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## Who Gets ‘Left Behind’?: Promises and Pitfalls in Making the Global Development Agenda Work for Sex Workers - Reflections From Southeast Asia

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### Abstract

The Sustainable Development Goals (SDGs) do, at least on a rhetorical level, tie countries and other development actors to a rights-based vision of development, which expressly includes labour rights, migrant rights and women’s rights. Despite this, sex workers continue to migrate and work in the margins where rights are difficult to claim. In looking for sex work in the SDGs, we ask how the SDGs respond to the rights of sex workers and whether more needs to be read into the 2030 Agenda for sustainable development so that states are able to keep the new promise that no one be ‘left behind’? In investigating this issue, we draw upon research conducted in the Southeast Asian region and in Cambodia in particular. In analysing the commitment that development should be inclusive in ways that ‘leave no one behind’, we raise concerns about the target driven nature of the SDG development agenda that may well prove incapable of mediating the heated debates over the understandings of sex work that play out at both the international and the local level.

### Introduction

Notions of decent work, central to the formulation of the Sustainable Development Goal (SDG) 8, and gender equality, the focus of SDG5, are fraught with complications when it comes to the discussion of sex work. In part this stems from the difficult, dangerous and precarious nature of much work in the sector. But, what is also clear is that the SDGs themselves, that is, the goals and specific related targets, reflect compromises and uneasy consensus within the development industry (an argument further explored in this issue’s introductory article: Holliday et al, this issue). Sex work is an issue area in which no straightforward consensus exists and, as we map out in this article, the SDGs can be interpreted in ways that frame sex work as a labour issue that requires interventions to support migrant workers to achieve decent work or as an issue of violence against women and trafficking. Drawing upon evidence from Southeast Asia, and Cambodia in particular, we examine the ways through which these

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competing understandings of sex work have permeated national and international policy responses.

The SDGs do, at least on a rhetorical level, tie countries and other development actors to some sort of rights based vision of development, which expressly includes labour rights and women's rights. For migrant sex workers however, these types of rights are inaccessible.

Largely informal, sex work offers little in the way of labour rights protection and, as irregular migrants, the women have limited (if any) access to social protection and health care. We ask how the SDGs might respond to the rights of sex workers – especially in light of the Agenda 2030 promise that no one be 'left behind'. More broadly then, our article can be positioned as contributing to the case for taking sex work into account when discussing the migration-development nexus (Perez-Orozco, Paiewonsky and García Domínguez. 2010). Sex work inevitably contributes to remittance flows (which are the usual focus of writings on the migration-development nexus), but at the same time, ensuring that sex workers are included in discussions of labour migration necessitates a move away from a focus on migrants as mere sources of export revenue. For example, it brings every day and structural forms of violence more clearly into focus and also necessitates that we consider rights that are easily overlooked such as access to health and sexual and reproductive rights. These issues are not exclusive to migrant sex workers, and indeed, we acknowledge that the experiences of local and migrant sex workers (including rural-urban migrants) can be broadly similar. But a focus on migration matters, not least because by illuminating how migrants – as a particularly vulnerable class of workers - experience sex work we can obtain additional insights into how a SDG-compatible global development framework might secure both decent work and gender equality for all.

We present our argument as follows: First, we situate sex work within transforming political economies of work and migration. Sex work is presented as best understood within the context of wider informal economies, as a response to forms of economic dispossession in the region and in relation to a more general feminisation of migration in which work in female dominated sectors is consistently undervalued and marked by gendered forms of exploitation. Second, we move to focus specifically on the SDGs – observing the promises and pitfalls of this development agenda for sex workers. The research presented in this section of the article is based upon a close reading of SDGs 5 and 8. This analysis of the two goals enables us to hone-in on points of tension within the SDGs that allow for the *simultaneous* existence of perspectives on sex work framed in terms of anti-trafficking *as well as* a labour rights perspective. And yet, despite the existence of these two perspectives it is the anti-trafficking perspective that we feel is most likely to hold sway in the discussions of making development work for sex workers via the SDGs. Thus, in the third section, we turn more directly to the Southeast Asian (specifically Cambodian) case looking at how the prioritisation of anti-

trafficking perspectives have elicited particular policy responses that, ironically, lead to forms of worker reclassification (as ‘entertainment’ worker) and open up potential routes for workers to access labour rights. However, such unintended consequences should not be interpreted as straightforwardly SDG-compatible and the workers in this situation remain exposed to a range of harms. In section four we further explore the uneasy compromises that international institutions such as UN Women and the ILO experience in navigating the anti-trafficking frame. These are compromises that suggest to us that a target driven SDG-led approach is perhaps less likely to deliver justice for sex workers than alternative avenues for promoting women’s rights such as the CEDAW process. One possibility therefore is that goals 5 and 8 need to be much more explicitly linked to CEDAW – indeed, we echo the concerns raised by Gammage in her article in this issue concerning the missing links between commitments to gender equality in SDG 5 and the CEDAW process.

