Vies volées ou droits absents? sexe, migration et traite des personnes

Tanja Bastia

Résumé

Même si la définition mondialement acceptée de la traite des personnes inclut la migration et l'exploitation dans tout secteur économique, la recherche et les initiatives concernant la traite des adultes se sont surtout cristallisées sur les migrantes travailleuses du sexe. Cette étroite polarisation sur les femmes et le travail du sexe a permis le développement d'un cadre de référence centré sur les femmes, tout en privant d'attention nécessaire les questions liées au genre dans la traite des personnes. Cet article identifie le manque d'analyse liée au genre dans la traite des personnes comme une lacune de la recherche actuelle et ébauche des solutions correctives. L'auteure soutient d'abord que la traite des personnes doit être considérée comme partie intégrante de la migration vers l'emploi. L'analyse aborde ensuite les deux éléments essentiels de la traite des personnes, le mouvement et l'exploitation. À l'aide d'exemples latino-américains, l'auteure identifie les processus sociaux-économiques qui causent la migration liée au genre et ceux qui rendent les migrants plus vulnérables à la traite des personnes. Des études de cas servent à démontrer que cesser de traiter en victime les personnes touchées par la traite pour reconnaître la propre agence des migrants est un premier pas vers l'assurance que leurs droits de personnes et de travailleurs seront protégés.

Stolen Lives or Lack of Rights? Gender, Migration and Trafficking

Tanja Bastia¹

Abstract

Despite an internationally recognized definition of trafficking that encompasses migration and exploitation in any economic sector, research and action on trafficking of adults has largely focused on migrant women working in the sex sector. This narrow focus on women and sex work has enabled a development of a women-centred framework but at the expense of paying due attention to gender issues in trafficking. This article identifies the lack of gender analysis in trafficking as a current lacuna in research and sketches ways in which it can be redressed. Firstly, it argues that trafficking needs to be understood as part of labour migration. Secondly, the analysis addresses the two essential elements encompassed within the concept of trafficking, namely movement and exploitation. Using illustrations from Latin America, the paper identifies social and economic processes that lead to gendered migration as well as those that increase migrant's vulnerability to trafficking. Case study material is used to show that moving away from the victimization of people who have been affected by trafficking towards recognising migrant's agency is a first step in ensuring that human and labour rights of migrant workers, who have been trafficked, are protected.

Introduction

The concept of trafficking has been used for well over a century. As Doezema (1998) argues, it was initially being referred to as the 'white slave trade', but the international community as well as some non-governmental organizations (NGOs) felt the need to refocus attention on trafficking during the 1980s (Kempadoo, 1998). This renewed interest in trafficking has been attributed to three main causes: increased sex tourism, especially in Asian countries; increased migration by women; and perceived increased exploitation of women and children (Kempadoo, 1998; Anti-Slavery International, 2003). As this article will demonstrate, the association of trafficking with sex work and the exploi-

tation of women's and children's labour are proving very difficult to overcome.

Trafficking continues to raise alarm bells in research and policy circles alike. But, despite receiving increased interest globally, having a growing number of studies dedicated to the phenomenon, as well as an increasing number of programs, there is still very little change in the conditions that are conducive to trafficking. Confusion and controversy continue to surround the concept of 'trafficking', despite some progress in trying to adopt and apply the internationally-agreed upon definition (UN, 2000). This situation has rightly led Piper (2005) to talk of an 'impasse' in trafficking research and action. A number of critical points of contention are worth highlighting.

There is growing concern with the international construction of the trafficking discourse (see Aradau, 2004; Doezema, 1998; Wijers, 1998, among others), particularly with the imposition of the label 'Victim of Trafficking' (VoT) on those people who have been affected by trafficking. Women who have been trafficked (and here I refer to women because there are few if any comparable examples of media and other reports covering men who have been trafficked) are portrayed in the media and by many organizations, ranging from NGOs to international organizations, as helpless victims, who have been put in that situation by third parties. Such discourses not only deny these women agency (Andrijasevic, 2003; Kempadoo, 1998), but also do little to remedy the situations that led them to seek work abroad in the first place or improve their working conditions in destination countries. They also hamper governments' action to protect the human rights of those who have been trafficked (O'Connell Davidson, 2006).

The portrayal of people who have been trafficked as passive and helpless is not the only problem. While trafficking, under international conventions, is specifically tied to situations of labour exploitation, most of the literature and programs to date focus on sex work. Progress in reducing the incidence and impact of trafficking has been hampered by the largely unresolved debate between abolitionists who see all sex work as being a form of women's sexual exploitation and those who recognize that some women (and men) might choose to work in the sex sector (see e.g. Doezema, 1998). The almost exclusive focus on sex work not only excludes any consideration of trafficking for labour

exploitation of women in other sectors of the economy, such as domestic or health services, but also hinders the development of a gender-sensitive understanding of trafficking.

