



## The Journal of Sociology & Social Welfare

Volume 34  
Issue 4 *December*

Article 4

2007

### A Critique of the Global Trafficking Discourse and U.S. Policy

Moshoula Capous Desyllas  
*Portland State University*

Follow this and additional works at: <https://scholarworks.wmich.edu/jssw>

 Part of the Gender and Sexuality Commons, Public Policy Commons, and the Social Work Commons

#### Recommended Citation

Desyllas, Moshoula Capous (2007) "A Critique of the Global Trafficking Discourse and U.S. Policy," *The Journal of Sociology & Social Welfare*: Vol. 34 : Iss. 4 , Article 4.  
Available at: <https://scholarworks.wmich.edu/jssw/vol34/iss4/4>

This Article is brought to you for free and open access by the Social Work at ScholarWorks at WMU. For more information, please contact [maira.bundza@wmich.edu](mailto:maira.bundza@wmich.edu).



# A Critique of the Global Trafficking Discourse and U.S. Policy

MOSHOULA CAPOUS DESYLLAS

Portland State University  
School of Social Work

*This article examines the dominant discourse on trafficking in persons and the implementation of international and U.S. policy to address trafficking globally. Features of the United Nations Protocol and the Trafficking in Victims Protection Act demonstrate how trafficking frameworks currently in place contain underlying fears of migration and female sexuality. The implications of policy on the construction of third world women as "victims to be saved" through governments, National Government Organizations, feminists and the media will show how these misrepresentations only reinforce racism and dualistic simplifications of a complex issue. An emphasis is placed on the importance of women's agency and the possibility of multiple realities. An alternative way of thinking about human trafficking and related policy through a labor rights, migration and human rights framework is proposed.*

*Keywords: feminist debates, sex trafficking, sex work, social policy, transnational migration*

A critical analysis of the discourse on trafficking in persons requires an understanding of the discursive history behind it, the feminists' debates surrounding it, and the international and U.S. policy designed to address it. Trafficking in persons is considered to be the forced, illegal movement of people across national and international borders and enslavement of those individuals in their destination country. While forced labor migration is a violation of human rights, not every case of illegal

Journal of Sociology & Social Welfare, December 2007, Volume XXXIV, Number 4

movement across borders is forced.

I will argue for a view of trafficking "as the trade and exploitation of labor under conditions of coercion and force" (Kempadoo, Sanghera, Pattanaik, 2005b, p. viii). This perspective addresses trafficking as transnational migration for labor with a focus on the unsafe working conditions of migrants and their rights as humans. I will argue that the current trafficking framework, and the resulting policy, harm both migrants and sex workers. The latter part of this analysis will critique the U.S. policy designed to 'combat' trafficking, the Trafficking of Victim Protection Act (TVPA) of 2000, and its re-authorization (TVPRA) of 2003, in order to explore the complex effects of this policy on migrants, sex workers, and other marginalized groups. This critique will demonstrate how those countries holding power and privilege have domineering policies and imperialistic frameworks and ideologies that are imposed upon the rest of the world.

This analysis utilizes a third world feminist theoretical framework along with post-modern feminist theory to critique the trafficking in persons discourse. I use the term discourse, inspired by Michel Foucault (1972), to describe the set of accepted and relevant concepts related to trafficking which have become socially legitimized as knowledge and truth within society. I challenge this understanding of truth around trafficking since it oppresses and omits the voices of migrants from the global south and sex workers. A global feminist lens that focuses on the issues of race, ethnicity and culture as they intersect with class, gender and global economics and politics will be used. Third world feminist theory examines how global economic inequalities, including colonialism and imperialism, affect the experiences of women, taking into account the intersectionalities of sex, race, ethnicity and class (Parpart, Connelly, Barriteau, 2000, p. 65). Postmodern feminism is concerned with discourse and language, in particular with "previously silenced voices, for the specificity and power of language and its relation to knowledge, context and locality" (Parpart, et. al, 2000, p. 68). It is the hegemonic position of the global North that has dominated the construction of the definition of trafficking and its subsequent policy. I will demonstrate how underlying western fears of migration and the sexuality of women have

contributed to the construction of sex trafficking as a social problem that is equated with prostitution. International and U.S. policies with underlying motivations may generate more harm to migrants and others working in the sex industry and targeted under the trafficking framework.

### Feminist Debates

Historically, "trafficking in persons has been equated with prostitution" (Ditmore, 2005, p. 108). The definitions of trafficking and prostitution have been informed by opposing feminists' perspectives and theoretical frameworks. The abolitionist approach asserts that prostitution is a violation of human rights, analogous to (sexual) slavery (Bindman & Doezema, 1997) and "an extreme expression of sexual violence" (Outshoorn, 2005, p. 145). The belief is that no person can truly consent to prostitution, no woman would choose to prostitute herself by free will, and a woman who engages in prostitution is a victim who requires help to escape sexual slavery (Outshoorn, 2005). This point of view applied to trafficking always involves a victim of force, coercion and/or deception. Outshoorn (2005, p. 146) asserts that from this lens the "trafficking of migrant women is always seen as against their will; they are by definition victims of trafficking. According to abolitionists, trafficking is seen to be caused by prostitution, making the best way to fight trafficking the abolition of prostitution." While the abolitionist view of prostitution, informed by radical feminist theory, is driving the current trafficking discourse and influencing U.S. policy, it is only one side of the debate.

