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## Trafficking in Lives

### How Ideology Shapes Policy

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Public concern about the issue of trafficking in persons has a long history; the history of concerns related to women's economic independence, their mobility, and autonomy is still longer. Any change in women's situations, particularly one that involves "unsupervised" women, brings to the fore a myriad of concerns, primarily focused on questions of morality and chastity. This has been observed particularly in the context of female migration, first in the historical migration of women from rural to urban areas, then in the context of international migration. Female migrants now outnumber male migrants, and the associated areas of concern include the age-old specters of trafficking in women and prostitution. These issues have in turn brought forth a wide spectrum of different reactions, with advocates for women advancing both protectionist and empowering ideals as solutions to perceived problems.

The seemingly endless debate about trafficking focuses heavily on sex work, with a number of questions continually reemerging: Is all participation in the sex industry (including, particularly, prostitution), trafficking? Is such participation an inherent violation of human rights? Equating sex work and trafficking leads to an overly simple analysis that neglects the core issue of trafficking, namely migration, while refocusing discussion on other problems. Maintaining a lurid focus on sex allows the dull and intractable issue of migration to be ignored in favor

of a more politically popular and publicity-friendly condemnation of trafficking as sex work. This artificially narrow focus is doubly perilous: abolitionist approaches to sex work have led to the imposition of limitations on women's mobility in the name of protecting them against the twin "evils" of trafficking and prostitution. These limitations not only restrict women's freedom but may even drive determined migrants into the arms of traffickers. Secondly, while notions of trafficking reflected in recent approaches have grown more sophisticated—as demonstrated by a move away from an exclusive focus on sex to one that also includes servitude and debt-bondage in industries as disparate as garment production, domestic work, and construction—the influence of activists' agendas vis-a-vis sex work and trafficking has also expanded. Debate on these subjects can now determine or influence policy in a wide range of areas, including funding for anti-trafficking programs and even health issues such as the allocation of funding for programs addressing HIV/AIDS.

Historically, trafficking in persons has been equated with prostitution. The forerunner to the latest anti-trafficking legislation is the United Nations 1949 Convention that exclusively addressed prostitution. The new approaches to trafficking are different in two ways: first, the assumption that prostitution constitutes a human rights violation has been hotly debated, and secondly, the issue of trafficking is now understood to include other industries and to encompass men as well as women. But while the understanding of trafficking and its definitions has expanded, discussions of trafficking are often still limited to its most salacious aspects, verging at times on voyeurism. Crafting law is no exception.

This essay describes the discussion of the definition of trafficking in persons for the United Nations Optional Protocol on Trafficking and recent changes in US funding policy for organizations addressing trafficking around the world, both of which were greatly affected by the various efforts of advocates for women. Feminist activists with a wide range of ideologies have had enormous impact on the creation of new legislation and policy addressing trafficking in a variety of ways and at every level.

#### UNITED NATIONS OPTIONAL PROTOCOL ON TRAFFICKING

This article draws on my own participation in, and observation of, the negotiating process of the United Nations Optional Protocol on Trafficking<sup>2</sup> to discuss two seemingly disparate but quite intertwined issues; namely the feminist response to sex work and the issue of how to define trafficking in persons in the protocol. The reason I describe these phenomena in tandem is because approaches to this UN document emerged from two feminist stances in distinct opposition to each other:

These opposing approaches result in a recurring debate whenever trafficking is discussed. The first view sees all sex work as a form of trafficking. The second holds that conditions of labor in all industries, including the sex industry, should be addressed. The debate as to whether prostitution is slavery per se, and therefore equivalent to trafficking in persons, was related most directly and vehemently to the definition of trafficking in persons in this protocol. I describe these debates and the influence exerted by various factions lobbying legislators and presenting at negotiations in order to interpret and criticize the discussion of this new legal document.

I analyze the definition of trafficking in the UN protocol with an eye to the use that is likely to be made of this document. Two Optional Protocols on smuggling and trafficking in persons address mobility, but with different levels of agency. Trafficking in persons defines a victim of crime rather than an agent, while smuggling necessarily implicates the person who has engaged the services of a smuggler. A smuggled person, like a trafficked person, has clandestinely crossed a border or been transported, but unlike trafficking, smuggling is not linked to work. A smuggled person is not a victim but a criminal, an illegal immigrant, an undocumented alien, while a trafficked person is assumed to be an innocent victim. This conception of agency divides in the imagination—if not in reality—along gender lines. This division is reflected in the title of the protocol addressing trafficking, which is the *Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (emphasis added). This contorted language was sought by a network of feminist organizations that view all sex work as a violation of women's human rights. They initially advocated for the title "Trafficking in Women and Children," omitting men entirely. The *Smuggling Protocol* has no such coda and no specific emphasis on gender. Smuggled migrants are assumed to be men seeking work elsewhere without proper documentation, while trafficked persons are assumed to be duped victims, usually women. This gendered distinction follows long-standing stereotypes of women as victims and men as less able to be victimized. As well as presenting a distorted view of women, such an ideology harms men. Trafficked men are invisible and their situations continue to be less recognized and therefore more difficult to address. These distinctions may also significantly affect enforcement, depending on the way that they are interpreted. They are also visible in laypersons' interpretations and in the crafting of this protocol.