Given the long-standing focus on women in the trafficking discourse, it is to some extent surprising that there has as yet been very little work on the gendered nature of trafficking. How do gender relations shape trafficking flows? How do normative understandings of femininity and masculinity shape the experience of women and men who have been trafficked? How many men are being trafficked? Feminist research has shown that it is not realistic to expect women to benefit from any policy unless it is gender-aware; unless we know how gender relations have influenced the particular socio-economic processes that we would like to address; or understand the differential impact on women and men by particular policies.

My understanding of trafficking has been informed by research on gender and migration conducted in Latin America, among what could be exemplified as one of those 'typical' communities in developing countries from where VoTs originate; a community where levels of poverty and deprivation are high, where widespread violence against women is generally acceptable and where women have few stable and satisfying incomeearning opportunities (see Bastia, 2005a). Therefore, while my research focused on migration more generally and not on trafficking, I became increasingly interested in the trafficking discourse given the similarities I was observing in the migrants' lives I was documenting and those I was reading about in the media, academic articles as well as policy documents on 'Victims of Trafficking'. These similarities related to the contexts within which migration was taking place for the women and men I interviewed, at times the mode of their migration, as well as the working conditions related to the jobs they found in their place of destination.

A further preoccupation relates to the absence of gender within academic articles, reports and policy-related documents written on trafficking. A woman-centred approach is often justified on the grounds that women are usually disadvantaged in social, economic, educational or legal terms as compared with men of similar socio-economic status. Similarly to the first feminist interventions in migration studies, which aimed at 'making women visible', trafficking has had to focus on women because they are generally worse off than their male counterparts. But to

a great extent this women-centred focus backfired by producing exclusionary dichotomies whereby women are perceived as being (passive) victims of trafficking by the general public, the media and policy-makers, while men are seen as (active) economic migrants. Furthermore, it can be argued that to some extent the absence of men from studies of trafficking has also prevented the development of a gender-aware analysis of trafficking.

The above observations bring into question the validity of what some authors have termed the 'trafficking myths' (Sanghera, 2005): trafficked women are victims; trafficking mostly takes place for sex work; migrants working in exploitative working conditions want to be rescued; and any 'child' migrating for work abroad should be considered a 'Victim of Trafficking' (on the last point see Bastia, 2005b).

Concerns related to the classification of Victim of Trafficking of any under-18 year old person who migrates for work have already been discussed elsewhere (Bastia, 2005b). That article questioned whether it was useful to label as 'VoTs' all those people who are 'children' under international definitions (i.e. are under eighteen years old) and migrate for work, a point also raised by Sanghera (2005). The life stories collected for my research showed that the 'children' who had been 'trafficked' were considered old enough by their parents to work abroad. Taking up work abroad also improved their life chances; the exploitation was only one short phase in the whole migration process, which was successfully overcome by those interviewed. This by no means justifies the exploitative working conditions and the human rights infringements they suffered but recognizes that taking up work abroad provided them an opportunity to support themselves through higher and further education, which they probably would not have had, had they not migrated. That research was based on a very small number of cases and more empirical evidence needs to be gathered in order to determine the long-term outcomes for those people who have been trafficked. While I had attributed the low levels of exploitation and relatively positive outcome of their experience to the absence of criminal networks and organized *mafias*, new emerging studies show that trafficking through community-based, family-related informal networks might actually be more common than initially thought (e.g. Agustín, 2006; Andrijasevic, 2003). In fact, this is unsurprising once we recognize that trafficking is part of labour migration.

This paper will, therefore, focus on building the first steps towards a gender-aware trafficking framework. The first part will establish a need for gender-sensitivity in trafficking studies and action. The second will analyze the concept of trafficking from the labour migration point of view, highlighting the conceptual overlaps between labour migration and trafficking. Most people working on trafficking issues acknowledge that migration and trafficking are related, but in both policy and most academic circles they are often treated separately. This section will therefore highlight the similarities and differences between migration and trafficking. The second part will focus on the gendered nature of trafficking, distinguishing between the conditions that lead to people seeking work abroad and those that increase migrants' vulnerability to exploitation, both being fundamental elements of trafficking. The third part will explore the issue of agency, given its importance in both feminist thinking as well as migration studies. The final part will illustrate the discussion with some case studies from migration and trafficking within Latin America before drawing some brief conclusions.

Gender Awareness

Like any other social and economic process, trafficking is also shaped by gender relations. But very little has been written on the gendered nature of trafficking within academic research, while a limited number of NGO and intra-governmental reports have been produced over the last five years (see D'Cunha, 2002; Oxfam, 2002; UNIFEM, 2002). This silence is in many respects surprising, especially if we consider the strong feminist presence in many of the studies and policies on trafficking; but to a great extent it can be explained by the overwhelming focus of research and practice alike on sex work. Whether in academic articles or policy papers, books or websites, the great majority of work on trafficking focuses on the sex sector. Some of these studies have been undertaken by feminist researchers (Agustín, 2006; Andrijasevic, 2003; Kempadoo, 2005; Kempadoo and Doezema, 1998) and have built solid grounds from which to expand current understandings on trafficking and economic migration. Only a few of the most recent studies are now beginning to deal with trafficking in other economic sectors, such as agriculture or domestic work (e.g. Roth and Fernandez, 2004).

