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Trafficking and Women's Rights: Beyond the Sex Industry to 'Other Industries'¹

Christien van den Anker

In this article I put forward three lines of argument. Firstly, the current debate on trafficking in human beings focuses narrowly on exploitation in the sex industry. This has produced a stand-off between moralists and liberals which is detrimental to developing strategies to combat trafficking. Moreover, this narrow focus leads to missing out the large numbers of women who are trafficked into other industries. It also masks some of the root causes of trafficking. In this article I therefore compare the practice of trafficking for prostitution with forced labour in other industries in order to show that the sole focus on trafficking for prostitution is detrimental to the efforts to combat trafficking. This analysis is based on recent research and reports on its methodology as well as its outcomes. Secondly, I relate these findings in the article to the agenda for the women's rights debate. The women's rights literature has looked separately at the sex industry and labour migration. In the light of our research outcomes, it makes sense to have a much more intimate exchange between these areas, in order to discern the central role of root causes like globalization, patriarchy and other forms of discrimination. Thirdly, whereas a dichotomy between universalism and particularism has produced its own trenches in this field, I propose a balanced approach which addresses all forms of violence against women, including the central area of exploitation of migrant women in any sector or domestic context.

Introduction

Research on women's rights in Europe has shown that one of the important violations of women's rights at present is the practice of trafficking in women.² In recent years the debate on trafficking has focused nearly exclusively on the sex industry and a lot of energy was taken up by the debate on prostitution (Wylie 2006). However, international law recognises that trafficking covers all forms of labour exploitation, not just sexual exploitation (van Elmeest & Smit 2006). Still, law enforcement agencies within the European Union (EU) (and elsewhere) rarely recognise persons trafficked for industries other than sex work.

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The International Labour Organization (ILO) illustrates that trafficking for labour exploitation is a widespread phenomenon (ILO 2005). At present, there is also increasing evidence of trafficking into other sectors than the sex industry based on anecdotal evidence, journalism and police reports.³ Cases of trafficking and labour exploitation have been identified in domestic work, agriculture, construction, entertainment, sports, the garment industry and care work in EU member states and in the accession countries.

The experience of exploited migrant workers is gendered in several ways. The division of genders over industries and types of job leaves women exposed to gender-based violence. Men also experience gender-specific forms of violence and exploitation in the industries they are recruited into. Moreover, whole categories of men are feminised and experience similar degrading treatment and violence to women. These are important areas for future research. Here, our focus is on women's rights and the way in which trafficking for forced labour violates those rights.

Gender discrimination is also a factor in the lack of opportunities to earn an income that will provide for a family, which leads to women now more often migrating for work than for family unification. Gender-based discrimination increases the vulnerability that leads women who want to work abroad into the realm of agencies that demand high fees, make false promises on the nature of the work and fiddle with documentation so that women are at risk of being deported, which leaves them dependent on their employers.

Although to date most work on trafficking has been done in relation to the sex industry, the exploitation of female migrant workers in other industries has been reported and analysed in other contexts (Chowdhry & Nair Power 2004). Women's rights debates have focused separately on the one hand on trafficking for prostitution and violence against women (Agathangelou 2004), and on the other hand on examples of women in exploited labour conditions in other industries (Rai 2002). Here I argue that trafficking in other industries than the sex industry is an important area for the field of women's rights to analyse in conjunction with other trafficking research. The gendered factors that affect the current trends in trafficking for forced labour and slavery-like practices are very similar to those creating the context for women trafficked into prostitution and other parts of the sex industry. Equally, we need to move beyond the stereotypes in the trafficking debate of the typical case of sexually exploited young women in order to view their situation in the wider perspective of women's rights in an age of increasing global inequality and higher barriers to legal migration strategies. Without connecting up the research on trafficking for prostitution with the studies on trafficking for forced labour in other industries, we will miss out some of the structural characteristics and root causes that the two practices have in common which will make the resistance to these forms of violence against women, men and children harder.

In this article I therefore make the link between these two areas of trafficking research. I draw on the results of the NEWR project as well as on the recent two-year research project carried out with Anti-Slavery International and local non-governmental organisations (NGOs) in Portugal, the Czech Republic and Ireland. The Network for European Women's Rights (NEWR) did not include primary research but distilled trends across Europe through the networking of academics, policy-makers

and civil society activists. The qualitative methodology in the research project included questionnaires (100) and interviews with at least five professionals as well as at least 15 migrant workers in each country, some of whom had been trafficked according to current definitions.⁴ In addition, in the United Kingdom, 300 cases collected by the Citizens' Advice Bureau were analysed. Use of this methodology prevented the repetition of stories by 'key informants' or the perpetuation of common myths.

The argument here runs through the following stages. I first show the policy context for trafficking for forced labour and critically analyse the relevant definitions; I then analyse the specific circumstances for women, comparing trafficking into the sex industry with trafficking for forced labour in other industries. Following that, I draw out the implications of these differences for women's rights. I then conclude that from the perspective of women's rights, trafficking into other industries than the sex industry shows that the structural factors of women's subordination are common to both types of trafficking. By moving away from a sole focus on the sex industry, the distracting stand-off on the morality of prostitution can be overcome and a more unified stance for the rights of all women can be taken.

