

# Forced to Choose Beyond the Voluntary

## v. Forced Prostitution Dichotomy

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### Introduction

At the 1995 United Nations Fourth World Conference on Women in Beijing, I and other delegates from the Network of Sex Work Projects (NSWP) and the Global Alliance Against Trafficking in Women (GAATW) lobbied to ensure that every mention of prostitution as a form of violence against women in the final conference document would be prefaced by the word "forced."<sup>1</sup> Because sex workers' human rights were not mentioned in the draft document, it was impossible to introduce this concept at the Conference. The best we could do was "damage limitation;" keeping abolitionist language out of the final document. Ironically, I found myself lobbying for a recognition of the distinction between voluntary prostitution and forced prostitution, a distinction I and other sex worker activists had come to realize had been subverted in such a way that it had become a new justification for denying sex workers their human rights.

Does this mean that I deny that some women in the sex industry work in slavery-like conditions or that I deny that it is possible to choose prostitution as a profession? It does not. It means that I argue that the voluntary/forced

dichotomy is the wrong theoretical framework with which to analyze the experience of sex workers. The necessity to critically examine the form this theory is taking is all the more pressing now that it is replacing abolitionism as the dominant model of prostitution at the international level.

In this chapter I examine the rise to prominence of the “voluntary” versus “forced” model of sex worker experience, and the implications and consequences of this rise for sex workers’ rights. In the first section, I give a short history of feminist attempts to get prostitution on the international political agenda. Second, an examination of relevant international instruments demonstrates that the voluntary/forced dichotomy is replacing the abolitionist model of prostitution. Finally, I seek to show that this dichotomy has become another way of denying sex workers their human rights.

## **Prostitution and International Politics**

### **A Brief History**

Early attempts to deal with prostitution internationally were heavily influenced by nineteenth-century feminist activism. It was women like Josephine Butler who first brought the issue of the “white slave trade” to international attention, via a campaign to protect morals of both men and women. The feminist campaign, founded by Butler, began with attempts to repeal the Contagious Diseases Acts in Britain.<sup>2</sup> Under the acts, any woman identified as a “common prostitute” was forced to undergo a fortnightly internal examination. Infected women were interned in specially designated hospital wards, “pseudo-medical prisons for whores.”<sup>3</sup>

Feminists in the repeal movement were ambivalent in their attitudes to prostitutes. They recognized a commonality of interests with prostitutes, realizing that the Acts were a threat to the civil liberties of all women. Because any woman could be identified on the word of a police officer as a “common prostitute,” any woman, especially a working-class woman, on her own in a certain area at a certain time could be detained and forced to submit to an internal examination. On the other hand, prostitution was seen as “the great social evil,” and prostitutes as victims of male vice, who needed to be rescued. Thus, controlling male vice was seen as the key to ending prostitution. Regulation of prostitution was condemned as an official licensing of male vice.

After the repeal of the Acts in 1883, the focus of the campaign shifted from the rejection of government attempts to monitor sexuality to the promotion of repressive measures designed to end vice. The agenda of the social purity movement was dominated by the mirages of white slave trade and child prostitution. This campaign was helped enormously by sensationalist journalists who seized

on the titillating tales of deflowered innocence. According to Nicky Roberts, "The typical story involves white adolescent girls who were drugged and abducted by sinister immigrant procurers, waking up to find themselves captive in some infernal foreign brothel, where they were subject to the pornographic whims of sadistic, non-white pimps and brothel-masters."<sup>4</sup> Research indicates that most of the "trafficking victims" were actually prostitutes migrating, like thousands of others, in hope of finding a better life. Roberts notes that, by this stage in the repeal movement, the image of the prostitute had to be "pitched to appeal to the charitable reflexes of middle class Christians" who by then provided the main body of support for the campaign.<sup>5</sup> She calls the results of the social purity campaign "catastrophic" for prostitutes. Although the Contagious Disease Acts were finally repealed in 1886, in many places their regime was continued under a different name, with purity activists now patrolling the streets instead of the police.<sup>6</sup>

The movement for social purity had success in the US and the continent as well as in Britain. By the turn of the century, most of the existing regulatory systems in Europe and the United States had ended, and international efforts had begun to target the "white slave trade." In the five years before the end of the nineteenth century, three international conferences on the prevention of trafficking in women were held.<sup>7</sup> In the early years of the century, two international instruments concerning the trade were created.<sup>8</sup> The League of Nations adopted two conventions dealing with the traffic in women and children.<sup>9</sup> In 1949, the UN adopted the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, which combined and superseded the earlier agreements.

### Current Approaches

After the 1949 Convention was adopted, both feminist and international concern for prostitution and the traffic in women abated for a time. But since the middle of the 1980s, there has been a new wave of feminist-backed campaigning against trafficking in women, child prostitution and sex tourism. Campaign efforts have succeeded in putting prostitution back at the top of the international agenda.