The other major trafficking discourse is the sex workers' rights approach, which views prostitution as a viable option and a choice that women make in order to survive that should be respected, not stigmatized (Outshoorn, 2005; Chapkis, 1997). The pro-rights or sex worker perspective is supported by the belief that women have the "right to sexual determination," the right to work in safe labor conditions, and the right to migrate for sex work wherever they choose (Outshoorn, 2005, p. 145). For this group, "it is not the work as such that violates women's human rights, but the conditions of deceit, violence, debt-bondage, blackmail, deprivation of freedom of

movement, etc. be it in prostitution, in domestic labor, or in the commercial marriage market" (Wijers & Van Doorninck, 2005, p.2). Some assert that women who are in these violating conditions "can be victims of trafficking, but not all women sex workers crossing borders are victims of forced prostitution" (Outshoorn, 2005, p. 147).

### Defining Trafficking

Trafficking has been nationally and internationally defined through the use of ethnocentric language and western assumptions. Scholars use "trafficking" interchangeably with diverse concepts, such as: illegal immigration, modern slavery, prostitution, and the sexual exploitation of women. Trafficking definitions often fail to distinguish clearly between trafficking and voluntary consensual migration, often combining women's migratory movement with trafficking (Kapur, 2005). Furthermore, Piper (2005) asserts that trafficking has to be seen as part of the reality of migration patterns, mainly undocumented flows. Taking into account economic globalization, O'Neill (2001, p. 156) presents trafficking as "the total commoditization of human beings traded across borders, as is the case with any other good." Definitions of trafficking are highly contested among scholars, National Government Organizations (NGOs), feminists, and governments, thus posing challenges in conducting research studies, reporting statistics and making generalizations.

#### *Historical Fears of Sexuality and Migration*

The issue of trafficking came up within the international human rights discourse and took on a moral framework. The document that set the standard for the United Nations (UN) to continue further resolutions on trafficking and prostitution was the 1949 *UN Convention for the Suppression of the Traffic in Persons and Exploitation of Prostitution of Others* (Saunders & Soderlund, 2003), the first international instrument that dealt with trafficking as forced prostitution. Even though this was not ratified by all countries, it still served as a model for future legislation (Doezema, 2002a). The 1949 UN Convention represented an abolitionist notion of prostitution

as exploitation and as being “incompatible with the dignity and worth of the human person” (Ditmore & Wijers, 2003; Saunders, 2005).

Historical patterns in the levels of public concern in the U.S. over the trafficking of women and children are linked to periods of increased immigration (Saunders & Soderlund, 2003). The historical discourse on immigration and its links to trafficking is emphasized by Pattanaik (2002, p. 218) who states that “the term which was used to describe the ensuing abuses in the process of migration was ‘trafficking.’” The U.S. immigration policies in the past are known for their racist, discriminatory, and exclusionary stances, out of fear for the “other,” the unwelcome foreigner.

Racism, as it relates to sex trafficking, is raised as an issue for analysis by various feminists who critique the dominant sex trafficking framework. In response to the fear of ‘white slavery,’ Congress passed the White Slave Traffic Act in 1910, also known as the Mann Act. This act prohibited unmarried women from crossing state lines for immoral purposes and it criminalized interracial couples (Saunders & Soderlund, 2003, pp. 3-18). Under the Mann Act, in 1914 more than 70% of the convictions of women were related to the voluntarily transportation of women for prostitution or other immoral purposes (Saunders, 2005). Racist immigration laws passed in the 1920s, Immigration Act of 1924 and the Temporary Quota Act of 1921, led to strengthening U.S. borders and the restriction of migrants from Eastern and Southern Europe and Asia. The period afterward did not see trafficking on the U.S. and international agenda to such an extent or urgency as it was seen to resurface again in the 1990s (Saunders & Soderlund, 2003).

Doezema (1998, p. 44) describes how the 19<sup>th</sup> century sex slave was “a white woman, victim of the animal lusts of the dark races” and in the 21<sup>st</sup> century, the racism changed its focus to exaggerate the new sex slaves as “passive, un-emancipated women from the developing world.” In the 1800s Chinese women and other women of color were viewed as overly sexual, deviant and promiscuous, as were Mexican women at the turn of the century. It was at this time that migration was on the rise so the government felt the need to create a moral fear and panic over ‘the other.’

A historical context of socio-political, religious, and economic perspectives in the U.S. situates the current U.S. policy within a racist, heterosexist, hegemonic framework that harms women through so-called 'protection' and continues to colonize. The different feminist perspectives of prostitution throughout history have also influenced policy and public ideas about trafficking and the need to 'protect victims.'

### *The Influence of NGOs on Trafficking Policy*

In November of 2000, NGOs played a major role in the development of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. The presence of two different NGO-lobbying groups, with opposing feminist views on sex work and trafficking in persons, had the greatest influence on the UN Protocol.

One of the lobbying groups was the Human Rights Caucus, which consisted of the union of human rights groups, anti-trafficking organizations and sex worker's rights activists. This group consisted of the Global Alliance against Traffic in Women (GAATW), founded in Thailand, and the Network for Sex Work Projects (NSWP) who distinguished between forced and voluntary prostitution, in support for sex work safe labor conditions (Saunders, 2005; Outshoorn, 2005). The work of the Human Rights Caucus and other anti-abolitionist NGOs challenged the trafficking framework and succeeded in pushing for a broader definition of trafficking into the UN Protocol. These NGOs were successful in advocating for the inclusion of men, women and children, as well as for labor and human rights for those working in other industries, such as domestic work, and agriculture (Saunders, 2005).