It is important to acknowledge from the outset that the analysis of the Cambodian case (and to a lesser extent the Thai case) as well as the analysis of the ILO and UN Women is in part informed by the active engagement of one of the authors (Holliday) in these issues as a regional gender expert/consultant. This partial insider position informs some of the research presented in the article – but we also draw upon a wider range of policy texts and academic studies in developing our arguments. It is, of course, also important to accept the inherent limitations involved in an article that seeks to investigate the situation of migrant sex workers. The sex industry is largely unregulated and migration for the purposes of work in the sector is irregular so migrant sex workers rarely show up in labour or migration statistics. In addition, the emphasis on the prevention and response to trafficking for sex in Southeast Asia has dominated research, meaning that much of the empirical work addresses those who are active in sex industries as victims of trafficking. We ostensibly focus on migrant sex workers, a group that experience particular vulnerabilities due to their undocumented status – but at the same time we recognise that there are commonalities in the experiences of sex workers regardless of migration status. Thus, in discussing the Cambodian case, we recognise that sex workers in cities such as Phnom Penh include rural-urban migrants as well as women who have migrated from other states in the region (in particular Vietnam). Cambodian women themselves also work in Thailand’s sex industry. In this respect, Cambodia provides a strong empirical case illustrating how a strong anti-trafficking discourse can not only dictate policy responses to sex workers but may also perpetuate the invisible and vulnerable nature of migrant sex work. It also demonstrates the pitfalls of labour rights approaches that fail to acknowledge the gendered and sexualised economies that are central to the experience of work in this sector.

### **Migration into sex/entertainment work as part of the feminisation of migration**

Sex work is a sector that has long traversed national boundaries; and claims about booms, or rapid rises in sex work migration are often tied up with moral panics over migration and/or trafficking (Kempadoo 2003: 143). Nonetheless, many authors note the impact of contemporary processes of global economic restructuring on sex work and sex industries (Augustín 2006; Kempadoo 2003; O’Connell Davidson 2006). In Southeast Asia one widely observed manifestation of this economic restructuring can be observed in the development of tourist economies in which sex work is oftentimes central. State restructuring along neoliberal lines frequently leads to the growing significance of sex work to the economy – providing, as Hardy (2016) notes, critical ‘subsidies’ to the state in the form of employment provision, in particular by generating a form of employment that grants women a level of flexibility (albeit via engagement in highly precarious and oftentimes dangerous work) so that they can combine work with care responsibilities. When these workers are predominantly migrant women, this subsidy also operates transnationally. In this sense, migrant sex work, like other forms of feminised migration often entails new forms of household provisioning – based on the rise of remittance economies. Moreover, locating sex work within an analysis of the global political economy of gender also provides insights into how and why sex work has been rendered largely invisible within the decent work agenda (and thus SDG8). Sex work is deeply feminised labour that is frequently tied up with women’s caring roles and responsibilities and often plays a key role in what has been termed the ‘feminisation of survival’ (Sassen 2003). A focus on sex work thus provides another lens through which to analyse the ways in which the decent work agenda may not serve to address gendered forms of inequality – a concern raised in Rai, Brown and Ruwanpura’s (forth.) analysis of the failure of SDG8 to meaningfully address the issue of women’s unpaid labour.

Evidence from Southeast Asia points to the many ways through which migrant sex work exists within (a) gendered political economies of forced labour and informality that are often tied up with forms of dispossession including forced displacement; and (b) wider global flows of tourism, production and investment, and militarisation (which, in turn have deeply gendered impacts). On the first point, for example, it has been noted that a turn to sex work amongst undocumented refugee populations exists within a highly gender segmented informal economy in which women dominate in less ‘visible’ employment sectors such as home-based garment production, kitchen work, and working as masseuses (Mundiandy 2015). Hoefinger (2013) too points to the links between economic dispossession and the turn to sex work in Cambodia (see also, Sandy 2006). Working in bars is often reasonably lucrative, especially compared to agricultural employment, and pressures to support families in the absence of effective social protection systems mean that women opt for the highest paying work. Hoefinger and Srun (2017) also point out that transwomen in Cambodia also frequently turn to sex work – a reflection of the economically marginal status of this stigmatised population (as well as the role that sex work plays as a form of ‘gender identity validation’). On the second point, both Cambodia’s and Thailand’s, sex industries are largely the result of the influx of international troops due to the Vietnamese and Cambodian wars. But it is sex tourism (often

not entirely separate from the militarised growth of sex work – Ralston and Keeble 2008; Pettman 1996) that is the issue that commands most attention in the literature – a literature that is characterised, as one would expect, by polarised pro sex worker or starkly abolitionist positions.