Regarding the relative numbers of women victims of traf-

ficking, it is very difficult to find conclusive answers. In the first place, trafficking is, by definition, undertaken outside of the scope of legal employment. Although migrant workers can be trafficked into a country through legal means (Andrijasevic, 2003), they generally overstay their entry visas, if they have them, which places them in an undocumented situation. People in such situations are, therefore, difficult to monitor and count.

Additional problems emerge because of the confusion surrounding the term trafficking. Despite the fact that there is an internationally agreed-upon definition of human trafficking, trafficking is still a highly contested label. As was shown above, most trafficking studies only focus on trafficking for sex work, but trafficking can be undertaken for a variety of jobs, including for example, construction, where male migrants predominate. Given the general perception that trafficking is overwhelmingly undertaken for sex work, it is unsurprising that there is such a strong link in the public imagination between trafficking and women, given that most sex workers are women. But once it is established that trafficking involves labour exploitation in any sector of the economy, it becomes increasingly difficult to establish whether women are overwhelmingly affected by trafficking. Examples in which male migrant workers predominate include child trafficking in the West African cocoa industry (Human Rights Watch, 2003) or internal child trafficking in the Bolivian sugarcane plantations (Roth and Fernandez, 2004). Agriculture and construction are two additional economic sectors which employ large numbers of male migrant workers and where exploitative working conditions are also present (Anderson and Rogaly, 2005).

But there is much more than numbers to the gendered effects of different social and economic processes. Besides the numerical issue of how many men or women are trafficked into different sectors of the economy, an analysis of gender issues in trafficking needs to include an understanding of the way gender relations influence people's decision to migrate, an analysis of migration policies, which have different effects for men and women, and women's and men's differing trafficking experiences (UNIFEM, 2002).

The gendered dimension of trafficking refers to the ways in which gender relations and power inequalities between women and men shape trafficking as well as to the different experiences women and men have of trafficking. Clearly, given the overwhelming focus on trafficked women, it is as yet impossible to draw out a complete picture regarding the gendered effects of trafficking. Rather, based on what is known about the gendered effects of migration, it is possible to begin to conceptually sketch a gender-sensitive trafficking framework.

There can be little doubt that trafficking is a gendered process. Gender relations shape the conditions that give rise to trafficking such as gender-based discrimination in local labour markets, gender-based violence, household division of labour or macro-level policies that are supposed to be gender-neutral but have different effects on women and men. One way of advancing a gender analysis of trafficking is by looking at the ways in which gender relations shape trafficking processes by splitting the process in its two fundamental elements: the geographical movement of people and the conditions that lead migrant workers to be vulnerable to the kinds of exploitation related to trafficking. As Sanghera noted:

The growth of trafficking in persons has been attributed to many causes, including poverty, lack of sustainable livelihoods, structural inequalities in society, gender discrimination, war and armed conflict, and other forms of natural or constructed disasters. However, it is critical to understand that these factors are not in themselves the causes of trafficking; they merely exacerbate the vulnerability of marginalized and disadvantaged groups and render them increasingly more susceptible to a variety of harms (Sanghera, 2005: 7).

Both elements of trafficking relate to migrants' vulnerability, but the first largely mirrors gender-selective migration and women and men's differing needs to seek work abroad. The second element refers to those factors that increase migrants' vulnerability to exploitation and trafficking, such as increasingly restrictive migration policies that do not provide the possibilities for legal labour migration and therefore drive migrant workers into the sphere of illegality, where it is much easier for others to take advantage of them or exploit their labour.

Trafficking as part of Labour Migration

Economic migration and trafficking have more similarities than differences as they overlap for most of the migration or

trafficking process. This overlap requires us to identify where migration stops and trafficking begins. An increasing number of studies now highlight the fact that people who have been trafficked identify themselves as migrant workers rather than 'Victims of Trafficking' (e.g. Anti-Slavery International, 2003). The 1996 study by the International Organization for Migration (IOM) begins by stating that "Out-migration of women for prostitution is an important and increasing phenomenon in the Dominican Republic" (IOM, 1996: first page). It then goes on to state that there was no deception involved given that most women were under the impression that some form of sex work would be involved in the jobs they were going to carry out abroad. Pearson (2002), for example, argues that most so-called 'VoTs' define themselves as "migrant workers who have had some bad luck as a result of a bad decision" (Pearson, 2002, quoted in Kempadoo, 2005: xxxiv). Agustín (2006) and Andrijasevic (2003) similarly argue that sex workers who are labelled as 'VoT' chose to migrate but were then exploited in their destinations.