The opposing side consisted of feminist NGOs and feminist abolitionists such as the American-based Coalition Against Trafficking in Persons (CATW), the European Women's Lobby (EWL) and the International Abolitionist Federation (IAF). This group maintained the primary view of prostitution as violence and sexual slavery. The victim stance taken by the abolitionist group was in contrast to the sex workers rights perspective that was concerned with women's agency. In this context, women's agency relates to "whether or not women can actually choose to work in the sex industry... and whether trafficking should

be defined by the nature of the work involved or by the use of deceit and coercion" (Ditmore & Wijers, 2003, p. 82).

The UN Protocol's trafficking definition was finally agreed upon even though it allowed a certain degree of flexibility in its interpretation by the nations that signed it. The final definition of trafficking, as stated in the UN Protocol to Prevent, Suppress, and Punish Trafficking on Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, is stated as follows:

"Trafficking in persons" shall mean the recruitment, transportation, transfer or harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (UN Protocol 2000, p. 2)

In this framing of trafficking, there is a distinction between forced and voluntary prostitution. The inclusion of force or deception as being essential to the UN Protocol trafficking definition marked an important departure from the abolitionist perspective of the 1949 Convention. The UN Protocol definition also included trafficking for the purposes other than prostitution, and the focus shifted from morality and women's sexuality to addressing working conditions and crime (Ditmore & Wijers, 2003).

Some of the language written into the UN Protocol still allowed for the transformation of rights into privileges that governments could interpret either to work for or against migrants. The ambiguous language present in the international document and the lack of strong human rights protection language was not ultimately included by government delegates (Ditmore & Wijers, 2003). The interpretation of the UN Protocol



by individual nations did not prevent a nation from using a moral lens to focus on women's sexuality, playing a major role in how U.S. trafficking policy was developed.

Doezema (2002b) points out that the exclusion of prostitution from the definitions of trafficking, and broadening the focus to include other types of labor, still created the problem of categorizing migrants into "guilty" versus "innocent." Critical analysis points to the danger of distinguishing between 'innocent victims' (who are forced and coerced as deserving pity and the criminalization of those who have abused her) versus the willing "'whore' who has sacrificed her right to social protection through her degraded behavior" (Bindman & Doezema, 1997, p. 6; Doezema, 1998). There is a dichotomizing of good versus bad: between innocent women who deserve protection and guilty women who deserve the circumstances they may get into.

Shah (2004) takes this concept further by applying it to women globally. This analysis looks at how 'forced' sex workers are represented and portrayed as living in the global South, having been coerced or abducted, or having no other option but to work in the sex industry because of their dire economic conditions. Shah (2004) contrasts this image to the 'Western' sex workers of the 'global North' who symbolize privilege, immorality, and free choice to enter into the sex industry. These contrasting images serve to construct third world women as powerless victims, without agency and bound by their circumstances. This duality of guilty sex worker versus deserving migrant, along with the construction of the third-world victim, is evidenced in the development of U.S. Policy to addressing trafficking.

### *U.S. Trafficking Policy*

Trafficking policy in the U.S. was formed and supported by religious leaders, neoconservatives, abolitionist feminists and NGOs. Michael Horowitz, a neoconservative from the Washington, D.C.-based think tank, the Hudson Institute, formed a coalition with powerful evangelicals who pressed for legislation that would become the Trafficking Victims Protection Act (TVPA) (Block, 2004). On November 6, 1999, Representative Chris Smith drafted a bill that exclusively

focused on the sexual exploitation of women and girls, excluding males and trafficking for labor (Block, 2004). The TVPA (HR 3244) was passed October 6, 2000 by a 371-1 vote. The bill passed the Senate with a 95-0 vote on October 11, 2000, and signed into Public Law (106-386) by President Bill Clinton on October 28, 2000 (State Legislatures, 2005).

The U.S. Congress enacted the TVPA of 2000 with the purpose of preventing human trafficking overseas, protecting victims of trafficking, and prosecuting traffickers. The title, alone, of this U.S. policy demonstrates how the government depicts women as 'victims' to be 'rescued' and 'protected.' Mohanty (1991) affirms that media images of third world women, in this case constructed by the U.S. government, perpetuate the stereotypes of third world women as being weak and needing to be cared for. Kempadoo & Doezema (1998, p. 42) assert that the construction of a victim "perpetuates stereotypes of sex workers as passive and exploitative victims."

The TVPA has been presented in the media as a policy that 'combats' sex trafficking. The use of the word 'combat' perpetuates a language of violence and war, bringing in the necessity of masculinity to "save" the innocent, female, childlike victims from "the barbaric crime of trafficking," as stated by President George Bush in a keynote address at the First National Human Trafficking Conference in July of 2004 (U.S. Department of Justice, 2004). The use of the word 'barbaric' serves to construct the idea of the uncivilized, dark-skinned trafficker abroad who manipulates innocent women into sex trafficking.

A definition of sex trafficking, as defined by the U.S., can be found in the annual "Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report" issued by the U.S. Department of State. The U.S. definition of "severe forms of trafficking in persons" is as follows:

- (a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purposes of subjection to involuntary servitude, peonage, debt

bondage, or slavery (U.S. Department of State, 2002).