In seeking to navigate these polarised positions, we suggest that what Chin (2013: 181) terms ‘the globalised commodification of women’s sexual labour’ must and should be situated within broader gendered political economies of work, informality and dispossession. The feminisation of migration is itself sustained by the gender divisions that exist within local economies. In the Cambodian case, the presence of very similar highly feminised work opportunities (i.e. working in the garment sector or in beer gardens, karaoke bars and similar) in destination countries - such as Thailand - that pay higher wages has sustained the flow of largely undocumented workers over the border. At the same time, the nature of these feminised migratory flows also raises questions about the extent to which migration for sex work can ever be straightforwardly understood as ‘trafficking’. Sex workers follow established migration routes and are often incentivised by the examples of financially successful returnee sex workers. Women in one study reported that they commonly knew of the nature of the work, the conditions and pay before leaving, albeit that this ‘open secret’ would not be referred to in public (Busza 2004).

Migration that is irregular into sectors that are low skilled and low paid, inevitably creates precarious labour conditions. This is particularly the case for women working in the sex industry. In Cambodia, Thailand, and elsewhere in the region, sex work is not expressly considered a labour activity, meaning there is little adherence to labour standards for living conditions, hours of work and wages, or occupational health and safety. Passports are regularly withheld and police action threatened by employers to stop workers leaving, which creates a situation of exploitative forced labour where workers have limited freedom of movement and little control over the work they undertake. The precarious nature of the employment, lack of protection and the power imbalance between the worker and client increases the workers’ vulnerability to physical and sexual abuse. Thus, the line between forced and voluntary labour is highly blurred, with women effectively choosing to enter into labour situations which will feature exploitation, abuse and debt bondage. The issue of ‘choice’ in these circumstances is a deeply ambiguous one. In this respect, the social, economic and political frameworks that lead women to migrate into these sectors of work can be framed as a form of everyday violence – manifested in terms of low pay, stigmatisation, gender discrimination, policing and surveillance practices and non-recognition as workers (Hennebry et al. 2016; Elias and Rai 2015).

Migration in Southeast Asia is estimated to have generated around of USD\$51 billion in 2013 (ADB, ILO and OECD, 2015:14). However, the regional migration regime in Southeast Asia has emerged to situate poor women in some of the lowest paid and most precarious forms of

work. This includes undocumented migration into sex work alongside often more formalised migratory flows such as domestic work in which bilateral labour agreements of one form or another serve to adversely incorporate women from low income states into the labour markets of richer states. Even though this article focuses on irregular migration into largely unrecognised forms of work, the systematically exploitative nature of low skill *regular* migration regimes must be noted. Such systems rest upon an extreme commodification of women's labour and fail to recognise women migrants as rights bearing subjects (Rodriguez 2010). Thus, we need to be attendant to the ways through which the assertion of the category of 'worker' by sex work advocates should not simply serve to legalise deeply exploitative practices. Such concerns relate more broadly to writings that have sought to consider how there is no *necessary* connection between migration and positive developmental impacts (Delgado Wise, Márquez Covarrubias and Puentes 2013). There is often a taken for granted assumption in development thinking that migration constitutes a development strategy 'despite compelling evidence that the lives and labour of many migrant workers are literally unsustainable and unbearable' (Chan 2014). These are important points because if sex work simply gets subsumed within standard understandings of labour migration, do we then lose sight of the practices of abuse, subordination and exploitation that sustain this industry?

In any event the reality is that women migrating to work in the sex industry voluntarily are likely to be sending money home, a form of global householding that contributes directly to forms of poverty alleviation (even if the broader developmental impact of remittances remains deeply contested). So the question needs to be asked: In achieving the goal of realising the human rights of all and achieving gender equality and the empowerment of all women and girls, what are the SDGs doing to recognise, promote and protect the rights of migrant sex workers?

### **Sex work in the SDGs?**

The SDGs represent a partial shift in development policy-making. The Millennium Development Goals (MDGs) were widely criticised as being technocratic policy instruments devised in a non-consultative manner that were a 'poor fit' when it came to the lived realities of women and girls around the world living in poverty (Razavi 2016; Sweetman and Esquivel 2016). While many of the SDGs sounded similar to the MDGs, they incorporate a wider range of targets and potentially speak more directly to women's lived experiences (Stuart and Woodroffe 2016, Razavi 2016). Others have, however, voiced concerns about the continued commitment to a largely neoliberal vision of market-led development (Weber 2017) in which gendered forms of work – especially unpaid domestic work, but also we would add sex work – have not been adequately addressed (Rai, Brown and Ruwanpura forth.).