Prostitution has been a deeply contentious issue for feminists. Women's bodies have been the site of women's oppression: "Female subordination runs so deep that is still viewed as inevitable . . . rather than as a politically contracted reality. . . . The physical territory of this struggle is women's bodies. The importance of control over women can be seen in the intensity of resistance to laws and social changes that put control of women's bodies in women's hands."<sup>10</sup> Not

that feminists agree as to what “control of women’s bodies in women’s hands” means. Shannon Bell observes that the prostitute body has been a site of struggle for feminists because “The prostitute body is a terrain on which feminists contest sexuality, desire, and the writing of the female body.”<sup>11</sup>

The modern anti-trafficking campaign is split along ideological lines on views of prostitution. The fundamental difference of opinion concerns the question of whether or not a person can choose prostitution as a profession. Some feminists argue that all prostitution constitutes a human rights violation. The strongest advocate of this “neo-abolitionist” view internationally is the Coalition Against Trafficking in Women (CATW), founded by Kathleen Barry. Their “Convention on the Elimination of All Forms of Sexual Exploitation of Women,” defines prostitution as a form of sexual exploitation just like rape, genital mutilation, incest and battering.<sup>12</sup> Sexual exploitation is defined as “a practice by which women are sexually subjugated through abuse of women’s sexuality and/or violation of physical integrity as a means of achieving power and domination including gratification, financial gain, advancement.”<sup>13</sup> Prostitution is explicitly named as a violation of women’s human rights, and is also held responsible for “subordinating women as a group.”<sup>14</sup>

The distinction between free and forced prostitution was developed by the prostitutes’ rights movement in response to feminists (and others) who saw all prostitution as abusive.<sup>15</sup> The World Charter for Prostitutes Rights (1985) states “Decriminalize all aspects of adult prostitution resulting from individual decision.”<sup>16</sup> This distinction was included in the analysis of some anti-trafficking organizations, such as the Global Alliance Against Trafficking in Women (GAATW) based in Thailand. The GAATW objects to international instruments for “disregarding the will of adult persons engaged in prostitution” and demand that instruments to combat trafficking be “based on respect for human rights, specifically the right of all persons to self determination.”<sup>17</sup> Traffic in persons and forced prostitution are “manifestations of violence against women and the rejection of these practices, which are a violation of the right to self determination, must hold within itself the respect for the self determination of adult persons who are voluntarily engaged in prostitution.”<sup>18</sup>

### **Changing the Dominant Discourse**

The abolitionist viewpoint has defined the terms of the international discourse on prostitution for almost 100 years. This discourse is being challenged by those who see sex work as a legitimate occupation. An examination of relevant UN instruments shows that there has been a shift away from mechanisms based on

abolitionist ideology and towards an approach that respects the right to self-determination. This trend is most evident in those UN instruments dealing specifically with women's human rights and violence against women.

The watershed for the shift can be located in the mid-1980s.<sup>19</sup> Before then, UN instruments were abolitionist in character. Since that time, the majority make a distinction between voluntary and forced prostitution. Prostitution is dealt with in many different UN bodies; it is beyond the scope of this chapter to examine them all. Rather, I will focus on key documents and the work of the main bodies to illustrate the shift towards a new discourse.

#### Abolitionist Instruments

The Preamble to the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others states that "prostitution and . . . traffic in persons for the purposes of prostitution are incompatible with the dignity and worth of the human person. . . ." The convention has come under attack from both "sides" in the anti-traffic debate. There is fundamental disagreement about the ideological approach of the convention. An examination of this disagreement is useful for the light it sheds on the issue of "voluntary" and "forced" prostitution.

Modern abolitionists, ironically, criticize the Trafficking Convention for making a distinction between "voluntary" and "forced" prostitution.<sup>20</sup> Laura Reanda calls this distinction traditional: "A distinction has traditionally been made between prostitution as a *manner of personal choice and a form of work*, perhaps reprehensible but unavoidable, and enforced prostitution, or traffic in persons, considered a slavery-like practice to be combated by the international community. . . . This distinction was formalized in international law from the beginning of this century. . . . These instruments regard prostitution as a human rights violation only if it involves overt coercion or exploitation. They are silent, however, concerning the human rights implications of prostitution per se."<sup>21</sup>

This statement is misleading. The distinction between "voluntary" and "forced" prostitution, as it is currently understood, had no relevance at the time the international instruments to combat trafficking in women were drafted. For the regulationists, the prostitute was a fallen woman, whose personal pathology or inclination to vice, weakness, stupidity, and/or vanity led inevitably to life as a prostitute. Abolitionist ideology firmly fixed the prostitute as a victim. The image of the prostitute as agent, who willingly chooses her occupation, was unimaginable in either of these models. *Prostitution as a matter of personal choice and a form of work* is a concept developed by sex workers that radically contradicts both the regulationist and abolitionist versions of prostitute reality. To equate or col-

lapse the very different analysis of the regulationists and prostitutes' rights supporters denies the radical implications of sex workers' politics.