The association of trafficking with victimization is commonly reflected in the language used, where the term "victims of trafficking" is frequently encountered. This may in part be encouraged by law enforcement agencies—in dealings with law enforcement, it is always preferable to be perceived as a victim of crime rather than a criminal. The

use of “victims of trafficking” rather than “trafficked persons” may serve as a handy guide that helps to make it clear who is a criminal to arrest and who is a victim to protect.

Another problem with the use of the term “victim” is that it fails to reflect the complexity of this issue or the experiences of all people who have undertaken to leave their homes and families to pursue a better future via economic migration (Finkel 2001; Human Rights Watch 2000; Skrobanek, Boonpakdi, and Jantakeero 1997). Trafficked persons are not simply and solely victims; they are often the go-getters of their home communities. It is ironic that in this framework the ambitious and industrious poor who undertake migration are unrewarded, while “patriotic” victims garner greater sympathy.

This insistence on the title of victim has historic precedent. DuBois and Gordon (1984) wrote that feminists of earlier eras

consistently exaggerated the coerciveness of prostitution. In their eagerness to identify the social structural forces encouraging prostitution, they denied the prostitute any role other than that of passive victim. They insisted that the women involved were sexual innocents, women who “fell” into illicit sex. They assumed that prostitution was so degraded that no woman could freely choose it, not even with the relative degree of freedom with which she could choose to be a wife or a wage earner. (33)

Definitions of this sort, with their focus on women’s role as victims and on the coercive nature of the sex industry, are convenient for those whose definition of traffic in persons views traffic that does not involve the sex industry as being, at best, ancillary to the phenomenon of trafficking. But such a restrictive viewpoint touches on only one aspect of trafficking, and plays down the real pivotal issue, namely the question of migration.

Migration lies at the heart of international traffic in persons. Trafficked persons are for the most part migrants—usually undocumented—seeking work elsewhere, who find themselves in untenable working conditions. A typical recent trafficking case involved some dozens of Asian men and women relocated to the US territory of the Northern Mariana Islands for work in sweatshops and brothels, for which they were either inadequately paid or not paid at all, and were brutalized by their employers if they dared to protest about their conditions. Sex featured in the Marianas case in that some of those trafficked were employed in brothels, but many trafficked persons were not involved in the sex industry at all. Testimony to the US Congress by the Director of the Global Survival Network described thousands of people in debt-bondage and slavery-like conditions in the garment industry.<sup>3</sup> The crucial factors that determine a case of trafficking are the conditions in which trafficked persons find themselves, and the means—deception,

coercion, outright enslavement—by which they are brought into those conditions. These are the criteria that are used to distinguish, for example, cases of smuggling from cases of trafficking.

## UNITED NATIONS PROCEDURES AND PARTICIPANTS

### Lobbying Blocs

Lobbying factions at the deliberative meetings during the drafting of the UN protocol were drawn largely from two main non-governmental organizations working with outside allies. One bloc was led primarily by the International Human Rights Law Group (IHLRG), which worked with the Global Alliance Against Traffick in Women (GAAIW), Women in Law and Development in Africa (WILDAF), and the Asian Women’s Human Rights Council (AWHRC). These organizations and others distributed documents with recommendations for the protocol under the name of the Human Rights Caucus. The other main bloc, calling itself the Human Rights Network, was chiefly represented by the Coalition Against Trafficking in Women (CATW), working with the European Women’s Lobby (EWL), Soroptimist International (SI), the International Human Rights Federation (IHRF), the International Abolitionist Federation (IAF), and Equality Now (EN).