Writers so far have identified a number of points that help identify similarities between migration and trafficking. The first one is that both are seen as *processes*. As O'Connell Davidson argues:

The Protocol definition of the term 'trafficking' does not describe a single, unitary act leading to one specific outcome, but rather refers to a process (recruitment, transportation and control) that can be organized in a variety of ways and involves a range of different actions and outcomes. Trafficking, like traditional understandings of slavery, comes as a package, and there is room for dispute as to which particular actions and outcomes, and in what particular combination, should be included under its umbrella. The problem is compounded by the fact that many of the constituent elements identified in the Protocol definition of trafficking themselves present definitional problems [...] and by the fact that the abuses that come under the umbrella of 'trafficking' can vary in severity, generating a continuum of experience rather than a simple either/or dichotomy. (O' Connell Davidson, 2006: 8-9, based on Anderson and O'Connell Davidson, 2002, my emphasis)

As many writers and analysts have already noted, traf-

ficking involves elements of *coercion*, violence or deceit not generally present in most economic migration, making trafficking an involuntary movement while migration continues to be seen as voluntary. But the distinction between *voluntary or forced movement* is not as clear-cut as it may seem. Most people who have been trafficked wanted to seek work abroad, i.e. they are first and foremost migrant workers (Agustín, 2005). The difficulty of identifying coercion continues when dealing with *forced or voluntary labour*. When comparing the two protocols dealing with trafficking and smuggling, Anderson and Rogaly (2005) argue that:

The two protocols assume a neat line of demarcation between voluntary and consensual, and involuntary and non-consensual processes of migration. Once trafficking and smuggling are recognized as processes, the idea of "consent" is extremely problematic since individuals can volunteer to enter the process and then find themselves unable to retract however much they want to, or conversely, they can be coerced into entering the process but then proceed voluntarily (Anderson and Rogaly, 2005: 19).

Trafficking, in essence, consists of geographical movement and exploitation of migrants' labour; not unlike a great deal of unskilled economic migration. Therefore, it is difficult to distinguish trafficking from regular labour migration because most people who are affected by trafficking are migrant workers and generally leave their country to seek work abroad; because both are processes; and because the issue of consent is not unproblematic.

The next sections will build the first steps towards a gender-aware trafficking framework by asking two main questions: firstly, what are the conditions that contribute to women and men having different motivations for migrating and secondly, what are the elements that increase migrants' vulnerability to exploitation.

Motivations for Migrating

The gendered dimension of migration refers to the fact that the characteristics and the experiences of women's and men's migrations differ: women and men might migrate to different destinations and for different lengths of time; the labour market insertion of women and men migrants differs given that they usually find work in different sectors of the economy; and women and men migrate for different reasons, even where the overall aim is to find work. These are all elements that provide the conditions for women and men to seek work abroad in diverse places, for different lengths of time, for different reasons and in different ways. But there are a number of critical elements that increase people's likelihood to migrate, including structural adjustment policies, labour markets, household division of labour and gender ideology.

Structural adjustment programs (SAPs) were implemented in developing countries during the 1980s and despite international praise for some notable successes, such as curbing Bolivia's hyperinflation, structural adjustment policies had large social costs and its effects disproportionately hit women as well as the poor. A number of studies have documented the gendered effects of structural adjustment policies. For example, Elson (1995) argued that women are disproportionately hit by structural adjustment policies on a number of accounts, including increasing housework, care work, and paid employment in labour-intensive manufacturing for export, which usually rely heavily on women workers. Although not directly responsible for increasing migration rates, SAPs have contributed to worsening the economic and social conditions that can lead to an increased need for migration and trafficking, such as increased levels of poverty, rising job insecurity and increasingly precarious working conditions as well as increased internal migration; all of which caused increasing numbers of women and men to seek work abroad. Given that these conditions are not gender-neutral, women and men will react differently to them and as a result, geographical movements will also differ for women and men. SAPs also change labour market structures and the availability of jobs for women and men in developing countries, which may encourage internal or international migration.

Labour markets are not gender-neutral. Taking the global labour market as a whole, the feminization of international migration parallels greater female labour market participation in industrialized, as well as developing countries. For example, during the 1990s, the overall global share of women migrants increased from 47.9% in 1990 to 48.8% in 2000 (Zlotnik, 2003). Over roughly the same period (1993-2003), labour market participation rates for women increased from 53.5% to 53.9% while unemploy-

ment rates for women increased even further, from 5.8% to 6.4% (ILO, 2004), indicating that there was an increasing number of women looking for work. Latin America experienced a much greater change in women's labour market participation: between 1990 and 2002, women's labour market participation increased from 37.9% to 49.7%, while men's participation decreased from 84.9% to 81%. But over half of all working women are employed in precarious, low-paid jobs with low levels of productivity. Women's unemployment rates also increased over the same period and are still higher than men's unemployment rates (ECLAC, 2005).

Local job availability has a large impact on migration processes. When people cannot find work locally they begin to look for work in larger cities, making the first step towards migration. For a number of reasons, women may be disadvantaged in many labour markets, having access to fewer jobs. As a consequence, an increasing number of women are looking for work abroad. A number of recent studies have shown that Latin American women, for example, are emigrating in increasing numbers (Cortés Castellanos, 2005; Gratton, 2007; Martínez Pizarro, 2003).

