New coalitions against trafficking in women?

Vanessa E Munro argues that the reform of trafficking legislation should be more candidly defended by the Home Office on the basis of the abolitionist agenda that effectively underpins it.

The cross-border trafficking of women and girls for the purposes of prostitution has been the focus of considerable media and political attention in the UK in recent years. Though far from a new phenomenon, the alleged scale of its contemporary manifestation, its apparent connection to networks of organised crime and state corruption, its relationship to comparative debates over divergent models for the regulation of prostitution and its situation within broader contexts of globalisation, socio-economic displacement and migration control, have ensured its status as a high policy priority.

Reliable statistics on its domestic and global incidence remain elusive but anti-trafficking campaigners have extrapolated estimates (with varying levels of caution) from related data (e.g. in relation to the scale of domestic sex markets or their increasingly ethnically diverse composition). Giving evidence before the Home Affairs Committee in 2008, representatives from the London-based 'Poppy Project', which offers specialist support to victims of sex trafficking, stated that they had received 925 referrals since its establishment in 2003. This figure should be understood, however, in a context in which the Poppy Project has regularly lamented its inability – due to a lack of resources – to meet the needs of all the trafficked women who come to them for help. Meanwhile, statistics released in the wake of 'Operation Pentameter' initiatives in both 2006 and 2007, during which 55 police forces throughout the UK undertook proactive, intelligence-led investigations, record the identification of 255 victims of sex trafficking.

At the heart of the difficulty in mapping trafficking activity, let alone responding appropriately to its incidence, is the amorphous nature of its definitional boundaries. While much traffic into the UK involves women and girls from Africa or Asia, the profile of origin countries is diverse and fluctuating; and includes a significant spread of EU states. This, in turn, generates differences in the means by which entry is secured – while women of other nationalities may travel on falsified documents or be smuggled covertly, EU nationals often travel and arrive legally using their own documents.

While immigration policy continues to influence the development of anti-trafficking initiatives, this diversity of modes of, and entitlement to, entry makes simplistic links to people smuggling or clandestine migration problematic. Moreover, the reality that trafficking occurs to meet demand for a cheap and compliant workforce in a range of legal industries (agricultural or factory work and domestic services are prominent examples) adds a further layer of complexity. Absent the options of defining the wrongdoing in people trafficking on the basis of its border policy transgression or its fuelling of illicit industries, some commentators have insisted upon a more nuanced understanding that focuses instead on the presence of exploitation, combined with cross-border movement.

This approach is reflected in both the UN Protocol on People Trafficking (which was attached to the 2000 Convention against Transnational Organised Crime) and current UK anti-trafficking laws. But while boasting greater definitional inclusivity, crucial questions about what exactly constitutes exploitation, and what it is that makes exploitation wrongful, often remain unaddressed in this context. At the same time, dilemmas regarding the relevance that should be afforded to tokens of consent (to the migration and/or subsequent exploitative conditions), given by victims for whom the alternatives at home are equally intolerable, have too often been unduly sidestepped.

In the UK, provisions under the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants) Act 2004 purport to ensure complementary regimes for the criminalisation of sex and labour trafficking, both identified through reliance on a largely undefined notion of exploitation. But a closer reading of this legislation reveals a requirement of non-consent in regard to labour trafficking, which does not apply to its sexual counterpart. To the extent that this reinforces the 'special relationship' between trafficking and prostitution, and suggests a higher estimation of the harm involved in migrants' sexual (c.f. labour) exploitation, it is confirmed by a lack of support services for those trafficked for other purposes, as well as by a preoccupation with prostitution at the level of anti-trafficking policy and procedural implementation.

Tackling demand for prostitution is acknowledged to be an integral element of the UK Action Plan on Human Trafficking. In November 2008, Jacqui Smith announced her intention to introduce reforms – now contained within Clause 13 of the Policing and Crime Bill – that will criminalise those who pay for sex with a person who is being controlled against her wishes for someone else's gain. Significantly, and controversially, this offence will

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operate on the basis of strict liability, making it irrelevant whether or not the client knew that the prostitute was thus controlled, and will rely upon an expansive understanding of control which may extend to substance-abusing women who sell sexual services in order to make payments to a drug-dealer.