The Human Rights Caucus and the Human Rights Network held diametrically opposed views about whether prostitution is inherently trafficking in persons. CATW and their Network allies proposed an abolitionist approach to sex work to make the sex industry more illegal and to prosecute and punish men involved as clients and otherwise. They sought specifically to include prostitution and other sex work in the definition of trafficking in persons. The International Human Rights Law Group and other members of the Caucus sought to separate sex work and trafficking, and to define trafficking based upon working conditions. In this, they were influenced by the groundbreaking inclusion in their ranks of sex workers and advocates for sex workers’ rights. The approach of the Caucus reflected the position of the sex workers’ rights advocates, who recognize sex work as a form of work, albeit a difficult one that is not always performed in ideal conditions.<sup>4</sup> While sex workers’ rights advocates are the first to recognize that there are abuses within the sex industry, they seek to correct and to address the problems not by abolition, but by improving conditions and affording legal recognition to the sex industry. The Caucus also advocated for the inclusion of other human rights protections such as witness protection and health care.

The issues discussed in this protocol, especially whether to define prostitution as trafficking per se, evoked emotional responses. It is

difficult to convey the rancor that existed between feminist factions addressing trafficking in persons. However, malice between feminists on the issue of prostitution is neither new nor unique, and can take extraordinary forms. For example, an earlier Coalition Against Trafficking in Women newsletter (1998–2000) described Jo Doezema, Marjan Wijers, and myself, all members of the Human Rights Caucus, as “pro-prostitution” advocates. This language is akin to the use of the term “pro-abortion” by activists who seek to ban abortion. It is also similar to earlier factional infighting within the feminist movement. Alice Echols, in her article about the sexuality debates in the larger feminist movement, described the use of similar discrediting and silencing tactics when she wrote

Anti-pornography feminists have tried to silence their intra-movement critics with the same red-baiting tactics of feminist capitalism. Recently, Kathy Barry characterized the feminist opposition to the anti-pornography movement as a cabal of leftist lesbian and heterosexual women who want to destroy the movement so that “male leftists can continue their sexual abuse of women without fear of censure.” (Echols 1984, 54)

It is unfortunate to note that such tactics are reproduced almost twenty years later.

Good-faith efforts to overcome factionalism failed, even on issues that every NGO agreed upon. In one attempt to find common ground for working together, my organization invited the International Abolitionist Federation, a member of the Network, to jointly distribute suggestions for the inclusion of human rights protections for trafficked persons.<sup>5</sup> These suggestions were not a point of dispute between NGO factions because they were not related to the definition of trafficking or similarly loaded issues. But even this olive branch was declined.

I was disappointed that the Network made no efforts to address human rights protections for trafficked persons. In fact, when one Caucus representative asked a Network representative why her group made no efforts to promote human rights protections in the protocol, she was told that the Network chose to focus their limited resources on the definition of trafficking alone.<sup>6</sup> This response suggested that the Human Rights Network prioritized anti-prostitution activism over and above human rights. This order of priorities prevented NGOs from presenting a united front, which in all likelihood prevented the inclusion of mandatory human rights protections in the protocol.<sup>7</sup>

The Human Rights Network and the Human Rights Caucus were both largely composed of self-proclaimed feminist organizations, or organizations with feminist leanings. Their stances on what are often deemed women’s issues, particularly those addressing female bodily autonomy, such as reproductive rights, abortion, family planning, and promoting the

use of condoms against HIV, were generally similar. Yet despite the potential common ground, the two groups were most often bitterly divided. This division contrasts dramatically with the rapprochement that took place between the Human Rights Network and American right-wing and religious organizations. On the face of it, these two groups should have practically no point of agreement, as the position of the conservative organizations on the issues described in the paragraph above is usually diametrically opposed to that of any feminist organization. Yet the Human Rights Network was able to join with conservative American politicians in promoting a definition of trafficking in persons formulated in such terms as to include prostitution. Apparently, the need for an alliance on this one issue proved stronger than all the other potential sources of disagreement.<sup>8</sup>

This outwardly incongruous alliance was most apparent in media pieces advocating their position. Media pressure as a lobbying tactic usually took the form of op-ed pieces and letters in large newspapers timed to coincide with decisions on particular issues. Both the Caucus and the Network used their media contacts in the United States to promote their views. The US delegation to the UN grew progressively more cautious in their speech during the last few meetings as any comments favorable to the Caucus position were presented as “pro-prostitution” to media and government representatives by Network members and affiliates. William Bennett and Charles Colson, noted American conservative standard bearers,<sup>9</sup> wrote that “Over the past few months the Clinton administration has lobbied for the United Nations to adopt a protocol that would lend legitimacy to prostitution” and “the White House delegation has worked to narrow the definition of sexual trafficking, in a way that would allow certain prostitution rings to flourish” (Bennett and Colson 2000). This was countered by a letter from Ann Jordan, Director of the Anti-trafficking Initiative of the International Human Rights Law Group and a member of the Human Rights Caucus, in which she highlighted the inaccuracies of these statements, adding that debating about prostitution would bring about the collapse of these negotiations and result in a lost opportunity to combat crime and assist the victims of crime. Echoing the Bennett and Colson view, a *New York Post* article (De Russy 2000) erroneously stated, “Hillary Clinton chairs a presidential task force that is lobbying the United Nations to redefine prostitution in a way that would effectively legalize it—and make it impossible to fight the ‘sexual slave trade.’”<sup>10</sup> The *Los Angeles Times* ran an article advocating a definition of trafficking that included workplace abuses, citing a 1995 case in which 75 people were enslaved in a sweatshop (Cho and Salas 2000). Activists on both sides of the debate were aware that media pieces carried considerable weight, with the abolitionist movement being particularly adept at using this tool, albeit at the price of making some strange associations.<sup>10</sup>