In conclusion, I argue that both trafficking for the sex industry and trafficking into other industries and service sectors need to be addressed by the debate on women's rights. A balance between universalism and contextualism familiar from some recent feminist discourse needs to be extended to this area of work. This means that migrant women should be an important part of the women's rights agenda.

Policy Context and Definition

A focus on trafficking for labour exploitation is strongly emphasised in the European Commission's 2001 strategy paper, which refers specifically to 'labour exploitation in conditions akin to slavery' (European Commission, Justice and Home Affairs 2001, information sheet 1). The EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings obliged all EU member states to harmonise their domestic criminal legislation on trafficking by 2004, including the adoption of the common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. However, implementation of this directive is patchy. For example, Portugal has not yet transposed the directive and therefore has no specific legal framework concerning trafficking for forced labour, and the provisions to penalise trafficking for sexual exploitation have many difficulties in implementation (Amaral 2006). In Ireland, the *Illegal Immigrants (Trafficking Act)* of 2000 actually deals with smuggling. Additional legislation in relation to trafficking is 'in the late stages of drafting', according to a spokesperson from the Department of Justice, Equality and Law Reform (Coghlan 2006). The Czech Republic has legal provisions against trafficking for forced labour, yet the duty of securing its implementation is not designated to any institution. The Czech Republic also has not yet adopted all relevant ILO conventions, which leaves migrants vulnerable (Burcikova 2006). In the United Kingdom, 'trafficking for sexual exploitation' was included in the *Sexual Offences Act* (2003) and trafficking for all forms of

labour exploitation is included in the Asylum and Immigration Act (2004). In addition there is the Gangmaster's Licensing Act (2006) designed to regulate the supply of labour by gangmasters (Skrivankova 2006). The process of amending legislation obviously will take some time. Yet, some countries are examples of good practice, like the Netherlands and Belgium. The Dutch example of a National Rapporteur on Trafficking in Human Beings as well as the Belgian emphasis on victim support and sustained systems for coordination between stakeholders in the law enforcement stand out in Europe.⁵ Still, the haphazard provisions on trafficking for forced labour in many other European countries perpetuate the incidental prosecution of traffickers and therefore the vulnerability of migrants to their practices. Cross-border collaboration in enforcement is made even more difficult due to these varieties in the different jurisdictions.

A further complication in the fight against all forms of trafficking in human beings is the broad spectrum of provisions and the dilemma of treating survivors of trafficking as victims of human rights violations or as illegal migrants. Let us have a look at the provisions for combating trafficking for forced labour first. The leading definitional framework for research into trafficking is marked by UN legal instruments on trafficking and slavery and the ILO conventions on forced labour. Trafficking in persons is defined in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing the UN Convention against Transnational Organised Crime of 2000:

Trafficking shall mean 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

This definition is hailed by some for providing the first international consensus on a definition (Ould 2004, pp. 55–74). Others have expressed criticism of the way in which the definition combines separate elements into one, which makes it difficult to 'operationalise in a uniform way, since different individuals may make different decisions as to which particular actions and outcomes, and in which particular combination, should be included under its umbrella' (O'Connell Davidson & Anderson 2006, pp. 11–26). The NEWR project provided a platform for further discussion on definitions as summarised by van Liempt (van Liempt 2006).

Since May 2005 the Council of Europe Convention on Action against Trafficking in Human Beings has provided a new framework for combating trafficking.⁶ This Convention has the most cutting-edge provisions to protect migrant workers' rights. It builds on the impressive array of international standard setting in the area of human rights, the rights of migrant workers and labour rights. It provides a new standard for countries to work towards and is the only international law that provides trafficked people with guaranteed minimum standards of protection. These include at least thirty days to remain in the country to receive support, including emergency

medical assistance, safe housing and legal advice. Through the adoption of the Convention, the Council of Europe has demonstrated official recognition of the need for governments to provide protection and support to all trafficked people independent of the industry they work in. However, the ten ratifications needed for its entry into force have not yet materialised. Signatories include Germany, France, Belgium, Italy, the Netherlands and Portugal, yet only Romania and Moldova have ratified.

The definition and regime of forced labour are covered by ILO Conventions 29⁷ and 105.⁸ The term ‘forced or compulsory labour’, according to Convention 29, shall mean ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’ (Article 1[1]).

In practice, however, it is difficult to find cases that fit into these definitions perfectly. Although the constitutive elements of trafficking and forced labour can be distinguished, they may overlap or vary at different stages of exploitation. In addition, the lack of definitions for coercion and exploitation in international documents makes it difficult to draw a distinctive line between severe exploitation, forced labour and trafficking. The most challenging question is how exploitative the labour relationship has to be, how severe the labour conditions have to be, and how deceived a worker has to be in order to be considered a victim of trafficking and/or forced labour.

The element of coercion can still be a useful indicator of forced labour. Weissbrodt suggests, referring to the *travaux préparatoires* of the Palermo Protocol, that coercion exists in ‘any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved’ (Weissbrodt & Anti-Slavery International 2002). This is a crucial aspect determining the situation of the trafficked person and complicating the task of identification. Evidence from our interviews shows that very often trafficked people themselves do not see or believe that they have any other option but to do what is demanded from them. It is necessary to assess their situation of vulnerability in order to see whether they are coerced against their will (van den Anker 2006).

