



Centre on Migration, Policy and Society

**Working Paper No. 48,
University of Oxford, 2007**

**Motherhood, Apple Pie
and Slavery: Reflections on
Trafficking Debates**

Bridget Anderson

WP-07-48

COMPAS does not have a centre view and does not aim to present one. The views expressed in this document are only those of its independent author

Motherhood, Apple Pie and Slavery: Reflections on Trafficking Debates

Trafficking in human beings is the object of considerable concern for a wide range of actors, including states, rights activists and feminists. It seems that it offers a rare opportunity for dialogue on questions related to the exploitation and abuse of migrant labour. This paper urges caution, and argues that loose definition of terms conceals both practical and philosophical problems with framing trafficking as an immigration issue. Using a UK case study it demonstrates how in practise states and migrants' rights activists have very different understandings of the relation between trafficking and immigration controls.

Keywords: trafficking, migrant labour, exploitation, rights, prostitution, domestic work

Author: Bridget Anderson is Senior Researcher and Programme Head at the Centre on Migration, Policy and Society, University of Oxford, 58 Banbury Road, Oxford, OX2 6QS, UK. Email: Bridget.Anderson@compas.ox.ac.uk

Motherhood, Apple Pie and Slavery: Reflections on Trafficking Debates¹

Introduction

Trafficking is in the news. It is on the political agenda, both nationally and internationally. Thousands of individuals, hundreds of groups, dozens of newspapers are determined to stamp it out. This public concern with trafficking consistently reflects and reinforces firstly a deep concern with prostitution/sex work, and secondly a concern about immigration, abuse and exploitation. To challenge the expression and some of the actions taken as a response to this concern is akin to saying that one endorses slavery or is against motherhood and apple pie. It is a theme that is supposed to bring us all together. But in this paper I want tread the line of challenging motherhood and apple pie without endorsing slavery. This is because I believe that there is a real danger that a moral panic over trafficking diverts attention from the structural, systemic causes of abuse and exploitation and confuses arguments. In particular I want to argue that the positions and actions taken on trafficking mask very different and often conflicting agendas and that those who seek to occupy the common ground of trafficking might find themselves in treacherous territory.

Interest groups

Trafficking in persons is currently viewed as a serious problem by a wide range of different agencies, organisations and lobby groups, yet different groups identify trafficking as a problem for very different reasons and often have very different political agendas with regard to the issue. I want to examine 3 broad groups of “stakeholders” for the purposes of this paper with

¹ This paper has been developed through presentations at the Gender and Migration Workshop Series, University of Liverpool, the Danish Institute for International Studies, Copenhagen, and the conference on Combating Contemporary Slavery held by the Universities of Bristol and UWE. I am grateful to the participants and organisers of these events. I am particularly grateful to Professor Julia O’Connell Davidson at the Department of Sociology and Social Policy, University of Nottingham, with whom many of the ideas in this paper were developed.

a view to identifying the key challenge for each in using the language of trafficking and the strong depiction of the Victim of Trafficking. These stakeholders are feminist “abolitionist” NGOs and their supporters; migrants’/workers/human rights organisations; and states. (These of course are not mutually exclusive.) Outside of the information and analysis generated by these groups there is also a broader popular interest in trafficking apparent in media coverage. Until recently, in the UK at least, this has tended to concentrate on: illegal entry and/or employment; movement across international frontiers; prostitution/and for migrants who are not working in the sex trade, death. However, there is just beginning to develop an interest in forced labour exploitation, reflecting in part a concerted attempt by labour and migrants’ rights activists in particular, to shift the agenda to trafficking for forced labour (Flynn 2007).

I will argue that each of the three interest groups mentioned above views the issue through the lens of different political concerns and priorities. Each has a principal conceptual challenge when they use the trafficking framework. These challenges are shared, but receive different emphasizes depending on who is criticizing whom. Ultimately this is just a way of cutting the cake, a way of getting a handle on the complex and contradictory issues and fundamentally these challenges I think demonstrate deep problems with the concept that are not simply terminological but have serious practical and political implications.

