

Sex Worker Rights, Abolitionism, and the Possibilities for a Rights-based Approach to Trafficking

by Jo Doezema

What does a sex worker rights perspective say about the future of a rights-based approach to trafficking? Can a better appreciation of sex worker rights help defeat abolitionism in the global arena? Or does trafficking need to be abandoned as a framework for positive change? These are some of the questions that Global Alliance Against Traffic on Women (GAATW) asked me to consider in an article for its newsletter. As the editorial team at GAATW describes it in a letter to me:

A couple of years ago, some of us had a strong feeling that a rights-based approach to human trafficking can no longer ignore the emerging voices from the sex workers' rights movement. We felt that sex workers organising worldwide have had an impact, and zealous anti-trafficking activists will no longer make uninformed comments/generalisations about prostitution without consulting with sex workers' groups. To be sure, there were still unresolved issues like whether creating the two categories of forced and voluntary prostitution was also problematic or not. There were still fundamental concerns over the anti-trafficking framework's ability to deliver even under the best of circumstances. But some of us were still feeling quite hopeful that, limited as it is, the framework does work to a certain extent. But now, one has the worried feeling that abolitionists have come back with renewed vigour, strong support from many quarters, and huge funding, of course. While we were trying to see trafficking in the forced labour framework, now the United States categorises trafficking as sex trafficking and labour trafficking. So those who want to fight prostitutes can do so in the name of addressing trafficking. What accounts for this and what are your comments on this?

The rise of abolitionism is one of the greatest changes and challenges in the global politics around sex work to take place since GAATW and the Network of Sex Work Projects (NSWP) began their work. Like GAATW, the NSWP is a global network of organisations and individuals with a common vision. In the case of the NSWP, this vision is of a world in which sex workers are free from discrimination, persecution and violence; where sex work is considered to be a legitimate and even honourable occupation; and where sex workers' health and human rights are held to be as important as anyone else's.¹ This vision intersects in a number of ways with GAATW's rights-based approach to trafficking, which bases its solution to trafficking on the needs and concerns of the people involved and includes the idea of respect for sex worker's self-determination.

From Beijing to Vienna: the Rise of Abolitionism

In 1995, I and other sex worker activists from the NSWP joined activists from the newly formed GAATW at the Beijing UN Conference on Women to lobby on the issues of trafficking and sex worker

rights. Three years later, the NSWP and GAATW again worked together to lobby, this time around a proposed new UN agreement on trafficking. This UN Trafficking Protocol, negotiated in Vienna, was completed in 2000.² For me, these two events represent both encouraging and discouraging things. On the encouraging side, it showed how sex worker rights and anti-trafficking groups could put aside their differences and find common ground when the political stakes were high. These commonalities included the need for human rights protections and the idea of sex work as work as well as the need for a human rights rather than a criminal response to sex work and trafficking. The differences included the question of whether even a rights-based approach to trafficking could result in policies that effectively protected migrants to the sex trade and other forms of work rather than policies that slammed shut borders and persecuted sex workers under the guise of human rights.

In the five years since these two significant collaborations between sex worker and anti-trafficking organisations, there has been a change in the way the world approaches the issue of trafficking. At the time of the Beijing Conference, it seemed as though the global community had largely rejected abolitionist responses to prostitution as the solution to trafficking. While this did not necessarily mean an acceptance of the sex worker rights agenda, it at least recognised that trafficking and prostitution were different things. It also left the way open for rights-based approaches to take hold, as they did in a number of countries. It was during the negotiations for the Trafficking Protocol that the renewed strength of

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the abolitionist movement became evident, as the increasingly well-organised and well-funded abolitionist lobby challenged the rights-based approach at every step.