The ILO suggests six indicators of forced labour:⁹

- i. Threats or actual physical harm to the worker.
- ii. Restriction of movement and confinement, to the workplace or to a limited area.
- iii. Debt bondage: where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt.
- iv. Withholding of wages or excessive wage reductions, that violate previously made agreements.
- v. Retention of passports and identity documents, so that the worker cannot leave, or prove his/her identity and status.
- vi. Threat of denunciation to the authorities, where the worker has an irregular immigration status.

Based on these indicators, our recent research found that cases of trafficking for forced labour could be identified in the UK, Ireland, Portugal and the Czech Republic. We have no reason to believe that these countries are exceptions in Europe.

Let us now look at the complicating factor of migration in combating trafficking in human beings. When researching trafficking for forced labour, it is crucial to examine the relation and connections between migration and trafficking. Evidence shows that migrant workers are at greater risk of being trafficked (van den Anker 2006). When deceived and coerced to submit to different work or different working conditions than previously agreed in the place of destination, they are trafficked. There is a debate about the advantages and disadvantages of including exploited migrant workers into the trafficking framework. Yet, due to the restrictive and complex migration regulation in the European Union, migrant workers are increasingly vulnerable to trafficking. Recognising that migrants make decisions at many stages of the process, these are constrained by the options available to them.¹⁰ Therefore, the combination of instruments on the protection of trafficked persons and instruments on the protection of migrant workers¹¹ should be explored as a possibility to comprehensively address the issue of the ‘migration-trafficking nexus’ (Kaye 2003). After all, many migrant workers who became trafficked may benefit from the measures contained in the Protocol and Council of Europe Convention. None of these instruments by themselves can be regarded as optimal in offering an ultimate solution. As we shall see next, the identification of and assistance to survivors of trafficking is complicated by the focus of law enforcement on illegal migration rather than on looking for human rights violations.

Differences and Similarities between Trafficking for the Sex Industry and for ‘Other Industries’

In the wider debates on trafficking and on smuggling, respondents in research rarely identify with the categories researchers use to label their experiences. Van Liempt and Doomernik (2006) explain that in the case of smuggling, the migrant often views the smuggler as someone who helped them. In Anti-Slavery’s recent research, respondents (both professionals and migrant workers) understood trafficking to be mainly for the purpose of sexual exploitation. Even when they clearly described a situation of a person trafficked for forced labour other than in the sex industry they did not identify the case as trafficking. The two main reasons for this confusion are that the persons involved arrived legally or voluntarily to the country of destination and that somewhere along the line they agreed to do the job. These common confusions lead to trafficked persons not being identified as such. Yet, the ILO and the EU Experts Group on Trafficking in Human Beings propose that the main focus in identifying trafficking needs to be on the situation of exploitation—that is, on the forced labour element. Thus, the question of how the person has arrived at the situation, the migration (movement), is considered at a later stage. Consent is considered by all applicable international law as irrelevant when coercion or deception is present. In order to overcome the lack of (self-)identification of victims of trafficking in other industries, I will compare the insights we have from research on trafficking for prostitution with those about the different industries.

First I look at which other industries were found to contain evidence of trafficking. I then list which nationalities and genders are overrepresented in specific industries.

Following that, I look at recruitment methods in the two different realms of trafficking. Then I explore the gap between work offered and the actual conditions of work, after which I discuss the possibilities of exiting the situation and, finally, the plans that victims of trafficking have for the future.

Industries/Sectors where Forced Labour Occurs

The list of industries and sectors indicated by respondents in all four countries researched by Anti-Slavery¹² as those where exploitation and trafficking for forced labour occur is long. In congruence with the ILO (2005) findings, agriculture and construction are the two sectors most prone to forced labour. Apart from agriculture (and connected relevant industries, such as food processing, packaging and shellfish gathering) and construction, cleaning and domestic work were pointed out frequently. Other sectors mentioned a lot were care (including nursing), the restaurant trade and hospitality. Work in car washing, security, heavy manual labour in harbours, collecting of shopping carts in parking lots in front of supermarkets and selling CDs, DVDs and other items on the streets were also mentioned in several cases. Anecdotally, cases of forced labour in bakeries, laundry services, nail parlours and motorway services were spoken about.

Exploitation and forced labour are most often found in industries depending on casual and temporary labour and low-wage sectors where subcontracting is a common practice and long, often hard-to-track supply chains operate. Labour shortage and a very competitive and demanding market play a role in creating this situation. The use of sub-contracted labour and services is also very common in the public sector. Several of the respondents expressed concerns about cases of possibly forced labour, where exploited construction workers were working on projects sub-contracted by the public sector. Similarly, in one UK case, payments were made from the National Health Service to an agency that supplied carers and exploited them (Anderson & Rogaly 2004). Anecdotal information was also given about cleaners and agency workers providing catering services (Skrivankova 2006).

In several cases people had been trafficked for illicit activities such as shoplifting, pick-pocketing or financial fraud. For example:

A group of women from one of the Baltic States were repeatedly recorded on CCTV shoplifting in supermarkets in the South of England. The recordings showed a man that seemed to have been supervising the group. The police have raided the flat where the women stayed. They were all sleeping in one room, some of them on the floor and the flat was of a sub-standard quality. It did not show any signs of profits made from shoplifting, nor were any of the stolen goods found in the premises. The women unanimously denied to have known the man that appeared to be the supervisor and gave the impression of being very anxious, afraid and intimidated. In an informal talk with a translator, they seemed to have been ashamed for what they have been doing and said that they came here to work and the work they were promised was not available when they arrived. (Skrivankova 2006, p. 18)

However, these women were not registered as victims of trafficking, although the external indicators would suggest circumstances that correspond to trafficking situations.