The household sexual division of labour and its internal power inequalities also have an impact on international migration. Policymakers often assume that households are single units in which costs and benefits are shared equally among its members. But feminist scholars have long highlighted the intra-household power relations as a site of struggle, rather than harmony (Kabeer, 1994). The sexual division of labour in households play a role in the migration decisions. One of the best examples is included in a study of internal mobility in Peru, conducted during the 1980s (Radcliffe, 1986). In a rural farming community the gender division of labour within the household generally assigned men the primary farming role while women provided additional labour during peak times, but only a maximum of two women per household were needed to maintain household productivity, while all men could be employed in household production. In relation to migration, it was found that women were more likely to migrate from the rural community because their labour was surplus for the household economy (Radcliffe, 1986).

Migration is seldom an individual enterprise and social networks play an important part in channeling migrants to particular destinations as well as particular occupations. But it is also often recognized that social networks are gendered and that migrant women and men access different types of networks or use them for different purposes (Hagan, 1998; Hondagneu-Sotelo, 1994). In places where men usually undertook migration for employment, they were not always able to provide the women from their communities with relevant information on available employment opportunities for women. This could contribute to women's disadvantage in accessing appropriate information prior to making the decision about migration. Given that men have a very different experience of migration and labour market insertion than women, the information they can provide might not be relevant to potential women migrants and contribute to women making an informed decision about migration. Where migrants have few opportunities for legal migration abroad, they rely more heavily on social networks for information about job opportunities, arranging transport or providing documents, which in turn can become the basis on which trafficking takes place.

Gender ideology defines acceptable and unacceptable behaviour for women and men within a society, including acceptable women's and men's jobs and roles, travelling, sexual behaviour or contraceptive use. Gender ideology affects how acceptable it is for women to make choices about themselves. It can therefore affect migration directly, by defining who can migrate and for what reasons, but also indirectly, for example, by exacerbating existing gender inequalities and making it more desirable for women to seek a better life abroad. Gender ideology also affects the way policy-makers view migration. Because of the women's assigned responsibility for reproductive tasks, such as the care of children and maintenance of the household, there is a general perception among policymakers that, should they leave, social and moral disintegration would follow. Migration does place a strain on family relations; however, this is also true when men migrate (see e.g. David, 1995). These considerations are often the basis for which bans on women's out-migration are implemented (such as those imposed in Bangladesh), which in turn force women who want to migrate to do so illegally, putting themselves in greater danger of being exploited or trafficked given that few, if any, undocumented migrants feel that they have the right to seek recourse.

Increased Vulnerability to Exploitation

In destination countries there also exists economic and social processes that can cause women and men to experience trafficking differently. Migration policies, labour market regulation and equality legislation can have very different effects on the personal and working lives of women and men migrant workers. As is well recognized and already discussed in the previous section for the situation in sending countries, national policies are seldom if ever gender-neutral. It is this gendered effect of different policies that can lead to unequal outcomes for women and men migrant workers who have been trafficked.

Labour market segmentation on the grounds of gender, class, ethnicity and race create unequal structures of opportunities for workers, whether migrant or native, depending on where they are situated in the social strata. Migrants, therefore, insert themselves in labour markets that are highly segmented and also at times create what in the literature is referred to as 'ethnic niches', i.e. occupations where one ethnic group is over-represented. In industrialized countries such as the UK, migrant workers are over-represented at both ends of the labour market spectrum: in the highly paid, highly skilled jobs as well as the low paid, low skilled jobs. Although there have been instances of highly skilled migrants working under exploitative working conditions (Anderson and Rogaly, 2005), it is the low paid, low skill jobs that raise the most worries with regards to the migrant workers' human and labour rights as well as their health and safety (e.g. McKay, Craw and Chopra, 2006).

For occupations where women migrant workers predominate, such as services and care work, the exploitative nature of migrant women's working conditions are to a great extent dependent on that sector's regulation or rather, the lack of regulation. For sex work, O'Connell Davidson (2006) demonstrates that there is a wide variety of working conditions and arrangements within the sector as a result of a lack of any kind of regulation. Surely, if decent working conditions cannot be ensured for native workers, what hope is there for migrant workers employed in that sector?

Domestic work suffers from similar problems, being largely non-unionized and unregulated, while other sectors of the economy that have begun to employ a large number of migrant workers, such as agriculture and food processing, are also facing

challenges in terms of organizing its workers and enforcing the protection of workers' rights.

Increasingly restrictive migration policies, making it more difficult for foreign workers to migrate and find work legally, are resulting in higher levels of insecurity and vulnerability for many migrant women (Piper, 2006, citing the work of Freedman, 2003). This point was also recently recognized by the Expert Group on Trafficking in Human Beings, which stated that:

To prevent trafficking, the EU and Member States should review policies that may compel people to resort to irregular migration and consider increasing the opportunities for legal labour migration, along with the protection of the human rights of all migrants, regular or irregular, internal or across international borders. Moreover, prevention strategies should counteract discrimination, marginalization and social exclusion (European Commission, 2004).

