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Julie Kaye: Responding to Human Trafficking: Dispossession, Colonial Violence, and Resistance among Indigenous and Racialized Women

University of Toronto Press, Toronto, 2017, 180pp, ISBN: 9781487521615

Alicia W. Peters: Responding to Human Trafficking: Sex, Gender and Culture in the Law

University of Pennsylvania Press, Philadelphia, 2015, 256pp, ISBN: 9780812224214

In legal regulation, human trafficking is descended from ‘white slavery’ which referred to instances of innocent, naïve white women being tricked into migrating and then forced into prostitution in the early 20th century (Doezema 2000). Research has found that there were very few cases of this (Connelly 1980; Guy 1991) but that did not prevent it from taking root in the public imagination because of fears around female purity and protection. In its modern and expanded form that speaks to the real lived horrors of women, men and children, trafficking remains a significant concern with myriad international and domestic instruments designed to forcefully tackle this. However, in such legal and policy responses, there are overwhelming weaknesses, not least the definition of trafficking along with its application on the frontline where survivors¹ are affected the most.

The two books under review have the same main title and both share findings from original empirical research. They further comprise critiques of the discourses around trafficking and anti-trafficking measures. The common ground does not end there: both Kaye and Peters

¹ Both victim and survivor are used to reflect their equally prevalent use in this area. In some instances, one term is used preferentially over the other to follow the example of the author or to highlight the stage of trafficking that an individual is in. If they are a victim, they are still in the situation of exploitation or are viewed as such by certain parties like policymakers; survivors are no longer in that situation and this term is mostly used by support services who work to empower trafficked individuals.

problematise the way current definitions of human trafficking conflate it with sex work. Thus, all sex work is considered trafficking even if one voluntarily engages in it.

From its historical origins, the presence of race and gender as delineating boundary markers for trafficking are apparent along with the emphasis on sex-based trafficking. This exclusionary approach leaves little space for the narratives and support of non-sex based and non-white trafficking survivors. Kaye and Peters approach the binary model of sex/ non-sex trafficking from different angles to shed light on the harms that this can generate.

KAYE AND TRAFFICKING IN THE CANADIAN SETTLER COLONIAL STATE

Julie Kaye's book seeks to intervene in debates around responses to trafficking by providing an anti/ postcolonial perspective on responses to trafficking and more generally, violence against women and indigenous peoples in Canada. This conceptual approach, amongst other things, situates the law in its historical and socio-political context to explore how and why it is damaging and silencing to indigenous peoples and vulnerable minorities. Kaye argues that in the context of settler colonialism, Canadian anti-trafficking responses and other anti-violence initiatives reproduce structures of domination. In doing so, they fail to address persisting forms of dispossession suffered by First Nations people which continue to naturalise and create the conditions in which trafficking and other forms of violence occur. Without recognising these continuing forms of dispossession, there cannot be an effective response to trafficking which supports and protects all survivors.

Kaye's aim in the book is to disrupt the dialogues around human trafficking and critically examine policy responses and strategies that address the rights and protections of trafficked individuals. She is critical but not cynical of the way that current discourse has shaped the settler colonial nation-building project, leading to a framework that is harmful to sex workers, migrants and others due to its emphasis on criminalisation.

She commences the first chapter by introducing the key issue that anti-trafficking discourse concentrates on the sex industries as the centre of exploitation in this area. To problematise this, an anticolonial examination pushes for a consideration of how trafficked persons are represented and the power dynamics underpinning such representations which lead to a focus on criminal sanctions. Perceptions of the trafficking victim are shaped by identity markers such as race, ethnic origin and gender. These identity markers then determine the extent to which they are viewed: as victims, criminals or both. It is vital to shift the lens from how human trafficking occurs to who is recognised as being trafficked (and who is not).

In Chapter 2, Kaye starts to unpack conceptions of trafficking and legal responses to it. In doing so, she deploys the tools of her anticolonial historically conscious analysis by looking into the origins of trafficking and tracing the measures to combat it. She demonstrates that abolitionist and criminalising stances have historically dominated Canadian anti-trafficking discourses which persist today. With the historical context established, in Chapter 3, Kaye starts to share her empirical interview findings from 3 Western Canadian provinces. She interrogates views and experiences concerning understandings of domestic versus international trafficking amongst people involved in various levels of anti-trafficking efforts from frontline workers to politicians and law enforcement officials. She finds that sex work and sex trafficking have been conflated in practice and policy which leads to the marginalisation of non-sex trafficking survivors and the assumption that all sex workers have been trafficked.