The nature of the alliances made and positions taken also became clear in meetings between the US delegation and NGO representatives. In one meeting, James Puglio, a member of the US delegation with a strong law enforcement background in his capacity as Special Assistant to the Assistant Secretary of the International Narcotics and Law Enforcement Department of the US State Department, stated that the inclusion of a definition of sexual exploitation would prevent any accord and so would be scrapped. The Network representative angrily said that she was disappointed, adding that Senator Jesse Helms would also be very disappointed with this.<sup>11</sup> At this time, Jesse Helms—a conservative American politician most famous for the 1973 Helms Amendment prohibiting the use of US funds for abortion services outside the US—wrote to then-US Secretary of State Madeleine Albright:

I am being deluged with telephone calls, faxes and letters about the incredible US position in the UN negotiations relating to the [Trafficking Protocol]. Those contacting me are shocked, as am I, that your State Department negotiators are on the verge of reversing the official US opposition to prostitution.<sup>12</sup>

These contacts illustrate the “strange bedfellows” phenomenon in which certain feminists work with the radical right (Chancer 1998). The phenomenon continues: more recently, the conservative, anti-choice Representative Chris Smith of New Jersey sponsored new funding restrictions for the US Global HIV/AIDS Fund, apparently motivated by the same conflation of trafficking and sex work. The continued collaboration between opponents of abortion and opponents of sex-work projects reflects the strong focus on sexuality and women’s autonomy in policies addressing trafficking.

#### Definition of Trafficking in Persons for this Document

One of the most hotly disputed elements of the protocol was Article 3, which defines trafficking in persons. Ideologies resembling those of the NGO blocs were visible among the different government delegations, leading to protracted discussion of the definition of trafficking: Consensus was extremely difficult to achieve. Rather than list all the proposed definitions, I will use examples of the more contentious dialogue.

Debates about the definition of trafficking typically centered on whether to include all sex work, an issue on which the different camps were deeply divided. This was demonstrated not only by the expression of opposing views but also by the sacrifices that proponents were willing to make to ideology. The discussion of prostitution eclipsed the

plight of trafficked persons—including men—in other industries. Additionally, examples of a willingness to sacrifice women’s autonomy were evident during these discussions. For some feminists, sex work and the exchange of sex for goods or money, as in prostitution or possibly even dating, is a reinforcement of male social elevation over female. While most feminists and certainly most women do not take this much further than acknowledging that an exchange for sex exists and that they may not approve, a minority make this a core issue. This is reflected in some of the recommendations which were offered for the definition of trafficking.

The sacrifices that certain factions were willing to make in the name of ideology were illustrated by some of the emotionally charged pleas made on the floor of the UN in favor of certain proposed definitions. For example, a written suggestion from the Philippine delegation was circulated on June 6, 2000, which suggested a definition of trafficking that included the formula, “with or without consent of the victim by legal or illegal means, for all purposes of sexual exploitation including prostitution, marriage, employment...”<sup>13</sup> If adopted, such a definition would have criminalized as trafficking not merely prostitution, but also marriage and even employment. While this is clearly an extreme, not to say ludicrous example, it is one of the dangers of an obsessive and myopic focus on prostitution that it opens the door to the willing sacrifice of other essential liberties and rights in the name of eradicating prostitution.

In a UN protocol, definitions necessarily afford a certain interpretive leeway for enforcement by signatory nations, in order to allow consensus to be achieved in such a large meeting. The Trafficking Protocol does not prohibit additional measures and/or sterner enforcement, thereby allowing signatory nations to enforce additional domestic legislation regarding these crimes and to assess punishment for them as they see fit. Such an allowance for domestic legislation affords great variation in the possible enforcement of this document nation by nation. Thus nations are able to legislate prostitution as they see fit. Australia, Germany, the Netherlands, and New Zealand, among others, were very clear that they would not sign a protocol that would require them to change their national laws to outlaw prostitution. Their sentiments on this matter are in line with the Human Rights Caucus. Similarly, nations such as Iran, Iraq, the US, and the Vatican would not have signed a protocol requiring them to decriminalize prostitution in their jurisdictions.

