

**Trafficking in the Illicit: From Trafficking in East and Central European Women to the Biopolitical Management of Migration**

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## **Media Manic/Sexual Panic: Transgression at the Border**

A nefarious underworld populated by ‘dark’, haunting criminals; hundreds of thousands of young, innocent, ‘white’ girls/victims exploited; sovereign borders transgressed under cover of night — these are the images that dominate media exposés of the transnational phenomenon of trafficking in women and have hardened into stereotypes of a globalizing scene of international crime ‘out of control’. These ubiquitous representations of trafficking in especially central and east European (CEE) ‘white’ women found in newspapers, magazines, television programs, IGO and INGO position papers, and even governmental reports register a heightened level of panic about the massive numbers, extreme exploitation, and innocent victims of this “illicit and barbaric industry.” They simultaneously announce shock and excite panic about “women and girls ... rented out for sex for as little as 15 minutes at a time, dozens of times a day ... [or] sold outright to other traffickers and sex rings ... there is nothing voluntary about what they do and if they try to escape they are often beaten and sometimes killed.”<sup>1</sup>

This alarm over trafficking in innocent, violated, ‘white’ girls echoes a concomitant anxiety about being overrun by dark, menacing, *foreign* criminals that threaten ‘our’ families, ‘our’ homes, indeed, ‘our’ way of life – a fear closely aligned with the anti-immigrant sentiments that informed the Dutch and French “no” vote on the EU draft constitution. Indeed, many Europeans believed that the May 2004 EU accession of ten mainly eastern states would “allow the mafias of central and eastern Europe to tighten their grip on organised crime across the

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<sup>1</sup> Peter Landesman, “The Girls Next Door,” *New York Times Magazine*, 25 January 2005, <http://www.nytimes.com/2004/01/25/magazine/25SEXTRAFFIC.html>. For a more comprehensive discussion of how media constructs, portrays, and delimits discourses of sex-trafficking, see Jacqueline Berman, “(Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and Panicked State of the Modern State,” *European Journal of International Relations* 9, 1 (2003): 37-86.

continent” even as they acknowledged “that crime rarely waits for borders to open.”<sup>2</sup> It would seem that trafficking in women (TW) has become a site marked by other phantasmatic fears of foreigners, immigrants, criminals and the complex forces associated with globalization, so much so that it is often difficult to disentangle these fears from actual concern over the fate of trafficked women themselves.

These incendiary accounts of foreign women, foreign criminals, and foreign exploitation also sell newspapers and more importantly, have come to hold significant influence over national and international anti-trafficking and immigration policy. In practice, however, they have done relatively little to redress the situation of women who find themselves caught in trafficking networks. I have argued elsewhere that the current panic surrounding ‘sex-trafficking’ follows from the construction of the issue around a) eroticized tales of criminal sexual slavery and a ‘white slave trade’;<sup>3</sup> b) a putative ‘whiteness’ attributed to the most recent ‘victims’ juxtaposed against ‘dark,’ depraved underworld criminal traffickers in a ‘racialized economy of sex’;<sup>4</sup> c) the involvement of some of these women in the sex – as opposed to some other service – industry, generating enormous revenues for organized crime<sup>5</sup>; d) fear of challenges to ‘proper’ sexuality

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<sup>2</sup> Raphael Minder, “Accession Countries May Bear Brunt of Organised Crime in Enlarged EU,” *Financial Times*, 16 April 2004.

<sup>3</sup> For a more specific discussion of the image of a ‘white slave trade’, see Berman, 2003; for historical discussions, see Judith Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (New York: Cambridge University Press, 1982) and Nickie Roberts, *Whores in History: Prostitution in Western Society* (London: Harper Collins, 1992).

<sup>4</sup> The term ‘racialized economy of sex’ comes from Ann Stoler who explains that European imperialism depended upon distinguishing the colonizers from the colonized as persons of character, reason, and especially sexual morals who directed “their desires to legitimate paternity and intensive maternal care, to family and conjugal love” versus natives, mixed bloods, and poor ‘whites’ who “focused just too much on sex. To be truly European was to cultivate a bourgeois self in which familial and national obligations were the priority and sex was held in check,” Ann L. Stoler, *Race and the Education of Desire: Foucault’s History of Sexuality and the Colonial Order of Things* (Durham, NC: Duke University Press, 1995): 182. In sex-trafficking discourses, the sexual lasciviousness of ‘alien,’ foreign nationals distinguish them from the proper members of the political community and citizens of the nation-state.

<sup>5</sup> Regarding the numbers of trafficked women, the IOM, citing the US Department of State and a Swedish NGO, estimates some 700,000 persons are trafficked each year, with some 500,000 women trafficked into western Europe alone, International Organization for Migration (IOM), *World Migration Report: Managing Migration Challenges and Responses for People on the Move* (Geneva: International Organization for Migration, 2003): 61. Others

and ‘appropriate’ forms of capital production inherent in the ‘illicit’ movement of women away from ‘home’ and across borders;<sup>6</sup> (that itself conflates prostitution and trafficking<sup>7</sup>) and e) their contradictory, simultaneous status as illegal workers and victims of a crime.

In addition to all of the challenges that these ‘illicit’ transgressions present, women’s movement across borders for sex work also problematizes the state’s ability to control borders and bodies at an historical moment when the state is already under considerable duress from forces associated with globalization.<sup>8</sup> States seek to recuperate the border, sovereignty, and control by creating “canvases of risks and dangers in migrancy” – arresting migrants, policing borders, and deporting women back to their proper ‘homes.’<sup>9</sup> In legislation and policy, however, a larger debate over prostitution and consent in relation to trafficking<sup>10</sup> has occluded the complexity of and ceded legal ground to a crime control or criminalization approach to fighting trafficking.

It is this movement across borders that constitutes, but is never really foregrounded in, the debate over trafficking in women that I want to focus on here. As suggested, any number of

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estimate “that two-thirds of the EU’s 500,000 sex workers come from eastern Europe and that human trafficking as a business yields “an annual turnover of Euros 2bn (Dollars 2.4bn, Pounds 1.35bn) for organised crime,” Minder, 2004. There is, however, no reliable data to corroborate these estimates and as I have argued, these figures are often deployed to create panic and garner support for draconian immigration regimes that bolster the relevance of the nation-state abraded by global cross-border activity.

<sup>6</sup> Ann McClintock argues that in western culture, women serve as threshold and boundary markers especially between public and private life, Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Contest* (New York: Routledge, 1995). I argue that it is, in part, their rejection of this position inherent in their ‘illicit’ movement across sovereign and ‘moral’ borders that renders migrant sex workers’ movement so threatening.

<sup>7</sup> The ways in which trafficking and prostitution have been conflated in debates over trafficking in women is an enormous topic; for some discussion of how complex and problematic this conflation is see Barbara Sullivan, “Trafficking in Women: Feminism and New International Law,” *International Feminist Journal of Politics* 5, 1 (2003): 67-91. See also, for example, Kempadoo. 1998; Berman, 2003; Andrijasevic, 2003. This conflation is also the subject of another article in which I consider the role of consent and the possibility resistive gendered agency in relation to sex work.