Definitions: the Palermo Protocol

Much store is set by a landmark international agreement which offered a legal definition of trafficking. In November 2000, the UN Convention Against Transnational Organised Crime was adopted by the UN General Assembly. The purpose of this convention was to promote interstate cooperation in the combating of transnational organized crime and to eliminate “safe havens” for its perpetrators. It also is supplemented by three additional protocols dealing with Smuggling of Migrants, Trafficking in Persons – especially

women and children, and Trafficking in Firearms. The definition of trafficking in persons contains three elements: an action consisting of “the recruitment, transportation, transfer, harbouring or receipt of persons,”; by means of “the 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...(which).. shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs². The smuggling of migrants is defined as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State party of which the person is not a national or a permanent resident”.

The Palermo Protocol, as it is known, is on one level hugely successful. As of April 2007 it has 111 signatories. Compare the ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and their Families approved by the UN ten years earlier in 1990, which in April 2007 had 36 ratifications and 15 signatories. However one should remember that the Palermo Protocol is *not a human rights instrument*. It is an instrument designed to facilitate cooperation between states to combat organised crime, not an instrument designed to protect or give restitution to the victims of crime. The emphasis is on intercepting traffickers and smugglers and on punishing and prosecuting them. States are to strengthen border controls to prevent trafficking and smuggling. Border controls, not human rights protection lie at the heart of both the smuggling and trafficking protocols. While states are encouraged to offer protection to trafficked persons, in particular to consider providing victims of trafficking the possibility of remaining, temporarily or permanently, on their territory, actual obligations are minimal and the protection provisions are weak. They must

² For children the requirements for means are waived.

"consider implementing a range of measures to provide for the Recovery of victims of trafficking; *endeavour* to provide for the physical safety of trafficking victims... and *ensure* that domestic law provides victims with the possibility of obtaining compensation" (Gallagher 2001).

The tone is, as Gallagher puts it, "optional". Trafficked persons are not prevented from prosecution for status related offences – i.e. are still liable to prosecution as an illegal entrant for example. Of course there are other legal instruments governing trafficking, and some, including the Council of Europe Convention on Action Against Trafficking in Human Beings emphasises the human rights of trafficked people. However, even in this most progressive instance the protection of trafficked persons still depends on their co-operation with authorities.

The fact that there are two protocols suggests that there are two discrete groups of wrongdoers, traffickers and smugglers, and two groups of migrants, those who are trafficked and those who are smuggled. States and other parties often emphasise that these are two different groups (Home Office 2007; Flynn 2007). This is also emphasised in the CoE Convention ("To protect and assist trafficking victims it is of paramount importance to identify them correctly" para 127 article 10). This is because smuggled migrants are not entitled to any of the special protections that states should consider making available to victims of trafficking, and there is no requirement placed on states to consider the human rights of smuggled migrants when repatriating them. Early commentators found the unclear relationship between the two protocols, and, more specifically the failure of both to provide any guidance on *identification* to be a "significant, and no doubt deliberate, weakness". This failure, it is argued, means that states will default to identification as smuggled rather than trafficked, because responding to trafficked people is administratively and financially more costly. I will argue however that the problem of identification is in fact a result of fundamental problems with the definition of trafficking in persons that the protocol does not resolve, smuggling and trafficking networks are

not distinct, and that in practise implementing a distinction between smuggled and trafficked people is extremely difficult not least because of the role of immigration controls in creating a group of vulnerable workers.

Prostitution/sex work: consent and miserable choices

Negotiations over the Palermo Protocol brought together states and feminists who were particularly concerned with prostitution and until recently the policy discussions and research on trafficking have been very much focused on prostitution. The debates around the protocol itself were affected by the polarised debate between those who might be termed “feminist abolitionists” and those arguing from a “sex workers’ rights” perspective. Abolitionists argue that prostitution reduces women to bought objects, and is always and necessarily degrading and damaging to women. Thus, they recognise no distinction between “forced” and “free choice” prostitution, and hold that in tolerating, regulating or legalizing prostitution, states permit the repeated violation of human rights to dignity and sexual autonomy. All prostitution is a form of sexual slavery, and trafficking is intrinsically connected to prostitution (Barry 1995). From this vantage point, measures to eradicate the market for commercial sex are simultaneously anti-trafficking measures, and *vice versa*.