These examples illustrate that trafficking in women does not only happen in the sex industry but runs through many industries and service sectors. We'll see that in the division over sectors and in the forms of coercion there are clearly gendered components. Gender discrimination is also one of the main root causes for women's search for migration options. The process of decision-making within families and households is also affected by women's inequality.

Nationalities and Gender per Industry

Evidence from our research shows that certain industries seem to be predominantly occupied by some nationalities and genders, whereas in others people from all backgrounds can be found.

The nationality of a worker usually also determines his/her immigration status and possibilities for working resulting from it. The majority of the workers interviewed entered the destination country legally. Some of them were entitled to work, while others had a legal immigration status, but were not entitled to work. There is a great variety of combinations of immigration status and work entitlement. The status generally changes during the course of their story, often as a result of coercion (such as retention of documents). In many cases, even EU nationals are made to believe that they are in breach of immigration law, which leads to vulnerability to exploitation for fear of being exposed to the authorities.

As becomes clear from Figure 1, work in the sectors of domestic work, care, nursing and professional cleaning is done almost exclusively by women. Work in the construction industry is done almost exclusively by men, although there is evidence of women doing clearing up on building sites. In the six other industries both men and women are active, yet the division of labour is often gendered.

Situations in which migrant women are specifically vulnerable to exploitation include the sector of domestic work, as their papers are often in the possession of their employers and there are cases where their residency status is dependent upon their spouse. One woman from Cape Verde in Portugal was threatened by her abusive partner that he would expose her to the authorities if she did not do as he said. As they were not married and her tourist visa had expired, she did not have residency status (Amaral 2006). She was forced to do all the housework and childcare, and this case shows the role of patriarchy in that it raises the issue of unpaid housework and whether it can be seen as forced labour. Anderson's analysis of the concept of paid domestic work could be useful in this respect (Anderson 2004, pp. 107–118).

Means of Coercion and Force

Migrant workers are kept in exploitative situations that amount to forced labour through the use of coercion. Various methods are utilised to keep them exploited or to make them submit to exploitation. There are similarities and differences with regard to cases of trafficking for forced labour in other industries and trafficking for sexual exploitation. During recruitment, deception is used in both types of trafficking.

Industry	Sector	Region/Countries of Origin	Gender
Agriculture	Mushroom farms	Central and Eastern Europe	F/M
	Fruit and vegetable picking	Central and Eastern Europe	
Food processing and packaging	Meat processing/ packaging	Central and Eastern Europe	F/M
Other food industries	Bakery	Central and Eastern Europe	F/M
	Shellfish gathering	Asia	
Construction		Central and Eastern Europe	M
Services	Restaurants	Central and Eastern Europe, Asia, Africa	F/M
	Hotels	Central and Eastern Europe, Asia	F/M
	Cleaning	Central and Eastern Europe, South America, Africa	F
Nursing and care	Care workers	Central and Eastern Europe	F
	Nurses	Central and Eastern Europe, Asia, Africa	
Domestic work		Asia	F
Illicit activities	Shoplifting	Central and Eastern Europe	F/M
	Pick-pocketing		
	Financial fraud		
	Sale of pirate CDs/DVDs		
		Asia	

Figure 1 Nationality and Gender in Specific Industries (Skrivankova 2006).

Contrary to trafficking for sexual exploitation, physical violence and constraint are usually not applied in the first instance and incidence of actual physical violence is rather rare in trafficking into other sectors. The research and information available has documented the fact that ways of coercion outside sexual exploitation are more subtle, using in particular methods of manipulation, psychological pressure and threats. These are used to make people work in an exploitative situation that is often combined with debt bondage and tied accommodation. As a result of this, people find themselves in a vicious circle of multiple dependency that does not leave them any other realistic option but to submit further to those conditions, or even worse, to accept conditions/work that amount to slavery. Structural factors, long sub-contracting chains, labour intensive, non-unionised sectors, casual arrangements and indebtedness to employers who are involved in recruiting and imposing labour play major roles in exploitative employment relationships (Institute of Employment Rights 2005, p. 57).

The types of threats and violence used to coerce workers are different for women and men. For example, women are threatened with having to work in the sex industry whereas men and women are both threatened more often with violence or deportation. In the Czech Republic, several Vietnamese women were actually forced to work in the sex industry as well as in other sectors, and several others were found to have worked in the sex industry during some part of their migration story (Burcikova 2006). These cases underline the need for research into trafficking for forced labour and exploitation in all sectors and not only into sex trafficking.