Chapters 4 and 5 conclude her analysis by thinking through the intersections with migration, migrant smuggling and border control as well as constructions of the ideal immigrant victim in practice and policy that conform to the settler colonial agenda. The argument here is that the abolitionist-dominated discourses around trafficking (i.e. putting an end to trafficking and by extension sex work) underpin the justifications for tighter border and immigration

controls. This approach addresses the symptoms instead of the underlying causes of the problem advancing the settler colonialist agenda of nation-building to control the movement of non-white bodies.

Through her empirical findings and anticolonial perspective, Kaye presents a novel view from which to consider trafficking and antitrafficking measures. She demonstrates the value of insights into the historical and social contexts in which policy and law are shaped around trafficking but there were times where I felt something more was needed. Whilst in chapter 2, there is some discussion around how trafficking is defined; without a detailed discussion of the real definitions in legal and policy instruments, her argument that sex trafficking is privileged seemed incomplete. Similarly, in Chapter 3, it would have been beneficial to explore international measures and responses to human trafficking in a contextualised way. I found myself wishing that she had subjected international measures and definitions to an historically conscious anticolonial critique to show how the settler colonial influence equally permeates the international sphere. Whilst Kaye stresses that the purpose of the book is to critique discourse rather than the content of measures, laws and policies, without such exploration of these texts, the discourse analysis does not apply to anything concrete.

The anticolonial conceptual framework is the most innovative and original draw of the book and its inclusion provoked all the right reactions of disbelief, realisation and frustration. This is the aspect of the work that I wanted to see more strongly drawn through. Kaye effectively weaves in her analysis of gendered and racialised experiences but in some places, especially the empirical chapters, this analysis featured less prominently. This meant that the opportunity for further analysis of the data and other discourses was sometimes missed. Centring this and adopting a context-driven approach consistently throughout would have strengthened wider arguments around violence.

The arguments around sex and non-sex trafficking in the settler colonial context would also have gained from deeper engagement with critical feminist scholarship. This was particularly true when Kaye exposed the colonial saviour paradigm in anti-trafficking discourse along with the zeal of abolitionists to save women from sex trafficking (and sex work). Gayatri Spivak's work on this (1999), for example, would have enriched the analysis and provided the theoretical foundations for a deeper examination of the racialised and gendered aspects of antitrafficking discourse as embedded in the settler colonial context. Indigenous feminist approaches to the problem are briefly included with a focus on activist work which emphasised the real and effective work being undertaken by feminists to tackle the settler-colonial dominated issues with trafficking and sex work.

The privileging of sex trafficking is brought to the reader's attention at certain points, but it is only nearer the end that the questions around non-sex trafficking are considered. It is understandable that sex trafficking formed the main subject of the analysis because of its prevalence in the discourse but again, further comparative exploration with discourses around non-sexual forms of trafficking at domestic and international levels would have provided a fuller insight into responses to human trafficking as the title promised.

Kaye has provided a critical and unique contribution to the literature in this area. The concept of the book is compellingly original and forms an effective basis for further investigation into dispossession and colonial violence amongst indigenous and minority women. The strongest chapters for me were the Introduction and the Conclusion simply because they were written in the first person: Kaye's voice and explicitly personal input are a joy to hear.

PETERS AND THE US FEDERAL TRAFFICKING VICTIMS PROTECTION ACT

2000

Alicia Peters provides another perspective on *Responding to Human Trafficking* by exploring a specific legal moment in US federal law with the implementation of the Trafficking Victims Protection Act 2000 (TVPA). The Act criminalised forced or deceptive movement of people into exploitative conditions of labour. Subjecting the implementation of this piece of legislation to an ethnographic study, Peters' goal is to demonstrate the ways in which ideology and other cultural and symbolic frameworks affect the ways that the law is written, interpreted and applied. She advances 3 main arguments. First, that the meaning of trafficking is widely contested and not as established as codified law suggests. Second, that norms around gender and sex influence the implementation of law and policy which has real consequences for trafficking survivors for their access to benefits, services and the attention they receive. Third, victim narratives contest the notion that sexual harm is the most severe form of suffering: survivors may even attribute their suffering to different factors than policymakers would imagine. The book is helpfully divided into 3 parts to address each argument looking at law on the books; in the mind; and in action.

In Part I which contains the first chapter, the foundations for the empirical analysis are laid with the story of the TVPA's journey onto the books. Peters introduces the main political actors involved in the drafting of the Bill along with their perspectives and affiliations to demonstrate the tensions that arose in the development of the Act and how these have manifested in the final legislation (p.69). These tensions led to the introduction of a 'bifurcated' definition of trafficking in the Act wherein forced commercial sex trafficking has its own definition followed by a definition for all other forms of trafficking. This shows how conflicted the definition of trafficking is.