<sup>8</sup> Berman, 2003.

<sup>9</sup> Nevzat Soguk, “Poetics of a World Migrancy,” *Global Society: Journal of Interdisciplinary International Relations* 14 (3): 424.

<sup>10</sup> For a short summary of the two primary positions in this debate, see Goldscheider 2000.

Eric Goldscheider, “Hillary Clinton Asked about Position on International Trafficking: Prostitutes Work - But Do They Consent?” *Boston Globe*, 2 January 2000.

transgressions occur when women move or are forced across borders with or by traffickers to work in the sex sector: undocumented, illegal, irregular, or illicit migration; undocumented, illegal, irregular, or illicit forms of labour and earning; illegal, irregular, or illicit forms of female sexuality. And these transgressions are complicated by the fact that now that CEE women are more prominently involved, it has become a ‘white’ slave trade, rendering the women both like ‘us’ (and in need of protection) while also among ‘us’ (and thus, in their ‘whiteness’ harder to detect). It is this transgressive movement that is of particular import but that has been left relatively unexplored in much of the relevant literature and certainly in much of the public debate.<sup>11</sup>

It is also the case that the dominant means of combating trafficking in women – criminalization of all activities associated with it that informs recent UN, US and pre-2005 EU legislation<sup>12</sup> – has done relatively little to combat trafficking or to assist trafficked women themselves.<sup>13</sup> The criminalization or crime control approach to trafficking in women leaves unexamined what has placed women on the move in the first place and thus failed to (a) understand what is at stake when women do accept traffickers offers of assistance to move, (b) provide comprehensive assistance to women who do become victims of exploitation and violence, and (c) combat the criminality involved in trafficking itself. Given both the oversimplicity and failures of existing anti-trafficking mechanisms, I want to reconsider an alternative frame for understanding TW that has greater potential to accomplish what existing

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<sup>11</sup> Add Kempadoo and other exceptions here.

<sup>12</sup> In May 2005, the Council of Europe created a new Convention to combat human trafficking that takes a much more human rights-based approach. It is, however, too soon to know if member states will follow this design as well as what impact it will have. *Council of Europe Convention on Action Against Trafficking in Human Beings*, CM(2005)32, 3 May 2005, <https://wcd.coe.int/ViewDoc.jsp?id=828587&BackColorInternet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75>. For further discussion of the criminalization of human trafficking, see Berman, 2003.

laws and policies have not: international migration. In particular, the ‘migration project’ or the notion that women have sought to harness trafficking networks to move and work (often in the sex industry) abroad in pursuit of some individual proposition they have set before themselves, contains much greater potential for explicating and thus redressing trafficking at its source. A migration frame helps recontextualize the debate, moving it away from a discourse of fear and toward a more integrated approach that can better take account of women’s decisions about movement and work. It can help avoid recourse either to the conflation of trafficking and prostitution or panic over ‘white’ women violated by ‘dark,’ ‘eastern’ foreigners overrunning us, thus removing some of the most problematic gendered and racialized tropes that haunt the debate. It can begin instead to create a space in which to provide meaningful assistance both to women on the move and those in need of help.

There remain, however, some important caveats surrounding a migration frame, especially in relation to current regimes that have begun to place trafficking in the context of migration, as in Article 18 of Italian Law 40 (1998) and the Berne Initiative/International Organization for Migration (IOM) migration management approach (2001). I am, in particular, interested in how what might be termed the biopolitical management of movement – illicit and otherwise – inform calls for more progressive migration policy. This article will more closely interrogate the effects of Article 18 and ‘migration management’ in an attempt to locate a more nuanced migration frame for TW, one that integrates the role gender, ethnicity, and movement play in constructing the situations women face as they travel and work abroad with and without the assistance of traffickers. Ultimately, this article seeks to move toward an integrated approach

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<sup>13</sup> The notion that US, UN and pre-2005 EU anti-trafficking policy and legislation have done little to redress TW comes from various trafficking experts including, for example, Madeleine Rees of OHCHR, Stana Buchowska of La Strada, Barbara Limanowska of UNICEF/OSCE, Ann Jordan of Global Rights, among many others.

to TW, one that can both prevent criminal activity (and thus decrease exploitation) and facilitate women's movement across borders in pursuit of their own, self-devised departures.

### **Legislation and Criminalization at the Margins**

As suggested, much recent anti-trafficking policy and legislation reflect both the dominance of the criminalization approach to trafficking in women and the relative paucity of governmental protections and assistance programmes available to trafficked women. As has been discussed, criminalization takes the approach that the only way to fight this 'barbaric industry' is to arrest criminals, tighten borders, and increase state security.<sup>14</sup> This approach informs the U.S. Trafficking Victims Protection Act (TVPA),<sup>15</sup> the Protocol to Prevent, Suppress and Punish Trafficking in Persons of the United Nations Convention against Transnational Organized Crime,<sup>16</sup> and the European Union Framework-Decision.<sup>17 18</sup>

Among the effects of the criminalization approach that informs this policy and practice, however, is increased pressure on women who seek to migrate and even on all women. It leads to "increasingly restrictive immigration laws" that position trafficked women "as undesirable aliens" and have had broadly negative effects on women who seek to move.<sup>19</sup> In order to detect human trafficking, for example, a crime control approach recommends stricter surveillance of

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<sup>14</sup> Cite Berman 2003 and others here.

<sup>15</sup> *Victims of Trafficking and Violence Protection Act of 2000*, Public Law 106-386, 28 October 2000, 114 STAT. 1464. [http://www.acf.hhs.gov/trafficking/about/TVPA\\_2000.pdf](http://www.acf.hhs.gov/trafficking/about/TVPA_2000.pdf).

<sup>16</sup> *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons*, Convention Against Transnational Organized Crime. (Vienna, Austria: United Nations, 2002).

<sup>17</sup> The Council of the European Union, Council Framework Decision of 19 July 2002 On Combating Trafficking In Human Beings, 2002/629/JHA.

<sup>18</sup> The TVPA's 2003 Reauthorization Act, for example, claims to take a "victim-centered, compassionate approach to finding and aiding the victims of this modern-day slave trade."<sup>18</sup> In practice, however, **FINISH SHORT DISCUSSION OF TVPA HERE**

<sup>19</sup> Marjan Wijers, "Women, Labor and Migration," in *Global Sex Workers: Rights, Resistance, and Redefinition*, eds. Kamala Kempadoo and Jo Doezema (New York: Routledge, 1998): 72.

international borders, women travelers, the sex industry, foreign students, and women on the move more generally. It also encourages placing national anti-trafficking policy under the jurisdiction of the police and organized crime units and creating stricter restrictions on migrants' passports, visas, and permits. It endorses deportation of any 'irregular' migrant, including those persons who may have been trafficked but do not wish to comply with (or fear) prosecutors' requirements of cooperation. Criminalization in effect reduces the complex circumstances that surround trafficking and other forms of gendered migration to instances of criminality. It then provides states with an occasion to implement stringent anti-immigrant procedures to quell public panic and to effect increased control over borders in the name of citizen protections, fragile sovereignty, and against 'imminent' security threats.