The definition of trafficking adopted in the protocol specifies that the threat or use of force or deception is a necessary component of trafficking persons into any situation. It goes on to make clear that consent is irrelevant when these means have been used. In other words, a person can consent to work but not to slavery or servitude. The definition additionally specifies that any recruitment, transportation, or harboring of a person under 18 is to be considered trafficking in persons,

regardless of the means used. The inclusion of men in this definition constitutes a significant legal breakthrough.

The issue of consent, crucial to the definition, provided fertile ground for the exercise of agendas. Under international law, children—defined as any person “under 18 years of age”—are not able to give consent. During the October 2000 meetings, a member of the Philippine delegation who is also the director of the CATW in the Philippines made an intervention (spoken suggestion), the apparent intent of which was to redefine prostitutes as children. IHRLG representative Melynda Barnhart summarized this statement by saying that the delegate “essentially said that [for] all women making decisions that [this delegate] doesn’t agree with, i.e. prostitutes, others should have the legal ability to override their decisions.”<sup>14</sup>

Suggestions of this kind echo the way in which some earlier feminists patronized other women during the white-slavery panic of nearly a century ago. In 1913, Jeannette Young Norton, for example, wrote: “The big sisters of the world [want the] chance to protect the little and weaker sisters, by surrounding them with the right laws for them to obey for their own good.”<sup>15</sup> The written proposal, distributed October 2, 2000, was significantly refined, but seemed also to include people with disabilities.

Article 2bis(d) [this article is numbered 3 in the final document] Definition of Child

“Child” shall mean any person under 18 years of age provided that those over 18 years of age but unable to fully protect themselves from abuse, neglect, cruelty, exploitation due to mental or physical incapacity be considered for the purpose of this protocol.

Whatever the intentions behind this proposed definition, it is legally very dangerous. During the 1950s, women in the United States could be institutionalized for being “promiscuous” (Keefe 1994). It would be all too easy, using the definition above, to see a return to that state of affairs with adult women being judged unable to “fully protect themselves” due to “mental or physical incapacity” if they engage in unproved activities such as promiscuity or prostitution. The definition betrays a readiness to sacrifice many of women’s hard-won gains, including independence, legal majority, and the ability to make enforceable contracts, solely in order to render prostitution more criminal.

Definitions of this kind, in which the normal presumption of adult autonomy can be overruled by a subjective, external judgment as to the desirability of an activity, are essentially perilous. They call to mind Rubin’s “brainwash theory” which “explains erotic diversity by assuming that some sexual acts are so disgusting that no one would willingly

perform them. Therefore, the reasoning goes, anyone who does so must have been forced or fooled” (Rubin 1984, 306).

Abolitionist reasoning proceeds from the same starting point. Prostitution as a condition is assumed to be so inherently intolerable that no rational person could freely choose it for themselves; therefore if anyone appears to have chosen it for themselves, it can only indicate that they are either not rational, or they are victims of coercion or deception; that is to say, victims of trafficking. The perils of such an argument lie precisely in the way that it opens the door to a paternalistic interpretation of “what is best for women.” Such interpretations have historically had a very negative impact on women; the gains made by the modern feminist movement have been in large part concerned with escaping from such paternalism and forcing the recognition of women’s autonomy and their ability to make their own decisions. To roll back those gains in the interests of pursuing a war on prostitution is perilous indeed.

### NEW USAID FUNDING POLICY

Feminists have shaped not only international law, but also United States foreign policy. Here too, ideological positions have led to some strange alliances and even to efforts directed toward the defunding or discrediting of projects whose effectiveness is undeniable but whose positions are unpalatable. Ironically, even while trafficking is a key concern, it is sometimes precisely those sex-work projects that are recognized for their excellent and effective anti-trafficking projects that may find themselves under attack.

Once again, certain feminists have chosen to work with far-right politicians and other conservative figures to promote an agenda that actually limits women instead of empowering them. Their allies in this case include groups such as the Vatican, the Salvation Army, and other religious groups; their targets include organizations whose efficacy in combating human rights abuses of sex workers and trafficked persons has been confirmed by their selection to receive funding from the United States Agency for International Development (USAID). It is very clear that grassroots efforts have affected policy.

