

## **The Demand Side of 'Trafficking'? Prostitution and Beyond**

**Julia O'Connell Davidson**

It is impossible to develop effective policies to tackle any given problem without first defining the problem in question, and so far as the demand for 'trafficked' persons is concerned, this is by no means a simple task. The UN Trafficking Protocol defines 'trafficking' in such a way as to cover the transport of women, children and men for purposes of exploitation in a wide range of sectors and settings: in private households, in mines and factories, in agriculture, the construction industry and the sex industry, in street begging and drug running, and in the market for human organs; to name but a few. In some settings, the individual who controls and directs the 'trafficked' person's labour/services also consumes the end product of such labour (for instance, the real or fictive kin of a 'trafficked' child, the husband of a 'trafficked' bride, the employer of a trafficked domestic worker). In other settings, 'trafficked' labour is organised and controlled by person(s) who profit by selling the product of labour or services on to others to consume (as is the case in the garment or the sex industry, for example). In the case of begging and petty crime, the 'trafficked' person's labour does not generate a good or service to be consumed, merely income for the individual who exploits her/him; and in the case of those trafficked for purposes of organ removal, the exploiter has no interest in controlling the person's labour/services in any long term relationship, but rather treats the body as an object to be discarded once the end product has been extracted.

The concept of demand for 'trafficked' persons can thus embrace a broad and hugely divergent range of motivations and interests on the part of many different social actors in a range of different social settings. It can be taken to refer to employers' requirements for cheap and vulnerable labour; or to consumer demand for cheap goods and/or services; or to requirements for household labour or subsistence labour; or to demand for human organs; or to criminal actors' demand for vulnerable people to be exploited in a range of different ways, or to any or all of these things. To speak of 'the demand side of trafficking' is thus to speak of a phenomenon that is multi-faceted, complex

and amorphous – and worse still, from the viewpoint of policy-making – there is little or no relationship between the many and varied forms of demand that can be brought under this umbrella term. Measures to address demand for an illegal market in kidneys for transplant will have no impact whatsoever on demand for cheap and unprotected labour in the construction industry or on demand for ‘trafficked’ brides, for example.

For these reasons, ‘the demand side of trafficking’ is a policy-maker’s nightmare, and to make matters worse, discussing demand issues in trafficking takes us onto the highly emotive and controversial political terrain of prostitution. Indeed, this highlights another of the definitional problems associated with the term ‘trafficking’, for although the Palermo protocol provided a definition of ‘trafficking’, it left the terms ‘sexual exploitation’ and ‘exploitation of the prostitution of others’ undefined. The absence of clarity on these issues meant that the protocol could be adopted ‘without prejudice to how States Parties address prostitution in their respective laws’ but it also makes it virtually impossible to discuss the demand side of ‘trafficking’ into the commercial sex trade without becoming embroiled in the more general and highly polarised debate about the rights and wrongs of prostitution.

From one political perspective, feminist abolitionism, prostitution is male violence against women, no woman genuinely consents to work in prostitution, and prostitution is always a form of modern day slavery that states must work hard to abolish. But at the other end of the political spectrum, liberals and libertarians make a strong distinction between voluntary prostitution by adults, and all forms of child and forced prostitution. They argue that while the latter should be outlawed, free choice adult prostitution should be tolerated or regulated as a form of work.

Recently, feminist abolitionists have seized on the issue of demand in trafficking as a vehicle to promote their more general political agenda on prostitution. They have therefore lobbied for a very particular approach to the ‘demand side of trafficking’, calling on governments to prioritise measures to suppress the general demand for prostitution, in particular, calling for states parties to the Protocol to criminalise all those who buy sex, arguing that without consumer demand for commercial sex, there would be no sex

trafficking. These lobbying efforts have been very effective, indeed, questions about demand for trafficked persons' labour/services are now very often confused with questions about the general demand for commercial sex. So, for example, in the run up to the World Cup, many commentators spoke about the possibility of increased demand for prostitution as if it necessarily implied increased demand for trafficked 'sex slaves'. I am troubled by this trend, as I believe it can blind us to many issues that ought to concern anyone who genuinely wishes to promote and protect the rights of migrants subject to forced labour and other forms of exploitation in the contemporary world. So I will start by noting some problems with the feminist abolitionist perspective on demand issues in trafficking.