Migration policies are also not gender-neutral; yet governments still need to face up to the challenge of integrating any kind of gender awareness in their migration policies. The work of Eleonore Kofman has shown how European migration policies are gender-blind (see e.g. Kofman, 1999 and Kofman et al., 2000) vet have very different outcomes for women and men migrants. The latest proposed points-based system in the UK is a case in point. The UK government has recently proposed a points-based managed migration system where points will be allocated on the basis of skills, qualifications, education, capital and age. The person with the highest score on the first four issues and lowest score on the last issue (age), will be given the most points. While seemingly neutral, the points-based system, in practice, discriminates against women in developing countries as they are less likely than men to score highly on education, qualification, skills or capital. When combined with a preference for young migrants, such a system further discriminates against women as many take time off from work or school to care for their children in the early child-bearing years.

Domestic workers are not even granted the minimum rights given to other workers. Under the new system, domestic workers will only be allowed to enter the UK on a six-month visa and will not be given the right to change employers during that period, despite the long campaigning work done by individuals

and organizations such as Kalayaan during the 1990s to ensure that domestic workers' human and labour rights are respected (see Anderson, 2000 for a full account of the campaign and its achievements).

Whether women and men experience different treatment in a country also largely depends on the available equality legislation and its implementation. Are women and men granted equal rights? Any inequalities in the legislative system hindering women's autonomy and independence will foment unequal working conditions, creating inequalities between women and men. Without a legal equality base, there is little hope for the protection of women's human and labour rights.

Migrants' Agency

The most worrying development in the current discourse and policies on trafficking is the growing strength of the victimization discourse, which denies migrants' agency (Agustín, 2005; Andrijasevic, 2003) and leads to the polarization of the debate between 'guilty economic migrants' and 'innocent victims of trafficking' (Doezema, 1998; see also Anderson and Rogaly, 2005 on forced labour). Doezema (1998) describes how post-colonial discourses on women migrant workers portray them as gullible and passive, vulnerable to exploitation and unable to choose what is best for them (Wijers, 1998). Chapkis (2003) further writes with regards to the (US) Trafficking Victims' Protection Act of 2000:

Language within and surrounding the legislation works to neatly divide "violated innocents" from "illegal immigrants" along the lines of sex and gender. Trafficking victims, described as vulnerable women and children forced from the safety of their home/homelands into gross sexual exploitation, are distinguished from economic migrants who are understood to be men who have wilfully violated national borders for individual gain. The law justifies offering protection to the former and punishment to the latter (Chapkis, 2003:924).

Women's perceived greater vulnerability to exploitation can be linked back to the long-held view that most migrant workers are men. Women seeking work abroad are generally perceived as leaving the 'protection' of their (male) relatives, whether these are fathers, brothers or husbands, and venture unprotected into foreign countries. They are, therefore, portrayed in

international discourses as needing protection given their vulnerability and the fact that they are easily exploited. However, only a small minority of people who are trafficked are forcefully abducted. The fact that most leave their countries of origin and look for ways of improving their standards of living already testifies to their entrepreneurial and risk-taking spirits.

Carried out into the domain of trafficking, this construction of women migrant workers as vulnerable and gullible translates into the forced victimization of those women who find themselves in situations of trafficking. Examples of this include the often-mentioned fact that women who are 'rescued' during raids in brothels need to plead not only innocence but also ignorance in order to qualify for protection and the subsequent right to remain in the country of destination (such as Italy and Belgium, where special protection is granted to victims of trafficking). Should they state that they willingly accepted sex work abroad, the women would not qualify for protection or support (see Andrijasevic, 2003 for examples). This is despite the fact that the protocol states that consent should be disregarded where coercion, deceit and exploitation are involved.

The contentious issue of consent and coercion is further illustrated by examples of trafficked people who were 'rescued' by police officers. For example, a recent report by Anti-Slavery International on contemporary forms of slavery in Argentina describes the case of 17 Bolivian workers who were 'released' from a textile factory in Argentina:

In October 2005, 17 Bolivians were released from a textile factory in Buenos Aires which was owned by Juan Carlos Salazar Nina. The Ombudsman's Office for the city of Buenos Aires (Defensoría del Pueblo CABA), the IOM and a local community organization known as La Alameda, helped the migrant workers file charges against Salazar for trafficking and forced labour.

Salazar, also Bolivian, had promised to pay the workers per garment produced, but once in the sweatshops they were forced to work up to 17 hours a day and received the equivalent of \$6.50 as "advance".

Workers testified that Salazar threatened them, took away their documents and restricted their freedom of movement (including locking them in the factory) in order to keep them working against their will. Furthermore, food was only provided to employees, meaning adults had to share their food with their children. Some workers also reported that they were prevented from taking their children to school or to the doctor because it would "interfere with production" (Kaye, 2006: 7; see also Valente, 2005).

The story was complicated further because of evidence of police corruption, witness intimidation and the judge dropping charges on the basis of insufficient proof. Read within a context of 'contemporary forms of slavery', the extract cited here clearly shows exploitative working conditions, infringement of worker's labour as well as their human rights, insofar as they were prevented from leaving the workshop. Yet, there are two crucial bits missing in this account. The first is the context and the second is the migrants' voices.