The 'top three' means of coercion found were withholding/retention of identification documents, debt bondage and threats. Some workers in other industries than the sex industry have their passports taken away immediately after arrival to the UK, often for alleged security reasons or to arrange allegedly necessary formalities. Others have lost their documents through more sophisticated methods applied by the agents, gangmasters or employer. Often, respondents in the UK were told it was connected to arrangement of formalities, such as National Insurance number, visa extension or workers' registration.¹³ In those cases, the identity documents were handed over by the workers who wanted to comply with the requirements, but they were deceived when the agent, gangmaster or employer failed to arrange these and rather kept the documents with them, thus making some of the workers illegal in the country and deepening their dependence on that particular person and employment. In some cases the documents might be replaced by false ones, making the worker liable for prosecution when discovered by the authorities. Women, working more often in domestic work, are also more likely to obtain a visa that is tied to one employer, which creates vulnerability to abuse as looking for another job may result in the termination of their visa. Work in the sex industry is also particularly vulnerable to exploitation, due to its often illicit nature (Hopkins 2005). Trafficking into the sex industry regularly involves confiscation of documents or the provision of false documentation. These practices increase the vulnerability of the women to their traffickers. The common argument that migrants make choices, too, masks the elements of deception and force that are characteristic of trafficking cases.

In cases of trafficking in other industries than the sex industry, debt bondage is another common means of coercion. The debt can either be incurred for travel expenses or added to through the provision of food and accommodation at such inflated prices that the worker cannot escape debt. The interest rates on such loans are often excessive. If the worker's wage is withheld or lower than agreed, s/he will be in the same bonded situation, fearing to leave the exploitative employment, hoping the money will be paid in the end or to achieve a wage increase. In some cases prostitution is opted for in order to pay off a debt more quickly (Burcikova 2006).

In the sex industry debt bondage is very common and is often used in conjunction with sexual violence, threats and withholding of documents. Threats are also a very effective means of coercion in other industries. They range from threats of violence, threats of denunciation to the authorities (for illegal stay, failing to register, and so on), to intimidation by placing punishments for complaints about working conditions, pay or for demanding access to their rights. Sexual harassment, abuse and threats of sexual violence are means of coercion specifically used in the case of women. In several cases women were threatened that they would be sold to pimps for forced prostitution to make them accept exploitative working conditions or different work (Skrivankova 2006).

Non-payment of wages, accommodation tied to employment and, resulting from that, threats of eviction in case of complaints, and isolation both in terms of restriction of freedom of movement and by preventing social contacts (e.g. by keeping workers 'behind their language barrier') are examples of other forms of coercion and the exercise of power over workers in forced labour situations as a result of trafficking. In the UK, several Polish workers reported that once they started to pick up a bit of English and tried to learn the language, they were immediately sacked. One of the reported practices of labour agencies is that they hire a group of workers only if not more than one is competent in English and could serve as a communication point. The reason given for that is that workers who do not speak the language are easily manageable, they do not ask questions, do not complain and simply do what they are told (Skrivankova 2006).

In conclusion, the means of coercion used in the sex industry and in other industries are very similar. The frequency of use is different and the specific threats used towards women workers include the threat of prostitution and actual or threatened sexual violence. Sexual violence occurs frequently in forcing women into the sex industry. Further research would be needed to explore to what extent it happens in other industries, too. So far, we know that domestic workers and women exploited within families or households report persistent sexual abuse.

Promised Work versus Actual Working and Living Conditions

Recruitment plays a significant role in the determination of conditions at the workplace and the living conditions of the migrant workers. In trafficking both for sexual exploitation and for other industries, there are formal ways (via an agency,

agency-related intermediary or gangmaster) and informal ways of recruiting (via family members, friends, acquaintances or community members). Recruitment is carried out both in countries of origin and in the country of destination. This feature is different from trafficking for sexual exploitation, where recruitment usually takes place in the country of origin (Skrivankova 2006). Hopkins describes how a young Albanian girl was abducted when her father refused to let her get married to a young man who appeared at the door one day. She was forced to have sex for money in Greece. She also describes local ‘uncles’ selling Bulgarian Roma girls in Western Europe (Hopkins 2005).

In some cases in our research into other industries we would see the ‘classical trafficking scenario’: the trafficked person receives an initial promise of work, but the reality turns out to be completely different in either eventual working conditions and/or country of destination and the person has little choice other than to accept. In other cases reported to us, the exploitation was gradual and the working conditions deteriorated in stages, making the worker believe that exploitation was just a temporary change.

The reality of experienced work and working conditions for respondents differed significantly from what had been promised by the recruiter, agent, intermediary or gangmaster. *A woman, qualified nurse, who was promised work in a care home, was made to work at a farm, picking vegetables* (Skrivankova 2006, p. 24). Apart from having to accept a different type of work, people experience various other forms of exploitation. The most common areas in which the exploitation occurs are connected to a) hours and pay and b) health and safety. While working hours exceeding the limits given by the law do not have to be a sign of exploitation per se, in cases of trafficked workers, the hours can be absolutely excessive.

One of the interviewed domestic workers had to work 7 days a week, from 6 in the morning until all the family members went to bed (sometimes well after midnight). In two years, she was not allowed to take a single day off and was expected to be available virtually 24 hours.

Several of the carers had to work 95–97 hours per week, even 4–5 nights in a week without being entitled days off. They were contracted by an agency to provide care in the homes of the clients and often had to travel an hour between different clients. The travel time was not considered work time, was neither included in the hours counting or in the pay, although the clients were paying for the travel time of the carers to the agency. (Skrivankova 2006, p. 24)

Compared to sex work, this is quite a different situation. On the one hand, trafficked sex workers mostly do not have any access to their earnings; on the other hand, in the later stages of someone’s migratory trajectory, sex work may be chosen for its high levels of income, even though part of the earning may still go to ‘boyfriends’. In the case of the young Albanian woman described by Hopkins, after her eventual deportation back to Albania having been trafficked for sex work in Italy, Germany, Belgium and the Netherlands, she decided to leave her job (arranged for her by the International Organisation for Migration) and to take up sex work once more. In this

way, she earned money to assist her family in a small village in the mountains in Northern Albania who looked after her small son (Hopkins 2005).