Nonetheless, we cautiously welcome the way in which the SDGs promote a vision of more inclusive development –in which 'inequalities writ large are made prominent' (Stuart and

Woodroffe 2016: 72). We are, in this article, interested in the extent to which the SDGs have the potential to create meaningful opportunities for those seeking to improve the economic position and rights of migrant sex workers – conceived here as a particularly vulnerable group stemming from their dual positioning within sexual economies of exploitation and exclusionary citizenship regimes. It). `The ‘leave no one behind’ agenda (i.e. ‘no goal should be met unless it is met for everyone’) is well established in SDG rhetoric (Melamed 2015; Stuart and Woodroffe 2016). Thus, we would argue that SDG-compliant development must rest upon a commitment to embrace the complexities of the social world via a recognition of the intersecting forms of inequality that mediate people’s engagement with ‘development’. Moreover, although the SDGs are in certain respects technocratic standards, they *could* also be viewed as a set of principles that have the potential to reshape and reframe development priorities and policy decisions, and, ultimately, to widen the scope for civil society activism (Esquivel and Sweetman 2016).

The idea that the SDGs appear to offer a more sophisticated and necessarily complicated analysis of gender and development is important here. The SDGs enable less scope for gender ‘silencing’ and ‘allow for overlapping analyses and for the identification of inter-linkages between different goals’ (Esquivel and Sweetman 2016, also Razavi 2016). The SDGs differ significantly from the MDGs in their recognition of the relationships between vulnerable and precarious work, exploitative labour practices and development – with SDG 8 focussing on issues of decent work. In seeking to think about the role that the SDGs, or SDG-based advocacy, could play in protecting sex workers, our analysis focusses on these two overlapping goals<sup>1</sup>. However, in recognising that sex work needs to be understood via a focus on *both* gender equality and decent work, unresolved points of tension emerge. First, the inattention to issues of gender and migration in the SDGs and the subsequent debates (which this special issue is seeking to address); and second, the way in which the greater complexity of the SDGs and their targets creates sites of unresolved tension – in particular, over the very idea of sex as work. The SDGs may well have been formulated via a far wider and far more inclusive process of consultation, but when it comes to the issue of sex work, the lack of consensus that exists across civil society, between different states as well as within International Organisations on this issue is reflected back in the SDGs themselves.

Thus we acknowledge a certain optimism about the *possibilities* that the SDGs present for sex workers and sex worker advocacy, but we also note that SDG goals 5 and 8 contain implicit tensions over the appropriate status of sex work – tensions that need to be more clearly interrogated and understood if the SDGs are to bring meaningful change for sex workers – and perhaps more importantly, can be used by sex worker advocates to address the problems and difficulties faced by women in this sector. The need for this is all the more urgent, given how, in later sections of the article, we chart the ubiquity of anti-trafficking approaches in more localised approaches to sex work in sites such as Cambodia and Thailand. It is of course worth noting how in certain respects such points of tension reflect how ‘development’ has



come to be understood – that is, as an economic and social process that has either little to do with issues of sex, sexuality, or sexual identity or views these issues largely as a ‘problem’ (e.g. in terms of health issues such as HIV) (Lynch, Jolly and Cornwall 2009). Moreover, a focus on trafficking as a dominant lens through which sex work – especially in Southeast Asia – is understood reflects a certain moral agenda in which particular religiously-infused understandings of sex industries have held sway. Nonetheless, because of the commitment in the SDGs to inclusive development for all, there remains a level of optimism about what the SDGs can do for marginalised groups – including groups marginalised due to their sexual status and/or sexual identity (Mills 2015).

### *The SDGs and sex work as a women’s issue*

Goal 5 of the SDGs sets out the targets to ‘[a]chieve gender equality and empower all women and girls’. This goal does not seek to address women in the labour market *per se*, but the targets that are included illustrate a tension in the way that the feminised industry of entertainment and sex is situated within the development and rights framework. For example, target 5.2 seeks to ‘[e]liminate all forms of violence against all women and girls in the public and private sphere, including trafficking and sexual and other types of exploitation’. Clearly the interaction between gender and sexual activity in this target is framed in negative terms within the sphere of violence against women, an oppressive gendered force from which women as victims should be protected. On the other hand, target 5.4 seeks to ‘[r]ecognize and value unpaid care and domestic work’. Progressive and ambitious in its ambit, this target addresses the need to recognise the value of feminised labour and particularly caring labour – an issue that we highlighted in the earlier discussion in this article as intersecting with women’s engagement in sex industries.

Both targets 5.2 and 5.4 can be seen therefore to interact with the situation of women migrant sex workers. But asking these targets to respond to women migrant sex workers directly, however, is a different matter. In fact, it could be seen to be a reflection of the situation of sex workers in the framework of women’s rights more broadly – caught somewhere between a discourse that frames them as victims of sexual exploitation and trafficking; and a discourse on feminised labour activities and social protection. We would suggest that this positioning – that is as further caught between an emphasis on violence against women (VAW) and an emphasis on labour rights – should not come as any surprise. Indeed, it is reflective of the broader tensions that exist with feminist thought, women’s activism and institutionalised women’s policy agendas around the issue of sex as work. Thus, when it comes to thinking through what an SDG approach to migrant worker protections in the sex sector might look like we should acknowledge the existence of competing narratives of, on the one hand, worker rights and, on the other, anti-trafficking initiatives that overwhelmingly frame sex workers through an abolitionist anti-sex work lens. This is not to say that these two perspectives – labour rights and the issue of VAW – cannot and should not

be brought together in meaningful ways. Rather, we argue that the SDGs in separating VAW from labour rights have the potential to reproduce regimes of protection that exclude sex workers from the category of 'worker' in favour of approaches that position sex workers as 'victims'. Activist groups and other actors on the ground including, at times, workers themselves continually navigate these competing discourses.