Part II which comprises Chapters 2, 3 and 4 considers law 'in the mind'. Peters supports her analysis with empirical data collected during a substantial period of ethnographic fieldwork across multiple sites including NGO offices, conferences, individual survivor client meetings, law enforcement agencies and court proceedings. Chapter 2 delves further into the TVPA's two-tier definition to consider how it operates in practice. Peters finds that the bias towards sex trafficking victims shaped by gendered norms and assumptions is rife in legal practice and enforcement. By applying subjective understandings of trafficking to applications of the law, an ideal victim has emerged which echoes historical constructions of the ideal victim of white slavery. This can lead to severe consequences for survivors who fall under the non-sex trafficking definition because they are treated as lower priority which affects their access to support services and immigration status.

In Chapter 3, Peters advances her argument around the influence of sex, gender and victimisation norms on the implementation of the TVPA. She introduces four participants' perspectives: two from the criminal justice sector and two from victim services to display the diversity in their views and experiences. She exposes the higher priority assigned to sex trafficking in the criminal justice narratives and contrasts this with the ways that victim service providers question and problematise this. As one participant in the social services sector so aptly puts it: 'a lot of our labor trafficking [survivors] have been sexually assaulted as well' (p.97). This simple statement is a damning indictment of the two-tier definitional approach in the Act along with the perception that trafficking can be divided in such an artificial manner.

Survivors' voices and stories dominate in Chapter 4 as Peters demonstrates the diversity of their experiences by sharing the life histories of five survivors. Drawing from these stories, she argues that the experiences of trafficked persons challenge the legal and practical received wisdom applied by public bodies and agencies. The notion that trafficking can be split into sex trafficking and labour trafficking is unrealistic when the 'messiness of lived experience is the

lens' (p.127). Another key observation from these stories is the ways in which real survivors articulated the harms and pain that they experienced and how this differs from the ideas of bureaucrats, policymakers and law enforcement agents. Sex trafficking has a more serious status because forced sex is seen as more horrific than other forms of trafficking. However, survivors' narratives challenge this. Instead of prostitution or sexual violence, it was 'the force, fraud and coercion that each of them emphasized as the defining element of their experiences.... The notion of sex trafficking being *special* or uniquely *evil*, as imagined by some of my other informants, did not appear to hold true for these women.' (p.143) These stories are powerful and give much-needed insight into how legal responses perpetuate unhelpful assumptions about their experiences.

In Part III, the view shifts to law in action. Chapter 5 outlines how the conflict between law on the books and in the mind has led to the uneven implementation of the TVPA in practice. This causes practitioners to develop dubious ideas around worthy trafficking cases and worthy victims. Although the TVPA is intended to protect all victims, its implementation privileges the criminal prosecution of sex trafficking. Trafficking units are even situated within police vice divisions thereby operationalising the perception of trafficking as synonymous with forced sex work. Having demonstrated throughout previous chapters that the division between labour and sex trafficking is arbitrary, Peters picks this up more strongly by discussing how despite there being a higher volume of labour trafficking cases, these are rarely pursued, and certainly not to the same degree as sex trafficking cases. Chapter 6 concludes the book with a detailed discussion of *United States v Carreto*: a labour and sex trafficking case in which support services, survivors and law enforcement agencies worked exceptionally well together to secure convictions. On that hopeful note, the book finishes with an explanation of policy recommendations that include amending the TVPA's definition of trafficking and placing survivors at the forefront of policy development and training.

Peters has made a rich contribution to the literature around trafficking. I found that the book provided a detailed and insightful examination of the TVPA's development, implementation and impact. By focussing on this specific legal moment, Peters provides an accessible and incisive exploration of the broader issues with current antitrafficking efforts. However, I also found the book limited in its engagement with feminist scholarship. Peters mostly considers feminist abolitionist perspectives (p.113) which does not reflect the variety of stances in this area (see e.g. Kempadoo, Sanghera and Pattanaik (eds.) 2012). This weakens the discussions around feminist interventions and there was little explanation for the approach taken. Moreover, whilst the influence of norms around sex, gender and victimisation were addressed, norms around further identity markers, especially race, were not included to a significant degree. It is difficult to discuss trafficking and movement across borders for exploitation without including race more clearly in the analysis.

These minor niggles do not detract from the value of this book. The data collection is impressive and the data itself is vital for challenging legal responses to trafficking. To Peters' credit, she dedicates significant space to the survivors' stories and their life histories which constitute impactful and original contributions to understandings of victim-survivor experiences. She has put a lot of time and investment into undertaking a research project that is survivor-centred and intended to make a real difference. This clearly shone through and future empirical studies of trafficking stand to benefit greatly from this work.

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ZB Naqvi

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