Control is exercised frequently not only over workers' movement and workplace, but also over the private sphere through, for example, the provision of accommodation. Physical control, such as confinement to the house of the employer in the case of domestic workers, some care workers and hotel workers, leaves them completely isolated from the outside world. These are the sectors that many women find themselves working in.

A feature that keeps recurring is the gradual worsening of the conditions as a function of the immigration status of a worker. In the case of prostitution, the circumstances do not generally deteriorate in the same way. Due to the psychological submission that is necessary to do the work to begin with, force may be used initially and the level of violence decreases over time, according to the women interviewed extensively by Hopkins (2005). In contrast, the first occurrences of violence are often the most cruel, as women are repeatedly raped by several men who take part in their trafficking. Sometimes women are even promoted to positions of power over other women, as money collectors, recruitment agents or, as is known in the Nigerian communities, to pimps and traffickers themselves.

In conclusion, the conditions of work promised and actually realised differ a great deal in both trafficking cases in the sex industry and trafficking in other industries. However, in the cases reported to us these circumstances were often taken as part of the migration trajectory in the hope that circumstances would improve. On the contrary, in other industries than the sex industry conditions often deteriorate. Whereas workers may arrive in the country of destination legally, during their stay their visa may run out and their traffickers may exploit them increasingly as a result. In the sex industry, the worst exploitation is often reported at the start of the process.

Possibilities of Exit from the Situation of Exploitation

Four main factors determine the difficulty of exit from a situation of exploitation for people trafficked for all forms of forced labour. Although they are formally free, the means of coercion described earlier all contribute to this situation. The isolation, the lack of awareness of rights relating to residency and working permits, the debt bondage, multiple dependency on employers, threats of violence and denunciation to the authorities and the need for means of survival for oneself or family all lead to vulnerability and acceptance of abusive situations.

There is a wide range of actors that are in contact with migrant workers, either those who execute their power in various aspects of workplace inspection or others, such as those from social services. It became clear from our interviews and questionnaires that these professionals do encounter situations they find appalling, but often do not know what to do in such situations, because they do not necessarily fall into the area of their responsibility.

An employee of social services that informed workers in a factory about national insurance numbers has seen that the supervisor had many passports locked in a

drawer of his desk. He explained it as a safety precaution, because there were cases of theft at the workplace. She was very worried about the workers, but did not know what to do and was advised by her supervisor not to get involved in such issues. (Skrivankova 2006, p. 26)

Police and immigration services carry out enforcement actions in these areas, but those are focused on illegal workers, or on employment of illegal workers, and are not associated with investigation of possible trafficking for forced labour. In addition, there is confusion between actions against unauthorised working (the enforcement of immigration control) and action on behalf of unauthorised workers (the enforcement of labour standards and the protection of fundamental human rights) (van den Anker 2006).

In all countries researched (and this is true for most countries in Europe), victim support organisations do not exist for victims of trafficking or they are not (yet) open to cases outside the sex industry. An example of good practice is once more Belgium, where support for victims of trafficking into the sex industry has an important place in anti-trafficking policy and these organisations have always had their doors open to victims of trafficking into other industries (Dormaels *et al.* 2004, pp. 75–90).

As a result, exiting a situation of trafficking is usually due to chance encounters with friendly neighbours, a fellow country-person met in the street or another domestic worker on a shopping trip. As women work more often in the isolation of private homes, their chances to exit the situation are fewer. In the case of sex workers the fear of violence carried out to family members back home is reported to be an additional reason not to try to escape (Hopkins 2005). More generally, the shame of returning home without any resources to show for the period of time worked abroad is also an incentive to stay under hard circumstances. Finally, in some cases violence from the family itself is feared in cases where shame is attached to having been employed as a sex worker abroad or as a result of the family being the initiators of the trafficking in the first place (Hopkins 2005).

Future Plans and Opportunities of Trafficked Persons

The way that trafficked workers see their opportunities and future very much determines their (un)willingness to come forward and identify themselves as victims of trafficking to the authorities. Economic hardship, sometimes even a question of survival, was the reason to come to work in the countries of destination for all the interviewed workers. The majority of them want to return to their home countries, but not without any money, let alone with debts. A wish articulated by those from outside the EU was to be able to leave an abusive employer for a non-abusive one, without becoming illegal (Coghlan 2006). If this option was available, it would not only enable them to leave a forced-labour situation, it would provide an incentive to report the abuse.

In addition to the lack of a system of protection and assistance, survivors of trafficking also lack the rights to compensation and legal redress. The risk of being deported prevents many even from starting to get information about these issues. Similarly, there is no protection from immigration enforcement for whistle-blowers who complain over breaches of labour law. Added to that, if a worker is not legally in the EU, the

illegality of the employment contract is a bar to bringing claims to an employment tribunal. Lessons learned from dealing with cases of trafficking for sexual exploitation indicate that protection of the rights of trafficked people goes hand in hand with successful prosecutions of the perpetrators (Skrivankova 2006).

