



SEX WORK, HUMAN TRAFFICKING & THE HARM OF CONFLATING THE TWO

ASIJKI
COALITION TO
DECRIMINALISE
SEX WORK IN
SOUTH AFRICA



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The United Nations says human trafficking is “the recruitment, transportation, transfer, harbouring 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”¹. In simple terms, for a person to be trafficked they must have been, firstly, taken across international borders or moved within a country; secondly, forced or lied to; and, thirdly, abused in some way.

It is very important to understand the difference between sex work – which involves sex that adults have consented to – and sex trafficking, which is a major abuse of human rights. This fact sheet talks about a number of problems with the anti-trafficking movement and its often-negative effects on sex worker rights.

1 CLAIMS ABOUT TRAFFICKING ARE OFTEN OVERSTATED OR INCORRECT

- Many organisations, including state governments, use wider meanings of “trafficking”, which often don’t include force. For instance, the Prevention and Combating of Trafficking in Persons Act (2013) in South Africa, adds to the list of abusive methods listed by the United Nations (see above) as follows: “the direct or indirect giving or receiving of payments, compensation, rewards, benefits or any other advantage... aimed at either the person or an immediate family member of that person or any other person in close relationship to that person”. You could argue that this means that someone would be seen as a trafficker if he or she simply paid someone money to do pre-agreed sex work.
- Many NGOs and media organisations seem to see trafficking as the same as any kind of sex work, especially when it involves women from other countries². This removes the importance of consent, which is central to any feminist understanding of sexual violence³.
- Many NGOs and media organisations report the extent of trafficking as if it is the result of solid research^{4,5}. In South Africa, the Salvation Army claims that “30,000 children are being prostituted in South Africa”⁶, a figure that is not backed up by any formal research⁷.
- The number of people who appear in court for human trafficking is generally much lower than the numbers discussed in the media^{7,8}.
- Research with sex workers also does not show much trafficking is happening. A study of 164 sex workers in Cape Town found that only two had ever been the victims of trafficking under the UN definition and these had generally happened in the past, with the sex workers in question having escaped the situation by themselves⁹.
- There is often media scandal about trafficking related to sex work surrounding large sporting events, like the 2010 Soccer World Cup. These reports are often based on guesswork and there is in fact no formal evidence that trafficking increases around these events^{10,11}.

2 REPORTS OF TRAFFICKING MAKE COMPLEX SOCIAL PROBLEMS SEEM TOO SIMPLE

- The common story around “sex trafficking”, as told by many NGOs and the media, often sounds xenophobic. This is because it describes women who come from other countries to do sex work as without power and men who may help women move from other countries as mostly cruel and abusive¹².
- Sex work often brings in a lot more money than other choices and many people may feel that moving from their home country to do sex work is the best choice^{13,14}. The same, however, could be said for people in many other jobs, where workers are not thought of as victims without the power to make choices.
- Sex workers are often treated very badly at work. This can be forgotten in the face of the more serious human trafficking factor. For example, several women in Cape Town, although choosing to work as sex workers, reported that a very large amount of their pay was being taken as “fees” by brothel managers⁹. An outdoor sex worker questioned in the same study said that she would feel safer working for a “pimp”. Only a small number of street sex workers in Cape Town have managers or “pimps”¹⁵, but this remark shows how the dangerous nature of criminalised sex work may make sex workers open to abuse at work.
- Public statements against trafficking, together with the mistaken belief that trafficking and sex work are the same thing, often lead to widespread police crackdowns on sex workers. These regularly result in human rights abuses¹⁶.

“Many NGOs and media organisations tend to conflate trafficking with any kind of sex work, particularly when it involves foreign-born women.”

“Anti-trafficking rhetoric, combined with the erroneous conflation of trafficking with all sex work, often leads to generalised police crackdowns on sex workers resulting in human rights abuses.”

3

DECRIMINALISATION WOULD REDUCE TRAFFICKING AND OTHER KINDS OF ABUSE

“Sex workers are more likely than social workers or the police to become aware of trafficking, adults or children being forced into selling sex other coercive practices, have a strong interest in preventing these practices, and are often highly effective in doing so.”

- Under decriminalisation, all laws criminalising the buying and selling of sex, as well as the employment of sex workers, are removed. Sex work is controlled by general labour law. This means that sex workers can organise legally and employers (e.g. brothel managers) must obey health and safety labour laws^{17, 18, 19}.
- Sex workers are more likely than social workers or the police to become aware of trafficking, adults or children being forced into selling sex and other abuses. They have a strong interest in stopping these abuses and are often very good at doing so²⁰. Decriminalisation would allow sex workers to organise better to fight abuses, including by forming unions²¹.