Any actual assistance to trafficked persons that emerges from this legislation remains secondary or is assumed to occur through arresting criminals. Comprehensive assistance programs remain either voluntary (as in the UN protocol) or conditional upon cooperation with the authorities (as in TVPA).<sup>20</sup> As the demand for menial workers in the US and EU continues unabated, however, criminalization itself may contribute to the growth of trafficking. This is because anti-crime policies force migrants to seek traffickers' assistance to evade (legal and 'moralistic') borders to get in.<sup>21</sup> In other words, rather than hindering their activities, heightened immigration restrictions that result from anti-trafficking policy have increased women's reliance on and even fees to traffickers.<sup>22</sup> Yet fierce immigration restrictions abroad and perpetual economic stagnation at home increasingly place women at "risk of falling prey to traffickers."<sup>23</sup>

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<sup>20</sup> For a discussion of how this works in the UN Protocol, see Sullivan, 2003.

<sup>21</sup> It is important to note that many trafficked women enter the EU or US *legally*, on tourist or temporary work visas but may then overstay the visa and become 'illegal.' The distinction is important because I do want to conflate trafficking with illegal migration – trafficking often involves a number of legal circumstances (see also Andrijasevic, 2003).

<sup>22</sup> Olivia Ward, "The Milestones of Migration," *The Toronto Star*, 4 January 2004, A08.

<sup>23</sup> Natalia Churikova, "EU Toughens Line on Human Trafficking," *Financial Times*, 17 March 2001.



Indeed, prohibitive immigration regimes designed to deter trafficking turn it into “a kind of supplementary migration system” itself.<sup>24</sup> And additional reliance on traffickers, in turn, increases the chances that women will experience coercion and violence en route, upon arrival, and through work abroad.<sup>25</sup>

### **Gendering (and racializing) Transgression**

Among the factors driving the criminalization of human trafficking is the assumption that women are the ones primarily falling prey to traffickers.<sup>26</sup> This assumption catches women in the contradiction of being both victims and perpetrators of a crime. But their ‘perpetration’ functions as a double transgression: they have illegally transgressed sovereign borders and by working in the sex industry, illicitly violated moral orders surrounding sexuality and forms of capital production. As I have also argued elsewhere, it is this latter transgression that contributes to much of the panic surrounding TW: to disregard the sovereign borders that distinguish ‘us’ from ‘them’ while simultaneously rejecting particular moral constructions of ‘proper’ female sexual and professional behavior, is to perpetrate multiple crimes the state has a stake in arresting. ‘Illicit’ movement, sexuality and work disrupt the ability of the state to determine and to control who and what constitutes ‘proper’ female behavior and ‘proper’ membership in the political community. That women from CEE are simultaneously criminals and victims, posing both an external (as ‘illegals’) and internal threat (‘white’ but non-citizen) to the state, intimately

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<sup>24</sup> Rutvica Andrijasevic “The Difference Borders Make: (Il)legality, Migration and Trafficking in Italy among East European Women in Prostitution,” in *Uprootings/Regroundings: Questions of Home and Migration*, eds. S. Ahmed, C. Castaneda, A. Fortier, and M. Sheller (Oxford: Berg Press, 2003): 262.

As Campani explains, for example, when the Italian authorities restricted immigration for the Albanians in the 1990s, smuggling and trafficking became the only means of entering the country, Giovanna Campani, “European Policies Facing Trafficking,” (paper presented at the international conference Women in Migration and Vulnerability for Trafficking in Human Beings, Ljubljana, Slovenia, June 10-12 2004).

<sup>25</sup> Saskia Sassen, “Women’s Burden: Counter-geographies of Globalization and the Feminization of Survival,” *Journal of International Affairs* 53, 2 (2003): 517.

involves their gender (female), their sexuality (non-traditional) and their labour sector (the sex industry) in which many trafficked east European women work.

Representation of these multiple transgressions also involves ‘panic’ language, (often biopolitical panic), describing TW as an “epidemic;” “a ‘time bomb’ of HIV;” and a trade “out of control” run by “ruthless, violent and unpredictable men joined together by blood or tribe.”<sup>27</sup> This ‘panic’ language invokes anti-immigrant fervor fueled by a putative ‘whiteness’ attributed to women from CCE, counterposed to ‘dark,’ menacing, criminals from the ‘east.’<sup>28</sup> For example, prior to their 2004 EU accession, media accounts described eastern Europe as “a magnet for organised crime from Russia, Albania, Ukraine, Turkey, Kosovo, and China . . . [that] take advantage of the eastward expansion of the European Union to increase smuggling of drugs, weapons and prostitutes” into western Europe.<sup>29</sup>

It is upon this kind of construction that further panic claims build, for example, “[a]s enlargement brings more wealth, mafias will send more victims to places like Hungary. The real challenge will be helping these new destination countries contain this inflow.”<sup>30</sup> Such representations function to justify increased border controls and immigration regimes and thus to stave off anxieties about EU expansion in particular and globalization in general. They do so by locating this anxiety at the site of the ‘dark’ (male) immigrant lurking at the border upon whom the EU can erect stricter immigration in order to keep them from getting in. And the body of the ‘white’/east European (female) immigrant functions as the site at which the state can claim to protect the victim, but in sending her home, can rid ‘us’ of a ‘white’ (and thus undetectable)

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<sup>26</sup> Berman, 2003.

<sup>27</sup> Carola Hoyos, “UN Warns of Epidemic of Human Trafficking,” *Financial Times*, 20 February 2002; Karen McVeigh, “Trafficking in Human Misery,” *The Scotsman*, 20 February 2002; Ian Burrell, “Trafficked Sex Slaves Create HIV ‘Time Bomb,’” *The Independent*, 20 February 2002; John Gibb, “Sex and Slavery,” *The Observer*, 23 February 2003.

<sup>28</sup> Berman, 2003.

<sup>29</sup> Burrell, 2002.

transgressive illegal and reassert control over the border. All challenges posed by her triple transgression can be redressed via deportation, for as one EU Minister commented, “[a]n efficient return policy is considered a key element in tackling human trafficking and illegal immigration.”<sup>31</sup>

In these depictions, the ‘white’ trafficked woman becomes a synecdochal location for anxiety about criminality and sexuality in which her position as victim of a crime occludes her legal and sexual transgression. That is to say that the challenges her ethnic, national and gendered difference represent to the concept of Europe ‘proper’ are at first, silenced by her status as victim. In criminalization narratives, she has been tricked into leaving home, forced to travel illegally and exploited in the sex industry abroad. This kind of depiction *manages* her transgression by limiting her meaning to that of a victim; it reinscribes the transgression as victimization in line with gendered expectations about movement, labour and sexuality. And, as such, it renders her return home the most appropriate action for the state to take, all the while allowing that her removal equally quells fear about the immigrants among ‘us.’ Panic language becomes part of anti-immigration discourse that claims to “crack down” on criminals and fortify ‘Fortress Europe’ in the name of protecting women.