The rise of abolitionism globally is linked to the U.S. policy and how it is expressed in the “war on terror.” Since 9-11, trafficking has taken on potent new meanings in American politics. The rise of abolitionism at the same time as President Bush’s “war on terror” is no coincidence. The context for this convergence was set before the present administration. Under the Clinton administration, certain anti-trafficking feminists in the U.S. were forging links with conservatives, particularly conservative religious groups, in order to pass the U.S. domestic trafficking legislation.³ Though this legislation distinguishes between “sex trafficking” and “severe forms of trafficking” with harsh penalties only for those who commit the latter, it sets the stage for an approach that equated fighting prostitution with fighting trafficking. This abolitionist/conservative religious coalition was also able to significantly influence U.S. aid policy and development policy. This means that the U.S. abolitionist position has serious effects domestically and abroad, and on both governments and nongovernment

organisations (NGOs).⁴ In his September 24, 2003 speech to the UN justifying the war in Iraq, President Bush put trafficking on par with terrorism.

I would argue that the rise of abolitionism fits in with the Manichean world view currently dominant in the U.S., with its simplistic ideas about “evildoers”, and that pits the rhetoric of “civilisation” against that of “Islamic terrorism.”

A great irony of the rise of U.S.-backed abolitionism is that abolitionist feminists claim that the abolitionist voice is the true voice of the Third World.⁵ At the same time, they back stringent and arguably imperialist measures to force developing countries to comply with the U.S. anti-prostitution stance. These measures extend both to governments and NGOs as development assistance, loans, and NGO funding are denied to those who do not actively oppose prostitution. It is also ironic that the other most prominent abolitionist country is Sweden, firmly located in the West. Swedish feminists were successful in enacting legislation that penalises customers of sex workers. Arresting sex workers’ customers has not been shown to have any effect on “trafficking.” In fact, research shows sex workers in Sweden are now at greater risk of violence being used against them.⁶ Sweden also seeks to export its anti-sex work policies, both to the European Union and to the developing world. If developing countries are indeed so in favour of abolitionist policies, the threat of Western sanctions should be unnecessary. This pressure from the West has a strong smell of colonialism about it, a neocolonialism backed by notions of superior Western morality.

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Rescue, Diversity and Demand

In its letter to me, the editorial team also asked a series of questions about "rescue" programmes and the focus on client "demand"—both essential elements of an abolitionist strategy. It writes:

There are statistics going around on how little women get out of the huge amounts of money that circulate in the sex industry. What do you think of programmes that aim to fight the industry and the violence within it, and protect the women? What do you think of agendas/programmes that say "let us not focus on the women any more, let us not talk about choice and force, but let us target men and study demand"?

Anti-trafficking programmes that aim to "fight the industry and protect the women" often have good intentions but have negative effects. These programmes often operate with the help of the police, a particular problem in countries where sex workers find that the police are the greatest perpetrators of violence.⁷ The "rescued" women are often either incarcerated, deported, or sent to prison-like "rehabilitation" centres. There are cases in which rehabilitation centres are run by NGOs that want to help women but actually keep them locked up for their own protection.

Other anti-trafficking programmes that aim to fight violence are more successful in countering abuse while respecting autonomy. These include those set up by sex workers, themselves, such as the Dugar Mohila Samannoi Committee (DMSC) project in Sonagatchi, (Calcutta, India).⁸ This approach is based on the concept of "self-regulatory boards" and is derived from the principle that sex workers, themselves, are the best placed to detect and counter instances of coercion.

The existence of sex-worker-run anti-trafficking projects points to the diversity within the global sex worker rights movement (or movements) about how to respond to the increasingly dominant anti-trafficking agenda. Like sex work itself, sex worker rights organisations are not homogenous. On the one hand, many sex workers and sex worker organisations have argued that the anti-trafficking framework is harmful and needs to be abandoned. For example, the NSWV commentary on the UN Trafficking Protocol states:

Historically, anti-trafficking measures have been more concerned with protecting women's "purity" than with ensuring the human rights of those in the sex industry. This approach limits the protection afforded by these instruments to those who can prove that they did not consent to work in the sex industry. It also ignores the abusive conditions within the sex industry, often facilitated by national laws that place (migrant) sex workers outside of the range of rights granted to others as citizens and workers.⁹