The working conditions described in this passage are far from atypical (working conditions in the garment workshops are also discussed in Bastia, 2007). Work in the garment sector was the most common occupation for the women and men interviewed as part of my research on Bolivian migration to Argentina². About a third of all men and over half of all women surveyed in Bolivia (these were returnees who had worked in Argentina and then returned to Bolivia) had worked in that sector. Bolivian migrants who find work in garment workshops typically also get food and accommodation from their employers. Life story interviews described the working conditions in the garment workshops as being hardly bearable: overcrowded workshops, poor lighting and ventilation, and health-related problems due to the high level of fluff. Many of these workshops are not registered with the fiscal authorities, which poses the obvious legal problems with migrants working in illegal establishments but also exacerbates the already poor working conditions. Workshops purposefully have small windows, typically not opened, to avoid alerting the authorities about the work that goes on, which for the workers means less light and less ventilation. To a great extent, worker's movements in and out of the workshop are restricted so as not to attract attention from neighbours and the police. Whilst, no doubt, some employers use this to keep their employees on the production line, many migrant workers interviewed stated that they did not like leaving the workshop because of their fear of being apprehended by the authorities. At times, employers were the ones who played on this fear but at other times, newcomers

learnt about the dangers from other workers.

One of the advantages of working in garment workshops was precisely the lack of accommodation, travel or food expenses for workers, a not insignificant aspect of migrant workers' assessment of the pros and cons of different occupations. Similar observations were made by Agustín (2006) for sex workers employed in flats that included accommodation or by Pappas-DeLuca (1999) for newly arrived migrants employed in domestic work in Chile who preferred 'live-in' working arrangements. For Bolivian migrants working in Argentina's garment workshops, sleeping quarters are usually common, with separate rooms for women and men. Some migrants mentioned taking turns on the same beds to save on sleeping space as well as maintain 24 hour production. Migrant workers who live and work in the workshops are also dependent on their employers for their food, which they often describe as inadequate and not what they expected. For example, migrants had heard of the high consumption of relatively cheap meat in Argentina and were disappointed when their employers provided 'Bolivian food' based on starches rather than meat.

The working hours cited in the extract are also not unusual. The hours worked by the migrants interviewed, ranged from 12 to 17 hours per day, beginning at 8 am to as late as 1 am with a half-hour break for lunch. The working week generally began on Monday morning and continued until Saturday lunchtime, after which time garment workers were generally expected to leave the workshop. And finally, the wages cited in the extract are certainly low but not unusual for those on 'apprenticeships'. The daily rate of \$6.50 makes for \$143 a month (calculating a 5 and a half day week). Among my interviewees, those deemed unskilled in garment work were often not paid for the first three months, sometimes only getting 'bus fares'. Typical monthly rates, before devaluation in 2001, for garment workers' aids on 'apprenticeships' was \$150, though they would have expected this to rise to a maximum of \$500 for women and \$1000 for men working on piece-rate.

None of the people interviewed who had migrated as adults stated that they were forced or coerced into migration or worked against their will. A small number of migrants had migrated as teenagers, were in debt and held against their will in garment work for a short period of time. These would legally fall

under the category of 'victim of trafficking' just on the grounds of their migration for employment and the exploitative working conditions but even then, it becomes problematic to treat them as 'children' and passive victims devoid of agency, as discussed elsewhere (Bastia, 2005b; see also Sanghera, 2005 who makes a similar point). Yet their working conditions and the context within which their labour insertion in Buenos Aires took place look strikingly similar to the 'contemporary forms of slavery' described by Anti-Slavery International.

Even more telling is a newspaper article, which describes the 'rescuing' of Bolivian workers found employed in similar working conditions. Bearing the title "Slave owners" of Bolivians in Argentina still unpunished, the article describes how 60 Bolivians working in Buenos Aires in a garment workshop in what are described as 'slavery-like conditions' were 'freed' in May 2001 by police officers. The 42 adults, mainly couples, and the eight children who were living with them, were all undocumented and were said to be working more than 18 hours a day with rice and eggs as their only food. The chief district police officer mentioned that the migrant workers should be considered for compensation but then added: "Now, the only authority that can take a decision on them is the judge in charge of the case, who will consider the option of repatriation" (Los Tiempos, 2001, my translation). But in their declarations, the Bolivian workers stated that they were not exploited and on the contrary, they were treated better than in Bolivia (Los Tiempos, 2001).

A similar incident was repeated last year, when six Bolivians (four of them children, two of them aged three, one ten and one fifteen years old) lost their lives when the workshop in Buenos Aires where they were working caught fire. This spurred a wave of police inspections, during which at least 41 garment workshops were closed (Clarín, 2006a). The Bolivian community in Buenos Aires reacted with marches which, on the one hand, blamed companies higher up the production chain for paying little while tightening production scales, but on the other, also denied the condition of slave workers (Clarín, 2006a). Bolivian workers demanded protection of their 'source of employment' and raised the issue of regularization of their migration status as the urgent problem that needed solving (Clarín, 2006b). It is telling that rather than protect workers' rights, the closures of garment workshops resulted in 35 families becoming homeless (La

Nación, 2006).