Rather than assisting trafficked women, however, this ‘protection’ most often places them at greater risk. Trafficked women are left caught in the contradictory construction of victim in need of state protection/illegal immigrant to be deported. This construction functions to reiterate gendered tropes of woman in need of protection without ever providing actual victims with the supports they need. It facilitates enforced return to where, it is assumed, women belong: home. This deportation that tacitly ‘protects’ women *and* the political community from the

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<sup>30</sup> Minder, 2004.

incursion of ‘illegal’ foreigners, in the end, detracts from the very achievement a criminalization approach claims to bring: combating organized crime. This is because, once discovered, women are most often and most immediately removed from the site of their transgression and deported to their country of origin. This more firmly aligns women with the identity of victim in need of rescue – and delinks her from the position of agent may be able to testify against the actual criminals.

Deportation most often occurs before a woman’s transgressive presence can voice a challenge to the order of things. She is assigned the status of kidnapping victim and sent home before her ‘whiteness’ in which she appears to be one of ‘us’ can unmask the contradictions of anti-immigration policies that want to keep her out. She is assigned the status of victim before her decision to reject gendered constructions of movement, capital and sexuality can challenge their residual presence in constructions of victimhood/womanhood. And one more time, the role of the state in policing borders, assigning ‘proper’ citizenship and controlling of female sexuality is reasserted via ever more stringent anti-immigrant regimes.

But as this removal acts in the interests of the state, it also removes women from the scene of investigation and prosecution of actual traffickers, a site at which their testimony might be most valuable in challenging organized crime’s assault on the state and attempt to profit from the exchange of women’s bodies. But the crime control’s preferred method of removing women from the site at which they have disrupted the authority of the state is also a removal of them from the site at which their voices can help support the state: They cannot help investigate and prosecute traffickers if they have been repatriated. While deportation may erase women’s legal and gendered challenge to the state and resituate them within proper gendered norms of non-

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<sup>31</sup> John Murray Brown, “EU Will Charter Flights to Take Illegal Migrants Back Home,” *Financial Times*, 23 January 2004.

movement/passivity at home, it simultaneously precludes them from assisting state agents in combating organized crime.

### **Thinking Beyond Criminalization**

What clearly is needed is a workable alternative to criminalization approaches to TW. The inherent limitations of criminalization have led human rights groups to reframe trafficking in women as an issue of violence against women and as such, demand that anti-trafficking policy be built upon a human rights foundation.<sup>32</sup> A human rights frame begins from the perspective that the violation of a migrant's human rights is the defining feature of trafficking. This then recommends deferring deportation in favor of extending an initial residence visa to victims, during which time they can consider whether or not they wish to pursue prosecution of their traffickers. It also encourages state provision of legal aid, psychological counseling, medical care, job training and residence visas, among other services.<sup>33</sup>

In the larger social context, human rights groups also argue for the creation of better economic opportunities for women; regularization of sex work; implementation of workplace regulations for sex workers; enforcement of existing laws against sexual assault, false imprisonment, and other abusive practices; and the formation of sex workers unions as strategic

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<sup>32</sup> Such groups include, for example, International Human Rights Law Group (US), the Foundation Against Trafficking in Women (Netherlands), the Global Alliance Against Traffic in Women (Thailand), the Asian Women's Human Rights Council (Philippines), La Strada (Poland, Ukraine, Czech Republic, Bulgaria), Ban-Ying (Germany), Fundacion Esperanza (Columbia), Foundation for Women (Thailand), KOK-NGO Network Against Trafficking in Women (Germany), Solomon Foundation (Hungary), Women's Consortium of Nigeria (Nigeria), Women, Law and Development in Africa (Nigeria). This is also the perspective adopted by the OSCE, as reflected, for example, in the UNICEF/UNHCR/OSCE - ODIHR report 'Trafficking in Human Beings in Southeastern Europe,' Barbara Limanowska, *Trafficking in Human Beings in Southeastern Europe*. (Geneva: UNICEF/UNOHCRH/OSCE, 2002) <http://www.unhcr.ch/women/trafficking.pdf>.

<sup>33</sup> Global Alliance Against Trafficking in Women (GAATW), *Human Rights and Trafficking in Persons: A Handbook* (Bangkok: Global Alliance Against Trafficking in Women, 2001).

means by which to fight TW. These kinds of policies could significantly reduce traffickers' opportunities to exploit undocumented women on the move and at work in foreign sex industries.

While an essential and effective frame that prioritizes and improves the status of trafficked women, a human rights approach also raises a number of issues involving especially the adjudication of forced versus voluntary sexual labor and the legal status of prostitution. It risks creating a new opposition between forced and voluntary sex work, another dichotomy in which some women are deemed capable of choosing sex work while others are not. Such dichotomies, however, repeat, one more time, the 'agentization' of 'white' women via their juxtaposition to 'victimized' women of color.<sup>34</sup> That is to say that this opposition risks positioning US and European sex workers as capable of 'choosing' this work in the towns and cities of the industrialized west, while women from developing countries in these same industries and locations are seen as forced, exploited, tricked, trafficked and in need of protection.

As with all oppositional constructions, the forced/voluntary distinction covers over the myriad of circumstances that surround women's decisions to accept traffickers' offers of migration and employment assistance and reduces the complexities they face to a simple 'choice.' Creating new dichotomies, in the end, may only further obfuscate and complicate the ability to understand the issues important for women on the move and in search of work, in the sex industry or otherwise. Thus while a human rights-based frame offers an important component of how to address TW more effectively – and a significant improvement over criminalization – taken by itself, it may ultimately prove insufficient to ameliorate and assist trafficked women.

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<sup>34</sup> Chandra T. Mohanty, "Under western eyes: feminist scholarship and colonial discourses," in *Third World Women and the Politics of Feminism*, eds. Chandra T. Mohanty et al., (Bloomington: Indiana University Press, 1991): 51-80 and Kamala Kempadoo, "Introduction," .in *Global Sex Workers: Rights, Resistance, and Redefinition*, eds. Kamala Kempadoo and Jo Doezema (New York: Routledge, 1998): 1-16..

## Projected Crossings at the Border

Of less prominence in anti-trafficking debates and discussions is the issue of the border and border crossings. Media accounts continually refer to “the porousness” of borders; “criminal networks that traverse” borders; the role of border towns as “staging area[s]” for trafficking; and individual accounts of “furtive border crossings.”<sup>35</sup> Some stories even reveal an almost heroic resourcefulness of women at the border and on the move. One ‘panic article,’ for example, recounts how traffickers exchanged one young woman across the borders of several CEE states – Moldova, Romania, Serbia, Montenegro Albania – before the woman is able to make her way to Milan. En route, the article emphasizes how these traffickers subject her to the most horrific exploitation and violence. Ultimately, she arrives in the EU where she knows she will be forced to work in prostitution but, as she describes it, “at least she’d be in Italy.”<sup>36</sup>

At a glance, this disturbing story eclipses something else the article equally suggests: that this woman was able to harness a vast, international network of people – some of whom admittedly abused her – to assist her in ‘getting in’ to ‘Fortress Europe’ and accessing the EU labour market.<sup>37</sup> Put differently, where enticing labour markets and increasingly restrictive immigration laws coexist, channels for clandestine immigration invariably emerge. And women and other migrants learn to navigate these systems – often with the assistance of traffickers – in order to reach their desired destinations.