- Criminalisation means that sex workers fear arrest and illegal abuse from the police, which makes them scared to deal with them. This may stop them reporting abuse against themselves or other sex workers^{22, 23, 24}.
- Often clients are the only outsiders who will meet someone who is being trafficked or forced into selling sex^{25, 26}. Yet under criminalisation of sex work, clients are often unwilling to report suspected abuse because they are afraid of being arrested.
- Under criminalisation, sex workers must work in secret due to fear of arrest or abuse by the police. Under decriminalisation there would be more contact between sex workers and service providers, including the police. If this were so, it would be much more obvious if a particular brothel or agency was trying to hide abuse.



“Criminalisation [of sex work] means that sex workers fear arrest and extralegal abuse from the police, which makes them reluctant to have any contact with them, including reporting abuse against themselves or other sex workers.”

This Briefing was written by Dr Dean Peters and plain-language edited by Giles Griffin

1. General Assembly resolution 55/25 (15 November 2000). “Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”.
2. The Global Network of Sex Work Projects (2011). “Sex Work is not Trafficking”. Briefing Paper 3.
3. Butcher, K. (2003). “Confusion between prostitution and sex trafficking”. *The Lancet*. Vol 361: 1983
4. Pinto, N. (2011). “Women’s Funding Network Sex Trafficking Study is Junk Science”. *The Village Voice*, 23 March .
5. Davies, N. (2009). “Prostitution and trafficking - the anatomy of a moral panic”. *The Guardian*, 20 October
6. Salvation Army. “Anti-Human Trafficking”. Available: <http://www.salvationarmy.org.za/index.php/our-work/community-care-development/anti-human-trafficking>
7. Wilkinson, K and Chiumia, S (2013). “Are 30,000 children really ‘trafficked’ in South Africa every year? The claim exaggerates the problem”. *Africa Check* 18 October
8. Davies, N. (2009). “Inquiry fails to find single trafficker who forced anybody into prostitution”. *The Guardian*. 20 October
9. Gould, C. and Fick, N (2008). “Selling sex in Cape Town: Sex work and human trafficking in a South African city”. Institute for Security Studies.
10. Global Alliance Against Trafficking in Women (2009). Trafficking in Persons and the 2010 Olympics: Briefing paper. Global Alliance Against Trafficking in Women, February 2009
11. African Centre for Migration & Society (ACMS) (2014). Understanding human trafficking, ACMS Issue Brief 10, Wits: Johannesburg.
12. Andrijasevic, R. (2007). “Beautiful Dead Bodies: Gender, Migration and Representation in Anti-Trafficking Campaigns”. *Feminist Review*, 86: 24–44.
13. Kiwanuka, M. & Monson, T. (2009, November). Zimbabwean migration into Southern Africa: New trends and responses. Johannesburg: ACMS, Wits.
14. Agustin, L.M. (2007). *Sex at the margins*. London, UK: Zed Books
15. Scorgie, F. et al (2012). “Socio-demographic characteristics and behavioral risk factors of female sex workers in sub-Saharan Africa: a systematic review”. *AIDS and Behavior*, 16, 920–33.
16. NPR (2015). “The Hidden World Of Cambodia’s Sex Workers: New Risks, New Hope”. Available: <http://www.npr.org/sections/goatsandsoda/2015/06/06/412303138/the-hidden-world-of-cambodias-sex-workers-new-risks-new-hope>
17. New Zealand Ministry of Justice (2008). “Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003”. Available: <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>
18. Mossman, E. & Mayhew, P. (2007). “Key Informant Interviews Review of the Prostitution Reform Act 2003”, prepared for the New Zealand Ministry of Justice. Available: <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/key-informant-interviews/documents/report.pdf>
19. Abel, G., Fitzgerald, L., & Brunton, C., (2007). “The Impact of the Prostitution Reform Act on the Health and Safety Practices of Sex Workers”. Christchurch School of Medicine. Available: <http://www.otago.ac.nz/christchurch/otago018607.pdf>
20. Durbar Mahila Samanwaya Committee. “Anti Trafficking”. Available: http://durbar.org/html/anti_trafficking.aspx
21. Open Society Foundations (2015). “10 reasons to decriminalize sex work”. Open Society Foundations, New York.
22. Sex Workers’ Rights Advocacy Network (2009). “Arrest the Violence: Human Rights Violations Against Sex Workers in 11 Countries in Central and Eastern Europe and Central Asia”. SWAN.
23. IRIN News (2011). “South Africa: decriminalizing sex work only half the battle”. Available: <http://www.irinnews.org/Report.aspx?ReportId=84621>
24. Mgbako, C.A. et al (2013). “The Case for Decriminalization of Sex Work in South Africa”. *Georgetown Journal of International Law*, 44(4): 1423–1454.
25. Eve, C. (2009). “Sordid world of sex slavery”. *Plymouth Herald*. 6 February.
26. Beattie, M. (2005). “Customers help stamp out Turkey’s sex slaves”. *The Independent Online*. 2 April.