### *The SDGs and sex work as a labour issue?*

A similar tension exists within Goal 8, 'Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all' when situating women migrant sex workers. For example, target 8.7 seeks, '[t]o take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms'. Whilst 8.8 is, '[t]o protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment'. Many would situate women migrant sex workers in 8.7, as victims of forced labour, modern slavery and trafficking; others (including many workers' organisations) would ask that 8.8 respond to them, in the recognition of their labour and provision of labour rights (see Empower Foundation 2016). But what is also evident is that paradigms of 'decent work' which emerged out of the ILO and are central to Goal 8 have evolved to exclude sex work. An issue remarked upon by Heumann, Siegmann and Empower Foundation (2016: 168):

With so much attention given to precarity and exploitation in the sex industry, it is remarkable that sex work is largely absent from discourses about and interventions for decent work. As a result, the conventional 'tool box' for addressing poor labour conditions is not accessible and applied to those involved in the sex industry.

It is, moreover, useful to draw upon the above assertion that sex work should be seen as operating not in terms of a forced/free binary, but on a continuum that ranges from decent work through to highly exploitative/abusive. If, however, all women engaged in the activity are to be classified within the frame of one or the other, we argue that two scenarios will play out: the Goals will fail to respond to the needs of a significant number of women engaged in sex work; and the Goals will be prevented from being achieved. We would suggest rather, that for the Goals to achieve their intention, for no one to be left behind, they must recognise and respond to the agency and intention of migrant women engaged in sex work. Such an approach means that women engaged in sex work should be able to seek decent work conditions and/or protection from violence, as their situation determines.

### **Classification as a policy response in Southeast Asia**

In order to further illustrate the way in which tensions over the categorisation of workers in the sector work play out, we find it useful to refer to the Cambodia/Thailand case. We use this case to illustrate how when sex work is not framed in terms of work and labour, it becomes either entertainment work (in which case the sexual activity is rendered completely invisible), prostitution (which sits in a criminal framework), or trafficking (which focuses on victims). We also chart how such reclassification has implications for activism on the ground. Without the labour lens, the women engaged in the activity of sex work have no access to positive labour or human rights that respond to the activity they are engaged with. They can only access rights as an invisible worker (i.e. in the guise of entertainment) or as a victim in need of protection. This produces an imperfect scenario where, despite the demand for sexual labour from globalised sex industries – discriminatory tensions over the classification of the labour prevent women undertaking sex work from accessing positive labour or human rights.

The sex industry in both Cambodia and Thailand grew up largely the result of the influx of international troops during the 1970s. Cases started emerging in the 1980's and 1990's, however, of the mis-treatment of the women and the NGO community started to talk in terms of trafficking and sexual exploitation. Rising levels of HIV infection led to the further scapegoating of sex workers (and the closure of brothels that had, up until this point been de-facto legalised). In this context, and intersecting with the global prominence of sex trafficking as an issue, the 2008 Law on the Suppression of Human Trafficking and Sexual Exploitation effectively criminalised the sector. The law promoted brothel raids and the 'rescuing' of women, resulting in the work going into more illicit channels, with less protection. Research by Sandy (2006) challenges this perspective and points to the lack of consistent evidence of trafficking to and from Cambodia. Derks (2000) too seeks to complicate notions of trafficking emphasising how these labour flows are not significantly different to other undocumented movements of feminised labour and how the term 'trafficking' needs to be applied more broadly to encompass a wider range of forced labour activities – and not exclusively to sex work.

In the absence of spaces designed specifically to sell sex, increasingly sex workers started selling sex out of entertainment venues such as beer gardens. Although the selling of sex out of these venues was not uncommon before 2008, the practice increased significantly after that date (Davies and Chhay 2016). With sex work commonly being undertaken within entertainment venues, the conflation of sex work and entertainment work increased. In both Cambodia and Thailand, entertainment venues, such as beer gardens, massage parlours and karaoke bars are now, often correctly, considered venues for sex. Similarly, although much less accurate, entertainment workers are commonly considered to be sex workers. In a study undertaken in 2016, the majority of women surveyed (71 %) reported that their sex work took place in the course of their jobs as entertainment workers, while the remainder took place on

a freelance basis or in brothels (Draughon Moret et al. 2016). Due to a similar historical trajectory, the conflation of entertainment workers and sex workers is also present in Thailand. Migrant sex workers are hired into and work out of entertainment venues as direct workers (where sex is their primary source of income) and indirect workers (entertainment workers who choose to occasionally exchange sexual services for goods or money, but do not identify as sex workers) (UNDP et al, 2012). There is no regular migration into sex work in Thailand and no formal or documented form of migrant sex work in Thailand. This means that all migrants discovered (or considered) to be sex workers automatically are defined as either victims of human trafficking or just illegal immigrants (Empower, 2012).