For example, on June 19, 2002, the abolitionist feminist Donna Hughes addressed the US House Committee on International Relations specifically to denounce sex-work projects that she declared “promote prostitution,” and to demand efforts to prevent funding of these organizations. The organizations named included the Nobel Prize-winning Doctors Without Borders, as well as the International Human Rights Law Group. Hughes has since followed this up with a number of press pieces and conference talks. Since then, the US administration has been

very clear in its determination that projects that “promote prostitution” will not receive further anti-trafficking funds from USAID. Unfortunately, this seems to include projects that work with sex workers in productive ways to promote both their human rights and their health, including working to prevent the spread of HIV.

The shift in focus from trafficking in persons to attacking funding for sex-work projects indicates an interest in promoting anti-prostitution ideology at the expense of health and human rights, particularly the health and human rights of women and others in the sex industry. Whatever the nature of the ongoing debate, ideology should not be permitted to override effective HIV prevention efforts or to interfere with treatment of HIV-positive people. Unfortunately, that is exactly what is occurring with these vindictive efforts to defund sex-work projects. There is as yet no way to quantify the number of infections such policy will promote, yet it is clear that sex workers are put at risk and equally clear that they are not the only people to be adversely affected by such misguided policy. The children and families of sex workers and their clients will all be affected, and there will be a knock-on effect in the broader area of public health. When the alliance between certain feminists and American right-wing politicians affects HIV prevention for the worse, it ceases to be merely incongruous and becomes positively dangerous.

The recent sea change in the administration’s attitude was reflected in a cable sent in 2003, signed by Colin Powell and circulated to USAID field officers. The Powell cable stipulated that organizations amend their websites to promote abstinence over condom use in the struggle against HIV and AIDS. This gained widespread notice; a less noted stipulation was that USAID anti-trafficking and other funding should not support sex-work projects, needle exchange, and abortion services.<sup>16</sup> These activities are all legal in the US; it is the Bush administration’s position, however, that they must not be supported outside the US, regardless of their proven effectiveness in saving lives or improving public health.

The language of the Powell cable—which stresses the unsuitability of non-abolitionist sex-work projects as recipients of US aid, before going on to stress that taxpayer funds must not be used to support “trafficking of women and girls”—reveals that, once again, the conflation of prostitution with trafficking has resurfaced (so too has the restriction of trafficking to females; the cable does not explicitly forbid using US taxpayer monies to support trafficking of males). If this conflation has proven so durable in the minds of many people, it is in part due to its promotion by certain anti-trafficking activists who have worked very hard to reinforce this association to Congress and the public, through speaking engagements and in print. It is ironic that the activists in question are often strong radical feminists, when the consequence of their efforts is the

encouragement of a general protectionist stance toward women, a stance that is more than likely to be highly detrimental to women in general.

This ideological agenda has the potential to affect effective projects whose success has been widely recognized. Projects that involve sex workers are the most successful at combating abuses within the sex industry around the world, but because such projects often advocate legalization of prostitution, they may find themselves cut off from funding. An example of a project that may suffer under this new policy is the Durbar Mahila Samanwaya Committee of Kolkata, more widely known as the Sonagachi Project. This is considered one of the strongest success stories of HIV prevention among vulnerable populations in South Asia, and USAID has supported their presentations at the International Conference on HIV and AIDS in the past. The negative ramifications of excluding exemplary projects such as the Sonagachi Project from USAID contracts would be enormous.

The Sonagachi Project is one of many projects that exemplify pragmatic and effective approaches to reducing not only transmission of HIV, but also abuses such as trafficking within sex work. The prevalence of HIV among sex workers is far lower in Kolkata than elsewhere in India. Their anti-trafficking initiative relies on the participation of red-light-district residents, especially sex workers, to prevent trafficking into the red-light districts. As of June 15, 2001, 43 trafficked persons had been assisted by the Sonagachi Project, 35 of whom were minors (Durbar Mahila Samanwaya Committee 2001).

Another potential victim of current policy is Empower, a Thai project that enables sex workers to get high school equivalency diplomas. Diplomas are important for those who want to leave the sex industry and seek other work. If Empower’s attitude to sex work disqualifies it from receiving funding under the terms of the Powell cable, the people who will be hurt are not policy makers, lobbyists, or activists—they are poor women far from the people who make these decisions, women whose voices and needs were not considered when these decisions were made.

The potential ramifications of the policy are far-reaching. Sex workers’ groups are at the forefront of proposing specific, practical solutions to the many problems faced by sex workers. A policy that defunds these projects because they fail to measure up to the ideological yardstick used by the current administration will harm the health of sex workers, their human rights, and their ability to organize. It is likely to deny them education and vocational training that would allow them to exit the sex industry.