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<sup>35</sup> Landesman, 2004; R. Jeffrey Smith, “Sex Trade Enslaving East Europeans: A Survivor’s Brutal Tale,” *International Herald Tribune*, 26 July 2000.

<sup>36</sup> Smith, 2000.

<sup>37</sup> The demographer Mirjana Morokvasic argues that enticing labour markets and restrictions against legal immigration will invariably lead to the creation of organized – perhaps criminal – arrangements for “getting people in” to “the European fortress,” Mirjana Morokvasic, “Fortress Europe and Migrant Women. *Feminist Review* (1991) 39: 70.

In these stories, in other words, the announced focus on women's exploitation coexists with a more visceral concern over border violations. This concern about border crossings has not, however, translated into a more nuanced understanding of the relationships between trafficking in women and the transnational migration of women. And while legal and illicit border crossings are neither accidental nor incidental to trafficking, there has been relatively little direct reflection on the relation between the two.<sup>38</sup> I want to argue, however, that TW constitutes as much an issue of migration as it does one of crime, violence and victimization.

Indeed, to me, stories of furtive border crossings reiterate how trafficking narratives are also immigration stories. As immigration stories, these narratives merge with a concept outlined to me by Maria Grazia Giammarinaro, a Judge of the Criminal Court in Rome and legal advisor to the European Commission on trafficking and gender issues: that many women who enter the EU (both with and without the necessary documents) to work illegally (often in the sex industry) are not simply victims of human trafficking; rather many are engaged in a 'migration project.'<sup>39</sup> As she understands it, a significant portion of often east European and women from other parts of the world who work in west European sex industries enter the EU with the assistance of traffickers in order to pursue some project – to earn money to start a business back home, to support children or elderly parents, to escape the civil conflicts and stagnant economies that plague their various regions. My own field work and that of a number of other scholars has found that many migrants “have some agency in arranging an often long and highly expensive journey”

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<sup>38</sup> There are of course important exceptions among especially academics. See for example, Laura Agustín, “Europeans Confused about Sex, say Migrant Prostitutes,” *Sex Workers International Media Watch* (2003). [www.swimw.org/eurosex.html](http://www.swimw.org/eurosex.html). See also Morokvasic, 1991; Sassen, 2000; Andrijasevic, 2003; and Campani, 2004.

<sup>39</sup> Conversation with the author, Glen Cove, NY, 19 November 2002. Of course, the notion of a migration project is not an entirely new one and has been a part of migration studies over the past thirty years. See, for example, J.S. Birks and C.A. Sinclair, “The International Migration Project,” *International Migration Review* 13, 1 (1979): 122-135; Mirjana Morokvasic, “Birds of Passage are also Women,” *International Migration Review* 18, 4 (1984): 886-907; Judith Freidenberg, Graciela Imperiale and Mary Louise Skovron, “Migrant Careers and Well-being of



through traffickers; while their movement may involve elements of deceit and harm, their decisions include some agentized element.<sup>40</sup> Many women who accept traffickers' assistance know they will work in the sex industry and accede to what may be admittedly exploitative conditions in light of some specific goal they have set for themselves.<sup>41</sup>

Exploring trafficking in women in relation to 'migration projects' is not designed to render trafficked women 'rational actors' or to deny that egregious exploitation and coercion exists. Rather through a migration frame, I seek to call into question the incessant portrayal of women as naïve, innocents, duped and forced into a life of inequity as well as the dominance of criminalization approach to fighting TW. A migration frame helps accentuate the ways in which trafficking constitutes as much an issue of global migration as one of crime. It also helps recognize that trafficking in women equally involves the labour market and women's labour – and that labour laws already exist to protect foreign women working in any foreign industry, including the sex industry.<sup>42</sup> As Judge Giammarinaro further explains, it is only when traffickers take all of their money, beat or rape them or prevent them from working that these women contact authorities for help. In other words, it is only when they can no longer pursue their

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Women," *International Migration Review* 22, 2(1988): 208-225; and Christophe Guilmoto and Frederic Sandron, "The Internal Dynamics of Migration Networks in Developing Countries" *Population* 13, 2 (2001): 135-164.

<sup>40</sup> Richard Black, "Breaking the Convention: Researching the 'Illegal' Migration of Refugees to Europe," *Antipode* (2003): 40.

<sup>41</sup> Kamala Kempadoo's research with migrant Caribbean prostitutes, Andrijasevic's research with migrant sex workers in Italy, and my work with east European migrant sex workers in Warsaw and Berlin suggest that some women who contact traffickers for assistance to migrate already work in their domestic sex industry. Others who do not already, do understand that they will work in the sex industry abroad. They know that there is demand for their labour and that the pay is much better. As Gail Pheterson notes, sex workers – migrant and otherwise – understand the dangers involved in selling sex but do so not to be safe but to earn money and to be independent. Gail Pheterson, *The Prostitution Prism* (Amsterdam: Amsterdam University Press, 1996). The fact is that many are "only able to realize their plans to leave" with traffickers' assistance (Andrijasevic, 2003, 258; italics added). As suggested, what they do not necessarily fully comprehend are the conditions they will face during their migration or at work in foreign sex industries. What all of this research reveals is that women who utilize traffickers to 'get out' and to 'get in' exercise significant agency in pursuit of their migration projects via sex work. As such, trafficking in women needs to be understood in relation not only to crime and trickery but also in relation to the changing nature of global movement, migration, and labour markets. See also Agustín, 2003; Andrijasevic, 2003; Campani, 2004; Kempadoo, 1998; Limanowska, 2002; Morokvasic, 1991.

<sup>42</sup> Leah Platt, "Regulating the Global Brothel," *American Prospect* 2 July 2001: 1-6.

migration projects that they seek legal or social protection and become classified as trafficked women by the state. In these instances, women understand themselves to be migrant workers and not necessarily victims. In this context, I want to argue that the migration project provides a frame better able to acknowledge the complex circumstances surrounding TW than does the crime control approach.

### **Managing Migration**

Despite the dominance of the crime control approach, some states and organizations have begun to foreground immigration and migrant labour issues in relation to trafficking in women. Prominent among these are Belgium, the Netherlands, and Italy and the International Organization for Migration. Their recognition of the centrality of immigration to human trafficking functions as an important shift away from an exclusively crime control and toward a more subtle and integrated approach to the problem. At the same time, there are some fundamental limitations inherent in these methods that need to be considered before they are embraced as a panacea.