But what is interesting about the Cambodian case is the introduction of a Ministerial Regulation in 2014 calling for the occupational safety and health and labour rights of all entertainment workers. This regulation sought to protect the working conditions of workers in the entertainment sector, including those in beer gardens and karaoke bars. Whilst the Ministerial Regulation does not identify sex work as entertainment work, the instrument provides regulations for many entertainment workers who also provide sexual services within the entertainment venues. As a result, it provides an avenue for sex worker advocates and NGOs to access the sex workers to provide support, information and services (including health services). Although anti-trafficking approaches persist in Cambodia, in dropping the phrase 'sex worker' altogether, in favour of 'entertainment worker', advocacy in Cambodia has begun to focus on labour and human rights without having to interact with the tensions that surround the notion of sex as work<sup>2</sup>. This is notwithstanding the fact that such advocacy and rights based work commonly addresses sex overtly, specifically in relation to prevention of HIV transmission.

Nonetheless, in hiding the sex work under cover of entertainment work, this latest regulation appears to be rendering the sex worker invisible in their own right. A focus on prevention of HIV transmission may well bring certain benefits to entertainment workers, but we do need to think through the ways in which taking the 'sex' out of sex work creates other forms of vulnerability or difficulties for women. For example, should a more comprehensive understanding of rights to health – beyond HIV transmission issues – be developed? That is, one that might fit better with the goals of SDG3 on health and wellbeing? Also, might we need to better consider the specific risk of violence – including sexual violence - that sex workers experience and the lack of legal redress that both sex workers and undocumented migrant workers in particular face in this situation? Moreover, when the selling of sex for money takes place outside of entertainment venues, the protections afforded by being an 'employee' disappear – even though employers clearly benefit from the association of their workforce with the selling of sex. Finally, when groups of workers are doubly stigmatised – such as transwomen working in sex industries – the extent to which re-classification serves to reduce vulnerability also needs to be investigated. Although we note, that there has been a significant

lack of research on transgender sex workers in Cambodia (although see Heofinger and Srun 2017).

## **Navigating the tensions and responding to rights needs: Classification issues at the international level**

In what follows we examine how sex as work is an issue that continually evades classification. This is not simply a matter of how states in the region have responded to, for example, efforts to eliminate trafficking (initially understood in documents such as the US-government's TIP reports as specifically to do with forms of sex work). As the Cambodian case illustrates, state policies have served to simultaneously reinforce draconian anti trafficking laws, whilst reclassifying sex workers as entertainment workers – i.e. recreating a different, but equally precarious, form of work. But the tension over how best to classify sex work is also reproduced at an international institutional level – with particular implications for activist groups on the ground. We look first at the international level, observing clear parallels between the often highly very blurry approach to sex work and the tensions that exist within the SDGs, before looking to the local level.

At the international level, the politics of sex work and the rights of sex workers is a tinder box. The institutions that provide guidance on many things 'rights-related' are nervous of setting out their stall when it comes to sex<sup>3</sup>. Perhaps, this is as good an explanation as any, as to why the industry is invisible in the SDGs.

We will use the examples of the ILO and UN Women as their mandates mirror those of the SDGs that we are focussing on, namely labour rights and women's rights. The ILO has come out strongly in its Working Women Report in recognising the pervasive structural barriers and gendered segregation in the labour market (ILO 2016). Whilst this identifies the undervaluation of traditionally 'feminine skills,' it does not do so in relation to sex work. But whilst it may be too much to expect them to talk of sex work in terms of socially reproductive labour, it is important also to recognise that the ILO appears to be one of the only international organisations to proactively and openly address sex work. In programmatic practice, however, the same tensions that have been identified above appear. In addressing sex work and sex workers' rights, the ILO approach is commonly either that of HIV prevention or empowerment of women to get out of sex work. During the 2014 International Labour Conference, the debate on the Protocol and recommendation supplementing the ILO Forced Labour Convention, 1930 (No. 29) involved debates on the inclusion of sex as work with the governments of Sweden, India, Ireland and Spain expressing the view that 'sexual exploitation could not be considered a labour issue' (Heumann, Siegmann and Empower Foundation 2016: 175). The result of the debate was that sexual exploitation was mentioned only in the preamble of the Protocol and not mentioned at all in the Recommendation.