In conclusion, the picture of trafficking for forced labour does not radically differ from the one we know for sexual exploitation. Despite differences in emphasis, the recruitment methods range from 'lover boys' who recruit either for sex work, for domestic work or for work in other sectors to agents who offer employment and promise ways of earning money while in reality use debt bondage, confiscate documents and threaten deportation and violence. The main common factor for women ending up in exploitative situations is their need to take risks in their strategies to survive. Still, working in the sex industry leaves women vulnerable to such severe trauma that reintegration into other parts of society is incredibly difficult and perhaps impossible for some. This is partly due to psychological processes of looking for similar situations in order to recover from the trauma by being successful in exiting the situation the second time around (Hopkins 2005), and partly to the connections that still exist between traffickers and (the family of) the victim. These connections can either provide an overt threat or they can function as a network of possibility to find ways of earning money abroad once more.

Finally, the ILO estimates that in the sex industry 99% of the workers are female; in other industries this is estimated to be 56% (ILO 2005). These averages do not do justice to the gendered nature of the work, the conditions and the forms of threat used against women in other industries than the sex industry. I will now investigate what these outcomes mean for the discourse on women's rights.

Trafficking and Women's Rights¹⁴

So what does the case of trafficking teach about the importance of and strategic emphasis on women's rights? First of all, the many strands of discrimination against women present in the situation of trafficking show that focusing on single issues like trafficking or political participation or health and reproductive rights or social entitlements, as we have done in the NEWR project (see Hellsten *et al.* 2005; Widdows *et al.* 2005; Guichon *et al.* 2006; van den Anker & Doomernik 2006), to some extent diverts the attention from the overall theme of women's rights. Kerr confirms this when she states that these core issues dominate much of our theory and analysis. Instead, she argues, time should increasingly be spent on strategy analysis (Kerr *et al.* 2004, pp. 23–24). In the case of trafficking, we can observe that political participation, social entitlements and reproductive rights are all important to resolve the extreme exploitation of migrant workers in the sex industry and in other industries and service sectors.

Within the discourse on migrant workers' rights, women's rights do not currently have a distinct platform. However, the case of trafficking shows us that intersectionality, or double discrimination, of female migrant workers leaves them vulnerable in gender-specific ways. Vice versa, in the women's rights discourse, migrant women's rights are not highlighted.¹⁵ In the NEWR project we emphasised the importance of

bringing into the debate on women's rights the specific situation for and voices of migrant women. This includes migrant workers but also minority communities stemming from migrants in previous eras.¹⁶

Women's rights as a specific category of human rights have received attention in debates on universality. These debates often split women into different camps, similar to the recent stand-off in the debate on prostitution where some want to regard sex work as comparable to any other type of work (see, for example, O'Connell Davidson 1999; Kempadoo & Doezema 1998) with the relevant rights and freedoms or, on the other hand, the position that prostitution is immoral and a form of oppression of women in itself. Without claiming to resolve the debate here, I would like to make some observations.

First, the permanent splitting of progressive movements is often due to the internalised oppression within these groups (Lipsky 1987). This refers to the message of the oppression being internalised by the oppressed group and becoming part of their own beliefs about themselves and others within the group. The outward sign of this happening is that in-fighting and extreme criticising develop. This is not unfamiliar to the work on trafficking.

Second, with regard to sex work it may help to remember that there is at present no consensus on what role sex would play in a feminist utopia. Some women view it as liberating to pay for sexual services, whereas others regard sensitive, romantic love as the ideal for sex. In most cultures exclusion and oppression of specific groups have always taken the form either of viewing them as sexually unattractive (disabled people) or as sexualising them overly, as in the case of 'exotic' women. As long as hardly anyone is living happy, sexually fulfilled lives, there will be a market for sexual services which, within patriarchal societies characterised by lack of opportunities for women as well as particular groups of men, will form a possible strategy for income generation based on various degrees of 'free choice'. Since we may not yet be able to answer if anyone would offer sexual services for rewards in an ideal world, for the time being, we need to recognise women's rights to follow this route (of working as prostitutes) and not punish anyone for doing so. The rights of all women should be protected, independently of their sphere of work. This means that the question of whether or not sex work is 'normal' work is not the most pressing one.¹⁷ This means, too, that there should not be a division between deserving and undeserving women, where 'victims of trafficking' receive society's pity and sex workers 'by choice' are morally condemned. Nor should migration status, race or nationality divide women inside or outside the sex industry. Intersectionality or 'double discrimination' often lead to such false oppositions. Pradhan-Malla (2001) lists instances of this in the trafficking context. Therefore, the rights of all women should be protected, including the ones that would provide more safety for women doing this work.

Third, by diverting our attention away from fighting for proper respect for women's rights in all areas, we forgo the possibility that increased freedom for women may lead to better conditions in the sex industry itself as the power to negotiate would increase.