### **A European Compromise**

A number of European countries have begun to foreground both migration and human rights in their approach to trafficking in women. Belgium and the Netherlands, for example, grant trafficked women a temporary visa (45 days and 90 days respectively) to afford them time to reflect upon and make an informed decision about cooperating with prosecutors. Those who do decide to testify receive extended temporary residence status and access to various social services and in Belgium, the right to work. These policies reflect the attitude that (a) even though

they are victims of a crime, trafficked women are still able to make decisions for themselves, (b) in Belgium, that trafficked women have been motivated by the desire to work and (c) given proper support and time, trafficked persons may be more willing to testify against traffickers. And it does appear to that women who receive proper support are more helpful to prosecutors, since in both countries “more victims have reported their traffickers under the revised laws.”<sup>43</sup>

At the same time however, both Belgium and the Netherlands continue to distinguish “between those who testify and those who do not,” rewarding those trafficked persons who come forward to cooperate in prosecution and forcibly repatriating those who refuse.<sup>44</sup> Moreover, because the visas granted are temporary and contingent upon the duration of prosecution, they leave trafficked persons in the undesirable position of being returned to a place they wanted to escape and potentially vulnerable to threats from the traffickers who initially brought them abroad. In other words, trafficked women are treated more as “tool[s] for the prosecution” than as victims of a crime or migrant workers.<sup>45</sup> By creating some provision for residency permits, these laws recognize that both the ability to migrate and work abroad are central components of what trafficked persons seek; because they require prosecutorial cooperation, they remain mired in a criminalization approach that limits their ability to support and assist persons who get caught in trafficking networks.

In 1998 and in response to increasing attention to the presence of trafficked women in Italy, a coalition of factions helped establish Article 18 of Law 40. This law permits persons who find themselves caught in a situation of exploitation by traffickers to contact not the police or public authorities but social assistance groups (NGOs, CBOs, faith-based organizations) for

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<sup>43</sup> Elaine Pearson, “Half-hearted Protection: What does Victim Protection Really Mean for Victims of Trafficking in Europe?” *Gender and Development* 10, 1 (2002): 57.

<sup>44</sup> Pearson, 59.

<sup>45</sup> Pearson, 56.

help, support and social services and if they so desire, protection. They may also apply for a renewable temporary residence permit for six months if they decide to leave prostitution (if this, indeed, is the industry in which they are working) and participate in an assistance and integration programme. NGOs and local authorities provide 48 different integration programmes, including a witness-protection program and various other support services that women can choose. If they find employment, these visas are also renewable.<sup>46</sup> The granting of this residency permit is not contingent upon identifying traffickers or testifying against them. Rather, residency rights are based upon a self-identified need for social protection and finding employment, upon the recognition that migrants (a) are seeking work, and (b) may need help navigating foreign environments as they do so.

As Judge Giammarinaro points out – and as is the philosophy of such assistance NGOs as the La Strada Foundation – Article 18 allows women themselves to articulate the need for assistance.<sup>47</sup> The law does not presuppose all trafficked women are victims, that all sex work is exploitation, that all migrant sex workers are trafficked, or that the state can categorize women as such. What it does do is provide assistance to trafficked persons on the condition that they themselves make the request. There is no state-empowered, pre-classification of them as victims (as ‘trafficked women’) and/or perpetrators of a crime (as ‘illegal’ migrants and/or workers).<sup>48</sup> Article 18 instead focuses on the opportunity to assist women at a point when they themselves determine a need.

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<sup>46</sup> Kristine Crane, “Italian Haven Offers Hope to Trafficked Women,” *Christian Science Monitor*, 11 January 2001, 93 (237): 7.

<sup>47</sup> Conversation with the author, Glen Cove, NY, 19 November 2002. See also La Strada website <http://www.strada.org.pl>.

<sup>48</sup> In fact, Andrijasevic points out that a number of people involved enter legally but become ‘illegal’ once they overstay their visas (260). In other words, trafficking may involve “legal elements such as legally obtained visas” and as such, should not be reduced to a form of illegal migration, Andrijasevic, 260. For my purposes here, this also reiterates the centrality of migration to questions of trafficking.

Since Article 18's introduction, Italy has experienced a fourfold increase in prosecutions of traffickers.<sup>49</sup> What this suggests is that under conditions of self-identification, available assistance and employment, trafficked women are more willing to identify and testify against those whom they themselves decide have exploited them. It appears that when women have access to work and to protection when they determine they need it, they are better able to aid in fighting cross-border crime. As such, Article 18 makes very different assumptions about trafficked women, women's agency and the most effective way to combat THB. As Basia Limanowska, UNICEF, ODHIR, UNHCR special consultant for trafficking has explained:

The Italian model is exceptional in Europe. It's more humane, but also more productive. There is better assistance to the victims, but also a lot of work done on the prosecution of traffickers.<sup>50</sup>

Article 18 recognizes that women make decisions about migration and work for themselves and can equally ascertain when and where they need help in relation to these decisions. It allows women's decision-making in relation to migration and work to inform the law's understanding of trafficking – a potentially powerful supplement to the existing crime control and even to the human rights frames that now surround trafficking.

### **A Liminal Law**

For all of its advances, it is also important to recognize that Article 18 of Italian Law 40 remains mired in some significant limitations. One of the law's most crucial complicating factors is that it provides trafficked women with residency and work permits on the condition that they agree to leave prostitution. Because the law specifically states that women must abandon this admittedly illegal activity, it repeats the rampant conflation of trafficking with prostitution. This

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<sup>49</sup> Christopher Sulavik "Facing Down traffickers," *Newsweek*, 25 August 2003: 27.

conflation curtails, if not denies, the possibility that women ‘consent’ to sex work or that sex work constitutes an industry in which women might decide to work.<sup>51</sup> It equally ignores the ways in which women might make decisions to take control over illicit capital, sexuality and movement in pursuit of some prospect of their own while refusing to consider how some women might conceive of their movement with the assistance of traffickers and sex work as part of their migration projects.

Article 18 also *compels* trafficked women to participate in assistance and integration programmes (social ‘protection’ programmes) in order to receive residency permits. Because the law allows the state to dictate to women the type of work they can do, it seems not to recognize women’s ability to decide how best to pursue their migration projects. Requiring their participation in ‘protection’ programmes reiterates an understanding of women as in need of state shelter. Furthermore, once in possession of visas and enrolled in integration programmes, the state can locate and track their activities and movement. This seems to incorporate the view that women have made poor decisions to leave home, work in the sex industry and utilize trafficking networks. It constructs these poor decisions as having led to their exploitation and as such, their need for the state to intercede and make better decisions on their behalf. In other

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<sup>50</sup> Quoted in Philip Willan, “6,000 Children Smuggled to the West Each Year for Sex,” *The Guardian*, 12 July 2002. <http://www.guardian.co.uk/Archive/Article/0,4273,4459781,00.html>.