Although not identical in their wording, the unifying elements of both the TVPA and the UN Protocol definitions of trafficking involve the illegal transportation and the sexual slavery of persons by threat or use of force or coercion. The distinction being made between 'voluntary versus forced' creates a dichotomous framework from which to look at trafficking that is limiting and simplistic. For instance, a woman may knowingly agree to work in the sex industry, thus being defined as 'voluntary', but she may not know the extreme abuse she may be faced with, that may include 'forced' acts under abusive working conditions. Binary oppositions perpetuate silent biases and assumptions, without looking at the complexity of the issue. Mohanty (1991, p. 64) asserts that dualities are ineffective when "designing strategies to combat oppressions." Only 'severe forms' of trafficking cause the enforcement provisions of the TVPA to be implemented, with "victims" bearing the burden of proof that they were coerced.

### Policy Links to U.S. Imperialism

The TVPA of 2000 is composed of features that emphasize prevention, protection and prosecution. One aspect of the TVPA's prevention component includes the U.S.'s demands on other countries to take preventative measures to end sex trafficking. The U.S. has written into policy its responsibility to make yearly assessments of other countries' anti-trafficking efforts and to rank each country according to the procedures a country takes in order to 'combat' trafficking. The Office to Monitor and Combat Trafficking in Persons with the State Department has a mandate from Congress to issue annual Trafficking in Persons (TIP) reports that rates each country's progress on eliminating trafficking. Each country is judged on a 'Tier' system, and the U.S., along with a few other western European countries, has awarded itself Tier 1 status, which represents 'sufficient' efforts at combating trafficking. However, those countries that do not demonstrate adequate means and efforts to end trafficking, as judged appropriate by the U.S., are ranked on either Tier 2 or Tier 3. Those countries judged as

being on Tier 3 are then subject to sanctions by the U.S. (except for sanctions on humanitarian aid).

Mezler (2005) has called to attention the interesting parallel between those countries that are ranked as Tier 3 countries and their poor political relations with the U.S., such as Cuba, North Korea, and Venezuela. Venezuela's Tier 3 ranking may be more about the country's refusal to acknowledge the U.S. program than with its efforts to eliminate trafficking (Mezler, 2005). Not only does the Tier system reinforce imperialist and hegemonic relations between those in power and those not in power, but it also raises additional issues related to the U.S. role within the world. Additional countries that were placed in Tier 3 and defined as sanctionable by the U.S. State Department consisted of countries who oppose U.S. imperialism, such as Iran, and countries made up of Arab or Muslim populations, such as Indonesia, United Arab Emirates, Afghanistan, Bahrain, Lebanon, Sudan, Qatar, Turkey, and Saudi Arabia (Kempadoo, 2005, p. xxi). Enloe (2000, p. xvi) highlights the unique position of the U.S. as a nation that offers itself up as "a model to be emulated" while playing the role of a term she coins as "global policeman."

### *Problems With the Criminalization Approach*

Another large part of the U.S. law's effort aimed at prevention, includes aspects of protection and prosecution: which appear to be addressed in conjunction with one another, rather than independent of one another. This can create undesired consequences for women. The TVPA was developed to provide a means for "non-citizen victims" of trafficking found in the U.S. to apply for a special T-visa, along with other benefits and services so that they could be "protected" and offered a chance to rebuild their lives (U.S. Department of Health & Human Services, 2004). The T-visa allows "victims of severe forms of trafficking" to remain in the U.S. provided that they cooperate with law enforcement and assist federal authorities in the investigation and prosecution of human trafficking cases. While this law seeks to 'protect' and 'prosecute,' it places the burden of proof on the migrant to 'prove her innocence' and 'coercion,' as well as information about the organized criminal network that is assumed to be responsible for human

trafficking. This stipulation appears to be counterintuitive to what this policy supposedly stands for, to primarily "protect victims," as stated in its title. Undocumented immigrants may still be very vulnerable due to their fear of deportation and being involved within the sex industry in a country where prostitution is illegal. Kempadoo (2005, p. 29) states that "women in prostitution are subjects of criminalizing policies, laws and ideologies." According to Chapkis (2003), the T-visa appears to be designed, not so much to meet the needs of migrants who have been sex trafficked, but as a device to assist prosecutors in closing down trafficking networks. This is evidenced in the various obstacles that migrants have to go through in order to obtain a visa.

Victim protection programs are validated behind the belief that all trafficking cases are caused by organized criminal trafficking networks. These intricate criminal networks are described in research studies (Hughes, 2002; 2001b) as composed of large organized groups with roots in villages that extend to the country of destination. Corrupt political and government officials are often linked as participants in the trafficking scheme (Raymond, Hughes, & Gomez, 2001). Agustin (2005, p. 101) notes the automatic, "hypothetical" link between trafficking and large-scale criminal organizations that are "dedicated to enslaving migrants." She points out that even though governments support policy under the assumption that organized crime is behind trafficking, the UN Crime Commission's own report found limited evidence of such activity (Agustin, 2005; CICIP, 2003).