Sex workers are not the only group likely to be affected by policy that is formulated based on a conflation of prostitution and trafficking. In the first place, whether the administration likes it or not, sex workers are members of a community that includes other people, including the

clients or dependents of sex workers. Any decision that impacts their health or economic options also impacts others. Moreover, as the logic of the Powell cable suggests strongly that the administration has “bought in” to a worldview that includes a restrictive focus on sex trafficking as the principal area of concern in trafficking, there is a real danger that other anti-trafficking initiatives dealing with less “sexy” areas, such as trafficking into sweatshops or domestic labor, or trafficking of males, will also find themselves starved of support.

The list of potential losers continues. While specific groups may be directly targeted because their outlook is incompatible with that of the Bush administration, other sex-worker rights organizations around the world are also likely to suffer by association.

The current trend in policy is likely to affect other organizations as well. However distasteful the idea may be to certain groups, sex work is a form of labor. It is also a significant portion of the economy: the ILO estimates that the sex sector accounts for between 2 and 14 percent of GDP of four Asian countries; namely Indonesia, Malaysia, the Philippines, and Thailand (Lim 1998, 7). In common with other economic sectors of marginal legality or low social acceptability it also employs many undocumented workers. A crackdown on sex work may be implemented through a more general attack on sectors employing undocumented workers or, conversely, broad initiatives to crack down on undocumented labor may gain impetus from a policy that favors repression of sex work. In either case, unions and other groups that support undocumented workers will feel the chill of the new policy.

So too will organizations dealing with migrants. Undocumented workers are clustered most heavily in particular industry sectors, such as the sex industry, agriculture, construction, and clothing production. A large proportion of these undocumented workers are migrants, drawn into these specific sectors because they lack the formal qualifications (educational or administrative) necessary for entry to other sectors. If organizations working with migrants are seen (rightly or wrongly) to be facilitating clandestine or illegal employment, they too are likely to be singled out for increased scrutiny, legal harassment, or withdrawal of support.

Feminist groups that address gendered labor issues are a third group that will potentially be affected by present policies. The sex industry employs more women than men, so conditions in the industry are necessarily of interest to feminist groups. But if the formula that they propose for improving conditions of female workers happens to be at odds with the prevailing policy, they are also likely to suffer negative consequences.

The impact of new directions in policy is felt initially by groups that work in specific sectors but ultimately, and far more damagingly, by workers in those sectors. Punishing unions or NGOs for being “out of step” with policy begins by depriving workers of services or support

offered by those groups. It also hampers the attempts of those groups to address problems such as the exploitative conditions (including low wages and unsafe working environments) endured by marginalized workers across the sector. Furthermore, because no one sector exists in isolation, trends in one sector affect others. Low wages for undocumented workers in one field will depress wages across all sectors for all workers, documented or undocumented (Kwong 1997). Lastly, the sex industry supports other individuals or sectors. Sex workers have dependents, including children, and sex businesses are supported or serviced by other businesses that are not part of the sex sector but are nonetheless economically dependent on it. For example, a 1997 survey in Thailand suggested that of approximately 100,000 workers in just under 8,000 establishments providing sexual services, more than a third were “support staff” (Lim 1998, 9).

The sex sector does not exist in isolation. Issues surrounding the sex industry are part of a larger complex of issues related to the labor market as a whole, particularly with respect to gender issues and migration. As a consequence, any policy that targets the sex industry will necessarily have a much broader impact, as measures proposed to address one particular sector “spill over” to affect other areas. Trafficking in persons has a long history of conflation with the sex industry. Responses to trafficking that exclusively focus on the sex industry affect a broad range of people and issues, sometimes in unanticipated ways.

Recent years have witnessed significant progress in expanding approaches to trafficking in persons to address working conditions and to include men. In this light, the new US and USAID policy represents a step backward. This return to a restrictive focus on women trafficked into the sex industry is illustrated by a February 2003 conference entitled “Pathbreaking Strategies in the Global Fight Against Sex Trafficking,” which was sponsored by the US government and attended by international activists. Although mandated “to underscore the commitment of the United States to fighting trafficking in human beings,”<sup>17</sup> this conference exclusively addressed the sex industry, neglecting the larger numbers of people trafficked into domestic work, construction, agriculture, and sweatshops. This backsliding is further illustrated by the fact that USAID anti-trafficking efforts are now managed by the office of Women in Development—trafficking is once again a “women’s issue.” Male trafficked persons, or those whose experiences do not neatly fall within a narrow focus on sex trafficking, risk being left out in the cold.