### **Problems with Feminist Abolitionist Arguments**

Penalize the buyers. The least discussed part of the prostitution and trafficking chain has been the men who buy women for sexual exploitation... our responsibility is to make men change their behaviour by all means available – educational, cultural, and through legislation that penalizes men for the crime of sexual exploitation (Raymond, 2001:9).

Feminist abolitionists do sometimes acknowledge that people are trafficked for labour exploitation as well as for sexual exploitation, but they hold that men who buy sex are guilty in ways that people who buy consumer goods produced through trafficked labour are not. This, they argue, is because such men both create the demand for prostitution and, by virtue of their receipt of the trafficked person, are actually part of the trafficking chain.

I agree there are some differences between the consumption of consumer goods and the consumption of sexual services. If we buy a cheap T shirt, or a cheap tin of tomatoes, we buy them because they are cheap and not because they have been produced by Chinese women in Sai Pan or Romanian men in Puglia. But people who buy sex generally wish to consume what has been termed "embodied labour" – i.e., they normally want to make use of the labour/services of persons of a specific sex, age and also often race, ethnicity, nationality, or caste. Few clients would be equally happy to buy sex from an elderly man or a young woman, and they may also have specific preferences

regarding the racial or national identity of the sex workers they use, their language skills, physical appearance, and so on.

However, this does not actually distinguish demand for commercial sex from demand for services/labour in all other sectors in which trafficking is known to occur. The same point applies to those who wish to consume the labour of domestic workers, wives, adopted children or *au pairs* within the private household, for example. It is also relevant in relation to demand for care workers and nurses, and for other personal/informal sector services such as shoe-shine, car wash or manicures. And in fact, even the economic potential of begging generally rests on questions of embodiment – people are less likely to give money to a healthy muscular adult male beggar than they are to give to a small child.

I would also take issue with the feminist abolitionist claim that the client, by virtue of his 'receipt' of the trafficked person, can automatically be described as 'part of the trafficking chain'. What does 'receipt' actually mean? The client normally pays to receive a specific service from the prostitute, not to receive the person of the prostitute herself. This is generally so even when the woman, man or child concerned is subject to forced labour. Despite the sensationalist images used in much anti-trafficking campaign materials, the pimp or brothel owner does not hand the trafficked person over to the client to do entirely as he pleases with - to emancipate or to kill; or to take home as his slave for an hour, a day or a week. Rather the contract between third party and client sets certain limits on the powers that the client can exercise over the prostitute. I'm not saying that the limits set are acceptable, just questioning whether it is accurate to state that the client takes receipt of the trafficked person.

In fact, it would be much easier to make the 'trafficking chain' case in relation to domestic work than in relation to prostitution, for employers of live-in domestic workers do actually receive the worker into their home for protracted periods of time, and the agents that supply such workers do not always set limits on the powers that the employer may exercise over them. But feminist abolitionists do not believe that living as another person's servant is intrinsically degrading in the way they believe that exchanging sex for money

is necessarily debasing. (Perhaps some of them are themselves employers of live-in domestic workers.) Thus, when trafficking is identified as a problem within domestic work, they do not immediately leap to call for the criminalisation of all those who employ domestic workers or produce images of doll-like trafficked domestic workers being handed over to employers.

Similarly, those who participate as consumers in other 'respectable' markets are imagined as essentially benign and ethical. So, for example, feminist abolitionists argue that educational and public awareness campaigns could be used to assist consumers in identifying which goods may have been produced using trafficked labour, and that this would help them to avoid purchasing such products, which will in turn reduce the demand side of those trafficking markets. (They do not engage with the rather more tricky question of what happens when people cannot afford to avoid goods that may have been produced using trafficked labour). But the same argument is not made in relation to men who buy sex. They are assumed to be uniformly lacking in basic humanity and ethics. They cannot be educated and are not motivated to distinguish between forced and free sex workers.

The multi-country research on demand issues in trafficking that Bridget Anderson and I have been involved in for the past five years does not support these assumptions. For instance, one of the questions we asked in a survey of men's experience of commercial sex was "What should a client do if he comes across a woman he believes has been forced into prostitution against her will?" Only a minority of men who had bought sex thought it was acceptable for clients to go ahead and consume services provided by trafficked persons, and in all countries, a significant proportion stated that clients ought to report cases of trafficking to the police. Of course, it does not follow that because they say this in a survey, they would do so in real life, but in fact, clients have been responsible for reporting cases of trafficking to the police in many countries, something that suggests clients are not a morally homogeneous group.