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Instead of decreasing human rights abuses and offering redress to the wronged, anti-trafficking has become a rallying cry for a new wave of moralists. Persecution of sex workers has increased in many places as a direct result of anti-trafficking policies. For example, sex workers in South Korea say that their government's new anti-trafficking measures (adopted under threat of U.S. sanctions) are being used to drive them out of business. Last month, they took to the streets of Seoul, in the thousands, demanding that the government treat them as legitimate workers.¹

On the other hand, sex workers are very concerned with protecting themselves and their colleagues. It is nearly impossible to talk about or organise against violence, particularly in the case of migration, without running up against the anti-trafficking framework. So while some sex workers and groups argue that the entire trafficking framework must be abandoned, others argue that the strategic engagement with it is necessary. Sometimes, both of these positions are held simultaneously and articulated according to the circumstances. These differences do not represent a split within the movement but an ongoing discussion within a politically vibrant community in which questions of philosophy, principles, and strategy are constantly developing.

Regarding the question of "demand," I would welcome the chance to move

away from the stagnant and problematic categories of "choice" and "force."

However, we need to carefully consider what the effects of the switch to talking about "demand" are. It all depends on how "demand" is seen; to put it simply, whether it is considered in a neutral, positive, or negative sense. Demand can be seen as neutral, for example, in the case of HIV-related work. A non-judgmental approach to clients as well as to sex workers is increasingly recognised as key to successful HIV-prevention programmes. The idea of "demand" as something positive is something that is barely ever articulated. If the question of "demand" could be opened up to look at the organisation of desire and the forms of its social control, it could represent an exciting new way to move beyond entrenched and calcified political positions. It could be a way to look at things like women's desire, same-sex desire, extra-monogamous desire, and the commercialisation of desire. Sadly, the focus on "demand" as currently used does not presage an exciting and invigorating way to examine the institutionalisation of desire. The talk of "demand" is simply a way of putting old arguments in new language. When used by feminists, the "demand" focus is simply a re-statement of supposed female powerlessness and male power as the basis of sex work. When "demand" is taken up by conservative groups, it is a way to push abstinence and marital fidelity, in keeping with their view of sexual morality.

In both cases, it ignores the presence of women as clients and men as sex workers, and the positions of

transgenders altogether. This is explained by the fact that the focus on “demand” has not come from sex workers, themselves. Sex workers do not, in the main, see their clients as the problem. The terms of the debate on “demand” have not been set by sex workers but by outsiders. Thus, the focus is not on what men, women, and transgender sex workers see as the main problems, which include police violence, societal discrimination, and lack of civil rights. This is also the key problem with an anti-trafficking framework, even those derived from rights-based approaches. While sex workers are the prime object of concern to anti-trafficking activists, they are not the architects of the anti-trafficking agendas. Demands to stop trafficking did not arise from sex workers’ organisations. As a result, sex workers are left trying to fit their demands within a framework that was never designed to accommodate them: a framework that is increasingly setting the terms of public perceptions, debate, and policy.

Facing the Challenges Presented by the Rise of Abolitionism

The final question that the editorial team asked me to consider has to do with

meeting the challenges presented by abolitionism’s growing legitimacy:

Freeing the sex slaves is high on the Human Rights agenda now, and the new alliance has the feminists, the religious right, and the neo-conservatives. What would be the strategic steps for those anti-trafficking activists who see sex workers as their allies?

I believe that the key to developing strategies is a keen awareness of the nature of the threat posed by the rise in abolitionism. This danger is twofold, felt both at the political and intellectual level. Politically, there is the danger that we, ourselves, might move towards conservative policies, out of fear that otherwise all will be lost. Intellectually, there is the danger of letting political expediency or necessity come to stand in for radical thought. This is a common response to conservative threats as groups with controversial agendas trade radicalism for political acceptance. This sort of manoeuvring may be strategically necessary to protect gains. But as our political space for experimentation—new policies, new ideas—collapses, as we are continually forced ever more on the defensive, we lose the space to think innovatively and to expand our thought horizons beyond the politically expedient.