Whether governments are fulfilling their obligation towards people who have been trafficked can be evaluated by looking at what happens to those 'rescued' from trafficking. As Chapkis notes, trafficked women are granted rights only if they are willing to cooperate with the authorities in bringing traffickers to justice (Chapkis, 2003). In most cases, people who have been trafficked are repatriated to their countries of origin, which hardly solves the problem of trafficking; it merely moves the problem back to its starting point. As the case of the Bolivian workers in Argentina illustrates, governments do not seem able to provide sufficient support to those people who have been trafficked, often removing the source of their employment and leaving them homeless.

Conclusion

This article has explored some of the difficulties inherent in trafficking discourses and practice. It argued that part of the problem stems from the fact that governments seem to be very keen to be seen as saving innocent 'Victims of Trafficking' while punishing guilty economic migrants, indicating that their interest in trafficking stems largely from a national security perspective rather than from a preoccupation with human rights (O'Connell Davidson, 2006). However, unless governments and international agencies recognize that trafficked people are first and foremost economic migrants seeking to make a living, there can be very little scope for long-term solutions to trafficking and the exploitation linked to it.

Rather than arguing against protection *per se*, the evidence to date indicates that the negative implications outweigh any potential benefits people who have been trafficked might incur through protection. In particular, migrants lose out when their sources of employment are taken away (e.g. through repatriation or the closure of garment workshops, as seen in the Buenos Aires case study) while no viable alternatives are offered to them. Therefore, migrants do not stand to benefit from current practices and legislation. Those who seem to benefit from current practices include nation-states as well as the 'migration industry'; the former from their improved image in terms of 'managing' migration flows and protecting innocent victims of abuses, while the latter from the increased demand from their services as a re-

sult of increasingly restrictive migration policies.

Trafficking, as a concept, still has a lot to offer and puts the emphasis in the right places, on the vulnerability of particular groups of migrants. But its full potential could be developed by expanding the sectors taken into account in anti-trafficking studies and programs, by integrating gender-awareness in its research and practice as well as by ensuring that the focus of anti-trafficking programmes is on human rights and empowerment rather than merely on protection and national security.

The analysis presented in this article suggests that if NGOs and governments are serious about solving human trafficking, they need to understand human trafficking as part of labour migration. What migrant workers require is the ability to work abroad legally with proper protection assured under the destination country labour legislation as well as recognition of their own agency.

Some countries are moving into that direction by granting people who have been trafficked the possibility to testify against their traffickers or access specific services for people who have been trafficked. But most of these are token efforts. If repatriated, people who have been trafficked will be placed in the same conditions that encouraged them to seek work abroad in the first place and it is very likely that the only people who will be able to help them find those jobs will be traffickers. Therefore, the vicious cycle is repeated.

In terms of research, this article identifies a current lacuna in trafficking research. Despite a strong presence of feminist analysis and thinking, there has been very little, if any, development of a gender-sensitive trafficking framework. The analysis presented in relation to the two elements of trafficking, motivations for migrating and increased vulnerability to exploitation, identified the first steps towards developing such a framework: first, by identifying the social and economic processes that lead to women and men developing different needs to migrate, the different ways in which they migrate and their different experience of migration and trafficking; and second, by analyzing the elements that make migrant workers vulnerable to exploitation and trafficking and the ways in which women and men experience these and their consequences differently.

Research and action on trafficking needs to expand its focus in two particular areas: first, by breaking away from its

tight historic association with the sex sector to include a wider number of economic sectors (agriculture, construction, service, etc.); and second, work on trafficking needs to include men. Research needs to begin to at least ask whether men are trafficked and if so, whether men are trafficked differently from women. Limiting action and analysis on women trafficked for sex work perpetuates the equation of trafficked women for 'sexual exploitation' rather than focusing on labour exploitation more generally. Without the inclusion of men in the analysis it will be very difficult to advance a gender analysis in trafficking processes, which is urgently needed.

Such research can only begin if researchers can give voice to those people who under international definitions are considered to have been trafficked and better understand the relationship between trafficking and labour migration by asking where trafficking stands in relation to migrants' life-course, their migration aims and objectives, their wish to seek work abroad or to experience life abroad, their needs and their motivations.

Endnotes

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E-mail: Tanja.Bastia@manchester.ac.uk.

² Fieldwork for my research on Bolivian migration to Argentina was carried out in 2002-2003 in Cochabamba, Bolivia and two shanty towns in Buenos Aires. I collected a total of 38 life stories, 21 by women migrant workers and 17 by men and carried out a neighbourhood survey in Cochabamba to determine the nature of migration flows and migrants' labour market insertion in Buenos Aires. A detailed discussion of methodology is included in Bastia (2005a).

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