Apart from abolitionists themselves, there is general agreement that the Trafficking Convention reflects an abolitionist viewpoint. According to the Advisory Committee on Human Rights and Foreign Policy to the Dutch Government:

Generally speaking, the UN adopts an abolitionist approach and does not make a distinction between forced and voluntary prostitution. It regards both types as morally unacceptable. This attitude emerges forcefully from the 1949 Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 (*sic*) which states that prostitution violates human rights and human dignity and represents a threat to the welfare of the individual, the family and the community.<sup>22</sup>

Jean Fitzpatrick concurs: "The 1949 Convention does not draw an explicit distinction between coerced and voluntary prostitution and represents the then-current consensus on an 'abolitionist' model."<sup>23</sup> The Working Group on Contemporary Forms of Slavery (WGS) is responsible for reviewing developments in the field covered by the 1949 Convention and for recommending action to be taken.<sup>24</sup> This body has from the beginning taken an abolitionist view, in line with the Trafficking Convention, and their attitude reflects the regular attendance of the International Abolitionist Federation at the WGS meetings.

The Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) was adopted in 1979. Article 6 deals with prostitution and trafficking in women. It uses the same wording as the 1949 convention, calling upon state parties to "take all appropriate measures . . . to suppress all forms traffic in women and the exploitation of prostitution of women." This would seem to imply that the drafters' intent was abolitionist. However, when the text was being drafted, Morocco introduced an amendment to Article 6 which called for the suppression of prostitution in addition to the suppression of the exploitation of prostitution. This amendment was found unacceptable by the Netherlands and Italy, because they considered that the new element of suppression of prostitution unacceptable.<sup>25</sup> The amendment was rejected, thus it can be argued that Article 6 does not consider all prostitution inherently coercive.<sup>26</sup> The Mexico Declaration on the Equality of Women, adopted at the Second UN Conference on Women in 1975, makes no distinction between forced and voluntary prostitution: "Women all over the world should unite to eliminate violations of human rights committed against women and girls such as rape, prostitution. . . ."<sup>27</sup>

### Toward a New Perspective

General Recommendation 19 of CEDAW (1992) on violence against women includes specific paragraphs relating to Article 6 (see above) of the Convention. It reaffirms the requirements of Article 6 for states to "suppress all forms of traffic in women and exploitation of the prostitution of others," but also states that "Poverty and unemployment force many women . . . into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against rape and other forms of violence." Though this text does not specifically distinguish between forced and voluntary prostitution, an important shift in emphasis is apparent. Rather than focusing on repressive measures to eliminate the practice of prostitution, the Committee instead focuses on the prostitute as a subject whose rights can be violated.

The first document to make a clear departure from an abolitionist view of prostitution is the Declaration on the Elimination of Violence Against Women (1993). "Violence against women shall be understood to encompass, but not be limited to, the following: Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution."<sup>28</sup> Jean Fitzpatrick notes that "The Draft Declaration on Violence Against Women includes only "trafficking in women and forced prostitution" despite notice that the 1949 convention considers all prostitution to have been compelled."<sup>29</sup>

The Declaration on Violence Against Women is the standard against which the activities of the international community must be measured.<sup>30</sup> The implicit distinction between forced and non-forced prostitution recognized by the Declaration signalled that the international community's view of prostitution had changed. Since the adoption of the Declaration, the majority of international agreements denote forced prostitution and trafficking, rather than prostitution itself, as violence against women. The Vienna Declaration and Program of Action of the 1993 World Conference on Human Rights, recognized women's rights as human rights, and urged state parties to adopt the Declaration on Violence Against Women.<sup>31</sup> At the Fourth World Conference on Women, Beijing 1995, the draft of the Platform for Action included abolitionist language in a number of paragraphs, but this language was not retained in the final document. The final document condemns only forced prostitution, not prostitution as such.<sup>32</sup>

Radhika Coomaraswamy, the UN Special Rapporteur on Violence Against Women, also distinguishes between voluntary and forced prostitution: "Some

women become prostitutes through 'rational choice,' others become prostitutes as a result of coercion, deception or economic enslavement."<sup>33</sup> Arguably, the most convincing evidence for a displacement of the abolitionist discourse is the fact that she commissioned the GAATW to write a report on trafficking, rather than the CATW.<sup>34</sup>

This shift towards a new perspective on prostitution, while clearly evident, is not occurring at the same speed in all areas of the United Nations dealing with prostitution and trafficking. There is no commitment in the United Nations to an integrated and coordinated prostitution policy.<sup>35</sup> As a result, UN approaches are highly fragmented, with different UN instruments and bodies taking different ideological stances, and even with contradictory positions within the same body or agreement.<sup>36</sup> Some UN organizations, such as UNESCO and the Working Group on Contemporary Forms of Slavery, continue to argue that prostitution itself is a human rights violation.

