to trafficking for labour purposes with no explicit reference to 'sexual exploitation'. This approach was favoured by the UN High Commissioner for Human Rights and the International Labour Organization. This approach was not agreed to and the Protocol acknowledges that much trafficking is for the purpose of prostitution and for other forms of sexual exploitation. The importance of keeping this link lies not only in acknowledging that the sex industry is the main destination of trafficked women and girls internationally, but also in recognition of the distinction between prostitution and other forms of labour. Exploitative labour in the garment industry, for instance, is likely to have very different psychological effects on victims from the experience of sexual exploitation.

There is an added level of difficulty in combating the trafficking of women into Australia. This is the fact that in several states brothel prostitution is legalised and the brothel industry is free to expand. It seems that where brothel prostitution is legalised, as in Victoria, the illegal brothel industry always outstrips the legal sector. Presently there are 100 legal brothels and, according to the legal brothel owners, 300 illegal brothels. Trafficked women are sold into both legal and illegal brothels. As several studies of trafficking in western countries in the last couple of years point out, the trafficking of women into prostitution and the prostitution industry generally, cannot reasonably be separated. Trafficked women are placed in 'off-street' prostitution, primarily brothels. Liz Kelly's study for the Home Office in the UK "Stop Traffic" points out that 'Women are trafficked into countries that have existing sex industries which can absorb them, and are often trafficked from countries where there is an indigenous sex industry' (Kelly and Regan 1999:2).

This raises the question of what form of regulation of prostitution is best suited to decreasing the traffic in women. Within many countries in Europe and Asia the legalisation or decriminalisation of brothel prostitution is being promoted as a solution to the abuse of women in the industry, the problem of organised crime involvement, and the problem of trafficking. Whilst the Dutch brothels experienced de facto legalisation they were mostly staffed, at least in Amsterdam, by trafficked women. Partly to deal with the problem of trafficking, and perhaps the threat posed by foreign workers to the prices of Dutch prostitutes, formal legalisation of brothels was introduced in 2001, with a regulation that only women with work permits for the EU could work in brothels. Immediately the brothel owners found they could not find enough workers. Not enough Dutch and EU women were sufficiently impoverished to contemplate prostitution. The trafficked women were reduced to street prostitution under the control of vicious pimps.

In Sweden, however, there is a different approach. The buying of 'sexual services' has been penalised since 1999 as part of legislation to combat all forms of violence against women. The legislation was introduced, as a result of feminist campaigns, by the social democrats. According to information from the ministry for gender equality in Sweden there is evidence to suggest that this legislative regime has discouraged traffickers, and led to a diminution of the trade. Traffickers, it seems, prefer to operate where there are brothels in which to place their goods without fear of harassment.

The growing problem of the traffic of women into prostitution may be a reason to question the notion that prostitution can be made into a respectable industry. There is no trafficking of women into office work, for instance. There are important issues that arise for dealing with the trafficking of women into sexual exploitation in Australia. One is that the federal government needs to sign the Protocol on trafficking and create legislation in Australia to implement its provisions, such as support to victims in the form of visas, safe houses and protection. This will recognise that these women have had their human rights violated in Australia and should not be treated as illegals and deported. Another is the need to rethink systems of prostitution regulation. As states consider reforming their prostitution legislation in the light of problems such as the burgeoning illegal sector in legalised systems, they need to work out how trafficking can best be combated.