Though purporting to be an anti-trafficking measure, in many significant ways, this initiative – and the rationale that apparently underpins it – is more accurately seen as an anti-prostitution strategy. Stopping short of criminalising the purchase of all commercial sex, the proposal does not dismiss the possibility that a woman might legitimately consent to sell sex in some circumstances (and that a client may, therefore, transact with her without liability). At the same time, though, this is made contingent upon the woman's enjoying a level of freedom and autonomy that is rarely evidenced in the conditions of poverty, violence and/or addiction that often surround prostitution. Thus, the initiative effectively achieves the blanket abolitionism to which it seems – at least judging by recent statements made by high-ranking officials – that the Home Office is attracted, without requiring explicit defence of either its ideological or pragmatic merits.

Credible arguments have been made that many of the harms experienced by sex workers are attributable not to the sale of sex but to the industry's unregulated status, that criminalising clients risks further marginalisation of prostitution and prostitutes, and that positive outcomes attributed to abolitionist reform in other jurisdictions (e.g. Sweden) – even if empirically established – cannot be uncritically transplanted into the socio-economic context of the UK, with its larger and complex commercial sex markets.

At the same time, this most recent initiative provides another vivid illustration of the current prioritisation of sex trafficking over its labour counterpart. If the government is serious about preventing and punishing the cross-border movement and subsequent exploitation of vulnerable persons, and is committed to the notion that tackling demand in the country of destination represents a fruitful strategy through which to achieve this goal, it is far from clear why it is not proposing to similarly criminalise those who rely on the services of controlled domestic workers, builders or agricultural labourers.

None of this is to argue, necessarily, *that the government is wrong to single out prostitution (and, by extension, sex trafficking) for such special treatment.*

In the wake of the Home Secretary's announcement, Andrea Woelke (Alternative Family Law) wrote to *The Guardian* in 2008 urging the government to have the courage of its anti-trafficking convictions. In order to stop the exploitation of eastern Europeans on British farms, she called on the Home Office to 'make it an offence to buy leeks produced with the help of somebody who is controlled for another person's gain' and to ensure shoppers' pleas of ignorance offer no defence. Though written with tongue firmly in cheek, this letter illustrates the selective remit of the government's proposals. The Home Secretary may have refrained from insisting that all prostitution, regardless of its conditions, is inherently harmful, but the special treatment afforded to sex trafficking in this – as in other initiatives – makes it clear that involvement in commercial sex is seen as both more problematic and more damaging than other forms of labour exploitation.

None of this is to argue, *necessarily,* that the government is wrong to single out prostitution (and, by extension, sex trafficking) for such special treatment. But it is to insist that such reform should be more candidly defended on the basis of the abolitionist agenda that effectively underpins it. Debate on the issue continues to abound, but there is evidence which suggests that prostitution has peculiarly damaging consequences both for the individuals and local communities involved, as well as for wider socio-sexual gender roles. At the same time, the potential contingency of these harms, together with the dearth of viable alternatives for many vulnerable women, generate a complex picture.

Perhaps amongst the greatest disappointments of the government's initiative on client demand is its tendency to disengage from these debates precisely when they are most pertinent – that is, when we are dealing with women whose vulnerability and exclusion may be compounded by distance from familial support networks, precarious residence status, distrust of state officials, inter-cultural communication barriers and desperate need. In the absence of this engagement, the government's insistence that tackling client demand constitutes an anti-trafficking (c.f. anti-prostitution) initiative is belied by its disinterest in parallel processes in the context of labour exploitation. This privileging of sex trafficking is not only fundamentally at odds with an averred policy of equivalency vis-à-vis labour trafficking, but it also diverts attention from the significant abuses that are currently perpetrated upon persons trafficked into a range of (legal) industries and obscures the contribution that we – as consumers, clients and beneficiaries – make to this demand. ■

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