### **Beyond Voluntary/Forced**

So should sex worker organizations be jumping for joy that the right to self-determination is being recognized, at least implicitly, at international level? Does this mean that the United Nations and other international organizations are now going to start taking sex workers' human rights seriously, instead of cloaking moral condemnation of sex work under paternalistic "save us for our own good" rhetoric? Before we break out the party hats, we should look at how the concept of self-determination and the distinction between free and forced prostitution are interpreted and being translated into policy by NGOs, governments and intergovernmental agencies. Are the same old stereotypes and moral judgements now being expressed as loathing of forced prostitution?

### **Criticisms of the Campaigns**

The distinction between free and forced prostitution has implicitly been recognized by the international community. But international actors and agreements are rarely as vocal about promoting prostitutes rights as they are in condemning forced prostitution. No international agreement condemns the abuse of human rights of sex workers who were not "forced."

I believe that this is the result of two factors. Firstly, though the international community may be agreeing on condemning only forced prostitution as a human rights violation, this does not imply agreement on how to deal with voluntary prostitution; how it is to be defined, if it should be regulated by the state or left to the workers to organize, or even if it exists at all. In fact, it is because there is no agreement about "voluntary" prostitution in the first place that the

consensus on "forced" prostitution has come into being. It can be seen as a compromise: those who, for whatever reason, wish to eliminate all prostitution can at least be satisfied that the "worst" abuses are being dealt with and those who support self-determination are relieved that this right is not threatened.

Secondly, most organizations that acknowledge and support the right to self-determination place much more emphasis on stopping forced prostitution than on sex workers' rights. Partly this is because it is felt that this is more properly the domain of sex worker organizations. Given the fact that sex workers have long demanded the right to speak for themselves, this hesitance is somewhat justified. However, this reluctance to address sex workers' rights can also be attributed to the fact that it is easier to gain support for victims of evil traffickers than for challenging structures that violate sex workers' human rights.

The campaigning efforts of anti-trafficking groups have been instrumental in creating a climate wherein the great majority of sex work, and practically all sex work involving young men and women in developing countries are seen as abuse. Forced prostitution, child prostitution and sex tourism are linked together and made indistinguishable. In the race to produce yet more horrifying stories, and higher numbers, concern for rights loses out to hysteria over victims.

Though most of the criticism of the prostitutes rights' movement has focused on the abolitionist view of sex work, sex workers are now increasingly critical of anti-trafficking campaigners and human rights activists who distinguish between voluntary and forced prostitution, yet who place all their campaigning energy into stopping forced prostitution. They have been criticized for initiating their campaigns without consultation with sex workers and for using the same emotive language as abolitionists thus perpetuating "the stereotype of Asian sex workers as passive and exploited victims."<sup>37</sup> Such victimization, "has grave consequences for all sex workers as it perpetuates the old stereotype that prostitution is bad and should be abolished."<sup>38</sup> Others, such as Alison Murray in her contribution to this book, point out how the dichotomy between voluntary and forced prostitution creates false divisions between sex workers. The "voluntary" prostitute is a Western sex worker, seen as capable of making independent decisions about whether or not to sell sexual services, while the sex worker from a developing country is deemed unable to make this same choice: she is passive, naive, and ready prey for traffickers.<sup>39</sup> Potentially the most frightening division, however, created by the voluntary/forced dichotomy is that of sex workers into guilty/"voluntary" and innocent/"forced" prostitutes, which reinforces the belief that women who transgress sexual norms deserve to be punished. This division is thus a threat to the entire concept of women's human rights.



### Innocent Victims

"In any given year, many thousands of young women and girls . . . are lured . . . into forced prostitution."<sup>40</sup> For the general public and bodies concerned with this issue, forced prostitution is very much a matter of coerced innocence. The picture of the "duped innocent" is a pervasive and tenacious cultural myth.<sup>41</sup> High profile campaigns by NGOs and in the media, with their continued focus on the victim adds yet more potency to the myths. The public is convinced that huge numbers of innocent (read, sexually pure) women and children are being subjected to the perverse whims of degenerate Western men.

In the new discourse of voluntary/forced prostitution, the innocence of the victim determines which side of the dichotomy she will fall under. One of the consequences of thinking about prostitution in terms of choice and force is that it becomes necessary to show that instances of abuse are in fact "forced prostitution." In reports on trafficking, it is often stressed that the women did not "choose" to be prostitutes. Emotive words like "duped", "tricked" or "lured" are used time and time again to show that the women involved did not know what they were letting themselves in for. A good example of the standard scenario runs as follows: "Many women from Russia, Hungary, Poland and other countries in the region are tricked into prostitution in the West, where they had been promised jobs in offices, in restaurants, or as domestic servants. Instead, they find themselves locked up in a brothel, their papers are taken away and their earnings are kept back to repay their 'debts'."<sup>42</sup>

Human Rights Watch, who did a study of Burmese women and girls trafficked into Thailand, conclude that the "combination of debt-bondage and illegal confinement renders the employment of the Burmese women and girls tantamount to forced labor, which is prohibited under international law."<sup>43</sup> However, the researchers found it necessary to state that only four of the twenty-nine women they interviewed knew they were going to be prostitutes.<sup>44</sup> It is hard to see what relevance this has: surely debt bondage and illegal confinement amount to slavery, whether or not there was initial agreement to be work as a prostitute. Still, the innocence of the victim is seen to be of primary importance.