This was also evident from our interview research, which revealed that although some clients felt no qualms about paying for sex with women and girls they believed could be victims of trafficking, there were also many clients

who consciously sought to avoid buying sex from unfree workers. Indeed, our research showed that clients typically ranked sex workers according to the social relations that surround their prostitution, such that migrants who were perceived as having been forced into prostitution (either by a third party or by their 'miserable social background') were deemed by most to be less attractive than local women and non-stigmatized groups of migrants (i.e., those from Western Europe, Australia, North America, and also interestingly, Brazil) who were imagined as having entered sex work voluntarily and as enjoying better working conditions. So, for example, a British client told us: "I do tend to try and find British women because they know what it's about, I don't have that zone of discomfort that I may be contributing to someone's exploitation".

And the research also found that the more clients understood prostitution as sex work, a form of labour that could be freely chosen, the less likely they were to find it acceptable to use either children or trafficked women in prostitution. It was only those interviewees who held very traditional attitudes towards gender and prostitution, seeing all sex workers as utterly debased and degraded by their participation in prostitution, who felt that it made no difference whether the prostitutes they used were freely choosing to trade sex or being forced to do so by a third party. This finding suggests that educational measures focusing on the de-stigmatization of those who work in prostitution could impact on some consumers' behaviour, encouraging them to seek out workers in better conditions and to report visibly abusive practices. I do not think such campaigns would ever be more than a partial solution, however, for as is the case in relation to other goods and services, being an 'ethical consumer' costs money, and no matter how well educated the population is, not everyone can afford this moral luxury.

However, our research also suggests that the kind of campaigns favoured by feminist abolitionists (poster campaigns that ridicule and humiliate men who pay for sex) may well have extremely negative consequences for the most vulnerable and unprotected sex workers. For instance, a CATW sponsored poster in Lithuania that shouts "It's shameful to buy a woman! Moreover, sooner or later everybody will find out about it!" also carries the message that

it is shameful for a woman to sell herself, and so perpetuates the stigma attaching to prostitution. Since people are always more ready to perpetrate or tolerate violations of the rights of stigmatised groups of people, this message is far from helpful.

But there is a much more profound problem with the feminist abolitionist perspective that I want to draw attention to, because it takes us back to the enormity of the definitional problems raised by questions about demand issues in trafficking.

### **Definition and Demand**

For feminist abolitionists, virtually every single woman working in prostitution is a Victim of Trafficking (VoT). And in fact, this is also the position set out by the UN Special Rapporteur on Trafficking, Sigma Huda, in her recent report. But States Parties to the UN Protocol do not share this generous interpretation of the term 'trafficking'. Indeed, far from treating all prostitutes as VoTs, states are very keen to distinguish the "true" VoT (who deserves assistance) from mere "immigration offenders" who deserve only to be deported, regardless of the type or degree of exploitation they have experienced.

And identifying the "true" VoT is by no means a simple task, which takes us back to the definitional problems associated with term 'trafficking'. I mentioned earlier problems arising from the fact that the Protocol does not define 'sexual exploitation', but to this we should add that it does not actually define other constituent elements of trafficking such as 'exploitation' and 'forced labour', or specify the type or degree of threats, deception, coercion, abuse of power etc. that must have been applied for a person to qualify as a VoT.

The absence of clarity on such issues perhaps would not matter if all migrants fell neatly into one of just two entirely distinct groups – a) those who have been transported at gunpoint into a condition of chattel slavery; and b) those who are entirely free agents, who were under no external pressure to migrate, and who moved to live and/or work in pleasant conditions of their own choice. But in reality, there is no bright line between slavery and freedom or between forced and voluntary migration – rather, people's experience ranges along a

continuum with slow gradations in the types and degree of force and coercion involved, and there is no real consensus about the precise point at which a line can be drawn between the tolerable and the intolerable. The Trafficking Protocol thus refers to two different, though sometimes overlapping, continuums of experience with regard to abuse and exploitation, and to make matters worse, it attaches special significance to situations in which abuses at the point of destination are linked to the use of force or deception within the migration process.