<sup>51</sup> I put ‘consent’ in quotes here because while I disagree with the position that women can never consent to sex work, consent itself remains a complex and problematic notion related to Foucauldian notions of discipline and even biopower in which individual desires are constructed through and linked to the political economy of the modern nation-state and to the accumulation of capital. For further discussion of Foucauldian biopower, see Michel Foucault, “The Right to Death and Power Over Life,” in *History of Sexuality: Introduction*. Volume One (London: Penguin, 1976); Michel Foucault, “Governmentality,” in *The Foucault Effect. Studies in Governmentality*, eds. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: University of Chicago Press, 1991): 87-104; Michel Foucault, “The Birth of Bio-politics,” in *Michel Foucault Ethics: Essential Works of Foucault, 1954 - 1984*, ed. Paul Rabinow (New York: Penguin, 1997); 73-79. See also Anthony Burke, “Aporias of Security,” *Alternatives* 27 (2002): 1-27; Jacques Donzelot, “The Mobilization of Society,” in *The Foucault Effect: Studies in Governmentality*, eds. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: University of Chicago Press, 1991): 169-79; Thomas Lemke, “The Birth of Bio-Politics: Michel Foucault’s Lecture at the College De France on Neo-liberal Governmentality,” *Economy & Society* 30, 2(2001): 190-207; and Stoler, 1995.

words, the law defines women as irresponsible, places them under the state's purview and ultimately, control and becomes, one more time, a mechanism for policing female behavior.

In another critical move, Article 18 requires trafficked women to prove that they have been trafficked. This can be very difficult for someone without legal documents and very dangerous for anyone who has to locate underground criminal networks. In practice, as one Italian immigration expert has explained, most trafficked women in Italy end up in deportation centers for illegal immigrants and never even have the opportunity to contact a social protection programme, no matter how restrictive the conditions are.<sup>52</sup> Thus even official recognition “does not necessarily translate into social, cultural, and/or religious acceptance” and the Italian officials and many citizens continues to see trafficked women as dangers, threats and risks to their community.<sup>53</sup> In the end, many of the improvements that mark Article 18 also survey, judge and condemn women's decisions and ultimately place control over their work and their whereabouts in the hands of the state.

### **The Biometrics of a Managed Migration**

Both the advances and limitations of the individual Belgium, Dutch and Italian approaches to trafficking in women differ in kind from the IOM's new migration regime: migration management. In the face of increasing forms of 'irregular' migration, in 2003 IOM Director-General Brunson McKinley suggested that “the ultimate goal” of governments should not be “to obstruct or prevent mobility but to better manage it for the benefit of all.”<sup>54</sup> IOM

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<sup>52</sup> Giovanna Campani, conversation with the author, Ljubljana, Slovenia, 10 June 2004.

<sup>53</sup> Soguk, 425.

<sup>54</sup> Naomi Koppel, “Migration Organization: Governments Must Take a Global View of Population Movement,” *Associated Press Worldstream*, 10 June 2003.

officials argue that governments should create more “legal migration opportunities so women are not compelled to resort to dubious job offers to find ways to support their families.”<sup>55</sup>

In this approach, IOM has recognized that trafficked women seek to migrate “for the same reasons as many other migrants,” often because of the lack of employment opportunities in countries of origin.<sup>56</sup> In other words, because of shared ‘push’ factors, IOM officials understand human trafficking as a form of (irregular) migration that needs to be addressed as such. This is especially the case where states have “spent millions of dollars” on immigration “crackdowns” but have failed to stop both trafficking and ‘irregular’ migration.<sup>57</sup>

More generally, IOM’s position proceeds from the notion that if states find a way to manage and facilitate legal migration, migrants’ need for traffickers, smugglers and organized, criminal t syndicates would dwindle. States would then no longer have to devote scarce public resources to obstructing undocumented migration and fighting organized human trafficking. IOM’s perspective contradicts the dominant construction of TW as a matter of organized crime and violated innocence and points instead to how trafficking involves a calculus similar to that of other migrants lured by promises of lucrative jobs abroad and as such, that migration constitutes an integral component of trafficking. In this light, IOM believes that migration’s effective ‘management’ could potentially arrest human trafficking. The acknowledgement of the constitutive nature of migration in relation to trafficking, coupled with its potential benefit to migrants, IGOs, states and markets, recommend closer consideration of migration management as a way to address the problem of trafficking in women.

Among migration management’s most productive components is the proposal that states assist origin countries in preparing migrants for ‘legitimate’ migration through skills and

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<sup>55</sup> Churikova, 2001.

<sup>56</sup> IOM, 61.



language training. IOM also recommends dedicating foreign development aid to the creation of labour programmes and economic opportunities in origin countries. They also propose that states enhance regular migration options, especially in demand industries.<sup>58</sup> More specifically, IOM includes in the migration management concept

accelerated work and residence privileges for populations from the new EU entry states and those states waiting in the wings; significant investments in training and cultural orientation of migrants pre-departure and in-country – including special programmes to make migrants entering for family reunification economically active sooner.<sup>59</sup>

All of these proposals focus on facilitating migration and economic opportunities, a primary motivator in a majority of migration projects. Migration opportunities involve an increased simultaneous potential to reduce undocumented migration, meet labour market needs, help migrants realize migration projects and protect those people on the move – including women caught in trafficking networks – most vulnerable to exploitation in migration.

Because it foregrounds migration in its approach to combating human trafficking, and because it seeks to mitigate and improve the economic conditions at home that contribute to women seeking traffickers assistance, migration management appears to be a significant and improving contribution to this debate. At the same time, however, the concept involves certain practices that are increasingly located at the site of the body of the individual migrant and as such, may not support or sustain the needs of people on the move. For example, IOM's recommends that states strengthen their mobile immigration intelligence units; utilize scanners and new (unnamed) technologies to detect concealed persons; implement intelligence and migration services cooperation; create a Europe-wide corps of border guards; centralize visa

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<sup>57</sup> Ward, 2004.

<sup>58</sup> IOM, 69.

<sup>59</sup> IOM, 68.

databases; and pre-screen travelers with biometrics.<sup>60</sup> These kinds of migration management tools appear to be predicated on an immigration policy built upon the perceived demands of a security policy rather than on the needs of the migrants themselves.

Indeed, migration scholar Richard Black has noted how IOM's discussions of irregular migration have emphasized a connection "between migration and organised crime, drug-running, and prostitution," one that reflects a conflation of 'illegal' migration with security concerns.<sup>61</sup> Of course, in a post-September 11<sup>th</sup> world, it is not surprising that IOM and other IGOs and governments link migration to national security. *This* conflation, however, can only serve to bury the specific circumstances that trafficked women face in pursuing their migration projects more deeply in the panic associated with current security debates and further prevent any real assistance from reaching them. Like the criminalization approach, it seems to leave trafficking in the realm of illegal migration "rather than as a by-product of an ever more global marketplace and the increasing feminization of migration."<sup>62</sup> As such, it risks being subsumed within the criminalization approach.

Of equal concern are the ways in which managing migration and its links to security talk reveals a disciplining of 'irregular migrants' including trafficked women, a disciplining that works to enact new forms of state and biopolitical control over 'strangers' who transgress state security, sovereign borders and social norms in pursuit of their own migration projects. Media and other dominant representations of TW are rife, as discussed, with biopolitical language (epidemics, disease, tribalism). As such, they sustain an international response focused on 'managing' these threats metaphorized as bodily and biological. These kinds of disciplinary and

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<sup>60</sup> IOM, 64-65.

<sup>61</sup> Black, 43.