Kempadoo & Doezema (1998) assert that many rely on the assumption that 'evil' traffickers are behind trafficking because it is easier to gain support for arguing to help 'victims' rather than challenge the existing framework. This also makes it easier for the 'helpers' (made up of abolitionist feminist, anti-prostitution NGOs, and governments) to take "center stage" (Agustin, 2005, p. 107). Trafficking policy "...sets up a need for feminists, NGOs and even governments to "save" every woman migrating to work...The best policy is to put on a victimized façade-which may be partially true-allowing NGO helpers to believe they are indispensable" (Agustin, 2005, p. 107). In an effort to 'save' every migrant, the experiences of

individuals are generalized without consideration that the work of 'organized criminal networks' may be the combined effort of family, friends, agents, entrepreneurs and small-time delinquents who make up these 'traffickers' (Agustin, 2001, p. 3). This knowledge slightly changes the constructed, popular idea of "traffickers" and organized crime.

Using a criminal justice response to fight organized crime, combined with border control, uses "sexual harm as a justification for restraining women's movement" (Miller, 2004, p. 34). Some migrants are being punished and sent back to their countries of origin where the economic situation in the global South may be dire and insufficient for survival. In addition, a law and order model pushes illegal migration and undocumented work further underground perpetuating unsafe labor standards for migrants. Kempadoo (2001, p. 33) emphasizes the notion that "criminalization and stigmatization ensure poor working conditions," and only if prostitution can be defined as work, and sex trafficking can be thought of as labor migration, can women in the sex industry claim labor rights and insist on safe working conditions (Kempadoo & Doezema, 1998). This labor rights perspective would not only require decriminalizing prostitution, but working towards the legalization of sex work in order to ensure safer working conditions. By implementing anti-trafficking measures, governments can justify the isolation, social exclusion, stigmatization, marginalization and criminalization of sex workers and migrants (Wijers & Van Doorninck, 2005; Wijers, 2001).

### Reauthorization of a Moral Agenda

On March 12, 2004, President George W. Bush spoke of a 'new enemy': sex slavery. During this speech, he introduced Sharon Cohn, director of Anti-trafficking Operations for the International Justice Mission, a Christian organization fighting to end the practice of sex slavery (Block, 2004). The Trafficking of Victims Protection Reauthorization Act (TVPRA) was signed into Public Law (108-193) by President Bush on December 19, 2003, to include enhancements related to prevention, protection and prosecution. Currently being considered is another reauthorization of the policy; the TVPRA 2005 (HR 972).

In 2003, more than \$200 million was authorized by the Bush Administration through the Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Public Law 108-193, to "combat trafficking" (U.S. Department of Health and Human Services, 2004). This "renewed and enhanced" policy also allows the U.S. Government to fund public awareness campaigns for foreign countries and to provide funding for research on international and domestic trafficking. However, the TVPRA refuses the granting of funds to any organization that promotes, supports, or advocates the legalization or practice of prostitution. Any organizations or NGO who advocate prostitution as an employment choice are not funded, while grantees are now being asked to state their position on prostitution in writing (Block, 2004; Melzer, 2005; Ditmore, 2003). Saunders & Soderlund (2003, p. 21) describe how those programs that utilize the term "sex work" are now considered "inappropriate partners for USAID anti-trafficking grants or contracts" since they accept prostitution as employment choice. NGOs that forcibly removed women from prostitution in order to 'save' them, have been among those given funding preferences (Melzer, 2005). This demonstrates a continued lack of attention to trafficking in other industries, such as sweatshops, construction, agriculture and domestic labor.

Not only is the focus of the U.S. policy primarily on sex trafficking, but funding is also closely linked to religious ideologies allied with conservative views on prostitution. The International Justice Mission (IJM), a Christian NGO, has received millions of dollars in federal funds to work on trafficking (Mezler, 2005). This organization is known to raid brothels in India and Thailand, placing sex workers into homes and re-education programs (Mezler, 2005). Reports about IJM from other NGOs are in the form of complaints, such as IJM operates "...like a bull in a china shop' without regard for the mess it leaves behind" (Block, 2005). On the other hand, organizations such as the Sonagachi Project in India, who were recognized by the UN as a model program for addressing the problems faced by sex workers, such as the spread of HIV and protection of rights, are denied funding by the U.S. (Melzer, 2005; Ditmore, 2003). U.S. sex trafficking policy overtly discriminates against humanitarian organizations that don't fit the

abolitionist model. The privilege and power that the U.S. has and utilizes over other countries acts to reinforce the power hierarchy and control that maintains the inequalities and neo-colonial relationships between nations, between western and third world feminists, and among poor migrants. It is crucial that western policy makers, western feminists, and others in positions of privilege decenter their western power.

### Colonizing Views of Third World Women

The media play a major role in the reproduction of racial stereotypes and in the construction of images that reinforce power hierarchies. Kempadoo (2001b) describes how the media portray the global sex trade as one-dimensional, where women are just "victims" of male violence, even though the issue of migratory sex work is more complex. In western culture, the dominant image of the victimized sex worker is of a "young, brown, Asian or Black woman" (Kempadoo, 2001b, p. 169). This illustration plays into the discourse by "othering women" to justify the current U.S. policy that objectifies women, by turning them into oppressed, dependent victims in need of rescue. A critical analysis of why this occurs is presented by Kempadoo (1998), who explains that the "bad girl" illustration "threatens male control and domination." This simultaneously distorts the real lived experiences of migrants (Long, 2004), assumes homogeneity and denies women their agency.