Other reports of "forced prostitution" focus on the aspect of poverty. "Susie is the face of contemporary poverty. That her job as a debt-bonded sex worker is the best economic option available to her is a metaphor for most of the world's women, whose grinding impoverishment in the Third World is accelerating."<sup>45</sup> This "poverty as force" approach has been criticized for its underlying racist and classist implications; even those who would accept "voluntary" prostitution, on the part of well-off Western women, refuse to respect the choice of a woman from a developing country.<sup>46</sup> On the one hand, this shows an underlying rejec-

tion of prostitution as a profession—no “normal” woman would chose the work unless “forced” by poverty. On the other, equating poverty with “force” is, like the focus on deceit, a way of establishing the innocence of “trafficked victims” and thus their eligibility for human rights protection.

A third way “innocence” is established is by focusing on the youth of the “victim” as children are assumed to be sexless and thus beyond “guilt.”<sup>47</sup> Campaign pamphlet titles like “The Rape of the Innocents” and sickening stories of child abuse galvanize public opinion and get donations.<sup>48</sup> Tellingly, the distinctions between child and adult are blurred so as to include as many as possible in the category of unquestionable innocents. According to a United Nations report on trafficking in Burma “With the growth of sex tourism and the commercial sex trade in neighboring countries of the region, child abuse and exploitation has assumed a new form: sexual trafficking of children across international borders . . . the number of Myanmar [Burma] girls working in Thai brothels has been conservatively estimated at between 20,000 to 30,000, with approximately 10,000 new recruits brought in yearly. *The majority are between 12 and 25 years old.*”<sup>49</sup>

**Reality: So What's Going On?**

When subjected to scrutiny, the image of the “trafficking” victim turns out to be a figment of neo-Victorian imaginations. Just as the turn of the century obsession with the “white slave trade” turned out to be based on actual prostitute migration, the Dutch Foundation Against Trafficking in Women (STV) and the GAATW, in their report on trafficking to the UN Special Rapporteur on Violence against Women, conclude that slavery-like conditions in sex work are primarily problems for those already working in the sex trade: thus for prostitutes who migrate.<sup>50</sup> But the campaign juggernaut remains unaffected by fact. From the Arab sheikh’s harem slave to the village girl chained to her bed in the brothels of Bangkok, the image of the defiled innocent has a particular fascination.<sup>51</sup> It is reminiscent of sentiment expressed during a meeting of anti-white slave trade activists at the turn of the century. The women present were exhorted by the speaker to “Remember, ladies . . . ‘it is more important to be aroused than to be accurate. Apathy is more of a crime than exaggeration in dealing with this subject.’”<sup>52</sup>

Parallels between the two movements are easily drawn. As a symbol, the “white slave” personified conservative moral fears of women’s sexuality and economic independence, and of the growing power of the working class, and reflected racist stereotypes. The nineteenth-century sex slave was a white woman, victim of the animal lusts of the dark races. In the modern myth, the racism has changed focus: “passive,” unemancipated women from the developing world are the new sex slaves.

A number of today's campaigns have become a platform for reactionary and paternalistic voices, advocating a rigid sexual morality under the guise of protecting women, and incorporating racist and classist perceptions in their analysis of the sex industry in developing countries. This is particularly the case when campaigners actually succeed in getting governments to do something about "trafficking," for then the focus shifts from women's rights to a hysterical and paranoid reaction to women's increasing sexual autonomy, the "breakdown of the family" and migration. Often, "trafficking" is used by states to initiate and justify restrictive policies.<sup>53</sup> There are still many governments with moral objections to prostitution. At the international level, however, most are politically savvy enough to cloak moral indignation in terms of "victimization of women."

If it is recognized that the majority of those in the sex-industry who end up in debt-bondage or slavery-like conditions were *already* working as sex workers, it is impossible to avoid the conclusion that it is prostitutes whose human rights are being violated on a massive scale. Of course this is unpalatable to the international community: it is one thing to save innocent victims of forced prostitution, quite another to argue that prostitutes deserve rights. It is not only governments who prefer saving innocent women to giving rights to guilty ones. Most feminist discourse on trafficking limits itself to the fight against "forced prostitution," the "voluntary" prostitute is not condemned—she is ignored.