Feminists who adopt what might be termed a “sex workers’ rights” perspective reject the idea that prostitution is intrinsically or essentially degrading. Since sex workers’ rights feminists view sex work as a service sector job, they see state actions which criminalize or otherwise penalise those adults who make an individual choice to enter prostitution as a denial of human rights to self determination (NSWP 1994, Alexander 1997). They also strongly challenge feminist abolitionists’ simple equation of the demand for trafficking and the demand for prostitution. From this standpoint, it is the lack of protection for workers in the sex industry, rather than the existence of a market for commercial sex in itself, that leaves room for extremes of exploitation, including trafficking. The solution to the problem thus lies in

bringing the sex sector above ground, and regulating it in the same way that other employment sectors are regulated.

Thus the trafficking protocol has its roots not just in concerns about crime and borders, but through a lens of concerns about prostitution of women and minors. There is particular and special reference made in the protocol to sexual exploitation and exploitation of the prostitution of others. Arguably one reason for the success of the protocol is its lack of precision. Since the protocol makes particular and special reference to prostitution and sexual exploitation, but simultaneously places a responsibility upon governments to protect the human rights of persons trafficked into sectors other than the sex industry, it can be read as taking a neutral stand on "the prostitution debate". This semblance of neutrality is achieved at the expense of precision, however. So, for instance, the protocol does not define the phrase "exploitation of prostitution of others or other forms of sexual exploitation" because "government delegates to the negotiations could not agree on a common meaning" (GAATW 2001, p31). States seem to have agreed to disagree about prostitution in order to maintain the distinction between trafficking and migrant smuggling. Prostitution is dealt with only with reference to trafficking and not with reference to domestic law.

For abolitionists, concerns with trafficking are about women's rights and prostitution. Those working in the sex trade are not smuggled into states, they must be trafficked since no woman can really free consent to prostitution. They argue that their focus is "the human rights implications of prostitution per se" (Reanda 1991). Abolitionists have been criticised for not recognising agency, that it is possible for women to make a decision to work in commercial sex, and that those who do so are not victims of violence or personal pathologies but agents. They condemn "prostitutes" to perpetual victimhood, whose only possibility lies in rescue.

But what of the many women (and children) who say that they have made a choice? How do I respond when a person says that they are consenting to a contract that I believe is of its nature problematic? If I believe that

normatively, nobody *should* sell sex, or that, in the case of forced labour, nobody *should* sell themselves into slavery, what ought to be my response when faced with people who have done so? While it is easy to condemn the buyer (“the demand” in current policy parlance), what about the willing seller? One move might be to consider the social context: if a person sells sex when they have a plethora of other choices of how to earn their money then they ought not to sell sex because it harms all women that they can be thus commodified; if a person sells sex when they are poor then they have not really consented, but rather they have been forced by poverty. And indeed, some feminists have therefore emphasised the distinction between “forced” and “free” prostitution. Doezma (1998) has pointed out some of the problems with the emphasis on this forced/free distinction, most particularly that it facilitates evasion of the challenges posed by sex workers’ rights arguments. In terms of responses to trafficking then the challenge to proponents of this argument are two fold. Firstly that if sellers are coerced by poverty and do not properly consent to these unacceptable contracts then a policy response which focuses on borders and immigration control is clearly insufficient. As Radin (1996: 51) puts it:

If poverty can make some things non-saleable because we must... presume that such sales are coerced, we would add insult to injury if we then do not provide the would-be seller with the goods she needs or the money she would have received. If we think respect for persons warrants prohibiting a mother from selling something that is in some sense ‘inside’ herself to obtain food for her starving children, we do not respect her personhood more by forcing her to let them starve instead

To foreclose one of a highly limited set of options open to a person because others feel uncomfortable with that option cannot be said to be advocating for her rights, rather she is being required to sacrifice herself further for the greater benefit of all women. If one is concerned with the rights of that individual surely one should be offering more options in the expectation that most people will avoid miserable choices and that, if selling sex is inherently degrading for women, then most women will, given other choices, avoid it.