The terminology being used shows a culturally imperialistic discourse on prostitution and trafficking. The speech delivered by U.S. President Bush in July of 2004 included this perpetuation of what Mohanty (1991, p. 57) calls "the construction of third world women as a homogenous powerless group often located as implicit victims of particular socio-economic systems." To a group of law enforcement officers and human services providers, President Bush declared, "The lives of tens of thousands of innocent women and children depend on your compassion, they depend on your determination, and they depend on your daily efforts to rescue them from misery and servitude. You are in a fight against evil, and the American people are grateful for your dedication and services." These women of the global South are also presented as victims of dire



socio-economic conditions who need to be rescued by those of the global North. However, no responsibility is taken by the global North in the perpetuation of this poverty in third world countries through their imposed SAP and transnational corporations.

bell hooks (2000) maintains that discounting women's agency and constructing non-western women as needing to be rescued perpetuates the idea of the weak "other" and the powerful westerner, further colonizing through the use of a hegemonic framework. Western NGOs construct the 'third world woman' as a 'damaged other' to justify their "own interventionist impulses" (Doezema, 2001, p. 1). Women are infantilized in the name of protecting and 'saving' them (Agustin, 2003b, p. 8), which takes away their power and agency. Also, requiring women to participate in a criminal justice model aimed at 'catching the bad guy' traffickers calls into question whether this policy is another way of regulating and possessing control over a woman's body through the withholding of services unless women can assist in the 'war against trafficking.'

The re-inscription of western imperialism and colonialism is evidenced through the creation and implementation of trafficking policies. A more inclusive and constructive discourse is one that takes into account the variety of conditions and agency of men and transgender individuals, as well the perspectives of sex workers who do not have rights as sex workers due to the illegal nature of their work. It is also crucial to hear the diverse experiences of migrants who are in a more threatened position due to their illegal status. The focus will have to shift away from associating trafficking primarily with sexual slavery and the sex industry. Agustin (2003b, p. 8) asserts, "when the subject is not a minority of women who are duped, sequestered and enslaved, we should be able to give credit where it is due to women and transsexuals, as well as men, who dare to make decisions to better their lives by leaving their homes to work abroad, no matter what kind of work they have to do."

The current U.S. government prefers repressive strategies because they are simple and in accordance with other agendas, such as immigration control, ending organized crime, imposing ideologies onto other countries, and maintaining women's morality and sexuality. By accepting the current abolitionist

framework on trafficking, the multiple realities of migrants, sex workers and other groups are ignored, agency is denied, and all experiences are assumed to be the same. When western policy makers and feminists homogenize experiences and ignore contextual differences, this leads to a disregard of the historical, cultural and socio-political background of migrants.

### An Alternative Framework

A more inclusive perspective that takes into account other types of work is crucial for addressing all types of oppressive working conditions. It is important to move away from a moral lens that stigmatizes and marginalizes people, and to move toward protecting migrant workers from unsafe labor conditions. Media images and reports that focus on (sex) trafficking need to be questioned and a shift in focus away from sex work will ensure that all types of unsafe working conditions are addressed. A labor rights perspective, which focuses on the human rights of workers, incorporates all of these elements to broaden the approach to trafficking. By including all forms of labor, and by defining sex work as an economic activity that is often used in combination with other types of work (Mellon, 1999), migrants and sex workers will not be stigmatized and marginalized due to the associations of being labeled as a prostitute.

In addition to a labor rights framework, a migration perspective of trafficking will also be a more constructive alternative to the current trafficking framework. It will allow for the participation of migrants in the trafficking discourse and it will take into consideration the diverse experiences and circumstances of people's lives without the necessity of labeling and identifying a person with a particular group, such as sex worker or domestic laborer (Agustin, 2002). This framework would acknowledge that labor rights of migrants are non-existent if migrants have entered into a country illegally. A migratory lens would also address immigration laws that are less punitive and more equitable to migrants. Legal restrictions on migration for labor need to be reduced so that illegal immigration isn't pushed further underground (O'Neill, 2001, p. 162).

Overall, it is important to address migrants within the

framework of U.S. and international human rights law so that policies, practices and actions towards assisting persons who are trafficked and other groups who are affected, such as sex workers, can be critically examined and evaluated. It is imperative that a forum and a space exist for multiple voices and perspectives to be heard from migrants of the global South. "Transnational movements require a transnational response and analysis" (Kapur, 2005, p. 38). Western trafficking discourse and anti-trafficking policies are "binaries and stereotypes of the third world" (Kapur, 2005; Kempadoo, 2005a, p. 30). The current western trafficking discourse and related policies that reinforce colonialistic and imperialist global inequalities and power relations need to be deconstructed and challenged in order to work toward social justice and change.

A more inclusive perspective is advocated by Kempadoo (2001, p. 43) and other feminists who support "culturally specific constructions and expressions of sexuality for and by women of color." As Kempadoo (1998, p. 14) states,

Yet in an era when women can no longer be defined exclusively as victims, where Third World women speak for themselves in various forums, where increasingly analyses have shifted focus from simple hierarchies and dichotomies to the problematization of multiple spaces, seemingly contradictory social locations and plural sites of power, it would seem that experiences, identities and struggles of women in the global sex industry cannot be neglected.

Marginalized groups have the right to speak for themselves, and as Mohanty (1991) states, the right to set their own agendas and their own experiences. She demonstrates how people in the west are setting the agenda for the rest of the world, as evidenced in the TVPRA that consists of the Tier system for monitoring international progress to prevent trafficking. A conceptual shift needs to occur to examine the multitude of experiences of migrants, so that generalizations and sensationalist depictions of women of color and sex workers that reinforce gender, culture and power structures do not drive U.S. and international policy.