Many governments place the distinction between "guilty" and "innocent" women at the heart of their legislation on prostitution and trafficking. In Germany, the penalty for trafficking is reduced in cases where the victim knew she was going to be a prostitute or when deceit was used on a person who is "not far from being a prostitute."<sup>54</sup> In Columbia, the use of violence to force a person into prostitution is only prohibited in cases where the woman concerned is "of undisputed virtue."<sup>55</sup> Other countries, including Uganda, Canada, Japan, Brazil and El Salvador, have similar provisions.<sup>56</sup> But even in those countries where "the virtue of the woman is not mentioned as an explicit criterion in law," it still "implicitly or explicitly plays a crucial role in the interpretation and enforcement of the law."<sup>57</sup> In the Netherlands, for example, police will refuse to investigate complaints of trafficking by women who continue working as prostitutes. "Supposedly there is no victim: she wanted it all the time, at least, that is what they can conclude from the fact that the woman is willing to work again in prostitution after having filed charges."<sup>58</sup>

Because feminists are undecided about whether or not "voluntary" prostitution exists or how it should be dealt with, their analysis of forced prostitution reinforces rather than challenges stereotypical views of female sexuality. For example, Human Rights Watch Women's Rights Project, in their report on global human rights abuses of women, states that it "takes no position on

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prostitution per se. However, we strongly condemn laws and official policies and practices that fail to distinguish between prostitutes and victims of forced trafficking."<sup>59</sup>

Focusing on forced prostitution provides a way out for those who are unwilling to admit that the issues raised by the prostitutes' rights movement have to be faced. Governments do not have to be challenged about their treatment of voluntary prostitutes, i.e., "While we recognize the right of governments to make and enforce laws that regulate national borders, they must distinguish between those who purposefully violate immigration laws and others who are victims of forced prostitution."<sup>60</sup> The report is not clear about how a prostitute is to be distinguished from a victim of trafficking. In order for a "victim" to be eligible for the protection recommended by Human Rights Watch, she would have to prove her innocence, i.e. that she didn't know she was going to be a prostitute. This bears a frightening resemblance to rape trials, in which a victim's chastity status will determine the severity of the crime.

The peculiarities of viewing sex work through the distorting lens of the voluntary/forced dichotomy cause what are clearly abuses of sex workers' rights to be condemned as examples of forced prostitution. Human Rights Watch reports that women in India who are arrested for prostitution are sent to "protective homes" where "inmates complained of grave mistreatment, including branding with hot irons, rapes, and sexual assaults. Almost all inmates were suffering from malnutrition. Many also had skin diseases and tuberculosis."<sup>61</sup> Yet, in the face of this horrific abuse of sex workers' human rights, the best Human Rights Watch can do is reiterate that "victims of trafficking" should be treated differently from prostitutes. Sex workers who are imprisoned and detained, subjected to cruel and degrading mistreatment, who suffer violence at the hands of the state or by private individuals with the state's support, are disqualified from human rights considerations if their status is "voluntary." This is the voluntary/forced dichotomy taken to its extreme and logical conclusion. Human rights organizations and bodies in the United Nations seem content to let governments trample on the rights of sex workers, as long as the morals of "innocent" women are protected.

### Conclusion

The distinction between "voluntary" and "forced" prostitution has largely replaced the abolitionist model of prostitution in international discourse. This would seem to imply a recognition of the right to self-determination. However, this dichotomy creates divisions between sex workers. The most frightening division created by the voluntary/forced dichotomy is that it repro-

duces the whore/madonna division within the category "prostitute." Thus, the madonna is the "forced prostitute"—the child, the victim of trafficking; she who, by virtue of her victim status, is exonerated from sexual wrong-doing. The "whore" is the voluntary prostitute: because of her transgression, she deserves whatever she gets. The distinction between voluntary and forced prostitution, a radical and resistive attack on previous discourses that constructed all prostitutes as victims and/or deviants, has been co-opted and inverted, and incorporated to reinforce systems that abuse sex workers rights.

The campaign for sex workers' rights began with challenging the myths surrounding prostitution and women's sexuality. Claiming that prostitution could be a choice was a major step. Yet now, as old myths are being given new impetus under the guise of accepting choice, it is time to reconsider the usefulness of "choice" versus "force" as the model of sex workers' experience.

## Notes

1. The Beijing Declaration and Platform for Action, 1995.
2. These acts, passed in 1864, 1866, and 1869, targeted prostitutes in an attempt to control the spread of venereal disease. See Judith Walkowitz, *Prostitution and Victorian Society: Women, Class and the State* (Cambridge: Cambridge University Press, 1982).
3. Nicky Roberts, *Whores in History: Prostitution in Western Society* (London: HarperCollins, 1992) 248.
4. *Ibid.*, p. 252. It is startling how little this "standard story" has changed in the intervening 100 years: accounts very similar to this are reported in today's media.
5. *Ibid.*, p. 252.
6. *Ibid.*, p. 258.
7. See Lenke Fereh, "Forced Prostitution and Traffic in Persons," in Marieke Klap, Yvonne Klerk and Jaqueline Smith, eds., *Combating Traffic in Persons: Proceedings of the Conference on Traffic In Persons* (Utrecht: IMS, Netherlands Institute of Human Rights, 1995) 68.
8. The International Agreement for the Suppression of the White Slave Traffic, Paris (1904), and the International Convention for the Suppression of the White Slave Traffic (1910).
9. The International Convention to Combat the Traffic in Women and Children (1921) and the International Convention for the Suppression of the Traffic in Women of Full Age (1933). Nicky Roberts links the League's concern with the traffick in women with the re-opening, after World War I, of actual international migration networks and routes used by prostitutes (279).
10. Charlotte Bunch, "Transforming Human Rights from a Feminist Perspective," in Julie Peters and Andrea Wolper, eds., *Women's Rights as Human Rights—International Feminist Perspectives* (London: Routledge, 1996) 15.
11. Shannon Bell, *Reading, Writing and Rewriting the Prostitute Body* (Bloomington: Indiana University Press, 1994) 73.
12. Developed as a replacement for the United Nations 1949 Convention For the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others by The Coalition