Thus, State Parties are not being required to meet new and higher standards with respect to protecting the rights of *any* migrant person who is subject to deception, force and exploitation within their borders, but only with respect to those who have also been cheated and exploited within the migratory process (and the threshold of victimhood is raised still higher by the demand that the victim must be being exploited at the point of destination by the same people, or associates of the people, who abused and exploited them in the migratory process).

All of this is clearly hugely problematic from a human and migrants' rights perspective but it also makes it quite meaningless to speak of demand for the labour/services of *trafficked* persons. To speak of a 'trafficked person' is to speak of an administrative and legal category. Other than NGOs that secure funding for assisting people who have been officially recognised as VoTs, who would be specifically interested in people falling into this category and why? Certainly, there is no evidence of sex buyers specifically requesting services provided by trafficked women. And imagine if such a request were made and a brothel receptionist were to reply, "I'm sorry sir, we don't have any trafficked women here, but we do have Svetlana who is working to pay off a huge debt to the smuggler who brought her into the country, and we're fleecing her too by charging her a £300 session fee for every day she works here, but she can't quit because she's in the country illegally and so she can't get another job, and she can't complain to anyone because we've told her we'll inform immigration if she does. So she's basically desperate and she'll agree to anything you ask for, even unprotected sex". Is it conceivable that any client



would say, “No thanks, I’m looking for a Victim of Trafficking, so I’ll try somewhere else”?

Likewise, it is wholly implausible that unscrupulous employers in the sex sector, or in any other sector, would care which administrative and legal category a vulnerable and unprotected worker fell into – trafficked, smuggled or overstaying a tourist visa, the important questions from the employers’ viewpoint are things like whether the individual will accept low pay; whether s/he will work long or unsocial hours in poor or even dangerous conditions; whether s/he is in a position to simply quit and walk away if the employer abuses her or fails to pay her; whether s/he is in a position to report the employer for illegal or sharp practices, or to demand that the employer observes minimum labour standards. There is, in short, no specific demand for the labour/services of *trafficked* people, and if States are to respond to demand factors in trafficking, they can only do so by addressing the more general demand for cheap and unprotected labour and services.

This means that the receiving State is profoundly implicated in the demand side of trafficking (for who is it except the receiving state that leaves certain groups unprotected in certain settings?), and many in the human rights community have been calling on States to focus on these more general questions about vulnerability to exploitation and forced labour – for example, the report of an Experts Group on Trafficking in Human Beings convened by the European Union in 2003, notes that forced labour is the crucial element of the Protocol, and states that ‘policy interventions should focus on the forced labour and services... – no matter how people arrive in these conditions – rather than (or in addition to) the mechanisms of trafficking itself’ (European Commission, 2004: 53), while the OSCE Action plan states that countries of destination should ‘address the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration’ (OSCE Action Plan, Chapter IV, s.3.2).

But recognising the role played by the State in the political construction of markets for cheap and protected labour/services should also alert us to the dangers of calling on States to respond to demand by simply criminalising the

actors that take advantage of these markets. Very often, this merely adds to the exploited migrants' vulnerability. Equally, however, we have to be aware of significant differences between the sectors and settings in which migrants are vulnerable to abuse and exploitation, for policies that may help in one sector, are not necessarily appropriate in another. Establishing and enforcing minimum labour standards, in combination with migration policies that recognise the demand for labour and the demand for opportunities to migrate, may be appropriate in relation to construction industry, for example. But it is not an approach that anyone would advocate in relation to the services provided by drug mules or beggars or children who are adopted into families and used as unpaid domestic workers, for example.

A final point. Though policies and systems that leave certain groups of migrants unprotected in certain settings are a necessary condition for abuse and exploitation, I do not think they are a sufficient condition. There must also be a space in the cultural imagination, and a set of social norms, that make it seem either unremarkable or defensible to exploit and abuse these specific groups in these specific settings. So in devising social and educational measures to address demand, we need to think seriously about the more general problem of racism, xenophobia and anti-migrant sentiment in our societies. We also need to think seriously about the way that home and family life is imagined as a private realm, such that heads of households do not really accept that they are answerable to any external body for the way in which they treat children, wives or servants. And we need to think seriously about the way that certain forms of labour and services are socially devalued and/or stigmatised.

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