Fourth, autonomy plays an important role in the debate on trafficking and in the search for solutions. Women's rights have traditionally been debated in the context

of the question of whether or not human rights were, could be and should be universal. Positions taken initially focused on either side of whether women's rights were 'special' rights or not. As part of the general development of the human rights agenda towards a perspective that all human rights are interdependent, women's rights are now widely seen as an integral part of human rights. This has helped the efforts to 'mainstream' gender as a focus for research and policy-making. Yet, the debate on universality developed further in light of the movement for recognition into one of 'equality' versus 'difference'.¹⁸ However, increasingly, the need to achieve a balance between these two is recognised (Benhabib 2002; Fraser & Honneth 2003). An interesting question is to what extent it matters to women who have been trafficked whether their rights are claimed on the basis of equality or on the basis of difference. In many ways, the universal right not to be submitted to slavery, the universal labour rights and the right to physical integrity would suffice to safeguard women from trafficking. Yet, the root causes of trafficking show that this is not as simple as it looks. Globalization as shorthand for the political programme of neo-liberalism and its structural changes to the global economy has affected patterns of migration. Yet, speaking about globalization only in general terms masks the specific forms of discrimination and inequality that underlie who ends up as the omega of the pack.¹⁹ Gender, race, nationality and ethnicity are at least some of the factors influencing who ends up trafficked and under which circumstances. Universalist approaches therefore need to take into account that these structural and long-term causes may need recognition before equal respect can be implemented. This means that despite the fact that the ILO quotes the figure of 56% of migrant workers in all industries being female, the gender-specific elements of their migration trajectories and forms of exploitation need to be addressed urgently. To those who ask 'what about the men?' I would like to hold out that the fact that men are also exploited means not that we need to give up on gender-specific research; it means that the ways in which men are exploited as men need to be researched in more detail and addressed in similarly contextual policies. Of course this is being done already in current work on masculinities, but I have not yet seen any of this work being translated into the concrete policy areas of trafficking in human beings. To incorporate this type of gender concern would possibly look similar to the work currently being done on the specific human rights violations of children (Brocklehurst 2005).

In summary, what does this mean for the women's rights discourse? A framework of analysis leading to lasting change in the area of trafficking will need to address the gendered effects of globalization, while realising the importance of intersectionality. In the discourse on European women's rights, this means taking into account the specific situation with regard to new member states, but also minority rights throughout Europe.

Conclusion

In conclusion, I argued in this article that the debate on combating trafficking in human beings needs to move beyond looking at trafficking into prostitution and

the sex industry, to include trafficking for forced labour and exploitation in other industries. This means that research can address the underlying factors that are partly similar and partly different in these instances.

Second, the various forms of exploitation and coercion in the different industries need to be taken into account in developing more effective anti-trafficking policies. The role of legislation on residency and labour status is very important and should be combined with a victim-centred approach to prevent survivors of trafficking from going unidentified. The risk of being deported enhances the vulnerability to trafficking.

Third, the women's rights debate needs to develop balanced approaches between universalism and particularism, which address the specific needs of women and especially women who are discriminated against on additional grounds than their femininity.

Migrant women should be an important part of the women's rights agenda. This means moving towards a unified strategy to fight for women's rights as interconnected as well as the adoption of a framework of analysis that explores the gendered nature of globalisation, including the gendered nature of migration strategies. This article therefore fits in with the emerging literature on the topic of gender, globalisation and global justice and fits in with the 'curious' feminist project (Enloe 2004).

Notes

- [1] This article draws on the results of the NEWR project as well as on a two-year study, funded by the European Union, on trafficking for forced labour in industries other than the sex industry in four European countries. The author is grateful to Anti-Slavery International for its permission to publish the results.
- [2] For workshop reports, see www.NEWR.bham.ac.uk
- [3] See Lawrence (2004) for examples of labour exploitation in the food industry.
- [4] For more details on the categories of people interviewed, see the country reports: Amaral (2006); Burcikova (2006); Coghlan (2006); Skrivankova (2006).
- [5] For an example of the work of the Dutch Rapporteur, see van Ellemeet & Smit (2006); for an overview of the Belgian case, see Dormaels *et al.* (2004).
- [6] Council of Europe Treaty Series, No. 197 (www.coe.int/trafficking).
- [7] The full name of ILO Convention 29 is: ILO Forced Labour Convention No. 29.
- [8] The full name of ILO Convention 105 is: Abolition of Forced Labour Convention No. 105.
- [9] See the ILO Human Trafficking and Forced Labour Exploitation: Guidelines for Legislators and Law Enforcement (2004), Geneva.
- [10] For a detailed look at migrants' agency, see van Liempt & Doornik (2006).
- [11] Especially the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990.
- [12] The UK, Ireland, Portugal and the Czech Republic.
- [13] The Workers' Registration Scheme is a system developed in the UK for the workers from new EU countries. Workers need to register, which as well as requiring other documents and a fee of £70, requires them to send their identity document to the Home Office.
- [14] As recognised earlier in this article, trafficking also targets men. However, the continuing existence of patriarchy justifies focusing on women's rights while recognising that without resolving the oppression of both genders, there is no liberation possible for women.
- [15] For example, in Yuval-Davis & Werbner (1999), migrant women are not present, and in the classic collection by Peters and Wolper (1995), migrant women only feature in a chapter on

refugees. A good place to find some analyses on women, labour and migration is Sassen (1998). Another pioneering author who works on gendered migration is Ratna Kapur. See Kapur (2005). Fiona Robinson has done work on global justice and the importance of looking at the globalisation of care; see Robinson (2006), pp. 3–26.

[16] See workshop reports on trafficking on www.newr.bham.ac.uk

[17] However, for a discussion, see Dickenson (2006).

[18] A classic statement is provided by Young (1990).

[19] We are all familiar with the alpha male in packs of wolves but there is also an omega (male or female) who eats last and has to submit to every other wolf.

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