- Against Trafficking in Women (CATW). (Draft) Convention on the Elimination of All Forms of Sexual Exploitation of Women, 1993 Art. 2(b).
13. CATW: (Draft) Convention on the Elimination of All Forms of Sexual Exploitation of Women, 1993 Art. 1.
  14. Ibid.
  15. For a history of the development of sex worker politics to 1986, see Gail Pheterson, ed., *A Vindication of the Rights of Whores* (Washington: The Seal Press, 1989) 3-30.
  16. International Committee for Prostitutes Rights, printed in Pheterson, 1989, 40-42.
  17. GAATW/STV, "A Proposal to Replace the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others," Utrecht, 1994, par II.2 and. par III.1, emphasis added.
  18. Ibid., par.III.1.
  19. This was also the time when the international movement for sex workers' rights reached its peak of organization, with two international conferences held in 1985 and 1986. For documentation of these conferences, see Gail Pheterson, ed., *A Vindication of the Rights of Whores* (Washington: Seal Press, 1989).
  20. See Laura Reanda, "Prostitution as a Human Rights Question, Problems and Prospects of United Nations Action," *Human Rights Quarterly* 13 (1991) 209-211, and UNESCO/CATW, "The Penn State Report," 1-2. Pennsylvania, 1992.
  21. Reanda, 1991, p. 202, emphasis added.
  22. "The Traffic in Persons Report" of the Advisory Committee on Human Rights and Foreign Policy, (The Hague 1992) 16.
  23. Jean Fitzpatrick, "Using International Human Rights Norms to Combat Violence Against Women," in Rebecca J. Cook ed., *Human Rights of Women: National and International Perspectives* (Philadelphia: University of Pennsylvania Press, 1994), p. 552. See also Yvonne Klerk, "Definition of Traffic in Persons," in Klap et al., and Alice M. Miller, "United Nations and Related International Action in the Area of Migration and Traffic in Women," in the *Report of the International Workshop on International Migration and Traffic in Women* (Chiangmai: The Foundation for Women, 1994) 13.
  24. The WGS was established in 1974 by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the UN Human Rights Commission.
  25. See Lars Adam Rehof, *Guide to the Travaux Preparatoire of the United Nations Convention on the Elimination of all Forms of Discrimination Against Women* (Dordrecht: Martinus Nijhoff/ Kluwer, 1993) 91.
  26. This conclusion is supported by R. Haverman and J. C. Hes in "Vrouwenhandel en Exploitatie van Prostitutie," A.W. Heringa et al., eds., *Het Vrouwenverdrag: Een beeld van een Verdrag* (Antwerpen and Amersfoort: MAKLU, 1994).
  27. Declaration of Mexico on the Equality of Women, UN 1975, par. 28-34.
  28. Declaration of Mexico on the Equality of Women, UN 1975, Art. 2.
  29. Fitzpatrick, 1994, p. 552.
  30. Maria Hartle, "Traffic in Women as a Form of Violence Against Women," in Klap et al., eds., *Combating Traffic in Persons: Proceedings of the Conference on Traffic in Persons* (Utrecht: IMS, Netherlands Institute of Human Rights, 1995).