<sup>62</sup> Platt, 6.

biopolitical practices problematize many aspects of migration management and warn against its un-reflected adoption.

In suggesting that migration management enacts new forms of biopolitical control, I am referring to Michel Foucault's notion of biopolitics in which there erupts in modernity in a shift away from a coercive notion of power toward one in which there is a "penetration of social and self-disciplinary regimes into the most intimate domains of modern life," often in the interest of the state and mobile capital.<sup>63</sup> Biopolitics works as a set of techniques of power that center on the individual body, disciplining, regularizing, and attuning *both* individual bodies and aggregate populations to the needs of the modern state and the 'free-market.' Biopolitics reads human bodies and populations as part of productive processes that serve the interests of the state and the market. Scientific observation and oversight serve to manage the biological and rationalized lives of citizens with whose care the state is charged.

The state seeks to normalize and regularize behavior through its knowledge of and power over biological processes. Through the normalization of biological life, the state can establish and harness an "ordered maximization of collective and individual forces" – it can extract time and labour from individual bodies in alignment with its own interests in relation to neoliberal global economic flow.<sup>64</sup> Citizens themselves are enlisted in their own oversight through participation in and observation of the rule of law. Biopower spreads out in a vast web of intersecting techniques to contain, manage, and direct human life. All the while, it operates in proximity to traditional, coercive power – the power over life inextricably linked to the power over death.

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<sup>63</sup> Stoler, 3. See also, for example, Foucault 1976, 1991, 1997.

<sup>64</sup> Foucault cited in Stoler, 39.

Biopolitics more specifically involves state officiation over “the life of the species and its ‘global mass’ ... over the processes of birth, death, production and illness” so as to direct them toward the advance of the productive capacity of the citizenry and state.<sup>65</sup> “[B]io-regulation by the state” functions as a ‘technology of security’ that protects the citizenry from “internal dangers”, maintains the structuring mechanisms and institutions of the state, and perpetuates its existence, relevance, and control.<sup>66</sup> Without care, the concept of managing migration threatens to function as a form of biopolitics.

Migration management is most closely linked to state security in, for example, the recommendation that states create “mobile immigration intelligence units” and increase “cooperation between intelligence and migration services.”<sup>67</sup> This kind of linking of migration and security becomes a means of exerting a state-based disciplinary regime over migrants and in the name of national security, affording the state the ability to police and tighten, to restrict and increase control over borders, migrants and the membership in the political community. Such activities cease to be about assisting and protecting migrants and instead become a site at which state control can be asserted over borders and bodies in the service of the demands of global security – a site of biopolitics.

It turns out that many of migration management’s practices involve surveying individual bodies as they cross borders, including:

- “stricter criteria for passenger screening;”
- “personal questioning [of] every would-be entrant”
- formation of “a Europe-wide corps of border guards and a European entry visa ... linked into a computerized database” to survey these bodies;
- the scanning inanimate life for signs of biological life in the form of “various kinds of scanners and new technology to detect concealed persons;”
- creation of an electronic population of visa holders;

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<sup>65</sup> Stoler, 82.

<sup>66</sup> Foucault cited in Stoler, 82.

<sup>67</sup> IOM, 64.

- production of a European “Community-wide fingerprinting system for asylum applicants;” and
- the marking of traveling bodies biometrically (“biometric identification data in various parts of the travel identity and clearance system”).<sup>68</sup>

All of these practices may indeed help states manage migration, but they equally reflect an exertion of biopolitical control over bare life, an exertion that contradicts the desire to assist women on the move and instead places their management in the service of the state.

That is to say that because they specifically survey, discipline and seek to control individual bodies in a manner closely aligned with national agendas, these practices constitute acts of biopolitical management. As such, they problematize the practice of migration management at its inception and threaten to eclipse its more productive components. Where migration management can help move beyond the hysteria and criminalization that informs much recent anti-trafficking policy and legislation, it is important to attend to its precise application less it become an occasion to delimit and control, one more time – and in new ways with new technologies – women’s bodies on the move. The inherent biopolitics of migration management suggests that this frame needs to be invoked and practiced with great contingency and care. This said, it remains an important task unpack how gender, race, work and movement undergird the construction of and practices related to trafficking in women and to integrate them into migration management in order to offer new ways of understanding the complex circumstances surrounding the issue.

## **Migration Managed, Projects Disrupted, Women Deported: Where to for Trafficked Women?**

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<sup>68</sup> IOM, 64-69.

This article has sought to highlight some of the limitations of the criminalization that informs much recent national and international policy and legislation on trafficking in women. The dominance of a crime control approach has elided the constitutive role migration plays in trafficking in women. Taking seriously the role of economic incentives in motivating migration, the counter-productivity of overly fearful immigration restrictions and the role women's ethnicity, work and movement play in the TW debate challenges the notion that crime and victimization are its exclusive constitutive factors. Foregrounding gendered tropes, women's migration and how women themselves may utilize traffickers in pursuit of their own migration projects, as well as understanding how media and other sources invoke stereotypic images old and new to construct the issue, however, can begin to allow for space in which to consider the role women's own decisions about movement, sexuality and capital may play in trafficking. In so doing, the dominance and efficacy of criminalization are called into question and space for other, additional approaches to TW emerges.

From this perspective, anti-trafficking policy needs to recognize that controlling borders and bodies, stricter penalties for traffickers and the criminalization of trafficked women themselves are insufficient to redress the fact of women's global movement. National, transnational and international policy and legislation designed to fight trafficking in women needs instead to a) consider the problem in relation to women's global movement and the customs, practices, laws and gender tropes that affect it; b) remove the imminent conflation of trafficking and sex work; c) interrogate assumptions about imposed, contextualized 'morality' in relation to gender, sex work, migration and 'home;' d) revisit questions of gender, agency and consent in an era of growing complexity vis-à-vis movement, labour and transnational phenomena; and e) think

globally about what is at stake and for whom when policies regarding women's movement and migration are constructed by states, IGOs, INGOs and other voices in the debate.

This article has sought to demonstrate how the notion of migration projects and a migration frame can begin to take other, more complex, factors beyond criminality into account when thinking through contemporary trafficking debates. With careful attention to its more concerning aspects involving biopolitical marking and control, migration management may have the potential to serve as a means by which to reconsider trafficking in relation to migration. Or, in its alignment with state security, fear and bodily policing, it may collapse in on itself as one of the recent biopolitical practices that populate discursive and representational practices associated with globalization. One of the key components of globalization is transnationalism; in trafficking, this involves women departing a 'proper' place called 'home' for a project of their own. Rather than trafficking in biopolitical panic, and the resulting management and control, a migration project frame can begin to acknowledge the specificity and effects of ethnicity, nationality and gender involved when trafficking is the mode by which women move.

Trafficking in women is an historical and global problem involving complex transnational forces, criminal elements and migration practices. It is also an immigration issue, a labour issue, a gender and a race issue. By beginning from a gendered migration/project frame, policy and legislation can more thoroughly and effectively redress the contingencies women confront when they, with and without the assistance of traffickers, move across borders in pursuit of migration projects of their own.