The challenge then is to keep this space for radical thought open while, at the same time, respond strategically to the immediate threats posed by abolitionism. Keeping this space open starts by making sure that controversial voices are heard and radical ideas debated. I believe that it is high time that the anti-trafficking framework be abandoned, and a new way be found, to articulate the concerns shared by sex

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workers, anti-trafficking activists, migrant and human rights activists. This is even more pressing now; because of the rise of abolitionism, anti-trafficking has become nearly synonymous with anti-prostitution. The answer to abolitionism lies not in a more nuanced version of anti-trafficking but in a complete rejection of the moralising and victimising approach to sex work. While sex worker rights can offer a starting point, these are, in themselves, not sufficient to deal with the wide range of issues and concerns raised under the heading of “trafficking.” What is needed is an entirely new political vision. The elements of a replacement to the anti-trafficking framework do exist and are waiting for the political will and strategic opportunity to bring these together in a coherent vision and political programme. These elements can be found in various conceptual

frameworks, including those of migrants’ rights, workers’ rights, feminism, anti-globalisation efforts, opposition to U.S. dominance and the Iraq war, and sexual rights. In order to achieve this new analysis on a new political vision, I believe that GAATW and the NSWP should continue and strengthen efforts to broaden their analyses and their political alliances, and thus, create and keep open the radical space for this new political vision to emerge. ☺

Jo Doezeema, Phd., is a sex worker and board member of the Network of Sex Work Projects (NSWP). She has published widely on trafficking and feminism. She is a consultant to a number of sex work projects, and works as a researcher at the Institute of Development Studies, University of Sussex, UK.

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Endnotes

1 The NSWP website is at www.nswp.org.

2 For accounts of the lobby efforts around the UN Trafficking Protocol, see Jo Doezeema, *Now you see her, now you don't: Sex workers at the UN Trafficking Protocol Negotiations* in Social and Legal Studies, forthcoming Spring 2005, and Melissa Ditmore, 2002, *Trafficking and Sex Work: A Problematic Conflation*, PhD Dissertation, Department of Sociology, City University of New York, New York.

3 For documentation and analysis of the links between U.S. feminists and conservative/religious groups, see Anna Louise Crago, *Unholy Alliance*, Alternet, www.alternet.org, August 21, 2003; Wendy Chapkis, 2003, *Trafficking, migration and the law: protecting innocents, punishing immigrants*, Gender and Society 17 (6): 938-957; and Nina Shapiro, *The New Abolitionists*, Seattle Weekly, August 25-31, 2004.

4 See Penelope Saunders, 2004, *Prohibiting Sex Work Projects, Restricting Women's Rights: The International Impact of the 2003 U.S. Global Aids Act*, in Health and Human Rights, 7: 2 pp.179 -192.

5 For example, the abolitionist CATW misleadingly suggests a split between “developing” and “developed” countries around abolitionism in their report on the Trafficking Protocol. See Raymond, Janice, 1999, *Report on the 6th Session of the Ad-Hoc Committee on the Elaboration of a Convention Against Transnational Organized Crime*, at www.catw.org.

6 Carol Leigh's website provides an excellent overview of research on Swedish prostitution policy. See www.bayswan.org.

7 For examples of sex worker's groups responses to these raids, see Empower, 2003, *Report by Empower Chiang Mai on the human rights violations women are subjected to when rescued by anti-trafficking groups who employ methods using deception, force and coercion*, Empower Foundation, Chiang Mai, at www.nswp.org; and Joanna Busza, 2004, *Sex work and migration: the dangers of oversimplification—a case study of Vietnamese Women in Cambodia*, in Health and Human Rights, 7: 2, pp. 231-250.

8 See Smarajit Jana, Nandinee Bandyopadhyah, Mrinal Kanti Dutta, and Amitrajit Saha, 2002, *A tale of two cities: shifting the paradigm of anti-trafficking programmes*, Gender and Development 10 (1): 69-79.

9 Network of Sex Work Projects, (NSWP), 1999, *Commentary on the Draft Protocol to Combat International Trafficking in Women and Children Supplementary to the Draft Convention on Transnational Organized Crime*.

10 Reported in Associated Press WorldStream, October 8, 2004, and NT News, Tuesday October 12, 2004.