31. The Vienna Declaration and Program of Action, par.38.
32. Draft Platform For Action (A/CONF.177 .1, 24 May 1995) notably paragraphs 122, 131d, 225; and the Beijing Declaration and Platform for Action, Paragraphs 123, 131 d, 224.
33. UN EICN 411995142.
34. Marjan Wijers and Lin Lap-Chew, *Trafficking in Women. Forced Labor and Slavery-like Practices in Marriage. Domestic Labor and Prostitution* (Utrecht: The Foundation against Trafficking in Women and the Global Alliance Against Trafficking in Women, 1996), 198.
35. Miller, 1991, p. 1.
36. The above instruments are not all inherently consistent in that several call upon states to ratify the abolitionist Trafficking Convention. However, in calling for the elimination of only "forced prostitution and trafficking" rather than prostitution itself, an implicit recognition of the right to self-determination is evident.
37. See "A Joint Statement of Policy," by the Prostitutes' Rights Organization for Sex Workers; the Sex Workers Outreach Project; Workers in Sex Employment in the ACT; Self-help for Queensland Workers in the Sex Industry; The Support, Information, Education, Referral Association of Western Australia; The South Australian Sex Industry Network; The Prostitutes Association of South Australia; The Prostitute Association Northern Territory for Health, Education, Referrals; Cybelle, Sex Worker Organization Tasmania; Sydney Sexual Health Center, Sydney Hospital; The Queer and Esoteric Workers Union and representatives of Asian sex working communities in New South Wales (1996) 3.
38. *Ibid.*, 3.
39. See also Jo Doezema, "Choice in Prostitution," in *Changing Faces of Prostitution* (Helsinki: Unioni-The League of Finnish Feminists, 1995).
40. *The Human Rights Watch Global Report on Women's Human Rights* (New York: Human Rights Watch, 1995) 196.
41. Roberts, p. 253.
42. Tasha David, *Worlds Apart, Women and the Global Economy* (Brussels: International Confederation of Free Trade Unions, 1996) 43.
43. *Human Rights Watch*, 1995, p. 213.
44. *Ibid.*, p. 210.
45. Angela Matheson, "Trafficking in Asian Sex Workers," *Green Left Weekly* (26 October 1994) 1.
46. See J. Doezema, "Sex Worker Delegation to the Beijing Conference," in Network of Sex Works Projects internal communication, Amsterdam, March 1995, and Alison Murray's contribution to this book. Abject poverty is not usually the primary reason for women to chose sex work or to migrate as a sex worker. Apart from the obvious fact that not all poor women chose to become prostitutes, research shows that there are other important considerations motivating someone's choice to do sex work. See, in this book, Kamala Kempadoo's chapter on the Dutch Caribbean and the research from COIN in the Dominican Republic.
47. In her contribution to this book, Heather Montgomery challenges some of the myths surrounding "child prostitution." See also Maggie Black, "Home Truths," *New Internationalist* (February 1994), 11-13, and Alison Murray, forthcoming, "On Bondage, Peers and Queers: Sexual Subcultures, Sex Workers and AIDS Discourses in the Asia-Pacific."

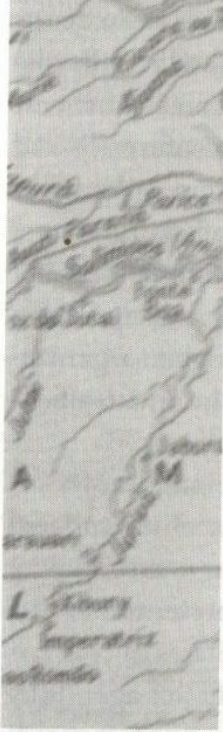
48. For example, see Ron O'Grady, *The Rape of the Innocent, End Child Prostitution in Asian Tourism* (Bangkok: ECPAT, 1994).
49. *Children and Women in Myanmar: A Situation Analysis* (UNICEF 1995) 38, emphasis added.
50. Marjan Wijers and Lin Lap-Chew, *Trafficking in Women. Forced Labor and Slavery-like Practices in Marriage. Domestic Labor and Prostitution*, (Utrecht: The Foundation against Trafficking in Women and the Global Alliance Against Trafficking in Women, 1996), 198.
51. This fascination has an erotic element: at an 1885 demonstration in London in the wake of a sensational article about the white slave trade "street vendors shifted record numbers of the pornographic magazine *The Devil*." See Roberts, 1992.
52. Roberts, 1992, p. 264.
53. Wijers and Lap-Chew, p. 111-152.
54. *Ibid.*, p. 126.
55. *Ibid.*, p. 128.
56. *Ibid.*, p. 126-130.
57. *Ibid.*, p. 153.
58. Marga de Boer, *Traffic in Women: Policy in Focus* (Utrecht: Willem Pompe Institute for Criminal Law, 1994) 29.
59. *Human Rights Watch*, 1995, p. 198.
60. *Ibid.*, p. 200.
61. *Ibid.*, p. 253.



## Debt-Bondage and Trafficking

### Don't Believe the Hype

*Alison Murray*



The anti-trafficking lobby built up through the early 1990s to a peak at the UN Conference on Women/NGO Forum held in Beijing during September 1995, yet trafficking is an aspect of the mythology surrounding Asian sex workers which remains poorly defined even in conventions and laws against the trafficking of women (David 1995). One of the goals of the anti-trafficking lobby at the UN conference was a new UN Convention to replace the 1949 Convention on the Suppression of Trafficking in Persons and the Exploitation of the Prostitution of Others, in which Article 1 condemns anyone who "procures" or "exploits" a prostitute, "even with the consent of that person." There was relatively little attention paid to "trafficking" after the 1949 convention, until the late 1980s surge of concern about "sex tourism." In April 1993 a conference was organized by the Coalition Against Trafficking of Women (CATW) "to heighten awareness of the sex trade and to stem the sale of humans into bondage" (*Asia Watch* 1993,149). The latest intense phase of publicity began with two conferences on trafficking held at the end of 1994: The First International Conference on the Trafficking of Women in Chiang