*Implications for Social Work*

The effects of the implementation of the TVPA on social work practice and service provision and development have not yet been explored. The implementation of this policy through social service agency policies and procedures may have effects on migrants and sex workers that are unknown. The consequences of this policy on migrants who have worked in the sex industry and others who are seeking social services have also not been investigated. With the increase in social work's involvement in national efforts to assist "victims of trafficking," it is necessary to understand the effects of this policy and the manner in which it is being implemented.

Culturally competent research and evaluation studies are needed nationally and internationally to understand the implications and effects of this policy on the welfare of those individuals who have experienced unsafe working conditions and dangerous situations. Policy and practice strategies to benefit the well-being and safety of these individuals need to be shared globally to find the best methods in which to view the phenomenon of trafficking. Collaboration on ideas and strategies for assuring safe working conditions for migrants, sex workers and all marginalized groups working in unrecognized industries are of equal importance, while cross-cultural awareness is imperative.

Since the TVPA and its re-authorization have only been in effect for a few years, there have been no studies on the implementation and effectiveness of this policy. The proposed TVPRA of 2005 will allocate more funds to support a morally driven policy that does not take into account the individuals it claims to serve. In their pursuit of social justice, social work researchers can contribute to the understanding of the effects of this policy on those most vulnerable in society.

Presenting the ambiguous definition of trafficking and its related terms provide a foundation for the varied meanings associated with the concept of trafficking. The social and historical background of the phenomenon and the feminist debates surrounding the trafficking discourse have all contributed to shaping national and international policy to address trafficking as a global problem. The trafficking discourse serves the interests of abolitionists, feminists, religious leaders and

governments driven by morality and fearful of immigration. It is crucial to examine the impact of policy. This policy might not address the safety of migrants in various types of work and individuals in the sex industry, since it appears to have been created to serve the interests and problems of the state, as well as the agenda of conservative feminists. In order to examine whether the operationalization of current policy will improve the conditions of individuals, these marginalized voices need to be heard. A new framework for understanding trafficking and for addressing issues of migration, labor rights and human rights needs to be provided so that feminists, NGOs, governments and individuals directly affected by policy change can engage in productive dialogue towards change.

## References

- Agustin, L. (2000). Working in the European sex industry: Migrant possibilities (translated from the original Spanish), *OFRIM/ Suplementos*, 155-72. Retrieved January 18, 2006 from: <http://www.nswp.org/pdf/AGUSTIN-WORKING.PDF>
- Agustin, L. (2001). Sex workers and violence against women: Utopic visions or battle of the sexes? *Development, Society for International Development*, 44 (3).
- Agustin, L. (2002). Challenging "place": Leaving home for sex. *Development*, 45 (1), 110-17.
- Agustin, L. (2003a). A migrant world of services, social politics: International studies in gender. *State and Society*, 10 (3), 377-396.
- Agustin, L. (2003b). Sex, gender and migrations: Facing up to ambiguous realities. *Soundings*, 23, Spring.
- Agustin, L. (2004). Helping women who sell sex: The construction of benevolent identities. Retrieved February 5, 2006 from: <http://www.rhizomes.net/issue10/agustin.htm>
- Agustin, L. (2005). Migrants in the mistress's house: Other voices in the "trafficking" debate. *Social Politics*, 12 (1), 96-117.
- Bindman, J., & Doezema, J. (1997). Redefining prostitution as sex work on the international agenda. Retrieved March 20, 2006 from <http://www.walnet.org/csis/papers/redefining.html>
- Block, J. (2004). Sex trafficking: Why the faith trade is interested in the sex trade. *Conscience*, Summer/Autumn.

- Chapkis, W. (2003). Trafficking, migration, and the law: Protecting innocents, punishing immigrants. *Gender & Society*, 17(6), 923-937.
- Center for International Crime Prevention Report from the UN Center for International Crime Prevention (2003). *Assessing transnational organized crime: Results of a pilot survey of 40 selected transnational organized criminal groups in 16 countries*, Vienna.
- Demirdirek, H., & Whitehead, J. (2004). Sexual encounters, migration and desire in post-Socialist context(s). *Focaal-European Journal of Anthropology*, 43, 3-13.
- Ditmore, M., (2003). Morality in new policies addressing trafficking and sex work. "Women working to make a difference" IWPR's Seventh International Women's Policy Research Conference, June.
- Ditmore, M., (2005). Trafficking in lives: How ideology shapes policy. In K. Kempadoo, J. Sanghera, & B. Pattanaik, (Eds.) *Trafficking and prostitution reconsidered: New perspectives on migration, sex work and human rights*. Boulder, CO: Paradigm Publishers.
- Ditmore, M. & Wijers, M. (2003). The negotiations on the UN Protocol to trafficking in persons. Retrieved February 6, 2006 from: [www.nswp.org/pdf/NEMESIS.PDF](http://www.nswp.org/pdf/NEMESIS.PDF)
- Doezema, J. (1998). Forced to choose: Beyond the voluntary v. forced prostitution dichotomy. In K. Kempadoo & J. Doezema (Eds.), *Global sex workers: Rights, resistance and redefinition*. New York: Routledge.
- Doezema, J. (2001). Ouch! Western feminists' "wounded attachment" to the third world prostitute. *Feminist Review*, 67, 16-38.
- Doezema, J. (2002a). Who gets to choose? Coercion, consent and the UN Trafficking Protocol. *Gender and Development*, 10 (1).
- Doezema, J. (2002b). The ideology of trafficking. *Center for Ethics and Value Inquiry Work Conference 'Human Trafficking'*, Ghent University.
- Enloe, C. (2000). *Maneuvers: The international politics of militarizing women's lives*. Berkeley, CA: University of California Press.
- Foucault, M. (1972). *The archaeology of knowledge*. London: Routledge.
- Hughes, D. (2002). Supplying women for the sex industry: Trafficking from the Russian Federation. *Sexualities in Post-communism*, 1-19.
- Hughes, D., & Denisova, T. (2001). The transnational political criminal nexus of trafficking in women from Ukraine. *Trends in Organized Crime*, 6 (3-4).
- Kapur, R. (2005). Travel plans: Human rights of transnational migrants. *Harvard Human Rights Journal*, 18, 107-138.
- Kempadoo, K. (2001a). Freelancers, temporary wives, and beach boys: Researching sex-work in the Caribbean. *Feminist Review*, 67, 39-62.
- Kempadoo, K. (2001b). Women of color and the global sex trade: Transnational feminist perspectives. *Meridians: Feminism, Race, Transnationalism*, 1(2), 28-51.