More notably, the UN Entity for Gender Equality and the Empowerment of Women (UN Women) finds itself understandably caught in the crosshairs in debates over sex as work. In 2013, an apparent UN Women 'Note on Sex Work, Sexual Exploitation and Trafficking' ended up with NGOs which included statements such as, '[t]he issues of sex work, sexual exploitation and trafficking are complex issues which have significant legal, social and health consequences. Due to such complexity, it is important that we do not conflate these three issues which deserve to be considered in their own right' (NSWP 2013). As UN Women later made clear, this note was a 'technical clarification' and not a formal statement or position on the issue.<sup>4</sup> This clarification was unsurprising given the amount of attention it brought from sections of civil society up in arms at even the use of the term "sex work", which to them signified a tacit acceptance that the activity could be work.<sup>5</sup> Some activists claim that UN Women chose to avoid the word prostitution in favour of, sex work (Crossette 2015). We would speculate, however, that UN Women's lack of public position over the debate is more a reflection of the wider structural issues and is in itself the more strategic approach to ensuring that they can represent women in all situations, albeit that a recent consultation on the issue indicates that they may be seeking to take a public policy position in the future.<sup>6</sup>

Looking into the international normative framework, however, we find in Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) an instrument and mechanisms that have the potential to serve sex workers in a contextual and incremental way. It is useful to examine this mechanism given that it provides a very significant alternative to the target-led approach to doing international development embodied by the SDGs (Liebowitz and Zwingel 2014). At Article 6, CEDAW obliges states parties to take all appropriate measures, '...to suppress all form of traffic in women and exploitation of prostitution of women'. By separating the exploitation from the very act of prostitution, or the selling of sex, this article sets CEDAW apart in its approach to sex work, leaving room for the notion that the sex worker may not be a victim of exploitation or trafficking. Further, in referring to the gendered notions of appropriate work for women resulting in informal work in 'certain forms of entertainment', CEDAW's General Recommendation 26 (GR26) on women migrant workers provides further space to consider and address migrants working in the informal sex industry. As one of the most widely ratified conventions, and with a review process that proactively encourages engagement in shadow reporting from civil society, the CEDAW framework promotes an ongoing conversation in which sex work can be framed in real terms, based on the contextual realities of each state. Enabling activists to 'turn CEDAW into an instrument of social transformation' (Zwingel, 2016: 1).

This process of transformation certainly plays out in terms of sex worker advocate's engagement with the CEDAW process. Whilst the CEDAW Committee members themselves may not be immune to polarised positioning on sex work (indeed, it has been suggested that traditionally the committee members have tended to hold abolitionist views on the sectors (GAATW, 2011)), the process of shadow reporting provides a conduit for activists to directly

hold their governments to account for the rights of sex workers. This was evident in the case of the 2013 Cambodian CEDAW shadow report which reported on various rights issues related to women in sex work (NGO-CEDAW, 2013). The inclusion of references to sex workers in the shadow report led directly to a recommendation in the CEDAW Committee's Concluding Observations, that the government do more to protect sex workers from sexual assault by law enforcement officials (CEDAW, 2013). Given that there were no references to the rights of sex workers in the Cambodian government's report to the CEDAW review, this reference to the right of sex workers in the Concluding Observations can be seen to be wholly attributable to the shadow report. This is supported by the correlation seen by Gammage and Hennebry (forthcoming) that the engagement of civil society in shadow reporting increases the likelihood of recommendations addressing migrant women workers labour and human rights.

## Conclusion

Sex work sits in a multi-layered spectrum of realities and whilst, this may attract multiple definitions, the current impact is that sex work is allowed to be rendered invisible. Anti-trafficking responses to sex work have dominated policy discussions at the international level and this in turn has had particular effects at the local level. Thus, sex workers are 'victims' in need of saving – a moral discourse that intersects with other morality-based arguments in which (non-trafficked) sex workers are 'social pariahs' and therefore criminalised. These categories are even more evident in discussions of migrant sex workers, with the widespread perpetuation of ideas of migrant sex workers as a social problem leading not just to social stigmatisation but also to anti-immigrant oriented crackdowns on the sector. A focus on sex work as *labour* provides for an alternative framing, in which work in the sector has the potential to attract labour rights. But asserting labour rights is frequently contingent upon migration status, citizenship, and whether the work performed is legally considered to be 'work' thereby serving to limit the potential of labour rights perspectives.

The SDGs can in theory contribute to gender equality, women's empowerment and labour rights for sex workers. But it seems that there remains considerable scope within the goals and associated targets to frame the issues largely via a trafficking master narrative. International organisations such as UN Women and the ILO seek to navigate the divisions that exist over the issue of sex work by often fudging the issue and failing to offer clear guidance. At the same time, advocates on the ground have either been constrained in their activities because of the operation of the trafficking master narrative (see for example, Lindquist 2013), or, as in the Cambodian case, have picked up more depoliticised, and de-sexualised understandings of sex work as entertainment work, in order to provide support services for sex workers. The examples provided in this article signify how we think about the relationship between the SDGs and sex work – especially migrant sex work. Furthermore, our article raises concerns about how suitable a target-driven development framework, that has also been

roundly criticised for its inattention to the relationship between dominant neoliberal development models and poverty, is for securing justice for sex workers. In suggesting that the CEDAW process may provide a better model for enabling sex worker rights to be addressed in meaningful ways, we echo the sentiments of Liebowitz and Zwingel (2014) whose work focusses on the need to address gender inequalities in ways that are context specific and allow for engagement and dialogue.