The second challenge for this position is how to avoid it being used as a mechanism for distinguishing between the woman who “chooses” prostitution who is guilty and does not deserve human rights protection (she is “smuggled”), and the woman who is “innocent” and does (she is “trafficked”). How to avoid being seen as assisting the state in distinguishing between the victim, who is deserving of help and support as a trafficked victim, and the whore who should just put up or get out when in practise of course we know that questions of consent are far more complicated, and often mask old debates about agency and structure, and how these interact with each other.

Human/workers’/migrants’ rights activists

Many of these issues also represent a conceptual challenge for other types of rights activists who are increasingly being drawn into the language of trafficking as attempts are made to frame its discussion with reference to “forced labour” and “exploitation”. If it is only innocent victims who merit help and support, and, in the context of the trafficking protocol, some minimal sympathetic attention to their basic rights, what of the “guilty”? However, a further difficulty for those who focus on labour or migrant rights is how to distinguish trafficking from legally tolerated employment contracts (also from legally tolerated forms of exploitation of women and children within families). Questions about what constitutes an exploitative employment practice are much disputed - indeed they have historically been, and remain, a central focus of the organised labour movement’s struggle to protect workers. There is variation between countries and variation between economic sectors in the same country in terms of what is socially and legally constructed as acceptable employment practice. In the absence of a global political consensus on minimum employment rights, and of cross-national and cross-sector norms regarding employment relations, it extremely difficult to come up with a neutral, universal yardstick against which “exploitation” can be measured. The protocol definition of trafficking leaves open questions

about precisely how exploitative an employment relation has to be before we can say that a person has been recruited and transported “for purposes of exploitation”.

For migrant labour, at least for low-waged migrant labour, surely one of the reasons it is permitted by states in the first place, and in practise why it is sought by employers, is precisely because it can be exploited. How to draw a line in the sand between “trafficked” and “not trafficked but just-the-regular-kind-of-exploitation” migrants? Indeed, given that movement across international borders is not a requirement for trafficking to take place, how to make this distinction between trafficked migrants and exploited workers in general, and why make it? The problem is that workers, migrant or not, cannot be divided into two entirely separate and distinct groups – those who are trafficked involuntarily into the misery of slavery-like conditions in an illegal or unregulated economic sector, and those who voluntarily and legally work in the happy and protected world of the formal economy. Violence, confinement, coercion, deception and exploitation can and do occur within both legally regulated and irregular systems of work, and within legal and illegal systems of migration.

So far as definitions of trafficking are concerned, the problem is further complicated by the fact that these abuses can vary in severity, which means they generate a continuum of experience, rather than a simple either/or dichotomy. At one pole of the continuum, we can find people who have been transported at gunpoint, then forced to labour through the use of physical and sexual violence and death threats against them or their loved ones back home. At the other pole, we can find people who have not been charged exorbitant rates by recruiting agencies or deceived in any way about the employment for which they were recruited, and who are well-paid and work in good conditions in an environment protective of their human and labour rights. But between the two poles lies a range of experience. Ideas about the precise point on this continuum at which tolerable forms of labour migration end and trafficking begins will vary according to our political and moral values.

States

States concerns with trafficking are very much focussed on “illegal immigration” despite the fact that trafficking, as opposed to smuggling, does not have to be to do with illegal entry. It is important when considering this however to remember that “Victim of trafficking” is both an *administrative category* entailing certain state protections and obligations towards individuals, and a *descriptive term* applied by NGOs and other civil society actors to people who have certain sets of experiences – though exactly what should constitute those sets of experiences is contested. Those who fit the *descriptive term* do not necessarily fall into the *administrative category*, a further reason for discrepancies between large-scale numbers of estimated victims, which have a strong reliance on NGO figures and estimates, and the numbers of those officially registered. Indeed state officials can be less than rigorous in their usage of the term. Take the tragedy in Dover in 2000 where 58 Chinese people died in the back of a truck having paid £15,000 each to group that organised their illegal entry to the UK. This was widely publicised as an instance of “deadly traffic in humans” (*International Herald Tribune* June 21st 2000). Official European documents give this as an example of trafficking but given that they had entered voluntarily into the contract, were entering the UK illegally it is highly doubtful that they would have been designated “trafficked” had they been found alive. Like many illegal entrants discovered entering the UK in extremely dangerous and difficult conditions, they would have been classed as smuggled and in all probability returned to their country of origin. Similarly in his foreward to the Home Office document “Enforcing the rules”, then UK Home Secretary, John Reid, said that

Failure to take on the people traffickers who are behind *three quarters of illegal migration* to this country leaves vulnerable and often desperate people at the mercy of organised criminals.