- Kempadoo, K. (2005). Introduction: From moral panic to global justice: Changing perspectives on trafficking. In K. Kempadoo, J. Sanghera & B. Pattanaik (Eds.), *Trafficking and prostitution reconsidered: New perspectives on migration, sex work, and human rights*. Boulder, CO: Paradigm Publishers.
- Kempadoo, K., & Doezema, J. (1998). *Global sex workers: Rights, resistance, and redefinition*. New York & London: Routledge.
- Kempadoo, K., Sanghera, J., & Pattanaik, B. (2005). *Trafficking and prostitution reconsidered: New perspectives on migration, sex work and human rights*. Boulder, CO: Paradigm Publishers.
- Long, L. (2004). Anthropological perspectives on the trafficking of women for sexual exploitation. *International Migration*, 42 (1), 5-31.
- Melzer, E. (2005). Trafficking in politics: Bush's strong rhetoric on Sex slavery masks policy failures, (2005, March 14), *In These Times*. Retrieved January 3, 2006 from: <http://www.inthesetimes.com/site/main/article/2007/>
- Miller, A. (2004). Sexuality, violence against women, and human rights: Women make demands and ladies get protection. *Health and Human Rights*, 7(2), 17-47.
- Mohanty, C. (1991). Under Western eyes: Feminist scholarship and colonial discourses. In C. Mohanty, A. Russo & L. Torres (Eds.), *Third world women and the politics of feminism*. Bloomington & Indianapolis: Indiana University Press.
- Musacchio, V. (2004). Migration, prostitution and trafficking in women: An overview. *German Law Journal*, 5 (9), 1015-1030.
- O'Neill, T. (2001). "Selling girls in Kuwait": Domestic labour migration and trafficking discourse in Nepal. *Anthropologica*, XLIII, 153-164.
- Outshoorn, J. (2005). The political debates on prostitution and trafficking of women, social politics: International studies in gender. *State and Society*, 12 (1), 141-155.
- Parpart, J., Connelly, P., & Barribeau, E. (2000). *Theoretical perspectives on gender and development*, International Development Research Centre, Ontario, Canada.
- Pattanaik, B. (2002). Where do we go from here? In S. Thorbek & B. Pattanaik (Eds.), *Transnational prostitution: Changing patterns in global context*. London, New York: Zed Books .
- Piper, N. (2005). A problem by a different name? A review of research on trafficking in South-East Asia and Oceania. *International Migration*, 43 (½), 203-233.
- Protocol, United Nations, (2000). *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organized Crime*. Retrieved November 3, 2005 from: [www.uncjin.org](http://www.uncjin.org).
- Raymond, J., Hughes, D., & Gomez, J. (2001). *Sex trafficking of women in the United States: International and domestic trends*. Coalition Against Trafficking of Women, March.

- Saunders, P. (2005). Traffic violations: Determining the meaning of violence in sexual trafficking versus sex work. *Journal of Interpersonal Violence*, 20 (3), 343-360.
- Saunders, P. & Soderlund, G. (2003). Traveling threats: Sexuality, gender and the ebb and flow of trafficking as discourse. *Canadian Woman Studies*, 22, 35-46.
- Shah, S. (2004). Prostitution, sex work and violence: Discursive and political contexts for five texts on paid sex, 1987-2001. *Gender and History*, 16 (3), 794-812.
- State Legislatures, (2005). *Violence Against Women Act*, National Conference U. S. Department of Health and Human Services, (2004). *Trafficking Victims Protection Act of 2000 fact sheet: Rescue and restore victims of human trafficking*.
- U. S. Department of State, (2003). *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in persons report*, Bureau of Public Affairs.
- Wijers, M. (2001). Criminal, victim, social evil or working girl: Legal approaches to prostitution and their impact on sex workers. *International Seminar on Prostitution in Madrid*, Institute of Women.
- Wijers, M., & Van Doorninck, M. (2005). What's wrong with the anti-trafficking framework? Background Paper for the "European Conference on Sex Work, Human Rights, Labour and Migration, ICRSE (*International Committee on the Rights of Sex Workers in Europe*). Retrieved February 15, 2006 from: <http://www.sexworkeurope.org/>