Nonetheless, if the SDGS are to be made more sensitive then what is needed is a substantial reframing of policies in order to maximise their potential. For example, in thinking through how a SDG lens is best able to bring progressive change to the lives of sex workers, it is important not to lose sight of the 'sex' in sex work. Sex work is mediated by gendered and sexualised forms of stigmatisation that make it difficult to understand the sector as akin to other sites of feminised migrant labour such as domestic work or factory work (although we recognise that workers in these sectors are often themselves sexually stigmatised). Sex work needs to be made visible within discussions of decent work because otherwise the specific problems and issues faced by sex workers – which include but are not limited to health issues - are rendered invisible and the SDGs emerge as inadequate tools for combatting particular problems faced by workers in this sector. As we showed in this article, in the Cambodian and Thai cases, the re-classification of sex work as 'entertainment work', leads to a formalisation of employment but ultimately sustains processes of informalisation because workers' labour as *sex work* is not recognised – exposing them to particular vulnerabilities. In this way, we observe that the provision of labour rights and labour recognition for sex workers remains contingent on an acceptance that sex as work is never intentional or desirable

In any event, the development industry and states are deeply reticent when it comes to addressing this issue. We argue that it is necessary to make the sector and the workers visible, in order to afford them rights, and support their claims-making . By removing the cloak of invisibility that surrounds sex work, questions about empowerment, rights and recognition can be more openly addressed. Whilst treating sex work as work can open up these possibilities, it would mean that the women migrant sex workers would be expected to formalise their intention to do the work. But is this too high an expectation on women who commonly are entering the sector as a temporary fix, or who would choose another sector if they could earn an equivalent amount? These are issues that we raise here because they speak directly to the issue of how the SDGs might be reframed in ways that better recognise the rights and protections for migrant sex workers. We admit however, that pursuing this kind of reframing of the SDGs themselves – as largely target driven standards that are therefore susceptible to technical top-down forms of implementation - is tricky. It may well be that mechanisms such as CEDAW offer greater possibilities for the design of policies more appropriate to the needs of migrant sex workers. But at the same time, we also need to ensure that the SDG agenda is not used in ways that suppress or limit the rights of sex workers through inappropriately applied anti-trafficking perspectives. Engagement with, the claiming



of and the reframing of the SDGs in ways that meet the needs of migrant sex workers is certainly one way through which rights for this group can be advocated.

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## Endnotes

<sup>1</sup> One issue that is not considered in this article in great depth is the extent to which SDG3 on health and well-being could provide the basis for making rights-based claims by sex workers and their advocates. Although we acknowledge that are clear possibilities here – we were more concerned in this article to see how goals that relate to gender empowerment and worker rights appeared to be especially ill suited (in the sense that they contain significant tensions over understandings of sex as work) to discussions of rights claiming by those engaged in sex work, especially when these groups are migrants.

<sup>2</sup> Indeed, it was through a focus on entertainment workers, that advocates were able to lobby effectively for better labour rights which resulted in the 2014 ministerial regulation in the first place (UNAIDS 2014).

<sup>3</sup> One of the only international organisations that has sought to take a public position on this is Amnesty International. In doing so, however, they do not seek to provide more rights to those engaged in sex work – theirs is not an advocacy platform promoting labour rights. Instead, they have focused on removing barriers that prevent access to rights, by advocating for decriminalisation of all aspects of consensual adult sex. In this way, AI navigate the tension by arguing that they are not condoning a world that leads people onto streets without choice, but that they are responding to evidence from a wide group of sex workers, groups and activists that criminalisation makes sex workers less safe (Murphy 2015).

<sup>4</sup> It was never made clear why this note was written or where it came from. See the UN response that was posted to the following website: <http://www.kvinnofronten.nu/eng/pdf/UnWomens-answer.pdf>

<sup>5</sup> See for example the following statement from Social Democratic Women in Sweden to UN Women Executive Director Phumzile Mlambo-Ngcuka 'Regarding the UN Women's Note on Sex Work, Sexual Exploitation and

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Trafficking' <http://www.socialdemokraterna.se/upload/webbforalla/s-kvinnor/s-kvinnor/dokument/internationellt/Letter%20to%20UN%20Women.pdf>

<sup>6</sup> UN Women invited views on their approach to sex work, the sex trade and prostitution by way of an email from [consultation@unwomen.org](mailto:consultation@unwomen.org) dated 7 September 2016, requesting that stakeholders' respond to three specific questions and provide their inputs by 16 October 2016. This was later extended to 31 October 2016.