Enforcing the Rules: a strategy to ensure and enforce compliance with our immigration laws 2007

There are currently a maximum of 35 accommodation places provided by Home Office funding for victims of trafficking to the UK.

The challenge for states is precisely in implementing the smuggled/trafficked distinction. The question resolves into the broader issue of the role of immigration controls in constructing categories of people who are vulnerable to abuse. If certain immigration statuses create marginalized groups without access to the formal labour market, or any of the protections usually offered by states to citizens and workers, then how can the state prevent itself equipping employers with labour control and retention mechanisms that would not otherwise be available to them? How can states prevent immigration controls from becoming part of the problem, and indeed attain the far more ambitious goal of ensuring that immigration controls are part of the solution?

Matters of movement

The challenge and problems outlined above may be differently emphasized, elided or ignored depending on who is talking about this elusive term "trafficking". But some of the divisions between interest groups become most sharp when one attempts to consider, why does movement matter? It is of particular note that according to protocol definitions key distinctions between trafficking and smuggling are:

- a) that entry into a state can be legal or illegal in the case of trafficking but not smuggling;

and

- b) that trafficking can take place within national boundaries i.e. the transportation, recruitment element does not have to occur across international frontiers.

Trafficking does not have to take place across international borders, one does not need to be “illegal” in order to be trafficked, as one does not need to be a “prostitute”. But in this case, why does movement matter at all? For feminists, labour, and migrant rights’ activists, why is being forced into prostitution or to labour at the barrel of a gun when you are in your home town less heinous than being forced into prostitution or work elsewhere? It is the outcome, exploitation and abuse, that is the problem, not where it takes place.

It could be argued that movement matters because it heightens vulnerability to this outcome, and potentially, makes alleviation more problematic – if you are isolated, don’t speak the language etc. then it is both easier to exploit you, and indeed in this way movement may be part of a mechanism facilitating exploitation. However, while there is undoubtedly a problem with reducing exploitation and its mechanisms to simple mathematics and units of labour, surely what this suggests is that one has to examine the social context and relations within which all exploitation takes place, and account for and respond to it? In this instance ensuring that people have information on their rights, enforceable employment contracts, decent accommodation and possibilities for social contacts. Thus in seeking to protect a group of workers who are particularly vulnerable for reasons to do with language, familiarity etc., migrant activists focus on movement as a shorthand for this vulnerability, and take refuge on a rare patch of common ground with states around “trafficking”. However, for states the reason for the emphasis on movement is clearly based on their concern with transnational organized crime. The Protocol was concerned to plug gaps with national law enforcement and criminal justice mechanisms and to ensure co-operation between states on the basis that transnational organized crime cannot be tackled on the territory of one state. Border controls and movement of people (“victims” not necessarily “traffickers” of course) are central. The differences between states and rights’ activists therefore crystallize around the role of immigration controls. Are immigration controls a factor that can

heighten vulnerability to exploitation? Some consensus around this question could make the common ground of trafficking an oasis rather than a mirage.

Trafficking: known and unknown unknowns

I have disentangled these problems somewhat artificially. Questions of consent and agency, of what constitutes exploitation, and of the role of immigration control in creating victims of trafficking are challenges for all those who engage in trafficking debates. These are not little matters of detail, bogging us down when we need to be *acting*. Rather they are the key to understanding what it is we are fighting for, and the desirable end point of this struggle – what would signify the “end of trafficking”, and who it is that we are striving to protect.

The lack of resolution of these questions affects our knowledge base of the question. Remarkably little is known about “trafficking in persons” for all the publicity it receives and emotions it invokes, and there are contradictions in the “facts” as presented by different agencies. The US Government estimates that between 600,000-800,000 persons, mainly women and children, are trafficked across borders every year, and between 2001 and 2006 it committed some \$375 million for international projects to combat trafficking in persons. However, a report by the US Government Accountability Office on Human Trafficking found that US estimates of global human trafficking were “questionable”, being based on one person’s undocumented work and not replicable. Indeed it found that international estimates were fraught with methodological weaknesses, based on unreliable estimates of others, bringing together datasets that were not comparable because of different definitions and instrumentalising of definitions in different countries. It highlighted the sharp discrepancy between the high numbers of victims estimated, and the number of those officially registered and supported.