The current attitude toward trafficking, promoted in part by specific groups within the women’s movement and their *pro tem* right-wing allies and expressed by statements of policy such as the Powell cable, has the potential for doing serious harm. Because of this attitude, organizations with a proven, positive impact at the grassroots level risk losing

support because their policies are politically unpalatable to the current US administration and those who have influence over it. Other organizations, while not in direct conflict with Washington's new directions, also risk being starved of support, simply because their primary areas of concern fall outside an increasingly narrow focus on one aspect of the trafficking problem. These ideological policy shifts are not abstract or without consequences—they translate to a very real human impact, and the potential to cause significant suffering to real people.

## CONCLUSIONS

Trafficked persons have gained and lost from new attitudes toward trafficking. Progress has been made in the expansion of trafficking to address slavery-like conditions more generally. This has drawn attention to a variety of cases, including ones involving sweatshops, Thai children, and Bangladeshi domestic workers. But trafficked persons and sex workers have also lost ground if prevention efforts by sex-work projects are defunded. All of Asia and beyond will lose out if anti-trafficking efforts are undermined because sex workers are deliberately deprived of access to friendly and supportive services. The most effective sex-work projects are precisely those which address sex work as labor, such as the much heralded Sonagachi Project, which has been noted as a "best practices" project by USAID, or SHAKTI in Bangladesh, commended as a best practices project by UNAIDS. Yet these are also the types of projects that the US administration is not currently amenable to funding.

New US policy on funding is part of a continuation of the debate on whether sex work is trafficking in persons per se. This recurrent ideological schism is seen whenever trafficking is discussed,<sup>18</sup> including the recent deliberations of delegates to the UN working to define trafficking for the UN Optional Protocol. The debate hinges on two opposing positions. One position recognizes trafficking of all kinds as a grievous violation of human rights, but holds that sex work is real work and needs to be addressed as such. The other position views sex work itself as a human rights violation and that policy on trafficking is a vehicle to use to address this violation. There is also a third view on the issue, which was neatly summarized by Meillon (2001, 156–157). This view recognizes that forums such as conferences or negotiations of legal protocols are not arenas in which it is possible to conclude one way or another, and that they are therefore not the right places for such discussion. This third view has come to the fore in other discussions of trafficking, including the negotiations of the Trafficking Protocol. This possibly pragmatic realization led to the final definition, which left the legislation of prostitution to the individual nations, rather than capturing it as part of a UN-backed definition of trafficking.

Short-sighted policy in this area risks causing greater damage. Policies that restrict travel, and especially women's travel, actually encourage the practice of trafficking in persons by closing legal avenues of migration. Would-be migrants of both sexes are forced to fall back on the services of traffickers and smugglers, increasing the potential risks that they run (Meillon 2001; Kwong 1997). New restrictions are evident throughout the world, whether they take the form of an increase in scrutiny of young women leaving certain nations, such as Thailand and other Asian nations, or entering them, such as Japan, or simply increased control of borders in general, as in the case of the United States.

Despite a continuing tendency to see trafficking simply in terms of "white slavery," it is a complex issue that involves issues of migration and labor. Faced with this complexity, some advocates see a need to simplify the issue. The temptation of simpler analysis is obvious but it comes at the expense of specificity and accuracy. While simplifying issues may help some people understand them, this is to the detriment of complex problems—an overly simplistic solution is not a solution but a seed for new problems. The anti-prostitution stance is an example of oversimplified and inefficient analysis that claims a moral high ground while obscuring the plight of trafficked men and women in other industries. This is too great a sacrifice. When this attitude manifests itself in policy decisions affecting international aid, it comes at a very real human cost. Cambodian sex workers use the slogan "Don't talk to me about sewing machines, talk to me about workers' rights" to emphasize the need to address working conditions within the sex industry. Their voices—incompatible with an abolitionist stance that is unable to accommodate the idea of better conditions within the sex industry as a valid human rights issue—have been ignored by US policy makers.

Despite protracted debate about trafficking and prostitution, there are reasons for cautious optimism. Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women, has rightly referred to the protocol's definition of trafficking as a "breakthrough"<sup>19</sup> because it established trafficking as a crime that extends beyond the realm of prostitution. This was made possible by a recent shift toward consideration of actual conditions and crimes against persons, rather than focusing narrowly on sexuality and morality. Recent US foreign-policy shifts have taken a dangerous turn, one that has its counterpart in trends directed at reducing women's autonomy in other areas, particularly in the field of reproductive rights, and in the paternalistic approach to new funding to combat HIV and AIDS. But this is in part balanced by the existence of a growing base of supporters working to direct policy in more positive and enlightened directions. These supporters have developed an increased recognition of human rights issues and of trafficking as a multifaceted problem of which sex trafficking is only one aspect, and by no means the defining one.