Positions on prostitution/sexwork have an important influence on numbers. The GAO report cites a Cambodian NGO’s estimate that 80,000-100,000 women and children were trafficked – a figure is based on an estimate of the

number of sex workers in the country. Now if one believes that all sex workers are in some way “forced” to prostitute themselves then indeed this estimate could serve as an estimate of people trafficked for sex (but not for forced labour), but if one wishes to draw a distinction between forced and free labour in the sex trade then such an assumption is unwarranted. Thus the political positions on sex work have an impact on definition, on identification, and on apparently “hard” statistics.

Of course statistics are not the only evidence of what is known about trafficking. Indeed there is a noticeable difference in scale between the types of knowledge that there are. On the one hand there are large claims made about numbers, nationally and globally, and on the other there are numerous case studies, small-scale studies, and individual testimonies, revealing often horrific experiences. However what one cannot do is to generalise from these particular abuses to the 800,000 trafficked each year.

Case study: Kalayaan vs UK Home Office

But what are the practical implications of all these philosophical conundrums? I want to consider a contested case of trafficking, where the differing and sometimes contradictory agendas masked by the single word “trafficking” are enacted, focussing on the theoretical rather than empirical points of difference.

In 2006 the UK government announced its new proposals on “Making Migration Work for Britain”, reframing UK immigration policy within a “points-based” system. This aimed at limiting economic migration to the UK principally to those with “skills” that are in demand. As part of these changes the government determined to change its policy in respect of migrant domestic workers who enter the UK accompanying their employer. Since 1998 workers in this situation have been given a domestic workers visa allowing them to change employer if they were abused or exploited, and to renew their visa as long as they continued being in full-time employment as a domestic worker in a private household at the time of renewal. New

proposals mean that, among other changes to conditions, this group of workers were to be restricted to a maximum stay of 6 months, and the right to change employers was to be removed. These plans have been challenged by the migrant domestic workers' rights organisation, Kalayaan, as effectively "legalising human trafficking". The NGO claims that this change in immigration effectively contradicts the government's stated aim to "make the UK a hostile environment for trafficking".

Given that both Kalayaan and the UK Home Office agree that trafficking is intolerable, what then are the disagreements in practice? The first key point of difference seems to be ideas of coercion and consent. Kalayaan underscores a relation between employers' coercion and abuse of their workers with the British state's proposed immigration legislation. It foregrounds physical coercion but goes further to argue that this is reinforced by a state-enforced inability to leave an employer.

Thirty two per cent of migrant domestic workers who registered at Kalayaan during 2005-2006 had their passports withheld by their employer, and 23% had been physically abused. The removal of any option to challenge or leave an abusive or exploitative employer is in direct contravention to the Home Office stated policy to protect victims of trafficking and to stop trafficking "at source".

Kalayaan campaign briefing 2007

Kalayaan is careful to emphasise that the private household is a special category of employment and that specific conditions obtain. This is clearly necessary as otherwise the notion that tying visa holders to named employers constitutes "coercion" would undermine a large section of the UK government's work permit policies – as a rule most visa holders are tied to a named employer – and would not further the particular case of domestic workers.

The UK Home Office in contrast emphasizes that immigration controls can be used to refuse entry to abusive individual employers. This is in line with the UK Trafficking Action Plan which recognises borders as points of intervention:

As part of our continued work to combat trafficking, our emphasis will be upon developing robust pre-entry procedures, including appropriate safeguards, such as the identification of cases of possible abuse at the pre-entry stage to minimise the risk of subsequent exploitation.

Home Office (2007: 24)

This is somewhat at odds with the position given in a meeting between Kalayaan and the Immigration and Nationality Directorate that “immigration is not the way to deal with abuse” (a somewhat surprising statement given the framing of the Trafficking protocol, where, as discussed above, the main response to trafficking is heightened immigration controls). However the flaw, from a perspective concerned purely with human rights, is clear: it implies that if the abuse is not taking place on UK territory, but is detected through pre-entry procedures, preventing entry is a sufficient response. As long as the employer is beating and raping their domestic worker abroad then, despite having detected it, the UK government has no responsibility to intervene (on the assumption that neither worker nor employer are UK citizens). This applies even though the very act of detection and of refusal of entry to the UK on the grounds of abuse is likely to make the worker more vulnerable and the employer more abusive. An employer who beats their domestic worker is unlikely to respond to the refusal of entry to the UK as a lesson that they should treat their worker with dignity and respect, indeed the likelihood is rather the opposite. Surely if one is concerned principally about the protection of human rights and dignity of trafficked persons the response should be rather to allow entry to employer and to worker particularly in cases where abuses are detected on the grounds that states are then in a position to prosecute abusers and protect victims?

The Home office does also assert its commitment to providing a limited stay for domestic workers who are abused, as for all trafficked victims, enabling a period of recovery and reflection and providing them with appropriate assistance. That is, when people do become victims, the state’s responsibility to extend assistance is acknowledged. In this view, trafficked domestic

workers are the victims of bad employers. In the cases where these bad employers manage to gain entry to the UK and commit abuses in the UK, the government will extend some protections to the victims. For the UK state then immigration control per se has nothing to do with trafficking, and cannot be considered as a coercive tool, but rather it is part of a toolkit to detect and refuse entry to abusers. So while Kalayaan emphasises the role of the state in forging the conditions within which abusive employment practises – and hence “trafficking” can occur, the UK government presents itself as a combater of trafficking from the outside. Once again the question becomes to do with the broader issue of the role of immigration controls in constructing categories of people who are vulnerable to abuse. To re-iterate, if certain immigration statuses create marginalized groups without access to the formal labour market, or any of the protections usually offered by states to citizens and workers, then how can the state prevent itself equipping employers with labour control and retention mechanisms that would not otherwise be available to them?

Conclusion

Slavery, forced labour, debt bondage, inhuman living and working conditions, are endured by millions of people, and migrants and impoverished women and children are particularly vulnerable to abuse and ultra exploitation. Many of those who are opposed to ‘trafficking’ are deeply committed to justice and equality. But if the problem is to do with exploitation and abuse and the aim is to end this then solutions must move beyond identifying victims and imprisoning traffickers. In this case we are concerned with differences in power. How is it that one person can exercise and abuse power over another person? This is to do with social mechanisms and relations, it is not simply handed/refused to people. I do not dispute that for women and children, patriarchy is an important aspect of this, but racism and nationalism are also key. The fact that migrants do seem disproportionately among those labouring under these conditions should encourage us to engage with the

question of immigration controls, and how they exacerbate inequalities and injustice. What is important is not only to rescue and save victims, but to address the root causes of this inequality and enable those who are suffering abuse and exploitation to work together to end it.

References

Alexander, P. 1997: 'Feminism, sex workers and human rights', in J. Nagel (ed) *Whores and Other Feminists*. London: Routledge.

Barry, K. 1995: *The Prostitution of Sexuality*. NY: New York University Press

Doezema, J. 1998: 'Forced to Choose: Beyond the Voluntary v Forced Prostitution Dichotomy' in Kamala Kempadoo and Jo Doezema (eds) *Global Sex Workers: Rights, Resistance and Redefinition*. London: Routledge

Flynn, D. 2007: *Human Trafficking and Forced Labour. What Perspectives to Challenge Exploitation?*. Brussels: PICUM

Gallagher, A. 2001: 'Human rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis' *Human Rights Quarterly* 23: 975-1004

GAATW, 2001: *Human Rights and Trafficking in Persons: A Handbook*. Bangkok: GAATW.

Home Office 2007: *UK Action Plan on Tackling Human Trafficking*. London

NSWP, 1994: 'Sex work and human rights', Network of Sex Work Projects, European Symposium on Health and the Sex Industry, Edinburgh. <http://www.bayswan.org/NSP.html>

Radin, M. 1996: *Contested Commodities: the trouble with trade in sex, children, body parts, and other things*. London: Harvard University Press

Reanda, L 1991: 'Prostitution as a Human rights Question, Problems and prospects of United Nations Action' *Human Rights Quarterly* 13: 209-211